

**IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
BORWARD COUNTY, FLORIDA**

**CASE NO: 07-0824**

**FEBRUARY 21, 2007**

**CONTINUATION OF THE DIRECT EXAMINATION OF VIRGIE ARTHUR**

**QUESTIONS BY THE COURT OF MS. ARTHUR:**

Q This deputy's position that you held in your home State of Texas, when did this take place?

A 1977.

Q When you worked as a deputy in the Sheriff's Department, how many employees were there?

A It started out with three thousand and I think we are up to seven or eight now.

Q How many women in those years were deputies?

A We were woman jailers, but back then there was only four women on the street.

Q And you were one of those four women deputies?

A Yes, I was.

Q And in those days, we did not have all the safe guards in the workplace:

A No.

Q In those days, in the 70's there were times when you were not treated equally with the other deputies; is that right?

A Yes, sir, you are.

Q You are in the deep south?

A Yes.

Q But when you went to the deputy conferences and conventions, you were all over the country talking to women deputies?

A Yes, I was.

Q So it was in every village hamlet, be it a west, northeast or south where women deputies were not treated the same?

A Yes, sir.

Q Would you say that that was a time they asked the women deputies to make coffee?

A Yes.

Q You were given other tasks that did not equate to the responsibilities of your job? Well, you got your pension, you can tell me a little bit about the pension is vested?

A Yes.

Q You have also been trained not to tell war stories that would look bad on the Sheriff's Department?

A Right.

Q Because you could have been killed in the line of duty?

A Yes, sir.

Q You want to protect the integrity of the Texas Sheriff's Department?

A Yes, sir.

Q There were some mistreatment of women in police departments throughout the country –

A I would say it was all over the world. I would not just say in the police department.

Q Times are changing.

A Yes.

Q And then let's assume another matter takes place, you are in a crisis, there is a killing in 1980. You did not have what we have today, counseling, intervention, did you?

A No.

Q You could not cry in front of your other deputy?

A No, sir.

Q Let me ask you another question. So you had to cry in the privacy of your police car when no one was looking?

A Yes, sir.

Q You had to take those same tears and share them alone in your own room?

A Yes, showed weakness if you cried.

Q So you had to be tough?

A For the ones who come after me.

Q You were tough?

A With a fingernail behind, four women dredged trail.

Q So you are talking about a Police Department with three thousand people and you were only one of four armed deputies?

A Female road deputies.

Q Just stay with me. The way I write is a little puzzle.

MR. TUNSTALL: Especially at four in the morning.

Q I did not write it down at four in the morning. I was just thinking about it. I said, God, please let me go back to sleep.

Now, your personality you would describe as tough?

A Yes.

Q On the outside, in a professional setting?

A At work.

Q Unfortunately in the business that we are in, law enforcement, judge, police, we are 24 hours a day.

A Yes, sir, we are.

Q We are held to a higher standard than that of the marketplace.

A Yes, sir, we are.

Q That if we get angry or upset, we cannot demonstrate that, right?

A Right.

Q We got to look like a poker player at the poker table or to put it, we have to look as silent as Sphinx on the Nile. I made that Shakespearean, we have to maintain dignity and decorum?

A A certain amount, yes.

Q Your daughter, Anna Nicole Smith, she did not have the same constitution, did she?

A None of us are alike, not you, not me. We all have certain –

Q But your daughter was not tough like you, was she?

A No.

MS. BARTH: Objection

THE COURT: You can give me a little latitude.

MS. BARTH: I don't want Anna's memory – we cannot ask questions that disparage her memory. She is not here to defend herself. Maybe you can ask, if you know.

THE COURT: Your objection is so noted. I will rephrase my question out of respect for you, because you have been so respectful to the Court.

How would you describe Anna Nicole's personality?

A When she was young, she was sweet, she was funny, she was very funny. She loved frogs. Frogs were her favorite things. She was a tomboy but she was a sweetheart. She was giving, she was loving, her brothers and sisters will tell you that I used to do all kinds of things together, she was a good child.

Q Tell me as the years went on, how was her personality?

A Well, she was always a great child and she always made us laugh. Every one of us, as she got older, kids get more serious and she became a teenager.

MS. BARTH: Can I ask for timeframe?

THE COURT: What age would say?

A As she grew, from age – from the time she was born up until what – do you want me to say?

Q Say what you want to say.

A I am not understanding her question.

Q Would you rephrase the question?

MS. BARTH: Certainly. You said when she got older, I want to know what age were you speaking about.

A Okay. We were speaking when she was five or six, now we are going on 12, 13, 14.

Q Let me ask you something. When you had a hard day, what were you instructed to do about having a difficult day, like we were having yesterday. What was your instructions as a police officer when it was a tough stressful day?

A Leave it at work.

Q And make it through that day?

A Make it through that day. Go home, be with your family, surrounded by love. Visit your children and be thankful you have them and start over tomorrow.

Q Why didn't Nicole – why did she reflect on death so much?

A I never heard that. She never talked about death. She was a young person. When they are young, they don't think about death.

Q But later on in her life, it's indicated that –

A I don't believe that. You can't make me believe that. She was too full of life. She loved to be in the public.

MS. BARTH: No foundation.

MR. TUNSTALL: Excuse me, excuse me. I would appreciate –

THE COURT: Overruled. I overruled her objection. The lawyers always want a ruling and they got one.

A So she loved life as she got older. I mean, I have pictures of her when she was 25, 26, 27, 28, when she did movies in Las Vegas I have pictures to prove that she didn't leave home when she was 15. She was not estranged from me all those years, we were still in contact.

It was when she got older and at the age when she met Howard Stern, they started not being able to get a hold of her or talk to her except every three or four times and the time she called me and said, don't go to work mom, so I talked to her on the phone, it was just

not as often as we had in the past. We used to go get our nails done. We used to do fun things together.

Q I used to be the legal advisor at the Sheriff's Department, but let me ask, what were you told when you were into the court proceeding and a matter was resolved against you. Like you had a traffic violation, what were you trained to do at that moment when you walked out of that courtroom?

A I didn't show emotion, you just – it was just another day. Catch up again next time. That's as a police officer, but I am here today to be her mother. I am her mother.

Q You were up in the middle of the night, let's assume, you got up at four o'clock?

A Let's assume I did not sleep.

Q If you could have done one thing different with your daughter, what would you have done?

A When I knew she was really deep into drugs, I would have went and kidnapped her. I would have done everything possible. I went with her to the Betty Ford Clinic. I came down one time, her attorneys in Houston, they said, Virgie, she is in California and she is really sick. She is in the hospital and she never went in the hospital under her name, never. So they told me the name and come down here. I took the week off of work to stay with her. I came down here. When I walked into the hospital in her room, the doctor was in there and there were two guys in there with her, I know her helper or her driver or whatever they were, the doctor said, who are you, I said I am her mother and he looked at both of the guys and they said she did not have a other, her mother is dead. I said, well, they are lying. So I sat in this hospital for over a week and talked her into going to the Betty Ford Clinic. So we took her there, she had me drive, we took her there, but she did not stay long enough to get help, but she was there and I took her there. I helped sign her in myself.

THE COURT: I am turning the witness over the lawyers.

MR. TUNSTALL: Thank you, Your Honor.

#### QUESTIONS BY MR. TUNSTALL OF MS. ARTHUR:

Q Virgie, a couple housekeeping matters I would like to get taken care of.

Virgie, let me show you what we have had marked as Exhibit D for identification, and ask you if you, as my client, directed me to submit this letter to the Medical Examiner, in regards to you having him turn your daughter's body over to you?

A Yes.

Q And that was dated the 19<sup>th</sup>?

A Yes

Q Your Honor, I would like to move that into evidence as –

MR. MILSTEIN: I would like to see a copy of that, that's dated the 21<sup>st</sup>.

MR. TUNSTALL: I have that one. I don't have copies of that one.

MS. BARTH: Your Honor, we would like to see it too.

MR. MILSTEIN: My objection is, this is not part of the pleading under Chapter 406. It's tardiness and, therefore, should not be taken into consideration.

THE COURT: Let the record reflect they are talking about a doctrine. I will tell you everything.

MS. ARTHUR: What is he saying?

(Further arguments are present by Ms. Barth & Mr. Milstein. Document is admitted)

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Q Virgie, let me show you what has been marked an Attorney Tunstall Exhibit C and ask you again if, due to certain developments in this case, did you direct me to send a second request –

A Yes.

Q -- to the Medical Examiner for release of your daughter's body to you?

A Yes.

Q Virgie, do you agree that with the medical examiner, that if the body is turned over to you that the dress and burial expenses will be your responsibility and not that of Broward County, Florida?

A Yes, I do.

(Continued objections)

Q Virgie, I would like to – you had told us earlier that your relationship with your daughter and in that tape yesterday, your daughter said certain things that were not right. Would you agree with me?

THE COURT: You have to speak up, I don't think they heard you.

Q She said some things that were not right?

A Yes, she did.

Q Let me show you something that we have marked as Attorney Tunstall Exhibit B.

MS. BARTH: Objection, Your Honor. What is the relevance?

MR. TUNSTALL: Can I hand the document to my client, let her identify and when I seek to introduce it into evidence that you raise whatever objections you like.

THE COURT: It will be marked as an exhibit and you can –

MS. BARTH: Mr. Rale would like to see it, too.

MR. STERN: Can I see it, please?

THE COURT: You guys ran a video yesterday. Didn't you get to see it when they ran the video? Did you get to see it firsthand, this is one clip?

MR. TUNSTALL: This is a picture.

THE COURT: We are not going through a merry-go-round on each document. I am going to bunch it up, whatever exhibits he has, we are going to mark them and we are going to move. I am just going to save us a few hours, like a couple of days.

QUESTIONS BY MR. TUNSTALL OF MS. ARTHUR:

Q Virgie, let me show you what has been marked as Tunstall Exhibit B, and ask if you recognize that picture?

A Yes, I do.

Q How old was your daughter when that picture was taken?

A Twenty-six. I am not sure. I know I was 40 because I am skinny in this picture, so I know I was 40 years old.

THE COURT: How old are you now?

A You are not supposed to ask that. Can I take the 5<sup>th</sup> on that?

MR. TUNSTALL: Let me show you.

THE COURT: We are not going to make you do this on every document, just bring it right to her.

MS. BARTH: He can admit them as composites.

MR. TUNSTALL: Everybody hold on now.

Q Let me show you what has been marked as Attorney Tunstall's Exhibit A, and ask if you recognize that?

A Yes. This is me and my daughter when I was a little chunky.

Q Did you make a note on the back?

A 1995.

Q How old would your daughter have been?

A Here you go with numbers, she was born in '67?

Q Can you do arithmetic?

A Not good.

Q So that would have been about 28?

A Close to that.

Q What was the occasion that led to that picture?

A Just visiting. We usually would go and get our nails and hair done together and this one of the times when we were fooling around. Mother and daughter.

(Moves pictures into evidence)

Q Let me show you what has been marked as Attorney Tunstall's Exhibit E and ask if you recognize that?

A Yes. This is –

Q I just asked if you recognize it.

A Yes, I do.

(Exchange with The Court)

Q Let me show you Attorney Tunstall E. What is that?

A This is a picture of me and my grandson, Daniel.

Q Do you remember the circumstances surrounding when that was taken?

A Yes, we just was all dressed up that day. I had my hair and nails done. I think Vickie and I had our nails done that day. That is why we had a picture made because I was all pretty.

Q Do you happen to remember how old Danny was?

A He is about six or seven.

Q Do you know if it was taken while Danny was living with you?

A He was still living in Houston, yes.

Q You don't know whether he had moved out at that point?

A I don't think so. I think I still had him at this time.

(Picture moved into evidence)

Q Virgie, I would like to talk a little about Daniel. What kind of a boy was he?

A He was an angel. I know I got him when he was three months old and he was an angel. I raised him until he was seven. He was just starting first grade, six or seven.

Q What was going on in your daughter's life at that time?

A She was trying to make her way into the world. She was dancing in the exotic clubs, which I did not approve of but you cannot make your children. You teach them right from wrong, you raise them and tell them, this is the path you should take, baby. And I kept her in church, she went to church after she moved out, she even went to church. So she knew right from wrong and all my children, not just her, I have three other children and all of them loved her and they were raised together, it was not just me that she cut out but she refused to see all of us, she was close to all of them.

Q What about your other daughter, nieces and nephews?

A She was close to them, especially the kids. She would take them out, they would go to Candy Park in Houston where all the little kids would go. She would buy them cotton candy she was normal, she was a great person and she was just good. I mean, she would do anything for you and she loved everybody. She was a good person.

Q Was it difficult for you when Daniel moved back in with his mom?

A My mother passed away, she was in the hospital for a couple of months when Daniel was six and he was still living with me and she stayed in the hospital for about two months, she said Sister, Vickie has a job now, you know. This is the time when she met Howard Marshall and he had bought her a house and he was making sure she had everything they needed. He wanted to get married, but she wanted to get a career in modeling. Form the time she was five years old, she said she is going to be a model. I said, baby, you can be anything you want to be. This is a new world where young men and women did not make the same amount of money, when you work beside them. You don't have to know you can be your own boss. You can make your own steps and you don't have to have a man support you.

But in my day, when I was young and my mother's time too, you had to have a husband. If you did not, you did not make as much money. I worked with a guy in a doughnut shop and he is making \$7.00 and I made \$1.78.

Q Doing the same work?

A Yes.

Q What year was that?

A Probably '75.

Q Right before you became a deputy?

A That is why.

#### QUESTIONS BY THE COURT OF MS. ARTHUR:

Q Because the deputies came in for doughnuts.

A I know you think it is funny but the stores were not open, the restaurants were not open. The only place that opened up was the doughnut shop.

Q Let the record reflect that deputies work at Gold's Gym.

A The do work out after they partake in the doughnuts. There was no place to get doughnuts, so that is where the gist goes with cops and doughnuts. You either brought your lunch in the care or they would.

Q You got friendly with some of the deputies?

A Yes. They said, this is what happened, they said, Virgie, why are you working in this place? Why don't you get a job at the Police Department: I said, how much do they pay? He told me, I said, no, how much do they pay women, because I was working back then when they did not pay the same so I put an application in, I did not grow – I did not want to be a cop, I wanted to be a ballerina, believe it or not, and that dream did not come true but I did not want to become a cop.

Q It's never too late.

A They said, go down, apply, it's across the board. And that is how I became a policeman. I went down, applied and two weeks later, they called me and told me to come to work.

Q It was policeman back then?

A Now it's police officer or police person. And that's how I became a police officer and my children were all young when I became a police officer, so they started out knowing in the early days.

#### QUESTIONS BY MR. TUNSTALL OF MS. ARTHUR:

Q When you became a deputy in Texas, were you married at that time?

A Yes

Q How long was that marriage for?

A Sixteen years.

Q What did he do for a living?

A Mechanic.

Q Car mechanic?

A yes, sir. So she was raised with a father and a mother. Not her biological father, that's a whole other area there.

Q Which we do not want to go into.

A Yes.

Q Virgie, I want to talk a little more about Daniel now. After Daniel – you said that Mr. Marshall bought your daughter a house?

A It was in Spring, Texas and he bought a ranch in Cypress, Texas.

Q How long did she stay there?

A She traveled a lot, so she got a nanny and I asked Daniel, because mama was dying, mama said, Virgie, she is established now, she has money, she can afford to take care of Daniel, it's her son and let her enjoy Daniel. So I said okay, Daniel, I said, baby, do you want to go live with mom, and if you don't like it you can come back and stay, do you want to try to live with mom? He said yes, I will go.

MS. BARTH: Hearsay.

MS. ARTHUR: My grandson said it to me.

THE COURT: What is good for the goose is good for the gander.

(Ms. Barth makes a continued objection)

Q From the time that Daniel, your grandson Daniel, went back to live with his mom Anna Nicole, how often would you see him?

A Well, I saw him a lot while he was in Houston, but she move to California.

THE COURT: What age was he?

A Seven, he was in first or second grade because he took soccer lessons. We used to go to their games.

Q He was seven or eight years old when he moved to California?

A Yes.

Q When they went to California, how would you see him?

A With her traveling around, not an awful lot but once every three or four months when she would go on a shoot.

Q Modeling?

A. And she would have him with her and she would get a hotel room for us and me and him would visit in the hotel room, my older son came down when she was in Vegas, me and him and Danny went out and had a good time because she was working.

(Testimony is interrupted by a phone call from Dr. Perper)

QUESTIONS BY MR. TUNSTALL OF MS. ARTHUR:

Q No, was Daniel close to his cousins?

A Yes, they played together a long time.

Q Did they grow up together?

A Yes, they did, yes.

Q Now, did your daughter eventually buy a house in California?

A Yes, she did.

Q Did she own a house in California?

A She one or two, yes.

Q Did she own them when she passed away?

A As far as I know, there was only one left.

Q And before she went to the Bahamas, do you know where she lived?

A California, she had an apartment. I mean, when she was with Howard Marshall, she had an apartment in New Your, she lived in Marilyn Monroe's house. She had a house in Cypress and the Springs.

THE COURT: She had deep pockets.

A He was good to her. He was a very good man.

Q No, I realize your daughter was traveling, as you said, but up until July of 2006, did your daughter have any connection to the Bahamas?

A No.

Q She may have vacationed there?

A I know she went to Bali, wherever that is.

Q No, that is in the Pacific.

QUESTIONS BY THE COURT OF MS. ARTHUR:

Q Were you ever in the Bahamas?

A No.

Q Did you ever physically go to the Bahamas?

A When my grandson died, yes.

Q Here is your thinking for a minute. Tell me about her relationship with your grandson.

A She loved him and he loved her.

Q Tell me about that love, without me making you use tissues too much, just try to be detached for a moment, if you can. I know it is hard. I am making you wear your police hat.

A She loved Daniel, you know, they did fun things together. In fact, when they were together, she would act his age, they would do fun things. She was a comedian, she loved to make you laugh, She, you know, was always coming up with something cute and funny, just stories.

Q Did she absolutely adore this boy?

A She loved him with all her heart.

Q She absolutely loved ?

A Yes, she did.

Q Where is he buried?

A He is buried in the Bahamas because this is where she was at.

Q He is in the Bahamas now?

A I went over there to visit the grave after he died because I was not allowed to come to the funeral.

Q You were not?

A No.

Q You don't have to get into that. Whatever remedy I fashion. I am not going to leave anything out. Okay?

A Good, I don't want anything left out.

Q You know this Judge by now.

A Right. But on his birthday, January 22<sup>nd</sup> was his birthday, I went to the Bahamas and went to the funeral home, the graveyard where he was buried.

Q This was after the ceremony?

A Yes, because I was not allowed to go to the ceremony. I was not allowed to tell my grandson goodbye. I went to the graveyard and the lady came up and said, can I help, I said yes, ma'am, I am looking for Daniel Smith's grave. She said, well, I said, can you show me where it's at. She said no, ma'am, I cannot. I said why. She said, I cannot show you where it is at. I said why not, she said because it was told to us that no one is to know where the grave was. I said, well, I will walk around until I find the stone. She said, well, you can look all you want and there is no stone. I said why, because that's the way we were told it was going to be and that they did not want anyone to know. I said, this is his birthday today, I flown from Texas and I want to see him. I brought his baby shoes, his baby shirt he came home from the hospital in.

The reason I kept them from Vickie is because I had him at that age and she moved around so much. But they were things that I kept. Not things that she had – I cannot show you. But with my mama, I guess God touched her, because as she turned and she said follow me and I did and she walked over to an empty space where there was a lot of graves with flowers and nice plants. She said, do you see that paper there? What it was,

was a flower wrapped up like get at a grocery store and it had a card on it, and she turned around and walked off. She did not really tell me.

And I walked over and there was flowers from Larry Birkhead and he had put flowers on there and there was a little verse saying how much he loved Danny. So that is how I found out where his grave was.

Q Is that why you have a bond with Larry?

A Yes, because he had been over there, you know, and I did not know. I had never met him before but he had left flowers on that baby's grave and that's how I found out where the grave was. I said, did they ever put one head stone and she said no, that was their request, because they did not anybody to know where he was buried.

Q You would normally stand up and say self serving.

MS. BARTH: Hearsay.

THE COURT: Overruled. You may proceed.

A That is how I found his grave. I did take pictures. My sister videotaped that, because we wanted something for the rest of the family to see because none of us were allowed to come, so we did videotape it.

Q And the cemetery that your grandson is buried in, is it a decent facility?

A Yes.

#### QUESTIONS BY MR. TUNSTALL OF MS. ARTHUR:

Q Is it kept up?

A Yes, it was. But it's not his home.

Q I understand.

A Not physically his home.

Q You have a spiritual nature in you too?

A Yes, I do.

#### QUESTIONS BY THE COURT OF MS. ARTHUR:

THE COURT: I know you do.

A That is why I am here.

Q Because you could have thrown in the towel and said –

A I would never throw in the towel on my daughter and not my grandson either. They are one of them and that is why I am here. I am not giving up or quitting.

Q No.

A The drugs took her over and that picture you saw on TV yesterday, that was not my daughter, it looked like my daughter, but it was not my Vicki.

Q You are going to have a ruling by Friday and I am going to fashion a remedy that satisfies all parties. That means some people, when you walk into a court, you hope that you have everything, we are going to try to fashion a remedy where everyone does not get everything.

A Well, I am going to get his body and bring him home where his family is, his father and I are going to do that.

Q We are going to see about that as the matter proceeds. We are going to allow you to have some questions. I covered the waterfront for you, didn't I?

MR. TUNSTALL: I have no other questions.

*Transcribed by Amy*