

**THE SENTENCING REPORT ISSUED BY THE FLORENCE COURT OF APPEAL  
(NENCINI REPORT)**

**DISCLAIMER:** This translation was done by a group of unpaid volunteers who are regular posters on the [Perugiamurderfile.org](http://www.perugiamurderfile.org) message board devoted to discussing the murder of Meredith Kercher in Perugia, Italy, in November of 2007. The translation and editorial team was international in its make-up.

The resulting English translation is being provided for the sole purpose of promoting a better understanding of this complex case and to ensure that the facts are readily available to the English-speaking world without selective emphasis, misstatement or bias.

It has been translated on a "best effort" basis and has gone through multiple rounds of proofreading and editing, both to ensure its accuracy and to harmonize the language insofar as possible. Persons fluent in both Italian and English are invited and encouraged to contact Margaret Ganong ([maganong@hotmail.com](mailto:maganong@hotmail.com)) if they find any material errors that influence the meaning or intention of the judgment. All such corrections will be investigated, made as required, and brought to the attention of the public.

As with any translation, some terminology in Italian has no direct equivalent in English. For example, the charge of calunnia has no direct equivalent in Anglo-Saxon law. Explanations have been provided where relevant. Similarly, readers are encouraged to submit any questions about legal or other concepts that may arise as they peruse the report. Our goal is to make the report as clear and as accurate as possible; to this end, it will be amended whenever doing so promotes this goal.

As the report was written and published in Italian, that language prevails in the event of a dispute over interpretation. This English-language version is provided for reader convenience only; accordingly, it is a free translation and has no legal authority or status.

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Date 30 January 2014, Deposited on 29 April 2014, no. 11/13 Reg.Gen. no. 9066/07 R.N.R.

**REPUBLIC OF ITALY**

**In the name of the Italian People**

**The Second Court of Assizes of Appeal of Florence**

Composed of Messrs:

1. Dr. Alessandro Nencini, Presiding Judge and Extensor
2. Dr. Luciana Cicerchia, Judge of the Court of Appeal
3. Mrs. Elena Perrucci, Lay Judge
4. Mrs. Lucia Bargelli, Lay Judge
5. Mrs. Veronica Alessi, Lay Judge
6. Mrs. Marisa Lippi, Lay Judge
7. Mrs. Genny Ballerini, Lay Judge
8. Mr. Giovanni Cocco, Lay Judge

in the presence of the Prosecution represented by the Assistant General State Prosecutor Dr. Alessandro Crini  
pronounced the following

***SENTENCE***

in the case **remanded by the Court of Cassation**

**against**

**1) Amanda Marie KNOX, born in Seattle (USA) on 9/7/1987**, domicile of choice care of Lawyer Luciano Ghirga of Perugia  
(Custody on 6/11/07 detained in Perugia – Arrest Warrant 9/11/07 Judge of the Preliminary Investigation [G.I.P.] Perugia Court no. 6671/07 – Order of Release 3/10/11 Court of Assizes of Perugia no. 10/10 r.g. notified 3/10/11)

**FAILED TO APPEAR**

**2) Raffaele SOLLECITO, born in Bari on 26/3/1984**, residence Giovinazzo (Bari province), Via Solferino no. 4 – domiciled in Bisceglie (Bari), Via il Vuolo no. 22 – legal residence –  
(Custody on 6/11/07 detained in Perugia – Arrest Warrant 9/11/07 Judge of the Preliminary Investigation [G.I.P.] Perugia Court 6671/07 r.g. – Order of Release 3/10/11 Court of Assizes of Perugia no. 10/10 r.g. notified 3/10/11 – Applicable measure disposition prohibition to leave the country 30/1/14 Court of Assizes of Appeal of Florence no. 11/13 r.g. notified 31/1/14)

**PRESENT**

## ACCUSED

### **BOTH:**

**(A) of the crime to which articles 110, 575, 573 paragraph 1 section 5 of the Criminal Code apply, in relation to the crime listed under count (C), and 577 paragraph 1 section 4, in relation to article 61 sections 1 and 5 of the Criminal Code,** for having, in complicity amongst themselves [*in concorso fra loro*]<sup>1</sup> and with Rudy Hermann Guede, killed Meredith Kercher, by strangling her, fracturing the hyoid bone, and [causing] deep lesions to the left and right sides of the neck, with a sharp weapon to which count (B) applies, and resulting in hemorrhagic shock with asphyxiation secondary to blood loss (caused by the wounds from the sharp weapon in the antero-lateral and right-lateral regions of the neck, and the aspiration of much blood), and benefitting from the late hour and the isolation of the apartment in which Kercher and Knox were tenants, along with two young Italian women (Filomena Romanelli and Laura Mezzetti), in Perugia, at 7 Via della Pergola, committing the deed for trivial reasons [*motivi futili*], while Guede, in concurrence with them, committed the crime of sexual assault.

**(B) of the criminal offense to which article 110 of the Criminal Code and article 4 of Law 110 of 1975 apply,** for having, in complicity between themselves, taken from Sollecito's residence, without justified reason, a large knife, 31 cm long (seized at Sollecito's apartment on 6 November 2007, Exhibit 36)

**(C) of the felony to which articles 110, 609 *bis* and *ter*<sup>2</sup> section 2 of the Criminal Code apply,** for having, in concurrence between themselves and with Rudy Hermann Guede (with Guede the actual perpetrator, in complicity with the co-accused), forced Meredith Kercher to

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<sup>1</sup> *Concorso* (translated as "complicity") is a term in Italian law indicating that the actions and realized intentions which resulted in the event that occurred were shared, in such a way that there is shared legal responsibility for the crime. It is a technical term with its own jurisprudence, and is divided into sub-categories for the several kinds of *concorso* codified into law, each with different meanings. The possibilities include: having a role in the chain of causes that produce a crime, planning an action committed by others, sharing an intention different from the actual crime, lending moral support, being necessary to an action, or bringing support while not being unnecessary. For murder, the concept can be compared with the old common law felonies of murder-in-company, and robbery-in-company.

<sup>2</sup> The term "*bis*" means twice in Latin, "*ter*" means three times; they are used in various legal systems when a new section is added to a code so as to avoid the necessity of renumbering all the code sections that follow.

submit to sexual acts, with digital and/or genital penetration, using violence and threats, consisting of restraint producing bruises, in particular to the arms, legs, and vulvar area (bruises on the antero-lateral face of the left buttock, bruises in the vestibular area of the vulva, a bruised area on the front of the middle third of the right leg), and in the use of the knife under count (B).

**(D) of the felony to which articles 110 and 624 of the Criminal Code apply**, because, in complicity amongst themselves, to gain unjust profit for themselves, in the circumstances of time and place in which counts (A) and (C) apply, took possession of a sum of approximately 300 euros, two credit cards, from *Abbeybank* and *Nationwide*, both based in the United Kingdom, and two mobile phones, property of Meredith Kercher, removing them from her, who was in possession of them. **(Fact to be qualified in the senses of article 624 bis of the Criminal Code, due to the reference to the place of execution of the crime contained in count (A), here referenced.)**

**(E) of the criminal offense to which articles 110, 367 and 61 section 2 of the Criminal Code apply**, for having, in complicity between themselves, simulated an attempted burglary by breaking into the room of Filomena Romanelli at 7 Via della Pergola, breaking the window glass with a rock taken near [iii] the residence, a rock that was left in the room near the window, to provide impunity for themselves for the crimes of murder and sexual assault, attempting to attribute the responsibility for them to unknown persons who entered the apartment for this purpose.

**All of these events having taken place in Perugia, on the night between 1 and 2 November 2007.**

**Amanda Marie KNOX, in addition:**

**(F) of the criminal offense<sup>3</sup> to which articles 81 cpv., 368 paragraph 2 and 61 section 2 of**

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<sup>3</sup> The charge of *calunnia* (article 368 of the Italian Criminal Code) has been commonly translated as “slander” in the English/US media. This translation is incorrect, however, as *calunnia* is a crime that has no direct equivalent in either of those legal systems. The equivalent of “criminal slander” is *diffamazione*, which is an attack on someone’s reputation. *Calunnia* is the crime of making false criminal accusations against someone whom the accuser knows to be innocent, or of simulating / fabricating false evidence, independently of the credibility / admissibility of the accusation or evidence. The charges of *calunnia* and *diffamazione* are subject to very different jurisprudence. *Diffamazione* is public and explicit, and is a minor

**the Criminal Code apply**, because, with multiple acts done for the same criminal purpose, knowing him to be innocent, she made an accusation to the Flying Squad at the police station in Perugia on 6 November 2007, falsely accusing Diya Lumumba, called 'Patrick', of the murder of young Meredith Kercher, all done with the intention of gaining impunity for everyone, and in particular for Rudy Hermann Guede, who, like Lumumba, is black.

**In Perugia, on the night between 5 and 6 November 2007.**

## APPELLANTS

The Prosecutor and both the defendants appealed the judgment of the Court of Assizes of Perugia [hereinafter also defined as “Court of Assizes” or “First Instance Court”] on 4-5 December 2009 that declared Amanda Marie Knox and Raffaele Sollecito guilty of the crimes charged under count (A), into the above crime was absorbed<sup>4</sup> [the felony charged under] count (C), as well as counts (B), (D) limited to the mobile phones, and (E). As to Amanda Marie Knox, also convicted of the crime charged against her under letter (F), all felonies were unified under the link of continuation<sup>5</sup> and, excluding the aggravating circumstances provided for in articles 577 and 61 section 5 of the Criminal Code, to both of them, the generic extenuating circumstances were found equivalent to the rest of the aggravating circumstances, they were sentenced to 26 years of imprisonment for Knox and to 25 years of imprisonment for Sollecito (base penalty for continuation 24 years of imprisonment), and both of them were also ordered to pay the costs of the trial and of custody in prison.

In accordance with articles 29 and 32 of the Criminal Code, they were both forbidden from holding public office in perpetuity and assigned the status of *interdizione legale*<sup>6</sup> for the entire

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offence, usually resulting in a fine and only prosecuted if the victim files a complaint, while *calunnia* can be secret or known only to the authorities. It may consist only of the simulation of clues, and is automatically prosecuted by the judiciary. The crimes of *calunnia* and *diffamazione* are located in different sections of the Criminal Code: while *diffamazione* is in the chapter entitled “crimes against honor” in the section of the Code protecting personal liberties, *calunnia* is discussed in the chapter entitled “crimes against the administration of justice”, in a section that protects public powers.

<sup>4</sup> Absorbed means not considered as a separate crime with a separate sentence to be added to that imposed upon conviction of the basic crime, but part of the basic crime itself.

<sup>5</sup> In common law jurisprudence this is known as “continuing crime” or “continuous crime”: further criminal acts after the consummation of a crime done with the same criminal intention.

<sup>6</sup> *Interdizione legale* is an automatic penalty in Italian criminal law for those who are convicted of serious crimes such as murder. This penalty bans the person from managing money or entering into any form of

duration of the punishment.

In accordance with articles 538 and following of the Code of Criminal Procedure, the convicted Amanda Marie Knox and Raffaele Sollecito were sentenced to compensate jointly and severally, for the damages caused to the Civil Parties John Leslie Kercher, Arline Carol Lara Kercher, Lyle Kercher, John Ashley Kercher, and Stephanie Arline Lara Kercher, damages to be settled in another trial and granted provisional compensation immediately enforceable of 1,000,00.00 euros (sic) for both John Leslie Kercher and Arline Carol Lara Kercher and of 800,000.00 euros each for Lyle Kercher, John Ashley Kercher, and Stephanie Arline Lara Kercher, in addition to a lump-sum refund, VAT and CPA as provided by law;

**[iv]** Amanda Marie Knox was furthermore sentenced to pay for the damages caused to the Civil Party Patrick Diya Lumumba, damages to be settled in another trial, and to pay him provisional compensation of 10,000.00 euros in addition to a lump-sum refund, VAT and CPA as provided by law.

Amanda Marie Knox and Raffaele Sollecito were sentenced to pay the legal costs of Patrick Diya Lumumba, liquidated to 40,000.00 euros in addition to a lump-sum refund, VAT and CPA as required by law.

Both Amanda Marie Knox and Raffaele Sollecito were sentenced to pay for the damages caused to the plaintiff Aldalia Tattanelli, damages to be settled in another trial, and to Lyle Kercher, John Ashley Kercher and Stephanie Arline Lara Kercher, to be given provisional compensation immediately enforceable of 10,000.00 euros.

Both defendants, jointly and severally between them, were ordered to reimburse the legal costs of the Civil Party Aldalia Tattanelli, amounting to 23,000.00 euros in addition to a lump-sum refund, VAT and CPA as provided by law.

In accordance with article 240 of the Criminal Code [the Court] ordered the confiscation of

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contractual and legal agreement except of a personal nature (i.e., marriage, recognition of a child etc.).

material evidence.

In accordance with article 530 of the Code of Criminal Procedure, [the Court] acquitted the accused of the residual charge related in count (D) because it was not proven that the crime was committed.

### **PETITIONERS**

The Prosecutor, the accused Amanda Marie Knox, and the Civil Parties Stephanie Arline Lara Kercher, Lyle Kercher, John Leslie Kercher, John Ashley Kercher, and Arline Carol Mary Kercher appealed the sentence of the Court of Assizes of Appeal of Perugia on 3 October 2011 that declared Amanda Marie Knox guilty of the felony related in count (F), and excluded the aggravating circumstance in article 61 section 2 of the Criminal Code and also recognized the general extenuating circumstances as equal to the aggravating circumstance on paragraph 2 of article 368 of the Criminal Code, sentencing her to 3 years in prison.

Only in relation to this charge, the civil provisions of the judgment appealed were affirmed, and Amanda Marie Knox was sentenced to pay the legal costs and attorney fees incurred by the Civil Party Patrick Diya Lumumba, settled in total 22,170.00 euros on the fees and charges in addition to a lump-sum reimbursement and sums required by the law.

Both of the accused were acquitted of the felony ascribed to them under counts (A), (B), (C) and (D) for not having committed the crime, and of the felony ascribed to them under count (E) because the crime did not occur, rejecting the request by the plaintiff Aldalia Tattanelli. The immediate release of Amanda Marie Knox and Raffaele Sollecito was ordered unless detained for other reasons.

The Supreme Court of Cassation [hereinafter, "the Supreme Court", "Cassation" or "Court of Cassation"], in its ruling dated 25 March 2013, annulled the judgment contested, limited to the crimes under count A (in this absorbed the count C), B, D, E and [v] to the aggravating circumstance on article 61 section 2 of the Criminal Code contested in relation to count F and sent the case back for further trial before the Court of Assizes of Appeal of Florence.



The appeal of Amanda Marie Knox was rejected; she was sentenced to pay all the costs of the trial and to pay all the costs of the present proceedings of the Civil Party Diya Lumumba given in the sum of 4,000.00 euros and in addition general expenses, VAT, CAP as provided by law.

[1]

## HISTORY OF THE CASE

On 2 November 2007, shortly after 1:00 pm in the cottage at 7 Via della Pergola in Perugia, the body of a young woman, subsequently identified as Meredith Kercher, was found. She had come to Perugia at the end of the summer of 2007 under the auspices of the Erasmus Program and was attending university classes in the Umbrian town. The lifeless body was sprawled on the floor of the bedroom that the young woman occupied, inside the apartment she was renting with three other young women in a cottage owned by Aldalia Tattanelli.

In connection with the murder of the young woman, and for the other related crimes that will be discussed, the Prosecutor in Perugia, as a result of the preliminary investigations, initiated the criminal prosecution against Amanda Marie Knox, the victim's flatmate, a university student from Seattle (USA) who was also studying in Italy; against Raffaele Sollecito, a student in the department of Computer Engineering at the University of Perugia who was Knox's boyfriend; and lastly against Rudy Hermann Guede, a citizen of the Ivory Coast residing in Perugia since childhood.

Subsequently, a preliminary hearing was held, during which Rudy Hermann Guede requested and was granted an abbreviated trial, which resulted in the separation of his legal case. At the conclusion of the preliminary hearing, the co-defendants were committed for trial to the Court of Assizes of Perugia, charged with murdering Meredith Kercher, a crime committed in complicity with Rudy Hermann Guede – separately judged, as indicated above – this murder considered to be aggravated for having been carried out during the perpetration of the crime of sexual violence, for futile reasons, taking advantage of the victim's defenseless condition; for criminal sexual violence perpetrated on Meredith Kercher in complicity with Rudy Hermann Guede; for the offense, under article 4, Law no. 110/1975, of having taken from Sollecito's residence a bare-bladed knife, [the] weapon used to commit the crime of aggravated murder; for the aggravated theft of the two mobile phones owned by the victim, and also of money and of two credit cards; finally for the crime of staged burglary, for having staged inside the house signs of a burglary committed by unknown

persons that would point to the probable perpetrators of the murder of [2] Meredith Kercher. Amanda Marie Knox only was also declared guilty of the crime of aggravated *calunnia* because, in an agitated state during the investigation following the discovery of the murder, she falsely accused, with full knowledge of his innocence, Diya Lumumba, called 'Patrick', of having killed Meredith Kercher.

The trial of Rudy Hermann Guede, held as an abbreviated proceeding, was resolved with the verdict of conviction pronounced by the Judge for the Preliminary Hearing (*Giudice dell'Udienza Preliminare*, "G.U.P.") on 28 October 2008, with the sentence of thirty years in prison plus accessory penalties. This verdict was confirmed by the Perugia Court of Assizes of Appeal, which, moreover, having granted the general extenuating circumstances, and having given the reduction for the abbreviated procedure, reduced the sentence to 16 years. On 16 December 2010, the First Criminal Section of the Supreme Court rejected the appeal made by Guede from the judgment on appeal, which consequently obtained the authority of *res judicata*. ["A matter adjudged", i.e., final judgment]

On 16 January 2009, the standard trial began in the First Instance Court against the other co-defendants, Amanda Marie Knox and Raffaele Sollecito, with the family of Meredith Kercher and Aldalia Tattanelli both joining the proceedings as Civil Parties against both of the defendants, and Diya Lumumba joining against Amanda Marie Knox only.

Prior to the hearings, objections of the nullity of legal proceedings were raised, relating to the investigation (and in particular to the interrogation of the defendant Raffaele Sollecito, carried out without first filing the documents of the investigation); the Court overruled the objections with the orders issued during the trial; the Court also rejected a motion made by the Knox Defense related to the complaint that article 237 of the Code of Criminal Procedure is unconstitutional, for failing to conform to the prohibition of the use of documents by the Court delivered by the defendant in the absence of defense counsel.

Completing the formalities of opening the trial, and resolving the preliminary objections raised by the parties, the evidence hearings started in February 2009 with an examination of

the witnesses and of the consultants of the Prosecutor and continued until June 2009, when the defendant Amanda Marie Knox was examined with the assistance of an English speaking interpreter, Anna Baldelli Frontincelli.

[3] After the defendant was examined, the examination of the co-defendant judged separately, Rudy Hermann Guede, was ordered; he availed himself of the right not to answer. Afterwards, the witnesses called by the Defense were examined, as well as their technical consultants.

*Medio tempore* [in the meantime], the Court had arranged for a court-appointed expert opinion report, requested by the Sollecito Defense, for the purpose of providing transcripts of the recorded conversations and wiretaps authorized in the preliminary investigations. In particular, these concerned recordings made in the Perugia police station on 2 November 2011 in the rooms where Meredith Kercher's flatmates, as well as the young men residing in the flat below the crime scene and the murdered woman's friends, were waiting. Moreover, the authorization was granted to record the conversations the defendant Amanda Marie Knox had with her parents while in prison, and these were also transcribed. As far as the wiretaps are concerned, those involved the fixed and mobile phones of the family of defendant Raffaele Sollecito.

Upon completion of the evidence hearings, the First Instance Court overruled objections related to the alleged infringement of the right of defense with trial underway, and in the 9 October 2009 hearing the Defense asked for an expert opinion as per article 507 of the Code of Criminal Procedure.

In particular, a forensic expert opinion was requested, for the purpose of verifying the time frame within which the death of Meredith Kercher took place and therefore, ultimately, the time of the murder; the forensic examination was requested to determine how the murder was executed, in particular whether or not a number of co-perpetrators were involved; the repetition of the genetic tests done by the Scientific Police, especially on Exhibits 165B and 36 [clasp from the bra worn by Meredith Kercher when she was assaulted (hereinafter, the "bra

clasp”) and the knife seized from the apartment of Raffaele Sollecito, the alleged murder weapon]; having been questioned how the physical evidence was collected by the Scientific Police, in particular by Dr. Patrizia Stefanoni; an audiometry test was requested to determine whether the witness Nara Capezzali was able to hear the screams that she testified she had heard; finally, an examination was requested of the defendants' personal [4] computers, whose hard drives were found damaged and could not be copied.

The Court rejected the last requests advanced and declared the hearing closed; at the conclusion of the closing argument, on 5 December 2009, the Court decided the case, reading the verdict in open court.

The First Instance Court pronounced Amanda Marie Knox and Raffaele Sollecito criminally responsible, in complicity, of the crime of aggravated murder [count (A) of the charge] excluding the aggravation of the impaired defense conditions, and considered as absorbed the contested behavior of sexual violence. Also, they were pronounced guilty of the crime of aggravated theft, limited to Meredith Kercher's two mobile phones, and of staging a burglary [counts (B) and (D) of the charge]; finally, with exclusive reference to defendant Amanda Marie Knox, guilty of the crime of aggravated *calunnia* committed against Diya Lumumba. As a consequence, Raffaele Sollecito was sentenced to 25 years in prison and Amanda Marie Knox to 26 years in prison. The defendants were also ordered to pay the costs of the trial and the costs of the pre-trial detention in prison, in addition to compensation for the damages suffered by the Civil Parties, for whom provisional awards were granted. The confiscation of material evidence previously seized was also ordered by the judges.

The reasoning in the judgment of the First Instance Court can be succinctly reconstructed as follows.

Preliminarily, the First Instance Court gave a detailed description of the scene of the events and of the contacts Meredith Kercher had with her English friends, with the other flatmates, and with the young men living in the flat below; in particular, it provided a description of

the 7 Via della Pergola property and of the manner in which the body of Meredith Kercher was found. Then the Court went on to analyze the relationships that the murdered young woman had with the young people who had various connections with one another, even if they only knew her slightly, and focused on the person of Rudy Hermann Guede.

With a specific reference to the first co-defendant, judged separately, the Judge, after having stated that many facts proved the Ivorian man was present in the flat at the time the murder was committed (now clearly established by the [5] conviction sentence, which has the force of *res judicata*), addressed the question of how he had entered the apartment. On the basis of well-organized reasoning, it was ruled out that Guede entered through the broken window in Filomena Romanelli's room, recognizing from the obvious signs that the break-in was conducted to simulate a burglary. In the second place, it was ruled out that the victim had voluntarily allowed Guede inside the flat; it was also excluded that he used one of the keys to the apartment in the possession of the victim's [Italian] flatmates, it having been verified that all of them were, on the night between 1 and 2 November 2007, far from Perugia and, in any case, unable to be present there.

Therefore the Court examined the defendants' version of the events, considering that only Amanda Marie Knox had the other key to the apartment, and judged the pre-trial evidence collected in relation to the young woman's statements, in which she said that from late on the evening of 1 November to the morning of 2 November 2007 she was with her boyfriend Raffaele Sollecito and remained in his flat; that they had dinner, listened to music, watched a movie, took soft drugs, and made love. After having spent the night there and until the next morning, when Knox, at around 10:00 am, returned to her own apartment (7 Via della Pergola) to take a shower and change her clothes, having planned a short day trip to Gubbio on 2 November 2007 with Sollecito. The story given by the defendant, if duly verified in the course of trial, would have established an insurmountable alibi with respect to the time during which Meredith Kercher was attacked, late in the evening on 1 November and, in any case, during the night between 1 and 2 November 2007.

In its decision, the Court highlighted a series of inconsistencies in the story of the defendant,

and also a series of contradictions with what emerged from the inquiry (the testimony of witness Antonio Curatolo, who said he had seen the defendants together on the evening of 1 November 2007 in Piazza Grimana around 9:00 pm and 11:00 pm; the technical inspections of the defendant's mobile phone and personal computer, which would have confirmed if they had been used during the night; and the testimony given by witnesses Nara Capezzali and Antonella Monacchia). The Court went on to examine the investigation carried out by the State Police, both in the cottage and during the search of Sollecito's apartment, the items of evidence found, the analysis of the medical and [6] legal investigation in order to verify the manner of the assault and the probable sexual violence suffered by the victim, and the causes and estimated time of Kercher's death.

After a broad and detailed examination of the witness testimony, the findings of the investigation, and the result of the cross-examination of the experts for the Court and for the parties, the First Instance Court arrived at the conclusion that the death of Meredith Kercher was caused by *“asphyxia caused by the wound of greater gravity inflicted on the neck, subsequent to which blood ended up in the airways impeding respiration, a situation exacerbated by the breaking of the hyoid bone – this action also attributable to the action of the cutting instrument – with consequent dyspnea”* (Page 163 of the Sentence of the First Instance Court). The young woman had also suffered sexual violence, albeit without vaginal penetration.

Once the cause of death was established, the Court examined the set of issues related to the means that caused it, with specific reference to the wounds inflicted by a knife used as a weapon; the Court came to the conclusion that more than one knife was used to inflict the wounds on the body of Meredith Kercher and, according to reason, wielded by different hands; according to the First Instance Judges, among the weapons used to consummate the murder, certainly present was the knife found in the apartment of Raffaele Sollecito and submitted as Exhibit 16)<sup>7</sup> (sic), repeatedly mentioned.

Regarding the estimated time of death, the examination of the findings of the experts and of the technical consultations on file, the Court considered the important time period to be

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<sup>7</sup> This appears to be a typographical error with respect to Exhibit 36.

between the hours 11:00 pm-11:30 pm on the evening of 1 November 2007 (the young woman having returned home at around 9:00 pm) and around 4:50 am on the morning of 2 November 2007.

Next, the First Instance Court examined the results of genetic investigations that were conducted pursuant to article 360 of the Code of Criminal Procedure by Dr. Patrizia Stefanoni, a biologist with the Forensic Genetics Section of the Rome Scientific Police Service. The sentence discussed in particular a piece of material with hooks (Exhibit 165B) which, found inside the apartment at 7 Via della Pergola at a time later than the first inspection and under circumstances that gave rise during the trial to strong objections by the Defense on the grounds of contamination, had produced a mixed genetic result: the genetic profile of the victim and that of Raffaele Sollecito, which appeared both in the [7] full DNA analysis and in the Y-haplotype analysis. The Court then highlighted how many traces of “*diluted*” blood (blood mixed with water) were found in the small bathroom, with mixed traces from the victim and Amanda Marie Knox; finally, on the knife seized in the apartment of Emanuele (sic) Sollecito (Exhibit 16 (sic)), the genetic profile of Amanda Marie Knox and, on one part of the blade, the genetic profile of Meredith Kercher were found. There were also several traces attributable to Rudy Hermann Guede.

The results of the investigations carried out by the Scientific Police were severely criticized by the Defense’s expert consultants, and the First Instance Court gave a full accounting of those objections.

The discussions of the expert consultants for the defendants then began concerning the technical findings of the Postal Police on the personal computer used by the defendant Raffaele Sollecito and on his mobile phone. Lastly, the judgment acknowledged the findings of the investigations of the Scientific Police of more pieces of evidence and of the blood traces and bloody prints found, and the criticisms made by the Defense experts.

Upon completion, the First Instance Court carried out the task of rereading the evidence highlighted as well as the technical expert assessments from the investigation which, in their



judgment, were held to prove that on the evening of 1 November 2007 Meredith Kercher was sexually assaulted by Rudy Hermann Guede, assisted by the defendants Raffaele Sollecito and Amanda Marie Knox, who let Guede into the apartment. The young woman refused to submit to Guede's sexual attentions, escalating the intensity of the assault until the victim was stabbed by two different knives, causing her death. Immediately after the murder, Guede was thought to have left, whereas Raffaele Sollecito and Amanda Marie Knox were thought to have remained in the apartment to attempt to cleanse the environment of blood stains (hence the diluted blood) and stage the burglary, breaking the glass in Filomena Romanelli's room and thus undertaking actions whose aim was to sidetrack the investigation, which would surely have started as soon as the body was discovered.

**[8]** On the basis of this reconstruction, the First Instance Court arrived at the sentence of Raffaele Sollecito and Amanda Marie Knox under the terms previously set forth.

The defendants appealed the judgment on various grounds, and the Prosecutor also filed an appeal relating to the exclusion of the aggravating circumstance under article 61 no. 1 of the Criminal Code and the fact that general mitigating circumstances were granted for the defendants. The Civil Parties lodged briefs supporting the judgment under appeal.

With reference to the appeal filed by the defendants, what was observed by the Court of Assizes of Appeal of Perugia in the annulled verdict can be recalled here, namely that *"(...) the grounds for appeal [presented by the Defense of the two accused in their appeal request, and the later added], while technically distinct and characterized by customized argumentation can, in any case, be illustrated conjointly, at least in their broad outline, inasmuch as they touch on the same points and are supported by analogous argumentation.*

*Even before presenting specific grounds for nullity or the exigency of propounding particular case related procedures, raised in the first instance but not admitted by the Court of Assizes, the criterion followed in general by the Court of Assizes was objected to: in the appellants' view, the Court of Assizes, starting with a belief manifested from the first pages of the judgment concerning the falsity of the version proposed by the accused, would have ended up attributing probative value to facts that in*

*themselves were nothing if not unreliable (for a series of reasons also proffered by the parties' technical consultants), such as the results of the technical investigations effected by the Scientific Police, rather than, on the contrary, autonomously weighing the reliability and the relevance of these results, and then verifying their consistency with respect to the version put forth by the accused. And so, following this erroneous path, they would have ended up reaching an affirmation of culpability, more in the order of a probabilistic kind, rather than on objective and significant probative facts such as to exclude any reasonable doubt about the culpability or not of the accused. (Page 24 of the sentence of the Court of Assizes of Appeal of Perugia)*

On the basis of such critical evaluations, the Defense put forward investigation requests, in particular that genetic investigations be repeated on seized exhibits.

The Court of Assizes of Appeal of Perugia, accepting the request for such investigation, decided to partially repeat evidence taking, arrange for new [9] genetic expert opinion, and hear some of the witnesses specified by the parties. At the end of the proceedings, the Court gave its final judgment on 3 October 2011, which, in a modification of the first instance verdict, confirmed the conviction of Amanda Marie Knox in relation to the crime of *calunnia* against Diya Lumumba, excluding the aggravation of the teleological connection, and re-establishing the penalty; the Court acquitted both the defendants of the felonies of aggravated willful murder, theft, transporting an illegal weapon, and sexual violence in complicity, for not having committed the crimes; the Court acquitted the defendants of the felony of staged burglary on the grounds that the crime did not occur.

The Court of Assizes of Appeal [of Perugia] first observed that the above-mentioned judgment of the First Section of the Supreme Court, rejecting the appeal brought by the co-accused Rudy Hermann Guede and thereby rendering his conviction definitive, could not have any binding effect on the Judge of merit in relation to the legal positions of the co-defendants Raffaele Sollecito and Amanda Knox, since it was given as the outcome of an abbreviated trial, and in the absence of evidence that emerged as a consequence of renewed investigation during the appeal. From this [the Court] deduced that the appeal judgment should be based on a free examination of the entire body of evidence brought out at trial and

of the technical results acquired, without any limits whatsoever.<sup>8</sup>

This premise once decided, the appeal Judges dealt with the content of the appeal concerning the conviction of Amanda Marie Knox for the crime of *calunnia* against Diya Lumumba, rejecting the grounds [for appeal] and confirming the conviction of the defendant as determined by the Judges of first instance, albeit without the aggravating circumstance of having had a specific goal, and re-determining the sentence in consideration of the fact that this crime was thus no longer directly related to the crimes of which she was acquitted.

The Court then began consideration of the appeal, requested mainly by the defendants through the circumstances related to the aggravated killing of Meredith Kercher, and of the dependent crimes, starting from the examination of the out-of-court statements made by the co-defendant Rudy Hermann Guede in (it is noted here that Rudy Hermann Guede was not examined during the first instance trial because he refused to undergo examination) declarations which, according to the Judges of the Court of Assizes of Appeal of Perugia, led [them] to rule out that [10] the crime, for which Guede was definitively convicted, was committed with the defendants Sollecito and Knox.

Within the evidence framework that can be referenced in Rudy's statements, the Court reviewed the declarations given by the witnesses Alessi, Aviello, Castelluccio, De Cesare and Trincam, all indirect witnesses – with the exception of Aviello – about what was allegedly said to them by Guede while they were in prison together, and for the purpose of showing that the defendants Sollecito and Knox were not involved in the murder for which they were on trial. The Court of Assizes of Appeal of Perugia, even though it considered the declarations of the witnesses unreliable, rejected the Prosecutor's request to examine the witness Aviello concerning statements he made to the Prosecutor after he was examined in Court, statements that he [later] retracted [in prison] during the trial, explaining why he had done so, believing that the circumstances about which the witness would have testified was irrelevant to the issues of the trial; on the other hand, the Court ordered the record of the questioning to be added to the case file.

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<sup>8</sup> i.e., without the Guede judgment having any probative value for the issues decided by the Perugia Court of Assizes of Appeal.

The Court then undertook an analytical examination of the testimony given by the witnesses questioned during the First Instance trial, in particular the testimony given by the witnesses Curatolo and Quintavalle.

As far as the testimony of the witness Curatolo is concerned, while the Judges found credible his statement that he saw the two defendants together in the evening and after 9:00 pm in Piazza Grimana, they reconstructed the event as reasonably having occurred on the evening before 1 November 2007, that is on the evening of the 31 October, on the basis of a critical examination of the statements made by Curatolo in light of other evidence that came out at the trial, including the testimony of certain witnesses heard during the appeal.

Similarly, the Court of Assizes of Appeal of Perugia devalued as evidence the testimony of the witness Quintavalle – the owner of a shop in Perugia located close to Sollecito's apartment – who testified to having seen Amanda Marie Knox in the early hours of the morning of 2 November 2007 inside his shop in the detergent section; the young woman allegedly later exited the shop without him seeing whether she had purchased any products.

[11] The Court went on, evaluating the facts that emerged from the investigation, with a specific reference to the discovery of the supposed time of the death of Meredith Kercher and to the identification of the murder weapon.

As far as the first issue is concerned, the Judges, on the basis of the reevaluation of the investigation evidence in the record, stated that the assault on Meredith Kercher with the fatal result would have happened “(...) *much earlier than the time held by the First Instance Court: certainly not later than 10:13 pm*” (Page 62 of the judgment of the Court of Assizes of Appeal of Perugia). With reference to the murder weapon, and together with the knife seized from Sollecito's residence, the Court reasoned that the only solid element that linked the murder weapon to the crime was the genetic examination that revealed traces of the genetic profile of the victim on the weapon.

Then the Court examined what, in the reconstruction made by the appeal Judges, would have been the “core” of the trial; that is, the genetic examination made by the Scientific Police on Exhibit 36 (the knife seized from Raffaele Sollecito’s residence) and Exhibit 165B (the bra clasp).

It is hardly necessary to mention that, on the basis of the order issued by the Court of Assizes of Appeal [of Perugia] on 18 December 2010, both exhibits were subject to new technical evaluations. As far as Exhibit 36 is concerned, the genetic investigation carried out in the re-opened expert study excluded, according to the [Perugia] appeal Judges, the presence of the genetic profile of Meredith Kercher on the blade of the knife, on the grounds that the experts had clearly indicated the real possibility of contamination of this Exhibit, thereby reducing to nothing the only piece of circumstantial evidence connecting that weapon and the murder.

With respect to this Exhibit and because of the importance this circumstance will have in the Supreme Court’s decision that we are discussing here, it must be immediately pointed out that the court-appointed experts found another trace on the knife (referred to as trace (I) in reports) that nonetheless was not examined. The Court thus reasoned in the sentence: “(...) *This also explains why the expert team did not proceed farther in analyzing the sample that it collected itself from the blade of the knife: the quantity was found once again to be LCN and altogether insufficient to make two amplifications possible; if they [12] had proceeded further, the court appointed experts [periti d’ufficio] would have committed the same error as the Scientific Police.*” (Page 84 of the ruling of the [Court of Assizes of] Appeal [of Perugia])

In relation to Exhibit 165B (the bra clasp), the Court reasoned as follows: “*Concerning the genetic profile of Raffaele Sollecito, indicated by the Scientific Police as being present on the clasp of the bra worn by the victim, it is observed that the expert team could not extract from the hook (or from the other hook, as there were in fact two hooks) any DNA useful for analysis. This was probably a consequence of the manner in which the clasp was stored: the experts found the hooks covered with a crusty red-brown material, probably arising from the oxidation of the salts of the extraction solution used by the Scientific Police, and from rusty elements in the metal itself. The expert team went on to*

*evaluate the procedures followed by the Scientific Police and revealed both errors in interpretation of the graph and, again, the lack of the precautions that are considered necessary to avoid any possible contamination."*

These observations led the Judges of Court of Assizes of Appeal of Perugia to believe that *"(...) Now, it is quite true that in this graph, apart from the profile of the victim (the main contributor), a profile that can be attributed to Sollecito is also present, but this is not a guarantee that this profile is actually correct, given that in reality, if one takes other peaks into account that are also present in the graph but were not considered by the Scientific Police, it is possible to arrive at a different conclusion ( ... )*

*But the reliability of the result indicated by the Scientific Police is, in this case, further undermined by the evidence collection methods, which were such as to make it impossible to guarantee the purity of the exhibit; in fact they were such as to make it impossible to rule out that the DNA that hypothetically belongs to Raffaele Sollecito ended up on the bra hooks not because Raffaele Sollecito left it there by direct contact on the occasion of the alleged attack on Meredith Kercher but because it was transported there accidentally by other individuals who frequented the crime scene."* (Pages 87-89 of the appeal sentence)

As a conclusion, the Judges of the Court of Assizes of Appeal of Perugia considered as not usable, because not reliable, the results of the genetic tests done by the Scientific Police on Exhibits 36 and 165B.

The fate of the following items was no better: the traces found on the bath mat present in the small bathroom near Amanda Marie Knox's room, the footprints highlighted by luminol (both with useful biological profile and without useful biological profile) [13] and, lastly, the blood stains found in the small bathroom mentioned before. All of these pieces of circumstantial evidence were devalued in the reconstruction of the dynamics of the murder on the basis of the possible contamination made by the incautious behavior of the Scientific Police during their many entries into the property.

The Judges of the Court of Assizes of Appeal of Perugia believed that the key [point], which

was initially made by the Prosecutor and then by the First Instance Court, that a burglary had been simulated by breaking a window in the flatmate's room, was not credible. On the basis of the evaluation of the evidence that emerged from the investigation, and of the investigation made by the German Police when Guede was taken into custody, the Court of Assizes of Appeal of Perugia believed it more plausible that Guede was the one who had broken into the cottage by breaking the window glass with a large rock found there; and therefore [that he] committed the murder without the help of any other co-participant.

On the basis of the declared analysis in relation to the body of evidence that has already been examined, the Court of Assizes of Appeal of Perugia then "re-read" the statements made by Amanda Marie Knox in relation to the two defendants remaining inside Sollecito's apartment from the evening of 1 November to the morning of 2 November 2007, believing that the likelihood of such statements, which constitute a solid alibi for the two defendants, could not seriously have been placed in doubt by the uncertainty of the other circumstantial evidence and, above all, by evaluations that lack objective confirmation and therefore were mere conjectures.

On the basis of the analysis briefly repeated here, the Court of Assizes of Appeal of Perugia delivered a judgment acquitting the defendants of all the crimes attributed to them, with the exception of the crime of *calunnia* committed against Diya Lumumba, for which the Court confirmed the conviction handed down in the first instance to Amanda Marie Knox only, excluding the contested aggravation of the teleological motivation, and with a new recalculation of the imposed sentence.

Both the Prosecutor General of Perugia and the Civil Parties appealed the verdict; as did Amanda Marie Knox, [the latter] with respect to her conviction for the crime of *calunnia* only.

The Prosecutor General gathered a multitude of errors ascribed; methodological mistakes; the Court of Assizes of Appeal of Perugia giving as proven what instead needed to be proved; [14] simple statements of principle that constitute serious mistakes in the Sentencing

Report; with violation of the procedural principles given in articles 192 paragraph 2, 237, 238 of the Code of Criminal Procedure. Namely, the Prosecutor severely criticized:

- Violation of procedural law and specifically of article 192 paragraph 2 of the Code of Criminal Procedure, because the appeal Judges did not evaluate the evidence as a whole, but instead evaluated each item in isolation from the others, fragmenting them, in a procedural error with respect to law and logic;
- Violation of article 238 of the Code of Criminal Procedure because, even if Rudy Hermann Guede's conviction was already irrevocably acquired, its probative content was not given enough weight;
- Non-observance of article 237 of the Code of Criminal Procedure regarding the complete devaluation of the hand-written account by Knox that was given to the State Police Force, which had already been assessed<sup>9</sup> by the Supreme Court in the proceeding pertaining to preventive measures;
- Lack of grounds for the order dated 18 December 2010 arranging for a new expert evaluation and evident non-logical reasoning on the point;
- Contradictory and evident non-logical reasons for the ruling that rejected the request for a new expert evaluation on the exhibit highlighted by the experts at the time of appeal on Exhibit 36;
- Violation of articles 190, 238 paragraph 5 and 495 of the Code of Criminal Procedure concerning the ruling rejecting the Prosecutor's request to recall for further testimony Luciano Aviello, who was examined at the request of the Knox Defense on 18 June 2011 but who later retracted in statements made to the Prosecutor;
- Non-observance of the principles of law in the evaluation of the witness Quintavalle;
- The reasoning concerning the non-reliability of the witness Curatolo was illogical and contradictory;
- Lack of grounds and non-logical reasoning concerning the reconstruction of the time of death fixed by the Court of Assizes of Appeal of Perugia at 10:15 pm on 1 November 2007;
- Insufficient, contradictory, and non-logical reasoning concerning the probative value of the genetic tests; [15]
- Insufficient, contradictory, and non-logical reasoning concerning the evaluation of the

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<sup>9</sup> i.e., whether and how the statements could be used had already been outlined by the Supreme Court in its ruling rejecting the defendants' appeals of, among other things, the order of pre-trial incarceration.



- results of the analysis of the footprints and other traces discovered at the crime scene;
- Misrepresentation of the proof and non-logical reasoning, with violation of the rules of procedure, concerning the evaluation related to the presence of the defendants at the crime scene, and to the statements made by Knox to friends regarding the state in which the body of Meredith Kercher was found;
  - Non-logical reasoning with respect to the evaluation made of the content of Raffaele Sollecito's phone call to the *Carabinieri* on the morning of 2 November 2007;
  - Violation of the rules of procedure and non-logical reasoning concerning the probative value of the testimony given during the appeal by Rudy Hermann Guede;
  - Lack of grounds and non-logical reasoning concerning the alleged non-staging of the burglary, count (F)<sup>10</sup> (sic) of the charge;
  - Contradictory and evidently non-logical reasoning concerning the failure to recognize the aggravating teleological purpose regarding the presumed crime of *calunnia*.

The Civil Parties put forth specific grounds for appeal that were substantially identical and again proposed the same criticism already submitted by the Prosecutor General, although enriched with logical-systematic reasoning.

The Knox Defense, finally, appealed the judgment of the Court, specifically the part in which she was declared guilty of the crime of *calunnia* (count (F)), a felony committed against Diya Lumumba, called "Patrick", arguing four grounds of error:

- Violation and false application of criminal law, non-observance of the established rules resulting in non-usability, contradictory and evident non-logic by lack of the psychological and material elements to commit the crime;
- Violation of articles 181, 191 of the Code of Criminal Procedure and of 54 of the Criminal Code because the documentary and declarative material was collected in violation of the defendant's rights of defense;
- Violation of article 51 of the Code of Criminal Procedure, since Knox's complex psychological state implied that she was sure that she was exercising her right to defend herself when she made the accusatory statements, which would provide an excuse, albeit

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<sup>10</sup> The crime of simulation is under count (E)

putative;

[16]

- Violation of articles 125 paragraph 3, 546 paragraph 1 letter (e) of the Code of Criminal Procedure concerning the amount of the penalty, which was imposed for a much longer term than the minimum without specifying reasons, making reference only to the seriousness of the offense.

The Supreme Court stated in its ruling that, *medio tempore*, in between the declaration of appeal to Cassation and the oral argument, two defense briefs were lodged by the Knox Defense and the Sollecito Defense, briefs that reiterated an interpretation of the circumstantial evidence collected during the first and second instance: the claims of error asserted by the Prosecutor General were firmly criticized, and as to the Knox Defense only, additional grounds for appeal were asserted.

As to the first additional grounds for appeal, the Knox Defense claimed violation of articles 581, 597 and 614 of the Code of Criminal Procedure and the existence of a procedural defect in the appeal by the Prosecutor General. As to the second additional grounds, the Knox Defense, going back to the conviction of *calunnia*, again criticized the procedural rules in terms of how the evidentiary material was acquired on which the two Courts of merit based their judgments.

The Supreme Court, after having determined that the Civil Parties had filed their appeals in a timely fashion, provided a methodological introduction about the limitations on its review of the questions before it, which is of great importance here because it contains the correct principle set forth by the Supreme Court, with which this territorial Court, in the remand, must conform. The Court *verbatim* stated: “ (...) *The purview of legitimacy of this Court with respect to the logical procedure followed to arrive at the judgment of attribution of fact through the use of inferences or rules of experience consists of verifying whether the Court Judge has indicated the reasons for his conviction and whether these are plausible: the verification must be carried out in terms of ascertaining whether the Judge took into [40] consideration all the relevant information present in the Court files, thus respecting the principle of completeness; whether the conclusions*

*reached can be said to be consistent with the material received and prove themselves to be founded on inferential criteria and logical deductions (that are) beyond criticism from the perspective of respecting the principles of the non-contradiction and of the logical consistency of the reasoning. The object of the Supreme Court Judge's scrutiny is therefore the probative reasoning (and) accordingly the method used to assess the evidence, digressing in the reappraisal of the circumstantial evidence [17] not being permitted.. ...)*". (Pages 39-40 of the Supreme Court ruling)

Granted that, as a matter of law, the Supreme Court proceeded with the examination of the same appeals, starting from those filed by the defendant Amanda Marie Knox and by the Prosecutor General, limited to the exclusion of the aggravating factor of the teleological purpose in relation to the crime of aggravated *calunnia* against Diya Lumumba. The Supreme Court, after having examined the defendant's complaints with respect to the two convictions handed down in first and second instance Courts, came to the conclusion that correct logical and legal reasoning had been followed by the Courts of merit and rejected the defendant's appeal.

The appeal filed by the Prosecutor General was reasoned in a different way; in fact, a logical contradiction in the Sentencing Report of the Court of Assizes of Appeal of Perugia was highlighted with respect to the exclusion of the aggravation of the teleological purpose. The Supreme Court arrived at a partial annulment of the Court of Assizes of Appeal of Perugia's decision, limited to an evaluation of the aggravation of the teleological purpose, devolving upon this Court of remand, a "(...) *new judgment guided by a more comprehensive evaluation of the available evidence.*" (Page 45 of the sentence of the Supreme Court) The outcome of the Supreme Court decision formed a partial substantial [definitive] judgment regarding the crime of *calunnia*.

The Supreme Court then proceeded to examine the specific reasons for appeal presented by the Prosecutor General, following the list already highlighted.

The Court then dealt with the problem related to the acquittal of the simulation of the felony at count (E) of the verdict. In relation to this part of the ruling, the Court highlighted the

incomplete reading of the facts by the appeal judge and emphasized the decision as being manifestly illogical in relation to such aspect of the events, which certainly is not minor. In particular, the Supreme Court pointed out how the District Court dwelled longer on the evaluation of Rudy Hermann Guede's personality, on his proven mastery of burglarizing property by entering through windows, while completely neglecting to assess other significant circumstances, some of which were highlighted, above all, by the conviction sentence of Guede, which is now definitive. In relation to such specific reason of weight, the Supreme Court considered as valid the [18] claim of error, highlighted the violation made by the Court of Assizes of Appeal of Perugia regarding the interpretive criteria for assessment of proof.

The Supreme Court went on to examine the weight given to the evaluation of the witness Curatolo, in relation to whom it emphasized the non-logical reasoning of the judgment and the incorrect exercise of the evaluation power of the appeal Judge because of solid case facts that certainly ruled out that the event described by the witness could have happened in the night between 31 October and 1 November 2007, being that both the defendants, on the evening of 31 October 2007, were busy in different places, Amanda Marie Knox at Diya Lumumba's pub and Raffaele Sollecito at a graduation party. Moreover, the Supreme Court criticized how the credibility of the witness was denied on the basis of a wrong evaluation of his testimony; in practice, the Supreme Court emphasized the violation of the guidelines for a discretionary evaluation of the oral examination.

The Supreme Court made similar considerations in relation to the testimony of the witness Quintavalle, whose evidentiary force had been devalued on the basis of reasoning that valued only the critical aspects of the testimony, erasing further aspects that had confirmed the truth of what was said by the witness; this evaluation of the proof was lacking in logical rigor.

The contradictory evaluation made by the Court of Assizes of Appeal of Perugia of the hand-written account [also called the "memorial"] in English by Amanda Marie Knox, and legitimately acquired in the trial documents, was discussed. This account was completely

devalued by the appeal Judge with respect to the significance of its content in relation to the murder of Meredith Kercher on the one hand, while, on the other hand, the appeal Judge took it into account to justify upholding the conviction of Amanda Marie Knox for the crime of *calunnia* against Diya Lumumba; therefore, a contradictory evaluation, in relation to different aspects of the ruling, was given for the same material evidence.

The Court went on to examine the underpinnings related to the omitted evaluation by the First Instance Court of the findings of the definitive judgment delivered against Rudy Hermann Guede and of the contradictory evaluation of the statements mentioned above in the appeal judgment. With reference to the first aspect, the Supreme Court highlighted that [19] the appeal Judge, after having acquired, pursuant to article 238 of the Code of Criminal Procedure, the judgment against Guede, now definitive, then omitted it completely from his evaluation on the assumption that it was unreliable because it was obtained without the evidence emerging from further investigation submitted during the appeal trial. Once again, the Sentencing Report given by the Judges of merit [the Court of Assizes of Appeal of Perugia] to exclude the importance of the definitive verdict referred to above – that, we cite, convicted Rudy Hermann Guede for the murder of Meredith Kercher with other people – was declared defective for superficiality and not allowed by the rules of procedure referenced.

A similar judgment of insufficiency affected the evaluation by the Court of Assizes of Appeal of Perugia of the testimony given by Rudy Hermann Guede.

Assuming that in the First Instance Guede exercised his right to silence due to his *status* as codefendant for the same felony, even if separately judged, the Supreme Court criticized the sentence appealed insofar as the Judge denied the importance of Guede's testimony in the court proceedings and asserted, on the contrary, the reliability of what he wrote in an email to a friend, Benedetti, because the Court of Assizes of Appeal of Perugia believed this email demonstrated that Raffaele Sollecito and Amanda Marie Knox were not present on the night of the crime in the apartment at 7 Via della Pergola – based on the unproven reasoning that, had they been present, Guede would certainly have written as much to his friend. So, the

Supreme Court criticized once again the reasoning of the appeal decision on the specific point, stating that “(...) *the assessment by the Court of Assizes of Appeal of Perugia was based on a platform of absolutely incomplete data; it came to conclusions devoid of adequate logical support and above all contrasting with other available evidence...*”. (Page 57 of the Supreme Court sentence)

The Supreme Court assessed as well-founded the claim of error made by the Prosecutor General with respect to the ruling of the Court of Assizes of Appeal of Perugia rejecting the request for a new hearing of Luciano Aviello in light of statements he had made to the Prosecutor.

The Supreme Court believed that, having ordered the acquisition of the transcript of the declarations made by Aviello Luciano to the Prosecutor on 22 July 2011, the Court committed a clear procedural error by refusing to hear the declarant in court; this hearing was absolutely necessary to fully evaluate such [20] declarations, pursuant to the provision of articles 511 *bis*, 511 second subparagraph and 515 of the Code of Criminal Procedure.

Moreover, the Supreme Court stated that any evaluation of the reliability of the declarant was not compromised, and also stated that the same, in declarations he made to the Prosecutor on 22 July 2011, gave explanations of the “(...) *the route by which Aviello had been contacted and induced to [make] false revelations*”. (Page 58 of the Supreme Court sentence)

Also in relation to the reconstruction of the time of the death of Meredith Kercher, the Supreme Court criticized the reasoning of the Court of Assizes of Appeal of Perugia, because it reconstructed this event on the basis of deductive arguments that were not proved, again by taking into consideration what Guede told his friend Benedetti in the email written to him, thus devaluing three other testimonies without giving any plausible reason, namely those of witnesses Capezzali, Monacchia and Dramis, who reported sufficiently credible circumstances from which a different timing of the assault could be deduced.

Lastly, regarding the genetic tests, after finding that the criticisms directed by the Prosecutor General and the Civil Parties against the Judge's decision to repeat the technical

examinations were unfounded, on the grounds that such a decision falls uncontestably within the scope of the powers of the Court of Assizes of Appeal [Judge of merit], the Supreme Court denounced the way this matter was handled by the Court of Assizes of Appeal of Perugia, which supported the decision of one of the experts, Dr. Carla Vecchiotti, not to perform a technical examination of a further trace found on the Exhibit 36 [trace (I)] on the basis of determinations of appropriateness that were not the responsibility of the expert but, ultimately, the responsibility of the Judge himself. Moreover, the Supreme Court's criticism focused on the evaluations made by the Court of Assizes of Appeal of Perugia, which, without offering any solid reason, relied exclusively on the opinions of the court-appointed experts, without proceeding to a necessary confrontation with the well-reasoned and opposing opinions of the consultants for the Prosecutor General and the Civil Parties, who were of the highest professional standing and equal in professional prominence to the experts appointed by the Judge.

The Supreme Court then criticized the Court of Assizes of Appeal of Perugia for having accepted uncritically the statements of the court-appointed experts regarding the possible contamination of the exhibits and, setting aside any serious investigation on this point, simply dismissed, as insignificant, the technical examinations made by the Scientific Police pursuant to article 360 of the Code of Criminal Procedure.

**[21]** Lastly, the statements made by Amanda Marie Knox. The Court of Assizes of Appeal of Perugia simply asserted that no evidence could be drawn from the accused's behavior after the crime. The Supreme Court noted that Amanda Marie Knox made statements on several occasions that showed specific knowledge of details of the murder that were incompatible with a person unrelated to the crime, assuming that she did not enter in the room when the body of Meredith Kercher was found. The First Instance Court laid stress on this point, and the Court of Assizes of Appeal of Perugia failed to take any critical position, but instead merely dismissed the evidence as being irrelevant.

After examination of the contested judgment, the Supreme Court annulled the judgment of the Court of Assizes of Appeal of Perugia with remand to this Court of Assizes of Appeal of

Florence for the hearing of a new trial, setting the boundaries within which the Judge on remand should undertake a new examination of the appeal in the following terms: *“In conclusion, the challenged judgment must be annulled due to the numerous deficiencies, contradictions and manifest lack of logic indicated above. Using the broadest faculty of evaluation, the remanded judge will have to remedy the flaws in argumentation by conducting a uniform and global analysis of the evidence, through which it will have to be ascertained whether the relative ambiguity of each piece of evidence can be resolved, as each piece of evidence sums up and integrates with the others in the overall assessment. The outcome of such an organic evaluation will be decisive, not only to demonstrate the presence of the two defendants at the crime scene, but also possibly to clarify the subjective role of the people who committed this murder with Guede, against a range of possible scenarios, going from an original plan to kill to a change in the plan whose initial aim was only to involve the young English woman in a sexual game against her will to an act with the sole intention of forcing her into a wild group erotic game that violently took another course, getting out of control.”*

In anticipation of scheduling the hearing in this remand, the Knox Defense deposited on 10 September 2013 two separate memoranda. The first was deposited so that the Court of Assizes of Appeal of Florence, in assessing the non-obvious groundlessness and the relevance to the proceedings, should raise the question of constitutional legitimacy as per articles 627 and 628 of the Code of Criminal Procedure in light of articles 111, 27 and 3 [22] of the Constitution, on the grounds of incompatibility with the constitutional system and the prediction that the procedural mechanism could potentially lead to an unlimited number of reversals and remands so as to nullify the constitutional guarantee of a fair trial. In a separate memorandum, after having repeated the supplementary reasoning and the grounds for appeal already submitted, they requested the following:

- Resumption of the testimony already given by Filomena Romanelli, Francesco Pasquale, Maurizio Rosignoli and Alessia Ceccarelli, Mario Quintavalle, Ana Maria Chiriboga, Oreste Volturno, Rudy Hermann Guede;
- A new examination of all the experts and consultants who had been already heard during the first instance trial and in the appeal before the Court of Assizes of Appeal of Perugia;
- Lastly, a new hearing of the English witnesses Sophie Purton, Amy Frost and Robin Butterworth;



- A court experiment designed to establish the ability "*of an athletic young man*" to enter into the apartment at 7 Via della Pergola;
- Additional technical assessment for the purpose of ascertaining the telephone activity of Meredith Kercher's mobile phone on the night of 1 November 2007.

On 29 July 2013, the Sollecito Defense filed a memorandum containing additional reasons for appeal, consisting of a series of criticisms of the reasoning in the Supreme Court's annulment of the acquittal by the Court of Assizes of Appeal of Perugia. This Court considers that the [above] additional reasons, although undoubtedly useful for the reconstruction of the events for which [this Court] is the trier of fact, are not additional [formal] points of appeal but rather merely constitute criticisms of the reasoning path of the Supreme Court's judgment and, therefore, should be evaluated in this capacity together with all the other elements of the case at the time of the judgment of merit.

Within the same memorandum, the Sollecito Defense also requested a reopening of the investigation, asking that the Court arrange for:

- Genetic testing of the pillow case found in the bedroom where the body of Meredith Kercher was found;
- Additional genetic testing on the Exhibit 165B (bra clasp);

**[23]**

- A new forensic examination to determine Meredith Kercher's exact time of death;
- An audiometric test to establish the real possibility of hearing the scream reported by witness Capezzali as coming from the 7 Via della Pergola property;
- A new technical examination on the MacBook-Pro owned by Raffaele Sollecito;
- The acquisition of the criminal record and the newspaper articles linked to the testimony of witness Luciano Aviello, for the purpose of establishing his unreliability;
- The recalling [for further testimony] of witnesses Quintavalle and Ana Marina Chiriboga, and a confrontation between the two witnesses;
- The acquisition of the photos of the body inspection of Raffaele Sollecito made by Dr. Lalli;
- Anthropometric analysis of the images recorded by the CCTV installed in the parking lot adjacent to 7 Via della Pergola to ascertain if the man [in these images] is Rudy Hermann

Guede;

- A technical assessment of the way in which the rock was thrown against the window of Filomena Romanelli's room for the purpose of verifying whether it was thrown from the outside or from the inside;

- An examination pursuant to article 197 *bis* of the Code of Criminal Procedure of Rudy Hermann Guede "*in regard to the events that happened the night of the murder*".

This proceeding started with the hearing on 30 September 2013 when, after the appearance of the parties, the Defense requested the exclusion from the trial of the Civil Party Diya Lumumba, a request that the Court denied, ruling as follows: "*(omissis) on the objection advanced by the Knox Defense, which has been associated with the Sollecito Defense, [requesting] the exclusion of civil party Diya Lumumba for lack of interest in the judgment;*

*given that the object of the judgment of appeal, insofar as the crime of calunnia against Diya Lumumba is concerned, is the existence of the aggravating circumstance of having had a specific purpose connected with the other felonies charged to the defendants;*

*considering that the evaluation asked of this Judge directly affects not only the amount of the penalty, as would also any discussion of possible extenuating circumstances, but also the evaluation of the gravity of the crime, [24] a circumstance that is relevant to the assessment of the amount of the compensation, with specific reference to the moral damage caused by the offense;*

*considering that the interest of the Civil Party constituted immediately upon discovery of the crime, with all its connotations, cannot be excluded, in particular by virtue of the fact that the damages were not fully quantified by the Judge of first instance, who left that evaluation for a separate proceeding, during which all the evaluations related to the gravity of the crime for the purpose of compensation would be considered (omissis)"*

The motion to exclude Civil Party Diya Lumumba was decided on and the ruling was read during the hearing. The introductory account of the facts of the case was made and, lastly, the Defense raised objections as to the constitutionality of the remand process, as specifically outlined by the Legislature in articles 627 and 628 of the Code of Criminal Procedure; moreover, the Defense of both defendants advanced a list of requests for the reopening of the evidence hearings, in accordance with the order of the *thema probandum* [theme adopted,

i.e., issues in dispute] set out in the defensive memoranda filed with the court clerk in anticipation of the beginning of the proceeding. In addition, the Prosecutor General requested that the evidence hearings be reopened in order to reexamine Luciano Aviello and to perform a technical examination on trace (I) extracted from the blade of the seized knife [the oft-evoked Exhibit 36] by Professor Carla Vecchiotti during the Perugia appeal process, in accordance with the instructions contained in the Supreme Court ruling.

The Court took up these requests and the rulings are fully transcribed: “...it is held that in relation to the appeal made by the Knox Defense in which they urge this Court to challenge the constitutionality of the provisions referred to in articles 627 and 628 of the Code of Criminal Procedure for violation of articles 3, 27 and 111 of the Constitution, the question raised does not appear well-founded because the procedural mechanism designed by articles 627 and 628 of the Code of Criminal Procedure allows precisely for a progressive restriction of the *thema decidendum*, [question to be decided], also on the basis of the principles of law to which the remand Court must conform, so as to prevent or render purely hypothetical the situation of a proceeding that perpetually recurs. Furthermore, the problem lacks the required relevance, since a further Supreme Court remand to another Judge is a mere possibility but is not determinable at this stage of the proceedings. Given that the parties are not casting doubt on the constitutionality of such a remand in itself, but rather on the possibility that this process of Supreme Court remand could be reiterated endlessly, it is clear that at this precise stage of the proceedings it is not possible to judge the relevance of the question of the constitutionality of that possibility, which would instead be connected to the outcome of the present proceeding. [25]:

*It is also held that with respect to the requests to reopen evidence advanced by the parties, this must be arranged according to the following specifications:*

*a) With specific reference to the requests made by the Knox Defense.*

*1) In relation to the request to reexamine the witness Filomena Romanelli “as to how the shutters of her bedroom closed” the Court notes that the witness had already been examined at length during the first instance trial on the specific *thema probandum* and therefore, resuming this examination is not indispensable for deciding the case;*

*2) In relation to the request for further testimony from the witness Marshall Francesco Pasquale, the*

*previous enquiry does not seem to be correctly qualified, since it is an application for examination of expert opinion, which is not essential for deciding the case; a similar assessment must be made for the request to “assess the possibility, for an athletic young man, of gaining entry to the apartment at 7 Via della Pergola”;*

*3) In relation to the request to take testimony from Maurizio Rosignoli and Alessia Ceccarelli, managers of the newspapers newsstand located in Piazza Grimana “so they can specify when they saw Curatolo and in particular if he took and sold drugs and if he repeatedly offered himself as a witness in other trials” the Court considers that the request for hearing these witnesses relates to circumstances that are, in part, irrelevant to the decision and that are, in part, inadmissible because related to verifying presumed behaviors of the witness that are irrelevant to the trial;*

*4) With regard to resuming Mario Quintavalle’s testimony and that of his two shop employees “on the circumstances and methods of identification of Knox as being in the shop in the morning of 2 November 2007”, a request also made by the Sollecito Defense, which has already requested a confrontation between the two witnesses, the Court notes that the witness Quintavalle has testified [26] in detail in open court, undergoing cross-examination; therefore, the Court sees no need to resume the inquiry; with respect to the shop’s employees, Ana Marina Chiriboga also testified in detail; therefore, the Court sees no need for a repeat performance, nor is the contradiction between what was said by witness Quintavalle such as to justify a personal confrontation between the two witnesses given that these witnesses reported on individual perceptions; regarding the Inspector Oreste Volturno, the request is vague because he has already given information about how the investigations were carried out and this was also the subject of written documentation;*

*5) In relation to the request for a new expert report to establish the telephone activity on Meredith Kercher’s mobile phones on the night of 1 November 2007, the State Police have provided an analysis of the phone records while the Sollecito Defense arranged for defense experts. Therefore, the issue has already been given a full discussion; in the absence of further clarification on the purpose of the renewal, the latter must be regarded as unjustifiable;*

*6) With regard to the request for a complete reexamination of all the experts and technical consultants*

*already examined at length during the previous two sets of proceedings, who would once again specify what has been already abundantly specified in both the previous stages of judgment, the absence of any specification about the importance of repeating this during these proceeding qualifies the request, at least as presently formulated, as merely dilatory and unreasonable;*

*7) Regarding the request for a new hearing of witnesses Sophie Purton, Amy Frost, and Robin Butterworth “on the behavior and comments of Knox about the crime in the days immediately following the murder,” the information already received in the previous stages of judgment on this specific point must be considered as sufficient for deciding the case;*

*8) Finally, as far as the request for a new examination of Rudy Hermann Guede “on all aspects of the event,” which is also a request common [27] to both defendants, considering that Guede has been definitively convicted for his participation with other accomplices in the murder of Meredith Kercher, the fact that the convicted [individual] has already made statements on the facts of the case, and the limitations to which the examination is subject pursuant to article 197 bis of the Code of Criminal Procedure, make the examination of Guede at this trial, at least in the present state of affairs, but preserving the full power of the Court pursuant article 603 third paragraph of the Code of Criminal Procedure to be exercised at any stage of the process, unnecessary for the purpose of deciding the case.*

*b) With specific reference to the requests made by the Sollecito Defense.*

*1) With regard to the request for genetic testing of the pillow case that was found in the bedroom where the body of Meredith Kercher was found, the Court shares the judgment of irrelevance that has often been expressed during different stages of the case. The presence of Rudy Hermann Guede in the room where Meredith Kercher was assaulted is definitively established by final judgment, and the behavior of Guede is not the subject of this trial; it is also verified in the facts that the victim had a normal sex life for a young woman of her age; she had a boyfriend with whom she had regular sexual intercourse; finally, it must be observed that the requested expert assessment would never be able to certify any actual connection between the moment when the pillow was stained and the assault of Meredith Kercher. The circumstances referred to above suggest that any indication made by the expert assessment would not have importance for the case;*

2) With regard to the request for a joint expert panel in order to determine the actual time of the death of Meredith Kercher, considering that the verification of the time of death has been the subject of long discussions between the experts during the trial of merit already carried out, and that it has been the subject of different reconstructions by the first instance Judge in the appealed sentence and by the appeal Judge presiding over the annulled judgment, this Court notes that appointing another specific task to a panel of experts is not necessary for the judgment; also taking into account the extreme subjectivity [28] of the temporal element, in a death case that has been reconstructed post-mortem, the Court already having available a large body of investigative material to analyze;

3) In relation to the request for an audiometric examination in order to verify the veracity or not of the testimony given in Court by witnesses Capezzali, Dramis and Monacchia, the technical assessment requested, without questioning the reliability of the witnesses statements, is not required for the evaluations that this Court will have to make as to the reliability of such statements, which must therefore be evaluated in correlation with the other circumstantial evidence;

4) With regard to the request for a technical examination of the MacBook-Pro owned and used by the defendant Raffaele Sollecito, the Court observes that the technical assessment has already been carried out under direct and cross-examination by all parties, such that in the trial proceedings there is a broad and articulated critical contribution of the technical consultant of the Defense, material that allows this Court to offer a full judgment of the relevance of the circumstantial evidence of the use of the aforementioned computer by the defendant, without any need to reopen the investigation;

5) In relation to the request for an anthropometric examination of the person in the image captured at around 7:41 pm on 1 November 2007 by the CCTV of the car park next to the cottage at 7 Via della Pergola, the Court notes that this investigation is irrelevant to the facts of the case and in particular to the specific timeframe in which the attack could have occurred, certainly not before 9:00 pm on the evening of 1 November 2007;

6) With regard to the request for a technician's examination of "how the rock might have been thrown against Filomena Romanelli's window," leaving aside the singularity of the required investigation, in the absence of reliable information on how the apartment was entered, it must be observed that the

*case file already contains abundant evidence on which to base an opinion; therefore, the requested examination, because it is highly subjective, cannot be described as indispensable for the decision;*

*7) With regard to the request for a reexamination of Exhibit 165B and the performance of a new genetic test, the impossibility of repeating this action, [29] even if considered necessary for the purpose of the decision, can be derived from the observation that the Court of Assizes of Appeal of Perugia had already made this request of the court-appointed experts, who reported to the Court that it was not possible to perform another such examination because of the poor preservation of the Exhibit (see page 87 of the sentence of the Court of Assizes of Appeal of Perugia); and this was done, however, without the Defense consultants making any objection. So, unless one has to consider the legal experts appointed by the Court of Assizes of Appeal of Perugia and the consultants of the parties as being incompetent professionals for neglecting genetic traces useful for the further examinations requested of them by the Judge - and this would then cast doubt on the reliability of every scientific statement made by them in the trial – this Court must conclude that it is objectively impossible to repeat the examination because a piece of evidence is not properly conserved and the material necessary for performing the examination cannot be extracted;*

*8) With regard to the request for new technical investigations (whether it is actually possible for there to be a selective cleaning of the traces left by the co-participants to the crime inside the room where the corpse of Meredith Kercher was found, and if genuine pieces of evidence can be collected in such environment), the Court notes that the requested technical examinations turn out to be repeats of technical examinations already performed and examined in adversarial proceedings, on the one hand and, on the other hand, they are inadmissible because they would delegate [to an expert] the judgment by the Judge of merit that must remain assigned to this Court on the basis of facts that can be inferred from the matters examined by the concerned expert;*

*9) With regard to the requests for new discussion of data already acquired during the proceedings, either through the appointment of new experts or through the hearings of experts and consultants previously appointed, the Court considers that the known facts present in the trial records are sufficient for the Judge to render a judgment, and that further continuation of investigations does not appear necessary for the resolution of the case; the requests for reopening evidence taking outlined*

*above must therefore be all rejected for the reasons expressed.*

**[30]** *The request to reopen the evidence discussion phase must be dealt with differently regarding the requests indicated below.*

1) *The Court considers that the documents attached to the statement of defense lodged by the Sollecito Defense on 29 July 2013, namely the ones indicated at points 6) and 8) of the request to reopen the evidence hearings should be considered useful for the assessment of the judicial truth<sup>11</sup> and are therefore acquired as evidence in the proceeding;*

2) *With regard to the request made by the Prosecutor General to examine Luciano Aviello, this Court observes that, without any assessment of the reliability of his statements, it is a fact of the case that the Court of Assizes of Appeal of Perugia had ordered the acquisition of the case files of the reported interrogation conducted on 27 July 2011 by the Prosecutor of Perugia; with this a line of inquiry was started and then stopped, without apparent justification, when the Court rejected the request for re-examination of Aviello. However, it is a neutral fact in the case that the statements made by Aviello to the Prosecutor on 27 July 2011, although placed in the case file by the Court of Assizes of Appeal of Perugia with an assessment of relevance that this Judge agrees with, could not be used in the present judgment in any way, even for an assessment of unreliability, as urged by the Defense, and this on the basis of a procedural error on the part of the previous appeal Judge which, moreover, was specifically criticized by the Supreme Court in its opinion. The consequence is that the hearing of Luciano Aviello regarding the statements he made to the Prosecutor on 27 July 2011 must be ordered, more for procedural reasons than for reasons of merit;*

3) *Similar important considerations must be made in relation to the requested examination of the sample taken from the blade of the knife seized in the house of Raffaele Sollecito (Exhibit 36) by the experts appointed by the Court of Assizes of Appeal of Perugia, which was not submitted for analysis, due to an undoubtedly censurable decision made by the court-appointed experts and endorsed a posteriori by the Judge, in spite of contrary evaluations by the consultants to the parties with regard to the suitability of the sample for the production of reliable results. **[31]**. Consequently, the Court*

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<sup>11</sup> "Judicial truth" or "*verità processuale*" is a concept of law addressing the fact that court trials cannot divine absolute or objective truth. The Court can only evaluate conflicting narratives to get to a "limited truth", the best truth that is humanly possible to extract from a proceeding, reflected in the final judgment.



*considers that, in order to acquire all data that could possibly be useful for evaluating the facts for which it is the trier of fact, and without the prejudgment of any assessment of the procedural relevance of the result of the examination, which is to be reserved for the discussion of the parties and for the Judge's evaluation together on the merit of the case, the testing of the specimen must be carried out as indicated above, appointing staff experts from the Rome Scientific Investigative Unit of the Carabinieri Corps; (omissis)".*

At the following hearing, on 4 October 2013, Major CC [Carabinieri Corps], Dr. Andrea Berti, and Captain CC Dr. Filippo Barni, both Officers of the Carabinieri in Rome, operating as biologists at the Scientific Investigative Unit at the General Headquarters of CC in Rome, were assigned the task of providing technical expertise on the following issue: *"Examine case documents and, in particular, the findings of the expert report filed at the appeal level on 29 June 2011 by the court-appointed experts Prof. Carla Vecchiotti and Prof. Stefano Conti, together with the observations expressed by the consultants of the parties, Dr. Patrizia Stefanoni and Prof. Giuseppe Novelli, in documents they submitted at the hearing on 6 September 2011, and arrange for an analysis of the sample already processed. The experts are asked to report on the attribution of trace (I) on the exhibit marked in evidence as no. 36 and if same has identifiable DNA attributable to the victim Meredith Kercher or the convicted Rudy Hermann Guede. In the event it is impossible to test the sample because it is too small, poorly preserved, or for any other reason, the experts shall immediately notify the Court, even by fax"*.

After having assigned the technical task to the experts, [the Court] proceeded to the examination of the witness Luciano Lucia Aviello, after which the trial was set to resume on 6 November 2013, at which time, having filed the technical report within the period specified, the court-appointed experts were examined and cross-examined. Following the examination of the experts, given the presence in Court of the defendant Raffaele Sollecito, the declaration of his absence [*contumacia*] was revoked, and his spontaneous declarations were received. At the same hearing on 6 November 2013 the Court, noting that from the statements made by the witness Luciano Lucia Aviello during the previous hearing [32] on 4 October 2013 the elements of a crime could be inferred, ordered the transmission of the transcript from the hearing to the Prosecutor in Florence for assessment.

In the following hearings, on 25 November and 26 November 2013, the Prosecutor delivered his closing arguments, as did counsel for the Civil Parties Diya Lumumba and Aldalia Tattanelli, while in the hearings held on 16 and 17 December 2013, counsels for the remaining Civil Parties made concluding arguments and the Knox Defense gave its final arguments. At the hearing on 9 January 2014 the Sollecito Defense gave its final arguments.

Finally, the parties to the proceedings concluded the discussion with their rebuttals, in hearings held on 20 and 30 January 2014; after the final arguments on the latter date, the case was decided and the verdict was read in open court.

## REASONS FOR THE DECISION

### 1. Introduction

The present remanded proceeding presents details that call for explanations by this Court before it proceeds with an examination of the body of evidence as presented in Court.

First, it is appropriate to recall the scope of the Supreme Court decision that was submitted to this district Court, which has already been mentioned in the descriptive part of the history of the case. The Supreme Court ruling requested of this Court a thorough reassessment of the evidence, on the basis of the following passage expressing the limits of this reexamination: *“(omissis) Using the broadest faculty of evaluation, the remanded judge will have to remedy the flaws in argumentation by conducting a uniform and global analysis of the evidence, through which it will have to be ascertained whether the relative ambiguity of each piece of evidence can be resolved, as each piece of evidence sums up and integrates with the others in the overall assessment. The outcome of such an organic evaluation will be decisive, not only to demonstrate the presence of the two defendants at the crime scene, but also possibly to clarify the subjective role of the people who committed this murder with Guede, against a range of possible scenarios, going from an original plan [33] to kill to a change in the plan whose initial aim was only to involve the young English woman in a sexual game against her will to an act with the sole intention of forcing her into a wild group erotic game that violently took another course, getting out of control”*. (Page 73, Supreme Court sentence)

In addition, the Supreme Court established, even though incidentally treating *ex professo* [with due competence] its own powers, the principle of law that this appellate Court must follow in its assessment of the body of evidence, underscoring the criticized lines of argument in the annulled judgment and regarding the content of what the same Court calls “*the evidential reasoning, therefore method of the evaluation of the evidence*” “(…) *if the Court of merit has indicated the reasons for its conviction and if these are plausible; the verification must be done in terms of ascertaining whether the Court has taken into account all the relevant facts present in the acts, thus respecting the principle of completeness, if the conclusions adopted can be said to be consistent with the material acquired and evidently founded on inferential criteria and faultless logical deductions in the line of argument, respecting the principles of non-contradiction and the logical consistency of reasoning.*” (Pages 39/40, Supreme Court sentence)

In conclusion, in light of the Supreme Court’s annulment of sentence no. 4 dated 3 October 2011 and issued by the Court of Assizes of Appeal of Perugia, this District Court has been entrusted with the task of conducting a new appeal based on the findings of the First Instance Court delivered on 5 December 2009, in accordance with the principles of law and methodology, in order to evaluate the circumstantial evidence described above and following the grounds for appeal presented by all parties to the proceedings against that ruling. As previously highlighted, the generality of the criticisms made by the defense counsel for both defendants against the ruling of First Instance Court, for that matter already appropriately highlighted by the Court of Assizes of Appeal of Perugia (Page 24 of the ruling), requires that this Court undertake a consistent reassessment of the entire body of evidence, a reassessment that must, therefore, be conducted by procedure and following a line of argument which, starting from the evaluation of the uncontroversial factual elements offered by the court hearings, allows us to arrive at a judgment of the attribution, or otherwise, of the criminal charges against the defendants (excluding the *calunnia* conviction of Amanda Marie Knox, for which judgment is already partially established).

**[34]** It hardly need be noted that, for the purposes mentioned above, all the circumstantial evidence collected can and should be used, as well as the findings of the technical assessments conducted and those carried out by the Scientific Police pursuant to article 360

Code of Criminal Procedure, plus expert witness opinion, pertaining to the first instance conviction and the reopening of the investigations before the Court of Assizes of Appeal of Perugia.

Moreover, the ruling of the Supreme Court annulling the Perugia Appeal does not in fact sweep away the trial events and the evidence discussion that had its conclusion with this verdict being overturned, since the Supreme Court did not criticize as defective any procedures with regard to them.

Accordingly, this Court of remand will carry out an overall assessment of all the circumstantial evidence collected in open court during all the proceedings of merit held, performing a critical overall examination of evidence that emerged from the proceedings as well as the evidence that resulted from the partial reopening of expert assessment, i.e., the genetic expert opinion entrusted to the Scientific Investigative Unit of the Carabinieri [R.I.S., *Reparto Investigazioni Scientifiche*], concerning trace (I) from Exhibit no. 36 (the knife alleged to be the murder weapon), as well as the oral testimony given by the witness Luciano Lucia Aviello.

For the sake of consistency, it is appropriate that this introduction address the issue of the presence in the judgment of a procedural fact of absolute certainty: the now final conviction of Rudy Hermann Guede as a co-perpetrator, along with others, in the murder of Meredith Kercher.

On 28 October 2008, following the defendant's decision to undergo the abbreviated trial procedure and the subsequent separation of his procedural position from the original case, the Preliminary Hearing Judge of the Court of Perugia held that Rudy Hermann Guede was responsible for the aggravated murder (due to the sexual nature of the crime) of Meredith Kercher. In accordance with the rules of the criminal justice system, he was sentenced to thirty years of imprisonment. On 22 January 2009 the Perugia Court of Assizes of Appeal, which heard the defendant's appeal of his first instance conviction, upheld that conviction while granting the defendant the generic mitigating equivalent to the contested aggravating

circumstances and, as a result, reducing the sentence to sixteen years in prison, accounting for the [automatic] reduction granted under the abbreviated procedure. With sentence no. 1132 dated 16 December 2010, the First Criminal Section [35] of the Supreme Court rejected the defendant's appeal and reconfirmed the appellate level conviction, which then acquired the authority of a formal and substantive final judgment.

There was much discussion on the part of the defense for the two defendants, as well as the Prosecution and the Civil Parties, on the impact that Rudy Hermann Guede's final conviction should have in this current case. The Court of Assizes of Appeal of Perugia, in the annulled ruling, after having declared that the final conviction of Rudy Hermann Guede was usable in terms of evidence pursuant to article 192, third paragraph, of the Code of Criminal Procedure, denied, however, that the judgment that had become final had value *"(...) since the trial concerning Rudy Guede was an abbreviated procedure, the Judges acquainted with the position of Rudy Guede would not have had at their disposal, despite the particular complexity of the case, at least in regards to the position of the current defendants, nor did they have the acquisitions of the trial arguments of first instance, neither those from the present appeal, and in particular the results of the tests carried out by the experts (...)"*. (Page 28 of the annulled sentence)

The evaluation by the Court of Assizes of Appeal of Perugia was so strongly criticized by the Supreme Court that the complete devaluation of the factual findings in the appealed judgment was one of the grounds of the Supreme Court's own ruling.

This Court believes that the matter cannot be resolved with legal arguments of an abstract and general nature (with respect to the evaluation constructed by the Court of Assizes of Appeal of Perugia, according to which the final conviction could not exert any impact because *"the judgment that concerned Rudy Guede was conducted with the abbreviated procedure, therefore the Judges who had knowledge of Rudy Guede's position did not have at their disposal, despite the particular complexity of the case, at least as far as the position of the current defendants, nor the acquisition of the trial arguments of First Instance Court, neither those from this trial, and in particular the results of the tests carried out by the experts"* it could in fact be objected that the

Preliminary Hearing Judge of the Court of Perugia had available, for making his own informed decision and in justification of the special procedure, the entire case file of the investigation and, therefore, a wealth of investigative material far superior to what normally is brought to the attention of the trial Judge). The assessment of relevance in the present decision [36] of the final conviction of Rudy Hermann Guede must be resolved according to the interpretation that the Supreme Court has provided from the text of article 238 *bis* of the Code of Criminal Procedure and thus can be summed up. If it is a principle of law that “(...) *the acquisition into the proceeding, as by article 238 bis Code of Criminal Procedure, of sentences that became irrevocable does not entail, for the Judge of the said proceeding, any automatic acceptance and use in the final decisions of the facts, nor, least of all, of the judgments of the facts included in the reasoning of the Sentencing Reports of the above mentioned judgments, whereas it must be considered that the Judge retains intact the autonomy and freedom of the logical operations of assessment and formulation of judgment institutionally conferred upon him/her (Court of Cassation, cite 12595/98; Cassation Section 3, 13/01/2009, no. 8823; Cassation Section 6, 12/11/2009, no. 47314; Cassation Criminal Section 2, 28/02/2007, no. 16626) [see Supreme Court Criminal Section 1, sentence no. 18398 of 5 April 2013], it is equally *ius receptum*, [established law], with no contradictions in the jurisprudence of the Supreme Court that “(...) *the interpretation of article 238 bis Code of Criminal Procedure, pleaded by the applicant, namely that the irrevocable sentences acquired on the basis of such article would not be used against third parties that remained not involved in the proceedings in which the above sentences were pronounced, is disproved by the actual wording of the provision, which states that “the sentences that become irrevocable can be acquired for the purpose of proving a fact already established in the same [sentences]” without any limitation to the traceability of the established fact against the subject accused in the proceedings in which those sentences are acquired. Moreover, the usability erga omnes [towards all] of the established fact is in no way detrimental to the rights of defense of the third party, guaranteed by the limitations, regulated by article 192 paragraph 3 of the Code of Criminal Procedure, of which article 238 bis Code of Criminal Procedure makes express reference, which treats the probative value of the fact established in a different proceeding. (...)*” [Supreme Court Criminal Section 5, sentence no. 7993 of 13 November 2012]*

In conclusion, since on points of law this Court of remand expresses adherence to the legal principle mentioned above, sharing the normative value, in point of fact the presence of a final confirmation of blame for the murder of Meredith Kercher to a specific culprit, Rudy Hermann Guede, in complicity with other people, makes undeniable the assumption that every assessment of merit to be carried out in relation to the body of evidence emerging from the record of the present trial will have to be carried out as having an essential point of reference, the judicial determination indicated, therefore taking into account the definitively established fact of the trial that Rudy Hermann Guede was a participant, [37] along with others, in the murder of Meredith Kercher, and consequently assaulted her in the Via della Pergola cottage in Perugia on the night of 1 and 2 November 2007.

## **2. The context in which the murder took place. Cause and time of death of Meredith Kercher.**

Starting from the points of fact and law referenced above, the Court opts to begin with the examination of the body of evidence, the preliminary findings on the point of reconstruction of the context in which the murder took place, as well as the analysis of the cause and time of death of the young woman. With specific reference, however, to the likely dynamics of the homicide, a thorough reasoning in this regard cannot be separated from an examination of additional pieces of evidence; therefore, it is appropriate to set it aside for a later stage of this judgment.

The murder scene consists of a building subdivided into two apartments for residential use, one in the basement and the other on the ground floor, located in Perugia, at 7 Via della Pergola. This property is bordered on three sides by fields and a road intersection, above which is a car park; facing this car park is the city center of Perugia. At the time of the events that are the subject of this trial, the apartment located on the ground floor was inhabited by the victim, Meredith Kercher, as well as by three other young women: Amanda Knox, Filomena Romanelli, and Laura Mezzetti. The first two were foreign students at the University of Perugia and the other young women were variously

employed. The basement apartment was inhabited by several young men, all non-resident students, one of them involved in a romantic relationship with the victim.

Returning to the investigation, albeit summary, obtained from the report of the inspection carried out by the Perugia police forensic staff on 2 November 2007 at around 2:00 pm in the apartment where the murder took place, it should be noted that access to the cottage, restricted by means of a metal fence with a gate, as shown in the photos on file, is gained through a wooden door, free of cracks, that opens inwards from the left in a clockwise direction and whose lock, which showed no signs of forced entry, nonetheless had a latch blocked from the inside by two wood fragments [38] that had previously been inserted by the tenants because the lock did not function properly. Regarding the defective lock, see statements made by both Romanelli and Amanda Knox, from which it may be deduced that, once the lock [was] opened with the key, the latch did not fit properly back into its casing when the door was closed; due to the malfunctioning lock, the door would not remain shut. Filomena Romanelli provided precise testimony on the defective lock on the front door to the property when called to testify before the First Instance Court at the hearing on 7 February 2009. The witness reported that the defective lock was a fact that was of course well known to all of the young women who lived in the apartment, and that a complaint had been made to the owners of the property. Because of this circumstance, anyone who entered the apartment was forced to close the door behind them and lock it with the key. If someone then wanted to enter the house from the outside, he or she had to first make sure that no one [sic] was already inside the apartment; if so [if someone was inside], it was necessary to ask this person for assistance because, once the door was locked from inside the apartment using a key, leaving the key in the lock, which usually happened, it was impossible to insert another key from the outside. This circumstance, on which we have elaborated at length, will be referred to hereinafter as a circumstance of reflection for understanding the events that have given rise to this trial.

Crossing the threshold, the entrance leads to a small hallway and, to the left, there is a living room with a kitchenette, from where one can head to the right, towards Laura Mezzetti's bedroom, and, further to the right, a bathroom larger than the first one, which



therefore will be referred to [hereinafter] as the "large bathroom." To the left of the living room is Filomena Romanelli's bedroom. Continuing from the living room to the central corridor one can access, on the left, Amanda Knox's bedroom and, further down, Meredith Kercher's bedroom. At the very end of the apartment there is a second bathroom, smaller than the first and, on the right side of the corridor, access to a terrace.

In order to gain a better understanding of all the dynamics that will be addressed in this case, the Court considers it appropriate to insert the diagram of the apartment obtained from documents in the Scientific Police case file.



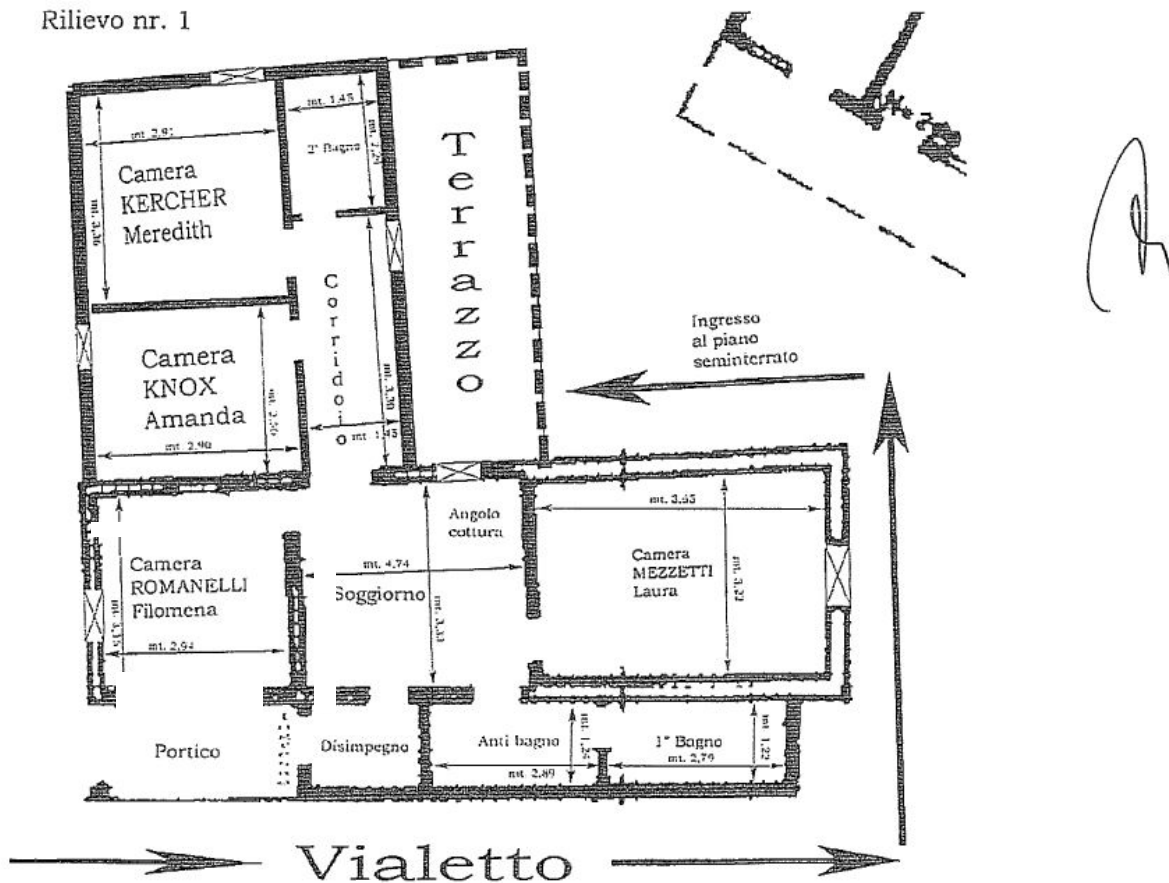
# POLIZIA SCIENTIFICA DI PERUGIA

P.P. 9066/07 mod. 21  
Prot. nr. 146/07 Reg. Sopr.

Perugia, 2 novembre 2007

## Omicidio KERCHER Meredith Susanna Cara

Rilievo nr. 1



Vialetto

Schizzo planimetrico  
Piano terreno

dell'immobile sito in Perugia, via della Pergola nr. 7,  
ricavato dalla planimetria del Catasto Edilizio Urbano

[40] The lifeless body of Meredith Kercher was found in her room around 1:00 pm, on 2 November 2007. The bedroom door was locked, preventing those present in the residential building at the time from gaining access. It is worth mentioning that there were eight people in all: the Inspector of the Postal Police, Michele Battistelli; the Postal Police Assistant, Fabio Marzi; Raffaele Sollecito; Amanda Knox; Filomena Romanelli; Marco Zaroli, her boyfriend at the time; and Paola Grande and her boyfriend, Luca Altieri.

Based on the testimony given by all of the witnesses at the hearing on 6 February 2009 before the First Instance Court, the time of the discovery of the body can be reconstructed thusly.

At around 12:30\12:35 pm on 2 November 2007, Inspector Battistelli and his assistant Marzi, who had been sent there to trace Filomena Romanelli as the owner of a SIM card contained in one of two mobile phones found inside the garden of a house located in Via Sperandio - the exact circumstances of which will be considered later, though it should be clear already that the two mobile phones were in use by the victim on the night of the murder – arrived at 7 Via della Pergola and found Amanda Knox and Raffaele Sollecito sitting outside. They told the two police officers they had already alerted the *Carabinieri* because they had discovered that a burglary had occurred inside the house (in fact, the two immediately claimed to have noticed that nothing had been stolen). The two young people told the police officers that upon their arrival at the house they found the front door open and Filomena Romanelli's room in disarray. Inside that room was a large rock, which had apparently been used by unknown burglars to break one of the windows accessing the apartment and enter. The two young people also told the police officers that there were traces of blood, albeit moderate, in the small bathroom, and that Meredith Kercher's room was locked.

Meanwhile, Marco Zaroli and Luca Altieri arrived at Via della Pergola by car, having been sent there by Filomena Romanelli after she had learned via a phone call that what appeared to be a burglary had occurred in her room. The two young men also commented on the abnormality of the situation, and Altieri wondered if it was normal that Meredith Kercher's room was locked. According to the documents and in particular in accordance with witness

statements, Amanda Knox replied that the situation was quite normal, as [41] Meredith Kercher was in the habit of locking her bedroom door "even when she went to take a shower."

Overall, the situation returned to relative normalcy until Filomena Romanelli and Paola Grande arrived at the house.

Upon arrival, Ms. Romanelli took steps to ensure that nothing had been taken from her own bedroom. Specifically, she located a computer stored inside a special case, a digital camera, what she described as expensive handbags, and lastly all of her jewelry, kept inside a drawer. Once she had checked her own bedroom, and upon learning that Meredith Kercher's room was locked, Filomena Romanelli reacted with great concern, stating to those present that, contrary to the claims made by Amanda Knox, Meredith Kercher was not in the habit of locking her bedroom door. Romanelli, in fact, could remember only one occasion on which Meredith Kercher had locked her bedroom door, and that was when she had gone away for several days to England.

Romanelli's statement created discomfort among those present, who decided at this point to force open the door that accessed Meredith Kercher's room. The two police officers, after being asked to force the door open, indicated to those present that, in their opinion, they did not have the authority to do it and that the residents of the property should do it instead. So Altieri took responsibility for breaking down the door.

According to substantially consistent witness statements provided by Altieri, Romanelli, Battistelli, Marzi, and Zaroli, when the door was kicked open Luca Altieri and Marco Zaroli were standing in front of said door; the two young women were slightly to their left and lastly, in a more out-of-the-way location, roughly in the living room of the house, were Michele Battistelli and Amanda Knox. Fabio was almost in front of the door, and no one could say during the hearing where Raffaele Sollecito was located at this particular moment.

One fact is certain, taken from the official trial transcript, as confirmed in all the statements from those present at 7 Via della Pergola on 2 November 2007, and it will be the subject of further consideration, namely: neither Amanda Knox nor Raffaele Sollecito were near the door, i.e., in a position that would allow them to see inside the room, when the door was kicked open, and [42] neither could have had a chance to see inside the bedroom. Neither did the two young people have an opportunity to access it later because Inspector Battistelli, realizing that there was a copious amount of blood on the floor inside the room and seeing the foot of an apparently lifeless young woman sticking out from a duvet, prevented the witnesses from entering.

The first instance evidence hearings did not clarify whether Inspector Battistelli had entered the room or not; this is something he had always denied, though the witness Altieri reported that the Inspector had entered the room, with the duvet and corpse supposedly to his left, and had bent down to lift a corner of the duvet itself. Altieri could not see further, since at this very moment he had turned away from the door. In any case, this was discussed at length during the first instance trial, to such an extent that it became the subject of a confrontation between the two witnesses at the hearing. It did not acquire excessive significance, though, in the sense that Inspector Battistelli, even if he had entered the room, certainly did not have the opportunity to alter the state of the room or otherwise impair the ability to make a genuine recovery of the evidence, limiting himself to ascertaining that the lifeless body of a young woman lay underneath the duvet. What emerges, however, as discussed below, is that neither of the defendants had the opportunity, in this situation, to look inside the room where the body of Meredith Kercher was found. This concords with the statements made by all of the witnesses who were present in the apartment.

After the door was broken down, the body of a young woman, later identified as Meredith Kercher, was discovered inside the room in the space between the closet and the bed. The body was covered by a beige duvet from which the left foot was sticking out and the upper half of the face, partially covered with blood. This is what Inspector Battistelli saw when he

looked into the room that had just been opened or when he went in to check the contents of the room itself.

From the report of the inspection carried out by the Perugia Forensic Police, we find that the duvet was removed at 00:45 am on November 3, 2007, in the presence of Dr. Patrizia Stefanoni and Dr. Giunta, both officials of the Scientific Police who had come specially from Rome, as well as Dr. Lalli, a forensic pathologist [43] from the Institute of Legal Medicine of the University of Perugia. It appears from Dr. Lalli's autopsy report that the decision to delay the examination of the body for several hours was a deliberate one on the part of the investigating authorities, made in order to prioritize the collection of evidence inside the room by the Scientific Police, even though this decision would have significant negative consequences for the investigation of the time of death.

In any event, once the examination of the body began, the inspection report reads verbatim: *"(...) the body, which presents itself in a supine position with the head turned to the left, slightly bent back, resting with the area of the left temple resting on a left-foot leather boot. The eyes are open and the mouth is closed. The central portion of the trunk is extended, the back resting on the floor and with the region of the buttocks to the right and left on top of a pillow. The upper limbs are both spread away from the body: the right one, stretched, rests with the posterior and anterior forearm on the duvet; the right hand, half-open, rests with the fourth and fifth finger on the duvet while the first finger is enclosed between the second and the third. The upper left limb, bent on the upper part of the elbow, rests with anterior forearm on the floor, the forearm is turned outwards and suspended; the left hand, turned toward the face of the corpse and naturally half-closed, rests with the first and second finger on the leather boot.*

*The legs are wide apart: the right one bent at the knee, forms an angle of about 100 degrees, resting with the outer side of the thigh on the pillow and on the duvet and with the outside face of the leg on the duvet; the right foot, turned outwards, rests with the external malleolus and the outer face on the duvet. The left foot, extended, rests with the outer face of the thigh on the pillow and the outside face of the leg on the floor; the foot turned outwards, flexed down, rests with the external malleolus and outer face on the floor. The body is wearing only a cotton shirt rolled up to the thoracic region, conspicuously*

*smearred with blood. During the post mortem inspection, following the rotation of the body, we observe on the floor, the second white tennis sock, partially smearred with blood, a green terrycloth towel, an ivory colored terrycloth towel, completely drenchred in blood, the top bed sheet, in white cotton, smearred in several spots with blood, a full zipper sweatshirt of light blue fabric and blue cuffs and collar smearred with blood. Underneath the pillow, 1.41 meters from the right of the wall and 0.95 meters from the wall [44] on the front we find a small portion of the fabric from the bra that was missing it, where the closing hooks are attached. (...)."*

Upon completion of this initial visual examination, the body of Meredith Kercher was transferred to the morgue of the Monteluce Hospital in Perugia where, at 10:00 am on 4 November 2007, the external examination of the body began, with the autopsy coming later.

It is worth establishing the evidence of injury that the body of Meredith Kercher presented, providing in this first phase a simple list that will be of undoubted usefulness at the point where it will be necessary to reason [based] on the wounds observed, specifically on their nature and cause. From the report submitted by Dr. Luca Lalli it appears that Meredith Kercher's body did not present significant wounds on the outer surface of the scalp, and no significant deformation of the cranium. On the face, the nostrils showed faint suffusion bruising; the lower lip showed small bruises bluish in color near the labial commissure and faint scrapes on the outside of the lower lip, especially on the left side. There were numerous small bruises and scrapes on the internal mucous membranes of the upper and lower lips, more prevalent on the left side, with a bruising of the lower gum. The left cheek presented a superficial linear cut 2.2cm in length, placed obliquely in the anterior direction, extended forward by two further superficial linear cuts 0.6cm in length. Continuing the examination of the face, a bruised area was visible on the level of the horizontal branch of the jaw, and further forward but also in the region of the jaw was another area with rounded bruises. Below and left of the symphysis menti [midline of the jawbone], was another rounded bruise, placed laterally along the right horizontal branch of the jaw, and [there were] further bruises at the angle of the jawbone on the right side. Finally, in the region below the middle of the jawbone a quadrangular scrape was visible.

Moving on to the neck, the pathologist observed in the left latero-cervical region the presence of a large wound with clean edges, 8cm in length and placed obliquely, that revealed the underlying tissues, which had been cut through to the osteo-cartilaginous level. The edges of the wound showed minimal hemorrhagic infarction located at a distance of 3 cm from the lateral edge, where a small "tail" [*codetta*] was observed. [45] A small scraped and bruised region no more than 0.2cm in width hemmed [ran along] the forward part of the upper edge. From this opening the trajectory of the wound entered the soft tissues in a slanting direction from front to back, from left to right and slightly upwards. Dr. Lalli observed a scraped area of at most 1cm near the foremost extreme of the wound described above and continuous with the lower edge of the wound. Underneath this, at a distance of 1cm, another clean-edged wound was located; the edges were slightly infiltrated with blood and hemmed with a bruised area 0.2cm in width, and a small "tail" of bruising measuring 1.4cm by 0.3cm was located at the lateral extreme. This wound, slanted downwards and back parallel to the other one, had a subcutaneous trajectory slanting upwards, from left to right and slightly from front to back. The trajectory intersected that of the wound described above, stopping at a distance of about 2 cm from the upper edge of the larger wound above. Also for this wound the pathologist found a small scraped area with a superficial cut of a maximum length of 2cm starting at the foremost extremity.

In the right lateral cervical region a bruised area with a maximum diameter of approximately 3 cm was present, within which a linear wound of dimensions 1.5 x 0.4 cm could be seen, slanting downwards and to the left, with a small "tail" at the foremost edge, and a trajectory that penetrated the soft tissues obliquely going upwards, to the right, and towards the back for a distance of at most 4cm. Underneath this wound there was a superficial abrasion of irregular shape 0.5 cm in length. Continuing the external examination, the pathologist observed in the left latero-cervical region near the base of the neck, three parallel superficial linear scrapes slanting downwards, and from left to right towards the front.



With regard to the upper limbs, the pathologist found on the back of the right elbow two round bruised areas of a maximum diameter of 1.2 x 1 cm and about 1 cm distant from each other. On the back side of the forearm [he observed] another bruised area, small and slightly oval. On the palm [46] of the right hand the doctor observed, during external examination, three superficial wounds infiltrated with a small amount of blood, and a 2cm bruise.

Continuing the external examination, Dr. Lalli did not observe any traumatic lesions at the level of the thorax, but in the zone of the abdomen he noted a small bilateral bruised area at the level of the anterior superior iliac spine.

With regard to the lower limbs, the front side of the left thigh showed several round, very slight bruised areas placed at regular distances from each other, while on the front of the right leg [there was] a round bruise about 2 cm in diameter.

This is what emerged from the external examination of the body.

Concerning the autopsy, it is sufficient to observe that no internal injury was observed that could have caused or even contributed to causing the death of Meredith Kercher.

Finally, with regard to the toxicological examination, the pathologist was able to rule out that, at the time of her death, the young woman showed signs of having taken drugs or alcohol.

Having now determined the characteristics of the inspection relating to the discovery of the body and examined the wounds that the body presented at the time of its external examination, it is appropriate, for the purposes of this part of the sentence [sentencing report], to return to an examination of the inspection carried out on 2 November 2007 by the personnel of the Forensic Police from the Perugia police station [*Questura*] inside the ground-floor apartment of the cottage located at 7 Via della Pergola.

The personnel of the State Police provided an analytical description, with photographs, of the living spaces and rooms of the apartment that was the scene of the murder. After having described the entrance, they next gave a description of the first room appearing to persons entering the apartment, which was the living room; a rectangular room 4.74 meters wide and 3.33 meters long. On the floor of this living room (on the left front and rear quadrants of the floor plan above), the police observed a print from the sole of a shoe marked with concentric circles left by deposit of blood, a second print from the sole of a shoe marked with concentric circles left by deposit of blood, [47] and a final print from the sole of a shoe marked with concentric circles left by deposit of blood.

In Filomena Romanelli's bedroom (which will be examined with precision in the context of a different section of this sentence [Sentencing Report]), for present purposes, a small trace of presumed blood was found on the outer edge of the window, adjacent to the latch keeper.

In the first bathroom, which is accessed from the living room of the house (the aforementioned "large bathroom"), the Scientific Police discovered feces in the toilet, partially covered by toilet paper, which at a later stage were attributed with certainty to Rudy Hermann Guede.

On the floor of the corridor they found a print from the sole of a shoe marked with concentric circular marks left by deposit of blood, and a second print, identical to the first one, was also found in the hallway of the apartment.

On the floor of the second bathroom (the "small bathroom" near Meredith Kercher's room), in the area under the sink, a light blue cotton bathmat was found, measuring 74 cm by 48 cm, which was stained with blood on its right posterior portion. This was the stain that was shown during the trial to be the print of a bare foot, attributed by the prosecution to Raffaele Sollecito, but strongly contested by his defense.

Moving on to the room where Meredith Kercher's body was found, among other findings, three prints marked with concentric circles left by deposit of blood were observed. These were clearly prints of bare feet (sic). Another trace presumably belonging to the hind part of a shoe sole was observed in a fold of the pillowcase found in Meredith Kercher's bedroom. This last observation was the subject of extensive discussion during the evidence discussion phase, with Amanda Knox's defense arguing that it was not a shoeprint but rather a result of a fold in the fabric of the pillowcase becoming bloodstained.

Following the examination of the findings by the Scientific Police and legal forensic pathology investigators, promptly carried out during the early hours following the discovery of the body, it is necessary at this point to address two issues that are undoubtedly important with respect to the case, and that were treated at length by both the defenses of the accused and the Judges in the [48] sentences of first instance, appeal, and of Cassation Court [*di legittimità*] that followed, with respect to the two judgments, the ordinary trial concerning Amanda Knox and Raffaele Sollecito as the accused as well as the abbreviated trial that resulted in the conviction of Rudy Hermann Guede. It is about giving a plausible answer to the questions that are highlighted from this point on: what were the causes that led to the death of Meredith Kercher, what were the means by which it was made possible, and when did this death occur?

The sentence of first instance on this point concluded, after performing an analytical examination of all the technical reports, that “ (...) *based on the conclusions and evaluations of the consultants and the forensic pathology reports, this Court finds that the death of Meredith Kercher was due to asphyxia caused by the wound of greater gravity inflicted on the neck, subsequent to which blood ended up in the airways, impeding respiratory activity, a situation exacerbated by the breaking of the hyoid bone – this action also attributable to the action of the cutting instrument – with consequent dyspnoea. (...)*”. [Page 163 of Sentence no. 7\2009 delivered by the Court of Assizes of Perugia and filed on 4 March 2010]

With regard to the outcome of the medical opinion expressed in the documents, this Court of Assizes of Appeal agrees with the conclusions reached by the Judge of first instance.

What emerged during the case leads us to believe that the knife cut that slashed Meredith Kercher's throat was inflicted when she was alive and was immobilized. The injuries and the bruising described during the external examination, even in the mandibular region and the height of the lips and nostrils, show that the young woman was being tightly restrained in order to prevent her from screaming, not in an attempt to choke her; this tight restraint undoubtedly also had a suffocating effect, but as a collateral consequence and not as its ultimate aim. It is possible to make such a claim on the grounds that the marks left by the compression are uniformly quite slight, meaning that the attackers did not use the strength needed to strangle an adult. Moreover, the region subjected to compression (submandibular and sub facial region) cannot be considered an area that is normally involved in strangulation.

[49] Nor is it reasonable to assume that an action of suffocation, performed by exerting pressure with the fingers, came about after the knife thrust, with greater invasiveness, which was inflicted on the victim.

In fact, in the first place, there would be no reason to continue with an action of suffocation by finger pressure after the knife stab had produced injury that was also visually noticeable as lethal. Secondly, an opinion that seems valid was also expressed by some of the pathologist consultants, to the effect that such a finger pressure would have been impossible at that point, based on the objective observation that the large quantity of blood that certainly poured out as soon as the wound was inflicted with the knife would have rendered the neck area extremely slippery and difficult to grasp with fingers.

This Court therefore holds that the young woman was stabbed with a knife while at the same time being kept immobilized or partially immobilized, and the action of compression occurred at the level of the mouth to prevent her from screaming. It is reasonable to assume that at some point, during the assault, the young woman managed to free her face from the restraint and emit a scream (which will be discussed further on) and that this conduct was probably the reason the knife blow to the throat was inflicted, causing the fracture of the hyoid bone and

resulting in dyspnoea and the pouring of the victim's blood into the lungs, which caused asphyxia.

This appellate Court [Judge] believes that the reconstruction proposed above, essentially in line with the one presented in the first instance sentence, is more consistent with the objective findings of the type of injuries that the victim's body presented and more consistent with the rules dictated by common experience.

With regard to the determination of the time at which the death of Meredith Kercher occurred, given that the attack certainly did not take place very long before the moment when the fatal blow was inflicted, this Court holds that it is necessary to reason only on the basis of what emerged in the case, without making conjectures in order to move the time of death forward or backward.

And, in fact, it is of the utmost importance to establish the time of death in the event of a murder with meticulous precision when the data must be used in relation to other findings still to be evaluated in relation to the first; namely, when the plausibility of the accusation leveled against the defendant requires that the murder must have been committed during a certain period of time since, for example, during the remaining time, [50] the alleged suspect (or alleged suspects) were certainly unable to commit the crime. In this case, however, as we will be able to highlight when dealing with the specific subject, there is no need of this kind, as it could be argued, without doubt of being contradicted, that any investigation into the precise time of night between 1 and 2 November 2007 that Meredith Kercher was murdered, instead of at another precise time, would have little relevance in the complex nature of evaluation of circumstantial evidence with which this Court is confronted in relation to the charges against Raffaele Sollecito and Amanda Knox. In fact, from around 9:30 pm on 1 November 2007 until around 12:30 am on 2 November 2007, no factual finding has indicated that Amanda Knox and Raffaele Sollecito were somewhere other than the place of the murder scene, or even in the company of people who can vouch for their alibi. It will be the task of this Court, as it was also for the Judges preceding it, to verify, on the basis of the elements of evidence and the

reasonableness of them, whether the information provided by Amanda Knox (the so-called alibi) is trustworthy or not.

Therefore, this Court considers it necessary to fulfill its commitment to identify the alleged time of the murder based solely on factual findings that are of a reasonably dependable nature, and thus restrict itself to the trial evidence that such findings convey. The time frame emerging from the established facts will have to be verified as compatible with the other case findings.

In regard to the analysis of the time of death of Meredith Kercher, this Court will begin its evaluation using sources taken from what Dr. Luca Lalli has asserted based on the outcome of the autopsy.

The coroner, after having acknowledged the operations performed to detect the rectal temperature of the body (this was done at 00:50 am on 3 November 2007, yielding a rectal temperature of 22 degrees Centigrade and an ambient temperature of 13 degrees Centigrade; the operation was repeated at 12:00 pm on 3 November 2007, yielding a rectal temperature equal to 19 degrees Centigrade and an ambient temperature equal to 18 degrees Centigrade, and was repeated one last time at 10:00 am on 4 November 2007, at which time the rectal temperature was found to be aligned with the ambient one), stated that, based on the best scientific literature, it could be asserted that the rectal temperature fell by half a degree Centigrade in the first three hours of death, by 1 degree in the next eight hours, with a progressive reduction in the rate of decrease, reaching a body temperature equal to that of the environment at around 20-24 hours after the victim's death,.

[51] The pathologist then indicated why he considered the examination of gastric content to be insufficiently reliable, and as a result they arrived at the conclusion that, by applying the *Henssge nomogram* to the present case, the death of Meredith Kercher would be traced back to a period between approximately 8:00 pm on 1 November 2007 and 04:00 am on 2 November 2007. The pathologist then calculated how the intermediate value indicated by the mathematical

reconstruction placed the time of death at around 11:00 pm on 2 November 2007, with a margin of error of one hour earlier or later.

On the basis of similar assessments, the experts appointed by the Preliminary Investigation Judge [G.I.P. or *Giudice per le Indagini Preliminari*] of the Court of Perugia, Professors Aprile, Cingolani, and Umani Ronchi, concluded that “(...) *the technical biological data indicate that the time of death goes back to a time range between 20 and 30 hours before 00:50 am on 3 November 2007* (...)” and therefore, in essence, between 6:50 pm on 1 November 2007 and 04:50 am on 2 November 2007.

On the basis of this data, the consultants for the parties substantially agreed on the indicated time interval. Therefore, it can be argued that, on the basis of the scientific and pathological findings, having established the objective impossibility of stating with certainty a precise time of death in the case of Meredith Kercher, it must be considered as ascertained that this death occurred within a time interval of about 10 hours, between 6:50 pm on 1 November 2007 and 04:50 am on 2 November 2007, in order to then verify whether, within that period of time, it is possible to indicate a more precise time through the comparative assessment of other factual investigations.

At the hearing on 13 February 2009, several young English women, friends of the victim, were examined by the First Instance Court. On the basis of the statements made by Robin Carmel Butterworth, Amy Frost, and Sophie Purton, Meredith Kercher, who had spent the entire afternoon of 1 November 2007 in the company of the three English friends watching a movie, viewing photos of the previous Halloween party, and having dinner with them, left the home of Amy Frost, along with Sophie Purton, at around 8:45 pm to return home, following a route that was later confirmed by police as taking about 10-15 minutes (see, specifically, the hearing transcript dated 3 December 2009, testimony by Sophie Purton, page 101).

It can therefore be argued, on the basis of the witness testimony, that the time period within which the murder was carried out can be restricted at least in the *ex-ante* time frame, since it

is [52] certain that at 9:00 pm Meredith Kercher said goodbye to her friend before going home, and was therefore still serenely alive.

This Court believes that it can also fix a final time frame through the examination of the phone records on the basis of the cell phones the young woman had in her possession on the evening she was killed, which were removed by the perpetrators of the homicide from the house at 7 Via della Pergola and thrown into a garden of a house in Via Sperandio in Perugia.

Investigations of the phone records, in fact, establish that the mobile phone containing the English SIM card (which will be discussed at length further on) issued a signal at 00:10:31 am on 2 November 2007 that was intercepted by the cell tower no. 25622, a cell tower that could not be affected by signals coming from Via della Pergola, but that intercepts signals coming from Via Sperandio, a road where the mobile phone had been abandoned after the murder by the homicide perpetrators, an indisputable circumstance at the trial.

Reasoning therefore from this uncontested circumstance of the trial, one can assert that at about 9:00 pm of the evening of 1 November 2007 Meredith Kercher was alive and said goodbye to her friend near her own home; and that at 00:10:31 am on 2 November 2007, the young woman's murder had already occurred. This, therefore, must be the time frame to which one must refer for verification of the compatibility of other evidence received.

The evidence hearings, at both first instance and appellate level, have dedicated ample space for other trial findings, based on witness testimonies, relevant for the purpose of identifying the time frame in which the attack and homicide of Meredith Kercher took place.

Specifically, we refer to three witness statements, made by Nara Capezzali, Ilaria Dramis, and Antonella Monacchia, to which must be added that of Giampaolo Lombardo: statements that were given at the hearing on 27 March 2009, during the first instance trial. The witnesses would



also then be examined again during the appeal by the Court of Assizes of Appeal of Perugia, which evaluated them as unreliable in its Sentencing Report.

This Court does not agree with the judgment of the unreliability of the witnesses mentioned above.

Without any need to deal with the affirmation of the Court of Assizes of Appeal of Perugia proceedings now annulled, it is sufficient to point out, in this context, that the testimony of the [53] witnesses mentioned above will be evaluated by this Judge, together with all other trial facts, using only the established principles of interpretation, and on the basis of the principles of law laid down by the Supreme Court.

Turning next to the evaluation of the reliability or unreliability of the testimonies, it must first be observed that all four witnesses refer to circumstances which, even though they are in agreement with respect to some details, which will be discussed later, refer to personal experiences that are completely different. It is also important to emphasize the authenticity of the above testimonies which, as they were all given during a single hearing during the first instance trial, did not have any possibility of being influenced [by each other] even unintentionally in a way that could have diminished their credibility; furthermore, there is no evidence that any of these witnesses were acquainted with each other. Finally, it must be stressed that in evaluating the aforementioned witness testimonies, based on the trial transcripts, this Court has found substantial consistency and logic in the recounted events and, above all, during the whole of the investigation, not a single motive of self-interest was brought to light that could have led any of the witnesses to give an inaccurate report of the facts.

The opinion of reliability expressed above just expressed obviously does not mean that there is no need, in considering the full set of individual declarations, to make certain selections concerning the objective circumstances described by witnesses, their emotional perceptions, and the situating and timing of what they observed; this last is particularly dangerous in

that unless it is supported by objective knowledge, it is particularly subject to influence by subjective personal assessments.

It is thus the task of the Judge, in assessing the evidence as a whole, to distinguish the part of its content that is fully reliable because based on objective observations (for example, a scream is a scream and counts as an objective observation) from the part that is based on more personal perceptions that can, by their very nature, differ from person to person (a scream can be “dreadful”, “shrill”, etc. and that is a personal perception, which can only be accepted as reliable if it is attested to by several individuals). In any case it is important to repeat that the assumption that all the witnesses are wrong, or that they were all confused about circumstances that they specifically reported, is a possibility that is difficult to reconcile with a realistic picture, especially in a context where it refers to people who never had any contact with each other before the trial. [54]

But let us examine the statements made by the above witnesses.

Nara Capezzali reported having gone to bed on the evening of 1 November 2007 between 9:00 pm and 9:30 pm, the time she normally went to sleep. That evening, as there was nothing interesting on television, she decided to go to bed. After falling asleep, and about two or two and a half hours after she had gone to bed, she woke up to go to the bathroom, The woman stated that she did not look at the clock and therefore was not sure of the exact time, but she was able to reconstruct what she had stated on the basis of her habit of taking diuretic pills before going to bed, medication that normally forced her to get up and go to the bathroom after about two or two and a half hours. On the evening of 1 November 2007, she had therefore awakened to go to the bathroom and on the way heard a “chilling” woman’s scream. The witness reported verbatim:

*“QUESTION – And what happens?*

*ANSWER - What happens is that getting up I went past the dining-room window, because the bathroom is on that side, and as I was there I heard a scream, but a scream that wasn't a normal scream, I heard it*

*like this; I got goose bumps to be truthful. At that moment I no longer knew what was happening, and then I went on to the bathroom. There is a little window with no shutters, none at all, but I can even see through the little window when cars come in and where they come out and the stairway that goes up.*

*QUESTION - The metal one?*

*ANSWER - Yes, for pedestrians, it's steel. I looked out through the windowpanes but I didn't see anyone, there was nobody there, only two or three cars.*

*QUESTION - Did you hear any noises?*

*ANSWER - Then while I was going back to go to bed, I still hadn't done that, I heard noises, running on the metal stairway and running on the gravel, among the leaves, because it was in winter still, among the leaves and the gravel path of the apartment, of the cottage that is.*

*QUESTION - That's to say the yard?*

*ANSWER - Of the yard that is there beyond the cottage, the driveway of the cottage that is.*

*QUESTION - On Via della Pergola.*

**[55]**

*ANSWER - I heard running.*

*QUESTION - Look, let's go back to these aspects and let's try to be more detailed. This shout, this scream upset you, did it?*

*ANSWER - Yes, a lot. In fact, right now every time that I go by that window for me it's as if I seem to hear that scream again.*

*QUESTION - This scream then, was it human?*

*ANSWER - Yes*

*QUESTION - Was it a man or a woman?*

*ANSWER - Yes. It was a bit stretched out for a single scream, and then there was nothing more to be heard. Until I went back to sleep. [Transcript deposition Nara Capezzali, hearing on 27 March 2009 before the First Instance Court]"*

Antonella Monacchia reported with certainty that she went to bed at 10:00 pm on 1 November 2007 and that sometime after she had fallen asleep she was awakened by the voices of a man and a woman arguing. At that moment, she had heard an extremely loud scream and then silence. The scream came from somewhere below her home and therefore from the area in

which 7 Via della Pergola is located.

On the evening of 1 November 2007, Ilaria Dramis went to the movies with her sister, who was living with her. After returning home, they got ready for bed. Though uncertain of the exact time, which she nonetheless identified as being around 11:30 pm, she heard the sounds of hurried footsteps on the metal stairway below her home (and above the area of 7 Via della Pergola,), without being able to specify whether these sounds were made by one or several individuals.

Lastly, Giampaolo Lombardo, an employee of a car repair shop in Perugia, stated at the same hearing that he had performed a vehicle break-down service on Via della Pergola on the night of 1 November 2007. He had been instructed by the owner of the car repair shop where he worked to go to Via della Pergola to perform roadside assistance at around 10:40 pm; it took him about 20 minutes to reach the aforementioned road, where he stopped to perform the service until about 11:15 pm, after which he left.

[56] To the above witnesses, one can add Alessandra Formica, who was called to appear as a witness on 21 March 2009. On the evening of 1 November, 2007, this witness, in the company of her boyfriend Lucio Minciotti, went to dinner at a restaurant in Perugia located near the theater district. He had parked the car in the car park under Piazza Grimana and above the house on Via della Pergola. The witness reported that her dinner began around 9:30 pm and ended after about one hour, which is when she returned to the car park to retrieve the vehicle. As she was coming down the stairs that accessed the car park, a young man, coming from the opposite direction in a hurry, bumped into her boyfriend. The witness was not able to report anything useful regarding the precise identification of the young man, only that he looked "dark." As for the time, the witness reported that they arrived home around 11:00 or 11:15 pm at the latest and that it took approximately 15 minutes to reach her home from the parking lot.

This is the context of the testimonial evidence to be examined in order to verify whether it is possible to restrict the time frame given by the medical legal experts in which to place the homicide.

The Court considers that the temporal references indicated by the witnesses are necessarily imprecise when made in reference to the time, but adequately credible, especially with reference to the witnesses Capezzali and Monacchia, with respect to having heard the scream of a woman, which both witnesses place around 11:00 pm and 11:30 pm on the evening of 1 November 2007: therefore during a time perfectly compatible with the homicidal event as reconstructed by the forensic scientists and inserted within the "gap" obtainable from the findings of the police (9:00 pm on 1 November 2007 and 00:10:31 am on 2 November, 2007).

With regard to the testimony of the witnesses Dramis and Formica, the circumstances reported by the latter (i.e., she heard hurried footsteps on the stairs of the parking lot above the house on Via della Pergola and, with reference to Formica, she met a guy who ran on the same steps at a time that can be placed between 10:45 and 11:00 pm), although it could be undoubtedly traced to the moment of escape from the crime scene following the murder, it could well be related, given their objective generality, to other events unrelated to the facts of the case. One must not forget that, above the house on Via della Pergola where the [57] crime took place, there is a car park on the border of the Perugia city center which, on the evening of 1 November 2007, a holiday, was quite busy with many car drivers.

In essence, these are testimonies which, though perfectly credible, refer to circumstances related to the case that are of little use because of their ambiguity. For example, suffice it to say that Alessandra Formica places the "clash" with the unknown man at 10:45 or 11:00 pm, precisely when, beneath the parking lot above the house and approximately ten meters away, the vehicle assistance performed by Giampaolo Lombardo was taking place: a tow truck intervention that reasonably created movement and noise and that the witness [Alessandra Formica] never mentioned, describing instead a spatio-temporal situation of

complete calm and silence, broken only by the presence of the “dark man” who bumped into her boyfriend.

After the examination of the witness testimonies given above, this Court considers that setting the precise time of Meredith Kercher’s death is an extremely hazardous activity, since it would have to be based on perceptions and memories that must inevitably increase the imprecision of the timing by a considerable margin.

What is important, however, from the evidence mentioned above, is the fact that two different women, located in separate buildings but in a position close to the cottage on Via della Pergola, within a context that is substantially equivalent with regard to the time, perceived a woman's loud scream coming from an area where the house on Via della Pergola is located. This circumstance, compatible with the period of time when the murder took place, is also compatible with the reconstruction of the murder event, with the nature of the means used, with the particularly violent aggression that Meredith Kercher suffered, and with the other trial facts coming directly from one of the accused, which will be discussed later.

In conclusion, it can be satisfactorily proven that Meredith Kercher was attacked and murdered within a time frame between 9:00 pm on 1 November 2007 and 00:10:31 on 2 November 2007 and that this is the time frame that will be referred to when discussing the alibi furnished by Amanda Knox for both the accused.

Lastly, it is important to clarify the means that provoked the death of Meredith Kercher.

**[58]** The wounds observed in the external examination of the body and during the autopsy, already discussed above, lead us to conclude that the stab wounds, one of which was the main cause of death of the young woman, were inflicted with one or more single-edged knives with no serrations on the blade. The investigation has long focused on the need to

determine whether the murder was committed using two "blades", or only one; and if the knife seized at the home of Raffaele Sollecito (Exhibit no. 36) is one of the murder weapons.

The question can in no way be addressed and resolved at this early stage, as the answer would have to be purely conjectural. Only from the outcome of the evaluation of the sum of the circumstantial evidence is it possible to formulate a credible answer.

At present, it can only be asserted that, in the event Meredith Kercher's murder had been perpetrated by Rudy Guede alone, without accomplices, then this would necessarily entail that only one knife was used, because the way in which the action was carried out and due to the different types of injuries found on the body of the victim, the use of two separate knives by a single attacker would be objectively impossible.

This last observation, however, is also needed to introduce a question that will be addressed in this first examination of the results of the investigation, a question that is central to the trial: that is, to determine, with reasonable certainty, if Meredith Kercher was attacked by one or more people.

This Court holds that verification of this point is of extreme importance from the very beginning of the examination of the body of evidence that the Court is called upon to perform because, as has already been specified in the introduction, there is already a perpetrator identified for the murder of Meredith Kercher: Rudy Guede, convicted definitively for this crime. If, therefore, one must reach the conclusion, on the basis of these examined objective findings, that the murder was committed by a single attacker, it would consequently be noted that the latter has already been identified and that therefore any additional assessment of the sum of the investigative clues found should cease, since a Court has already reached a final judgment. To then decide if Meredith Kercher was attacked and then killed by one or two people is not only a preliminary question but also a threshold one for the continuation of the discussion.

[59] This Court considers that there is unique and circumstantial evidence in the proceedings that lead us to the conclusion that the attack on Meredith Kercher on the evening of 1 November 2007 was perpetrated by more than one person and that therefore Rudy Hermann Guede had accomplices in the execution of the murder.

The reasoning must be first developed in relation to the type and location of the lesions on the body of the victim.

It can be said that, on the body of Meredith Kercher, there were three lesions present, caused by a cutting weapon: one, surely mortal, was located on the left side of the neck, while the other two, one located immediately below the mortal wound and one located on the right side of the neck, presented injuries of a nature and type consistent with the aim of threatening. There were also lesions caused by finger pressure, described several times, on the mandibular region, on the sub-mandibular region, on the part of the face around the nostrils and inside the mouth which, in light of their position and the presumed degree of force used to make them, were probably an attempt to prevent the young woman from screaming during the attack.

The body of Meredith Kercher did not show lesions that are typical of "defense" wounds (except for the tiny wounds on the palmar region and on the thumb of her right hand, observed by the Scientific Police and during the autopsy performed by Dr. Luca Lalli; they were so minor as to be substantially insignificant from the point of view of an effective action of self-defense), as are usually found in cases of an adult attacked by a killer armed with a knife. It was almost as if the young woman, certainly threatened by a cold steel weapon and wounded by it, had not mounted any effective resistance.

As far as we know, Meredith Kercher was a young woman with no particular physical problems, who had practiced sports that surely trained the muscles of the upper and lower limbs (football and boxing); from the autopsy report one can determine certain physical aspects such as a height of 164 cm, a body weight of between 50 and 55 kilograms, and



adequate musculature, which demonstrate that this young woman was in good health. If one were to add to this that from the toxicology examination Dr. Lalli ascertained that Meredith Kercher had not consumed any alcohol or drugs in the hours before the murder, it can reasonably be stated that the assailant armed with a knife was facing a young woman in the prime of physical strength, fully conscious, and [60] therefore certainly able to put up resistance to significant physical aggression. But such resistance was not at all mounted against the attacker.

One thing is very significant in this regard. Under the fingernails of the victim no epithelial tissue or other tissue was found. Meredith Kercher, attacked by a man like Rudy Hermann Guede, who dominated her and was wielding a knife, did not put up any resistance, was not wounded by the knife in the upper limbs (as normally happens in a person seeking protection from the strikes of a knife), didn't even make an attempt to push the aggressor away with her hands, didn't scratch him, didn't grab his clothes – in a word, did not fight back. But there is more.

Rudy Hermann Guede's DNA was found on the cuff of the sleeve of the sweatshirt that the young woman was wearing on the night of the attack, just as Rudy Hermann Guede's DNA was found inside the vagina of the young woman. Both traces show that the man, during the attack, restrained the young woman's wrist (obviously in an attempt to immobilize her and avoid being hit) and inserted his fingers (reasonably of the other hand) into the young woman's vagina in order to perpetrate the act of sexual violence that will be further discussed. Whatever sequential order one posits, whether successive or simultaneous, the actions described above and carried out by Rudy Hermann Guede leave no doubt that, had Guede been the only one to attack Meredith Kercher, she would have had – even if only for a brief moment – a free hand to scratch, hit and in any case defend herself against the attacker. But this did not happen; she did not defend herself.

But let us proceed.

As already stated, the neck of the victim had two stab wounds, one on the left side of the neck, the mortal one, and one on the right side of the neck, almost symmetrical, with a path of 4 cm. The latter was the subject of much debate for its objective incompatibility with the Court confiscated knife. The typology [shape] of the two wounds, their symmetrical location on the opposite sides of the neck of the victim, and the path that is in any case significant even for the one placed on the right side of the neck (in the sense that it was not a scratch, but that the knife penetrated the soft tissue parts of the neck) suggest that the wounds could not have been inflicted by the same person; unless one hypothesizes that during the attack the victim turned 180° degrees, thus permitting the blade [61] to penetrate two sides of the neck antithetically [directly opposite]. That is, the attacker had changed position around the victim, but in doing so interrupted her immobilization. Assuming then that the attacker had first set down the knife and then grabbed it at a later time, either with the other hand or in a different position to stab once more, seems to be rather imaginative and without logical connection to the evidence. In both cases, the dynamics of the aggression would certainly have developed in such a manner as to allow Meredith Kercher to accomplish some sort of defense.

As a result of the examination of the circumstantial context represented by the type of lesions found on the victim's body, it can therefore be asserted that the absence of any proven and effective defensive activity by Meredith Kercher against her assailant armed with a knife can be reasonably and justifiably explained only if interpreted in a setting that sees Rudy Hermann Guede assisted and supported by other perpetrators in the room at the time of the attack.

But the circumstantial framework represented by the type of injuries suffered by the young woman, which leads us to believe that the attack was perpetrated by more people, is supported by evidence of an objective nature that led the Judge of first instance in Rudy Hermann Guede's fast track trial to confirm the sentence: "*(...) it is relevant to note that more than one person walked around those rooms barefooted (...)*". [Page 56 of the sentence no. 638\08

issued by the G.I.P.<sup>12</sup> (sic) of the Court of Perugia on 28.10.2008 against Rudy Hermann Guede].

In fact, we have already pointed out in the section devoted to the description of the collection of evidence carried out by the Scientific Police inside the apartment in 7 Via della Pergola where the Scientific Police, at the time of inspection, noted that there were three shoeprints with concentric circular marks left by the deposit of blood in the living room of the apartment; two more identical shoeprints were found on the floor in the corridor. These shoeprints are compatible with those taken from Rudy Hermann Guede, and, by examining the position of the shoeprints and their direction, it can reasonably be argued that they were left by the person who was leaving the house after having stepped into Meredith Kercher's blood.

The Scientific Police then observed, on the floor of the second bathroom (the bathroom near Meredith Kercher's room) in the area beneath the sink, a [62] light blue cotton bathmat measuring 74cm by 48cm with, on the posterior portion on the right, the mark of a shoeless footprint that was also deposited after stepping in Meredith Kercher's blood. There was much discussion during the court hearings as to whether that bare footprint could be attributable to Raffaele Sollecito, a question that was also the subject of specific technical consultancies. Here, for purposes limited to the investigation that the Court has set itself, we are not interested in further analyzing in depth the technical inquiries that have already been made, which will be considered later on; what matters is that inside the apartment, after the crime, there was a person, presumably a male given the size of the footprint, certainly distinct from the person who left the shoeprints heading towards the exit that the trial definitively determined as belonging to Rudy Hermann Guede.

It should also be pointed out that the Scientific Police, when investigating the room where the body of Meredith Kercher was found, found three shoe prints, with concentric circular

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<sup>12</sup> G.I.P. is the *Giudice per le Indagini Preliminari*, Preliminary Investigation Judge, it is an oversight as the sentence 28.10.2008 against Rudy Hermann Guede was issued by the G.U.P., *Giudice per l'Udienza Preliminare*, Preliminary Hearing Judge, as already noted in page 2.

marks, left by the deposit of blood. The size of these prints, detected and then examined, lead us to believe that the person who left them can be identified as female, given that the size of the foot is a 37, based on the measurement system used in Europe. Even with respect to these prints, the Court is not concerned at this stage to discuss whether or not they are attributable to Amanda Knox.

For the purposes of interest here, it is sufficient to note that at the scene of the murder inside the apartment, following the killing of Meredith Kercher (because the traces are all made by deposit in blood and therefore indicate that blood was stepped in), a man was present, he was wearing shoes, and he walked away from the apartment itself; in addition, the presence of at least two other people was detected, presumably a male and a female, who left bare footprints after having stepped in the victim's blood. On the other hand, it is possible to deduce the presence at the murder scene of a male person other than Rudy Hermann Guede, even without referring to the technical consultancy requested by the prosecution that attributed the bathmat footprint to Raffaele Sollecito, from the logical observation that the person who left the apartment without deviating from a straight path was wearing shoes on both feet, and it would thus have been objectively impossible for him to leave a bare footprint on the mat in the small bathroom.

[63] Concluding this first portion of the examination of the circumstantial evidence, it can therefore be argued that on the evening of 1 November 2007, at a time between 9:00 pm and 4:50 am the next day, Meredith Kercher was attacked inside the apartment at 7 Via della Pergola by Rudy Hermann Guede, who carried out the assault and murder aided by other people; presumably a male and a female based on the evidence collected.

In any case, based on the logical and experiential interpretation of the objective data provided by the trial, it is the opinion of the Court that there were more people who attacked and murdered Meredith Kercher.

### **3. Post delictum**

In the preceding paragraph the *locus commissi delicti* [crime scene] was examined, arriving at the conclusion that the murder was perpetrated by Rudy Hermann Guede with the participation of other accomplices. It must now be ascertained if the murderers carried out, *post delictum* [after the crime], any acts or behaviors whose examination can help identify them.

The Court deems that such acts and behaviors were carried out and in the following ways: Filomena Romanelli's room was altered by those who murdered poor Meredith Kercher; they falsified the crime scene through significant activity intended to make a reconstruction of the events more difficult and to divert suspicion away from themselves; and finally they stole two cell phones, which were subsequently abandoned in Via Sperandio, in the garden of a private residence.

The specificity of the *post delictum* as described above calls for a reconstruction that is separate from the individual acts. In the end, the reconstruction will be evaluated in a unified and interactive manner for its meaning within the context of all the evidence.

#### The alteration of Filomena Romanelli's room

It was established during the trial that the Postal Police officers were the first to arrive at the cottage at 7 Via Della Pergola. Luca Altieri and Marco Zaroli arrived later, and Filomena Romanelli and her friend Paola Grande arrived last. Upon arriving at the cottage the [64] police officers were notified by the defendants, who sat on a low wall in front of the cottage, that burglars had presumably entered the cottage and had ransacked Ms. Romanelli's room. Since the door to Meredith Kercher's room was closed and locked, nothing was [yet] known about the murder. Moreover, the Postal Police had come to the cottage not because they had been notified about a burglary but because they were looking for Filomena Romanelli, for reasons that will be dealt with shortly. The Postal Police officers briefly surveyed the situation in Romanelli's room. Subsequently, the room was seen, in sequence, by Luca Altieri and Marco Zaroli and then by Ms. Romanelli.

The 2 November 2007 inspection report submitted by Scientific Police personnel contains an analytical description of how the room was found, a description that is worth quoting. The report reads as follows: *“The room being used by Filomena Romanelli is of rectangular shape, extending transversally to the left, measuring 3.15 meters in width and 2.94 meters in depth. It is protected by a wooden door that opens into the room in clockwise fashion. The door has a lock with a passkey and was found open normally and undamaged. The room gets light from a window in the middle third of the back wall that faces the cottage driveway. The window is externally protected by dark green Florentine shutters made of wood. The shutters were found to be halfway open and undamaged. The right shutter has a closing device known as an “espagnolette”. The window is made of a pair of white wood frames with glass panes, which open into the room. Each window frame has an interior solid shutter in white wood. The interior shutter of the right window frame has a small locking latch, found to be closed in its respective clasp, which is fixed into the underlying frame. This shutter also has a second closing device known as an “espagnolette”, which has a locking latch larger than the preceding and was found to be normally open. The left window frame presents broken glass on the bottom half, with an irregularly shaped hole measuring 53 centimeters high by 27 centimeters wide. The internal and external window sills are covered with glass fragments of varying sizes, which are also present inside the room. The inside face of the internal shutter on the left window frame, in correspondence with the hole in the glass, presents evident scratches in the wood. The scratches are irregular in shape and 2 centimeters in size, with frayed wood fibers and small glass fragments [65] which are wedged into the shutter. The window found with the broken glass has hairs between a piece of glass still wedged in the bottom right corner of the frame and the interior shutter. The same window on the outside face of the frame, where the locking clasp is for the window latch, has a small trace of what is presumably blood. The exterior sill of the window is 3.78 meters above the ground below”.*

The Scientific Police also produced an analytical description of the contents of the room that had been ransacked in such a way as to suggest that someone had rummaged quickly and chaotically in an attempt to find something. In short, the visual picture was compatible with that of a burglary executed by unknown persons who would have entered through the window described above, previously broken.

The Court deems it advisable, in order to have a better understanding of what will be argued in relation to what is believed to be a simulation of a crime, to show the state of the scene and the room through the use of the photographic documentation attached to the above quoted report of the site inspection by the Scientific Police.

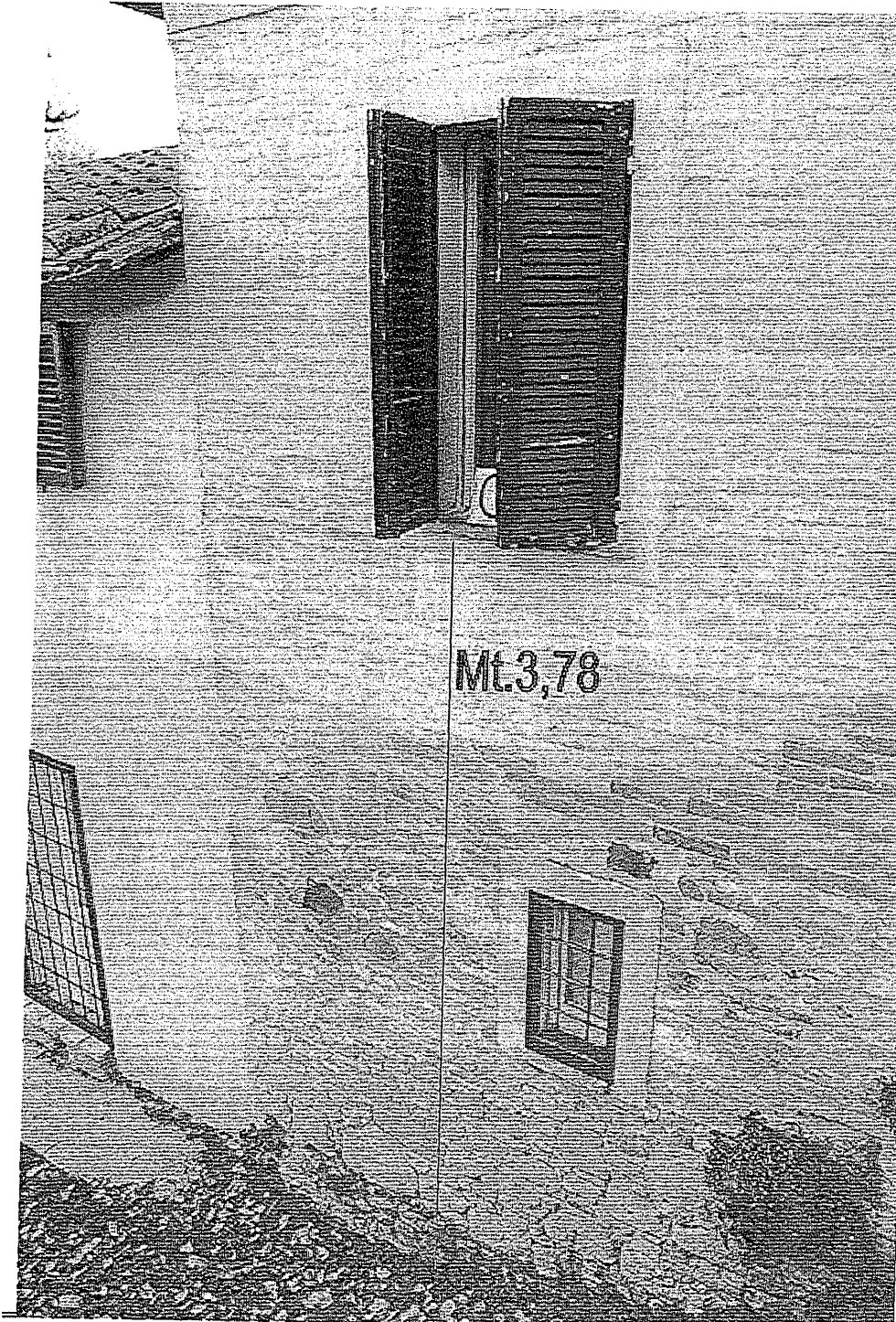
In the first of the photos shown here, it is possible to see the facade of the cottage where the window is, through which Rudy Hermann Guede and unknown burglars would supposedly have broken in. This window is located on the same side of the cottage as the front door and it faces and is visible from the street that runs above the cottage (and from the car park). The window is 3.78 meters from the ground level below. It is also possible to note the parapet in front of the window from which, according to the reconstruction created by the defendants' defense team (the consultant Pasquale), the rock that smashed the glass was thrown. [66]



Continuing on with the analysis of the photographs, it is advisable to highlight, with the two photos taken by the Scientific Police, the actual material composition of the wall where the window of interest is located. It is basically a wall without points of support useful for climbing,

except for a grate affixed to the window below and an embedded nail located between the two windows.

[67]



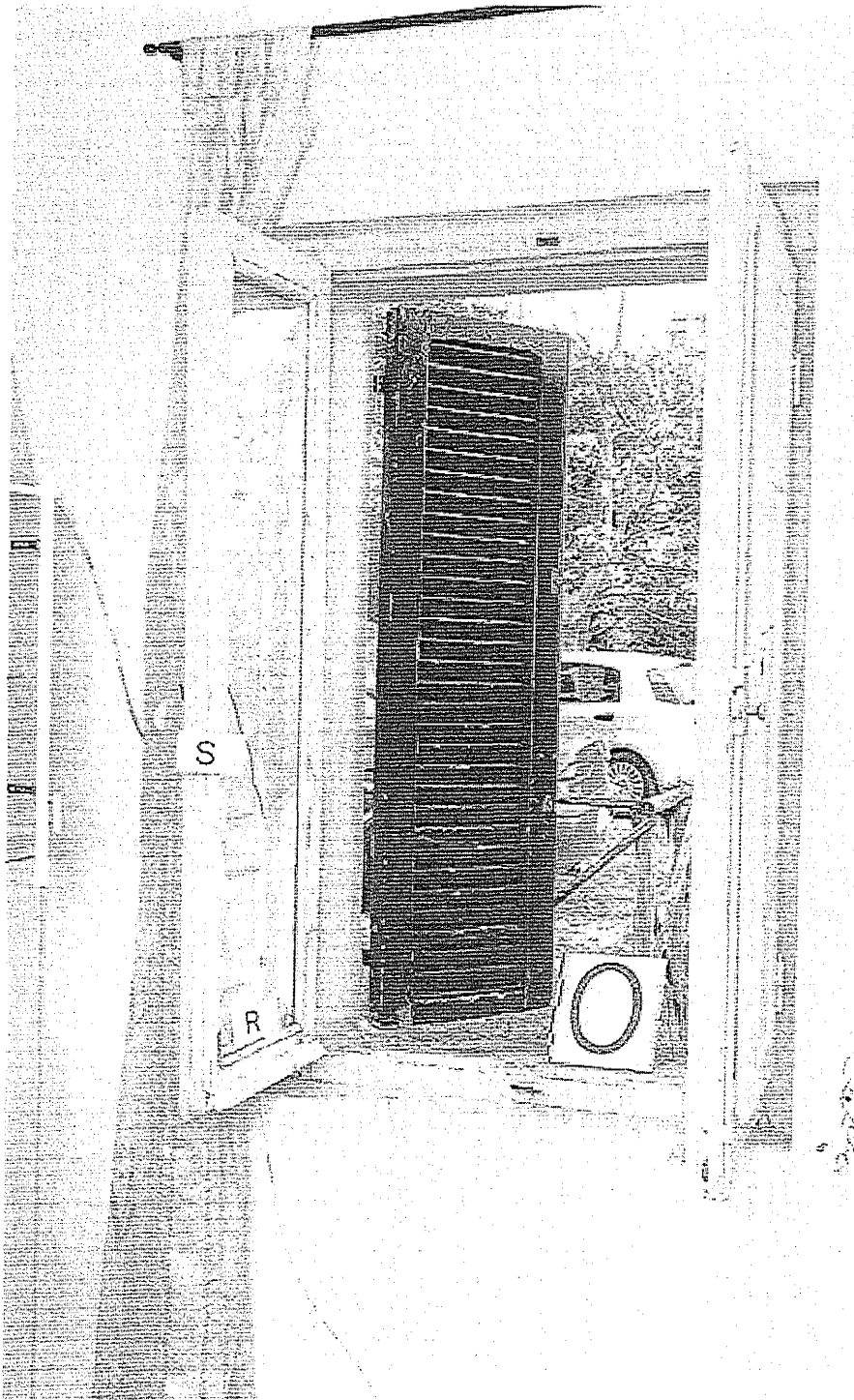


[68]

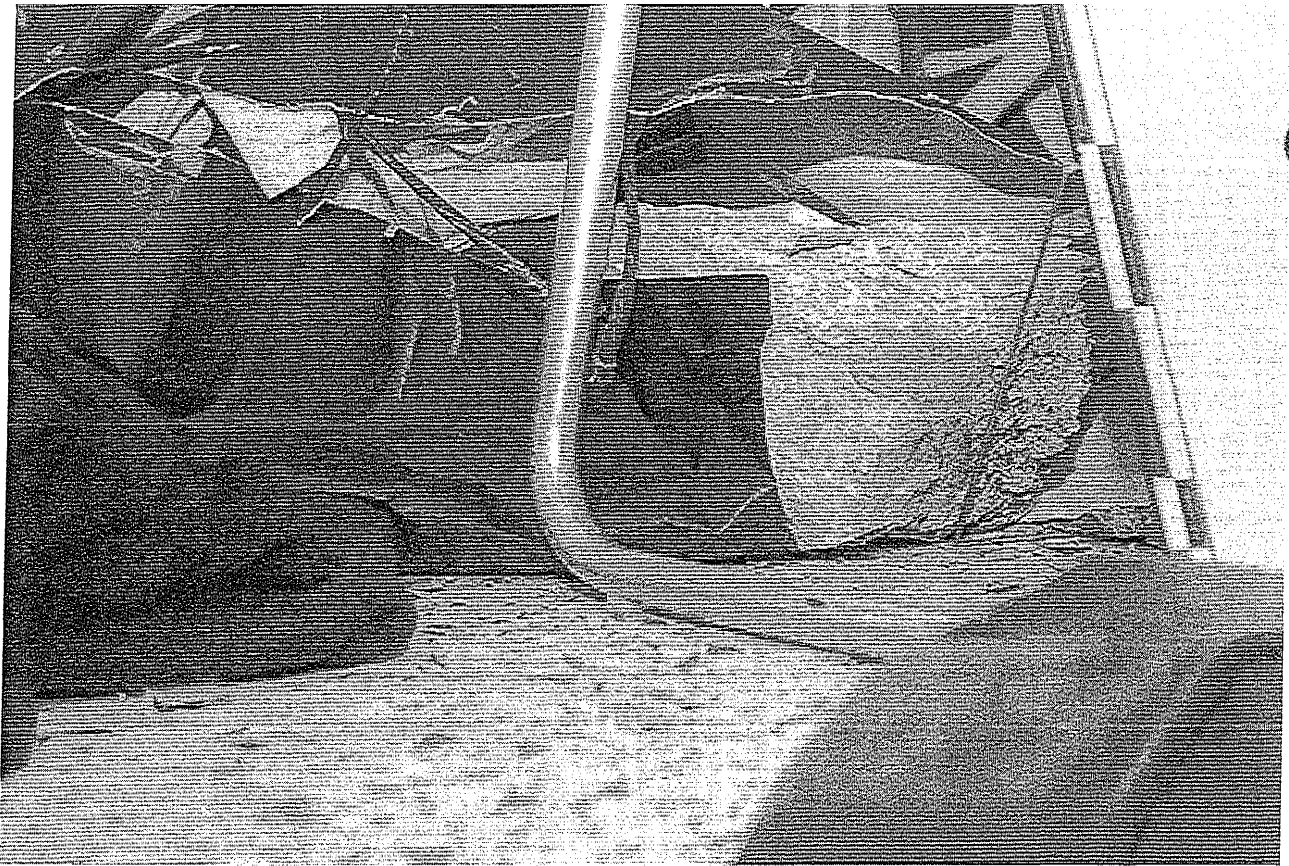


On the inside, the window was found with the interior white shutters halfway open and the left shutter damaged by the impact of the rock. The rock is quite large and weighs about four kilograms.

[69]



[70]



Having some knowledge of the window and the locale, it is appropriate to recall what the witnesses said about the scene that they saw when, in succession, they discovered Romanelli's room.

Michele Battistelli, the Postal Police inspector, expressed himself on this point in the following way during the hearing on 6 February 2009: "*(...) it was a little topsy-turvy, in the sense that it was mostly ... There was clothing out, thrown around a bit, and scattered pieces of glass. Glass pieces were on the floor and the curious thing, which stood out for me, is that these glass pieces were on top of the clothing. I noticed this to the point where I started playing with the notion, in the sense that I immediately said that for me this was a simulation of what I was seeing, basically this... The things that I noticed, the camera, the computer, if they played into the theory of a hypothetical burglary, I saw that inside the house practically everything was there. There was a laptop, a digital camera, things that can be easily taken, so...*". [Transcript of the 6 February 2009 hearing, First Instance Court, Page 65 et al.]

[71] The Postal Police assistant, Stefano Marzi, at the same hearing stated: “(...) I personally stayed at the doorway because in any case it is so small that one could easily see how it was. It was entirely ransacked, there was this open window, these open shutters that let the light in, the glass in the left window pane that was broken. ... There was a rock. (...) there was some broken glass in the part below the rock and ... It was a rock of approximately this size, it could have been 20 cm. (...) I saw there was some clothing and other personal objects inside with glass on top and this rock, which presumably had broken the glass. Under the clothing yes...It isn't like I did a site inspection, I effectively verified what Sollecito was saying, that the laptop and digital camera were there”. (Asked if he had heard any comments from his colleague Battistelli) “That I know he ... he immediately raised doubt as to whether this was real. If this entry, this damage, because he said ‘but here something is not right, the glass is on top...’ he referred to the fact that the glass was on the clothing. And to the fact that entering through that type of window to the eye, in this way was a little difficult”. [Transcript of the hearing on 6 February 2009, First Instance Court, Page 125 et al.].

Marco Zaroli, examined at the same hearing, said this: “ (...) I saw two Postal Police agents, plus Amanda and Raffaele in the corridor of the...in front of the rooms of Amanda and Meredith, and entering there was quite visible a...what seemed like a burglary, because there was ... I, I quickly, since Filomena was not there, became worried about going to see what had happened, there was Filomena's room that was ransacked, and in Laura's room only a drawer had been opened. Everything was pretty turned upside-down. Clothing on the floor, everything essentially thrown around the bed. The broken window. The glass which strangely was, and this was let's say evaluated later, because right then and there it hadn't been noted, [glass pieces] were on the clothing strewn on the ground, for example. There was a rock that was this big (...)”. [Transcript of the hearing on 6 February 2009, First Instance Court, page 178 et al.]

And finally Filomena Romanelli, whose testimony is of extreme interest, not only for her description of her own room and the fact that nothing had been taken but also for other statements she made, which will be discussed later, and which have significance in the reconstruction of the events. In any case, limiting ourselves to the [72] statements of exclusive importance for this specific detail, Ms. Romanelli, upon arriving at the cottage, hurried to check the contents of her room and reported this: “(...) I entered the house and my room faces the

dining/living room, so right away when I entered the house, I entered my room and I saw the broken window and everything in chaos, the clothing, a big mess, everything was all disheveled, everything ... Everything scattered, there was the open closet, a mess on the desk, everything out of place. I looked around quickly - in addition to the fright of having to immediately check to see if my valuables were there. So the first thing was to check that all the jewelry was there, and it was, so I said to Paola 'at least they didn't take this', then I looked for the computer and I saw it from below, then there were the sunglasses, which are designer glasses, and they were on the desk, the designer purses, there was one on the ground, but they were there and so, even though I was very, in all honesty I was already shaking when I arrived inside, and even so though I was very upset, little by little I calmed down saying 'Oh God, but maybe they didn't have time to take anything, because at least these valuables are here.' Picking up the computer I noticed that in lifting the computer I lifted some glass, in the sense that the glass [fragments] were on top of things, there was a mess and so right then and there I didn't notice it right away. It was a mess of glass, clothing, glass ... Yes they were underneath but they were also on top. So yes, they were on top. I remember very well [the glass] on top of the computer bag because I was careful as I pulled it away because it was all covered with glass and in fact right then and there I didn't notice it right away, but then also talking with Marco we mentioned this, saying 'the burglar was an idiot, in addition to the fact that he did not take anything, the pieces of glass are all on top of the things', he is an odd burglar, but right then and there I was still a bit shaken, but I said 'okay, the important thing is that the things are here, the most important things are here, but what he took he got away with, but the jewelry is here, the computer is here, which are the most important things, now let's see, I don't know if I have to first tell Paola or the landlady about the broken window'." [Transcript of the hearing on 7 February 2009, First Instance Court, page 40 et. al.]

So, with the results of this initial investigation, two points of fact can be confirmed with absolute certainty.

In the first place, although Romanelli's room had been ransacked, no objects were taken from it: neither the jewelry nor the laptop computer nor the digital camera, all objects of value that can easily be taken.

[73] In the second place, all four witnesses, two State Police officers, and two completely neutral witnesses, noted one detail – that the glass fragments produced by the rock smashing against the window, in addition to being scattered about the room, were also on top of things. On top of clothing and on top of the computer.

But Filomena Romanelli noted another circumstance of extreme importance during her testimony and that is that, when she was leaving the apartment on 31 October 2007, she had closed the windows and the exterior shutters. On this point, verbatim: “(...) *I closed the window. I closed it.*” (She was then asked if the exterior shutters of the window had problems or if they were okay) “*I complained to the agency in all honesty right away, from the moment I leased the apartment, because I would have liked that my windows were, that is I would have liked the landlady to have installed ... Either change the closing of the windows, the frames, or install some security grills, because it wasn't very operable and they did not give me a sense of security, they were old, they were old windows, so with very thin glass and it didn't give me a sense of security, in fact I personally complained a lot to the agency. It was hard to close. I think both of them. When I tried to close them, every once in a while I pushed them a little. In fact, like sometimes if I wanted to air out the room it was enough that I tried to close them a little because they remained blocked anyway, unless someone used a bit of force. So the air passed through. To open them you needed a little pull, you needed to pull them a little, because basically since they were wood, over time the wood had swollen a little, so it scraped on the sill. I remember well that the right pane scraped (...)*”. [Transcript of the hearing on 7 February 2009, First Instance Court, page 25 et al.].

At this point it is possible to test the reconstruction of the events proposed by the defense teams, according to whom Rudy Hermann Guede, on the night of 1 November 2007, is said to have entered the cottage on Via della Pergola with the intention of carrying out a burglary and, surprised by poor Meredith, who returned home around 9:00 pm, decided to assault her in order to rape her violently and, given the young woman's reaction, would have ultimately murdered her. This reconstruction is not objectively tenable based on the evidence.

But let us proceed in order.

Rudy Hermann Guede, apart from having specific experience in entering the homes of others with the intent to steal (his record, recalled in many trial records, is by itself [74] eloquent),<sup>13</sup> also knew the cottage under consideration, having been a guest of the young men who lived in the basement flat. He knew its location and features.

It can be asserted without fear of contradiction that the metal security gate to the front door, which is visible in the photo taken by the Scientific Police, was not closed. This can be deduced by the fact that whoever left the cottage after having committed the murder (only Rudy Hermann Guede, according to the defense of the defendants) certainly left via the main entrance after having broken into the cottage through the window. This clearly follows from the statements given by Amanda Marie Knox, who noted that when, after spending a night at the home of Raffaele Sollecito, she returned to the cottage around 10:00 am on 2 November 2007 in order to take a shower and change her clothes, she found the front door open. From this statement one must deduce that, from the defense's reconstruction, the thief and murderer Rudy Hermann Guede broke in through the window and then, having committed the murder, left by opening the front door using the inside knob. He did this on the presumption that the metal security gate [to the front door] was open; otherwise, he would have been forced to leave by the same route he had used to break in, in other words [back] through the window that faces the cottage's parking terrace, supported by a retaining wall of some type on the north side.

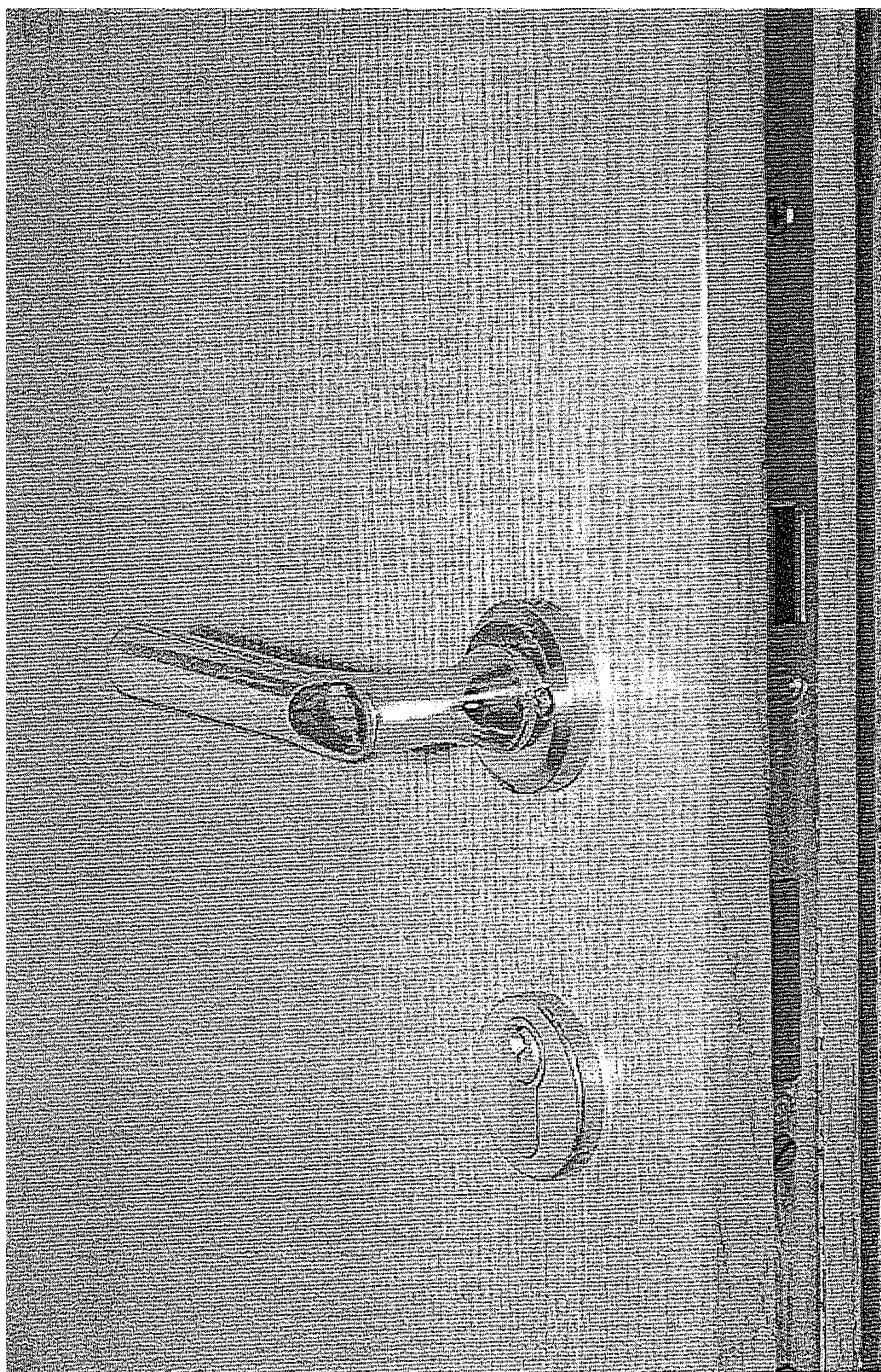
So Rudy Hermann Guede, certainly an expert at breaking and entering in order to commit burglary, according to specific previous instances, and wanting to break into the cottage on Via della Pergola, which he knew well, having found the metal security gate for the front door open, would never have entertained the idea of gaining access through the front door of the residence.

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<sup>13</sup> Translators' note: This appears to be sarcasm, since as of that time there were no trial records of Rudy Guede being convicted of any crime. A sarcastic tone appears from time to time in this section in the treatment given the defense theory that Guede entered through the window and was the sole killer.



A front door that, apart from having a defective locking mechanism, as noted by Filomena Romanelli (though it may be objected that this detail might not have been known to Rudy Hermann Guede), appears in any case immediately upon seeing it, to be of slight solidity. Basically the front door has an interior lock that can easily be opened by knowledgeable people, a lock that certainly would not have resisted even a rather modest attempt to force it. Even if one were ready to accept that a person who decides to go and burglarize a residence that he knows perfectly well does not equip himself with at least a screwdriver of sizeable dimensions to force a very weak lock like the one shown in the photo of the Scientific Police. [75]

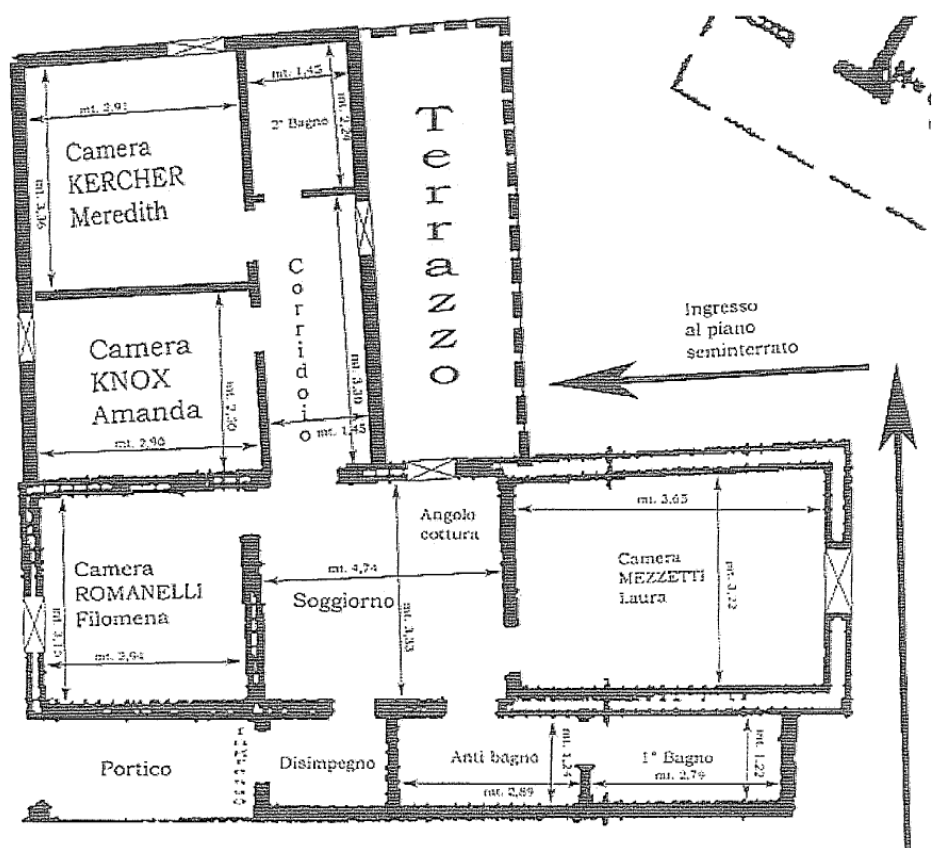




But there is something else that is even more perplexing.

Going back to examine the floor plan of the apartment, one can note that on the right hand side of the apartment, adjacent to the small bathroom and corridor, there is a balcony from which it is possible to gain access into the apartment through a window (or French door).

[76]



This is an access point that is visible in other photos taken by the Scientific Police and that is located at the rear of the building in an area overlooking the entrance into the basement apartment, which Rudy Hermann Guede knew perfectly well, having frequented the basement apartment inhabited by students with whom he was friendly.

Accessing the cottage by this route would undoubtedly have had the great advantage of being completely closed off from visibility from the road, since the balcony is located at the back of

the cottage and does not face the street or the car park. If anything, this back part of the cottage is only visible from the road from a much greater distance.

[77]

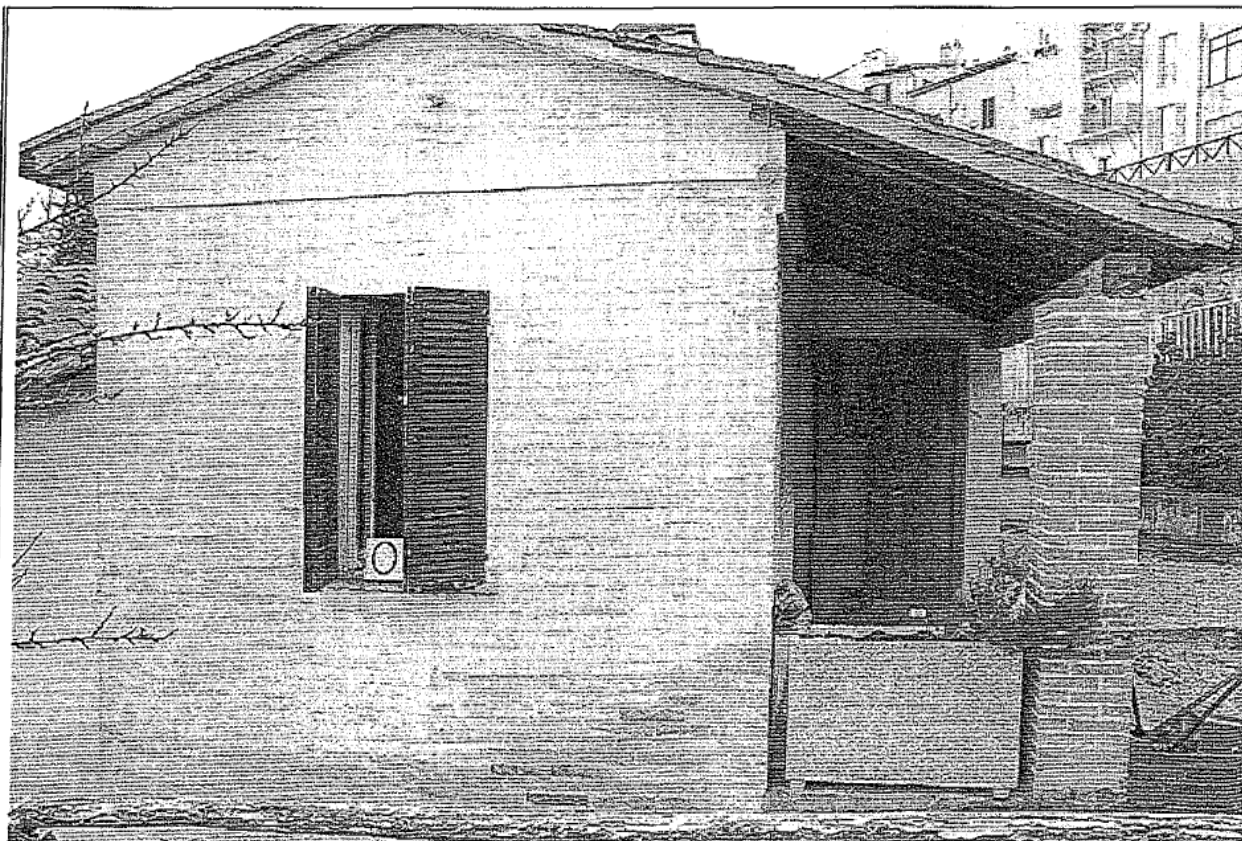


Essentially, and summarizing our reasoning, it would require maintaining that Rudy Hermann Guede, who knew both the area and the building perfectly well, on the evening of 1 November 2007 decided to burglarize the cottage inhabited by students whom he knew and who therefore knew him, without having any knowledge either of the fact that the cottage was unoccupied at 9:00 pm on a holiday evening or that someone could have returned in the hours immediately afterwards.

In any event, once he decided to commit the burglary, he did not force the lock of the front door though he could have immediately noticed its limited resistance. Nor did he use the rear access, which is certainly hidden from prying eyes and which would have given him easy access to the balcony above the basement apartment thanks to the presence of various grates and grilles

useful for a quick climb and, from there, by forcing a window, which could be done under conditions of greater feasibility, breaking into the apartment he wished to burglarize. Instead, Rudy [78] Hermann Guede, an artful and expert burglar, decided to access the apartment through a very complicated and complex process.

In the first place, he would have climbed up a 3.78 meter high wall that faced the street, with the risk that he would be seen by people who, on a holiday, frequented the car park above the cottage. He would have had to grip the window sill that stuck out from the closed exterior window shutters and, hanging on necessarily with one hand, he would have opened, not without some significant force, the green exterior shutters that had been closed previously, until they were wedged on the sill, by Filomena Romanelli when she left the apartment. Then Rudy would have climbed down to the cottage parking terrace; he would have gotten a rock of notable size and weight, which was subsequently found inside the apartment broken in two pieces, and, from the cottage parking terrace facing the window, he would have, with a single throw, bulls-eyed the window pane on the right side, breaking the glass.



Then,

he would have retraced his steps, climbed back up to the wall, gotten back to the window sill, which was now covered with glass and, without injuring himself (because no [79] blood was found that could be connected to Rudy Hermann Guede), he would have succeeded in opening the *espagnolette* lock on the windows and would have broken into the apartment.

Once he had broken in, he would have ransacked Romanelli's room without taking anything.

This circumstance, certainly incompatible with the goal of burglary that had pushed him into this undertaking, would suggest that during the search for objects to take, he was interrupted by the return of poor Meredith. Meredith would therefore have to have been assaulted in the dining/living area, since she could not have failed to notice the entry of an unknown burglar, since the apartment rented by the four women is very small.

But this did not happen, because we know for a fact, evident from the results of the site inspection done by the Scientific Police inside the cottage, [a fact] never questioned by anyone,

that the assault happened at the far end of the apartment, inside Meredith Kercher's room and in the small bathroom.

But aside from this last observation, which could be open to criticism of the reconstruction of the mechanics of the assault, we must point out that in this fantasy of a reconstruction of the events there are two elements of fact that cannot be rationally placed.

The first, which we have already been able to verify, is the fact that the glass fragments from the window wound up on top of the strewn clothing and objects. This circumstance is referred to in a fully convergent manner by four witnesses who noticed it, and it is surely incompatible with a breaking of the glass in a phase preceding the ransacking inside the room of the apartment. The window glass evidently was broken after entry into the cottage, by someone who was already inside and had already arranged the disorder that was then seen by the witnesses.

The second element that is absolutely incongruous with the above-noted reconstruction is the fact, noted without contradiction in the trial records, that on the evening of 1 November 2007 Rudy Hermann Guede certainly defecated in the large bathroom adjacent to the living/dining room and Laura Mezzetti's room (his DNA was found on the toilet paper found in the toilet).

It is difficult to imagine a Rudy Hermann Guede who, having broken into the apartment where he could have imagined the occupants returning at any moment, [80] interrupts his search for objects to steal and goes to the bathroom. And it is equally difficult to imagine a Rudy Hermann Guede who, having broken into the cottage, having been surprised by Meredith, having tried to rape her and having brutally murdered her by stabbing her in the throat, instead of immediately leaving the cottage to gain time and his impunity, stays behind to go to the bathroom, without then leaving any traces in that bathroom of any blood with which he would have necessarily been smeared.

If to these observations one adds the fact, which this Court considers having been established, that the assault on Meredith Kercher was the work of multiple people who attempted to force

the young woman to have a sexual relation she did not want and then, perhaps because of her reaction, stabbed her, leading to her death, the defense's view of a Rudy Hermann Guede, the only one responsible for the murder, who enters furtively through the window, is surprised by Meredith and kills her, becomes a view completely without merit and does not correspond to the body of evidence.

Every piece of evidence converges to show that the breaking of the window glass and the ransacking of Filomena Romanelli's room was nothing other than a clumsy attempt to give support to the theory that an unknown rapist – the perpetrator of the murder of poor Meredith Kercher – had gained entry into the flat; it is a false representation put into action for the specific purpose of diverting suspicion from people who were tied to the cottage at Via della Pergola through legitimate and frequent use.

Therefore, on the evening of 1 November 2007 there was no entry through the window, either by Rudy Hermann Guede or by any of the associates; those who entered the cottage together with Rudy Hermann Guede all came through the front door, using the apartment key for access, and only afterwards did they create a scene to simulate a burglary, in a rather shoddy way, with the sole aim of diverting from themselves any suspicion of the murder.

#### Alteration of the murder scene

There was much argument, especially by the defense teams, as to whether a 'selective' cleaning of the scene of the crime was possible by those who committed the crime. This possibility was negated on the basis of the observation, an empirical one, of the impossibility for the 'naked eye' to [81] identify and select the individual traces to conceal, which are often imperceptible. It was, moreover, ruled out that someone inside the cottage at Via della Pergola could have carried out, on the night between the 1st and 2nd of November 2007, after having perpetrated the murder of Meredith Kercher, a "selective cleaning" of the traces left by the perpetrators of the crime, erasing all the traces tied to the current defendants and leaving only those which would lead the investigators to Rudy Hermann Guede.

This affirmation, while it may appear plausible in theory, must then be correlated to the case in question, which has certain peculiarities.

One peculiarity is, for example, the observation that inside the cottage at Via della Pergola almost no traces were found of Amanda Marie Knox – apart from those that will be mentioned as relevant to the murder – or of Raffaele Sollecito. For the latter, the explanation could even be simple, given that he had initiated the amorous relationship with Amanda Marie Knox only a few days earlier and so had just started visiting her place. But for the former, Amanda Marie Knox, the explanation is anything but simple, since she herself had been living there since September.

The lack of biological traces of Amanda Marie Knox, other than those relevant to the murder, is certainly a noteworthy circumstance and at the same time not easily explainable other than by pure conjecture. But other examples could be given, all of which would have the same vulnerability [*vulnus*]; they would be mere conjectures.

Moreover, this Court deems that, in executing the task entrusted, it must limit itself to reasons founded exclusively on objective data, on those pieces of evidence that have, in other words, the maximum possible objectivity.

So a piece of evidence with an objective nature is the observation that, selective or not as the case may be, after the occurrence of the murder of Meredith Kercher, an activity of ‘cleaning’ the traces of the murder took place. And the body of poor Meredith was repositioned between the closet and the wall of the room and then covered with a duvet, which certainly does not correspond to the position in which the young woman died following the assault. Someone spent a lot of time inside the cottage on the night between the 1st and 2nd of November 2007 tampering with the scene of the crime and erasing numerous traces. The observations by the Scientific Police give us this undeniable truth, which has to be taken into account during the trial process.

[82] Without wanting to uselessly weigh down this report with descriptions that can be easily retrieved from the photographic documentation in the case files, it is sufficient to recall that the clean-up in the small bathroom of traces of the murder can be observed by examining the photos attached to the report of the site inspection done by the Scientific Police in the cottage at Via della Pergola on 2 November 2007 (volume III) and labeled as photos no. 7029, 7030, 7031, 7032, 7034, 7035, 7036, 7037, 7038, 7041 and 7042. Similarly, photos no. 7043 and 7051 show activity of cleaning blood traces in the corridor of the residence, the corridor that separates the small bathroom from the room of poor Meredith Kercher (see the floor plan included above).

Taking into consideration the point that a footprint left in blood was found on the light blue bathmat found in the small bathroom, [with] the simple consideration that the heel of the footprint is missing, and that around this footprint for a radius of roughly 1 meter, there are no other similar footprints, all of this must make one think that in fact cleaning activity was carried out (unless one thinks that the man who left the footprint on the bathmat was moving around inside the apartment without shoes and socks, moving around with great leaps, jumping from one location to the other). In other words, the fact of not having found similar footprints in a radius of roughly 1 meter from the footprint found on the bathmat makes one believe that there was an activity of cleaning traces, at least on the floor.

The same two towels found in the room where the murder occurred, one completely soaked in blood from the victim's wounds, must necessarily lead one to consider – along with the position in which the towel was found, half covered by the body of the young woman – that someone used this object to try and wipe up, insofar as possible, the enormous quantity of blood the young woman lost after she received the fatal wound to the neck.

There is another element that is also of undoubted importance.

From the report of the site inspection and from the photos taken by the State Police, it can be seen that in the room where the murder occurred a small table lamp was found, which came from Amanda Marie Knox's room (leaving that room with no light fixtures), located on the



floor. From the finding of this lamp, and from the location in which it was found, it must be considered that on the night in question, after the murder, someone needed to have a point of direct light at hand in order to see into the [83] parts of the room that inevitably remain in shadow if lit by the only light source, located high up in the room.

Finally an observation on how the body of Meredith Kercher was found.

The young woman was found supine nearly entirely covered with a duvet/comforter, with only a foot and a portion of the face left visible. Certainly, for reasons that will be discussed later, when the question regarding the reconstruction of the method of the murder will be dealt with, it can be affirmed that the body of Meredith Kercher was arranged in this position after the young woman was dead (one must remember that on this point, on the basis of the types of wounds, the coroners had established that the young woman spent some minutes, after having received the fatal wound to the neck, suffocating on her own blood before dying) and that covering the body with a duvet serves no purpose, except perhaps as a gesture intended to hide the body of the young woman in such a way as to render it not visible to anyone trying to look into the locked room through the keyhole.

All of these elements lead one to conclude that a cleaning activity of the traces left by the murderers, and an activity intended to alter the state of the rooms, was put into action by the perpetrators of the murder.

Having therefore established that, after having committed the murder, the accomplices took no small amount of time to carry out specific actions to alter areas [in the cottage], one must necessarily pose a series of questions.

In the first place, in whose interest was it to carry out an operation intended to alter the state of the rooms?

In the second place, who had knowledge of having at their disposal all the time needed to undertake the systematic activity of altering the scene of the crime?

And finally, what was the intended aim of those who carried out this activity of altering the state of the rooms after the murder?

To these questions it is absolutely necessary to give convincing answers, answers that certainly constitute an initial but important part of the overall and unitary evaluation of the whole body of evidence that the Supreme Court has requested, with the order of remand, of this Judge.

[84] In the first place, in whose interest was it to carry out an operation intended to alter the state of the rooms? Rudy Hermann Guede certainly had no such interest.

Guede hardly knew Meredith. It does not appear from the trial records and the witness testimonies that he had any particularly significant relationship with her, except for having occasionally met her in the places regularly visited at night by students outside the university. Rudy Hermann Guede did not have any interest in spending his time, after the murder, carrying out a systematic cleaning of the corridor and small bathroom, because the only interest that he reasonably had was to distance himself as quickly as possible from the murder scene, to avoid possibly being discovered there.

On the other hand, and the observation seems almost obvious, if the cleaning activity was attributable to Rudy Hermann Guede, we would need to consider that he had carried out acts and behaviors that were quite unique, taking care to clean everywhere except in the place where the murder was committed and elsewhere, where there was a significant amount of his traces; in other words, in the large bathroom where he had left an important and visible "trace".

The person of Rudy Hermann Guede was in no way associable by the investigators with the apartment in the cottage at Via della Pergola that the victim lived in, nor with the victim herself.

Having committed the murder, it would have been sufficient for him and for his accomplices to rapidly distance themselves and return to the shadows from whence they came.

Only those who had a connection with the cottage murder scene, and so could have easily been connected to the murder of Meredith Kercher, had an objective interest in erasing their traces from the scene of the crime, and also in simulating a burglary. And in fact, once it is ascertained that the work carried out inside Filomena Romanelli's bedroom was a faked act, intended to attribute the entry to an unknown and fictional burglar, this act, had it been carried out by Rudy Hermann Guede, who had already committed burglaries using the same technique, would have had no other effect than that of attracting the investigators' attention to himself.

In the second place, who was possessed of the knowledge that they had at their disposal all the time needed to carry out a systematic activity aimed at altering the scene of the crime? Certainly not Rudy Hermann Guede, who only knew that the cottage was occupied on the upper floor by some young women, Filomena Romanelli and Laura Mezzetti – who, by the way, [85] were completely unknown to him – and Meredith Kercher and Amanda Marie Knox. There was an apartment downstairs occupied by students that he himself had visited when he went there to watch a rugby game (author's note: and on that occasion also he had used the bathroom in an uncivilized manner).

According to the reconstruction offered by the Defense, who support the theory of the murder committed solely by Rudy Hermann Guede, Meredith Kercher was assaulted almost immediately upon returning home, which, as we know, occurred at around 9:00 pm on the evening of 1 November 2007. So Rudy Hermann Guede would have committed the murder around 9:00 pm that evening, when Meredith returned home; and there is no way he could have known if any of the other young women would be returning shortly afterwards, not only because nobody had communicated anything to him, but also because the hour was perfectly consistent with the possible return of other occupants of the apartment.

If one excludes Meredith Kercher, only Amanda Knox knew that both Filomena Romanelli and Laura Mezzetti, for different reasons, would have been away from the residence for the entire holiday weekend; and this because they had talked about it on 31 October 2007, when Romanelli had left the apartment to spend the holiday with her boyfriend Marco Zaroli.

And finally, what was the intended aim of those who carried out this activity of altering the state of the cottage? The only reasonable goal that can be derived from the sum of the observations done *post delictum* by the State Police was to prevent the murder from being discovered before its perpetrators had had the chance to organize their departure from the scene.

And in fact the cleaning activity was done in the corridor and small bathroom, while poor Meredith's room could not be cleaned, so it was closed and locked. Whoever might have entered the cottage on the morning of 2 November 2007 was not supposed to realize that a murder had been carried out there. To ensure this, all traces were cleaned outside the room where the lifeless body of the young woman was found, whereas the room was closed and locked.

It is in this precise context that the third circumstance highlighted in the initial part of this present chapter must be read and interpreted.

#### The theft of the two cell phones used by Meredith Kercher

[86] On the morning of 2 November 2007, at around 11:00 am, Elisabetta Lana showed up at the offices of the Postal Police of Perugia, where she filed a report. The woman noted that on the previous evening she had received, at her residence, no. 5\bis Via Sperandio, an anonymous phone call from someone telling her that unknown persons had placed a bomb at her residence. The Carabinieri had been alerted and, while at the residence, had carried out a quick site inspection but found nothing out of the ordinary. However, on the morning of 2 November 2007, the son of the woman found a Motorola cell phone in the garden of the residence. This circumstance raised suspicions in Mrs. Lana, who decided to file a report.

Then the police officers made a phone call with the cell phone that the woman had given them in order to check the IMEI number, through which they were able to identify the Vodafone SIM card assigned to Filomena Romanelli. The complainant was called again, and she noted that both the phone number and the name Filomena Romanelli were completely unknown to her. The police officer, Dr. Filippo Bartolozzi, having ascertained that Ms. Romanelli lived in Perugia, at 7 Via della Pergola, sent a squad there composed of Inspector Michele Battistelli and Assistant Fabio Marzi, with the goal of doing the initial investigation after having found the owner of the phone. While these investigations were ongoing, Mrs. Elisabetta Lana again showed up at the police office, reporting that she had found a second cell phone, a Sony Ericsson, which she voluntarily handed over.

The State Police ascertained that both cell phones were being used by Meredith Kercher, who used the Sony Ericsson cell phone with an English SIM card for her daily contacts with her family in England; she used the Motorola cell phone, with the Vodafone card given to her by Filomena Romanelli, for her calls to Italian cell phones. Ms. Romanelli in fact explained that the young English woman had indicated that she needed to use an Italian SIM card for Italian calls to avoid the excessive cost associated with daily use of a cell phone with an English SIM card. This is how Ms. Romanelli came to lend her Vodafone SIM card, which she no longer used.

[87] In sum, on the same day of 2 November 2007, the State Police ascertained that the two cell phones found in the garden of the residence of Elisabetta Lana were none other than the two cell phones that Meredith Kercher certainly had with her the night of the murder. And so the cell phones were taken from the residence on Via della Pergola by the perpetrators of the murder and, immediately afterwards, were discarded.

The two cell phones were discarded at a distance of roughly 950 meters from the Via della Pergola cottage, a distance corresponding to the trajectory between the latter and the garden of the residence of Elisabetta Lana at no. 5\bis Via Sperandio, in Perugia.

There is absolutely no doubt that the circumstance of finding the two cell phones by people who then handed them over to the police was entirely unpredictable and fortuitous. In the intentions and expectations of those who had discarded them, the cell phones were thrown into open countryside (in fact, from the road that flanks the garden of the cottage of Elisabetta Lana, due to the high and dense vegetation, it is easy to fall into error and believe one is throwing objects into open countryside and not into the garden of a residence), without the possibility of being found.

And there is also no doubt at all that the two cell phones were thrown into the garden of the home of Elisabetta Lana by those who had committed the murder, because both cell phones, as has been already observed, were certainly in Meredith Kercher's possession on the evening of 1 November 2007. It is possible to make this affirmation because it is a fact arising from the witness testimony that the young woman never separated herself from the two cell phones, and, in particular, from the Sony Ericsson phone containing the English SIM card, because she was in daily contact, and sometimes multiple times a day, with her family in England. This daily phone contact between the young woman and her family in England was due not only to reasons of understandable homesickness, since she was still young and only recently found herself living far away from her family, but also to much more pressing reasons, in that the mother of Meredith Kercher was ill. Consequently, the young woman had a constant need not only of contact with but also of availability to her family.

Therefore it was certainly not Meredith Kercher who threw the two cell phones into the garden of the residence at Via Sperandio no. 5\bis in Perugia on the evening of 1 November 2007, as she had no [88] reason whatsoever to do so. Instead it was her murderers, who, after the murder, took the two cell phones in order to later discard them.

It is legitimate at this point to ask oneself what reason the perpetrators of the murder would have had to take the cell phones of the victim and then discard them. And, in the particular case that occupies us, if Rudy Hermann Guede had a definite interest in doing so.

To the first of the two questions there is no easy answer. There is no doubt that the subsequent discarding rules out the intent to take valuable goods to keep or resell. And in any case, the perpetrators of the murder had left behind in the apartment, especially in Filomena Romanelli's room, objects of much greater value than the two cell phones. Probably, the only logical explanation for this described theft can be found in the need the perpetrators of the crime had to prevent the ringing of one of the cell phones, inside the locked room of Meredith Kercher, which could have raised the suspicions of someone who had entered into the apartment in the meantime, and in this way discover the body of the young woman before the time considered necessary by the perpetrators of the crime.

And in fact, the insistent ringing of a cell phone coming from inside a locked room would have raised suspicions in anyone who found themselves in the apartment, thereby provoking the premature opening of the door and discovery of the murder.

In light of this explanation, which appears to be the only logical one that this Court believes can be given to the facts, it is moreover easy to observe how an alternative explanation of this singular fact was not provided by any of the defendants or by their defense teams. The theft of the two cell phones was completely ignored by the defense teams in the reconstruction of the events of that night. By and large, there is no alternative hypothesis to compare with in this trial.

The response to the second question that we asked ourselves is easier, and that is if Rudy Hermann Guede had a specific interest in taking the cell phones with the goal of later abandoning them in order to impede the premature discovery of the body of Meredith Kercher. Simply put no, he had no interest in doing so.

It is worth repeating that the only interest that Rudy Hermann Guede had right after having committed the murder of Meredith Kercher was to get away as quickly as [89] possible from the scene of the murder and disappear without a trace. Nothing else can be reasonably held to have been on his mind in those moments.

After having examined the acts and behaviors implemented by the perpetrators of the murder of Meredith Kercher after committing the crime, there subsist, in the opinion of this Court, multiple and consistent points of evidence of use in the attempt to put a face and name to those who participated in the assault on Meredith Kercher along with Rudy Hermann Guede on the night between the 1st and 2nd of November 2007 and who executed her murder. The hypothesis accredited to the defense teams, according to whom the only perpetrator of the murder should be identified in the person already definitively condemned, Rudy Hermann Guede, is a hypothesis that is refuted by the facts and the results of the trial.

The murder of Meredith Kercher was committed between 9:00 pm on 1 November 2007 and 00:10:31 am on 2 November 2007, by multiple persons acting together, one of whom is certainly identifiable as Rudy Hermann Guede. These persons left obvious traces of their presence in the apartment, as has been highlighted in the observations of the Scientific Police and in the results of the coroner's assessments.

A reasonable and logical reading of the whole of the circumstantial picture shown by the highlighted facts is that those complicit [in the crimes] entered the apartment using the front door, whose keys were available to them, and after having remained in the apartment in absolute security for a significant period of time, and in any case long enough for Rudy Hermann Guede to use the apartment's larger bathroom for his own physiological needs, they assaulted and stabbed Meredith Kercher, causing her death. After the young woman was assaulted and killed, a plurality of acts and behaviors were carried out with the goal of delaying the discovery of the body, of erasing the traces of the accomplices, who were in any case present in the apartment, and in order to divert the investigation, from which could be deduced that the young woman had been assaulted by an unknown person who had gained access to the apartment by breaking in through the window.

Therefore a simulated break-in was put into place, as has been described above; a cleaning activity was carried out in the areas outside of the room where the body of Meredith Kercher lay, and both cell phones used by the young woman were taken and subsequently abandoned,



with the goal of preventing the ringing of the phones, possibly activated [90] by arriving calls, from alerting whoever might have found themselves inside the apartment.

All of the acts and behaviors described above, carried out *post delictum*, are clearly incompatible with the figure of Rudy Hermann Guede, and therefore must be considered as having been carried out by those who had a specific interest in diverting suspicion from themselves.

Filomena Romanelli, who obviously had keys to the apartment, spent the evening and night of 1 and 2 November 2007 in the company of her boyfriend. The additional fact that they were with friends that evening categorically rules out that she could have been involved in the murder in any way. Laura Mezzetti, who also obviously had keys to the apartment, was not in Perugia.

There remains, of the persons possessing keys to the apartment, only Amanda Marie Knox, who found herself, according to her own statements, in the company of Raffaele Sollecito from the afternoon of 1 November 2007 until 10:00 am on the morning of 2 November 2007.

It does not appear that there were other persons who had keys to the apartment at 7 Via della Pergola in Perugia.

And lastly, two points that were raised by the defense teams in their closing arguments must also be considered.

The first concerns the mention that the technical defense of Amanda Maria Knox made of the possibility that the murder could have been carried out by persons other than the current defendants, who also had the keys to the apartment: by and large Filomena Romanelli or Laura Mezzetti. In the first place, it should be noted that both young women, for the night between the 1st and 2nd of November 2007, provided alibis that were confirmed by subjects outside this case, while Amanda Marie Knox, as we shall see, does not have any alibi that can be confirmed by subjects outside this case. But there is more.

As we have been able to say since the beginning, in the introduction to this decision, the particularity of this event resides in the fact that, in relation to the murder of Meredith Kercher, one of the perpetrators has already been identified and definitively condemned, and that is Rudy Hermann Guede. To the end of identifying his accomplices, we must first ascertain the [91] relationship, at least of acquaintance, between Guede and the other perpetrators of the murder, a relationship that would explain the circumstance of finding themselves in the same place at the same time, inside a particular apartment. It does not appear from any of the trial records that either Filomena Romanelli or Laura Mezzetti knew Rudy Hermann Guede and therefore it appears all the more unreasonable, even without taking the alibis provided by the two young women into account, that one of them could have perpetrated so cruel a murder together with a person completely unknown to them.

The second defense hypothesis, advanced this time by the defense of Raffaele Sollecito, relates to the fact that Rudy Hermann Guede could have entered the apartment not only because he was helped by someone having keys to the apartment but also because Meredith Kercher herself, who also knew him, could have opened the front door from the inside. The defense's notion, thought-provoking and not without a theoretical plausibility, has no logical foundation in the evidence of this case.

Setting aside the fact that the young woman, when she left her English girlfriends after having spent an afternoon and evening with them, clearly stated that she was going home because she was tired, without mentioning any appointment with Rudy Hermann Guede, it was ascertained as fact that simulations and behaviors were carried out after the murder that were intended to convince the investigators that the perpetrator of the crime broke in from the outside through the window of Filomena Romanelli's room, and this fact would not make sense in the scenario where Rudy Hermann Guede entered the house through the front door opened to him by the victim.

What need could he possibly have had, Rudy Hermann Guede, a notable nobody, to simulate a burglary? It is easy to see how that would have only attracted suspicion onto him, because it would have certainly required only a little time for the police to ascertain that robbing homes was an activity that Rudy Hermann Guede did not at all disdain doing.

Ultimately, a preliminary, objective, rational evaluation of the circumstantial evidence collected up to now, read in necessary logical correlation, leads one to hold that Amanda Marie Knox and Raffaele Sollecito are the only two people who have, in themselves, all of the qualifications needed to perform the role of Rudy Hermann Guede's accomplices in the murder of Meredith Kercher.

[92] Amanda Marie Knox knew Rudy Hermann Guede well enough; on the evening of 1 November 2007, she was the only other person who had keys to the apartment apart from the victim; the evening of 1 November 2007, she was in Perugia by her own admission, in the company of her boyfriend Raffaele Sollecito. Amanda Marie Knox had, therefore, a specific interest in staging the simulation of an attempted robbery, because this would have distanced suspicions from herself; she had a specific interest in altering the state of the premises in order to erase the traces of her own presence at the scene of the murder, and in any case to delay the discovery of the body; she was perfectly well aware of the tight relationship that bound Meredith Kercher with her family in England and of the fact that the young woman was in daily contact with her family by cell phone. Therefore she knew perfectly well that the two cell phones, had they been left inside the room where the murder was committed, could have betrayed the presence inside the room of a person no longer able to answer the phone.

Finally she knew perfectly well that during the night of 1 November 2007 and 2 November 2007, none of the other occupants of that apartment would return home, and moreover that there was all the time needed to complete the alteration of the scene of the crime and the misdirection of the investigation.

It is still circumstantial evidence which, although certainly consistent and capable of drawing an accurate picture of events related to the present defendants, needs to be verified specifically with further and more meaningful evidence acquired. This will be done in the following section.

#### **4. The *calunnia* - The false alibi**

Thus far in piecing together the events of the night of 1-2 November 2007, an overview of the circumstantial evidence leads us to the conclusion that Meredith Kercher was attacked in the house on Via della Pergola by three people: Rudy Hermann Guede, Amanda Marie Knox, and Raffaele Sollecito. They fatally wounded her with one or more knives (whether it was one or more will be addressed in a later section dedicated to the most probable reconstruction of the dynamics of the murder). Given this assertion, the next logical step is to test the veracity of the statements made by the defendants and whether, on the basis of these [93] statements, it could reasonably be argued that either or both of them was somewhere other than at the scene of the murder. That is, whether either or both defendants have provided an alibi that has subsequently been proved credible or, at least, which survives scrutiny as such.

Before examining the statements made by the accused during the preliminary investigation, it is necessary to assess the usability of the statements attributable to the defendants that have gradually accumulated in the case files, also due to the activities advanced by all the parties to the proceeding.

Let us consider the material relating to Amanda Marie Knox, both purely oral (answers during questioning and spontaneous statements made in the various proceedings) and written. As the trial courts and the Supreme Court have already said, and we can also say, allowing for the limits to the usability of the two witness statements made by Amanda Marie Knox in the early hours of 6 November 2007, expressly set out by the Supreme Court, all the extant material from the investigation is usable in the proceedings.

In the opinion of this Court, the argument regarding the statements attributable to the defendant Raffaele Sollecito is different. They are composed of spontaneous statements given in the course of the various proceedings, as well as questioning before the G.I.P. of the Court of Perugia during the arraignment hearing at 1:14 pm on 8 November 2007, when he was assisted by his legal counsel at the time, Mr. Tiziano Tedeschi, of the Bari bar.

In fact, while *nulla quaestio* [there is no question] with regard to spontaneous statements made by the accused during the proceedings, this Court believes that the long and detailed questioning at the arraignment, after the arrest of Sollecito and regarding his indictment for murder, is unusable in the present trial of merit.

We must look to basic principles. Raffaele Sollecito has not failed to appear at any of the trial proceedings. Not in the two sets of proceedings held in Perugia, as he was in custody, nor in the present proceedings, because the notice of failure to appear issued during the hearing on 30 September 2013 was revoked by the Court during the hearing on 6 November 2013, when the defendant appeared and made spontaneous statements. [94] To this must be added the fact that the examination of the defendant Raffaele Sollecito has never been included in the evidence requests of any of the parties to the proceeding, public or private, neither at first instance, nor on appeal in Perugia, nor, finally, before this court, as is required under article 603 of the Code of Criminal Procedure.

Consequently, no party has ever asked for the reading, under article 513 of the Code of Criminal Procedure, of these statements made by the accused under questioning at his arraignment. It is true that the record of Sollecito's questioning before the magistrate of the Court of Perugia is attached to the record of the proceedings, per article 294 of the Code of Criminal Procedure. This is because it was submitted by the defense of the accused in support of a request to nullify it, advanced before the First Instance Court, which rejected it. However, following the order of the Court of merit, which occurred at an early stage of the case when the

parties had not yet fully formulated their requests for evidence discussion, none of them has asked for the defendant to be questioned.

From the foregoing considerations, we can draw several legal conclusions. The examination of the defendant, undertaken during this judicial proceeding, cannot be treated as a document attributable to him under article 237 of the Code of Criminal Procedure, since it is legally defined as a judicial document, with rules governing its production and use. And its use, because of the particular nature of the evidence, cannot escape the strict application of the forms and limits set out in procedural law.

Finally, it should be noted that the defense of Raffaele Sollecito produced this investigatory evidence precisely in order to have the Judge exclude it from the trial, thus showing an intention contrary to its use in the trial. The evidence was produced, then, for the sole purpose of documenting its potential exclusion, and certainly not because its inclusion was desired.

For this reason, it would be highly illogical and, more to the point, contrary to law, for such procedural conduct to result in the opposite of what was intended, namely in the usability of the evidence.

It follows that the questioning of Raffaele Sollecito at his arraignment before the G.I.P. of the Court of Perugia at 1:14 pm on 8 November 2007 with the assistance of his then [95] legal counsel, Mr. Tiziano Tedeschi of the Bari bar, must be considered unusable in this case.

The remaining spontaneous statements made by the defendants during the proceedings, which must still be evaluated, and which in due course will be, go beyond the general and make repeated denials of responsibility for the murder, which this Court has noted in specific passages of the present judgment, and which are of interest to us.

The calunnia

We come, then, to examine for the first time Amanda Marie Knox's version of events. We note that she had gone to the Perugia police station to accompany Raffaele Sollecito and that, while she was there, she made statements which are recorded in witness interview summaries made on two separate occasions: at 1:45 am and 5:45 am on 6 November 2007. It appears from the summary documents that those present were Chief of Police, Inspector Rita Ficarra, and Assistant Chiefs of Police Lorrena Zugarini and Ivano Raffo, assisted by Mrs. Anna Donnino, acting as an interpreter. On the first occasion, at 1:45 am on 6 November 2007, Amanda Marie Knox said: *"Further to what I already reported in earlier statements made at these offices, I want to clarify that I know other people who frequent and have frequented my home, albeit occasionally, and who knew Meredith. I will provide you with their mobile numbers. One of these people is Patrick, a black person about 1.70 to 1.75 meters tall, with braids, owner of "LE CHIC", a bar situated on Via Alessi. I know that he lives in the area near the Porta Pesa roundabout, phone number 393387195723. I work at the establishment twice a week on Mondays and Thursdays, from about 10:00 pm to 2:00 am. Last Thursday 1 November, a day on which I would normally work, I was at the home of my boyfriend Raffaele. At about 8.30 pm, I received a text message from Patrick, who told me that the bar would be closed that night because there were no people, and so I would not have to go to work. I replied to the message saying I would see him soon, and then left the house, telling my boyfriend that I had to go to work. Given that during the afternoon [96] Raffaele and I had smoked a joint, I felt confused because I do not often use either soft or hard drugs. I met Patrick immediately after at the basketball court on Piazza Grimana and we went to my home. I do not remember if Meredith was already there or arrived later. I can hardly remember those moments, but Patrick had sex with Meredith, with whom he was infatuated. I do not remember if Meredith was threatened beforehand. I vaguely remember that he killed her."*

(Summary of witness interview summary made to the Flying Squad of the Perugia Police at 1:45 am on 6 November 2007 by Amanda Marie Knox)

At this point, the police stopped the interview and informed the investigating magistrate's office of what had happened. The Assistant State Prosecutor of Perugia, in the person of Dr. Giuliano Mignini, then went to the police station, where at 5.45 am on the same day, 6 November 2007, Amanda Marie Knox made statements on record, in his presence. Still assisted by an interpreter, she stated the following: *"I want to make a voluntary statement about what*

*happened because this incident has really disturbed me and I am very afraid of Patrick, the African guy who owns the bar called "Le Chic" on Via Alessi, where I occasionally work. I met up with him on the evening of 1 November this year, after replying to a text message from him with the words "ci vediamo" ["see you soon"]. We met soon after, at around about 9:00 pm, at the Piazza Grimana basketball court and we went to my home at 7 Via della Pergola. I do not remember clearly whether my friend Meredith was already in the house or if she arrived later. But what I can say is that Patrick and Meredith went into Meredith's room, while I think I stayed in the kitchen. I cannot remember how long they were together in the room. I can only say that at a certain point I heard Meredith screaming and I was scared and blocked my ears. I do not remember anything more. My mind is very confused. I do not remember if Meredith was screaming or if I heard any banging because I was distressed, but I can imagine what might have happened. I met Patrick this morning, in front of the University for Foreigners, and he asked me some questions. Specifically, he wanted to know what I had been asked by the police. I think he also asked if I wanted to meet journalists, perhaps in order to figure out if I knew something about Meredith's death. I am not sure if Raffaele was also there that night, but I remember waking up at my boyfriend's house, in his [97] bed, and that in the morning I went back home and found the door to the apartment open. When I woke up on the morning of 2 November, I was in bed with my boyfriend".*

The police officers who conducted the interview noted in the record that Knox repeatedly brought her hands to her head and shook it.

These statements constitute both the criminal act of *calunnia*, for which the defendant has already been definitively convicted, and the first version of the facts as given by Amanda Marie Knox about the murder for which she is presently on trial.

And in fact, with specific reference to the crime of *calunnia*, consisting in having blamed the murder of Meredith Kercher on Patrick Lumumba while knowing he was innocent, the defendant has already been given a substantive conviction. The appeal against the first instance ruling was rejected by the Court of Assizes of Appeal of Perugia and, ultimately, by the Supreme Court, which remanded to the judgment of this district Court solely the question of



whether having committed the crime of *calunnia* in order to gain impunity from the more serious crime of murder constitutes an aggravating factor.

This Court, therefore, is excused from re-examining the grounds on which two Courts of merit and the Supreme Court have found that, when the accusatory statements were made to the police and then to the prosecuting magistrate, Amanda Marie Knox was perfectly aware of what she was doing, and entered into the conduct with conscious, malicious intent.

In this judgment, the Court is concerned only with whether or not there is aggravating intent and with the evaluation of this specific part of the proceeding within the overall proceeding and in the context of the evidence against the defendant in connection with the murder of Meredith Kercher. This means that some comments should be permitted in this Court on the matter of the *calunnia*, if only for the limited purposes of assessing whether there is aggravation and what the overall significance of the crime perpetrated is within the context of the murder charge.

In order to obscure the existence of the crime (for this reason, with respect to what interests us here, the aggravation is all the greater), the defendant continued throughout the course of the proceedings, as well as in her testimony before the First Instance Court, which we shall soon come to, to seek to excuse her conduct on the grounds that she was unusually confused in the moments in which she made the [98] statements above, due to psychological pressure and even physical violence applied by the police officers present at the offices of the State Police on the night of 6 November 2007. Unavoidably, we must consider the prosecuting magistrate as part of this, since he was present for the second statement (and, indeed, when she underwent examination at the hearing on 12-13 June 2009 the young woman expressly referred to having been pressured also by the magistrate).

Amanda Marie Knox accused Patrick Lumumba of the murder at 1:45 am on 6 November 2007. She then spent four hours during which time she had no discussions with anyone outside and does not appear to have suffered any particular mistreatment. Let us assume, for a moment, that the police officers of the Perugia force, at 1:45 am on 6 November 2007, had an interest in

using the young woman to pin the murder on Patrick Lumumba, even though he was completely unknown to them. Perhaps, in the frenzy of the search for poor Meredith's murderer, they felt under pressure from public opinion and the media coverage that the story had by that time attracted. There is no reason to think that the young woman would persist with her false account, and even embellish it, at 5:45 am on 6 November 2007. At this time, she found herself not in front of the perfidious police officers who, she claims, forced her to make such statements, but a magistrate, to whom she could turn with greater confidence, straight away denouncing the abuses suffered. This would not even expose her to the risk of reprisals from the police, because at 5:45 am on 6 November 2007 Amanda Marie Knox had not yet been arrested.

But this did not happen.

Amanda Marie Knox repeated the allegations before the magistrate, allegations which she never retracted in all the following days. This, even when finally freed from the clutches of the police and the prosecuting magistrate, she had the opportunity to talk with her lawyers and her family. To make such a very damaging denunciation meant causing the detention for numerous days of a person she knew to be innocent, completely indifferent to the human suffering she caused him.

This conduct, undeniable in terms of facts and in terms of what it represents in legal terms, requires an explanation. But such an explanation cannot be found in the young woman's supposed weakness of character. Indeed, from the immediate aftermath [99] of the discovery of poor Meredith's battered body she showed coldness to the outside world – or even a blatant, exaggerated indifference. This was noticed by more than one of the people touched by the tragic events at that time (multiple reports heard during the first instance trial remarked on the attitude of Amanda and Raffaele who, following the discovery of the body, seemed almost without emotional connection to the events and, at the police station, displayed affection towards one another almost as if the matter did not concern them).

Amanda Marie Knox maintained her false and malicious story for many days, consigning Patrick Lumumba to a prolonged detention. She did not do this casually or naively. In fact, if the young woman's version of events is to be relied upon, that is to say, if the allegations were a hastily prepared way to remove herself from the psychological and physical pressure used against her that night by the police and the prosecuting magistrate, then over the course of the following days there would have been a change of heart. This would inevitably have led her to tell the truth, that Patrick Lumumba was completely unconnected to the murder. But this did not happen.

And so it is reasonable to take the view that, once she had taken the decision to divert the attention of the investigators from herself and Raffaele Sollecito, Amanda Marie Knox became fully aware that she could not go back and admit *calunnia*. A show of remorse would have exposed her to further and more intense questioning from the prosecuting magistrate. Once again, she would bring upon herself the aura of suspicion that she was involved in the murder.

Indeed, if Amanda Marie Knox had admitted in the days following to having accused an innocent man, she would inevitably have exposed herself to more and more pressing questions from the investigators. She had no intention of answering these, because she had no intention of implicating Rudy Hermann Guede in the murder.

By accusing Patrick Lumumba, who she knew was completely uninvolved, because he had not taken part in the events on the night Meredith was attacked and killed, she would not be exposed to any retaliatory action by him. He had nothing to report against her. In contrast, Rudy Hermann Guede was not to be implicated in the events of that night because he, unlike Patrick Lumumba, was in Via della Pergola, and had participated [100] in the murder. So, he would be likely to retaliate by reporting facts implicating the present defendant in the murder of Meredith Kercher.

In essence, the Court considers that the only reasonable motive for *calunnia* against Patrick Lumumba was to deflect suspicion of murder away from herself and from Raffaele Sollecito by

blaming someone who she knew was not involved, and was therefore unable to make any accusations in retaliation. Once the accusatory statements were made, there was no going back. Too many explanations would have had to be given to those investigating the *calunnia*; explanations that the young woman had no interest in giving.

Due to events beyond the control of the present defendants, Patrick Lumumba was exonerated of the murder. Fortuitously, he was able to provide an alibi for the night of 1-2 November 2007 that ruled out his participation in the crime. Only when he was released was the focus of the investigations able to shift to a different account given by Amanda Marie Knox, a version that had already accommodated the exclusion from the scene of the crime of Patrick Lumumba.

The same pre-trial investigation, during the course of the imprisonment of Lumumba, was able to hold in tandem two versions of the events of the night of the murder (one is contained in the statements to which we have referred, the other in a written statement in which the figure of Lumumba does not appear), both provided by the American student. That this was done without undertaking a thorough evaluation aimed at ascertaining the reasons for the clear discrepancy represents an unexplained turn of events in the history of the case.

The Court considers, however, that, in finalizing its prospective reconstruction, it must take into account the points that the Knox Defense put forward in the final arguments, and in particular one that is particularly beguiling. It can be summarized as follows: why would Amanda Marie Knox, in attributing the murder of Meredith Kercher to Patrick Lumumba, have had to place herself at the crime scene? The fact that she did this is the best evidence that the young woman was confused and did not know what she was doing.

This rhetorical question is certainly thought-provoking, but the conclusions reached by the Knox Defense are misleading and incorrect. [101] Upon examination, the answer to the question is simple: because she had no choice. Had she not placed herself at the scene of the crime, she could not have made an effective accusation against Lumumba. In other words, it was absolutely necessary, in order to make the incrimination credible, that Amanda had actually

met with Patrick Lumumba and had brought him to her home, where, seized by a sudden and unforeseen rapture, he sexually assaulted Meredith Kercher and then, being rejected by her, he killed her. All of this, of course, with Amanda Marie Knox cast in the role of "horrified spectator".

It was of vital necessity, then, for Amanda Marie Knox to place herself at the crime scene, and in no way an indication of her good faith and "state of confusion".

In bringing to a close this section on the assessment of the conduct of Amanda Marie Knox in relation to the crime of *calunnia* ascribed to her, it should also be noted that her statements, made first to the police and then to the prosecuting magistrate on the night of 6 November 2007, are also of great interest in the context of the evidential reconstruction of the murder being tried. This is because they contain specific references to events that the investigation ascertained to have actually happened on the night of 1-2 November 2007, and that nobody other than a participant in those tragic events could have known about.

Firstly, it is Amanda Marie Knox who, on the evening of 6 November 2007, indicated a sexual motive for the murder of Meredith Kercher. At this time, no autopsy results were available to the investigators, only an external examination of the body. In essence, if we read the court papers, the whole subsequent development of the defense cases, until the end, has focused on giving credibility to the version according to which the murder was committed by a burglar (later identified as Rudy Hermann Guede) who entered the window of the flat and was subsequently caught *in flagrante delicto*<sup>14</sup> by the unfortunate victim. Why, then, in the early hours of the morning of 6 November 2007, should Amanda Marie Knox introduce a sexual "motive" to the murder?

Secondly, from her very first statements, Amanda Marie Knox provides the picture that, at some point during the attack, Meredith was screaming. Indeed, it was only because of the poor girl's scream [102] that the defendant imagined "what might have happened". This scream, so

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<sup>14</sup> In the very act of committing the crime.

excruciating that it caused her to move her hands to her ears to block it out, is introduced in the written statement on the same morning at the offices of the Perugia police. Significantly, this is the scream that was clearly heard by the witnesses Nara Capezzali and Antonella Monacchia. It was so "excruciating" that Nara Capezzali was beside herself, something that she told the First Instance Court hearing on 27 March 2009, having previously only spoken about it to the police, about a year after that night of November 2007.

Lastly, this is the same Amanda Marie Knox who placed herself on the evening of 1 November 2007 near the basketball court in the very Piazza Grimana where the testimony of Antonio Curatolo places her, to which we will come shortly. Curatolo gave oral evidence in the case as much as a year after the events in question. The defendant could have told investigators that she had met with Patrick Lumumba on the night of 6 November 2007 anywhere. Instead, she made specific reference to the basketball court on Piazza Grimana, apparently a habitual meeting-place for her. This is where the witness Curatolo places Amanda, along with Raffaele Sollecito, on the evening of 1 November 2007, at roughly at the same time.

Though it might be argued that the three sets of facts outlined above (which can be examined as such by this Court as derived from usable testimony, albeit within the limitations highlighted by the Supreme Court) could be the result of the imagination of the witness Amanda Marie Knox on the morning of 6 November 2007, in the Court's opinion it is a coincidence of significant value, in the overall evidential picture that is emerging, that all three sets of facts were confirmed in the subsequent investigation: by the autopsy findings, as well as in testimony absolutely unrelated to the facts at hand.

### The false alibi

Having exhausted the explanation with regard to the *calunnia* in the terms set out above, let us turn to the version of the facts that comes to light for the first time in an email sent by Amanda Marie Knox to a number of recipients in the United States in the days following [103] the crime (included in the trial documents) and that finally took shape, also articulated in detail, in the

statements made by the defendant under examination at the hearings on 12 and 13 June 2009 before the Court of First Instance.

In this regard, it is necessary to note what documentary material is in evidence.

In the diaries written by Amanda Marie Knox in prison, and subsequently obtained as evidence, she wrote of a meeting held in jail with a nun, and of a short interview with her. As a result, the events of the night of 1-2 November 2007 became clear to her, enabling her to put together a final version, which we will shortly report in full. In effect, she intended to credit, through the diaries, the idea that the encounter in prison with the nun finally “tore through” the veil of forgetfulness about that night, allowing her ideas to become clearer and providing the final “alibi”.

Without wishing to cast doubt on the importance of having contact in prison with religious people, who are frequently of help and comfort to those living in difficult circumstances, the fact is, however, that the key points Amanda Marie Knox’s “alibi” had, very clearly, already been included in the email sent to multiple recipients. This dates it to before the meeting with the nun in prison.

The purpose of mentioning this incident, strictly marginal and meaningless in the context of all the evidence, is that it is key to understanding all the written material in evidence that originates with Amanda Marie Knox. It is quite clear from this particular episode that when the defendant wrote the two diary entries in evidence, in writing a prison diary (and, it would be fair to say, even when talking in prison with her family) she was probably well aware that what she wrote and said would be read and heard by others. This means that great caution should be exercised in drawing conclusions from these writings, which may have been made without the sincerity and authenticity that one might like to credit them with.

Turning to examine the final and definitive version of the “alibi” attributable to Amanda Marie Knox, the Court considers it appropriate, given the importance of the case at hand, to quote in

full the statements of the defendant relating specifically to the [104] events of 1 and 2 November 2007, copied here from transcripts of her courtroom testimony, entered as evidence:

***Defendant:** On 1 November, when I woke up it was the morning after Halloween. The previous night I was at Raffaele's and I went home to change and also to get some things for studying. So I came home first and there wasn't, well, I didn't see anyone but, for example, I saw that the door to Meredith's room was closed. I assumed that she was sleeping. I changed, I put some of the clothes I had with me on the drying rack and then around the same time I began studying. While I was studying I saw Filomena coming back with her boyfriend and they asked me where Meredith was and I said she was probably still sleeping. I helped put together a parcel for a party that they were going to that afternoon and then they left and that's when Meredith got up, came out of her room and said: "Hi. How was Halloween? What did you do?". She still had all this makeup on her face and said she had been done up as a vampire and "I couldn't get this makeup off my face." Then she asked me what I did, and I talked to her a bit. Ah! Then Raffaele arrived and then...*

***Judge:** Where are we? What time?*

***Defense lawyer (Ghirga):** We are in the house at Via della Pergola.*

***Defendant:** Sorry, in fact I think it was around noon when I saw her come out of her room, but I don't watch the clock so much. It was early afternoon give or take. Then she went to sort out some clothes that she had on the drying rack and then some things that she had in the washing machine. Before Raffaele arrived, we talked a bit between ourselves about boys, because I would always ask her for advice and then Raffaele arrived and we prepared lunch together and talked together for a bit. Then she went into her room to change. I think she took a shower. And then Raffaele and I finished eating and I started playing guitar. While I was playing, she came out of her room and said 'bye' to us and she went out through the door and that's the last time I saw her.*

***Defense lawyer (Ghirga):** Were you aware that Meredith was the girlfriend of or, let's say, that she had a fairly close relationship with Giacomo Silenzi, and did you know who Giacomo Silenzi was?*

***[105] Defendant:** Yes, I know that the first time we talked about it, in fact, that she had a bit of a thing for him and that he often came to our apartment. And we often played together. For example, he played bass and he often played in our apartment with me and Laura. Meredith, for example, would be there listening and we'd talk among ourselves. Then the first time I saw that they were together, that they had*



taken a step forward in their relationship, was when we – Meredith, me, and the boys from downstairs – [words unclear] together at this huge club and they kissed. Then, after that, they were often together.

**Defense lawyer (Ghirga):** Had you told Meredith that you fancied Raffaele Sollecito, that you were going out with him?

**Defendant:** Yes.

**Defense lawyer (Ghirga):** Since when, for how many days and for how long had you and Raffaele been seeing each other, on 1 November?

**Defendant:** To tell the truth, I met Raffaele when I was with Meredith. For example, we went together to the University for Foreigners to watch this classical music concert and there were two parts to the concert. And during the first part, Meredith was with me but then after the interval she had to go home. And then Raffaele, in fact, came and sat next to me. Well, he was already sitting near me. Then I told her immediately after the concert that I met someone and talked with them. And then after I spoke with her, I went to work, and then Raffaele came there and I also told her about that.

**Defense lawyer (Ghirga):** Then we can say a few days before 1 November, 10 days, 8 days. Do you recall?

**Defendant:** Yes, that's what I have said.

**Defense lawyer (Ghirga):** With regard to when you were first questioned by the lawyer Pacelli and you said that you had first met Rudy when the rugby was on, did you know Raffaele then?

**Defendant:** Did Raffaele know Rudy?

**Defense lawyer (Ghirga):** No. In your previous response to a question from the lawyer, you said you met Rudy on a particular occasion. At that time, did you know Raffaele?

**Defendant:** No.

**[106] Defense lawyer (Ghirga):** Look, you had a room close to Meredith's. How were things managed? Who was in the house apart from Meredith? How were housekeeping and the payment of rent organized? How were relations, if you'll allow me, since it has been addressed at other hearings?

**Defendant:** So, we were four young women in the apartment. Meredith and I were together on the corridor on one side that had its own bathroom and then there was Filomena and Laura on the other side of the living room. To pay the rent, for example, we put our money together. I went to the ATM, for example, and took all the money that I could in one go because I had to pay a fee, because my bank was in the U.S., so I took the money and put it to one side in my room and then when it was time to pay the rent,

*I usually took the money just before and then I gave it to Filomena and Filomena paid the rent through the mail or something. I guess it would have been similar for Meredith.*

**Defense lawyer (Ghirga):** *How much each was the rent? How much did each of the four of you pay per month?*

**Defendant:** *€300, if I remember correctly.*

**Defense lawyer (Ghirga):** *In terms of bank balance between 1 November and 5 November, we have it attached as evidence, but how much money did you have in your bank in Washington, if you recall?*

**Defendant:** *Well, I had worked a lot to pay for this adventure here in Italy to study. I put aside \$8,000 in my bank and then I also had help from my family.*

**Defense lawyer (Ghirga):** *Here it says only \$4,457.*

**Defendant:** *That was after I had done a little shopping.*

**Defense lawyer (Ghirga):** *When you tell the Court that you took out the maximum from the ATM, was the maximum you could take out €250? Was it €300?*

**Defendant:** *If I remember, it was either €250 or €300.*

**Defense lawyer (Ghirga):** *So you took out that amount for the stated purpose. When did you arrive in Italy?*

**Defendant:** *The first time that I arrived here in Perugia, or in Italy in general, was the beginning of September with my sister. We spent two days together here, generally to see the city and the university, then also to try to see if I could see if there were apartments for rent. And that's when I met Laura in fact, [107] when she was at the University for Foreigners putting up little notes with her number on, advertising the fact that she had a room for rent.*

**Defense lawyer (Ghirga):** *I asked you just now about the system in the house for cleaning, housekeeping money, the organization of cooking. Was everything fine? Were there problems?*

**Defendant:** *Well, I definitely wasn't the cleanest person in the house but, for example, the only time that Meredith mentioned something to me, the toilets here are a bit different from the ones in the U.S. and often you have to use a sort of little brush to clean after you flush and I often didn't remember to do that, and so she spoke to me one time, which was a little awkward but then it was totally cool. Then, before that happened, a few days before, Laura and Filomena organized this schedule of who was taking out the trash, but before they made this schedule, someone took out the trash when it was full, someone washed the dishes when it needed doing, but it wasn't properly organized.*

**Defense lawyer (Ghirga):** Did any of this create problems between you and the others, or between you and Meredith?

**Defendant:** No.

**Defense lawyer (Ghirga):** No problems?

**Defendant:** No.

**Defense lawyer (Ghirga):** As for Meredith then, to put it simply, your relationship between 1 November and the last time you saw her were friendly, you had no problems.

**Defendant:** Yes, I felt very comfortable with her and I often took her advice.

**Defense lawyer (Ghirga):** Let's go to the evening of 1 November. On 1 November, Meredith goes out and you and Raffaele, what do you do?

**Defendant:** OK, so I played the guitar again and then I know that I said something about this movie that I wanted to watch, because it's my favorite movie.

**Defense lawyer (Ghirga):** Which movie?

**Defendant:** Amélie. It's beautiful. So I don't know if I have already said this, but we thought: "let's watch it."

So we went to his house and I remember we read a bit of Harry Potter, which I had brought with me, because he had learned a bit of German, so I wanted to see if he could still understand it. I know that I looked on his computer. I looked at e-mails. We listened to a little music and then later we watched the movie.

**[108] Defense lawyer (Ghirga):** Then you had dinner, you prepared a meal.

**Defendant:** Yes, but we ate very late.

**Defense lawyer (Ghirga):** Fish.

**Defendant:** Yes. Fish and a salad.

**Defense lawyer (Ghirga):** Then something happened to do with the tap on the sink.

**Defendant:** Yes, while Raffaele was washing dishes, water was coming out from under the sink and he looked, he turned off the water and then looked underneath and this pipe was loose and so water was leaking from the faucet.

**Judge:** Can you say what time this was?

**Defendant:** Around half past nine or ten, after we had eaten and he was washing the dishes. Like I said, I don't watch the clock, but it was around ten. So, he was washing dishes and this water was coming out,

*and he was extremely annoyed in the sense that he told me that he had just fixed the pipe, so he was annoyed that it was broken, so...*

***Defense lawyer (Ghirga):*** *You talked a bit, and then what did you do?*

***Defendant:*** *Then we smoked a joint together. Then what happened next is, after that I said: "Maybe try something like a mop." But he didn't have a mop. I told him not to worry, that I had one at my place that I would fetch tomorrow, don't worry in the meantime. It's in the kitchen, so it's not something that's going to smell or anything, so you can forget about it for the night and then think about it tomorrow. Then we went into his room. I lay on his bed and he went to his desk. While he was at the desk he rolled the joint and then we smoked it together.*

***Defense lawyer (Ghirga):*** *You fell asleep together?*

***Defendant:*** *Yes, first we made love and then we fell asleep.*

***Defense lawyer (Ghirga):*** *Jumping ahead in time, did you also wake up together?*

***Defendant:*** *Probably, but I can't say for sure, because sometimes I wake up early in the morning. I don't remember.*

***Defense lawyer (Ghirga):*** *All the same, you woke up and Raffaele was there with you when you woke up.*

***Defendant:*** *Yes, yes.*

**[109] *Defense lawyer (Ghirga):*** *To take a step back, the call, the message from Patrick arrived before the meal.*

***Defendant:*** *Yes, I think perhaps we had just started to watch the movie or maybe I received it before that. Maybe. I don't know if we had started the movie, and then I received the message, or if we were about to start the movie when I received the message. One or the other.*

***Defense lawyer (Ghirga):*** *And you answered shortly after, you've stated, with another message in Italian.*

***Defendant:*** *Yes.*

***Defense lawyer (Ghirga):*** *What did this message mean, for you?*

***Defendant:*** *For me, the message meant "OK, cool, ciao!", but in English "ciao" is often said, particularly in American English, as "see you later". In Italian, that's "ci vediamo più tardi", but it's a way of saying "ciao". Then I wrote "buona serata" ["good evening"].*

**Defense lawyer (Ghirga):** When you received the message from Patrick that you did not have to go to work, as you have stated, you took it as a good thing.

**Defendant:** Yes, in fact I didn't want to go to work that night, I was happier to stay at home with Raffaele, so I was very happy and in fact I jumped up and down saying: "Yeah! I don't have to go to work!"

**Defense lawyer (Ghirga):** Moving on to the morning of 2 November, what did you do when you woke up the next morning?

**Defendant:** Well, I don't remember what time I woke up, but I suppose it was around 10 or 10:30. I was there and I saw that Raffaele was still asleep, so I looked at him for a little while and then I said: "I'm going to my place to take a shower and get changed. When I get back, let's go." Because we had this plan to go to Gubbio that day since it was a public holiday and there was no school for me, or at least I intended to skip. Anyhow, I wanted to go see Gubbio. Then I left his place and when I arrived at the cottage I saw that the front door was open. I thought: "That's weird." Because we usually have to lock the door, but I thought if someone has not closed the door firmly, then obviously it would open. So maybe someone left in a hurry or went downstairs to look for something or went to take out the trash, or whatever. So when I came in I called "anyone there?" And nobody answered but I left the door in any case, I left the door ajar but didn't lock it, because I thought maybe someone would come, perhaps [110] they went to get cigarettes, who knows. Then I went to my room and I changed, not changed, I undressed and then I went into the bathroom. I had these earrings. I had a lot of them. I like earrings.

**Defense lawyer (Ghirga):** Piercings.

**Defendant:** Yes, I'd had piercings done really recently and I still had to wash them thoroughly because one of them had become a little infected, so I had to remove the earrings and then clean my ears. And that's when I saw on the washbasin, when I saw that there were a few drops of blood in the washbasin. At first I thought it was my ears, but when I scratched them I realized that they were still dry and I thought: "Uh, strange, oh well I'll get in the shower." Then when I got out of the shower I realized I'd forgotten the towel, so I wanted to use the mat to go to my room and that's when I saw the blood stain that was on the mat and I thought: "Mmm, strange." But maybe someone had had an accident with their period that had not been cleaned up. Anyhow, I used the mat to sort of hop towards my room, into my room, then I took the towel and walked back again carrying the mat at that point because I thought "Enough already!" So then I put the mat back where it belonged, dried myself, put on my earrings, brushed my teeth, then I

went back to my room to put on fresh clothes. No, then I went to the other bathroom to dry my hair, because I had a hair dryer in my bathroom, so I went in there and took the hair dryer and I was drying my hair and then when I put the hair dryer back I saw there was...it's the type of toilet where, instead of being flat, they are a bit like this, they make a kind of...I saw that there were feces on the upper part, and that for me was the strangest thing, actually, because out of all the things I had seen, feces in the toilet right in Laura and Filomena's bathroom, who were very clean, to me it was strange. So I thought "whoa!" OK, so I didn't know what to think, but it seemed a bit strange. And then I took this mop I had next to my room which was in this cupboard and went to Raffaele's house, locking the door behind me, because all the while I was doing all this, no one came back to the house. So I thought "OK, this is strange, let's see what Raffaele says..."

Because I basically didn't know what to think, and I wanted to talk with him a bit. Then when I went back to Raffaele's, I think he was in the bathroom and I started to wipe the floor in the kitchen, but it was pretty dry. I only had to do it [111] a little bit, because it had dried up a bit overnight. Then he came out and we made breakfast and while we were doing that and drinking coffee, I explained to him what I had seen and I asked him for advice, because when I went into my house everything was in order and as it should be, but there were things that I felt were a little weird and that I didn't know what to make of.

**Defense lawyer (Ghirga):** How concerned were you when you left your house?

**Defendant:** You know that strange feeling that makes you go "whoa!" It was a bit like that. I didn't really know how to explain it in my mind, so I was like "whoa!", and that's why I wanted to ask Raffaele and he suggested asking my housemates. So first I called Meredith but she didn't answer. Then I think I called Filomena and Filomena told me that Laura was in Rome, so I had to call Meredith and then go back to the house to see if maybe something had been stolen, for example. I said to her: "Listen, everything was there, it's not as if someone came in and took the things from my room, because the computer is still there and I saw the TV, for example, still in the living room."

So, for me, I did not think that there had been a robbery. I thought maybe someone went in and out really quickly, because if someone leaves feces in the toilet, maybe something had happened and they had had to leave really, really fast.

So Raffaele and I went out and went to my house to look around a bit and see how things were. This time we opened the door to Filomena's room, for example, and we saw that the window was broken and there was quite a mess. That's when I said: "Oh damn, it's a burglary", or something like that. I was just going

*all over the place in the rooms to see if anything had been stolen, because I was thinking: "Argh!" But I saw that my computer was there, Laura's computer was there. The thing that bothered me was the fact that the door to Meredith's room was locked and when I called she didn't answer.*

**Defense lawyer (Ghirga):** *How did you interpret at the time the fact that Meredith's door was locked? In your opinion, was it a normal thing or was it a rare thing? Was it usual or unusual?*

**Defendant:** *For me, it sometimes happened that I found the door locked. For example, if I called Meredith and she was just out of the shower, for example, and wanted to get changed, I would go up to the door and it would be locked, but then she was inside. And at other times when she went to England the door was locked. But the fact that it was [112] locked, I didn't know anything about her going to England, the fact that it was locked and she was not in seemed strange to me.*

**Defense lawyer (Ghirga):** *OK, I just wanted to clarify in relation to Meredith's door being locked. You've been present during proceedings, so you have heard that there are multiple versions. So, what happens next is that you and Raffaele go back to the house.*

**Defendant:** *Yes, we were in the house and I went out of the house to see if the guys from downstairs were at home. But everything was dark and when I knocked nobody opened the door, so they weren't. Then when I went back up, I said "Listen Raffaele, I don't know who to call, because I don't know how to call the police." At that time I did not know the difference between the police and the Carabinieri, because to me they were the same. Then he said "we'll call my sister", who I know is a Carabinieri officer or someone who works with the Carabinieri, I'm not sure, and she spoke to him, gave him advice. I didn't listen to the call. I think I was on the phone to Filomena, because when I saw that her room was a mess, but that everything else seemed OK, just that nothing was taken, the fact that her computer was still there on the table, I said to her: "I don't know what to think, but come home because there are some things that I noticed." Then we left the house because I had taken this, I don't know, I felt odd. I don't know. It was a strange situation. I didn't know what to think. So then we left the house to look at the window from outside, and while we were outside, two plainclothes police officers approached, saying "Hello we are the police." I immediately thought that they were people that Raffaele called, and I said to them: "Come in, come in, I saw that the door was open, and then there's this door that's locked and then there were these feces that were there and then not there..." Oh! While we were there, before the police arrived, I had a quick look to see if there were still feces in the toilet and they had obviously slid down, but when I saw them they were higher up. So, because they weren't there anymore, I thought: "Oh my, someone has*

*flushed the toilet." Because I didn't look right into it, I just looked from the entrance to the bathroom. So I was frightened. I thought: "Oh my, when I was in there taking a shower, there was someone - or something - there was someone in the house."*

*So, I don't know, then I explained all this but it was all very fast and it was half in English, half in Italian, because at that time I did not speak so well, and they...*

**Defense lawyer (Ghirga):** *Who was in the house at that time?*

**[113] Defendant:** *There was Raffaele, me, and the police, and then shortly after, some friends of Filomena arrived, first, I think, then Filomena and her boyfriend, who were able to, when they arrived, they took their own...I explained a bit to Filomena and then we talked together about everything, but there was all this confusion. The police asked me for the phone numbers, they said: "We've found these phones. Look, I don't know whose they are but where is this Filomena?" And then I said: "Well, I just talked to Filomena, she's coming, so maybe you can ask her, blah, blah, blah..." I didn't...there was a bit of confusion because I didn't understand so I had to talk via Raffaele to be understood and to figure out what they wanted me to tell them.*

**Defense lawyer (Ghirga):** *Then at some point the door is broken down.*

**Defendant:** *Yes, but I wasn't...*

**Defense lawyer (Ghirga):** *The door to Meredith's room.*

**Defendant:** *Yes, because I said to them: "Look, the door is locked."*

*And Filomena said: "Oh my goodness, it's never locked, never."*

*I said: "No, it's not never locked, but it is weird." Then I was at the front door and I was a little detached from the conversation because they spoke very, very fast in Italian, so I didn't understand. So I was with Raffaele near the front door, where a group of people - there was Filomena, Filomena's boyfriend, Filomena's friends and the police officers - were discussing whether they wanted to open this door or not, something like that, then they broke the door down, and the police said...The first thing I heard was Filomena screaming: "A foot, a foot."*

*I thought that there was a foot. Just, sort of a foot on its own. We had to go, the police made us get out of the house, and I immediately called my mom and said to her: "So I don't know what's going on, but there is a foot in Meredith's room. When I understand, I'll call back." Because basically I did not understand.*

**Defense lawyer (Ghirga):** *I am interested in clarifying, when the door was broken down, where were you?*



**Defendant:** *I was near the front door.*

**Defense lawyer (Ghirga):** *Did you see inside the room or not?*

**Defendant:** *No, I didn't see inside.*

**Defense lawyer (Ghirga):** *You didn't see inside because you were in a location some distance away from...*

**Defendant:** *Yes, that's it.*

**[114] Defense lawyer (Ghirga):** *Then you all went out, you were sent out.*

**Defendant:** *Yes, everyone was talking about what had happened.*

**Defense lawyer (Ghirga):** *I ask this because in the first statement you made in the afternoon in the evening at police headquarters on 2 November, you talked about a body inside a wardrobe.*

**Defendant:** *Yes, I did.*

**Defense lawyer (Ghirga):** *Can you explain to the Court why you told this story?*

**Defendant:** *Well, outside the house everyone was talking about it, everyone, in tears, someone asking someone about such-and-such, then everyone calling this or that person, and everyone was mainly talking about what they had seen inside the room. And I was thinking of a foot, like, a foot, this foot inside Meredith's room, so Raffaele had to ask some people to tell me what they saw. We were told that there was a dead body in the closet covered by a blanket with a foot sticking out. That's the picture I had of the situation, that there was a body in the closet, sort of shut in the closet, but with a foot sticking out. That's what I understood, but it was complete confusion. Everyone...*

**Defense lawyer (Ghirga):** *When you were in the courtyard outside the house, which everyone had gone out into, some sort of ambulance arrived, responding to an emergency call or whatever.*

**Defendant:** *Other people in uniforms arrived. I didn't understand who they were.*

**Defense lawyer (Ghirga):** *And you got into the car belonging to two friends of Filomena and Paola, and...*

**Defendant:** *Yes, it was very, very cold and Raffaele had given me a jacket, but then the others saw that I was cold and in complete shock and so they said: "Come on, come sit inside the car, let's warm ourselves up a bit." And in this car we carried on talking, we were still talking about it: "What did you see? What was there?" Using Raffaele as a sort of interpreter, they explained that they had heard from someone or another officer who had been saying that Meredith's throat had been slit. At that point I shut off a bit and I cried a little, because I thought: "Oh no, how is this possible? No way." It was too much. And then we*

*went to the police station.*" (Pages 71-88 of the transcripts of the hearing before the First Instance Court on 12 June 2009)

This is the story Amanda Marie Knox offers the First Instance Court and which is, in essence, the alibi to be verified, hers and Raffaele Sollecito's. [115]

On this point, it is appropriate first of all to pause, in the light of arguments made by the Sollecito Defense in the final arguments, because these emphasized the need to distinguish between the positions at trial of the two defendants.

The Court considers that the point made by Sollecito's Defense is self-evidently correct.

There can be no doubt that, in an indictment for murder committed jointly, the task of the Judge is to separately assess and judicially establish the conduct of each of the accomplices, either in order to assess whether or not each is innocent of the charges or, in the case where participation in the offence is found, in order to establish the degrees of causation and intent, that is, the degree of personal responsibility of each in the commission of the crime.

Aside from this wholly correct premise, it is equally obvious to note that the murder of Meredith Kercher, for which both defendants deny responsibility, occurred sometime between 9:00 pm on 1 November 2007 and 10:00 or 10:30 am on 2 November 2007. Amanda Marie Knox has given evidence, and she placed herself away from the cottage at 7 Via della Pergola, at the home of the other defendant, Raffaele Sollecito, with whom she claims to have watched a film, eaten, taken drugs, made love, and then slept, accounting for the whole of the time from the late afternoon of 1 November 2007 until about 10.00 am on the morning of 2 November 2007.

Faced with these assertions by his co-defendant, directly implicating him, Raffaele Sollecito has not made any statement to address them, never explicitly denying what Amanda Marie Knox claims. Instead, he has credited in spontaneous statements the notion that he was in her company from the night of 1 November 2007 until the morning of 2 November 2007.

Raffaele Sollecito, moreover, mounted a defense at trial by which he seeks to objectively prove that he must have been at his home during the period within which the murder was committed and in his spontaneous statements he has never distanced himself from the statements of Amanda Marie Knox. In the last statement he made to this Court on 6 November 2013, he once again testified to his shared innocence with his co-defendant, saying:

**[116]**(...) *As I was saying ... at that particular time, the furthest thing from my mind was to be so cruel and disrespectful towards a human life. And it is for this reason that I would like to first of all make you realize how absurd these charges against me are. Us, even, to put it in the plural, against us. Because, at that point in my life, I was a week away from graduation and I had my life ahead of me. No. There's no way. It is unreasonable to accuse me of such a thing without first having a basis (...).* (p. 52 of the transcript of the hearing before the Court of Assizes of Appeal of Florence, 6 November 2013)

The conclusion of this brief note is that, in the absence of defense assertions to the contrary on the part of Raffaele Sollecito and, moreover, noting the consistent spontaneous statements made by the defendant, who still places himself with Amanda Marie Knox between the evening of 1 November 2007 and the morning of 2 November 2007, the Court deems that it must consider the alibi provided by Amanda Marie Knox as the only version of events provided by the defendants and valid for both or, at least, not contradicted by either of them.

On the face of it, it should be noted that both defendants, because of commitments they had made for themselves, were expecting to spend the evening of 1 November 2007 separately. And, in fact, until Amanda Marie Knox received a message from Patrick Lumumba, who informed her that she would not have to go to work that night at "Le Chic", she had expected to be committed for the entire evening working at Lumumba's bar.

On the other hand, Raffaele Sollecito had also made a commitment for that evening. It is clear from statements made before the First Instance Court at the hearing on 21 March 2009 by Jovana Popovic, who had a friendly relationship with Sollecito, that she went to his house on 1

November 2007, shortly before 6:00 in the evening, to ask him if he could do her a favor. She wanted him to drive her to the bus station in Perugia at around midnight, in order to retrieve from an incoming coach a parcel that her mother had sent her. On that occasion, she noticed that Amanda was also present at Raffaele's house and that it was she who opened the door. Then the young woman no longer needed to go to pick up the package, and so she went again to Raffaele Sollecito's house, at around 8:40 in the evening, to inform him that the commitment was cancelled.

[117] So, it has been verified that, at around 8:15 pm, the message came from Patrick Lumumba telling Amanda Marie Knox she did not have to go to work and, later, at around 8:40 pm, Raffaele Sollecito was also relieved of his engagement for the evening.

It can therefore be held that at around 8:40 pm the two young people realized that, unexpectedly, they would be able to spend the evening together.

In connection with this fact, we shall make a preliminary observation.

At 8:18 pm and 12 seconds, Amanda Marie Knox received a text message sent to her by Patrick Lumumba, in which he informed her that it would not be necessary for her to go to the bar to carry out her usual work. At the time of receipt, Amanda Marie Knox's handset connected via the sector 3 mast at Torre dell'Acquedotto, 5 dell'Aquila, as shown by phone records entered in evidence. This mast cannot be reached from the vicinity of 130 Via Garibaldi, the home of Raffaele Sollecito. According to the findings of the judicial police entered in evidence, this mast could be reached by anyone in Via Rocchi, Piazza Cavallotti or Piazza 4 Novembre, all locations in Perugia which are intermediate between 130 Via Garibaldi, the home of Raffaele Sollecito, and Via Alessi, where the "Le Chic" bar is located.

From this set of facts established in the case, Amanda Marie Knox's claim, according to which she received Patrick Lumumba's text message while she was at 130 Via Garibaldi, appears false. Given the mast connected to and the time, it is reasonable to assume that, when Amanda

received the message, she had already left Raffaele Sollecito's home and was on her way to the "Le Chic" bar. Presumably, she then turned around and went back.

Here, then, is the first crack in the account of the young woman who, in her narrative, claims never to have left the house at 130 Via Garibaldi from the moment she entered the house on the afternoon of 1 November 2007, together with Raffaele Sollecito. There is oral evidence (the deposition of Popovic) and evidence obtained through phone records that, at around 6:00 pm on 1 November 2007, Amanda and Raffaele were at the home of the latter. Later, at precisely 20:35 and 48 seconds, when Amanda Marie Knox sent a text message to Patrick Lumumba, connecting to a mast serving 130 Via Garibaldi, both were once again [118] together at Raffaele Sollecito's home. This fact is confirmed by Popovic, who went there to cancel that evening's appointment with Raffaele. In fact, the witness reported that she had visited Raffaele's home at around 20:40 in the evening.

In essence, it can be established with certainty that Amanda and Raffaele were apart, albeit for a limited period of time, on the evening of 1 November 2007, contrary to what is stated repeatedly in multiple statements made by Amanda Marie Knox.

Returning to the statements made by the defendant, she describes a situation of absolute tranquility on the evening of 1 November and the early hours of 2 November 2007. After having eaten, and having stemmed the flow of water from the leaky sink, the two young people went into Raffaele Sollecito's bedroom, where they took drugs, made love, and then fell asleep before waking up, she at least, at around 10:00 the next morning. This is the story told by Amanda Marie Knox and which is to be found in the evidence file.

Firstly, there are two witness testimonies which have been much discussed by the Defense of the accused, those of Antonio Curatolo, who is now deceased, and of Marco Quintavalle. These two witnesses, without a doubt, merit all the attention that has been given to them, by the Defense and by the various Judges who have examined the case.

Antonio Curatolo was someone who lived on the street, with no fixed abode, and he had criminal and police records for drug offences

He presented himself to the police about a year after the events that are the subject of these proceedings, to report what he believed he saw on the evening of 1 November 2007. He was questioned at the hearing on 28 March 2009 before the First Instance Court, as reproduced here verbatim:

QUESTION<sup>15</sup> – *Mr. Curatolo, you lead a life of...*

ANSWER – *I live on the street.*

QUESTION – *Essentially in the area of Piazza Grimana?*

ANSWER – *In Piazza Grimana.*

QUESTION – *Right, you're always there more or less?*

**[119]**

ANSWER – *Yes.*

QUESTION – *You go to sleep where?*

ANSWER – *Piazza Grimana, Corso Garibaldi, in any case that's the area where I live.*

QUESTION – *That area. You go to sleep where? When you sleep where do you go?*

ANSWER – *Usually I sleep in Piazza Grimana, then afterwards ...*

QUESTION – *Do you sleep on a park bench?*

ANSWER – *Yes.*

QUESTION – *For how long have you found yourself, in hardship, living there in Piazza Grimana?*

ANSWER – *Eight or nine years.*

QUESTION – *I'd like it if you could recall what happened, do you remember the murder of Meredith?*

ANSWER – *Yes, I read something in the papers.*

QUESTION – *When you... you were in Piazza Grimana when the Police arrived?*

ANSWER – *At that time, yes. I was at Piazza Grimana.*

QUESTION – *Do you recall what you did, what you had seen the night before?*

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<sup>15</sup> This questioning is by the Prosecutor, Giuliano Mignini

*ANSWER – First of all I want to specify one thing; what I'm confirming is a conscientious thing, that is it's part of me myself, I don't like profiting from the lives of others or doing them harm. In any case, that evening, at that time I was in Piazza Grimana reading an*

*{Translator's note: The following block of text repeats:*

*QUESTION – Mr. Curatolo, you lead a life of*

*ANSWER – I live on the street.*

*QUESTION – Essentially in the vicinity of Piazza Grimana?*

*ANSWER – In Piazza Grimana.*

*QUESTION – Right, you're always there more or less?*

*ANSWER – Yes.*

*QUESTION – You go to sleep where?*

*ANSWER – Piazza Grimana, Corso Garibaldi, in any case that's the area where I live.*

*QUESTION – That area. You go to sleep where? When you sleep where do you go?*

*ANSWER – Usually I sleep in Piazza Grimana, then afterwards ...*

*QUESTION – Do you sleep on a park bench?*

**[120]** *ANSWER – Yes.*

*QUESTION – For how long have you found yourself, in hardship, living there in Piazza Grimana?*

*ANSWER – Eight or nine years.*

*QUESTION – I'd like it if you could recall what had happened, do you remember the murder of Meredith?*

*ANSWER – Yes, I read something in the papers.*

*QUESTION – When you... you were in Piazza Grimana when the Police arrived?*

*ANSWER – At that time, yes. I was at Piazza Grimana.*

*QUESTION – Do you recall what you did, what you had seen the night before?*

*ANSWER – First of all I want to specify one thing; what I'm confirming is a conscientious thing, that is it's part of me myself, I don't like profiting from the lives of others or doing them harm. In any case, that evening, at that time I was in Piazza Grimana reading an Espresso magazine on the park bench.*

*QUESTION – What time was it?*

*ANSWER – Around half past nine, ten o'clock.*

*QUESTION – And then?*

ANSWER – *I was sitting on the park bench reading articles in the Espresso that were interesting to me, every now and then I smoked a cigarette, I stopped reading and I watched the people who were in Piazza Grimana and around about, up there. There were two young people at the end of the basketball courts, they seemed to be an engaged couple who were having a bit of an animated discussion or argument between themselves.*

QUESTION – *Where were these young people precisely?*

ANSWER – *Around about on the basketball court, under a light pole, where you throw the ball into the basket.*

QUESTION – *What were they doing besides having a discussion?*

ANSWER – *They were arguing amongst themselves like an engaged couple, every now and then one got up like this and went to the part where the railing is to look down. There were other people in any case who were making a bit of a ruckus, it was a holiday.*

QUESTION – *Do you remember what time it was when you saw them?*

**[121]**

ANSWER – *I've told you, I was on the park bench around half past nine, ten o'clock, I'd stayed there up until around midnight.*

QUESTION – *And these two young people when did you see them?*

ANSWER – *Up until before midnight when I had gotten a bit fed up with reading, I lit myself a cigarette, I always look at the people passing by, the movement that's on Piazza Grimana and then afterwards I didn't see them again.*

QUESTION – *So you had seen them a little before midnight and...*

ANSWER – *The last time yes.*

QUESTION – *Then you didn't see them again?*

ANSWER – *No.*

QUESTION – *For how long had you observed them?*

ANSWER – *Let's say each time that I stopped reading the newspaper I would have smoked three or four times like that.*

QUESTION – *How were these young people dressed?*

ANSWER – *In a little bit of a dark color.*

QUESTION – *If you could describe how they were physically?*



ANSWER – *They weren't that tall, a little on the short side, they seemed likeable enough amongst other things.*

QUESTION – *Dark hair or light? Forgive me greatly, Mr. Curatolo, do you see these young people in this courtroom?*

ANSWER – *Yes.*

QUESTION – *Who are they?*

PRESIDENT – *Can you point them out?*

ANSWER – *They're her and him. But I knew them from before, it's not that I had seen them only that night, already before...*

[PRESIDENT – *Notice is taken that the witness indicates the defendants who are in court, that is, Amanda Knox and Raffaele Sollecito.*

PROSECUTOR (DR MIGNINI) – *So you saw them a little before midnight. Then what do you do, do you go to sleep?*

ANSWER – *No, afterwards I smoked a cigarette and then I went away.*

QUESTION – *At what time had you left the zone?*

ANSWER – *A little before midnight.*

**[122]**

QUESTION – *And so when you went away they were no longer there?*

ANSWER – *No.*

QUESTION – *So you had seen them still a little before midnight you said?*

ANSWER – *Yes.*

QUESTION – *And then where had you gone to sleep?*

ANSWER – *I'd gone to the park.*

QUESTION – *To the park?*

ANSWER – *Yes.*

QUESTION – *That is?*

ANSWER – *The park.*

QUESTION – *What time did you wake up?*

ANSWER – *Around nine o'clock. Half past eight, nine o'clock, like that.*

QUESTION – *Then what did you do?*

ANSWER – *I went to the piazza again.*

QUESTION – *To Piazza Grimana?*

ANSWER – *Yes.*

QUESTION – *What were you doing there that morning?*

ANSWER – *I had gone to get a cappuccino at the bar, then I sat myself down on the park bench, I smoked a cigarette, every now and then a young guy I knew would arrive, some friend like that, we would chat although there was a strange thing because there was a movement of Police who were coming and going, We stayed in the piazza until around half past one, like that, or rather I stayed a bit longer, only that the Carabinieri had arrived to ask us if we had heard something or had seen something. I had said no because I hadn't heard or seen... apart from seeing the young people who were having fun that night I hadn't seen anything serious. We stayed there a bit and there was this to-and-fro of Police, we'd gone to look down below and we had seen people dressed in white, Police, Carabinieri, there were a lot of people down there.*

QUESTION – *Down where? In what area?*

ANSWER – *Near a house, near the entrance to a house they were.*

QUESTION – *Via della Pergola?*

ANSWER – *Yes.*

**[123]**

QUESTION – *Later you'd seen the house in the newspapers, in the photos?*

ANSWER – *Yes, yes.*

QUESTION – *It was the house where the murder occurred?*

ANSWER – *Yes, at least the paper said so.*

QUESTION – *So you see these people, you go and sleep in the park, you wake up at nine in the morning, you stay in and around Piazza Grimana, then about half past one, two o'clock at a certain point a coming and going of Police starts?*

ANSWER – *No, the coming and going was already earlier, although it wasn't the case that we were taking much notice, then after the Carabinieri had asked us if we had seen something and none of us knew anything we went and looked down and we had seen all this.*

QUESTION – *You all had seen people in white overalls?*

ANSWER – *Yes.*

QUESTION – *Overalls that covered the whole body then?*

ANSWER – Yes.

QUESTION – *Then there was an ambulance?*

ANSWER – *The ambulance vehicle, there was the Police, the Carabinieri, people with them, normal people.*

QUESTION – *You have said that you had seen these two young people other times?*

ANSWER – *Yes, I'd seen them other times because I always walk around Corso Garibaldi and Piazza Grimana.*

QUESTION – *But you had seen them together or...*

ANSWER – *No, together no, almost always by themselves I'd seen them. Also because I used to go to a pub that's on Corso Garibaldi, run by Arabs, I used to go up, I'd have a kebab like this, I used to eat a bit of Arabic cuisine and I'd often see the young people. I don't know them personally although let's say I'm good at recognizing people's faces.*

QUESTION – *Therefore, you can precisely confirm these particulars, that the morning after having seen the two young people, the morning immediately after you were in the piazza, there was at a certain point a coming and going of Police, the Carabinieri arrive and then you go and look, around half past one, two o'clock, and you see all the Police, the Carabinieri, people in white overalls, etc.*

ANSWER – Yes.

QUESTION – *I have no further questions.*

**[124]**

The Defense cross-examination did not substantially modify the overall import of Curatolo's declarations.

The witness was further questioned, at the appeal level, on 26 March 2011 before the Court of Assizes of Appeal of Perugia, and on this latter occasion he specified circumstances useful both for the reconstruction of the events, as well as for the evaluation of the reliability of the witness.

Antonio Curatolo expressed himself thus:

PROSECUTOR – DR MIGNINI – *You've recounted having seen the two accused in Piazza Grimana who were talking between themselves.*

WITNESS – Yes.

DEFENSE – ADV BONGIORNO – *Mr. President, the Defense would like to make an objection in these terms: obviously we are in examination, a series of questions have been put and they have not been met by*

*our objection because they were unproductive but, if it be noted by the Court the witness continues to respond "yes" to questions already formulated with a built-in answer. It's obvious that being under examination instead requires ensuring that the witness responds with his own affirmations.*

*WITNESS – These are my affirmations, it's not that I was making up anything (incomprehensible voices superimposed).*

*PROSECUTOR-GENERAL – DR COSTAGLIOLA – On the Counsel's objection, I would like to point out only that it concerns declarations already made at trial.*

*PRESIDENT – Reformulate the question.*

*WITNESS – And I'll say another thing, since I've already...*

*PRESIDENT – Wait, take some time to understand the question.*

*PUBLIC PROSECUTOR – DR MIGNINI – Have you seen the two accused in Piazza Grimana?*

*WITNESS – Yes.*

*PUBLIC PROSECUTOR – DR MIGNINI – What were they doing?*

*WITNESS – They were having an animated discussion between themselves.*

*PUBLIC PROSECUTOR – DR MIGNINI – Where were they?*

*WITNESS – In Piazza Grimana, where people play basketball.*

*PUBLIC PROSECUTOR – DR MIGNINI – When you saw them do you remember what evening it was?*

*WITNESS – It was... I think that it was the holiday of Halloween that there was a to-and-fro of young people in fancy dress and who were having fun.*

**[125]**

*PUBLIC PROSECUTOR – DR MIGNINI – On the basis of what facts do you place this episode on that night?*

*WITNESS – On the fact that it often happens that young people, couples, stop in Piazza Grimana to argue, a little bit drunk and it happens that someone, some guy leads to some, gives the girl a "slap in the face".*

*PUBLIC PROSECUTOR – DR MIGNINI – Right then, you see the two young people. Then what did you do?*

*WITNESS – I stayed on the park bench, I was reading and every now and then I stopped to smoke a cigarette.*

*PUBLIC PROSECUTOR – DR MIGNINI – Then you went off to sleep, no?*

*WITNESS – Yes but around eleven o'clock, midnight.*

*PUBLIC PROSECUTOR – DR MIGNINI – Exactly. And in the morning what happened? What did you see?*

*WITNESS – In the afternoon not very late, I think it would have been two o'clock, one o'clock like that, Carabinieri had arrived to ask us questions and... since the Carabinieri each time carry off, they come and take someone and they carry him off, besides the questions they'd asked, none of us answered what we knew, that we hadn't seen anything and that we didn't know anything. Only that I started to have a doubt the fact that there was a coming and going of cars, of Police and of Carabinieri, at a certain point I looked from the railings and I saw these extra-terrestrials in front of this cottage, the extra-terrestrials would have been those men in white.*

*PUBLIC PROSECUTOR – DR MIGNINI – And these men where were they?*

*WITNESS – They were in front and inside.*

*PUBLIC PROSECUTOR – DR MIGNINI – Where?*

*WITNESS – In front of the cottage and inside.*

*PUBLIC PROSECUTOR – DR MIGNINI – The cottage where Meredith was living, no?*

*WITNESS – Yes.*

*PUBLIC PROSECUTOR – DR MIGNINI – So you see the two young people the night before...*

*WITNESS – Yes.*

**[126]**

*PUBLIC PROSECUTOR – DR MIGNINI – ... then you go to sleep, and the following day, you've said, around 1:30 / 2:00 pm the Carabinieri arrive, there was a to-and-fro of Police and then you look and see in the house at number 7 Via della Pergola...*

*WITNESS – Yes.*

*PUBLIC PROSECUTOR – DR MIGNINI – ...the Carabinieri and then white overalls. Did you also see an ambulance?*

*WITNESS – I didn't notice frankly.*

*PUBLIC PROSECUTOR – DR MIGNINI – Listen, but do you know when the night of Halloween is?*

*WITNESS – It ought to be the 1<sup>st</sup> or 2<sup>nd</sup> of November, the day that we remember the dead.*

*PUBLIC PROSECUTOR – DR MIGNINI – Listen, one other thing I want to know: the night on which you saw the two accused, was it raining?*

*WITNESS – No.*

*PUBLIC PROSECUTOR – DR MIGNINI – Right, one more question: was it raining in the sense that the seat was damp...*

*WITNESS – The piazza had been cleaned because it seemed to me that there had been the market, on Tuesdays and Thursdays they have a market in Piazza Grimana.*

*PUBLIC PROSECUTOR – DR MIGNINI – Listen, one other thing, one other question, you have stated, therefore you've told me before that you were staying, from 2000 onward you were there, living in the piazza.*

*WITNESS – Yes.*

*PUBLIC PROSECUTOR – DR MIGNINI – Piazza Grimana. Right, during these years you've seen buses parked in front of the Etruscan Arch?*

*WITNESS – Yes, often around... I used to see young people who were getting on about to go to the discos.*

*PUBLIC PROSECUTOR – DR MIGNINI – We're saying in the late evening?*

*WITNESS – Yes.*

*PUBLIC PROSECUTOR – DR MIGNINI – How many times a week, from 2000 onward, did you see these buses?*

*WITNESS – I can tell you per week once, twice, a couple of times a week.*

*PUBLIC PROSECUTOR – DR MIGNINI – Do you remember the days?*

*WITNESS – It ought to be Saturday and Thursday.*

**[127]**

*PUBLIC PROSECUTOR – DR MIGNINI – I'll ask you one last question, so you've said you'd seen the buses on the evening you saw the two young people and then the day after you have said that, after having gotten up, around 1:30-2:00 pm the Carabinieri had arrived and then you had seen that the Police were there in the cottage, in the little house...*

*WITNESS – Yes, yes.*

*PUBLIC PROSECUTOR – DR MIGNINI – I wanted to know, you're sure that the day after which you see the two young people the Police were there in that house and the ones in white overalls?*

WITNESS – *Yes, yes.*

PUBLIC PROSECUTOR – DR MIGNINI – *You're absolutely certain of this?*

WITNESS – *Yes, certain, as certain as I'm seated here.*

These, in summary, are the statements made by the witness Antonio Curatolo in the first and second instance.

The Defense have spoken at length, in seeking to affirm the complete unreliability of the witness, about a series of imprecisions that the witness is said to have committed around the identification of the night in which the defendants were allegedly seen by him together in Piazza Grimana. These imprecisions, combined with an accreditation to him of an unreliability of an almost anthropological nature, led the Court of Assize of Appeal of Perugia to completely discount the testimony of the witness. This section of the Sentencing Report of the annulled judgment was strongly criticized by the Supreme Court, which deemed contradictory the line of argument followed by the Appeal Judges in the annulled judgment.

This Court finds that the testimony of Antonio Curatolo must be evaluated on the basis of the ordinary interpretative criteria of evaluation that the criminal Court employs in every proceeding.

It is in fact the constant experience in any trial that the witnesses are the bearers of personal stories, not always crystal-clear, or of sometimes commendable behavior: this does not make them, for that reason alone, non-credible. What the Court cannot be allowed, most categorically, is a judgment of the witness's reliability on the basis of anthropological<sup>16</sup> assessments.

The declarations of the witness Antonio Curatolo should therefore be evaluated, like those made by the other witnesses who have testified in the current proceedings, for what they are: that is, memories consigned to the historical record of the trial in the condition in which they are recalled to mind by the witness. Only this; and it is the duty of the Court to evaluate them with the [128] discretion that is advisable whenever one sets out to evaluate statements of fact.

For the purpose of carrying out the task assigned to this Court, it is useful to begin from an objective fact. None of the Judges of merit who have dealt with the case have questioned the

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<sup>16</sup> Life style

fact that the witness Curatolo saw the two accused together in the evening, in Piazza Grimana, exhibiting the comportment – partly familiar and partly agitated – that the witness describes, and for a considerable length of time. What was argued in the second instance judgment, subsequently annulled, was not the absolute unreliability of the witness so much as the unreliability of the identification of time that the witness offered to the court. Namely, it was held that the scene the witness described, although real, could not have occurred on the night of 1 November 2007 for a whole host of reasons that it is not necessary to repeat here, but that instead had to be placed in time on the previous night, namely, 31 October 2007.

Except that, as the Supreme Court has pointed out, not even this date could have been taken as reliable, since it clearly emerged from the investigation that, on the night of 31 October 2007, Amanda Marie Knox and Raffaele Sollecito were engaged in spending the evening nowhere near Piazza Grimana.

So the scene described by the witness could not have been placed in the evening of 1 November 2007, according to the comments made by the Defense and adopted by the judges of the Court of Assizes of Appeal of Perugia; it could not have been placed in the evening of the 31 October 2007 for the reasons pointed out by the Supreme Court; it could not, for obvious reasons, have been on the evening of 2 November 2007, because that evening the two young people were at the police station.

In short, then, this uncontested recollection of Antonio Curatolo has no temporal location.

It is immediately obvious that this type of evaluative procedure is both devoid of logic and leads in fact to discounting any testimony.

Experience of trial proceedings teaches us, in fact, that any testimony, if fragmented and subjected to a critical examination of every single affirmation, proves to be full of contradictions, since any witness introduces and delivers via his statements a hodge-podge of recollections, images, feelings, often confused in their perception, which, if evaluated individually, “fragmenting them” can lead to a misguided judgment [129]. And so, in the opinion of this Court, what Curatolo’s testimony shows are various fixed points that should guide the interpreter. Let us examine them.



The witness mentioned frequenting this piazza regularly for around 7 to 8 years; basically, it was his habitual domicile. This fact, which was also confirmed by other witnesses (the news-sellers of Piazza Grimana), renders the witness credible when he says that he has observed the two accused in the piazza multiple times; and this is compatible with other things emerging from the case, namely, the names of places.

Piazza Grimana was definitely a place regularly frequented by the young people who gravitated toward the surrounding streets. Via Garibaldi, where Raffaele Sollecito lived, is a road that in fact leads to the Piazza, which overlooks Via della Pergola. From number 130 Via Garibaldi, Sollecito's residence, to number 7 Via della Pergola, the distance is approximately 400 meters, and Piazza Grimana is on the way. It was perfectly logical, therefore, that many young people who lived in the area, including Amanda Marie Knox and Raffaele Sollecito, would choose the piazza as their appointed meeting place, or as a place for hanging out or chance encounters. So much so that Rudy Herman Guede appeared to have played basketball many times at the small courts located right in Piazza Grimana, where he had made friends with the "out of town" students who lived in the half-basement apartment at number 7, Via della Pergola. Just like Amanda Marie Knox, who identified the chosen meeting place specifically as Piazza Grimana when, in the construction of her *calunnia* against Patrick Lumumba, she needed to contextualize the meeting with Mr. Lumumba.

As for the time period within which the witness would have seen the defendants, which he identified as between 9:30 pm and midnight on 1 November 2007, the reasoning must instead tolerate a margin of error, because it is a recollection that is not tied to a specific point of time reference that would have significance for the witness, and therefore, is necessarily approximate. The witness retraced the timing by making reference also, for example, to habitual acts, such as lighting a cigarette.

But this is of extreme importance. Antonio Curatolo identified the evening in which he had seen the two accused as the one that preceded the Scientific Police's accessing of the little cottage that was the scene of the crime. This reference was stressed by the witness, who had been struck by the "*Martian*" figures, namely, the Scientific Police personnel who had entered the little cottage wearing white overalls. And so, on the level of evaluation the [130] Court is able to place the

recollections of the witness within a timeframe by means of the specific reference to the Scientific Police entering the cottage. There is no doubt that this occurred in the early afternoon of 2 November 2007, because the murder of Meredith Kercher occurred the previous night.

The reference to this specific fact renders reconstructible, with adequate precision, the date on which the witness placed the presence of the accused together in Piazza Grimana: namely, the evening of 1 November 2007.

And, on the other hand, as we have already noted, it is Amanda Marie Knox herself who places herself in Piazza Grimana near the basketball court on the evening of 1 November 2007, after 9:00 pm, albeit in the company of Patrick Lumumba and not Raffaele Sollecito.

In an attempt to discredit the reference made by the witness to the Scientific Police personnel covered in white overalls, the Defense stated that the witness could have learned of this fact at his leisure from the newspapers, since photos of the Scientific Police had appeared, and then made a mental construct of his own memory, assembling various elements of perception.

This is possible, in the sense that this fact, theoretically, could actually have occurred.

Nonetheless, in testimony at both the first and second instance trials, Mr. Curatolo stated that it was the morning after the encounter with the accused in the evening in Piazza Grimana that he observed the comings and goings of Police and Carabinieri in and around the piazza, and that the latter had asked him and the other young people specific questions about what they might have seen the night before. However, this circumstance makes sense only if placed in the late morning of 2 November 2007, when the body of Meredith Kercher was found; and then the circumstance just referred to renders credible the contention of the visual perception of “extra-terrestrials”, the expression used by the witness to describe the Scientific Police personnel wearing the white overalls.

It is not known, however, for what reason the witness should, at a distance of approximately one year after the events, enter voluntarily into a legal proceeding from which he derived no benefit. Antonio Curatolo was, as we have seen, a person who had had problems with the law in the past, and who presumably also had them at the time during which he was making his

witness statements, given that in March of 2011 he was [131] heard by the Court of Assizes of Appeal of Perugia *in vinculis* [in custody], because he was being detained in connection with other and different criminal proceedings against him. No one has been able to explain what type of advantage or expectation would have moved Mr. Curatolo to present himself to the police to make a statement no one had asked him to make, except for the charge the Defense has made against all of the witnesses in this case (Antonio Curatolo, Marco Quintavalle, Nara Capezzali, Antonella Monacchia), i.e., a yearning for the limelight or spectacle, which, nonetheless, has remained a mere statement of principle.

But this does not mean, however, that the statements made by the witness do not have to be evaluated at the same time as the rest of the circumstantial evidence. Antonio Curatolo is not an eye-witness to the murder; he did not report circumstances that were crucial in detecting the criminal responsibility of any of the accused.

Antonio Curatolo is a witness to a particular circumstance, which he could well have considered irrelevant the day after the murder, that is, of having seen both of the defendants together on the evening of 1 November 2007, at a time compatible with the murder of Meredith Kercher, a few meters from the cottage at number 7 Via della Pergola. This circumstance proves to be definitively incompatible with the alibi furnished by Amanda Marie Knox, the veracity of which must be evaluated in relation to all the other information emerging during the proceedings.

Mr. Curatolo's testimony, in conclusion, must be evaluated by this Court together with all the other circumstantial evidence that emerges and that leads us to conclude that the alibi provided by Amanda Marie Knox and affirmed by Raffaele Sollecito is an unfounded alibi.

But the history of this case sees the appearance of yet another eye-witness for the unreliability of the alibi provided by Amanda Marie Knox.

It is the witness Marco Quintavalle, owner and manager of a "Conad" shop located a few meters from where Raffaele Sollecito lived and where the latter usually purchased goods necessary for the maintenance of his own apartment. So this is a person who had seen Raffaele Sollecito several times, sometimes even in the company of Amanda Marie Knox.

Marco Quintavalle went to the Public Prosecutor of his own volition, around a year after the events (in November 2008) because, he says, he was pushed by a young journalist acquaintance [132] of his, and mentioned a circumstance that subsequently was the object of his witness testimony before the First Instance Court, at the hearing on 21 March 2009. The witness stated as follows:

*“ANSWER – The morning of the 2<sup>nd</sup>, I had parked like always at the Sant’Antonio car park, I always park on the upper level on the right side, that is, practically just below the houses. I have tried to think back to the morning, if I had seen someone. I recalled that morning because I was thinking if there had been some fool that I had seen going around that morning, so it was a, let’s say automatic, thing for me. I remember that I had parked and there were only 2 or 3 cars on the open level, the last level, there were in any case hardly any cars at all.*

*QUESTION – What time was it?*

*ANSWER – Now I... it was early, six, a quarter past six, around this time, let’s say. Then I went up to the bar, I didn’t see anyone between the car park and the bar, it’s short, I didn’t see anybody, I went to get a coffee, then I tried to remember if I had seen something. Then I remember also who entered.*

*QUESTION – Who entered?*

*ANSWER – A young Algerian man had entered, a bricklayer, I saw him every morning, he was waiting, I don’t know if they were coming to pick him up or if he was waiting for a bus, I don’t know. Then I went to the shop. At the shop I did what, the usual things you do, then at 7:45 I open the shop, I’ve got automatic rolling shutters, pushing the button, I always push it, the switch is located between the wall and the side of a refrigerator. Now, you have to put your hand a little like this, 10 centimeters, and I always open it with my right hand, it’s my habit. Now, pushing the button, out of the corner of my eye I saw the silhouette of a young woman who was waiting for me to open, beside the parapet wall at the entrance, let’s say on my right side like this, I saw her silhouette. I naturally... mine is a traditional shop, I’d stop there to greet them when a person enters, in my shop I’ve got a sliding door, although the sensor is orientated, the photocell, is orientated quite low, right on the threshold of the entrance, otherwise any pedestrian would always open the door. Now, a person entering has to get very close, let’s say it takes a couple of seconds for the door to open, 2 to 3 seconds. This young woman when she came in I looked at her to greet her, she looked at me, let’s say I saw her at a distance of one meter, 70-80 centimeters, like that. I at that moment, [133] I didn’t recognize her, although I will say that I had seen her previously, but I didn’t recognize her, for me I didn’t know this young woman. She came in, she went to the upper part of the shop, in the upper part, I’ve got a shop divided into two sections and in the middle there’s an opening let’s say two meters and half. There’s a small ramp and she had gone to the left part of the shop, I remained, I went back behind the counter and I continued doing what I needed to do in fact. After I don’t know, a brief time, a minute, now I wouldn’t know to quantify it, Corso Garibaldi is very narrow, and I*

*was working at the counter and out of the corner of my eye I saw the young woman who passed by again, I recognized her, she was wearing the coat that she had on when she entered, and the hat, and out of the corner of my eye I saw her pass by again and go towards the Piazza, downhill actually. Nothing [special].*

QUESTION – *You said the coat was what color?*

ANSWER – *A grey coat. Do I need to say how she was dressed?*

QUESTION – *Tell us then what happ..?*

ANSWER – *The story pretty much stops there. I thought about this, in the afternoon I thought about what I had seen in the morning. This young woman remained stuck in my memory a bit, let's say, because she had very bright eyes, blue, very bright...*

QUESTION – *Blue?*

ANSWER – *Yes she had bright blue eyes, she had a hat, I say hat, I don't remember if it was a cap or something else, in any case it was a head covering she had, the jeans I remember. Then this grey coat, a scarf, in my memory it's a light bluish color, something like that. A little bit piled up here in front of the face, like this, not tight, like a scarf that you wear...*

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QUESTION – *This young woman was tall?*

ANSWER – *No, I think she was 1.65 – 1.67.*

QUESTION – *So she wasn't tall?*

ANSWER – *No.*

QUESTION – *Did you see other particulars, apart from blue eyes other particulars?*

ANSWER – *Yes, one thing I remember is that she had a very white complexion, very white, and this stuck in my memory, which I remembered, because I have her image exactly like an image right in front of me, and she had a very white complexion, with these blue eyes it was very specific, but very white. I saw that she had a very white complexion.*

**[134]**

QUESTION – *The young woman, what was her build like?*

ANSWER – *Normal build.*

QUESTION – *Normal?*

ANSWER – *Yes, a very normal young woman.*

QUESTION – *Can you specify her age?*

ANSWER – *Young, I would say that she looked...*

QUESTION – *The color of her hair...?*

ANSWER – *20-21 years old.*

QUESTION – *The color of her hair?*

ANSWER – *I couldn't see her hair.*

QUESTION – *What did the young woman do when she entered?*

ANSWER – *The young woman entered, she looked at me, I looked at her and she said nothing to me, she went to the upper part of the shop, because there are two sections and in the middle there's an opening of about two and a half meters, and then she went to the left-hand side, that is entering naturally not towards the exit door but rather towards the inside of the shop.*

QUESTION – *What goods are sold there?*

ANSWER – *Well, on the right-hand side we have biscuits, then at the bottom there's pasta, then also at the bottom there's the milk, then at the bottom turning towards the exit there are wines and drinks, then on the left, there are the shelves with toilet paper, detergents, perfumes, coffee, in short general items, those that you find in a grocery store, in short. Various things.*

QUESTION – *Listen, you remembered the face of this young woman?*

ANSWER – *Yes.*

QUESTION – *The part you were able to see?*

ANSWER – *Yes.*

QUESTION – *You were able to see her eyes?*

ANSWER – *Yes, so then she entered, I saw her let's say like this, three quarters left, three quarters of her left side. I didn't see her face-on; when she entered, naturally I was standing here on the right between the glass window of the entrance, here's the door that opens dividing in two, entering the right part of the doorway, she turned to her left side, here there's a small display window and the counter. I was [135] in this position, between the front counter and the small display window, practically beside the door that was opening.*

QUESTION – *Listen, the young woman asked for something, said something?*

ANSWER – *No.*

QUESTION – *Listen, you later found out about the murder?*

ANSWER – *Yes, yes, Friday afternoon when I came back to the shop.*

QUESTION – *At a certain point you saw the photos?*

ANSWER – *Exactly.*

QUESTION – *Of Mr. Sollecito and Ms. Knox?*

ANSWER – *Yes.*

QUESTION – *What's the matter?*

ANSWER – *Now look, actually my sales clerk Chiriboga one morning, I don't remember, some days later, I don't remember the day now, I don't remember the day, 4, 5, 6 days later, I don't remember. Practically when there had been the news that they had, I'll tell you why: she had gone out, she said: Can I go and get a coffee? And she went down to the bar in Piazza Grimana, she went to the newsagent's, to be brief. She went there, and everyone was talking about it. She said to me: But they've arrested Raffaele. I said ... referring, naturally, to the fact that this had happened, I said to her: But that's not possible. My reaction was naturally that. I said: Are you sure? She says: Yes, yes Raffaele. So I told her to go and buy a newspaper. I don't remember which newspaper, truly I don't remember. As soon as I saw the newspaper I said to myself "but this is the young woman from the other morning". Referring to...*

QUESTION – *To Ms. Knox?*

ANSWER – *To her without anything else, referring to the morning...*

QUESTION – *That is, you saw the photo of Amanda Marie Knox and said...*

ANSWER – *Yes.*

QUESTION – *Said to yourself "but this is that young woman".*

ANSWER – *I didn't have absolute mathematical certainty, because in the original photo you couldn't see the eye color well, but I thought from the oval of her face, from the way of the glance looking like this, for me it was her.*

QUESTION – *You had seen her on other occasions?*

**[136]**

ANSWER – *The day I saw her I didn't associate her with anyone I might have seen before, I didn't associate her. Then looking at the photo, her physical shape, the way she had her hair, very smooth hair attached to the head like this...*

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QUESTION – *Listen, when you saw the young woman on the morning of the 2<sup>nd</sup>, that young woman, how was she moving? Was she moving calmly?*

ANSWER – *Let's say she entered like this, she looked at me, I repeat, a bit like this, with this very white skin. I was struck because she seemed to me, that is she had an extremely exhausted expression according to me... but it's quite normal, because sometimes a person comes [to the shop] in the morning after going dancing or partying or something.*

QUESTION – *Do you have a strong or weak visual memory?*

ANSWER – *Strong.*

QUESTION – *Very strong?*

ANSWER – *Yes.*

QUESTION – *And when you saw the photos of Amanda Marie Knox, you immediately thought that...*

ANSWER – *Exactly, exactly.*

QUESTION – *You immediately thought about that young woman?*

ANSWER – *Exactly. I practically, having seen the photo, I repeat, was not certain because in the newspaper you couldn't see her eyes, in the newspaper photos, I recognized the oval of her face, her quite regular nose, this very beautiful oval, with these very bright eyes like this.*

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PRESIDENT – *Pardon me. Do you recognize the young woman that you saw on that occasion in this courtroom?*

ANSWER – *Yes, I saw her this morning in the lobby.*

PRESIDENT – *Now you recognize if she's here?*

ANSWER – *Yes.*

PRESIDENT – *You are sure?*

ANSWER – *Yes.*

PRESIDENT – *Is it her? You're sure that she's the young woman that you saw?*

ANSWER – *Now I'm sure yes.*

PRESIDENT – *The young woman that you saw on the morning of 2 November you've said, around what time?*



[137]

ANSWER – *At 7:45am, because I open at 7:45am.*

PRESIDENT – *At 7:45am under the circumstances referred to earlier, you recognize her as the young woman who is present in this courtroom, specifically Amanda Marie Knox, is that so?*

ANSWER – *Yes.*

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During the cross-examination there emerged further particulars of indubitable interest.

After having stated that, several days after the murder there had been contact from members of the investigative taskforce and particularly from Inspector Volturmo, who had asked him a series of questions about the kind of cleaning products purchased by Mr. Sollecito, without otherwise asking him if he had seen Raffaele Sollecito and Amanda Marie Knox immediately after the murder, questioned further Marco Quintavalle stated:

QUESTION – *When did you first go to Dr. Mignini?*

ANSWER – *I went there in the middle of November 2008.*

QUESTION – *So a year later?*

ANSWER – *Yes.*

QUESTION – *How come a year later?*

ANSWER – *I'll tell you straight away. So, above my shop, actually the doorway is to the building just before my shop, there was a young man living there whom I know since he lives above me; being from Piazza Grimana I know almost everybody, so there was a young man, Antioco Fois, living there, and when he graduated, he got a job with the Giornale dell'Umbria newspaper. Now, he really is, let's say I think 2 to 3 years... that is, not that it was a friendship, but I knew him, he was someone who often came to the shop. He had started to investigate what life on Corso Garibaldi was like, and we had exchanged a few confidences. One day he even started selling tissues to see how much someone doing this type of work at the traffic lights could earn, tissue handkerchiefs. And we had exchanged a couple of confidences like that. He often passed by and used to ask me: but do you know anything, have you seen something? Have you heard something? I hadn't, but one day I said to him: Look, things being what they are, that morning I believe I saw... one day I told him I believed I saw Amanda. He said nothing, then he repeated it back to me: "I believe I saw Amanda". One day he turned up and said to me: Listen but if you saw Amanda you*

should say so. I said to him: [138] I don't think the fact that I saw her is significant, I said. Then all this enthusiasm about getting into this story, naturally, it wasn't me who had it, just like I don't have it now.

ANSWER – I wanted to finish. So he came back after a couple of days...

PRESIDENT – We're speaking of Fois?

ANSWER – Of Antioco Fois. He came back to me and said to me: Listen, it's important that you go tell this thing because of the fact that she has declared that she got up at 10 in the morning and it would be important for the investigation that you say this. I decided at that moment to say it. That's all.

PRESIDENT – So you went?

ANSWER – So I went. And ended up here."

(Testimony of Marco Quintavalle before the First Instance Court – 21 March 2009 hearing, pp 67-118)

Marco Quintavalle's testimony has also been the subject of severe criticism, both on the part of the Defense and on the part of the Court of Assizes of Appeal of Perugia in the annulled judgment.

In essence, the charge against Quintavalle is not too different from that alleged against Curatolo. The testimony of both is said to be unreliable because the witnesses appeared around a year after the events (and, limited to Curatolo, for anthropological reasons as well, for being a person with a criminal record who lives on the street). It is thus the lapse of time between the crime and the witness statements which fuels the suspicion that these witnesses are lying and consequently that their testimony is totally unreliable.

This Court holds that this yardstick of evaluation is not only far from the critical scrutiny that must always accompany witness testimony but also that it constitutes a substantial expression of prejudice against witnesses who might engage in abnormal conduct; and the anomaly would consist in having made a statement that lags behind the facts for which they were called to testify.

However, this Court observes that the testimony of both (Curatolo – Quintavalle) pertains to circumstances that are not immediately appreciable by the *quisque de populo* [every one of the people] as decisive, or at least important, for the purposes of identifying those responsible for

an act of violence. These are circumstances that may even appear totally insignificant, and whose [139] importance can only be appreciated in the wider context of the investigations, and by those who, for specific professional reasons, are aware of the developments of the same. Fundamentally, to assess the relevance of the presence of Amanda Knox and Raffaele Sollecito in Piazza Grimana between 9:30/10:00 pm and 11:30 pm/12:00 am on the night of 1 November 2007, one must know the alibi provided by the young woman; it would be much the same for assessing the relevance of Amanda Knox's presence in Quintavalle's Conad shop at 7:45am on the morning of 2 November 2007.

This backdrop is decisive, and constitutes a reasonable explanation for why neither of the witnesses went to the police, immediately after the homicide, about what they had seen: simply because both circumstances could have appeared irrelevant, since not immediately perceptible as connected with the homicide that occurred. Only later on, when the importance of the observed circumstance is brought to their attention, or through the specific questions of the police investigators, or else through the solicitation of persons aware of developments in the investigations (the journalist Antioco Fois), the two witnesses decided to come forward and make statements.

For the purposes of evaluating the reliability or otherwise of the testimony given by the two witnesses, it is a matter therefore not the amount of time that elapsed between the crime and the testimony, perfectly explainable as due to a lack of perception on the part of the witnesses of the importance of the circumstances, but indeed the intrinsic and extrinsic consistency of the testimonies themselves, through the use of ordinary parameters of critical evaluation which constitutes the business of the Court.

In the specific case of Marco Quintavalle, the witness clarified having recognized Amanda Marie Knox as the young woman who at around 7:45 am on 2 November 2007 entered his commercial enterprise when he saw the photo in the newspaper and her image on television the day following her arrest (we are therefore in early November 2007); but [he also clarified] having reported the circumstance only in November 2008, pushed by Antioco Fois, a young reporter for the *Giornale dell'Umbria*, because before then he had not considered this same

circumstance important. He was struck by the eyes and the extremely pallid face of the young woman, by the expression on her face, which he was able to perceive from a distance of about a meter when the young woman entered his commercial enterprise. Details that had stuck in his memory.

[140] The witness, solicited by the Presiding Judge of the First Instance Court, during the course of the trial identified Amanda Marie Knox, present in the courtroom because *in vinculis* [in custody], as the young woman who had entered his commercial enterprise; exactly as Antonio Curatolo had done earlier, identifying both of the accused, pointing them both out in the courtroom, as the two young people seen on the night of 1 November 2007 in Piazza Grimana, in the spatio-temporal context referred to earlier.

In conclusion of the examination of both of the testimonies, the Court holds that these same cannot in fact be classified as unreliable on the basis of arguments that are unproven and certainly at odds with an objective examination of their content; content which, for both testimonies, emerges as coherent, anchored for both witnesses to precise and telling reference points significant to both the witnesses, free of obvious contradictions and, in particular, made credible by the substantive disinterest of the witnesses with respect to the procedural fate of the defendants.

Thus, it can be affirmed at this point that, on the basis of the statements of both the witnesses, and on the basis of the picture emerging from the phone records previously noted, Amanda Marie Knox was lying when she was provided her second version of the events that occurred on the afternoon of 1 November and on the morning of 2 November 2007. The alibi provided by Amanda Marie Knox – of having returned to Raffaele Sollecito's home in the late afternoon of 1 November 2007 and of having remained there, in the company of the co-accused, until 10:00am in the morning on 2 November 2007 – does not correspond to the truth. Based on the precise witness testimony of Antonio Curatolo and Marco Quintavalle, which this Court finds credible for the reasons expressed, Amanda Marie Knox and Raffaele Sollecito, from 9:30pm to around midnight of 1 November 2007 were seen in Piazza Grimana on multiple occasions, a few yards

from the cottage at no. 7, Via della Pergola, where, in the same span of time, the murder took place; Amanda Marie Knox went to Marco Quintavalle's Conad shop around 7:45am on 2 November 2007, obviously in search of something to buy that she could not find. She was noticed by Mr. Quintavalle who, at the trial, identified her with certainty in the courtroom. So we are able to affirm that Amanda Marie Knox was lying when she claimed to have slept at Mr. Sollecito's house in his company until 10am in the morning on 2 November 2007.

Having already been proven false by witness testimony, the alibi given by the accused is also proven false by comparing it with objective data, which tallies with the witness testimony referred to above.

**[141]** First of all, the examination of the phone records.

From the phone records in the court file, it is apparent that Raffaele Sollecito's mobile phone remained inactive from 8:42:56 pm on 1 November 2007 until 6:02:59 am on 2 November 2007; switched off or in any case "out of range" of the signal. It emerges from the records that the last telephone contact engaging his device dated 1 November 2007 is the call at 8:42:56 pm received by the father, Francesco Sollecito, during which Raffaele spoke to the father about the broken pipe in the kitchen; the subsequent contact at 6:02:59 am on 2 November 2007 was the SMS [text message] sent to him by the father, Francesco Sollecito, and which was generated by this latter's telephone at 11:14 pm on 1 November 2007. Both contacts linked via the "cell" that serves number 130, Via Garibaldi, and so it must be concluded that the timings indicate that the mobile phone was present inside Raffaele Sollecito's residence at number 130, Via Garibaldi.

From the critical examination of what results from the phone records, it can objectively be held as proved not only that Raffaele Sollecito's phone was not "active" from 8:42:56 pm on 1 November 2007 to 6:06:59 am [sic] on 2 November 2007, but that, reasonably, at 6:02:59 am on 2 November 2007 Raffaele Sollecito was in fact not sleeping, as stated by Amanda Marie Knox and averred to by Mr. Sollecito; rather, he was wide awake, enough to switch on his own mobile phone and be able to receive the SMS sent to him by his father the night before.

The Defense, supported by the conclusions of their technical consultants, argued that the fact of having received the SMS sent by Francesco Sollecito to his son on the evening of 1 November 2007 only at 6:02:59 am on the morning of 2 November 2007 would not necessarily be proof that the accused had switched his phone on at that time, since the phone, until that time, could have simply been positioned at a spot in the house where it was not able to receive the “signal”, on the assumption that special measurements had been made showing that not all points in the apartment at 130 Via Garibaldi were able to effectively receive the phone “signal”.

This Court finds that the Defense argument is not justified.

If in fact one can agree with the Defense reasoning by which there is no certain proof that at 6:02:59 am on 2 November 2007 Raffaele Sollecito’s phone was switched on (by himself or by Amanda Marie Knox, the only two present in the apartment) allowing [142] reception of the SMS sent to him by his father a good six hours earlier, the only logical alternative is that someone obviously moved the phone inside the apartment from the location in which it was positioned, and where it was not receiving the “signal”, to a different location in the apartment, where the “signal” was received.

What matters, and what the Court finds proved, is that at 6:02:59 am on 2 November 2007 in the apartment at 130 Via Garibaldi, they were not in fact asleep, as the defendants claim, but rather the occupants were well awake, so much as to switch on or move the phones.

And that the situation inside the apartment at 130 Via Garibaldi was not in fact that of a house in which the occupants spent a peaceful night also emerges from an examination effected on one of Raffaele Sollecito’s computers by the Postal Police.

It appears that at 5:32 am on 2 November 2007 the computer connected to a “site” for listening to music, remaining connected for around half an hour. Therefore, at 5:32 am someone in the house occupied by Amanda Marie Knox and Raffaele Sollecito sat in front of the computer and listened to music for around half an hour and then, at 6:02:59 am, either switched on Raffaele Sollecito’s mobile phone or put it in a different place in the apartment.

At the conclusion of the critical examination of the statements made by the defendants it can therefore be affirmed not only that the statements made to the investigating police at 1:45 am and to the Prosecutor at 5:45 am on 6 November 2007 by Amanda Marie Knox constitute a

malicious incrimination as regards Patrick Lumumba, but also that the same was constructed for the specific purpose of distancing police suspicion from the defendants, offering the investigators a “guilty party” on which to focus their attention.

It can in addition be sustained that, after her attempt to shift responsibility for the murder of Meredith Kercher onto the innocent party Patrick Lumumba had failed miserably, Amanda Marie Knox provided a reconstruction of the facts, averred to by the co-accused Raffaele Sollecito, that objectively constitutes a false alibi for both of the accused, in the sense that from 9:00/9:30pm on 1 November 2007 to the morning of 2 November 2007, Raffaele Sollecito and Amanda Marie Knox were not in fact sound asleep in the apartment at 130, Via Garibaldi but rather, on the contrary, spent the night in full activity, so much so that Amanda Marie Knox was observed by Mr. Quintavalle at 7:45 am on the morning of 2 November 2007, as a person [143] who was displaying obvious signs of exhaustion [*“ (...) – Let’s say she entered like this, she looked at me, I repeat, a bit like this, with this very white skin. I was struck because she seemed to me, that is she had an extremely exhausted expression according to me...but it’s quite normal, because sometimes a person comes [to the shop] in the morning after going dancing or partying or something.”* See the Marco Quintavalle witness statement cited above].

Lastly, there remains to verify whether the conclusions reached using the outcome of the examination of witness testimony given during the first instance trial, and on the basis of the circumstantial case already acquired, could be affected by the claims of the Defense, in particular Raffaele Sollecito’s Defense, in relation to the use the defendant supposedly made of the “MACKBOOKPRO” Apple computer and, specifically, if a judicially ascertained usage of this computer is incompatible with the movements of the defendants as reconstructed in this judgment.

The Flying Squad of the Perugia Police seized the portable computers of the defendants, which firstly were consigned to forensics for the collection of fingerprints, and then, on 13 November 2007, to the Postal Police for the completion of technical tests. (See report of the Flying Squad,

3<sup>rd</sup> Division, produced at the hearing on 14 March 2009 before the First Instance Court of Assizes.)

It is now clear that the Postal Police tests were effected, as regards the interest of this judgment, solely on Mr. Sollecito's "MACBOOKPRO" Apple computer, since the others appeared to be damaged (electric shock was spoken of), and it was impossible to capture data from their respective hard drives.

With respect to the technical investigations carried out on the portable Apple "MACBOOKPRO" used by Raffaele Sollecito, the witnesses Marco Trotta, Claudio Trifici, and Gregori Muco, all police assistants in service with the Umbria division of the Postal Police testified at the first instance hearing on 14 March 2008.

The tests carried out on the above-mentioned computer by the State Police consisted of copying the hard disk and analyzing it using two forensic software packages provided to every Postal Police division by the Communication [144] Police Service of Rome: Encase version 6.7 for copying the data; Encase version 6.8 for analyzing activity.

The technical operations began in the presence of the technical consultant for the defense of Raffaele Sollecito, Fabio Formeriti, with copying the data extracted from the hard drive of the computer used by the accused, and the technicians verified in this phase the perfect correspondence between the time of the laptop's bios and the time of the data-copying, with the consequence that the laptop files were not therefore reporting any different times. The Defense expert present during the operations raised no objection on the point.

It was then decided to commence analysis using Encase 6.8 software, for the purpose of establishing the possible human interaction on Mr. Sollecito's laptop in the span of time indicated by the investigations request order, from 6:00 pm on 1 November 2007 to 8:00 am on 2 November 2007, investigations which produced the following results:

- 1) The presence of no files modified for size;



- 2) No deleted files;
- 3) The presence of 9 files newly created in the span of time being considered. The postal police in addition ascertained that it was a matter of files created without any human interaction, two of them both created at 3:15:07 am on 2 November 2007 by the system automatically, and the rest were related to files generated automatically, at intervals of 60-120 minutes one after the other by the navigation browser, Mozilla Firefox, inside its cache (refer to the 19 November 2007 Postal Police report);
- 4) 124 files with last login;
- 5) 17 files written, and therefore with a modification increasing the size of the files. Three of these were of crashes of programs for reproducing/listening to audio-visual files.

Of the 124 files with last login, in the span of time being referenced, a human interaction could only be evidenced for two of them; the first at 9:10:32 pm on 1 November 2007, and the second file at 5:32:09 am on the 2.11.07; the remaining 122 were operations effected automatically by the Mac OS [sic] X Operating System installed on the Apple MACBOOKPRO computer.

[145] The Postal Police determined further that at 6:27:15 pm on 1 November 2007 there had been a human interaction to play a multimedia video file related to “Il Favoloso Mondo di Amélie” [“Amélie”], a film, which had already been downloaded onto the laptop some days prior.

It was therefore undertaken to establish the viewing times of the film abovementioned, verifying that at 6:27:05 pm there had been the beginning of the viewing of the film abovementioned – already downloaded prior to viewing, on the date of 28 October 2007 at 10:36 pm – and the closing of the file at 9:10:32 pm on 1 November 2007. Senior Assistant Trotta of the Postal Police explained that the “closure” could have been effected either by human activity intended to stop the playing or by its natural conclusion with the spooling out of the end credits, given that even the finishing of the “film” would have given place to the last interaction by the system, leaving aside the physical presence of a user.

The subsequent human interaction on Mr. Sollecito's laptop was in the end recorded at 5:32 am on 2 November 2007, when the VLC program had been launched for listening to musical files (MP3 files).

From the Postal Police findings, therefore, it can be deduced that subsequent to 9:10:32 pm on 1 November 2007 and up until 05:32:09 am on 2 November 2007 there is no evidence of any human activity on the Apple MACBOOKPRO seized from Raffaele Sollecito.

Of an opposite view were the Sollecito Defense technical experts, Dr. Michele Giglio and Dr. Antonio D'Ambrosio, questioned at the 26 September 2009 hearing before the First Instance Court.

Starting from the datum according to which the Fastweb traces under annex L in the report reveal a 4 second connection to the Apple international site (from 00:58:50 to 00:58:53 am), the consultants were able to affirm that around 00:58 am while the user was launching probably a multimedia file with the Quick Time application (in the alternative with the iTunes application for listening to music with), this software, on its opening, was contacting Apple's server. At this point, there would have been a window opening of the advertising sort, and then its closure.

The human interaction with the Apple server would have been limited to the four seconds, as mentioned [146] above; a circumstance for which the certainty derived from this data is limited to the fact that, starting from 00:50 am on 2 November 2007, there was use of the computer, positively documented only within the limits of 4 seconds.

Consequently, the results of the Giglio-D'Ambrosio technical consultancy allow us at best to affirm that, around 1 am during the night of 2 November 2007, Raffaele Sollecito could have been at the computer. This circumstance does not alter the falseness of the proffered alibi, on which it can be observed that at 00:10:32 am the two mobile phones used by Meredith Kercher had already been abandoned in the garden of the cottage at number 5\bis, Via Sperandio, and therefore the homicide already completed, and that the distance between Via della Pergola and

Via Sperandio is about 900 meters, while the distance separating 7 Via della Pergola from 30 [sic] Corso Garibaldi is around 400 meters (traversable in little more than 10 minutes).

The distance between the locations under discussion allow in fact the holding that the defendants would have completed the homicide a little before midnight on 1 November and, fleeing in the immediate aftermath from the house at Via della Pergola and, the telephones abandoned in Via Sperandio, they had re-entered Mr. Sollecito's apartment, even for the purposes of planning the activity put into motion successively, and therein they had found themselves a little before one o'clock on the night of 2 November 2007.

#### **5. Evidence that can be drawn from the statements of the defendants and of the witnesses.**

In the preceding section the alibi provided by the defendants was examined, establishing its falseness.

Now it is necessary to direct attention to the results of the examination of the statements made by the defendants in the present proceeding, excepting those already examined regarding to the alibi already examined, and to what emerges from the documentation lodged as case records by Amanda Marie Knox (the defensive written memorial of 9 November 2007) as well as to the witness statements gathered in the course of the first instance trial, with specific reference to the facts concerning the morning of 2 November 2007.

[147]

#### **The reconstruction of the events of 2 November 2007 according to the statements of Amanda Marie Knox**

In the reconstruction of the events recorded in the memorial written by Amanda Marie Knox on 9 November 2007 one reads verbatim:

*"This is what happened on 2 November 2007 starting from when I got up. I got up late that morning and I let Raffaele sleep for a while. I told Raffaele that I would come back after having a shower. I left Raffaele's*

house and I walked to go to my house. When I arrived the door was wide open, my first thought was that it was strange because we always lock the door of my house. Otherwise the wind blows it open, but I supposed that someone at my place had quickly gone to see the neighbors and so I didn't think much of it. I closed the door but I didn't lock it, supposing that the person would come back. I called out to see whether there was someone at home but I didn't get an answer. I went to my room and got undressed. I put my dirty clothes behind my guitar and I went to have a shower. Before getting into the shower I took out my earrings and I noticed drops of blood in the wash basin. I thought that they had come from my ears and I touched one of the drops but it was dry. I got into the shower, after the shower I stepped on the bathmat<sup>17</sup> and I noticed blood on the mat. I looked more closely in the basin and I saw blood on the tap. But there wasn't much blood. I supposed that someone had cut herself or had menstrual problems. I had left the towel in my bedroom, so I used the mat to go to my room to get my towel without getting the floor wet. Then I brought it back to the bathroom. I still wasn't thinking that there was something wrong, strange but nothing bad. I got dressed in my room, I went into the other bathroom to dry my hair. It was after drying my hair that I noticed the poo in the toilet. This together with the open door and the blood in the bathroom was very strange but honestly I didn't think that something bad had happened. It seemed as if someone had just left our house in a great hurry. I didn't think that someone had been murdered. I didn't know what to think. I took the 'mop'<sup>18</sup> from our cupboard and I left the house closing the door then locking it. I walked back to Raffaele's house and together we started to clean the floor with the 'mop'. He started but then he went to put on **[148]** his clothes while I finished mopping up the water with the 'mop'. Then we had breakfast. During breakfast I told Raffaele what I had found at my house. He said that I should call one of my housemates. I rang Filomena. She was worried so after her I rang Meredith three times. Once on her English cell telephone, once on her Italian cell telephone, once again on her English number. I didn't get a reply. Filomena called me back, she wanted to know whether I had contact with Meredith because she was the only housemate not located. She had already informed me that Laura was in Rome. So Raffaele and I got ready to go and we went back to my house taking 'the mop' with us. When we arrived I opened the door (and) went to Filomena's room and opened the door. The window was broken and room was in a mess, but her computer was there and so I was confused. I looked in Laura's room as well, but her room was perfectly in order. What sort of thief gets in but doesn't take anything? Raffaele

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<sup>17</sup> *il tappetino in cucina [sic]*

<sup>18</sup> Nencini places single quotation marks around "mocio." "Mocio" is not Italian for "mop" but is the term Amanda Knox used for the word "mop", being a brand of string-type mops often used in Italian households.

*went into my room and I followed him. Nothing was missing. Then we knocked on Meredith's room and got no reply. I tried the door handle but it was locked. We went out on the terrace to see whether we could see through her window, I even tried to climb onto the balcony to see in but I didn't succeed in doing so. We looked through the key-hole (but) all we could in see was her handbag on the bed. I ran outside to see if the neighbors had heard something but there was nobody home. The lights were out and nobody answered when I knocked on the door. I went back into the house and Raffaele said that he wanted to try to break down the door. So he tried but didn't succeed. Then he called his sister for advice. I rang Filomena to tell her what was happening. She told me she was on her way home. Raffaele's sister said to call the Carabinieri. So we did. We waited inside for a while, I put away the 'mop', but then we went outside to see Filomena's window. I couldn't understand why somebody could break the window if it seemed impossible to be able to climb inside. Two policemen arrived and took our names and numbers. I showed them what I had seen, the blood in the bathroom, how Meredith's door was locked. I thought that the poo in the bathroom had gone down (the drain) even though I didn't have a good look. Then Filomena arrived with her boyfriend and two friends. She was busy talking to the police. I was in the kitchen with Raffaele and they broke down Meredith's door I heard a scream from Filomena "A foot! A foot!" And the police told us to [149] go outside. Not long after the Carabinieri arrived and I waited. I waited with Raffaele for a while outside and then I was offered a place to sit where it was warmer in the car of one of Filomena's friends, with Raffaele. Not long after the police told us all to go to the police station."*

(Document originating from the defendant lodged with the clerk's office of the First Instance Court on 1 July 2009)

The detailed version of the events provided by the defendant by means of the defensive memorial of 9 November 2007, which was substantially confirmed in the examination in the hearings of 12/13 June 2009, although with a few "adjustments", permits the making of several considerations.

In the first place Amanda Marie Knox has never clarified why, on the morning of 2 November 2007, she would have had to return home to Via della Pergola to have a shower and change her clothes.

The day before the two young people had already planned a trip to Gubbio for the day of 2 November 2007. On the afternoon of 1 November 2007, both left the dwelling on Via della Pergola at around 5:00 pm and went to Sollecito's house to spend the night there. Knowing that they were to go on a trip to Gubbio the next day, it would be logical for the accused to take with her what she needed to change clothes and have a shower at Raffaele's house, from where they could then depart to take the trip to Gubbio. There was no need to return home to take a shower (it appears, moreover, that Amanda Marie Knox had already had a shower at Raffaele Sollecito's home on the day of 1 November 2007, thus showing a familiarity with Raffaele Sollecito's dwelling, which the young woman had chosen as her second home); nor least of all, was there any need to return home to retrieve a piece of equipment to clean up in the kitchen (the 'mop') where the waste pipe of the kitchen sink had broken, since the residual water that had not dried up during the night could have easily been mopped up with what was present in the house at 130 Via Garibaldi.

Thus this is a matter of peculiar behavior, not usual, even if, in itself, it is not significant, unless it is evaluated together with what we will have the opportunity to draw attention to subsequently.

However, what appears to be significant right now is to point out the anomaly of Amanda Marie Knox's behavior upon arriving at the cottage. [150]

As soon as she arrived, the young woman noticed that front door to the house was open, without there being any of the occupants in the apartment. Finding the front door to the dwelling open should, in itself, induce any person, if not to immediately call the police, certainly to enter the apartment with understandable caution, with the aim of checking the state of the house, since nothing could rule out that if someone with bad intentions had gotten in stealthily, he or she could still be inside. It was furthermore well known to Amanda Marie Knox – because the fact was reported to her by the witness Filomena Romanelli – that the lock to the entrance to the cottage was not working properly, a cause of concern for the young women living there.

Regardless of this, the young woman entered the apartment, going into the small entrance on the left of which Filomena Romanelli's room opened. It would have been completely natural for the young woman to have checked in all the rooms of the apartment; and this fact would have permitted the immediate confirmation of the state of disorder of Ms. Romanelli's room and the likely entry of a burglar. It is not possible to understand why Amanda did not check this out at once, deciding to have a shower in a setting that should have given rise to some apprehension. But there is more.

It is objectively difficult to imagine that a burglar entering a dwelling in order to commit a burglary there and, caught unawares by one of the occupants of the apartment, should decide to attack and then kill her, and then, after perpetrating the crime, decide to shut the door of the room through which he had gained entry. It is thus reasonable to hold that if the Defense's hypothesis of the entry of an intruder into the apartment through the window of Filomena Romanelli's room were true – and we have several times already verified how this hypothesis of the Defense conflicts with the objective observations made in the dwelling – the door giving access to Filomena Romanelli's room inside the dwelling should have remained open, and thus the state of disorder in the room would have been immediately noticeable to whomever came in the front door with that predictable wariness of a person who enters an apartment where he or she has discovered the front door open.

But Amanda Marie Knox did not worry about first making an inspection of the premises, as it would have been reasonable to do; she decided to have a shower. [151]

Entering the small bathroom she noticed some blood stains in the wash basin; noticed blood stains on the tap, but above all she noticed a large blood stain on the pale blue bathmat present in the bathroom (it was the footprint made in blood of the sole of a foot, which subsequently will be talked about at length). The discovery of these blood stains, along with the fact of having found the front door open, did not create any apprehension at all in the young woman, let alone any wariness. Amanda had a shower, used the bathmat – jumping on it and dragging it as far as

her own room – and then put it back in the bathroom. Then she got dressed, shut the door behind her, and went back to Raffaele Sollecito's apartment, where she had spent the night. Together with the latter she calmly had breakfast and only later, completely calm, did she make the first telephone call to her housemates.

The defendant's account of her conduct makes no sense.

It would have been reasonable, in the given circumstances, having found the front door to the apartment open, to ring the other housemates straight away, if not the police; or if the intention had really been not to alarm anyone before having discovered the reality of the situation, to ring up Raffaele Sollecito to get him to come to the cottage and [then] find out together what had happened.

But this did not happen; and the very anomaly of such behavior must be read together with what will be discussed here soon.

Amanda Marie Knox, in the manuscript indicated above, set the events in this way "(...) *During breakfast I told Raffaele what I had found at my house. He said that I had to call one of my housemates. I rang Filomena. She was worried so after her I rang Meredith three times. Once on her English cell phone, once on her Italian cell phone, once again on her English number. I didn't get a reply. (...)*"

From the telephone records of the cell phone used by Amanda Marie Knox it appears that the first telephone contact of the day on 2 November 2007 was made at 12:07:12 pm to the English service used by Meredith Kercher. Later, at 12:08:44 pm the telephone used by Amanda Marie Knox called Filomena Romanelli's service. This was the first telephone call made to Ms. Romanelli by the defendant on the [152] day of 2 November 2007, preceded by a first telephone contact with the English service used by the victim.

A first discrepancy is immediately noticeable between what the defendant states in the memorial and what is ascertained from the telephone records.



At the moment when Amanda Marie Knox rang Filomena Romanelli she had already made a call to the English telephone used by Meredith Kercher, not therefore the opposite. This first version of the facts will then be modified by the accused in June 2009, in the course of her examination during the hearing before the First Instance Court, when the young woman transposed the times of the two telephone calls, matching her own statements to the objective preliminary data that had in the meantime become known and which, on the date of 9 November 2007 could not have been known, as the telephone records had not yet even been acquired.

The First Instance Court, commenting on the fact that the accused had made the first contact with the English service used by the victim before calling Filomena Romanelli, hypothesized that the telephone call made to the service of the victim had been done with the sole aim of checking that the cell phones, removed after the murder from the dwelling in Via della Pergola, had not been found by anyone. The comment is valid, since it does not otherwise make sense, even putting aside the timing of the telephone calls which the defendant changed in the course of the hearings, why Amanda Marie Knox, in the event she had had the intention of finding out about her English friend's condition, not having received a reply from the English telephone service used by Meredith Kercher, did not try to call the other service, the one with an Italian SIM card, of which the accused was perfectly aware.

And in fact the defendant, after having had the first conversation with Filomena Romanelli at 12:08:44 pm, and at the latter's urging, actually made two calls to the service used by Meredith: at 12:11:02 pm to the Italian Vodafone service, and at 12:11:54 pm to the English service.

With regard to the two telephone calls mentioned above, an observation must be made that the Court holds to be of definite circumstantial value.

It is apparent from the telephone records in the case file that when Amanda Marie Knox made the two telephone calls to the services of the victim, at 12:11:02 pm to the Italian Vodafone

service, and [153] at 12:11:54 pm to the English service, she had been expressly encouraged to do so by Filomena Romanelli, with whom she had spoken at 12:08:44 pm.

The psychological state in which the defendant obviously should have been, one of understandable apprehension, since having discovered a disturbing environment in the apartment in Via della Pergola, and after speaking with Ms. Romanelli, who had expressed to her the need to check on Meredith Kercher, the only one of the young women of whom there was no certain news, Amanda Marie Knox should have naturally been affected by a certain anxiety in calling Meredith Kercher's telephone services.

From the telephone records it appears that the telephone call made at 12:11:02 pm to the Italian Vodafone service of the victim lasted 3 seconds; the one at 12:11:54 pm to the English service of the victim lasted 4 seconds. Perhaps not even enough time to repeat the first ring.

Filomena Romanelli indeed made two unsuccessful calls to the service used by Amanda Marie Knox, at 12:12:35 pm and at 12:20:44 pm, and let the defendant's telephone ring for 36 seconds the first time, and for a good 65 seconds the second time; an insistence that appears normal for anyone who intends to speak on the telephone with someone who, however, does not immediately answer the telephone. The telephone is allowed to ring for a considerable period of time in the hope of receiving a reply before resigning oneself to ending the call.

But that did not happen when Amanda Marie Knox called the two cell phones used by Meredith Kercher. These are two calls that barely registered. And as far as the Vodafone service 348-4673711 is concerned, the records show that the message-bank service began (even if this circumstance should however have created apprehension), as far as the English service with the SIM card inserted in the Sony-Erikson (sic) cell telephone is concerned, nothing appears other than the failure to answer the call.

The fact that the two calls to services used by Meredith Kercher did not alarm the defendant has only one plausible explanation.

There was no concern at all in the mind of Amanda Marie Knox when she hurried to make the two telephone calls to the young English woman simply because she knew very well that Meredith Kercher could not have answered the calls; calls which had to be made because Filomena Romanelli insisted, but which the defendant knew [154] were useless. Having thrown away the telephones in open countryside (at least that is what Amanda Marie Knox thought) in a place not often visited, nobody would have been able to answer those calls; let alone poor Meredith Kercher whom, the accused knew, was lifeless, locked in her own bedroom.

But the contacts between Amanda Marie Knox and Filomena Romanelli still continued that morning of 2 November 2007 and are of undoubted interest for the purpose of the reconstruction of the events of the morning after the murder.

It is fitting to recall them in their chronological order.

The first contact was made at 12:08:44 pm and the telephone call left the service of Amanda Marie Knox, connecting to the cell servicing 130 Via Garibaldi. Amanda Marie Knox was thus at Raffaele Sollecito's house. The second contact occurred at 12:12:35 pm and it was Filomena Romanelli calling Amanda Marie Knox; as it was Ms. Romanelli calling Knox at 12:20:44 pm; the latter calls were "unanswered" contacts. These last two calls also connected to a cell in service at 130 Via Garibaldi; Amanda Marie Knox was still at the residence of Raffaele Sollecito.

The last call between the young women took place at 12:34:57 pm on 2 November 2007, when Filomena Romanelli finally succeeded in speaking to her, connecting with a contact cell that serves the Via della Pergola area.

Therefore, from the examination of the telephone records, and in particular from the examination of the contact cells of the calls, as reconstructed by the State Police and by the First Instance Court (see pages 333-353 of the appealed judgment), it is possible to reconstruct with a

certain degree of exactitude the movements of Amanda Marie Knox on the morning of 2 November 2007.

At 12:07:12 pm she was certainly at 130 Via Garibaldi, at Raffaele Sollecito's dwelling, where she remained until 12:20:44 pm, when she received a telephone call from Filomena Romanelli. Later, at 12:34:56 pm the defendant was already at 7 Via della Pergola, where she received the last call from Filomena Romanelli.

It is appropriate at this point, with the aim of understanding the real significance of the articulation of the times of the telephone calls exchanged between the two young women, to briefly consider the statements that [155] Filomena Romanelli made during examination under oath at the hearing on 7 February 2009 before the First Instance Court.

Ms. Romanelli stated that on the morning of 2 November 2007, after waking up at her fiancé's place, she drove her car to pick up her friend Paola Grande to go to fair in the Pian di Massiano locality:

" (...)

*QUESTION - What time was it?*

*ANSWER – More or less about midday, we were a little early, and around midday about I went to get Paola to go...*

*QUESTION – Who was living...?*

*ANSWER – Near Elce, I don't remember the name of the street. I went to get Paola, we bought cigarettes, and we went off to Pian di Massiano. However, halfway there I got a telephone call from Amanda, that is while we were quite near the area where the fair was taking place I got a call from Amanda...*

*QUESTION – Excuse me a moment, what time was it, when you received the call?*

*ANSWER – Well it would not have even been 10 minutes, that is, a short time after we set out because we had not yet had time to arrive when already Amanda had called me and it isn't really very far from Elce to Pian di Massiano... it's not much.*

*QUESTION – Would 10 minutes have gone by?*

*ANSWER – Yes, we were already in the area, but we were not in the area of the car-park.*

QUESTION – *So roughly what time would it have been?*

ANSWER – *More or less 10 minutes, a quarter of an hour.*

QUESTION – *So the time?*

ANSWER – *I went to get her at midday, a quarter past twelve.*

QUESTION – *What does Amanda say to you?*

ANSWER – *Well ‘Hello, it’s Mandy there’s something strange at home’; ‘Hello Amanda what’s happened, how so?’; ‘I got there and the door was open, I went in..’; and she was speaking a bit in English and a bit in Italian, I remember well that she said ‘There is something strange’, so there was something strange, she said: ‘But now I’m going to Raffaele’s, I had a shower, I’m going to Raffaele’s so I’ll get him to come. There’s blood, I think’. I said ‘Amanda I don’t understand, explain to me why there is something strange, the door is open, you [156] had a shower, there is blood, but where is Meredith?’; ‘I don’t know.’ I really didn’t understand what she was telling me because I couldn’t follow her. That is the open door, you had a shower, but there is blood, I said: ‘Perhaps Meredith hurt herself, I don’t know perhaps she cut herself’ it can happen. I know, I told her: ‘Check.’ ‘Check around and then call me right back’.*

(...)

QUESTION – *So you rang her at about 12:15 pm.*

ANSWER – *Yes.*

PRESIDENT – *And so you called her at 12:15 pm?*

ANSWER – *Yes, now either 12:13 pm or 12:16 pm but around 12:15 pm yes.*

(...)

QUESTION - *Before going ahead, when Amanda says to you... You told me before, that she was going back, going back to Raffaele.*

ANSWER – *Yes, she said ‘I’m going to Raffaele’s, so I’ll go back with him to see what it is.’*

QUESTION – *So what did you understand, that she was in the house in Via della Pergola and that she would go to Raffaele’s place?*

ANSWER – *Exactly, I understood that she went back home, that the house was open, that there was something strange, that she went as far as the bathroom and therefore I believed that it was about her bathroom, hers, on the basis of the sharing of the rooms, her bathroom and that there was something strange, thus because of this she was going back outside, going to Raffaele’s and then returning home.*

QUESTION – *With him.*

ANSWER – *With him.*”

(Transcript of testimony of Filomena Romanelli – 7 February 2007 hearing before the First Instance Court).

If, therefore, the remarks about the unusual behavior of Amanda Marie Knox and even the irrational nature of her conduct, not only about the event when she inexplicably made only one telephone call to the English cell phone service of the victim, as the first telephone call of 2 November 2007, contrary to what she claimed in the account written by her on 9 November 2007 with obvious aim of protecting herself, if analyzed one by one could appear to be exercises in logic applied to human behavior, which sometimes may not follow the laws of logic; here we are faced with the first element of obvious falsehood in the narration created by the defendant.

[157] In the first telephone call the defendant made to Filomena Romanelli she clearly said that she would go back to Raffaele’s place to tell him about the strange things discovered in the apartment, and then return with him to check the situation. This was said by the defendant to Filomena Romanelli, who related this in a precise manner in the course of the trial. Well, this circumstance is clearly false, since when Amanda Marie Knox made the first call to Filomena Romanelli at 12:08:44 pm on 2 November 2007 she was at Raffaele Sollecito’s apartment at 130 Via Garibaldi and not at 7 Via Della Pergola. This fact is certain because it is gleaned from the telephone records, as has been already been said, and specifically from the fact that the telephone call above connected to the cell that served precisely 130 Via Garibaldi, a cell that is not within reach of anyone who would have been at 7 Via Della Pergola.

Furthermore, in none of the narratives created by the defendant, whether in the trial hearings or the one *per tabulas* [in writing], did she ever state that she had made any telephone call in the period of time when she was in the cottage on Via della Pergola to have a shower and change her clothes.

The version always accredited to Amanda Marie Knox sees the same going back to 130 Via Garibaldi after having a shower and changing clothes and, after having breakfast in absolute calm in the company of the co-defendant, starting her “round” of telephone calls.

It is hardly the case to show how, because of the absolute specificity of the circumstance and because of the certainty with which Filomena Romanelli related it to the Judges, among the number of possibilities, there is no place for [there being] a misunderstanding between the two young women in the course of the telephone call. Amanda Marie Knox called Filomena Romanelli from Raffaele Sollecito’s home, claiming to the latter to be at the cottage in Via della Pergola, and referring to a scene that was not before her eyes at the moment she was talking, but with which she was fully acquainted.

This actual circumstance, ascertained in an incontrovertible way during the investigation, must be read in correlation with the preceding description given of the anomalies in the behavior of the defendant, by her own description, which thus find a logical explanation.

Nothing of what the defendant described in her memorial and then confirmed in the testimony at the trial actually happened; at least not at the times and in the ways described. [158]

In the cottage at 7 Via Della Pergola, on the day of 2 November 2007, in the early hours of the day and up until approximately 12.00 pm, nobody had a shower, just as no burglar had gotten in through the window of Filomena Romanelli’s room; more simply the totality of the circumstantial evidence examined to this point gives us a plain picture of how the defendants put into action a clean-up of the traces of the murder committed and activity to “derail” the investigations that involved a series of actions, a number of which are still to be described. This was not, moreover, the only lie told that morning by Amanda Marie Knox. There was one specific circumstance about which, this time, both the defendants lied. This is about the succession of events at the moment when the postal police intervened on the spot.

The circumstance was the subject of full discussion in the trial hearings, and it was also the object of an evaluation on the part of the First Instance Court, an evaluation which this Court does not feel it can share.

Thus it becomes necessary to reconstruct, with the maximum exactitude possible and on the basis of a critical examination of the case records, the chronology in which the Carabinieri were notified by Raffaele Sollecito, who certainly came at a time after the discovery of poor Meredith's body. But let us proceed in order.

The First Instance Court judgment, dealing with the question in an incidental way within the bounds of a more well-structured reasoning, and taking as given that the Carabinieri had been notified before the intervention of the police, as always claimed by both Amanda Marie Knox and Raffaele Sollecito, expressed itself in this way: *"(...) and then a change of version takes place and he tells the postal police (who it can be held that, according to what is maintained by the defendants' Defense, arrived after Raffaele Sollecito's telephone call to 112, and this by nothing other than the fact that regarding these calls to 112, the Postal Police say nothing; in the same way they had said nothing about those that preceded them, at 12:40 pm and at 12:50 pm; each of these telephone calls being of not a brief duration that, therefore, would not have escaped the attention of the two police officers) that there had been a burglary. (...)"* (page 81 of the sentence of the First Instance Court)

The observation of the Judges of first instance does not appear to this Court to take into account the relevance of a series of verifications of fact which lead it to be held, differently from what has always been maintained by the defendants, who themselves notified the Carabinieri after the arrival of the police officers and not before; and that therefore, when the police arrived, the two defendants were sitting [159] outside the cottage, not waiting for the Carabinieri but rather waiting for Filomena Romanelli.

It is noted, since the topic has already been dealt with in another section, that first of all, two officers of the State Police, belonging to the specific division of the Postal Police, came to the scene: Inspector Michele Battistelli and [Senior] Assistant Fabio Marzi.



The two officers of the State Police came to the scene of the crime, not because anyone had called them, but because they were sent to the place by the director of the division of the Postal Police from the Perugia police station Filippo Bartolozzi, to look for Filomena Romanelli, who proved to be the holder of the SIM card found in one of the two cell phones, which would then be revealed to belong to the victim, both taken from the garden of the signori Lana's dwelling, in Via Sperandio in Perugia. Hence it is the matter of a circumstance which initially seems strange in respect of the murder investigations, in the sense that the two police officers come to Via della Pergola to undertake a normal investigation of the ownership of a telephone SIM card, so that neither Amanda Marie Knox nor Raffaele Sollecito could foresee the arrival of the police.

Inspector Battistelli, questioned at the 6 February hearing before the First Instance Court, reported as quoted:

*“WITNESS – About midday, I was on duty and the then director Bartolozzi sent me to Via della Pergola to find Filomena Romanelli, as it had been explained to me in broad terms a telephone in her name had been found, therefore there not being... Then we did some checking, there not having been any reports of theft or loss concerning that telephone, we went to look for this Ms. Romanelli for information.*

*PROSECUTOR – You left at 12:00 pm approximately?*

*WITNESS – Yes, at about 12:00 pm.*

*PROSECUTOR – Did you look at the time?*

*WITNESS – Yes, I had just gotten back from another job.*

*PRESIDENT – You are permitted to consult your records. [160]*

*PROSECUTOR – The cell telephone found, Dr. Bartolozzi told you that a cell telephone had been found, when you left.*

*WITNESS – But then I was not given many explanations, I knew that a cell phone had been found, however I didn't know anything else, I knew the owner's name.*

*PROSECUTOR – Did you have this telephone with you?*

*WITNESS – No.*

*PROSECUTOR – Go ahead, tell us when you went and with whom.*

WITNESS – *With Senior Assistant Marzi, we went down to Via della Pergola to find..., however we left about midday, we arrived a bit..., it took at least twenty or so minutes to find the cottage, because it is situated vaguely in that spot, we did a couple of turns around there because we didn't locate it straight away.*

PROSECUTOR – *You say the cottage, Via della Pergola?*

WITNESS – *7 Via Della Pergola, because Via della Pergola turns to the left of the little piazza, but there... So we were a bit confused.*

PROSECUTOR – *And you arrived towards what time, about?*

WITNESS – *At about half an hour after midday.*

PROSECUTOR – *I repeat, did you look at the time, did you look at, did you both look at the time of the car-park CCTV clock by any chance?*

WITNESS – *We didn't.*

PROSECUTOR – *So about 12:30 pm?*

WITNESS – *Yes, perhaps a few minutes before, because I remember looking at my watch, in fact the time which I recorded in my notes is what I took from my watch, but I had already arrived at the scene and made contact with the young people.*

PROSECUTOR – *Look, you arrived, what did you see when you arrived, who was there?*

WITNESS – *When I arrived there were two young people sitting...*

PROSECUTOR – *The two young people, that is the defendants?*

WITNESS – *The two defendants, yes, sitting in front of the cottage windows where there is...*

PROSECUTOR – *Oh, in front, that is, they were in which spot exactly?*

WITNESS – *They were near the corner, where the wooden fence turns a corner, right in front of the windows.*

**[161]** PROSECUTOR – *That is practically in front, roughly, of Ms. Romanelli's window?*

WITNESS – *Ms. Romanelli's, yes.*

*(...)*

PROSECUTOR – *Listen, then what did the two young people tell you?*

WITNESS – *But once we had arrived there they told us that they were waiting for a car from the Carabinieri who had been called because...*

*PROSECUTOR – They told you when the Carabinieri had been called?*

*WITNESS – When no, that they were waiting for a Carabinieri patrol, because they had noticed the door open when they had come back that morning to the cottage because they had been away for the night, they had come back in the morning and they said they had found the front door open and then the broken window. (...)*”

(Testimony of Michele Battistelli at the hearing on 6 February 2009 before the First Instance Court)

From the testimony of the witnesses referred to above it thus clearly emerges how both of the defendants (but to be precise it was Raffaele Sollecito to tell the police this) declared to Inspector Battistelli that they were sitting there awaiting the arrival of the Carabinieri whom they had called. However Inspector Battistelli indicated in his service notes that he arrived on the scene at 12:35 pm, and questioned in the court hearings by the Judges of First Instance Court, he explained that he looked at his watch at the moment when he arrived at the cottage.

This circumstance proves to be credible to this Court, on the basis of normal trial experience. Indeed, it is obvious that the normal habit of State Police officers is to note the time when they attend on duty, and that this is in order to precisely write in their notes, or in a report, the times of the police attendance, in the expectation that the drafting of the reports of the State Police will take place regularly at a time after their attendance; and the reports and the annotations must evidence both times.

But to corroborate Inspector Battistelli’s statements the investigation carried out by the State Police on the schedule of CCTV camera 7 positioned at the top of Via della Pergola comes into play. In the duty report of 29 September 2008 signed by the Senior Superintendent of the State Police, Stefano Gubbiotti, produced in Court during the hearings, we read as quoted:

*“(...) in particular attention was paid [162] to the image of CCTV camera number 7, which permits the monitoring of the street above the dwelling as well as, if only in a partial way, of the area adjacent to the entrance, which leads to the service area belonging to the dwelling at 7 Via Della Pergola, also because of the reflection of the sun. In a sequence regarding the time which goes from 12:35:51 pm a Postal Police*

*vehicle is noted, a black Fiat Grande Punto, entering the ramp of the top car-park where it remains for a few seconds. Then at 12:36:16 pm it moves and stands for another 32 seconds in front of the entrance to the car-park at street level, with only the driver on board. It is well to specify, as confirmed by the officers of the Postal Police, that Chief Inspector Michele Battistelli had got out of the car to look for the street number 7 of Via della Pergola. In the sequence of 12:36:48 pm the vehicle reverses to meet the colleague on foot but the CCTV camera does not succeed in framing the actual entrance to the service area of 7 Via Della Pergola. (...)"*

The investigation was confirmed by Superintendent Gubbiotti in the 28 February 2009 hearing before the First Instance Court.

So from the telephone records regarding the service used by Raffaele Sollecito it follows with absolute certainty that the latter, at 12:50:34 pm of 2 November 2007, was ringing his sister Vanessa Sollecito, with whom he talked for 39 seconds: in succession, at 12:51:40 pm he rang 112 (the emergency number for the Carabinieri) with whom he spoke for 169 seconds; finally at 12:54 pm he rang 112 again and spoke with the operator for about 57 seconds.

From checking these factual data and the investigations done by the State Police, it emerges that the first telephone call to the emergency number for the Carabinieri was made at 12:51:40 pm, and therefore more than 15 minutes after Inspector Battistelli had arrived in the black Fiat Punto belonging to his department at the dwelling at 7 Via Della Pergola.

From this it follows that when Raffaele Sollecito informed Inspector Battistelli that he had already rung the Carabinieri, he had not already done so, and he would do so about a quarter of an hour later.

At this point we must weigh ourselves up against the observations made in the first instance judgment, and with what is maintained by the Defense, in particular the Sollecito Defense, in the course of arguments during the hearings before this Court. **[163]**

From the starting point of the judgment of the First Instance Court, it is to be observed that the Judges gave credit to the defendants' version - that is, of having called the Carabinieri before the arrival of the police - on the basis of the reasoning, of logical character, according to which the officers of the State Police had not stated that they had seen Raffaele Sollecito ringing up, and this circumstance was to be deemed significant, since he had made a good three calls, if only in the span of barely five minutes, one to his sister and two to 112.

Consequently, it had to be held credible that the Postal Police had arrived after the telephone calls made to the Carabinieri, and therefore, this Court notes, necessarily after 12:54 pm on 2 November 2007.

The evaluation of the First Instance Court is of necessity weakened by inadequate attention given to the variety of the statements of the witnesses certainly present at 7 Via Della Pergola from 12:00 pm until 1:00 pm on 2 November 2007, in the commotion that preceded the breaking down of the door to the victim's room.

They were Michele Battistelli, Fabio Marzi, Luca Altieri and Marco Zaroli.

Michele Battistelli thus described to the Judges the moment when the decision was made to break down the door of Meredith's room:

*"(...) PROSECUTOR – Describe the position you were in.*

*WITNESS – Look I was at the back...*

*PROSECUTOR – Who was in front of the door?*

*WITNESS – There was Altieri, the dark fellow.*

*PROSECUTOR – Luca Altieri.*

*WITNESS – Luca Altieri.*

*PROSECUTOR – And then?*

*WITNESS – Who broke it down with two or three kicks.*

*PROSECUTOR – Wait, let's go in order. Luca Altieri in front of the door.*

*WITNESS – Yes.*

PROSECUTOR – *Then where was the other one?*

WITNESS – *They were there near him, there were four of them there, right in front of the door.*

PROSECUTOR – *Ms. Grande and Ms. Romanelli, then they were in front of the door.*

WITNESS – *Yes, right, they were all there.*

PROSECUTOR – *Those four, if you could say who they are, who are these four people?*

**[164]** WITNESS – *Zaroli, Altieri, Romanelli, and Paola Grande.*

PROSECUTOR – *That is the two young women and their respective fiancés?*

WITNESS – *Exactly, yes.*

PROSECUTOR – *Well, where were you?*

WITNESS – *I was at the end of the corridor three steps behind them.*

PROSECUTOR – *Three paces back.*

WITNESS – *Yes.*

PROSECUTOR – *Where was your colleague?*

WITNESS – *Quite a bit further back I think.*

PROSECUTOR – *Further back.*

WITNESS – *Yes.*

PROSECUTOR – *Where were the two of them?*

PRESIDENTE – *Excuse me, look the two...*

PROSECUTOR – *The two defendants.*

PRESIDENTE – *Raffaele Sollecito and Amanda Marie Knox.*

WITNESS – *It seems to me that Raffaele Sollecito was right outside.*

PROSECUTOR – *They were outside?*

PROSECUTOR – *Sollecito, where was Amanda?*

WITNESS – *Sollecito yes, I don't remember Amanda.*

PROSECUTOR – *But was she in front of the door?*

WITNESS – *No, no, no.*

PROSECUTOR – *She certainly wasn't there.*

WITNESS – *No, in front there were the four of them.*

PROSECUTOR – *So she was probably in the living room?*

WITNESS – *Either in the living room or she was even outside really.*

*PRESIDENT – But when you say outside, outside that area or outside the house?*

*WITNESS – Right outside the house.*

*PRESIDENT – Outside the house.*

*PROSECUTOR – So they certainly weren't there.*

*WITNESS – No. (...)"*

**[165]** (Page 70-72 of the transcripts of the 6 February 2009 hearing before the First Instance Court – testimony of Michele Battistelli)

Fabio Marzi, the other officer of the State Police, on this point reported:

*"(...) PROSECUTOR – Well, where were you? Where was Inspector Battistelli, where were the four young people Zaroli, Altieri, Romanelli, and Grande? And where were the two defendants?*

*WITNESS – Well...*

*PROSECUTOR – Try to locate them exactly in the moment when the door was about to be broken open.*

*WITNESS – Yes, well, I wasn't near the door and neither was the inspector. I was further back with respect to the inspector who was towards the table, towards the table situated in the living-room, at least that's how it seems to me that I saw him the last time that... that is at that point in time. I was almost on the doorstep of the front door.*

*PROSECUTOR - Almost outside.*

*WITNESS – Almost outside. yes. Next to me was Amanda and Altieri is the one who physically...*

*PROSECUTOR – Yes, excuse me, before going ahead, I'm not interrupting you, but before going ahead. Where was Sollecito?*

*WITNESS – Sollecito, I can't say where he was at that moment.*

*PROSECUTOR – Did you see him inside?*

*WITNESS – No, we were all together, to pry open the door... on the... on... so opening it, Altieri was the one forcing the door and...*

*(...)*

*WITNESS – There was Altieri and the other fellow called Zaroli.*

*PROSECUTOR – Then who was there? Let's go on.*

*WITNESS – That's it, there were those two.*

PROSECUTOR – *Who was the furthest away. Well, in front there was Altieri, wasn't there? In front of the door.*

PRESIDENTE – *Altieri and?*

[166] WITNESS – *Altieri and Zaroli, the other fellow who arrived.*

PRESIDENTE – *Go on with this picture of the scene.*

WITNESS – *Yes, the position of the inspector in respect to them was further back.*

PROSECUTOR – *Well, excuse me, explain it to me. Altieri was in front of the door.*

WITNESS – *Yes.*

PROSECUTOR – *Where was Zaroli?*

WITNESS – *He was next to him, he wasn't very far from him.*

PROSECUTOR – *On his left or on his right?*

WITNESS – *Whether on the left or the right I don't remember. I repeat, I was further away, I don't have a precise picture.*

PROSECUTOR – *And where were Ms. Romanelli and Ms. Grande?*

WITNESS – *I believe Ms. Romanelli and Ms. Grande were inside the house, but more or less in the position where the inspector was, in the living-room, something like that.*

PROSECUTOR – *Understood. Thus there in front of the door were the two fellows, Altieri and Zaroli.*

WITNESS – *Yes.*

PROSECUTOR – *Then in the living-room there was Battistelli.*

WITNESS – *Yes.*

PROSECUTOR – *Ms. Grande, if I've understood correctly, and then outside, let's go back to what I was saying earlier, outside, almost outside there was she with Amanda.*

WITNESS – *Yes.*

PROSECUTOR – *Sollecito?*

WITNESS – *I don't know where Sollecito was at that moment.*

PROSECUTOR – *We have arrived. At a certain point the door is broken down.*

WITNESS – *Yes.*

PROSECUTOR – *What happens when the door is broken open? Who breaks it open?*

PROSECUTOR – *And what happens?*



WITNESS – *What happens is that you hear the shouts of the people who see... “Meredith, Meredith!” Because this foot was poking out from under the eiderdown and I looked in from the threshold [167] of the door to see what was there. In the meantime, the inspector had seen who was behind (the door) inside the room and he had made everyone go out of the house. And together we made everyone go away.”*

(Pages 132-135 of the transcripts of the 6 February 2009 hearing before the First Instance Court – testimony of Fabio Marzi)

Going to the testimony of Marco Zaroli, the witness reported:

*“(…) PROSECUTOR – Let us say, here we are, you call to mind the scene, you are in front of the door to Meredith’s room, aren’t you? You were in front and then who (else) was in front of the door?*

*WITNESS – Right in front there was Luca who was on my right, I was just on his left, Luca kicked in the door.*

*PROSECUTOR – Wait, before going ahead. Then who was near you?*

*WITNESS – On my left were Paola and Filomena and a bit behind off center there was Inspector Battistelli.*

*PROSECUTOR – Where were Amanda and Sollecito?*

*WITNESS – I remember when we opened the door and saw the body, once the impasse of a few seconds in realizing what had happened was over, I turned around to go outside, I saw Amanda beyond the kitchen door, so she was in the kitchen at that moment.*

*PROSECUTOR – In the kitchen. And Raffaele?*

*WITNESS – I don’t know.*

*PROSECUTOR – So he wasn’t in the corridor, anyway?*

*WITNESS – No.*

*PROSECUTOR - And not even in the kitchen at that point, if you didn’t see him?*

*WITNESS – However, I had a limited view at the door.*

*PROSECUTOR – Therefore, at a minimum he was in the kitchen.*

*WITNESS – Yes.”*

(Pages 180-183 of the transcript of the 6 February 2009 hearing before the First Instance Court - testimony of Marco Zaroli)

Luca Altieri expressed himself as follows:

**[168]** *“(…) PROSECUTOR – Now we will try to indicate precisely the position of the various people who were in front of the door. So there is Meredith’s door?”*

*WITNESS – Well, right in ... right on front of the door there was Marco and I, while I was trying to break it down.*

*PROSECUTOR –*

*WITNESS – Next to us, just on the left, there were Paola, Filomena and the two postal police officers. As for the position of Amanda and Raffaele I can’t tell you where Amanda and Raffaele were, I can tell you where they were not, that is they were certainly not in a position to look into the room and neither did they later, according to me.*

*PROSECUTOR – You mean they were at the back of the two from the Postal Police or actually outside of the corridor?*

*WITNESS – I can’t tell you.*

*PROSECUTOR – You don’t know. However, they were not in a position such as to be able to see.*

*WITNESS – They weren’t in the place where you could look into the room, but whether they were at the back or outside I don’t know. ... )”*

(Pages 220-221 of the transcript of the 6 February 2007 (sic)<sup>19</sup> hearing before the First Instance Court – testimony of Luca Altieri)

As it is easy to observe from the reading of the statements cited above, none of the persons present was able to locate the two defendants in the commotion preceding the breaking down of the access door to Meredith Kercher’s room. In particular, the Postal Police officers themselves had been separated in the dwelling, and while Fabio Marzi was taken by Amanda Marie Knox to look at the drops of blood, Inspector Battistelli was on the other hand following the long conversation that took place before the door was forced open. It is a fact that in the commotion preceding the door being forced open and the phase of the door being forced open fully four witnesses of the six people present, other than the defendants, were not able to physically place Raffaele Sollecito inside the apartment. Furthermore, one of the officers of the State Police placed the defendant outside the apartment.

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<sup>19</sup> The correct date is 6 February 2009

What this really means is that the logical argumentation made by the Judges of first instance themselves does not stand up to the simple observation that in the phases preceding the [169] discovery of the body no one present, not even the State Police officers, took any notice of the movements of Raffaele Sollecito, who thus had the opportunity to absent himself from the sight of those present, and of making, in the space of a few minutes, the telephone calls to his sister and to 112. It is to be noted indeed that inside 7 Via Della Pergola, between 12:30 pm and 1:00 pm on 2 November 2007, the crowd of people, all there for different reasons, had created a situation of appreciable confusion that certainly prevented the State Police officers from paying attention to what each young person was doing from time to time.

And, furthermore, it must be observed that neither Inspector Battistelli nor Assistant Marzi had any need to keep those present under observation since, up until the moment of the discovery of poor Meredith Kercher's body, their presence could be considered a routine visit for the purpose of looking into the loss of a cell phone. To this must be added that the arrivals were separate, in the sense that Battistelli and Marzi arrived first, followed by the arrival of Marco Zaroli and Luca Altieri; and finally Paola Grande and Filomena Romanelli arrived, and that this sequence certainly increased the confusion among those present.

And, nevertheless, a hypothetical argument, such as the one of the first instance Judges, furthermore not founded on objectively perceived facts, is not enough to invalidate those that are the result of scrutinizing phone records and images from a CCTV camera positioned in such a way as to permit the recording of entries to the cottage.

The Sollecito Defense moreover conducted a defensive argument focused solely on the circumstance that the CCTV camera number 7 had an unreliable time-clock, in the sense that the time recorded by the device was alleged not to correspond with real time. And this should be observed from the recording of the passage of the Carabinieri vehicle which occurred after the call to 112.

The Sollecito Defense took its starting point from the observation that in relation to the service report of 29 September 2008 noted above, the State Police officer claimed, at the end [of the report] that the time-clock of the device was 10 minutes ahead of "*ora legale*" [summertime/daylight saving time], and thus all the times registered, including the arrival of the Postal Police, which the CCTV camera registered at 12:36:16 pm, should therefore be read as taking place at 12:26:16 pm. The Defense claimed that at the hearing in March 2009, when the State Police officer had been [170] heard expressly about the reasons for such a claim, the latter had admitted he did not remember the episode, but to have certainly been wrong when he made a reference to the so-called "*ora legale*" [summertime/daylight saving time]. The Defense had moreover proceeded to an investigation of its own, which had shown that the time of the CCTV camera was certainly wrong, but in the exactly opposite way: that is to say that the time reported should be advanced by 10 minutes. This observation was based on a specific circumstance that was taken into account. It could be verified that the time when the radio-controlled car of the Carabinieri first appeared was indicated by the CCTV camera as 1:22:38 pm, and this time was disproved by the circumstance that the Carabinieri had contacted Amanda Marie Knox's telephone service at 1:29 pm to get an explanation of exactly where the entrance to the cottage was because they were having trouble finding it. Consequently, if the radio car of the Carabinieri had not yet found the entrance to the cottage at 1:29 pm, this same car could not have been photographed at 1:22:38 pm at the entrance to the cottage; so that there was proof in the court file that the CCTV camera indicated a time different from the actual time, but because it was slow, not fast.

The Court observes how this reconstruction made by the Defense, even if at first sight attractive, turns out to be misleading, because it is founded on undemonstrated claims and on an erroneous calculation.

In the first place, the passing by of the Carabinieri's vehicle at 1:22:38 pm is linked with difficulty to one sole passing-by done by the radio-car, which evidently made several drives by before resigning themselves to ringing the operations center to ask for directions on how to find the place to visit.

In the second place, it should be affirmed that the telephone call made at 1:29 pm to Amanda Marie Knox's service was made at the same time as the first drive-by by the Carabinieri's car recorded by the CCTV camera. Only in this way, indeed, will we be able to evaluate the almost seven minutes' difference which supposedly constitutes the inaccuracy of the CCTV camera. Now, not only nothing tells us that such a coincidence is real, but we have in the court file the confirmation by a witness that such a coincidence is not real. In fact it was not the Carabinieri in the radio-car in service to call Amanda Marie Knox's cell telephone directly, but the latter contacted the operations center, according to service protocol, that put them in contact with the young woman. Therefore it evidently took some time from the moment when the Carabinieri arrived near the cottage and when they made [171] the telephone call to obtain precise information about the address; with the consequence that the 6:22 minutes difference calculated by the Sollecito Defense must be further reduced.

But even in the case it were desired to maintain that the CCTV camera recorded a 6:22 minute advance in time (because it is this and nothing else that emerges, to concede everything, from the inaccuracy of time demonstrated by the Defense) the times of the telephone calls do not coincide exactly with the line proposed by the Defense.

In fact we should maintain that the Postal Police arrived at the cottage not at 12:36:15 pm on 2 November 2007, but rather at 12:42:38 pm. Therefore, still nine minutes before the first call to 112 registered at 12.51.40 pm.

And, what is more, the State Police officers who were present, Inspector Battistelli and Assistant Marzi, have always observed that precisely because of the difficulty in finding the access to the dwelling, Inspector Battistelli got out of the vehicle and set off on foot while his colleague occupied himself with maneuvering to park.

Hence, even wishing to hold as founded the observation of the Defense about the imprecision of the CCTV time-clock, and desiring to hold that Inspector Battistelli, when he looked at his

watch to see the time to put in his service notes, made an error of a quarter of hour, there still remains a discrepancy of a good nine minutes between the time when the State Police arrived at the cottage and the time when Raffaele Sollecito called 112 for the first time. But there is more.

There are considerations of a logical character which rule out that Inspector Battistelli and his colleague arrived at the cottage in Via della Pergola around 1:00 pm on 2 November 2007, as maintained by the Defense of the defendant Sollecito.

Indeed, we know for a certainty, even leaving aside the time, that Inspector Battistelli together with his colleague arrived at the cottage in Via della Pergola when the two defendants were alone, and Inspector Battistelli saw them sitting outside the dwelling; neither Filomena Romanelli and her friend Paola Grande nor their two fiancés Luca Altieri and Marco Casoli had yet arrived. We also know with certainty that at 12:34:56 pm Filomena Romanelli, after two failed attempts (telephone calls at 12:12:35 pm and at 12:20:44) succeeded in talking to Amanda Marie Knox, and that the witness gives us the gist of her telephone call:

*“(...) QUESTION – So there are other telephone calls?”*

**[172]** *ANSWER – Yes, I tried to call Amanda straight away but she didn’t reply and I became a little more worried.*

*QUESTION – What time was it, roughly?*

*ANSWER – Now everything starts to become very rapid, let’s say in the sequence of my memories I have everything very much overlapping because I tried, if I’m not wrong, in the end I spoke with Amanda two or three times, I tried to call her again, she answered, I asked her what had happened and I sincerely hoped for a positive response that everything was all right, something like that, instead she told me that there was a broken window in my room and that everything was in a mess and to come home and I told her, ‘Call the Carabinieri, call someone, I’m at the fair now, I’ll get the car and I’ll come home at once.’*

*QUESTION – And what did Amanda answer faced with the advice to call the Carabinieri?*

*ANSWER – Yes, yes.*

*QUESTION – That is I’ll do that.*

*ANSWER – Yes, she told me yes, yes.*

*QUESTION – Look, in reference to your room (being) all in a mess, well was that said in the last or in the second telephone call?*

*ANSWER – Yes, not straight away.*

*QUESTION – At what time roughly, try to put them in order... Even if I understand.*

*ANSWER – It was all very quick, perhaps not even at 12:30 pm, I don't know it's all very quick, I wasn't looking at the time, between a quarter past twelve and half past twelve. (...)"*

(Page 36/38 of the transcript of the 7 February 2009 hearing before the First Instance Court – testimony of Filomena Romanelli.)

From the chronological sequence it therefore emerges that at 12:34:56 pm of 2 November 2007 Amanda Marie Knox received the last call from Filomena Romanelli, to whom she reported the situation of disorder discovered in her bedroom, and the two young women agreed that something serious had happened, that probably some stranger had entered the room in the obvious intent to commit a burglary. Filomena Romanelli, understanding the gravity of the situation that had been described to her, advised Amanda Marie Knox that she should call the Carabinieri and she said that she, who was at a fair in a town not very far from Perugia, would come home immediately. The first telephone call to the [173] Carabinieri made by Raffaele Sollecito bears the time of 12:51:40 pm, that is about a quarter of an hour after Ms. Romanelli's last call.

Neither of the defendants has ever made clear, in their Defense reconstruction, what happened, or to put it better, what is supposed to have happened during those 15 minutes when both the young people were alone near the dwelling in Via della Pergola, since, according to the reconstruction of their Defense, the State Police had not yet arrived; nor had Marco Zaroli and Luca Altieri arrived.

But above all, there is no explanation for the behavior of the two defendants.

Once the burglary has been discovered, the blood traces, the open front door and Meredith's locked room, and once Filomena Romanelli has urgently asked Amanda to call the Carabinieri

immediately, why ever should one wait more than a quarter of an hour to make a telephone call to 112? But above all it is not known, because nobody has explained it, why Raffaele Sollecito, before making a call to 112, in a clearly obvious situation that certainly required the attendance of the police, called his sister, who was at the time an officer in the Corps of the Carabinieri, at 12:50:34 pm. Under these circumstances, there was no advice at all to be had about what to do. Right from 12:35 pm it was clear that the police should be called; and in fact Filomena Romanelli had expressed herself accordingly. What, then, could have occupied Amanda Marie Knox and Raffaele Sollecito for a good quarter of an hour (a significant period of time that passes very slowly if their state of mind had been one of understandable anxiety) before deciding to call 112, is not known. Nobody has ever explained it.

The reconstruction of the events of the morning of 2 November 2007 given by the defendants, turns out, in conclusion, not only no objective corroboration in what has emerged during the case, but above all it finds no logical explanation at all.

The behavior of the two defendants emerges as completely disconnected from any conduct whatsoever resulting from what they from time to time ascertained outside or inside the cottage.

Therefore, it is reasonable to attempt a reconstruction of what actually happened on the morning of 2 November 2007, completely adhering to the court data, and in line with the circumstantial framework already highlighted in the preceding sections. [174]

Amanda Marie Knox and Raffaele Sollecito made a first telephone call from their residence to Meredith's English service, in order to check that the telephones, thrown away the night before in open country (or rather what they thought to be open country) had not been found.

From Raffaele Sollecito's residence, and not from Via della Pergola as Amanda Marie Knox explicitly stated by telephone to Filomena Romanelli, the latter was put on the alert with the aim of provoking her return to the dwelling, where Meredith's body would have been



discovered, not by Amanda Marie Knox and Raffaele Sollecito, but in the presence of other witnesses, who could have confirmed the simulation of the furtive entrance of the assailant through the window of the bedroom used by Filomena Romanelli.

At 12:34:56 pm of 2 November 2007 the two defendants were contacted by the telephone call of Ms. Romanelli whom they told about the presumed burglary, so as to provoke her return to the cottage. A very few minutes went by while the two defendants were probably deciding what to do, when the unexpected arrival of Inspector Battistelli created a sudden intrusion. The police were not expected, because nobody had yet called the police forces, and the two defendants were not aware of the reasons for their intervention.

Amanda Marie Knox and Raffaele Sollecito therefore found themselves faced with a situation which they had not anticipated, which was not planned, and which required immediate countermeasures. The officers were thus directed to see what must have seemed to them the scene of a robbery, and they were reassured about the fact that the Carabinieri had been advised, and that therefore their presence was not absolutely necessary. But the two policemen had not arrived there by chance, since they were looking for Filomena Romanelli who lived there, and so they did not go away. They stayed on the scene even when Ms. Romanelli, her friend Paola Grande, and young women's two fiancés arrived. In the meantime Raffaele Sollecito was seeing to the making of the calls to 112, preceded by the one to his sister, while Amanda Marie Knox, at 12:47:23 pm was calling her mother's American telephone service, talking with her for 88 seconds.

It is to be observed how nobody took any notice of the movements of the two defendants in the half hour which went by from the arrival of Inspector Battistelli and when, presumably around one in the afternoon, the door of Meredith Kercher's room was broken down and the body was discovered.

This can be learned from the testimony of the witnesses cited above, but also [175] from the circumstance that the situation which was taking shape under the eyes of the State Police was

that of a probable robbery which had happened during the night, and the postal police had not come to carry out an inspection in relation to such a crime, but to carry out an investigation which required contact with Filomena Romanelli.

Essentially, this was a relatively calm situation, where the telephone activity of the persons present could well escape notice. Until Meredith Kercher's body was discovered.

The Court holds this essentially to be the most credible reconstruction of the events of the morning of 2 November 2007, a reconstruction which further enriches the circumstantial framework which leads to the upholding of the defendants' criminal responsibility in the murder of Meredith Kercher.

## **6. The genetic investigations of the evidence**

It is necessary, at this point, to deal with the issues connected to the assessments of items of evidence from the searches and from the crime-scene investigations carried out by the investigative police both in the cottage on Via della Pergola no. 7, and in the homes and in the places habitually frequented by the defendants and by Rudy Hermann Guede. The present section is dedicated to evaluation of the findings of the genetic investigations by the personnel of the Section of Genetic Forensics at the Forensic Police Service of Rome, a technical specialization of the State Police. The collection [of evidence] and the genetic investigations were carried out personally and under the technical supervision of Dr. Patrizia Stefanoni, official of the Ministry of Internal Affairs/Home Office, with the qualification of Biologist.

Because of the importance that this circumstance will take on as this discussion advances, it is proper to clarify already at this point that, as a result of [the knife] being kept in custody and widely-believed unrepeatability of the forensic police tests requested from the above-mentioned facility, the Prosecutor in Perugia, following the arrest of the present defendants, made a specific procedural choice, giving orders that all the technical tests should be carried out

according to the provisions of article 360 of the Code of Criminal Procedure; and thus notification of the place and time of the evidence-examination operations was given to the parties' Defense and to their nominated consultants, with the opportunity of attending the operations themselves. It is, therefore, an in-depth technical activity that has been put in place by the State Police in a "*guaranteed*" form [176], giving trial party specialists the concrete opportunity of attending the evidence-finding operations, or at any rate [attending] all the operations of examining the pieces of evidence themselves.

On 13 June 2008, Dr. Stefanoni lodged her technical report with the Prosecutor's Office in Perugia, with an appended file of photographs of the pieces of evidence, containing the laboratory analysis of 460 pieces of evidence, collected during the course of the searches carried out by the State Police, both in the villa that was the scene of the murder, and in the homes of Raffaele Sollecito, of Rudy Hermann Guede, as well as in the "Le Chic" pub owned by Patrick Diya Lumumba. These searches were carried out in the cottage at Via della Pergola no. 7 from 7:00-8:00 pm on the evening of 2 November 2007 until the entire day of 6 November 2007, and subsequently on the date of 18 December 2007. On 13 November 2007, a search was carried out in the meantime in the Audi A3 vehicle owned by Raffaele Sollecito, as well as in his home located in Corso Garibaldi 110. On 14 November 2007 the inspection and search concerned the "Le Chic" pub owned by Patrick Diya Lumumba. And finally on 20 November 2007 the home of Rudy Hermann Guede was searched.

The laboratory analyses of the materials collected during the course of the crime-scene inspections in the cottage on Via della Pergola no. 7, as well as during the searches, were begun on 12 November 2007, and then continued on 22 November 2007 and subsequently on 27 November 2007; then again on 10 December 2007 and the following 14 December 2007. With regard to the pieces of evidence collected during the searches of 18 December 2007 in the cottage that was the scene of the murder, the related analyses were carried out on 21 December 2007. On 20 May 2008, it can be seen from the case files that a meeting took place with the parties' consultants, during the course of which Dr. Patrizia Stefanoni informed them of the results of the tests carried out.

With regard to the technical investigations carried out, and their results, Dr. Stefanoni was then questioned by the Preliminary Hearing Judge (“G.U.P.”), and later, at the beginning of the trial, by the First Instance Court for two consecutive hearings, during the course of which a cross-examination of a technical nature took place with the participation of all the parties’ consultants, each of whom testified in the hearings.

From the results of the laboratory investigations and of the trial cross-examination, trial material of a technical-scientific nature has thus been established which it is essential to use as a starting point when developing an argument regarding the evidentiary and probative significance of the results of these technical investigations. And this, bearing in mind that the results of the investigation carried out by the [177] forensic police, in the guaranteed technical consultancy forms, were contested by the technical consultants of the accused during the course of the trial proceedings of the first-level judgment, with specific – albeit not exclusive – reference to the analyses on Exhibits no. 36 (the knife, the presumed crime weapon) and 165 B [bra clasp]; and, with the above-mentioned limitation, were the object of a renewed expert-assessment, ordered by the Court of Assizes of Appeal of Perugia, in the second-level of the proceedings.

Finally, it should be recalled that this Court, [in] accepting the express guidelines set out by the Supreme Court in the judgment of annulment with remand for trial, and with the aim of nonetheless concluding the analysis of all the pieces of evidence, ordered further technical-scientific testing of the trace found on the blade of the knife judicially seized, and confirmed by the First Instance Court sentence as being one of the crime weapons (Exhibit no. 36), trace (I); a trace that had already been detected and “processed”, with extraction of material, during the course of the tests carried out on the weapon by the experts nominated by the Court of Assizes of Appeal of Perugia in the second level of the trial, but [which had] never previously been the subject of specific testing. The technical assessment ordered by this Court was carried out by the R.I.S. (“*Reparto Investigazioni Scientifiche*” – Scientific Investigative Unit) of the Carabinieri Corps, with its headquarters in Rome, and lodged in the course of the trial.

Only the outcome of a comprehensive examination of all these results of a scientific nature – an examination that evaluates all the competencies and professionalisms that under various headings followed one upon the other during the course of the trial discussions in the various trial levels – can furnish an adequate answer on the value, or not so much, of the technical investigations carried out for the purpose of reconstructing the events that led to the death of Meredith Kercher.

Since this Judge must give a logical and systematic order to the evaluation of the considerable mass of [trial] documentation – as pointed out above – it is considered necessary to take as a starting point the results of the technical investigations carried out by the Forensic Police of the State Police, and entered in the technical report lodged with the Prosecution of the Republic in Perugia on 13 June 2008; and then to proceed with an evaluation of the technical papers by the parties' technical experts, and to the technical report lodged at the Court of Assizes of Appeal of Perugia by professors Stefano Conti and Carla Vecchiotti.

It is worth recalling here, at the outset, that of the 460 pieces of evidence examined by the State Police, only a limited number were of specific importance to the trial [178] for the reconstruction of events and for the attribution of criminal responsibility (about 33 pieces of evidence turned out to be useful). Among these, [are] unquestionably Exhibit no. 36 (the knife) and Exhibit no. 165 B (bra clasp), plus a limited number of other traces and prints, all characterized by the fact that they are in some way connected with a substance considered to be blood and at any rate with the presence of biological substances, all of them found inside the cottage at Via della Pergola no. 7.

The Court must focus its attention on these exhibits exclusively, since the rest of the exhibits are totally irrelevant for the purposes of the present trial.

But let us proceed in order.

1) The knife: This is the exhibit identified by the number 36 in the report lodged on 13 June 2008, and from which seven samples were taken. It has already been pointed out that the experts appointed at the appeal level found two further traces on the blade of the knife, trace (H) and trace (I), and [that] the latter trace was not analyzed as a result of the experts' explicit discretionary choice, which will be discussed in greater depth [at a later point].

2) The bra clasp: This is the exhibit indicated by number 165 in the report lodged on 13 June 2008, from which two sample were taken: one identified by the letter (A) and carried out on the cloth attached to the small metallic closing hook; and the other distinguished by the letter (B), and carried out on the two small closing hooks.

Both these exhibits were examined in detail eventually, since they were the subject of specific and complex criticisms both on the part of the defendants' technical consultants and on the part of the court-appointed experts, Professors Stefano Conti and Carla Vecchiotti.

3) The three swabs taken from the body of Meredith Kercher: These are the three swabs (Exhibit no. 12), both vaginal and rectal, that were performed late in the evening of 2 November 2007, when the forensic police had finished their evidence collection, allowing Dr. Lalli (the coroner) and Dr. Stefanoni to examine and perform [various tasks] on the lifeless body of Meredith Kercher. Dr. Stefanoni expressed herself thus: "... [T]he traces analyzed, which formed part of Exhibit 12, gave results that are reported as follows. The traces named A1, B and C gave the genetic profile of the victim, Meredith Susanna Cara Kercher, shown in Table 12-I. The analysis of the DNA extract obtained from trace A2 did not give any useful result, either regarding the amplification of the autosomal STRs [Translator's Note: STR = short tandem repeat] or regarding the Y-chromosome STRs. [179] The amplification of the Y-chromosome STRs with regard to the DNA extraction from trace B gave as a result the same haplotype belonging to Rudy Hermann Guede, as shown in Table 12-11. This attribution was carried out by comparing the haplotype in Table 12-II to that indicated in Table 58-II on page 95, obtained from the analysis of the toothbrush (Exhibit 58) found in the bathroom of the apartment used by Guede. (It should be recalled that the Y-chromosome haplotype is shared by all the male descendants of a family, so it does not provide a [positive] identification, but requires the supporting evidence of the genetic profile given by the autosomic STRs.) The analysis of the Y-chromosome STRs of the DNA in trace C did not provide any useful results". Thus a trace, probably from epithelial exfoliation/desquamation, which is explicitly attributable to Rudy Hermann Guede, was recovered from the inside of Ms. Kercher's vagina.

4) The white bra spotted with presumed blood (Exhibit no. 59). This is the bra found in the bedroom of the victim, and worn by the latter on the evening of the murder. This garment figures in various photographs appended to the photo album compiled from the search carried out in the cottage at 7, Via della Pergola<sup>7</sup>, and particularly in the photographic attachment to the technical report (photo no. 89/92). The garment was found to have its end part, near the small closing hooks, cut cleanly off, presumably by a *sharp blade*. Dr. Patrizia Stefanoni acknowledged in the technical report that she had extracted from this bra a piliferous formation [Translator's Note: i.e., a hairlike structure] which, on analysis, had not provided any useful results. Six samples were taken, amplified and analyzed on the autosomic STRs and Y-chromosomes, which gave the following results: "... [F]rom the analysis of all the traces it was possible to extrapolate the genetic profile of the victim, Meredith Susanna Cara Kercher. Furthermore, the analysis of trace B for the determination of the Y-chromosome haplotype gave as a result the Y haplotype of Rudy Hermann Guede. This result tallies with the genetic profile of the autosomic STRs extrapolated from the analysis of trace B, in which in some genetic loci there appear – at a much lower height compared to the alleles belonging to the victim – allele peaks that match the alleles characteristic of Rudy Hermann Guede's genetic profile".

5) Imitation leather purse found inside the victim's room (Exhibit no. 166). This is a handbag in imitation leather found during the search carried out at 7, Via della Pergola on 18 December 2007. Two samples were taken [180] from this handbag. Sample B gave a genetic result that is compatible with the victim. Sample A, on the contrary, allowed "...the extrapolation of a genetic profile drawn from a mixture of biological substances belonging to at least two individuals, of whom at least one was male. The comparison carried out between the genotype found in trace A of Exhibit no. 166 with those belonging to Rudy Hermann Guede and Meredith Susanna Cara Kercher provided a result indicating compatibility. In other words, the genetic profile shown in Table 166-II is compatible with a hypothesis of mixed biological substances, undoubtedly containing hematic substances, belonging to Rudy Hermann Guede and Meredith Susanna Cara Kercher. Analysis of the Y chromosome enabled the Y haplotype to be determined, as shown in Table 166-III, concerning the DNA extracted from trace A. This result also confirmed the presence of DNA belonging to Rudy Hermann Guede ..."

6) Light blue sweatshirt soaked with presumed blood found in the victim's room (Exhibit no. 171). This is the sweatshirt Meredith Kercher was wearing on the evening the murder took place, which was collected during the search on 18 December 2007 carried out by the State Police. Four samples were taken from this sweatshirt: one on the back (D), two on the left wristband and forearm (A and B), and one on the left wristband (C); and Dr. Stefanoni

concluded that "[A]ll the traces analyzed gave the genetic profile of the victim.... Furthermore, analysis of the Y-chromosome STRs of the extracts from the same traces permitted a single useful result to be obtained from the extract relating to trace B. From this analysis it was possible to determine that the Y-chromosome haplotype was identical to that belonging to Rudy Hermann Guede." Thus the trace of Rudy Hermann Guede was found on the left wristband of the sweatshirt worn by the victim.

7) Light blue bathmat positioned on the flooring in front of the washbasin/sink, affected by traces of presumed blood (Exhibit no. 22). This is a small cloth mat on which traces of presumed blood were revealed, one of which was in the shape of the outline of a footprint, and from which three samples were taken, A), B), and C), which gave the following results: "... [T]he traces analyzed belonging to Exhibit no. 22 provided as a result the genetic profile of the victim, Meredith Susanna Cara Kercher, already shown in Table 12-I (comparison carried out with the genetic profile reported on page 50 concerning Exhibit 21, blood swab carried out in the largest wound found on the victim's neck").

**[181]** 8) Sample of presumed blood collected from switch plate of the light in the small bathroom adjacent to Meredith Kercher's room (Exhibit no. 23). "... [T]he analyzed trace belonging to Exhibit no. 23 provided as a result the genetic profile of the victim, Meredith Susanna Cara Kercher, [as] already shown in Table 12-I (comparison carried out with the genetic profile reported on page 50 concerning Exhibit 21, blood swab carried out in the largest wound found on the victim's neck)."

9) Sample of presumed blood collected from the front surface of the washbasin faucet in the small bathroom adjacent to Meredith Kercher's room (Exhibit no. 24). "...[T]he trace analyzed, [which] belonged to Exhibit no. 24, gave as a result the genetic profile of Amanda Marie Knox (comparison carried out with the genetic profile reported on page 64, Table 31, concerning Exhibit no. 31, saliva swab collected from the same.

10) Sample of presumed blood collected from the edge of the drain in the bidet of the small bathroom adjacent to Meredith Kercher's room (Exhibit no. 66). "... The analysis of trace A gave a genetic profile derived from a mixture of biological substances (undoubtedly containing human blood), belonging to at least two individuals, both of female gender. The comparison carried out between the genotype obtained from the trace from Exhibit no. 66 and those belonging to Meredith Susanna Cara Kercher and Amanda Marie Knox (comparisons carried out, respectively, with the genetic profile reported on page 50, Table 21, concerning Exhibit 21, and with the genetic profile reported on page 65, Table 31, concerning Exhibit 31), gave a result indicating compatibility, that is to say the genetic profile shown in



Table no. 66 [sic] is compatible with the hypothesis of mixed biological substances, containing human blood, belonging to Amanda Marie Knox (in a lesser proportion) and to Meredith Susanna Cara Kercher (in a greater proportion”).

11) Samples of blood collected from the transparent plastic cotton-bud container located on the ledge<sup>20</sup> of the washbasin (on the left-hand side) and from the inside the basin of the washbasin in the small bathroom adjacent to Meredith Kercher's room (Exhibits Nos. 136 and 137).

“...[T]he two traces analyzed, one belonging to Exhibit no. 136 and the other to Exhibit 137, both gave a genetic profile derived from a mixture of biological material undoubtedly containing blood, belonging to at least two individuals of female gender. The comparison carried out between the genotype obtained from the two traces analyzed [182] and those belonging to Meredith Susanna Cara Kercher and Amanda Marie Knox (comparisons that were carried out, respectively, with the genetic profile reported on page 50, Table 21, concerning Exhibit 21, and with the genetic profile reported on page 45, Table 31, concerning Exhibit 31), gave a result indicating compatibility, that is to say the genetic profile shown in Table no. 136\137 is compatible with the hypothesis of mixed biological substances, belonging to Meredith Susanna Cara Kercher and Amanda Marie Knox.”

12) Sample of presumed blood collected from the toilet-seat [cover] in the small bathroom adjacent to Meredith Kercher's room (Exhibit no. 139). “... [T]he trace analyzed relating to Exhibit no. 139 gave as a result the genetic profile of the victim, Meredith Susanna Cara Kercher, previously shown in Table 12-I (comparison carried out with the genetic profile reported on page 50, concerning Exhibit 21, the blood swab carried out in the largest wound found on the victim’s neck)”.

13) Sample of presumed blood collected from the right-hand external side of the door-frame, about 50 cm above the floor of the small bathroom adjacent to Meredith Kercher's room (Exhibit no. 140). “... [T]he trace analyzed relating to Exhibit no. 140 gave as a result the genetic profile of the victim, Meredith Susanna Cara Kercher, [as] already shown in Table 12-I (comparison carried out with the genetic profile reported on page 50, concerning Exhibit 21, the blood swab carried out in the largest wound found on the victim’s neck).”

14) Fragment of toilet paper found inside the toilet bowl of the large bathroom (Exhibit no. 25). This is the toilet paper found inside the toilet of the largest bathroom in the apartment, adjacent to Laura Mezzetti's room. Two samples were taken from the exhibit, A) and B), in order to be

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<sup>20</sup> Translator’s Note: i.e., the flat part next to the faucet.

analyzed conjointly, and the result was the following: "... [B]oth the traces analyzed, belonging to Exhibit no. 25, gave as a result the genetic profile (Table 25-I) belonging to Rudy Hermann Guede (comparison carried out with the genetic profile reported on page 95, Table 1, concerning the trace sampled from Exhibit 58, the toothbrush found in the bathroom of the apartment used by Guede). Similarly, analysis of the Y chromosome enabled determination of the Y haplotype shown in Table 25-II, concerning the DNA extracted from both traces. In this case, too, as for the autosomal STRs, a comparison of this haplotype with [183] that shown in Table 58-II (page 95), enabled its correspondence with that of Rudy Hermann Guede to be established."

15) Exhibits 119-120 and 122. These are three exhibits [consisting] of presumed blood on roughly circular prints found respectively on the floor of the corridor, in the front half (119), in the area of the bedroom adjacent to the one where the body was found (120), and next to the door leading from the corridor to the living room and kitchen corner. All three traces gave "... as a result the genetic profile of the victim, Meredith Susanna Cara Kercher, [as] already shown in Table 12-1 (comparison carried out with the genetic profile reported on page 50, concerning Exhibit 21, blood swab carried out in the largest wound found on the victim's neck)."

16) Cigarette butt (D) collected [from] inside the blue glass ashtray situated on the table of the kitchen corner in the living room (Exhibit no. 145). This is one of six cigarette butts that were found inside the same ashtray. All six cigarette butts proved to be useful for DNA extraction, but whereas Exhibits nos. 142, 143 and 144 gave a male genetic profile concerning an unknown individual, and Exhibits 146 and 147 gave a female genetic profile relating to an unknown person (or in other words, of someone whose DNA was not available for comparison purposes), Exhibit no. 145 gave the following outcome: "... [A]nalysis of the trace related to Exhibit no. 145 allowed the extrapolation of a genetic profile deriving from a mixture of biological substances belonging to at least two individuals, of whom at least one was of male gender. The comparison carried out between the genotype extracted from trace A of Exhibit no. 145 with those belonging to Raffaele Sollecito and Amanda Marie Knox (comparisons carried out, respectively, with the genetic profile reported on page 63, Table 30-I, concerning Exhibit no. 30, and with the genetic profile reported on page 65, Table 31, concerning Exhibit no. 31) gave a result of compatibility; in other words, the genetic profile shown in Table no. 145 is compatible with the hypothesis of a mixture of biological substances belonging to Raffaele Sollecito and Amanda Marie Knox."

17) Exhibits 186, 187, 188, 189, 190 and 191. These are six exhibits of presumed blood on variously-shaped roughly circular prints found, respectively, on the floor between the door

leading to the corridor and the second single bedroom (186); on the floor between the sofa against the left wall and the table, in front of the refrigerator (188); on the [184] floor between the sofa and the table, near the refrigerator (189); on the floor between the sofa and the refrigerator (190); on the floor near the front door of the apartment (191). All six traces gave "... as a result the genetic profile of the victim, Meredith Susanna Cara Kercher, [as] already shown in Table 12-I (comparison carried out with the genetic profile reported on page 50, concerning Exhibit 21, blood swab carried out in the largest wound found on the victim's neck.)."

18) Exhibits Nos. 176 and 177. These are two samples of presumed blood, highlighted using the luminol technique carried out on floor of the room used by Filomena Romanelli. The laboratory analyses gave the following result: " *The analysis of trace A related to Exhibit no. 176 allowed the establishment of the genetic profile of the victim, Meredith Susanna Cara Kercher, [as] already shown in Table 12-I (comparison carried out with the genetic profile reported on page 50, concerning Exhibit 21), although in some genetic loci of this profile a clear background noise was present. The analysis of trace A related to Exhibit 177 enabled the establishment of a genetic profile derived from a mix of biological substances (presumably containing blood), belonging to at least two individuals, both of female gender. A comparison carried out between the genotype derived from the trace from Exhibit no. 177 and those belonging to Meredith Susanna Cara Kercher and Amanda Marie Knox (comparisons that were carried out, respectively, with the genetic profile reported on page 50, Table 21, concerning Exhibit 21, and with the genetic profile reported on page 65, Table 31, concerning Exhibit 31), gave a result [indicating] compatibility: in other words, the genetic profile ([as] already shown in Table 66) is compatible with the hypothesis of a mixture of biological substances, presumably containing blood, belonging to Amanda Marie Knox and Meredith Susanna Cara Kercher.*"

19) Exhibits nos. 178, 179 and 180. These are three samples of presumed hematic substance, similar in shape to that of a human foot, highlighted using the *luminol* technique, located on the floor in the room used by Amanda Marie Knox. The first two outlines [are] near the window of the room, and the last one near the door of the room. The laboratory analyses gave the following result: "... [A]ll three exhibits allowed the determination, from the analysis of their respective A-traces, containing presumably blood, of the genetic profile of Amanda Marie Knox (comparison carried out with the genetic [185] profile reported on page 65, Table 31, concerning exhibit no. 31), while also presenting, in the first two exhibits (178 and 179) a noticeable scattered background noise."

20) Exhibit no. 183. This is a sample of presumed blood, the shape of which is compatible with that of a shoeprint, [which was] highlighted using the *luminol* technique, and found on the floor

of the corridor, located between the rooms [sic] of the victim, and [pointing] in the direction of the latter's room. The laboratory analyses gave the following results: "... *Analysis of trace A relating to Exhibit no. 183 enabled the determination of a genetic profile derived from a mixture of biological substances (presumably containing blood), belonging to at least two individuals, both of female gender. The comparison carried out between the genotype derived from the trace from Exhibit no. 183 and those belonging to Meredith Susanna Cara Kercher and Amanda Marie Knox (comparisons carried out, respectively, with the genetic profile reported on page 50, Table 21, concerning Exhibit 21, and with the genetic profile reported on page 65, Table 31, concerning Exhibit 31) gave a result [indicating] compatibility; in other words, the genetic profile ([as] previously shown in Table 66) is compatible with the hypothesis of a mixture of biological substances, presumably containing hematic substances, belonging to Amanda Marie Knox and Meredith Susanna Cara Kercher.*"

It is worth pointing out, as has been indicated previously, that the objection of the Defense and technical consultants was aimed only at the results of the genetic investigations concerning Exhibits 36 and 165 B. Similarly, the reopened evidence discussion phase carried out at the second level of the proceeding, both by the Court of Assizes of Appeal of Perugia and by the present remanded appeal Judge, have had as their object, in the case of the former, both of the aforementioned exhibits and, in the case of the latter, only an uninvestigated trace (trace (I)) found on Exhibit no. 36 (the knife).

Regarding the totality of other traces of blood, or at any rate traces of a biological nature, found in the apartment [that was] the scene of the murder and analyzed by the Forensic Police, an evaluative line of reasoning can thus be advanced, starting from the undisputed parts of the results of the technical tests.

In truth, the Defense, referring exclusively to the traces highlighted using the *luminol* technique, also objected that the latter substance does not, in actual fact, indicate with certainty that the revealed traces are blood, [since] they could be some other substance that is nonetheless reactive to *luminol*, as is recognized in the scientific literature.

[186] *Luminol*, a chemical compound used by the Forensic Police in order to highlight traces of blood [which are] not visible using the human eye because they have been removed during the cleaning of the surroundings, is in fact a very versatile substance which, [when] mixed with the appropriate oxidizing agent, produces a bluish chemi-luminescence as a reaction to the presence of a catalyst, which may also be accounted for by the iron found in hemoglobin.

*Luminol* also produces a bluish chemi-luminescence with other substances, such as copper or bleach, human blood present in urine and animal blood, and the enzymes contained in some vegetables (potatoes) as well as in widely used commercial products ([such as] fruit juices). In essence, the Defense pointed out that the luminescent reaction detected by the Forensic Police in the apartment at 7 Via della Pergola was not necessarily indicative of the presence of blood, but could well have derived from contamination of the premises with other *luminol*-reactant substances, such as those mentioned above.

The Court notes that this criticism has scientific value in theory, in the sense that it is unarguable that the bluish luminescent reaction is not necessarily indicative of the presence of blood. But this emphasis, while certainly accurate in general terms, loses all value in the case under consideration, as soon as the traces detected with *luminol* by the Forensic Police are put into context.

And in fact, if we delve into the hypothesis that some traces were found in an area that was of no significance in relation to a murder, it might well be hypothesized that the [luminescent] reaction could be the result of a spill onto the floor of reactive substances (traces of potato, fruit juice, or something else) that were not adequately addressed through routine cleaning activities that would normally be carried out in any home. On this basis, one might not necessarily arrive at the conclusion, therefore, that blood had been shed inside that apartment. Just as one might judge the luminescence resulting from the *luminol* application to be a reaction to the use of bleach for cleaning the surrounding areas, for example, if extensive traces were highlighted in a single room and the area had no significance with regard to the occurrence of a murder.

In the case under consideration, however, the context is entirely different, since we are certain that a murder occurred in the cottage at 7 Via della Pergola, and we have an area [187] that is extensively affected by a copious loss of the victim's blood, and not just in the bedroom occupied by the latter. In a context of this sort, and in the presence of specific and localized traces (some of which are actually in the shape of a foot- or shoe-print) highlighted by *luminol*, asserting that these traces reveal the presence of substances other than blood, such as potatoes, fruit juices or bleach, without, however, providing any concrete proof in point, seems from an objective point of view to be a remarkable exercise in dialectical sophistry rather than trial evidence on which any Judge might base reasoning that would be beyond criticism.

In the house on Via della Pergola, blood was abundantly present in the bedroom of poor Meredith Kercher, just as it was also significantly present in the small bathroom next to the bedroom, and more or less everywhere. One must not forget the evidence that, together with the traces highlighted by *luminol*, there were likewise other traces that were visible to the naked eye and that were analyzed as involving human blood. Thus the presence of blood traces highlighted using the *luminol* technique, rather than representing a disparate trial fact, is on the contrary confirmation that, after the murder, the apartment underwent intensive and thorough cleaning.

Lastly, it should be pointed out that Dr. Patrizia Stefanoni, when testifying at the 22 May 2009 hearing before the First Instance Court, expressed herself, word for word, thusly: "*Then we turn to the results obtained from the luminol test. This test was carried out during the course of the second crime-scene inspection, after all the other activities were completed, on the floor of these areas; the room used by Filomena Romanelli, the room used by Amanda Knox; the corridor; the living room-kitchen corner; and the big bathroom. The outcome of these technical assessments is in fact contained in this diagram, in this table/list (note<sup>21</sup>: the witness, at the time of the testimony in court, was explaining the table annexed to her definitive report, which was filed in June 2008). The sample called L1 in the minutes of the crime-scene inspection is "victim", so, [while] it cannot be said with certainty that it is blood, naturally, because it is luminescent in luminol, but not ... precisely [as I was saying], since luminol has other fluorescence possibilities, we can only say "the victim's genetic profile", so [in other words] the victim's DNA...*" (Transcript [of the] hearing 22 May 2009 before the First Instance Court, page 83). Thus, the fact that it was possible to extract a genetic profile from the traces highlighted using the *luminol* technique signifies that they belong unequivocally in the category of [188] biological traces in which human DNA is present; therefore, at the very least, other misleading substances can be excluded.

That said, the uncontested evidence gives us a series of facts to evaluate that are unquestionably important and useful for corroborating the conclusions that this Court has already reached in considering the circumstantial picture that appeared in the preceding sections of the ruling. In the first place, it should be noted that Exhibit no. 3 (vaginal swab), showing the presence of Rudy Hermann Guede's DNA, bears out that which has, furthermore, already been asserted, both in the First Instance sentence of this proceeding and – with the authority of a finalized conviction – in the guilty verdict of Guede himself; namely, that the victim suffered a sexual

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<sup>21</sup> This is a note of the Judge writing the report, not of the translator.

assault by means of vaginal penetration, probably effected – given the nature of the biological trace – by the fingers of Rudy Hermann Guede's hand.

In the same way, Exhibit no. 6 (left wristband of the light blue sweatshirt worn by the victim at the time of the assault), showing the presence of the DNA of Rudy Hermann Guede, tells us that the latter, at the most frenzied point of the assault, acted to restrain the victim's reactions [by] grasping her left arm in the area of the wrist, with an action that, by means of friction, resulted in the loss of non-keratinized epithelial cells that were thus useful for the extraction of DNA and the consequent identification of one of the perpetrators of the murder.

The results of the analyses of these two exhibits are therefore, in the Court's opinion, extremely significant with regard to the reconstruction of the mechanics of the assault and the positive identification of the roles that the aggressors played in the frenzied moments preceding the knife blow that caused a substantial hemorrhage and resulted in the death of Meredith Kercher. The phases of the assault and the reconstruction of the actions of the aggressors will, however, be the subject of a specific evaluation in the later parts of this analysis.

Also of considerable interest in the reconstruction of the circumstantial picture are the results of the tests carried out on Exhibits (sic) no. 7 (the light blue mat with the footprint trodden in blood, found inside the small bathroom adjacent to the room occupied by Meredith Kercher); on Exhibit no. 10 (blood found on the drain of the bidet in the small bathroom adjacent to the room occupied by Meredith Kercher); and finally on Exhibit no. 11 (blood found on the cotton-bud container and on the washbasin of the small bathroom adjacent to the room occupied by Meredith Kercher).

**[189]** In the case of all three traces, there was obvious blood, even though, with regard to the blood found in Exhibits nos. 10 and 11, this blood was *pale* or [more precisely] diluted with water. It is blood, therefore, that derives from a process of washing on the part of one of the perpetrators of the murder and that survived the cleaning activities carried out in apartment's small bathroom.

The presence of all three traces of blood, their position (on the mat as regards the foot print, on the bidet and the washbasin as regards the remaining traces) shows that at least one of the aggressors, but logically two of them – a man and a woman – entered the small bathroom in order to cleanse themselves of the victim's blood, which evidently had soaked them on various

parts of their bodies, and to wash themselves, using the bidet and washbasin. The presence of mixed Kercher-Knox traces on the cotton-bud box, on the bidet, and on the washbasin leads to the conclusion that it was Amanda Knox who washed her hands and feet, both stained with the blood of Meredith Kercher and, in so doing, by rubbing [her hands and feet], losing epithelial cells that were useful for DNA extraction.

The Court considers it extremely unlikely, in accordance with case record that is deeply rooted in the common experience of life, that the man or woman who washed his or her hands and feet in that bathroom could be someone other than Amanda Knox.

We would have to hypothesize, in fact, that the drops of blood – which were later diluted – fell in precisely three distinct spots where previously (although it is not known when or how) Amanda Knox had left her own DNA. While it is in fact true that the small bathroom in the apartment was precisely the one used by the defendant and the victim, it should not be forgotten that the loss of biological substances useful for the extraction of DNA is not a phenomenon that normally happens often and with regularity in the areas that a given person frequents (the argument is obviously different on objects in common usage and on clothing, since both of these come into direct contact with the epidermis). For the loss of biological material that is useful for DNA extraction, there must be a considerable rubbing action that leaves behind biologically significant traces. [If we are to] follow the defense hypothesis, therefore, Amanda Knox would have had to deposit her own DNA in precisely the three different spots where subsequently the drops of Meredith Kercher's blood fell as a consequence of the [act of] washing with water: on the cotton-bud box, on the washbasin, and on the bidet. And naturally without the murderer him/herself – who is assumed to be someone [190] other than Amanda – losing significant biological material through the rubbing action required for cleaning his or her limbs and hands.

This Court holds that the multiplicity of evidence objectively conflicts with the fortuitousness proposed by the Defense, but that it should be considered, on the contrary, a fact leading towards a conclusion of correspondence between the person who – on the night between 1 and 2 November 2007 – washed the victim's blood from themselves in that bathroom and Amanda Knox.

Also of undoubted interest is Exhibit no. 7, that is to say the small light blue mat soaked with Meredith Kercher's blood – blood that to the eye forms the imprint of a foot with dimensions



[that are] compatible with those of a man's [foot]. This is undoubtedly the outline of a foot without footwear, and its attribution was debated at length. According to the prosecution's hypothesis (expert witness Rinaldi, in the court files), the outline is seemingly compatible with Raffaele Sollecito's foot, whereas the Defense has contested this specific attribution (expert witness Vinci, in the court files) since the preliminary enquiry.

While it is understood that we will return to this issue later, there are already some fixed points that can nonetheless be determined now.

In the first place, this is clearly the outline of a foot without footwear, of a male person (given the dimensions of the footprint), a person who had earlier stepped barefoot in the copious puddles of Meredith Kercher's blood that were present in her bedroom and who had then gone into the small bathroom, probably to wash himself.

In the second place, the outline is certainly incompatible with an attribution to Rudy Hermann Guede, since, even leaving aside the different morphological configuration of Guede's foot, the attribution of the latter to footprint "5 A" (the print of the Nike Outbreak model 2 mens' sports shoe) [which is] now undisputed evidence, and [which was] originally mistakenly attributed to Raffaele Sollecito, leads [the Court] to hold that it is highly likely, if not certain, that Guede, during the time he was moving around inside the apartment after the perpetration of the crime was wearing sports shoes on both his feet and was not moving around with one foot bare and the other in footwear. As stated, however, [we] will shortly return to this issue, since the subject of the prints found inside the cottage on Via della Pergola during the various crime-scene inspections calls for particular and specific attention.

**[191]** Finally, the outline imprinted on the small light blue mat found in the small bathroom presents us with another fact that constitutes, in the Court's opinion, an element of deductive proof.

Since no similar outlines were found in the immediate surroundings and since, as far as the print on the small mat is concerned, there was the outline of [only] a "half foot", one must therefore presume that the back part of the sole (the heel) was pressed against the tiles, where for that matter no relative print was found. Both these circumstances further confirm that, after the murder, someone took pains to undertake an intensive clean-up of the traces of the murder in the rooms of the Via della Pergola apartment - a clean-up that obviously involved the floor

tiles but not the light blue mat on which the blood had been absorbed given the porous nature of the material of which it is made.

Next comes Exhibit no. 145 (cigarette butt). This is the end of a hand-rolled cigarette, as can be seen from the photos in the case file, found inside an ashtray containing five other cigarette butts. The evidence of the discovery of mixed Knox-Sollecito DNA on the cigarette butt is of clear interest in the context of the trial, since the trace in question constitutes the only other confirmed presence of Raffaele Sollecito's DNA inside the cottage on Via della Pergola, other than the one [trace] found by the Forensic Police on Exhibit 165B) [bra clasp], which is the subject, as shall be seen, of vehement objections.

Finally, [we come to] Exhibit no. 177). This is a sample of presumed blood, revealed using the *luminol* technique carried out on the flooring in the room used by Filomena Romanelli. The analyses attributed the biological trace to an Amanda Knox-Meredith Kercher mix. The finding is of unquestionable importance in this trial, considering that the mixed trace of the victim and the defendant was found inside the room of Filomena Romanelli, in a place where – unlike the flat's small bathroom – there was obviously no regular presence on the part either of Amanda Knox or of Meredith Kercher. This room, furthermore, was the site of the simulated entry by unknown burglars set up by the perpetrators of the murder in order to lead the investigations astray during the period following the committing of the crime, when they were therefore in a condition that could transfer the victim's blood there.

**[192]** At the end of this *excursus* [digression] on the biological traces that proved useful for DNA extraction (many traces, in fact, even if correctly collected, did not give a useful identification of human DNA), it may be noted that the traces of the victim's blood were found in more or less all the rooms of the cottage, except for Laura Mezzetti's room, thus revealing that, after the murder, the rooms of the cottage were the object of repeated entry on the part of the accomplices, in order either to set up the simulation several times previously mentioned, or to carry out a clean-up of the majority of the traces of blood left more or less everywhere – a clean-up activity that was aimed at the whole flat, with the sole exclusion of the room occupied by Laura Mezzetti (where, obviously, no one had any need to enter) and also of Meredith Kercher's room, which was then locked by key.

At the end of this *excursus* on the exhibits examined and on the traces found, we now come to the findings of the technical tests on Exhibit 36 (knife, presumed crime weapon) and 165 B (bra clasp).

Because of the peculiarities of both the exhibits and because of the specificity of the objections advanced by the Defense and by the expert witnesses appointed by the Court of Assizes of Appeal of Perugia to the investigations carried out by the forensic police, this Court considers that the two exhibits should be dealt with separately, although a preliminary line of reasoning on the subject of contamination can be developed in a general way, since this is relevant in relation to both the exhibits under consideration.

First of all, it is useful to point out that as a result of the objections that the defendants' Defense teams advanced against the work of the forensic police in the appeal of the first-level sentence, the Court of Assizes of Appeal of Perugia decided to renew evidence gathering, ordering the renewal of the genetic investigations and entrusting this task to an expert panel composed of Prof. Carla Vecchiotti and Prof Stefano Conti, assigning them the following mandate: "*[Having] examined the case files and carried out the technical investigations considered necessary, the panel of experts shall determine:*

*-if it is possible, [and] through [the use of] new technical testing, the attribution and the level of reliability of any such attribution of the DNA present on Exhibits 165 B) [bra clasp] and 36 (knife); [193]*

*-if it is not possible, to proceed with new technical testing, [and to] evaluate, on the basis of the case files, the level of reliability of the genetic tests carried out by the forensic police on the above-mentioned exhibits, with reference also to possible contaminations".*

The Court therefore gave the expert panel a broad mandate, which consisted of performing new laboratory tests, and, in the event that this was not possible, in a critical reexamination of the work of the forensic police delivered in the consultancy [report] lodged in June 2008 by Dr. Patrizia Stefanoni.

On 29 June 2011, the court-appointed experts filed their report, in which, noting the impossibility of repeating the laboratory analyses and therefore performing only the activity of "reviewing" the analysis procedures used by the forensic police in accordance with article 360 of the Code of Criminal Procedure, they came to the conclusion of total unreliability of the results of the genetic investigations carried out by the forensic police, also as a result of the circumstance that it was not possible to exclude potential contamination of both the exhibits in any given phase of their collection, or analysis.

This Court considers it useful, because of the unquestionable importance that they took on during the trial, to quote in detail the court-appointed experts' conclusions as set out in the technical report lodged on 29 June 2011: "... {T}he investigations we carried out in order to ascertain the presence of blood on Exhibit 36 (knife) and on Exhibit 165B (bra clasp) gave a negative result. The cytomorphological investigations on the above-mentioned exhibits did not highlight the presence of cellular material. Some of the samples from Exhibit 36 (knife), and in particular sample (H), show granules with a characteristic circular/hexagonal morphology with a central radial-patterned structure. An in-depth study by microscope, together with consultation of the information available in the literature, made it possible to ascertain that the structures in question are attributable to starch granules, and therefore [are] material of a plant nature.

The quantification of the extracts obtained from the samples taken from Exhibit 36 (knife) and on Exhibit 165B (bra clasp), carried out using Real Time PCR, did not reveal the presence of DNA.

Given the absence of DNA in the extracts we obtained, in accordance with the parties' consultants, [we] did not proceed with the subsequent step of amplification.

**[194]**... [Having] examined the case files and trial documents, [re]viewed the laboratory investigations carried out on Exhibit 36 (knife) [and] on Exhibit 165B (bra clasp), the following conclusions can be drawn:

EXHIBIT 36 (KNIFE)

with regard to the genetic tests carried out on trace A (handle of the knife), [we] concur with the conclusion reached by the CT [consulenza tecnica, technical consultancy] regarding the attribution of the genetic profile obtained from this sample to Amanda Marie Knox.

With regard to trace B (knife blade), we hold that the technical tests carried out are not reliable for the following reasons:

1. there are no facts that scientifically prove the hematic nature of trace B (knife blade);
2. it can be seen from the electrophoresis diagrams that the sample indicated by the letter (B) (knife blade) was a low-copy-number sample, and as such all the precautions set out by the international scientific community should have been applied;
3. given that none of the recommendations of the international scientific community regarding the treatment of low-copy-number samples were followed, [we] do not share the conclusions regarding the definite attribution of the profile found on trace B (blade of the knife) to the victim, Meredith Susanna Cara Kercher, since the genetic profile –obtained in this manner – appears unreliable because it is not supported by scientifically validated analytic procedures;
4. international crime-scene inspection procedures and international protocols for the collection of and taking samples from the exhibit were not followed;

5. *it cannot be ruled out that the result obtained from sample B (blade of the knife) may derive from contamination phenomena taking place in any given phase of the collection and/or handling and/or of the analytical processes [that were] carried out.*

EXHIBIT 165B (BRA CLASP)

*with regard to Exhibit 165B, we hold that the technical tests carried out are not reliable for the following reasons: [195]*

1. *there are no facts scientifically proving the presence of presumed squamated/exfoliated cells on the exhibit;*
2. *there was an erroneous interpretation of the electrophoretic diagram of the autosomal STRs;*
3. *there was an erroneous interpretation of the electrophoretic diagram regarding the “Y” chromosome;*
4. *the international crime-scene procedures and international protocols on the collection of and taking samples from the exhibit were not followed;*
5. *it cannot be excluded that the results obtained may derive from contamination phenomena occurring in any given phase of the collection and/or handling of the said exhibit.”*

Both the expert witnesses were examined during the course of the trial examination of the Court of Assizes of Appeal of Perugia, and provided complex testimony that must be evaluated in addition to the written report [that was] lodged.

In analyzing the investigations of a technical nature to which Exhibits nos. 36 and 165 B were subjected, this Court must therefore evaluate first the results of the forensic-police tests, and then [evaluate] the objections to these which were advanced by the defendants’ technical consultants, as well as by the court-appointed experts in the Perugian appeal verdict.

Bearing this in mind, it is necessary to confront the issues – which are common both to the defendants’ Defense teams and to professors Carla Vecchiotti and Stefano Conti – of the potential *contamination* of the exhibits. This argument, obviously, must be resolved first, since in the event that a conclusion of probable *contamination* of the exhibits is reached, any evaluation of the findings on the analyses would be irrelevant for the purposes of the trial.

This Court considers that speaking of the *contamination* of exhibits in a generalized way and allowing for abstract possibilities, as was several times repeated by the Defense and by the court-appointed experts, Prof. Carla Vecchiotti and Prof. Stefano Conti, even in their written

conclusions [points 4) and 5) of the conclusions of the technical report, signed by them, and quoted several times], has absolutely no meaning in the context of a criminal trial, and is objectively deceptive.

In a general way and allowing for abstract possibilities, all or any instrument forming part of the evidence in the trial may contain within itself the seeds of contamination and of unreliability. And this is true not only for the defendants' statements, but also for the witnesses' statements (who [196] may be corrupted in order to give false testimony, or even intimidated), and even, finally, for any other assessment of a technical nature or of an unrepeatable nature carried out by the State Police, which may be tainted by falsification of the related test-transcripts carried out by those same police officials (as several trials of national importance have taught us). In the context of a criminal trial, in the face of probative/evidentiary or circumstantial evidence, whether this is thus a document, a declarative proof, or even a test of a technical or unrepeatable nature, it is necessary that the latter [i.e. evidence] should always be subjected to the critical scrutiny of those judging, which involves an evaluation of the evidence of the established fact, and of its significance in the overall context of the circumstantial or probative findings. It is necessary that the Judge naturally should also consider the issue of the genuineness and of the consequent reliability of the evidence and circumstantial evidence. But such genuineness and reliability, once the probative or circumstantial evidence has been formed, cannot be cast into doubt by mere conjectures, or by deductions based on the acceptance of mere possibility. The unreliability of the evidence or of the circumstantial evidence must be tested and linked to specific data of at least concrete probability, if not of outright certainty.

The above-mentioned procedural methodological principle, which this Court holds must be followed, must be borne in mind even in this case in point, when evidence is debated, [with] persistently repeated [claims] of the *contamination* of exhibits that were subject to technical-scientific [forensic] investigation.

While it can, with reason, be asserted that it is not the duty of the objecting party to prove the occurrence of *contamination* – since this would otherwise constitute an inadmissible inversion of the burden of proof – it must at the same time be admitted that this party has likewise an explicit duty of producing specific facts<sup>22</sup> which may actually have caused the alleged *contamination*, and regarding which an investigation may be requested from the Judge.

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<sup>22</sup> This is consistent with common law jurisprudence; while the prosecution has the burden of proof of all the

And on the other hand, in the face also of mere hypothesising about potential possibilities that one of the trial parties makes concerning the unreliability of the results of a technical investigation, it is necessary that the Judge should not stop in the face of conjecture or mere allegations of possibility, but has a duty to ascertain in actual fact, and in relation to every single exhibit, whether these [exhibits] may have been tainted by accidental contingent elements, or by the imprudent actions of those who, for various reasons, have come in contact with it, thereby causing a wrong result at the time of evaluating the evidence. And therefore effecting a [197] concrete evaluation of that which is reasonable (and documentable) which may have happened in those given time-and-space conditions, and not of that which in abstract might possibly have happened.

In essence, the duty that lies on the Judge in a criminal trial of ascertaining the historical truth of a fact, which the law connects to the infliction of a criminal punishment, requires him to shun considerations based on mere possibility, and instead to limit himself to concrete trial evidence, even potentially [evidence] of a negative nature, in order to ascertain whether the *tainting* of the evidence or of the circumstantial evidence is established, or at least whether it can be reasonably hypothesized.

Having said this in regard to method, and turning now to the merit of trial themes introduced by the parties and by the above mentioned court-appointed experts, it is possible to assert that, in general, there may be a loss of the probative/evidentiary value of an exhibit during the most different spatial-temporal conditions, and for the most varied causes. This loss of probative/evidentiary importance may arise as a *degradation* of the exhibit, or it may consist in an out-and-out *contamination*.

It can be said that there is *degradation* of an exhibit when its wrong preservation, or its careless handling, result in the loss of the trace, or in a level of change of the latter [trace] which does not usefully permit analysis: in essence, [it is] when there is a loss of the amount of DNA necessary for analysis, or in other words, it causes its unusableness.

On the contrary, one must speak of the *contamination* of an exhibit when its wrong preservation, or its careless handling, cause a transfer of traces from one exhibit to another. In such a case,

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elements of the crime and that burden does not shift, there is the related concept of the “burden of producing evidence” which may shift between the parties.

there is no loss of the amount of DNA needed for analysis, but only its *tainting*; that is to say, [there is] a mixing of traces, coming from different subjects, that causes the analysis results to lose legal significance.

These two concepts, which were several times repeated and qualified in trial by Dr. Patrizia Stefanoni during her testimony, have not been contradicted in any way, and may for that reason be acquired by this Judge as part of the fund of knowledge, and thus form a reliable criterion of judgment.

Turning now to the actual investigation of the two exhibits in question, it is necessary to observe that on both, both on the 36 and on the 165 B, there was found DNA that was considered useful for the identification of the person who deposited it. This fact categorically excludes, and [198] without the least necessity for further examination here, that either of the exhibits have *degraded*, as this would have entailed loss of the DNA useful for identification, but by no means an alteration of the DNA itself; in other words, the loss of important trial evidence, not its alteration.

From these considerations, since DNA useable for identification was extracted in both the exhibits (although using methods and with a criticality [as in “critical size”] which will be addressed later), it follows that what we must evaluate in the specificity of the case is not the *degradation* of the exhibits, since this would have involved only a loss of the data, but, if anything, the concrete possibility that there may have occurred a *contamination* of the exhibits themselves through contact which caused the accidental transfer of DNA to the exhibit itself: in the final analysis, [what we must evaluate] in accordance with the distinction [between the two terms] described above, is the possible/potential *tainting* of the exhibits.

As a consequence, it must now be ascertained, with regard to both exhibits, whether as a result of the collection methods, or of the conservation methods, or of the handling of the exhibits themselves, there could have been an accidental transfer of DNA on the exhibit under investigation – an accidental transfer of DNA which would thus have resulted in a misleading analysis on the basis of procedure in investigating the crime.

For the reasons set out, such investigations must be carried out singly for each of the exhibits, starting with an objective examination of the trial papers.



### Exhibit no. 36

State Police Inspector Armando Finzi, examined as a witness during the first-level judgment, said that he had carried out the search in the home of Raffaele Sollecito on the morning of 6 November 2007. The witness said that the State Police action had been carried out together with other State Police colleagues, and that all the personnel, before entering inside the home, had put on gloves and shoe-covers. The witness related that he had opened the first drawer of the kitchen containing tableware, and had noted a large knife that drew his attention because, being positioned on top of all the other flatware, it was particularly bright and clean when compared to the rest of the cutlery. During the hearing, the witness recognized Exhibit 36 as being the knife he had spotted and which had subsequently been seized. The inspector reported that he had collected the knife wearing gloves, and had immediately placed it in a new paper envelope, which had never previously been used, placing the closed envelope inside a small file/folder. All of this [199] was then given to the State Police Superintendent, Stefano Gubbiotti, who was examined and cross-examined during the same hearing on 28 February 2009.

Superintendent Gubbiotti stated that he had received from Inspector Finzi all the material that had been seized in Raffaele Sollecito's home; material which also included the knife, but that did not end with the knife in question.

First, he had collected the knife, which then became Exhibit no. 36, transferring it from the paper envelope where it was contained to the inside of a cardboard box that had previously been the container for a new diary, [which had been] the gift of a banking institution, and had been kept precisely for the institutional uses of the police office staff. This operation was carried out by the Superintendent using gloves taken from the office and never previously used. The knife, thus enclosed in the cardboard box, was then sent, together with other pieces of evidence, to the forensic police in Rome for analysis.

From the case files, there is no indication that the knife was ever taken out of the cardboard box where it had been placed by Superintendent Gubbiotti after its insertion there, and until the opening of the cardboard box that contained it – which took place in the analysis laboratories of the forensic police in Rome.

The analysis of the operations carried out in the laboratories of the Rome forensic police can be obtained from the SALs (these are the minutes documenting the activities carried out in the laboratory) which were acquired in the trial documents. From the documentation acquired it

can be seen that the analysis operations began on 5 November 2007, and then continued on 6 November 2007. On 5 November 2007 the samples referring to Meredith Kercher were collected, while during the day of the 6<sup>th</sup> the saliva swabs were taken of Raffaele Sollecito, Amanda Knox and Diya Lumumba. There was then a suspension of the analysis operations from 6 to 12 November 2007, [and] these operations were then begun again on 12 November 2007 with the extraction of the exhibits concerning Raffaele Sollecito, and collected by the Perugia Flying Squad, as is documented in the sequestration minutes of 6 November, of 7 November and of 16 November.

It should be pointed out that the break in time between analyses was a consequence of a restrictive measure adopted with regard to the accused/defendants, and that, when they resumed, the analysis operations were carried out with the guarantees provided for by article 360 of the Code of Criminal Procedure.

**[200]** From the acquired documentation it can be seen that the final sample analyzed on 6 November 2007, which gave the profile of the victim Meredith Kercher, was Exhibit 27 (transparent glass tumbler found on the bedside cabinet of the bedroom, and a sample of the transparent liquid contained in it), labelled with the sequential number 200047224. On the resumption of analyses on 13 November 2007, the analysis of the following samples was undertaken:

- Exhibit no. 32 (pair of brown and yellow, size 42 [and a] half, Nike-brand shoes) which gave a trace attributable to Raffaele Sollecito, and another trace attributable to an unidentified person of male gender;
- Exhibit no. 33 (black CRKT-make jack-knife, with 8.5-centimetre-long blade) collected from Raffaele Sollecito's home, which produced a trace attributable to a Sollecito-Knox mixture;
- Exhibit no. 34 (pair of elasticated blue "UOMO"-brand men's boxer-shorts bearing traces of presumed blood) collected from the home of Raffaele Sollecito, which furnished a trace attributable to Amanda Knox;
- Exhibit no. 35 (jack-knife of an overall length of 18 cm, with black handle bearing the inscription "SPAIDERCO D'ELICA"), collected in the home of Raffaele Sollecito, which gave a negative result;
- Exhibit no. 36 (knife of an overall length of 31 cm, with a 17-cm-long blade and a black-colored handle), collected in the home of Raffaele Sollecito, which gave the profile of Amanda Knox as a result for one trace (trace A), and the profile of Meredith Kercher as the result for the other trace (trace B).

As can be easily seen from the documentation in the trial records, between the last exhibit which furnished the trace of Meredith Kercher, which was examined on the day of 6 November 2007, and the first exhibit which provided the trace of Meredith Kercher, examined during the day of 13 November 2007, which was in fact Exhibit 36), seven days elapsed, during the course of which, however, another 103 pieces of evidence were analyzed by the forensic police in those same laboratories, all of which concerned other criminal proceedings. It must not be forgotten, in fact, that the Rome forensic police laboratories, during November of 2007, were not exclusively engaged in analyses relating to the proceedings on Meredith Kercher's murder, but – as is, for that matter, obvious – were at the same time involved in numerous [201] other analyses of pieces of evidence relating to other criminal proceedings, or at any rate to other State Police investigations.

At the outcome of the analytical reconstruction of the path followed by Exhibit no. 36 from the moment of collection inside the kitchen drawer-cabinet in Raffaele Sollecito's home by State Police Inspector Armando Finzi, until the moment when the sample was extracted which then produced the trace attributable to Meredith Kercher during subsequent analysis, it may reasonably be asserted that the phenomenon that is technically referred to as *cross-contamination* has no reason to be suspected; and is clearly not objectively established.

And in fact, none of the State Police officials who carried out the search in Raffaele Sollecito's home came from areas contaminated with the DNA of Meredith Kercher, and at any rate all of them wore new gloves and were shod with new shoe-covers. For this reason, it must be ruled out that Meredith Kercher's DNA could have fallen accidentally on the blade of Exhibit no. 36 during the course of the search operations.

Subsequently, the knife was then enclosed first in a previously unused paper envelope, and then in a cardboard box taken from inside the offices of the Flying Squad of the Perugia police office, that therefore – without passing any judgment on the suitability or otherwise of the container – certainly did not contain Meredith Kercher's DNA. Later, the box was opened in the laboratories of the Forensic Police in Rome, seven days after the performance of the last analysis relating to biological traces attributable to Meredith Kercher, and at a time when in those same laboratories there had been another 103 analyses carried out concerning pieces of evidence from other judicial proceedings, without there having been any possibility of accidental transit of

Meredith Kercher's DNA from one piece of evidence to another, or from one piece of evidence to an operator, who might subsequently have deposited it accidentally on the knife.

The *contamination* of Exhibit no. 36, following a careful analysis of the chronological succession of times and methods of collection and conservation of the physical evidence, and on the basis of the criteria of reasonableness and factual-reality previously highlighted, must therefore be utterly ruled out.

#### Exhibit no. 165 B

[202] The clasp of the bra worn by Meredith Kercher on the evening of the murder, and which was detached from the rest of the garment by means of a clean cut carried out with a sharp blade, had already been found and photographed during the course of the first search in the home on Via della Pergola no. 7 on the night of 2 November 2007. On that date, the clasp was not however collected. This circumstance was the object of specific questions addressed to Dr. Patrizia Stefanoni during the course of the first-level sentence hearings, and the latter reported that, on that night, it had not been considered important by those who were carrying out the search to collect and catalogue the clasp, since they already had the entire bra at their disposition. The State Police official continued, saying other objects also had not been collected in the same context during that first search (for example, the sweatshirt worn by Meredith Kercher on the evening of the murder, and which later, when analyzed, furnished the biological trace of Rudy Hermann Guede on the wristband of the sleeve), not just that clasp, which had later proven to be a central element in the trial. The bra clasp, identified as Exhibit no. 165 B, was collected during the course of the crime-scene inspection that took place on 18 December 2007, thus 46 days after the first entry into the apartment.

It is worth clarifying already now, since the circumstance was the subject of specific objections during the course of the trial, that during the intermediate period between 2 November 2007 – the date of the first visual finding of the clasp – and 18 December 2007 – the date of collection – the apartment on Via della Pergola was the scene of two other visits on the part of the State Police personnel. During the course of these visits, there was, obviously, a displacement of the bra clasp from the place where it had been photographed during the first crime-scene inspection, compared to the place where it was then found on 18 December 2007 (this [displacement] involved a short trajectory within the interior of the same room).

Also in relation to Exhibit no. 165 B, it is opportune to follow the same considerations as those observed with regard to Exhibit no. 36.

Indeed, there was extensive discussion about the circumstance that – before being collected by the forensic police – Exhibit 165B) had been affected by mechanical actions [i.e. had been moved] by the personnel present inside the apartment, with clear proof of this being the fact that its finding on 18 December 2007 took place in a different location than that in which it was photographed during the first crime-scene inspection, by a distance of approximately one and a half meters.

**[203]** This Court holds that this circumstance is entirely irrelevant for the same reasons, as previously asserted, that the potential/possible *degradation* of the exhibit, either as a consequence of its wrong preservation, or of its outright unprofessional handling, cannot add anything under the profile [obtained from] the organic substances on the exhibit itself, but would, if anything, subtract [something].

The mechanical action applied to Exhibit 165 B (which was, evidently, an inadvertently-delivered kick that moved the bra clasp, given that the photographic documentation in the case files does not reveal any structural modification to the hook in comparison to the first photograph shot on the evening of 2 November 2007), which resulted in the bra clasp being found in a different place than that in which it was photographed on the night of 2 November 2007, together with the questionable proceedings – from a professional point of view – of the State Police personnel, who neglected to immediately collect the bra clasp on the night of 2 November 2007, delaying this until a later moment, could not have caused a *degradation* of the exhibit, which would otherwise have been stripped of all significance from an analytical point of view, and therefore on the probative or circumstantial level.

This concept, which was repeatedly confirmed by Dr. Stefanoni during the course of the two hearings when she was examined during the first-level trial (22 and 23 May 2009), was not meaningfully countered by any of the defense technical consultants.

And then again, the concept expressed by Dr. Stefanoni and explained in long elucidations, more than just being based on considerations of a scientific nature, is based on evaluations of common experience, which form part of the education also of persons who are not otherwise scientifically knowledgeable.

Having disposed, therefore, of the issue of the possible *degradation* of Exhibit 165B) by means of careless handling, it is necessary to assess, in the same way as was done with regard to Exhibit no. 36), whether, in any of the times when the bra clasp was handled or examined, it might plausibly have happened that Raffaele Sollecito's DNA was accidentally transferred from a different object to the little hook itself, or whether it was deposited on the latter by one of the operators by means of a careless collection method.

It is worth tracking, in the trial papers, the route that Exhibit 165 B followed from the moment of "gathering" until the moment of analysis.

[204] As regards the moment when the bra clasp was collected and recorded as a piece of evidence [*repertato*], on 18 December 2007, it should be noted that, precisely because of the long lapse of time between the searches carried out in the apartment and in Raffaele Sollecito's car (more than 40 days), it does not enter the realms of possibility that the forensic police personnel – who on 18 December were wearing protective apparatus, as revealed by the video shoot contained in the case files – could have brought Raffaele Sollecito's DNA with them from outside the cottage on Via della Pergola no. 7, thereby putting it accidentally on the bra clasp.

In the same way, it does not enter the realms of possibility that Raffaele Sollecito's DNA was transferred inadvertently, again by the forensic police personnel who were working inside the cottage on 18 December 2007, from the cigarette butt found in the kitchen ashtray (which, as we have had reason to specify in dealing with it specifically, constituted the sole other presence of Raffaele Sollecito's DNA inside the cottage) onto precisely the metallic part of the little hook.

Also, in fact – apart from the absolute improbability that Raffaele Sollecito's DNA, having been inadvertently collected by contact with the cigarette butt in the ashtray, was then transferred onto precisely the metallic part of the little hook, and not also on the cloth surrounding it, or onto any of the other objects found on the same date of 18 December 2007 – it should be noted that the trace found on the cigarette butt is a mixed trace of Raffaele Sollecito-Amanda Knox. In the event of accidental contact, therefore, the forensic police operator would have had to transfer a mixed trace, Sollecito-Knox, to the bra clasp, and not the DNA of Raffaele Sollecito alone.

The *contamination* of Exhibit no. 165 B, from a detailed analysis of the chronological sequence of the times and of the methods of collection and conservation of the body of evidence, and on the basis of the above-mentioned criteria of reasonableness and of actual feasibility, must therefore be fundamentally ruled out, at least in relation to the moment of collection.

It is necessary, however, having noted these circumstances of objective evaluation, to point out that the defendant Sollecito's defense team, during the course of the final argument and, especially, during the course of the rebuttals, advanced the hypothesis that the contamination could have happened by accidentally transferring any hypothetical DNA of Raffaele Sollecito that might have been present inside [205] the apartment onto the little hook, [in response to the] remark that the apartment had not been analyzed completely, in every single part, but that the analyses had involved only those areas of the apartment that had been deemed to be the most significant by the State Police. In essence, according to the above-mentioned defense hypothesis, there may have been more of Raffaele Sollecito's DNA in the apartment on Via della Pergola no. 7, since he had visited the apartment in the days preceding the murder, and this DNA – never, for that matter, identified during the trial – could have been accidentally transferred onto the little bra hook by means of an action of the police during the day of 18 December 2007.

Now, even if [we] wished to follow the same method of argument, we would have to conclude that a police operator, having picked up Raffaele Sollecito's DNA elsewhere without noticing, had transferred it accidentally, but by some exceedingly selective manner, only onto the tip of the little hook, but not onto the adjacent cloth too, or onto other pieces of evidence that were collected during the search carried out on 18 December 2007 in the cottage (for example, the above-mentioned sweatshirt belonging to Meredith Kercher, on which was found only Rudy Hermann Guede's DNA), which had definitely come into contact with that same forensic police operator.

This Court holds that this hypothesis set out by the Defense, when examined with the criteria of reasonableness on the basis of the trial findings, becomes precisely yet another of those conjectures that have no connection with legal reality, and that – being driven by an abstract allowance for mere possibility – are not able to diminish that which has, moreover, been ascertained through the trial.

Lastly, there remains to be considered the phase relating to the analyses carried out on Exhibit 165 B in the laboratory – a place where accidental contamination by contact is always possible. This remaining hypothesis must also objectively be excluded.

And indeed, from an examination of the laboratory's SAL cards it can be seen that the cigarette butt collected from inside the blue glass ashtray located on the table in the kitchen-corner (Exhibit 145), which furnished a mixed Sollecito-Knox trace during analysis, was analyzed during the course of the laboratory session of 14 December 2007. The little bra hook with the small portion of white cloth attached, stained with presumed blood, and which was found in the victim's room [Exhibit 165 B], was analyzed during the laboratory session of 29 December 2007 – a gap, thus, of 15 days.

[206] If – along with this emphasis on the chronological nature – we add the fact that no other trace of Raffaele Sollecito's DNA was found inside the cottage on Via della Pergola no. 7, and that, between 14 December 2007 and 29 December 2007, the forensic police had not handled any pieces of evidence bearing traces of Raffaele Sollecito's DNA, then the conclusion can be reached that not even laboratory *contamination* could have taken place.

In conclusion, it must therefore be stated that, both with regard to Exhibit no. 36, or in other words the knife which is the presumed crime weapon, and with regard to Exhibit no. 165 B, or in other words, the clasp of the bra worn by Meredith Kercher on the night when she was killed, no *contamination* by *tainting* is ascertained, nor can it be hypothesized. This assertion is, furthermore, confirmed in the documentation of the *negative and positive controls* (to which we will have reason to return, subsequently) carried out by Dr. Patrizia Stefanoni, and acquired in the case files, which demonstrate the absence of contamination of the exhibits themselves.

In conclusion, it may be affirmed that no demonstration of evidence to the contrary was offered during the trial capable of casting doubt on the genuineness of the trial evidence that emerged from the laboratory analyses on the two above-mentioned exhibits, other than mere conjectures of possibility, which were based solely on the State Police operators' alleged violation of international protocols regarding the collection of samples to be subjected to analysis; or, further, other than disparagement – which at times seems objectively biased – of the work of the forensic police during this trial.



Regarding the point of the alleged violation of international protocols, as a repeated assertion during the course of the judgment, it is worth setting out a few reflections.

In the first place, it must be observed that the State Police personnel, who on a daily basis work opposite the forensic police, together with the Carabinieri Corps Police – to whom we will return shortly – have reached levels of professionalism of indisputable merit, recognized at the national and international levels, and recently even *certified*: professional levels, to say the least, of a level equal to the best scientific/forensic minds, who have provided their contribution during this trial in their capacity as consultants for the trial parties.

[207] In the second place, the constant presence during the course of the laboratory activities of extremely competent professionals, in their legal role as party-appointed consultants in defense of the rights of the defendants, too, as a consequence of the Prosecutor's adoption of the procedure under article 360 of the Code of Criminal Procedure, guarantees the correctness of the analysis methods (but obviously not their results, which will be the subject of specific investigation); in the sense that, in the event that any gross errors of scientific protocol had been committed by Dr. Patrizia Stefanoni, they would have been pointed out and criticized immediately. Thus, the fact that none of the parties' consultants criticized the analyses during the course of their execution (but only the methods used and the results obtained) is greatly reassuring with regard to the overall reliability and genuineness of the circumstantial and probative totality that can be deduced from the genetic analyses.

Lastly, even if we wish to hold that during the course of collecting the material which was later subjected to analysis there had been *lapses of professionalism* (certainly the belated collection of the bra clasp clearly constitutes a significant one) the goal of criminal proceedings, which aim at the rigorous assessment of criminally relevant behaviors which result in the imposition of a criminal sentence, imposes on the Judge the [duty of] verifying, in actual fact and not as mere hypothesis, whether such a *lapse of professionalism* has negatively impacted the admission of evidence in the trial. And in the case under consideration, such negative impact can be ruled out for the reasons already set out.

In conclusion, therefore, when no negative impact on the trial evidence has been established, even the alleged violation of international protocols on the topics of property-searches and of collection of samples to be subjected to analysis becomes a trial element of no value, which

cannot, *per se*, invalidate the results of the laboratory analyses that were carried out on the exhibits.

Having disposed of the issue of possible contamination of the exhibits, it is now necessary to examine the merit of the assessments carried out in accordance with article 360 of the Code of Criminal Procedure by the State Police, and later under the critical “supervision” of the experts appointed at the appeal level by the Court of Assizes of Appeal of Perugia.

With regard to the technical results of the two exhibits, it is also necessary to examine them separately, although the concluding observations will then be dealt with jointly, starting with Exhibit no. 36).

**[208] The knife (Exhibit no. 36)**

The results of the genetic investigations carried out on the knife in judicial sequestration can be seen from the technical report lodged by Dr. Patrizia Stefanoni in June 2008: “... [A]mong all the traces analyzed, belonging to Exhibit 36, only the traces named (A) and (B) provided a useful genetic profile, and from trace A in particular it was possible to extrapolate the genetic profile of Amanda Marie Knox (comparison carried out with the genetic profile reported on page 65, Table 31, regarding Exhibit 31, the salivary swab collected from the latter), whereas from trace B it was possible to extrapolate the genetic profile of Meredith Susanna Cara Kercher, already shown in Table 12-I (comparison carried out with the genetic profile reported on page 49 regarding Exhibit 21, hematic swab carried out in the largest of the wounds found on the victim’s neck). Analysis of the remaining traces sampled from Exhibit 36 (named traces C, D, E, F and G) did not provide any useful results”.

During the 22 May 2009 hearing, when she was questioned on this specific point by the First Instance Court, the consultant declared that trace (A) had given a positive result for the genetic profile of Amanda Knox, while trace (B) had given a positive result for the genetic profile of Meredith Kercher. She furthermore clarified that the samples taken from the entire knife, a total of seven in all, had been carried out at two different times. Initially samples (A), (B) and (C) were taken, and later, on the basis also of the positive results highlighted above, it was decided to extend the samples by carrying out a further four. The latter, however, had given a negative result.

It was pointed out, furthermore, that the trace attributable to Amanda Knox's DNA had been collected from the end part of the knife handle, or in other words the part near the beginning of the blade, whereas the sample which had given the positive result for Meredith Kercher's DNA had been collected from the blade [itself], from the inside of some scores/scratches that only became visible to the naked eye by placing the knife under strong lighting. Dr. Stefanoni expressed herself thus: "... [T]race B) was collected from this point. It was not [sampled] on the basis of any trace [that was] relevant from a biological point of view that was visible, shall we say, to the naked eye, however there were visible, under considerable lighting, there were a series of scratches/scores that were visible, of which one in particular was deeper, so to speak. Nonetheless, they were scratches, so fairly superficial, however these scratches [were] clearly visible; they went ... [209] they ran more or less parallel to the upper part of the blade, so they were more or less parallel to this side, towards the tip shall we say they went a bit downwards, so they followed a bit the shape of the tip. However they were scratches, anomalies in this metal that were visible to the naked eye under intense lighting, whereas point (A) was sampled from the handle, naturally, as were (D), [and] (F), with the intention of potentially finding DNA of the person who had grasped that weapon. In particular, at point (A) there was, in a particular point where there is the hand-guard [il fine-corsa della mano], that is to say, if I grasp the knife and strike a blow, my hand naturally will tend to go forwards. In that point, the knife is made in such a way as to not permit this advance, otherwise my hand would go onto the blade, and so there is a sort of little tail. In short, this part here that sticks out as can be seen. The sample was taken from this area, and it had a positive result for the genetic profile of Amanda Knox". (Pages 94-96 of the transcript of the 22 May 2009 hearing before the First Instance Court).

According to the laboratory analyses carried out by the forensic police on the knife seized from Raffaele Sollecito's home, there were thus two traces found which were positive for DNA: the first, attributable to Amanda Knox and marked with the letter (A), was found at the end of the handle, near the beginning of the blade, while the second, attributed by Dr. Patrizia Stefanoni to Meredith Kercher, and marked by the letter (B), was found in some scratches on the blade of the knife that sloped down towards the knife-tip. For both the traces, the laboratory analyses did not indicate whether blood traces were involved.

It is worth noting already at this point, and with the aim of narrowing the investigation requested from this Court, that the attribution of trace (A) to Amanda Knox is a self-evident trial fact, in the sense that there was no dispute on this point, either on the part of the defendant's Defense team, nor on the part of the court-nominated experts of the Perugian appeal level (see page 144 of the expert report by Vecchiotti-Conti).

Opposition had focused exclusively on trace (B), with different reasoning.

In the first place, Dr. Patrizia Stefanoni's decision not to carry out an analysis that would enable the nature of the trace to be identified was contested.

[210] The consultant clarified during her examination, as well as during the preliminary hearing in front of the Preliminary Hearing Judge of the Court of Perugia and in front of the Judge of the First Instance Court, that her omitting to perform any analysis aimed at identifying the nature of the trace was a choice that was made due to the small quantity of biological material she had to work with. Concerning trace B, in fact, this quantity was what is known in the literature as "Low Copy Number", so that an analysis aimed at determining the nature of the trace would have actually used up the entire sample, thus making it impossible to proceed with further analyses aiming at identification, namely attribution of the DNA to an individual. Dr. Stefanoni declared that keeping in mind the aims of genetic investigations in the context of the work of the State Police, which are not the same as those of a purely scientific investigation but rather intended to identify the genetic profile of the person who actually held the knife, and thus to give a name and a face to the probable perpetrators of a grisly murder, she preferred to give priority to the analyses aiming at identifying the person who had left the DNA trace rather than those aiming at identifying the nature of the trace but without being able to identify the person who left it on the knife (see pages 257-259 of the transcripts of the 22 May 2009 hearing before the First Instance Court).

Once it is clarified that this choice – the choice of not performing analyses to determine the nature of the trace so as not to jeopardize the investigations in view of identification of persons – must be considered as absolutely neutral relative to results concerning attribution of the trace, in the sense that the absence of any analysis of the nature of the trace has absolutely no influence on tests aimed at attribution of the trace, as was also clearly asserted by the experts appointed by the Court of Assizes of Appeal of Perugia, specifically by Prof. Conti at the hearing on 5 September 2011. This Court holds that the choice made by Dr. Stefanoni is valid, in the sense that for the purposes of investigations aimed at attributing penal responsibility in

relation to a serious murder, finding out who left the biological trace on the knife takes absolute priority over finding out the nature of the biological trace. This, based on the assumption (which is uncontested) that, given the small quantity of available “material”, both results could not be obtained.

[211] Then there is a second subject of contention.

With the support of the conclusions of the expert panel Conti-Vecchiotti, the Defense maintains that the analysis of the sample was not repeated, in the sense that only the *electrophoresis* was repeated, but not the analysis of the quantity of DNA extracted from the sample, and above all not the *amplification*. According to international protocols invoked repeatedly in the Conti-Vecchiotti technical report, this methodology is not correct and cannot be used to acquire reliable data.

This argument by the Defense certainly has merit, yet it deserves deeper analysis.

First of all, the results of the analysis of sample B from the knife do in effect reveal low heights of the peaks of fluorescence, averaging around 50 RFU (but with some lower peaks). However, while this fact is absolutely certain, since it is attested to in documents contained in the case file, it is just as certain that the *negative controls of the amplification* also show an extremely low level of background noise and are thus of very good quality, thus attesting to the absence of *contamination* of the exhibit.

Furthermore, the results of both the electrophoretic runs on the same amplified sample reveal exclusively peaks of fluorescence that are attributable to Meredith Kercher and no one else.

Finally, it must be observed that during her examination in Court, Dr. Stefanoni explained the absolute unlikelihood if not impossibility of hypothesizing that exactly 15 pairs of numbers could appear by pure chance that exactly coincide at each genetic locus with the genetic profile of the victim.

In his report submitted on 6 September 2011 to the Court of Assizes of Appeal of Perugia, Prof. Giuseppe Novelli, consultant of the Prosecutor, wrote the following observations on this point: *"[...] the consultant [Stefanoni] also did a statistical calculation with the purpose of determining the probability that the profile could belong to someone other than the victim. The calculation of the Random Match Probability came to 1 chance in 300 million billion. This value computed in this manner makes it possible to attribute the analyzed trace with absolute certainty to exactly one person, which the consultant holds to be the victim Meredith Kercher."* (Page 11 of the above-cited report)

During his examination at the Court of Assizes of Appeal of Perugia on 6 September 2011, in answer to a specific question of the Prosecutor asking whether in his [212] opinion the profile attributed to Meredith Kercher in trace B from Exhibit 36 was usable for the purposes of identification, Prof. Giuseppe Novelli responded: *"[...] The profile is usable in the sense that it shows complete compatibility at every locus, because there really is a profile there: it exists, even under conditions of... In some loci at certain specific places, because obviously we don't have the experimental conditions of a simulated laboratory, so in the sense that...when a person collects evidence... No, you can't know a priori what you're going to find, the quantity is very small, and often we find ourselves working in these conditions, it's not that we always have a perfect quantity of DNA which will give rise to absolutely no questions. We know perfectly well, you know this better than I do, Mr. President, that arguments about paternity are virtually finished in courts nowadays, since the quantities of DNA available are so ample that there is absolutely no cause for any discussion; all the experts and technicians agree, because the profiles are perfect, the quantities are perfect, so there is no room for any argument. It's obvious that here it's difficult to be able to always come up with a magnificent profile, with every peak height over the limit. We would all like that, but it isn't always possible. So what should we do in these cases? Exactly what, very correctly, you said in your question, Mr. President, namely you asked: can you give a level of reliability for the result you found? And to this question it seems to me there is only one answer, which is a statistical analysis of what has been found. If the result of the calculation is small or low or whatever, then one can start interpreting and discussing, but in the presence of an actual profile there is little to discuss, because the profile is there. As I said, there are some absences in certain loci, not in the first [electrophoretic] run, but in the second one some absences were observed, which can happen*

*when the same amplified sample is run through electrophoresis at two different times, and it's absolutely not absurd to do that. So I asked myself that question and I tried to give a statistical value, in the sense that since the profile is unique, I can do this calculation to determine the probability that the profile could be attributed to a person different from the victim. I did it, Mr. President, and naturally the technical details are in the report which I will submit, because I don't want to stand here discussing actual computations of thresholds and statistics. [...]"*

Continuing the examination, the Prosecutor asked Prof. Novelli his opinion on the fact that the amplification was not repeated at least twice. [213] Prof. Novelli answered as follows: *"Look, there also exists...As I said earlier, it is true that there exist recommendations, protocols, standardizations, but there is also experience, common sense and the ability of a technician to be able to decide, faced with a given situation, what they should do. I can have a very small trace, a single hair. How many times has it happened to me and to others to find a single hair? Then I make an attempt...if nothing is there, too bad, I throw it away, but I cannot say that a priori I have to divide it into 5 aliquots to make 5 distinct amplifications when the quantity is already too small to be enough [for even one]. It's one hair, there are surely less than 5 picograms of DNA, so what I'm saying is, it's not always that simple. So the operations and the results are in an important situation in which, so to say, [the hair] has to be described very precisely. Then, from the result obtained, in my opinion, one must determine whether a profile appears and whether it is good or not very good and how statistically reliable it is. There is no other possibility, otherwise we would have to call into question all the DNA analyses ever done from 1986-87 until now, at least in our country."* (Pages 57-60 of the transcript of the 6 September 2011 hearing before the Court of Assizes of Appeal of Perugia)

In her report, submitted at the 6 September 2011 hearing, concerning trace B from Exhibit 36 and analyzed by the Scientific Police, Prof. Francesca Torricelli, the technical consultant for the civil parties, expressed the following: *"[...] I would simply like to emphasize the fact that from the analysis of the electropherograms of trace B, in spite of the fact that the RFU values are indeed very low, allelic peaks emerge clearly from the homogeneous level of background noise from the machine, and these peaks are attributable to the genetic profile of the victim. In the following table the genetic profile of*

*Meredith Kercher is compared with the genetic profile from the electropherogram of trace B [ID 771-200047330].*

| Markers  | KERCHER MEREDITH | R.T.G.I.F<br>(Relazione Tecnica Indagini<br>di Genetica Forense) |
|----------|------------------|--|
| D8S 1179 | 13,16            | 13,16  |
| D21S11   | 30,332           | 30   |

**[214]**

|             |        |       |
|-------------|--------|-------|
| D 7S 820    | 8,11   | 8,11  |
| CSF1PO di   | 12, 12 | 12    |
| D3S 1358    | 14,18  | 14,18 |
| TH01        | 6,8    | 6,8   |
| D 13S 317   | 8,13   | 8,13  |
| D16S 539    | 10,14  | 10,14 |
| D2S1338     | 20,23  | 20,23 |
| D 19S 433   | 12,16  | 12,16 |
| VWA         | 14,16  | 14,16 |
| TPOX        | 8,11   | 8,11  |
| D18S51      | 14,15  | 14,15 |
| D5S 818     | 11,12  | 11,12 |
| FGA         | 20,21  | 20,21 |
| AMELOGENINA | X,x    | X     |

*One can observe that the two profiles in the table coincide, with only one of the two alleles from the pair at DS21S11 missing in the profile from trace B.” (Pages 4-5 of the technical report by Prof. Torricelli from the 6 September 2011 hearing before the Court of Assizes of Appeal of Perugia)*

Thus it is possible to assert that since the trace came from a unique contributor, a situation in which, as stated repeatedly by all the experts and consultants, there is much less difficulty in making a correct identification than there is in the case of a mixed trace, the attribution of the



genetic profile to Meredith Kercher as made by the Scientific Police appears supported by a solid scientific basis and gives a correct interpretation of the results obtained by the laboratory analyses.

There remains the fact that only a single *amplification* was made, and that as correctly objected by the defense of the accused, in order to have a reliable attribution, international protocols call for at least one repetition of the amplification, which was not possible in the present case due to the small quantity in the sample.

[215] Essentially, what we have here is a fact correctly admitted into evidence and having an unambiguous meaning in the sense that the identification of the trace with the genetic profile of Meredith Kercher is obvious, but which is not absolutely rigorous in terms of probative value since it was not possible to perform a second *amplification* which could have confirmed or refuted the result.

This Court agrees with the fact that the attribution of the trace found on the blade of the knife seized at Raffaele Sollecito's home to the biological profile of Meredith Kercher, although unambiguous, is not a fully rigorous piece of evidence, or to say it better, a rigorous element of proof, precisely because of its own intrinsic limitation of not having been able to furnish at least a double *amplification*. Yet it does not follow that the attribution of the trace to Meredith Kercher is unusable as evidence, as asserted not only by the defense of the defendants and their technical consultants but also by the experts Conti and Vecchiotti in their expert report.

During his examination at the Court of Assizes of Appeal of Perugia at the 6 September 2011 hearing, Prof. Tagliabracci, technical consultant for Raffaele Sollecito's defense, expressed the following: "[...] I think that probably the jurors, or others in this courtroom who are not experts in forensic genetics, must have asked themselves some big questions about the validity of these techniques, given the rather sharp disagreement between the experts, the consultants for the prosecution, and now we can also add myself. This disagreement arises essentially from different approaches, let's say two different philosophies, two schools of thought about genetic investigations. Two approaches and two different

*philosophies: one that requires an accurate and reliable result, a solid and robust result that can be used without any problems even in a case that has a high level of complexity and a certain duration, and the other that simply wants to get a result, to bring home a result. These are the two different philosophies...In Italy, but there's actually an international debate around these questions that in fact arose exactly from that case that Prof. Vecchiotti discussed, in New York following the trial in which very low quantities of DNA were used at trial for the first time; from that case arose a debate that has been going on through a certain number of issues of the international journal of forensic science, and it's not over yet. This debate essentially focuses on the problem of the limits, the reliability of analyses performed in conditions that are critical with regard to the quantity of DNA, critical [216] with regard to the quantity and probably also the quality that a DNA sample can have when it is altered, degraded, which further complicates matters. Well, as I will soon say and as was already said by some, the International Society of Forensic Genetics has taken a position that was summarized in one of the most recent articles in that journal, in which it is asserted that it is possible to consider a trace below these levels on condition that it can be repeated three times so as to validate the result as the concordance of three amplifications. Let's say that I endorse classical forensic genetics and I think that one cannot go below a certain limit. But if you do go below that limit, you have to take some important precautions, adopt certain procedures, procedures that avoid the risk of obtaining false positives, results that can incriminate someone who left a minuscule quantity of his DNA at some other time. So it's necessary to proceed with caution in order to have a result that can be considered reliable even for a low quantity of DNA. [...]"*

This Court holds that this position, while undoubtedly correct on the level of general scientific questions which the Judge has no qualification to contradict, does not adequately take into account the process of finding proofs in the penal context, namely the set of procedures aiming to produce a comprehensive evaluation of the circumstantial and probative evidence that must lead the criminal Judge to come as close as possible to the true history of a crime. To conceptually separate the Judge's technical assistants into one group that seeks rigorous results and another which, by cultural and professional training, merely aims to "bring home a result" is an excessive and misleading simplification of a piece of evidence that is much more complex, not to mention being an ungenerous judgment of the professionalism of others.

There is no doubt, in the opinion of this Court, that the result of the analysis on trace 36B would be absolutely insufficient, considered in isolation, to indicate the penal responsibility of anybody for the murder of Meredith Kercher, but this is not because it is a question of altered or contaminated DNA, a circumstance that was already excluded above, or an ambiguous result. The reason is a different one, situated in the fact that the amplification could not be repeated, and thus, even in the presence of a piece of evidence that was properly admitted and has an unambiguous meaning, it still does not have [217] the probative strength to constitute a unique element whose evaluation indicates the penal responsibility of any person in relation to a given crime.

However, in the case at hand, the result of the attribution of the DNA to the profile of the victim, arrived at by methods of analysis and interpretation that were quite correct, should constitute an element of evidence that can be evaluated in the trial, just like all of the many other elements of circumstantial evidence which, evaluated as a body, can rise to the status of a proof.

In the course of a trial based on circumstantial evidence, no one piece of the admitted evidence is by itself entirely apt to constitute a proof of the penal responsibility of the accused. All of the admitted evidence previously analyzed, evaluated, and critically interpreted by this Court are elements of evidence which, examined one by one in order to evaluate a possible extraneousness with respect to the facts of the trial – an extraneousness which, if present, would exclude them *ab origine* [from the start] from judgment – should then be evaluated as a body to see whether each of them, interacting with the others, is suitable to participate in a comprehensive picture that can rise to the status of a proof.

In this comprehensive procedure, the Court must thus evaluate the results of the genetic analysis on trace 36B performed by the Scientific Police, a result that for the reasons already explained several times cannot by itself constitute an element of absolute proof, but certainly does constitute one important piece of the evidence that leads to a possible assertion of penal responsibility for the murder of Meredith Kercher.

However, concerning trace B, the results of Dr. Stefanoni's analysis are contested on their actual merit, even by the expert panel appointed by the Court of Assizes of Appeal of Perugia, in particular by Prof. Carla Vecchiotti [Prof. Stefano Conti, during his examination at the Court of Assizes of Appeal of Perugia during the 5 September 2011 hearing, in answer to a question by the civil parties, declared that in the context of the expert evaluation his role was limited to *"dealing with the technical aspects of the inspection, i.e., the investigative portion, because that's my area of expertise [...]"* whereas he did not specifically deal with the genetic analyses, since *"[...] there was a geneticist. Furthermore, this is a panel of experts, so the tasks are split up."* (Page 17 of the transcript of the 5 September 2011 hearing before the Court of Assizes of Appeal of Perugia) [218]) In the conclusions of her own expert report, Vecchiotti asserted the unreliability of the results of the genetic investigations made by the Scientific Police on trace B) from the knife, and raised specific criticisms that this Court must address exactly as it would any other issue arising in the trial.

Indeed, in the presence of differing technical opinions, as in the case at hand, the conclusions of the court-appointed expert have no special credibility over those of the other professionals, the private or public consultants of the parties at the trial, all of whom bring to the trial technical and scientific knowledge of equal weight. It is thus necessary to test whether the criticisms raised by Prof. Carla Vecchiotti on the operations of Dr. Patrizia Stefanoni are well-founded and thus liable to invalidate her result.

Proceeding with this examination in the order followed by the expert, the first thing to observe is the expert's assertion given in point (1) of the conclusions, and repeated several times: [*"there are no probative scientific elements justifying the hematic nature of trace B from the knife blade"*]. This assertion is entirely correct, but one cannot understand its relevance in terms of attributing the trace to the victim.

Indeed it is clear, and this point was already the object of a specific discussion earlier in the present document, that no tests were made on the sample with the aim of determining its

nature, not even to mention tests that would have used an adequate quantity of the sample from the knife blade. The small quantity of genetic material available for analysis made it impossible to assert with certainty that the substance was blood (even if it is not possible to exclude the presence of blood in the sample, as asserted by Dr. Patrizia Stefanoni in her examination at the 22 May 2009 hearing before the First Instance Court), but this is not the problem: indeed, Dr. Stefanoni asserted in her expert report that the biological trace was attributable to Meredith Kercher, and not that the trace was hematic in nature. Thus, independently of the hematic or non-hematic nature of the biological trace, the analysis of the DNA, according to the Scientific Police, identified Meredith Kercher as the unique contributor. This Judge holds that it is significant for trial purposes that on the blade [219] of a knife seized at the home of Raffaele Sollecito, DNA from the victim Meredith Kercher was present, independently of whether it was or was not from blood.

Passing next to the considerations raised by Prof. Vecchiotti in points (2) and (3) of her conclusions (*“from the electrophoretic graphs it emerges that the sample designated by the letter B (from the knife blade) was a Low Copy Number sample, and thus every precaution indicated by the international scientific community should have been taken; taking into account that none of the recommendations of the international scientific community with respect to Low Copy Number samples were followed, we do not share the conclusions as to the certain attribution of the profile from trace B (knife blade) to the victim Meredith Susanna Cara Kercher, since the genetic profile as it was obtained is unreliable, since it is not supported by an analytical process that is scientifically valid”*), stating that the results are not reliable because they were not obtained using scientifically valid analytical procedures.

These assertions were made directly on the basis that the sample was Low Copy Number, and thus the unreliability is asserted as a consequence of the omitted repetition of the *amplification*.

This question was already discussed earlier, and thus it is sufficient to refer to the conclusions already expressed above. Certainly, the sample from the knife blade designated by the letter B was Low Copy Number and thus cannot produce an attribution result that is absolutely certain.

Nevertheless, the interpretation of the analysis is held by this Court to have been correct for the reasons explained above: namely because it was the profile of a single contributor – which makes errors in analysis much less probable – and because negative and positive controls showed the absence of any contamination of the exhibit.

On this topic, it is useful to recall the remarks written by Prof. Francesca Torricelli, consultant for the civil parties, in her written report submitted to the Court of Assizes of Appeal of Perugia on 6 September 2011, and cited above.

Prof. Giuseppe Novelli, consultant for the prosecution, also transcribed the same table of interpretation as Prof. Torricelli and arrived at the identical conclusion (Pages 11-12 of his report in the case file).

[220] It is thus impossible to share the opinion expressed by the court-appointed expert in her report, since her assertions are not borne out by the objective results of the tests performed by the Scientific Police.

In what concerns points (4) and (5), their insufficiency for use in a trial context was already discussed above.

Indeed, as observed earlier, even if the searches and investigations and the collection of exhibits were performed without proper observation of international protocols, it was still the task of the expert to explain to the Judge the actual time and manner of any probable contamination, so that the Judge could then assess the well-foundedness of the argument rather than being asked to accept the argument on faith. The sentence *“it cannot be excluded that the result obtained from sample B (knife blade) could derive from contamination phenomena that may have taken place during any phase of the collection and manipulation or of the analytical investigations”*, reported in the conclusions [of the expert report], shows, by its total generality, the complete lack of substance of the assertion made by the expert, not to mention, for the reasons already explained above, its extraneousness with respect to the principles of the criminal trial.

Indeed, nothing can be excluded *a priori* in any criminal trial. Thus, what counts in the trial is that which can be documented; not that which can be excluded abstractly, but that which can be asserted concretely. In the case at hand, examining the operations performed by the State Police in their professional role and the biological analyses performed in laboratories with certified reliability, it was the task of the court-appointed experts to inspect the methods and results of the analyses and furnish the Judge with a contribution of knowledge that he expressly asked for by entrusting them with this task.

And it was also one of the precise tasks of the expert panel, on the basis of the task entrusted to them, to make sure they obtained all the necessary information to perform the job correctly, diligently seeking out everything that could be useful in responding to the questions.

But this turns out not to have been done, if it is true that in the report submitted to the Court of Assizes of Appeal of Perugia the appointed experts asserted that the *negative and positive controls* relative to the *electropherograms* were never made available at the trial; yet on the basis of this assertion, they drew conclusions as to the unreliability of the investigations performed by the Scientific Police in view of the possible *contamination* of the exhibits.

[221] Now, it turns out from the records of the preliminary hearings, which were produced during the first instance trial with the agreement of all parties, that on 4 October 2008, during a hearing before the Preliminary Hearing Judge of the Court of Perugia and in response to a specific question by Prof. Pascali (one of the consultants for the defendant Raffaele Sollecito), Dr. Stefanoni asserted that the *negative and positive controls* existed, that they had been examined and evaluated by her, and could be produced on simple request (and in truth at that very hearing she submitted those relating to Exhibit 165B, the bra clasp). This circumstance, also mentioned in the report submitted by Dr. Stefanoni following the outcome of the expert report submitted by Conti and Vecchiotti, was true and in fact was confirmed by the fact that Prof. Giuseppe Novelli made the effort to ask for them and duly obtained them, so that he was able to examine them and deduce the absence of *contamination* of the exhibit under analysis.

The Court holds that the behavior of Prof. Carla Vecchiotti is deserving of strong condemnation, since before making an incorrect statement in a report, and then deriving from it further incorrect considerations on the reliability or unreliability of laboratory analyses performed by others, it should have been her duty to ask Dr. Patrizia Stefanoni for the *positive and negative controls* whose existence she had asserted at a trial hearing. Only in the case where they were not provided should Prof. Vecchiotti have then drawn the conclusions that were due.

This initiative should have been undertaken as a duty, since it is expressly contained in the provisions of the Code of Criminal Procedure which, in article 288, regulates the investigative activity that an expert should and must follow with the goal of furnishing a correct response to the question posed by the Judge. In the penal context one need not respect the limits which are typical of civil procedures, in which the formation of proof is made available to the parties, so that the expert can examine only what was produced at trial, thus respecting the limits fixed by the procedural law. In the penal context the expert, precisely because of his function as an assistant to the Judge for the comprehension of evidence with the aim of correctly exercising the jurisdictional power of imposing a sentence, is not held to any particular limits in the acquisition of the information on which to base his opinion, which he may acquire even directly from the accused.

This Court holds that not having acquired the *positive and negative controls* on the part of the experts appointed by the Court of Assizes of Appeal of Perugia reveals [222] at the very least a lack of attention to the documentation in the case file resulting in decreased reliability of the answer furnished in the technical report.

But there is more.

On page 143 of her report, Prof. Carla Vecchiotti explains how “*the quantification of the extracts obtained from Exhibit 36 (knife) and Exhibit 165B (bra clasp), performed using Real Time PCR, did not*



*reveal any presence of DNA. Considering the absence of DNA in the extracts that we ourselves obtained, in agreement with the consultants of the parties, we did not proceed to the next step of amplification."*

In substance, the experts assert in the conclusions of their report that in a decision made jointly with the consultants of the parties, no analysis of the new samples should be performed, namely of sample (H) and sample (I) taken by them from the points of contact between the blade and the handle on opposite sides of the knife (see page 6 of the report submitted on 29 June 2011).

Except that in the body of that same report submitted by the court-appointed experts, they give a different version of events.

Indeed, on page 30 of the expert report one reads: *"[G]iven that in the swabs (A-B-C-D-E-F-G-H-I) taken from Exhibit 36 (knife) and (L-M) from Exhibit 165B (bra clasp) no DNA was found that could be useful for the subsequent stages of laboratory analysis (amplification, electrophoresis), the experts communicated verbally to the consultants of the parties that they were going to proceed to the detailed examination of the technical investigation performed by the Scientific Police, as had been requested during the conference in which the task of the expert panel was defined."*

Thus, from reading the entire expert report and not just the conclusions, it appears that the choice not to proceed with the analysis of the new samples, in particular sample (I), was a choice made expressly and autonomously by the experts and only communicated verbally to the consultants of the parties, not a choice shared by all the consultants of the parties as is incomprehensibly written in the conclusions of the expert report.

This latter version of events appears much more credible to the Court.

Indeed, in their reports submitted at trial and also later during their examinations at the Court of Assizes of Appeal of Perugia, Dr. Patrizia Stefanoni, Prof. Giuseppe Novelli (consultant for the Prosecutor), and Prof. Francesca Torricelli (consultant for the Civil Parties) **[223]** all disputed

the conclusions reached by the experts as to the unsuitability of sample (I) for analysis; they also disputed having participated in and shared in any way the decision not to proceed with the analysis.

Both Dr. Patrizia Stefanoni (on page 4 of her report submitted at the 6 September 2011 hearing and in the declarations at the same hearing at the Court of Assizes of Appeal of Perugia) and Prof. Giuseppe Novelli (in his examination at the Court of Assizes of Appeal of Perugia on 6 September 2011), as well as Prof. Francesca Torricelli (pages 1-4 of her report submitted during the trial), maintained that it would have been possible to analyze sample (I) using new generation kits already available on the market.

The assertions of the consultants of the parties made in their respective reports were confirmed by their testimony in court.

Under cross-examination, Counsel for the Civil Parties at the 6 September 2011 hearing, Prof. Carla Vecchiotti confirmed, with a carefully explained reasoning (pages 18-23 of the transcript of the hearing) that in her opinion the quantity of DNA found on the samples taken from Exhibit 36, and in particular the samples labelled (H) and (I), were not sufficient to proceed to further laboratory analysis (amplification and electrophoresis). In substance, she confirmed what could already be read in the conclusions on page 30 of the elaborate expert report submitted to the court.

From this, an argument ensued between the parties, which culminated in a formal request from the Prosecutor, at the 7 September 2011 hearing, to extend the reopening of evidence taking already granted by the Court and to authorize proceeding with the genetic analysis on the sample (I) collected by the expert panel and thus already partially treated. In response to this request, the Court of Assizes of Appeal of Perugia issued an order rejecting the further investigation and then, picking up the argument in the motivations of the sentence subsequently annulled, expressed itself as follows: *“This also explains why the expert team did not proceed farther in analyzing the sample that it collected from the blade of the knife: the quantity was*

*found to be again LCN, and altogether insufficient to make two amplifications possible, so that if they had proceeded further, the court-appointed experts would have committed the same error as the Scientific Police. [224] And on the other hand, it seems clear from the ideas explained above that because the necessity of dividing the sample into two or more parts holds for every single trace, its aim being to guarantee the reliability of the result of the analysis of that trace, it is not by analyzing two different traces that are both LCN, without treating either of them with the proper procedure to guarantee the result, that one can think to make up for the lack of repetition in the procedure for each single trace: the sum of the two results, both unreliable due to not having been obtained by a correct scientific procedure, cannot give a reliable result, apart from possible analogies. In truth, Prof. Novelli did argue that there do exist systems that can analyze such low quantities, even if they are still rather avant-garde. However, the Court holds that this fact of being in an early, still practically experimental, state excludes the possibility of basing any conviction of guilt on a result obtained by the application of such systems, since the Judge can only base his convictions on technical systems and scientific knowledge that are fully settled in the particular historical period in which he is called to judge, not on other ones which are still in the experimental phase. This is necessary in order to reach a decision of guilt beyond every reasonable doubt. [...]" (Page 85 of the Sentencing Report of the Court of Assizes of Appeal of Perugia).*

In conclusion, the technical and scientific assertions by Prof. Carla Vecchiotti as to the insufficiency of the quantity of material contained in trace (I) to allow for further testing, given in the written report submitted to the Court and also explained with ample arguments at the 6 September 2011 hearing, led the Court of Assizes of Appeal of Perugia to the conviction that any further analysis of trace (I) from the knife known as Exhibit 36 would be an “adventuresome” operation from the scientific point of view, incapable of providing any result that would be methodologically and thus scientifically reliable; thus it could be discarded for trial purposes.

However, this technical and scientific assertion, repeated several times by Prof. Carla Vecchiotti with great conviction, was glaringly false.

This is not because this Court declares it to be indisputably so, but because it has been proven false during the course of this trial.

On the solicitation of the Supreme Court, this Judge arranged to reopen the evidence taking, entrusting the task of examining trace (I) to the R.I.S. of the [225] Carabinieri Corps, with the following instructions: "Having examined the case file and in particular the statements in the expert report submitted to the Court of Assizes of Appeal on 29 June 2011 by the court-appointed experts Prof. Carla Vecchiotti and Prof. Stefano Conti, together with the remarks formulated by the consultants for the parties Dr. Patrizia Stefanoni and Prof. Giuseppe Novelli in their reports submitted at the 6 September 2011 hearing, and having arranged for the analysis of the sample already taken previously, the experts will make a statement as to the attribution of the trace labeled in the documents by the letter (I) collected from Exhibit no. 36, and as to whether in that sample it is possible to identify DNA from the victim Meredith Kercher or from the convicted party Rudy Hermann Guede." Later, after informing the parties at trial, none of whom objected, the experts were also authorized by the Court to compare the genetic profile from trace (I) with the genetic profiles of Raffaele Sollecito and Amanda Marie Knox.

Once the laboratory analyses were performed, the court-appointed experts, Major CC Dr. Andrea Berti and Captain CC Dr. Filippo Barni submitted their written replies to the questions to the clerk of this Court on 31 October 2013. The answer to the query can be found on page 84 of the technical report: *"In light of the analyses performed and of the evaluations expressed at length in the present report, it is possible to answer the queries asked of the experts in the following manner:*

- 1. The sample (I) coming from the trace (I) collected from Exhibit 36 (knife) by the experts of the Court of Assizes of Appeal of Perugia, Profs. Carla Vecchiotti and Stefano Conti, was found inside a freezer present in the Forensic Genetics Laboratory of the Department of Legal Medicine and under the auspices of the University of Rome La Sapienza.*
- 2. Although there was no direct evidence of exactly what happened in the period previous to the expert operations, the conditions of conservation of sample (I) can be considered as conforming to what is expected for this type of biological sample (DNA extracts).*

3. *The genetic analyses performed on sample (I) revealed the presence of an extremely small quantity of genetic material coming from one or more female subjects, which led to considering the sample under analysis as a complex sample to analyze (Low Template DNA or Low Copy Number). [226]*
4. *The duplicated process of genetic identification on sample (I) yielded various genetic profiles under conditions of LT DNA (probable stochastic phenomena) with genetic mixtures (presence, at several STR loci, of more than two alleles), which largely agreed when superimposed, and taken together were suitable for comparisons.*
5. *For each individual indicated in the task entrusted to the experts, the comparison with the results of sample (I) was made, applying the biological and statistical models of interpretation in accordance with the most rigorous and up-to-date interpretative protocols found in the international scientific literature.*
6. *The result of this comparison made it possible to exclude the hypothesis that genetic material belonging to Meredith Susanna Cara Kercher, Rudy Hermann Guede or Raffaele Sollecito was present in trace (I), thus these individuals cannot have contributed any of their own biological material to trace (I).*
7. *Moreover, the comprehensive evaluation of the interpretative results very strongly confirm the hypothesis that genetic material of Amanda Marie Knox is present in trace (I), and that thus Amanda Marie Knox contributed with her own biological material to trace (I)."*

The scientific technical report submitted at trial by the Officers of the R.I.S. of the Carabinieri Corps was discussed before this Court, in a contested hearing on 6 November 2013, during which Major CC Dr. Andrea Berti gave the following report on the investigations: *"The technical operations began on Oct. 10 at 14:00 at the premises of the R.I.S. in Rome. The consultants of the parties were present, as per the records in the case file, and together we went to the laboratory of Forensic Genetics of the Department of Legal Medicine under the auspices of the University of Rome La Sapienza, whose director is Prof. Vecchiotti, and where the sample (I) was conserved. Indeed, we were able to check directly that as indicated by Prof. Vecchiotti, a sample (I) existed, and indeed there was a cardboard box inside a freezer which we clearly identified. This box contained a series of test tubes and amongst these – following direct verification by Prof. Vecchiotti – we were shown one test tube carrying the label (I) which was thus identified as "sample 'I'". [227]*

*The only thing we were able to do right away was to check that a certain amount of transparent liquid was present; we were then able to take it and transport it to our laboratories for further analysis. In order to check how the sample had been conserved, we first asked Prof. Vecchiotti if it was common practice to keep a record of the preceding temperatures of the freezer. Prof. Vecchiotti essentially said to us that they were not available, as they did not have such a system of recordkeeping of the temperature. What we then did, using a certified system and a certified thermometer, was to check that the conservation temperature at that moment was -20°, which is in keeping with the requisite temperatures for the conservation of this type of sample. This is all that we were able to check. Then, once we had identified sample (I), we returned to our laboratories and in the presence of the parties we began operations. ... We went to our laboratories and on the same day, the 10<sup>th</sup>, we began the technical laboratory operations; as a first step we performed measurements of the volume present in the test tube and quantification of DNA present inside the test tube. The measurement of the volume was taken using the typical instrument in a molecular biology lab, namely a pipette which is a system of direct measurement which led us to estimate a volume of about 16-17 microliters in the test tube, which is an extremely small quantity. Because of the small volume, we decided to quantify the sample so as to ascertain the concentration of the sample in the test tube, and we did this using one of the currently available systems, namely the Real Time PCR, which uses the Qiagen kit called Quantiplex Hyres Kit, which in our opinion is one of the most efficient kits available to determine the concentration of a forensic sample. As recorded in the attached report, this test allowed us to estimate the concentration of the sample as 2.14 picograms/microliter, which is a very small quantity and all in all in agreement with the previous evaluations made by the previous expert panel. The previous expert Vecchiotti had estimated a concentration of 5 picograms/microliter. But by consulting the documents, it turns out that in fact 5 picograms was the result obtained by averaging different measurements. Basically the two results are comparable. In any case, it is a very small quantity. The scarcity of this quantity, how can we say, means that the sample that [228] we needed to analyze belongs to a complex situation; we didn't have enough sample to perform a standard analysis. For several reasons, in particular the quantity, this complex situation is known as "Low Copy Number", "Low Template DNA", so a complex sample to analyze. Thus, considering these initial tests, we decided on a strategy that does ensure at least a certain reliability of whatever results may be produced. This strategy consists essentially in the use of extremely efficient systems for the analysis, extremely efficient kits, and we also*

*required something else, that of at the very least duplicating the analysis of the sample, which means repeating the analysis of the sample at least twice. These were the first indications of our plan of work, which all the consultants present essentially agreed on. So we proceeded with the analysis, essentially we amplified the sample twice under the same conditions, so using the same thermal cycler for temperature and the same sequencer, and we obtained two genetic profiles from the two repetitions, two genetic profiles belonging to sample (I). At this point the purely analytical phases were complete.[...]*”

The expert then gave a detailed account of the procedures of analysis that were performed entirely subject to objection by the parties, and which were confirmed by the duplication of the amplification and by the evaluation of the results obtained, and subsequently by subjecting the results of the analysis to statistical verification. *“At this point, obviously, we went forward with the investigation of our task, and – let’s say – we started on the interpretation of the results obtained in the first phase. The approach we followed is a combined approach, which in our opinion is the one which – let’s say – is the most conservative with respect to all the parties and all the possible problems associated with this type of analysis. We first adopted a biological approach, which essentially means that starting with this table containing these numbers, one compares these numbers with the corresponding genetic profile of the subjects of comparison – the victim, the convicted individual, and the defendants – and this comparison essentially reveals the presence or absence of the same numerical value. This approach, obviously, was possible by combining and interpreting the results obtained from the analysis of this trace. Let me explain better. Why did we repeat the analysis? Because [229] we know that to repeat analyses means that in the end we obtain a more reliable result. How do we arrive at a more reliable result? Essentially – once again pardon me if I am being too technical, but it is necessary – we seek the similarities between the two repetitions. This system of comparison and interpretation is called “consensus profile”. Indeed, if the first amplification provides a value which is repeated also in the second, the consensus profile will only record those signals which are repeated in both analyses. Let me give an even clearer example. If the first amplification gave us a value of 15, and the second 15 and 16, the consensus profile will contain 15 but not 16, because 16 was not repeated in both amplifications. But we did not restrict ourselves to only this type of analysis, because in the literature there exists also another type of analysis, still based on the biological model, but which is actually the opposite approach in a way, since instead of taking only the values that appear in both amplifications we now take all of the values, so*

in our example 15 and 15-16. The “composite profile” will be the union of the two profiles, so 15 and 16. And in the report – obviously if necessary we can explain this more in detail – we explained the reasons for which we wanted to use both types of profiles in analyzing this trace. Let’s say that the short explanation is that doing the analysis with two different methods allows us, again, to be extremely conservative, that is, to take every possible interpretation into account and not ignore any. So in the end, we obtained a composite profile and a consensus profile. These were compared with the genetic profiles of the individuals named in the task. The comparison yielded an immediate result, either positive or negative, via the presence or absence of the same alleles. And running through the individuals, if we start on page 56 of our report, we see that for the victim, Meredith Susanna Cara Kercher, if we compare the alleles of the profile of the victim with the ones from the consensus profile, there is matching at only five alleles, meaning that only five values out of the full twenty values available actually coincided. When we made the comparison with the composite profile, taking all the alleles into account, the matching increased to ten alleles out of twenty. The percentages are also given [in the written report]. Obviously the disagreement is given by the complementary values, meaning that we found a disagreement between the alleles of the victim and the ones from “trace I” at fifteen values out of twenty for the consensus profile and ten out of twenty for the composite profile. So a percentage of 75% and 50% respectively, so **[230]** obviously – anticipating our conclusions somewhat – there is an obvious disagreement between the profile of the victim and the profiles obtained from the trace. We did the same thing with the profile of Rudy Hermann Guede. Also in his case the disagreement was sizeable, the disagreement that we found was at 14 values out of 18 for the consensus profile and 11 out of 18 for the composite profile, so percentages of 78% and 61% respectively; so again in this case a sizeable disagreement between the profiles. Then further on, on page 60, we arrive at the comparison with the genetic profile of Raffaele Sollecito. In his case the disagreement was at 18 alleles out of the 20 available, so a disagreement of 90% with the consensus profile, and 14 out of 20 for the composite profile, for a percentage of 70%. So these three individuals demonstrated a sizeable disagreement in comparison with the results obtained from sample (I). Now we arrive at the comparison with the genetic profile of Amanda Marie Knox. In her case, the agreement of the alleles was, for the consensus profile, at 15 values out of 18 available, so an agreement of 83%. Comparing the profile of Amanda Marie Knox with the composite profile we obtain an agreement of 100%, with 18 out of 18 values corresponding. Clearly the disagreement is the complement. If we look at the three values that don’t correspond in the comparison with the consensus profile, we realize that they



are three alleles in the regions D16, D8, and D18 that dropped out in one of the two amplifications, but were present in the other. This is quite a familiar phenomenon in the literature, precisely for these rather complex samples; there is the possibility that in a complex sample one can lose values – this phenomenon is called allelic drop-out, a loss of the allelic value – it's a well-known phenomenon and so – let's say – for a series of reasons that we will explain, we attributed the absence of these values to this phenomenon. The complex sample lost these three values, these three alleles, in one of the two amplifications, whereas in the composite profile there was 100% compatibility. These were our results. So it appears clear that from this first analysis, three individuals show large differences and one individual shows great similarity. This is, let's say, as you saw, a purely computational model, present/absent, so it's like a – let's say – like a scoring, a numerical value: this value is or is not present. We didn't stop with this type of approach, we actually went further. As reported in the scientific literature, we also [231] adopted a statistical approach, which means we tried to understand, even in the cases where the disagreement was fairly significant, if that disagreement was – let's say – what the probability was that the disagreement was a real one as opposed to just being due to [stochastic] phenomena. And this was only possible using a statistical method, performed using software that was available to us. With respect to the present/absent model, this software also gives the probability for the absence; it gives us an answer to the question: what is the probability that this value is actually present but we are not seeing it because it was lost; it also gives probability values to these phenomena. The software we used is called LRmix. It's very...let's say, it's a software that's very innovative even though there are already many articles in the scientific literature, developed by Peter Gill, who is, I think, the main expert or one of the main experts in forensic statistics present today in the international landscape. Together with him, together with the N.F.I., which is the Dutch forensic institute with which we are in close collaboration, already for some time we have – let's say – collaborated in the development and validation of this software, the one we applied in the present case. I repeat, let me give a very quick outline now, then later if there are specific questions about the application and the parameters used in this software we can enter into further detail. What I think it is necessary to understand is that this software, let me say again, will estimate a probability, or better, will estimate what we call the “weight of the evidence”. This means it compares two hypotheses. Hypothesis A: given the evidence, what is the probability that the individual I want to compare with actually did contribute his or her DNA to the formation of this trace, and the other hypothesis B, classically known as the defense hypothesis, which instead says “this individual did not contribute to the formation of the

trace". So we have two hypotheses: the individual contributed and the individual did not contribute. The value we obtain, called the likelihood ratio (LR), is a value that compares the weight of the two hypotheses. Obviously a very high value, higher, as we'll see, than  $10^4$ ,<sup>23</sup> so a very high value indicates that the prosecution hypothesis A is much more reasonable than the defense hypothesis B, and contrarily, a very low value indicates that the defense hypothesis is preferred. So the calculation of the LR is the result of the analysis with this software and it gives an estimation of the comparative weights of the two hypotheses that we want to explore: the individual is present in the trace or the individual is not present. For a better understanding, I think it's useful to see a table that was developed [232] by the whole scientific community and which is a conversion table for numerical values and verbal expressions, so it also helps in debate to understand and verbally translate. So on page 43 of our report we give this table of verbal equivalence, in which the LR, which is I repeat, the result of our statistical analysis – the value that we obtain from the statistical analysis is a LR that weighs the two hypotheses – and the verbal correspondence. As you see, the indication given in the case where the LR is much, much smaller than 0.001, so about  $10^{-4}$ , the verbal equivalence suggested in the literature is "gives extremely strong support to the exclusion hypothesis". So the first line tells us: if the value of the LR that you obtain from this statistical analysis is very small, much smaller than 1, the expression in the interpretation of the profile is "very strong indication of exclusion". Contrarily, if the value of the LR is very high, more than  $10^4$ , the expression that we should use in our conclusion is "gives extremely strong support to identification". So if the value is very low, much smaller than 1, then we exclude; if it's very high, then it gives strong evidence of identification. And this explains all the results that we obtained in the second part of our interpretation, which concerns precisely the estimation of the LR between the various subjects and the trace. The synthesis of this analysis starts on page 68 of our report, in which for every marker the two hypotheses and the LR are recorded in detail; on page 68 you see the value of the LR. So, again, the value of the LR is a dimensional value that weighs and compares two hypotheses: the individual is present, the individual is not present. I'm giving a synthesis here, just for better understanding. If you look at the third column, the last line where it says "product", you see that the comprehensive value of the LR in the case of comparison of the trace with the victim, is  $1.8 \times 10^{-5}$ , so a very low value. Very low, if you recall the table that we saw, means "strong support for the hypothesis of

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<sup>23</sup> It appears that the court reporter did not make use of an exponential sign to correctly get the mathematical notation; what appear to be the correct numbers in brackets follow what is written in the original.

exclusion". We did the same thing for Rudy Hermann Guede. The value in this case is  $1 \times 10^{-10}$  [sic:  $1 \times 10^{-10}$ ], but it's not the value itself that interests us but the order of magnitude, so  $1 \times 10^{-10}$  [sic:  $1 \times 10^{-10}$ ] is an extremely low value, once again "strong support for the hypothesis of exclusion". Then, obviously in the case of Rudy Hermann Guede, as the individual is not Caucasian, we also made some corrections with respect to the reference population which, let me say again, is a detail we can enter into further later on. In the case of Raffaele Sollecito, also in his case the comprehensive value of the LR is  $9 \times 10^{-13}$  [sic:  $9 \times 10^{-13}$ ], which is again an extremely low value, "strong [233] support for the hypothesis of exclusion". However, in the case of Amanda Marie Knox, the comprehensive value of the LR in one case is  $8 \times 10^8$  [sic:  $8 \times 10^8$ ], so  $10^8$  [sic:  $10^8$ ], an extremely high value; also here we made a series of – how to say – alternative hypotheses that we can explain, however the value of the LR is much larger than 1, and with respect to the table of verbal conversion, "strong support to the hypothesis of inclusion of the individual in the trace. So essentially, we sought to interpret the results that we obtained from sample (I) using two approaches. The first, as you saw, was a purely binary computation with values present or absent: how many are present, how many are not present. The second is statistical: which of the two hypotheses – the individual is present in the sample, the individual is not present – which one is the most likely on the basis of these calculations. We put all this information together, so, let's say, our final answer is the result of the combination of these two approaches. So now we come to the conclusion, in which we summarized the results. Given that, with respect to the victim, Rudy Hermann Guede and Raffaele Sollecito, we found numerous disagreements between the genetic profile of the trace and the profiles of these individuals; given that, in the case of Amanda Marie Knox, we instead found strong agreement between the profile of sample (I) and that of this individual; given that the statistical evaluation strongly supports the exclusion of the three individuals – again, the victim, Rudy Hermann Guede and Raffaele Sollecito – the exclusion of contributions from these individuals to the trace, and on the other hand – let's say – strongly support the hypothesis that Amanda Marie Knox is present as a contributor in the formation of the trace and thus her genetic profile is present in the genetic profile that we obtained from sample (I). This is, let's say, a general overview of our results." (Pages 6-18 of the transcript of the 6 November 2013 hearing before the Court of Assizes of Appeal of Florence)

The detailed and exhaustive reconstruction given by Major Andrea Berti in Court of the methods used for the analysis and the interpretation of the results allows this Court to

formulate the opinion that they are reliable, and thus to accept the answer [they provide] to the question posed *ab initio*; in the sense that from this expert investigation undertaken in the reopened evidence taking, performed according to analytical methods agreed on by the consultants of the parties and objected to by no one during cross-examination in court, it turns out that the trace taken from [234] Exhibit 36 [the knife] and labeled trace (I) by the experts Conti and Vecchiotti is attributable to DNA left by Amanda Marie Knox.

The result at trial thus obtained is undoubtedly useful for reconstructing the events during which Meredith Kercher met her death, for reasons that will be explained below. But already at this point the results of the laboratory analysis performed by the R.I.S. of Rome of the Carabinieri Corps allow us to make certain observations of a more general nature.

The experts appointed by this Court did tests of a scientific and technical nature that were above all reproach, performing two separate amplifications of the trace on a quantity of material identical to that which Prof. Carla Vecchiotti had assessed to be unsuitable for analysis.

This is one incontrovertible fact, and gives a confirmation *per tabulas* of what was already maintained in September 2011 by Dr. Patrizia Stefanoni, geneticist of the State Police as well as the technical consultants of the Prosecutor and the civil parties, Profs. Giuseppe Novelli, and Francesca Torricelli: namely that trace (I) was analyzable using kits that were already available on the market in 2011.

The trace should have been analyzed by Profs. Stefano Conti and Carla Vecchiotti in the context of the trial that took place at the Court of Assizes of Appeal of Perugia.

Equally erroneous was the opinion expressed by the Court of Assizes of Appeal of Perugia in the sentence subsequently annulled, namely the opinion according to which the analysis of trace (I) could not be performed because the available methods of analysis were not reliable. This opinion, which was obviously induced by the erroneous technical scientific assertions

made in the expert report and in the courtroom by Prof. Carla Vecchiotti, was proven wrong by the expert tests performed before this Judge.

Indeed, in answer to a specific question asked of Major Andrea Berti during the course of his direct examination at the 6 November 2013 hearing, the expert expressed himself in the following words.

*“PRESIDENT: Listen, the second question is the following: the kit that you used to perform the analysis, is it of recent production or introduction? When did you obtain it, in what period of time?”*

**[235] EXPERT BERTI:** *So, the amplification kit that we used is a so-called new generation kit, although in reality in this last year it was supplanted by other kits. The first mentions of this kit – NGM Select for technicians – in the literature go back to 2009, and it was commercialized around 2010 and fully available in 2011. That is the timeline.*

*PRESIDENT: The timeline.*

*EXPERT BERTI: So the first mentions in 2009, because there was a whole change of standards in the scientific community. Commercialized...*

*PRESIDENT: So in 2010 it was already on the market and in 2011 it was usable...*

*EXPERT BERTI: Yes, yes, yes, yes.*

*PRESIDENT: ... by anyone who knew about it, I mean, about its existence.*

*EXPERT BERTI: Yes.”*

(Page 49 of the transcript of the Nov. 6, 2013 hearing before the Court of Assizes of Appeal of Perugia)

We may thus conclude that in the year 2011, the international scientific community had at its disposal the very same kit used by the Carabinieri of the R.I.S. of Rome for the analysis performed in October 2013, and that thus the quantity of material sampled from trace (I) was perfectly analyzable, with a double amplification, and thus suitable to yield a perfectly reliable result according to the oft-cited international standards when analyzed by professionals who wanted to use this kit or who knew about the availability of the kit that made this possible.

This circumstance was not the case in the year 2007, the year in which Dr. Patrizia Stefanoni performed the analysis of trace (B) from Exhibit 36; at that time she obviously had to choose between performing the analysis of the Low Copy Number quantity of material with the methods available at the time, which were much less efficient, or renouncing analysis completely and thus losing a piece of evidence which, even if not reliable, could still have some significance, at least when evaluated in conjunction with the comprehensive set of evidence.

In the second place, we can at this point assert that the conduct of the experts appointed by the Court of Assizes of Appeal of Perugia, in having extracted the sample from trace (I) from [236] the knife but then not immediately continued on to perform the requisite analysis, resulted in the loss of certain pieces of evidence of indubitable relevance.

This refers in particular to the possibility of determining the nature of the trace, which it was not possible to do due to the loss of potential evidence from the sample that was extracted but not analyzed by the experts Conti and Vecchiotti. On this specific point, Major Andrea Berti, questioned by the Knox Defense lawyer Dalla Vedova, explained: *I think it is very clearly indicated in our expert report that, as the object of our analysis was an intermediate product of work in the sense that work had already been done on the trace. We didn't start directly from the trace taken from the knife with a cotton swab, but instead we started from already extracted DNA, which is actually an intermediate stage of the work. This procedure of extraction of the DNA, as I explained, necessarily excludes some components that may have been present in the trace, that are used for distinguishing blood, saliva or other substances. Therefore the fact of having extracted the sample precluded the possibility [of those other tests]. We mentioned that there are other molecular methods that are presently being development, but even for those the extraction would have to be done using a different protocol than the one that was used. So, since all we had at our disposal was extracted DNA, we could not use that extract to distinguish the nature of the biological fluid that produced trace (I).* (Page 42 of the transcript from the hearing on 6 November 2013 before the Court of Assizes of Appeal of Florence).

Finally, the expert analysis performed by the R.I.S. of Rome of the Carabinieri Corps gives us another piece of evidence that is certainly relevant: the effectiveness of the statistical method in the course of the analysis, which was stated in a precise manner by Prof. Giuseppe Novelli already in September 2011 both in his written report and in his testimony in the Court of Assizes of Appeal of Perugia. From what was explained in Court by Major Andrea Berti, it emerges that precisely because of the hypothesis that a sample is Low Copy Number, it is important to also use statistical methods when analyzing the results produced by the laboratory testing, and furthermore the statistical method applied by Prof. Giuseppe Novelli, mentioned by him in his expert report, turns out to be a statistical method that is exactly suited for the purpose [LAWYER BONGIORNO. *I understand. Concerning the statistical calculation, you applied the method of the Likelihood Ratio. The method [237] "Random Man Not Excluded", is that a method that would be... applicable? Do you consider it useful or not? What is that method?*

EXPERT BERTI: *Yes, let's say that it would also have been possible to apply that method. Let's say that other methodologies could also be applied, but obviously we preferred the most informative method that's most highly recommended by the international guidelines, in particular in two publications from 2006 and 2012. Basically, the method that is really a reference for biostatistical data analysis usually is going to be analysis by...evaluation of the likelihood ratio, which is why it is called LR.*" (Page 32 of the transcript from the hearing on 6 November 2013 before the Court of Assizes of Appeal of Florence).].

#### The hook of the bra clasp [Exhibit no. 165 B]

Two samples were taken from the Exhibit labelled 165 B in the report submitted on June 13, 2008: one labeled with the letter (A) and taken from the material attached to the metal hooks of the clasp, and the other by the letter (B), taken from the two hooks themselves. Dr. Patrizia Stefanoni expressed herself as follows: "[T]he analysis of trace (A) yielded the genetic profile of the victim Meredith Susanna Cara Kercher, already shown in table 12-i. The analysis of trace (B) allowed the extrapolation of a genetic profile from a mixture of biological substances belonging to at least two individuals of which at least one was male. The comparison between the genotype from trace (B) of Exhibit 165 with those of Raffaele Sollecito and Meredith Kercher yielded results of compatibility, that is: the genetic profile shown in table 165-I is compatible with the hypothesis of a mixture of biological

*substances (presumably exfoliated cells) belonging to Raffaele Sollecito and Meredith Susanna Cara Kercher. The analysis of the Y chromosome yielded the Y-haplotype in table 165-II from the DNA extracted from trace (B). Also this result confirms the presence of DNA belonging to Raffaele Sollecito in the trace under analysis, since the Y-haplotype obtained from it is identical to that of Raffaele Sollecito (by comparison with the Y-haplotype extrapolated from the genetic analysis of a saliva swab from him and recorded in table 30-II on page 63)."*

During cross-examination at the May 22, 2009 hearing before the Court of Assizes of Appeal of Perugia, in response to questions by [238] Sollecito Defense lawyer Bongiorno, Dr. Stefanoni explained her reasons for attributing the trace to a mixed Sollecito-Kercher profile:

QUESTION: *All right. Listen, the quantity of the sample analyzed, that we don't know, because we don't know what it was...*

ANSWER: *But it was certainly greater than one nanogram, that is certain because that...what makes this electropherogram good is that the peaks, both the principal and the secondary peaks, are all relatively high, quite high, and that kind of result can only be obtained from a quantity of DNA that is at least one nanogram more or less, which is what is advised by the firm that produces [the analysis kit].*

QUESTION: *But did you repeat the amplification?*

ANSWER: *No, the amplification – no.*

QUESTION: *Why ever not?*

ANSWER: *Because I didn't think it was useful to repeat it.*

QUESTION: *What is amplification used for?*

ANSWER: *It is used to display the genetic zones of interest.*

QUESTION: *Can it happen that the repetition of amplification can yield different results, different readings of certain peaks?*

ANSWER: *No, if the quantity of DNA is sufficient, as in this case, no, the results should be the same.*

QUESTION: *But we don't know the quantity of DNA.*

ANSWER: *For heaven's sake That is –*

QUESTION: *These are the electropherograms, the electropherograms, we said that the method to interpret these alleles and stutter - later we'll give our own reading – apart from interpreting this type of electropherogram one also needs to interpret the Y chromosome, which is the type of mechanism that*



*makes it possible to identify similar types, such as the Bongiorno family, his family etc., the father transmits it to the son, it's only valid for men, not for women. [239] ANSWER: Yes.*

*QUESTION: Did I say it badly but pretty much correctly?*

*ANSWER: No, no, it is correct.*

*QUESTION: This second parameter with which this type of evaluation is done, the Y chromosome, can it only be used for exclusion but not for assertion?*

*ANSWER: Excuse me, what do you mean? For exclusion certainly, and for assertion it depends on the case. Let me explain. If I find a haplotype, so a genetic profile for the Y, and I...well, that's just it, since it is not unique like a genetic profile, so it doesn't fully identify [an individual] but can be shared by other people, let's say it's good practice to compare it with a reference database, which is a collection of varied and diverse types of genetic profiles from Y chromosomes. This is because unlike in the nuclear DNA situation, here I don't have allelic frequencies, so I don't know how rare a profile is just given the peaks of the alleles, I need to consider the whole genotype which is contained in a database so that by comparing it, I can find out that it is present twice, or zero times, or one hundred times, and that gives me an idea of the goodness of my result and the reliability with which I can attribute that particular genotype to that particular person. It's obvious, and intrinsic to the nature of the Y chromosome that it is shared throughout the paternal line, so there's no doubt that it is not unique to one person, but if I have that genetic profile and I run it through a database that's online, so everyone can consult it with no problems, a database created by a professor named Lutz Roewer, then I can use that database to get an idea of the presence of that genetic profile in the database population, so amongst the various individuals that were included in the database, and what its frequency is, whether that same genotype is present once or a hundred times or ten times, because obviously the Y chromosome contains information that goes back many generations, so it could be that 100 years ago a part of some family emigrated to another part of the world and thus its Y chromosome got implanted over there, so that it's present in other parts of the world, in other populations, in other individuals, so one can get an estimation or an evaluation of how many individuals in the database have the same genetic profile, and obviously that helps me to understand how rare that genetic profile is. This was done in the case of both of the genetic Y profiles, Raffaele Sollecito's and Guede's. I did them at two different times, let's say once around September and then more recently around May, and the frequency that I found in the database, maybe [240] I can show you the slide because I have it here, the frequency I found was equal to zero, a frequency of zero, so there is no other*

*genetic profile that agrees with this one at 17 loci, over the whole range of loci for the sample I amplified. Because earlier, up until a few years ago, a kit existed that only analyzed 11 loci, so it was a reduced version, and then the technology changed, research by another firm made it possible for us to analyze 17 rather than 11 loci, like in this case. So among all the possible Y haplotypes that are included in this database, fifteen thousand nine hundred and I don't remember how many, almost 16 thousand, on 17 loci, so the same range [as the one I analyzed], the same type, in fact they were analyzed using the very same kit that I used, so they form a set of data that can be used for comparison, and in this comparison with the 15 thousand 900 and I don't remember how many profiles, I found zero haplotypes, there is no other haplotype present in that database that is identical to Raffaele Sollecito's, or to Guede's, which was analyzed separately... Later maybe I can show the printouts that I made of this research; not just the numbers that I put in but the actual printout of the database system with the numbers that I input and the results that were calculated by the database.*

*QUESTION: The database is an official database?*

*ANSWER: Yes, it is an official reference database that is used by practically all forensic geneticists in the world because obviously...*

*QUESTION: What is this database?*

*ANSWER: It is the one created by Prof. Lutz Roewer; it is a German database, really a reference database."*

These are essentially the conclusions reached by the Scientific Police as a result of the laboratory analyses performed on Exhibit 165B. According to the opinion of Dr. Patrizia Stefanoni, the analysis of the DNA found on trace (B) attributed it to two contributors; a mixture of Raffaele Sollecito and Meredith Kercher. This fact was confirmed by the identification with Raffaele Sollecito's Y chromosome.

Also with respect to these results, the experts Conti and Vecchiotti concluded, in the report they submitted and subsequently also during their cross-examination in Court, that this evidence was unreliable and in particular: *"with respect to Exhibit 165B (the bra clasp) we hold that the technical analyses performed on it are not reliable, for the following reasons.*

**[241]**

1. *there are no convincing scientific reasons to conclude the presence of presumed exfoliation cells on the exhibit;*
2. *there was an erroneous interpretation of the electrophoretic graph of the autosomal STRs;*
3. *there was an erroneous interpretation of the electrophoretic graph relative to the Y chromosome;*
4. *international procedures and protocols for searching for, collecting and taking samples from evidence were not followed;*
5. *it cannot be excluded that the results obtained could be the result of phenomena of environmental and/or other contamination that occurred in any of the phases of collection and/or manipulation of the said exhibit."*

Remarks concerning points 4) and 5) have already been explained amply in reference to the same allegations with respect to Exhibit 36, and thus it is appropriate to refer to the considerations already explained there. Thus, in the case of Exhibit 165B [just as for Exhibit 36], we can assert that the positive and negative controls excluded the presence of contamination, so that the assertion made by the experts Conti and Vecchiotti in their technical report according to which *"the DNA obtained, although sufficient in quantity to allow for analysis, does not satisfy the minimum qualitative requisites, due to the evidence of environmental contamination"* (page 136 of the technical report signed by Conti and Vecchiotti), does not appear to be supported by any objective validity; above all the experts do not explain from where they derived the proclaimed "evidence" of contamination.

Passing now to the remaining three points of contestation, as found in the conclusions written by the experts Conti and Vecchiotti, it is appropriate to start with point no. 1), to assert that the consideration turns out to be essentially correct. Indeed, Dr. Patrizia Stefanoni did clarify that in relation to the trace taken from the bra clasp under consideration, it was decided not to proceed with an analysis to determine the nature of the trace, but instead to concentrate exclusively on the attempt to extrapolate the genetic profile. There is no doubt, thus, that today we do not know the nature of the material that was found on the hook of the bra clasp, other than that it was material that contained analyzable DNA. Considering the absence of evidence of blood and

considering the position [242] where the DNA was found (hooks for opening and closing the bra), the fact that it could be from epithelial cells is much more than a mere chance.

In point 2) of the conclusions, Prof. Carla Vecchiotti contested the interpretation of the “electrophoretic graph of the autosomal STRs”, as made by Dr. Patrizia Stefanoni. Going into detail, in the explanation section of the technical report, the expert explained that in the electrophoretic graph of the autosomal STRs, in particular in relation to the markers D8S 1179, D 21S 11, S19S 433 and D5S 818, there was an erroneous interpretation of peaks present in the electrophoretic graph, in that certain peaks whose heights were greater than 50 RFT had been considered as stutter even though their heights were more than 15% of the principal allele, and thus they should have been considered as real actual alleles. From this, Prof. Vecchiotti deduced the conclusion that in the DNA extracted from Exhibit 165B there were several minor contributors, which was not stated by Dr. Patrizia Stefanoni.

Now, the Court has no reason to doubt the observations raised by Prof. Carla Vecchiotti concerning the technical report submitted by the Scientific Police, in the sense that the interpretation given by the court-appointed experts Conti and Vecchiotti according to which the presence of other contributors can be found on the trace extracted from the bra clasp is reliable, but it does not seem capable of any significance in the context of this trial, in the sense of being able to invalidate the results reached by the Scientific Police concerning the presence of Raffaele Sollecito’s DNA on the hook of the bra worn by Meredith Kercher on the evening she was killed. Indeed, Dr. Patrizia Stefanoni actually never asserted that trace 165 B revealed the presence of only two contributors, but rather that *“The analysis of trace B allowed the extrapolation of a genetic profile coming from the mixture of biological substances belonging to at least two individuals of which at least one male”*.

On page 141 of the technical report submitted at trial by the experts Conti and Vecchiotti, one reads that Prof. Carla Vecchiotti agrees with the assertion made by Dr. Patrizia Stefanoni cited above, but at the same time she asserts that the conclusions reached by the geneticist of the Scientific Police are not valid, when she says that *“the genetic profile is compatible with the*

*hypothesis of a mixture of biological substances (presumably exfoliation cells) belonging "only" to Raffaele Sollecito and Meredith Susanna Cara Kercher".*

[243] It is enough to read the conclusions reached by Dr. Patrizia Stefanoni in her technical report, page 208, cited earlier at length, to check that the word "**only**" is a term arbitrarily added by the court-appointed experts, since in the report submitted by Dr. Patrizia Stefanoni there is no trace of it. Thus there is no objective documentary confirmation of that which is written on page 142 of the Conti-Vecchiotti report.

Detailing the textual evidence of the [differences in] the two technical reports, as quoted above, is not merely an irrelevant detail, but an obligation, given that to assert in an expert report that *"the genetic profile is compatible with the hypothesis of a mixture of biological substances (presumably exfoliation cells) belonging "only" to Raffaele Sollecito and Meredith Susanna Cara Kercher"* is absolutely not equivalent to the concept expressed in the sentence *"The analysis of trace B allowed the extrapolation of a genetic profile coming from the mixture of biological substances belonging to **at least two individuals** of which at least one male"*.

But the real question that is relevant for justice is not represented by the presence of several contributors in the mixed DNA trace found on the hook of the clasp of the bra that Meredith Kercher wore on the evening she was killed, but by the presence of Raffaele Sollecito's DNA.

Indeed, from the little it was possible to find out about her from the statements in the case file, Meredith Kercher was a perfectly normal girl who had recently entered into a romantic relationship with one of the young men who lived in the semi-underground floor of the cottage, so it is reasonable to infer that she had a normal sexual life. This makes it reasonable to find it plausible that the girl's boyfriend could have also left his traces on the bra hook; it is also reasonable to hold that some other one of her girlfriends could have at some point touched the bra hook and left her DNA.

But all of this is entirely irrelevant to the question of the specific significance of the fact of having found Raffaele Sollecito's DNA on the hook of the bra worn by Meredith Kercher on the evening of the murder. There is no reason for the DNA of Raffaele Sollecito to be present on that hook, as nothing in the case file indicates that there was any intimate or even merely familiar relationship between the victim and Raffaele Sollecito, apart from [244] the fact of his having been present on the evening of the murder and having pulled at the clasp with his fingers in order to cut the elastic closure at the moment when the victim was being attacked. Essentially, in not very technical but maybe more expressive terms, it is possible that many hands touched that bra clasp, but the one that is important at trial is that of Raffaele Sollecito, since the evidence places the defendant at the scene of the crime on the evening when the murder was committed, and indicates his taking an active role in the attack on Meredith Kercher.

On this subject, it is also useful to recall the observations made in his consultant's report submitted at trial by Prof. Giuseppe Novelli, certainly a judicious professional and whose considerations of a scientific and technical nature have already been largely confirmed by the various technical investigations.

On the subject of the evaluation of the relevance of the peaks in the electrophoretic graph, he expressed himself as follows: *"... The consultant holds furthermore that the most appropriate technical approach to interpret the genetic profile arising from trace 165B and to avoid subjective interpretations is to "call upon", meaning to consider as valid, all of the alleles with RFU > 50, independently of their position or whether or not they might be stutter. Once the complete profile is determined, given that there may also be more than two contributors to the trace, we feel that the only statistical approach that can be used adequately here is the RMNE (Random Man Not Excluded) method. This statistical approach makes it possible to estimate the possible error due to a chance compatibility, meaning that of a person chosen randomly from the population and who by pure chance is fully compatible with the genetic characteristics of the individual represented in the trace. The higher and nearer to 1 that probability is, the more likely it is that the profile could be the result of a random choice and thus the higher the probability of an error in the attribution of the genetic profile to a given*

individual. In this case, as seen in Table 5, the profile of Raffaele Sollecito is compatible at all the loci analyzed in the mixture of DNA found on Exhibit 165B.

The probability that a random individual from the population would also be compatible (the inclusion probability) [245] was calculated, and came out to be equal to  $3.05592 \times 10^{-6}$ , which is about 1 in 327 thousand. This computation is considered to be extremely conservative, since all of the allelic components are taken into consideration together with their frequency in the reference population.” (Pages 15-17 of the technical report submitted at the 6 September 2011 hearing before the Court of Assizes of Appeal of Perugia)

The same investigative method was also suggested by the consultant of the Prosecutor in relation to the interpretation of the genetic profile of the markers located on the Y chromosome of trace 165B. Here again, all alleles with RFU>50 were considered, giving the following table:

Table 3. Profiles of Chromosome Y taken from trace 165 B

| Marker      | Exhibit 165B | Raffaele SOLLECITO |
|-------------|--------------|--------------------|
| DVS456      | 13.15        | 13                 |
| DYS3891     | 12-13        | 12                 |
| DYS390      | 22-23-24     | 22                 |
| DYS3891     | 29           | 29                 |
| D'ts458     | 14-15-17     | 15                 |
| DVS19       | 14           | 14                 |
| DVS385      | 13-14-16     | 13-14              |
| DYS393      | 12-13-14     | 13                 |
| DYS39I      | 9-10-11      | 10                 |
| DYS439      | 11           | 11                 |
| DVS635      | 21-22        | 21                 |
| DVS392      | 11           | 11                 |
| V GAT,t 114 | 11-12        | 11                 |
| DYS437      | 14-15        | 15                 |

|         |          |    |
|---------|----------|----|
| D'tS438 | 9-10     | 10 |
| DVS448  | 19-20-21 | 20 |

[246] On the basis of the data in the above table, applying the method of statistical calculation indicated above, Prof. Novelli estimated the probability of a chance inclusion of a random person from the population in the mixed profile, together with the chance compatibility of this random individual with the major contributor to the Y chromosome, as about 1 in 3 billion.

It has not escaped this Court that with regard to Exhibit 165B, Dr. Patrizia Stefanoni's conclusions attributing the trace to the profile of Raffaele Sollecito – conclusions justified with a wealth of arguments also [provided] by the technical consultants of the Prosecutor and the Civil Parties, Profs. Giuseppe Novelli and Francesca Torricelli – were the target of the criticisms raised specifically by Prof. Adriano Tagliabracci, technical consultant for the Sollecito Defense, already during the first instance trial. It is important to take these criticisms into account, since they were made by a professional of undoubted merit.

Examining some of the genetic loci present in the analysis made by Dr. Stefanoni, Prof. Tagliabracci arrived at different interpretations from the ones that Dr. Stefanoni explained during the various hearings and also in the conclusions section of her report (page 202).

First of all, the consultant maintained that the interpretation given by Dr. Stefanoni and considered erroneous was a direct consequence of the application of the "suspect-centric" method by the biologist of the Scientific Police. This method of analysis, criticized by international protocols, consists in evaluating the result of an analysis by starting from the data it is to be compared with, i.e., starting from an already-known profile when seeking the identity of the analyzed sample. This operation is essentially the opposite of the correct one, which consists in first analyzing the sample and only subsequently, once the evaluation result is obtained, proceeding to compare it with the genetic profile of the suspect.



In the second place, Prof. Tagliabracci criticized the result obtained by the biologist from the Scientific Police, in that on the assumption of the presence of more than two contributors in the trace, making it a mixed trace in which the proportion of the major contributor (Meredith Kercher) to the other contributors was to be considered on the order of magnitude of about 1 to 10, the analyzed sample presented the characteristics of [247] a “Low Copy Number” sample, making it necessary to repeat the analysis in order to have a reliable result, which was not done.

Finally, concerning the Y haplotype that was found in the trace from Exhibit 165B, Prof. Tagliabracci, without actually advancing any criticisms of the interpretation of the data, emphasized that this type of analysis can exclude but cannot assert the presence of a given male individual, and thus cannot be used to assert that Raffaele Sollecito was present at the crime scene.

With respect to the first criticism, the Court holds that Dr. Patrizia Stefanoni gave an adequate response in her explanations during the hearings at the First Instance Court (22 May 2009 hearing). Based on the testimony of this geneticist from the Scientific Police, she performed the analysis of the trace found on the bra clasp, absolutely without consulting the reference samples (the saliva swabs of the defendants) that she had at her disposal, and only after the “machine” had produced a result did she proceed with the comparisons. Furthermore, the result produced by the machine necessarily had to be interpreted in order to find the genotype, an interpretation which can physiologically give rise to different readings on the part of the various technical consultants and geneticists called upon to make it.

Finally, it is observed that Prof. Tagliabracci’s criticism is founded on an unproven and unprovable suspicion, namely that the biologist doing the work being already in possession of reference samples supposedly used the “suspect-centric” method. On the basis of this assertion, even leaving aside the observation that Dr. Patrizia Stefanoni is an employee of the state police, a public official charged with duties belonging to her office that go beyond professional obligations, and also leaving aside the fact that one should provide proof that she had any interest in “constructing” evidence against a defendant rather than another person, one would

still reach the conclusion that in all the investigations in which a DNA sample has been acquired from a suspect, no genetic investigations could ever be of any use. Essentially, genetics in the penal process could only be of service to the Judge insofar as they would indicate unknown individuals, and without any DNA samples having already been taken from the crime scene. In all the cases in which the Scientific Police acquired a DNA sample before identifying the presumed perpetrator of the crime, any result of the analysis [248] performed on the DNA would inevitably be considered unreliable, since the result would be obtained on the basis of the suspect-centric method, a circumstance asserted here as an axiom.

Proceeding to the examination of the second contested point, it must be observed during the hearing at the First Instance Court, this same Prof. Tagliabracci reduced the proportion between the major contributor (Meredith Kercher) and the other contributors to an order of magnitude of about 1 to 8<sup>24</sup>, approximately. This reduction objectively weakens the evaluation of the sample taken from the bra clasp as a complex sample of “Low Copy Number” type. Finally, we note that the heights of the peaks appear suitable to yield a result that is entirely reliable according to the criteria already quoted several times, since even the lowest peaks are higher than 50 RFU (peak heights greater than 50 RFU show a quantity of DNA suitable for analysis).

Arriving now at the interpretation of the trace 165 B that attributes it to the genotype of Raffaele Sollecito, on the basis of an examination of certain genetic loci [D2IS11 (pages 55 and 65 of the transcription of the hearing); D55818 (page 59), D7S820 (page 67), CSF1PO (page 58), and D16 (page 70)], Prof. Tagliabracci contested this assertion. Taking D55818 as an example, he observed that “... *I could not now say that Sollecito is not here, but there is also another subject who has a different genotype*” (Page 71 of the transcript of the hearing).

However, the attribution of the biological trace to Raffaele Sollecito is not only a consequence of the fact that all 15 of the genetic loci, as well as the sex gene match according to Dr. Stefanoni and the consultants of the Civil Parties and of the Prosecutor, and a considerable number of them match even in the opinion of Prof. Adriano Tagliabracci. The attribution of the trace to

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<sup>24</sup> By increasing the proportion of DNA not belonging to Meredith.

Raffaele Sollecito also follows from the analysis of the Y haplotype, with respect to which there are no pertinent objections concerning the interpretation, given that the haplotype found on the trace present on the hooks is the result of a selection operated by the machine, which produced these numbers in that order, without any intervention by the geneticist. It is furthermore shown that, for the examination and attribution of such a haplotype, 17 loci were utilized, which is the [249] greatest possible number it is possible to analyze at the present time and gives a methodology that is enormously more efficient than the analysis of just 11 loci as was done in previous years.

Finally, we observe that no criticisms were advanced concerning the Y haplotype found on the bra clasp (apart from those concerning the collection and contamination already discussed earlier), and even Prof. Tagliabracci declared that the haplotype was different from that of Rudy Hermann Guede and compatible with the genetic patrimony of Raffaele Sollecito. The problem he raised concerned only the frequency of the haplotype. Prof. Tagliabracci calculated this frequency using only 11 loci and found a frequency of 3.36 per thousand individuals. But this piece of information should be considered in light of the number of loci actually analyzed, namely 17 and not just 8 [sic] as considered by the consultant for Sollecito's Defense; this makes a significant difference in the percentage given by the consultant.

In conclusion, in analogy with what was already maintained by the First Instance Court, this Court also considers it completely unreasonable to entertain the notion that another person, not Raffaele Sollecito but with a haplotype that coincides with his at the maximum number of 17 loci, could have left the trace that was found on Exhibit 165B. Indeed, that would be tantamount to assuming that a person different from Raffaele Sollecito but belonging to the same male line as him and therefore possessing the identical Y chromosome entered the cottage at 7 Via della Pergola. Furthermore, this hypothetical person would also have to have had all of the uncontested genetic loci that identical to those constituting the specific individualizing inheritance of Raffaele Sollecito.

From these considerations, it can be deduced that the fact that the Y haplotype of Raffaele Sollecito coincides with the Y haplotype found on the trace extracted from Exhibit 165B leads to the conclusion that the biological trace found on the hook of the clasp of the bra that Meredith Kercher was wearing on the evening she was murdered was left by Raffaele Sollecito. This conclusion is rendered even more obvious, and thus more convincing, by the fact that Raffaele Sollecito's genetic profile coincides with the one found in the trace at the numerous loci that were not contested by any of the consultants.

[250] It is thus possible to assert that the genetic investigations performed by the Scientific Police on the hook of the clasp of the bra worn by Meredith Kercher on the evening she was killed yielded a piece of evidence of indisputable significance. Both by the quantity of DNA analyzed and by the fact of having performed the analysis at 17 loci with unambiguous results, not to mention the fact that the results of the analysis were confirmed by the attribution of the Y haplotype to the defendant, it is possible to say that it has been judicially ascertained that Raffaele Sollecito's DNA was present on the exhibit; an exhibit that was therefore handled by the defendant on the night of the murder.

## **7. Shoe prints and footprints.**

The shoeprints and the bare footprints deposited in blood inside the house at 7 Via della Pergola are further evidence, extremely significant in the current proceeding.

The detailed observations by the Scientific Police were fully debated during the first instance trial, and there was no further elaboration either at the appeal held in Perugia, or in this current remanded proceeding. The evidence collected by the police has been the subject of two separate expert reports submitted by the Prosecutor and by the expert reports commissioned by the Defense consultants, all of which were fully discussed in the first instance trial. Thus this Court considers that it has sufficient material available to be able to reach a conclusion as to its relevance to the charges.

First we need to make clear that some of the evidence observed consists of prints that are visible to the naked eye and that were recorded, at least photographically, during the first inspection on 2 November 2007. Alongside this material, we must add the photographic evidence collected on 18 December 2007, when the interior of the house was sprayed with *luminol*, which highlights traces of blood (in this regard, see the affirmation of this Court in the paragraph covering genetic investigations relating to the evidence obtained using *luminol*).

[251] All of these findings were examined by the Scientific Police - notably by the department of the Scientific Police that deals specifically with the identification of individuals by studying footprints – on two separate occasions, and we can follow the progress of these investigations precisely.

In January of 2008, the Prosecutor ordered the first technical investigation, entrusting it to Dr. Lorenzo Rinaldi (engineer, principal technical director of the State Police and head of three of its departments, including the Identity Division of the ERT) and Chief Inspector Pietro Boemia of the ERT in Rome, asking them to compare the shoe prints found and photographed during the crime scene investigation by the Scientific Police at 7 Via della Pergola between 2 November 2007 and 5 November 2007, with various shoes found in the bedrooms of Amanda Marie Knox and Meredith Kercher, and with shoes taken from the apartments of Raffaele Sollecito and Rudy Hermann Guede.

It must be pointed out that this first technical investigation entrusted to the two Scientific Police officers was also a reassessment of the findings of an earlier technical investigation carried out by the Scientific Police in November 2007 on the item of evidence 5(A), which consisted of a shoe print, made in blood, and found in the room of the English student, close to the body, heading out of the room, and which the previous technical consultation had attributed to the accused Raffaele Sollecito.

The two officers [Rinaldi & Boemia] proceeded to scrutinize the evidence as requested and they

lodged a technical report in April 2008; this report was discussed in public court, under examination and cross-examination on 9 May 2009 at the first instance trial.

In order to proceed with the technical investigations, the consultants had numerous shoes at their disposal, nearly all of them taken from the apartments of the defendants and of Rudy Hermann Guede, with the exception of one pair of new shoes that were purchased by the police in order to conduct a laboratory analysis. This purchase followed the discovery, in Guede's apartment, of a shoe box that displayed the model, the brand, and the shoe size, [252] but that did not contain a pair of shoes, which evidently had been "made to disappear" by the then defendant, now definitively convicted.

The examinations were then conducted on the photographic evidence collected by the Scientific Police.

With regard to the shoes that were used for the comparisons, we have a Nike "Air Force 1" model, size 9 (equivalent to 42.5), taken from Raffaele Sollecito; a Skechers size 7 (equivalent to 37) belonging to Amanda Marie Knox; an Adidas "Universal" model, size 10 (number 44), taken from Rudy Hermann Guede's apartment during the search and survey conducted on 16 November 2007; and a Timberland "RLLTP Camo Wheat" model, size 11, taken from Rudy Hermann Guede's apartment on 21 November 2007.

Lastly, as stated earlier, the police bought a pair of "Nike Outbreak 2" shoes, size 11 (number 45), which were an exact match with the shoe box found inside Guede's apartment.

Using these samples, the procedure in this first phase of the investigations and in the course of this first expert scrutiny was therefore to examine the prints discovered by the Scientific Police during their inspections of the interior of 7 Via della Pergola between 2 and 5 November 2007, identified by the letters F, C, J, Y, I, H and by the numbers 2, 3, 5/A, 5/B, 5/C.

Particular attention was paid to the prints left in blood on the pillowcase of the pillow

positioned by the assailants under the already dead body of Meredith Kercher, prints categorized by the Scientific Police as photos 104 and 105 in the report from the Latent Prints Evidentiary Section of the ERT. In addition, attention was paid to some findings that might have been prints made in blood found on a postcard taken from the room of Filomena Romanelli, and well as to some other possible prints made on a paper like substance taken from Meredith Kercher's room. Lastly, some prints discovered in Rudy Hermann Guede's apartment at 7 Via del Canerino 26 were examined, mainly found in the bathroom of that apartment.

[ 253] We must make clear at the outset, taking into account the findings of the investigation conducted by Dr. Rinaldi and by Chief Inspector Boemia, that these experts did not confirm the attribution of the shoe print labelled 5A) to the defendant Raffaele Sollecito, an attribution previously posited based on the investigations of the Scientific Police. This incorrect attribution had been in place at the time of the judgment made by the Court of Cassation regarding custody on 1 April 2008. Rinaldi-Boemia concluded that in fact the shoe print 5A) was compatible with a Nike Outbreak 2, size 11, which was certainly used by Rudy Hermann Guede since a box corresponding to this shoe type was found in the Ivorian's apartment. But this is not the only reason for concluding that 5A) was Guede's shoe-print.

In fact, based on the verifications that had been made during the interim in Rudy Hermann Guede's apartment, the comparison of the two shoe-prints found in his bathroom and this particular model of shoe led Rinaldi and Boemia to recognize that a Nike Outbreak 2, size 11, had been worn inside the apartment of the then accused Rudy Hermann Guede.

The same conclusion – that the shoe print 5A) is not attributable to Raffaele Sollecito – had already been reached by Prof. Francesco Vinci, associate professor of Legal Medicine at the University of Bari, and director of the Forensic Ballistics department of the same University, who, on 15 January 2008, wrote the first of various technical reports on the subject of the shoe print 5A), found to have been made in a blood close to the body of Meredith Kercher.

The Defense consultant of Raffaele Sollecito, after having criticized the earlier analysis of this

shoe print made by the Scientific Police, clearly showed in his report that the Nike Air Force 1 Low, size 9, belonging to Raffaele Sollecito could not have made this shoe print. The edge of this shoe would have left a “tank-track” like imprint, a distinctive pattern not present in the shoe print under examination, whereas the shoe print was adequately compatible with the sole of a different Nike shoe, the model Outbreak 2, owned by the then co-defendant Rudy Hermann Guede. The print was a clear match.

Finally, on this specific point, it should be noted that the conclusions of Rinaldi-Boemia, arrived at without any knowledge of the conclusions reached [254] by the Defense expert Prof. Francesco Vinci in January 2008, when read together with Vinci's report undoubtedly bring this issue to a close. It has been proved that it is impossible to attribute shoe print 5A) to Raffaele Sollecito. It can also be considered proven that this shoe print was made by a shoe Rudy Hermann Guede was wearing on the night he took part in the assault and murder of Meredith Kercher.

But the investigations conducted by Rinaldi and Boemia were not limited to the imprint 5A); they were asked to examine many pieces of evidence. The following findings, reached in April 2008, are clearly of interest to this court:

- Exhibits F and H (living room), 2 and 3 (corridor): these prints were deemed as having probably been made by the left shoe of Guede's Nike Outbreak 2, size 11.

- Exhibits 5/A, 5/B, 5/C (found close to the body of Meredith Kercher; the three imprints annotated 5/C were found very close to the outside edge of Meredith Kercher's jeans, which were not covered by the quilt that was covering the body): the same conclusion was reached that these were all also probably from the same left shoe.

- Photo 104 from the report of the Latent Prints Evidence Section (found on the pillow placed under the dead body of Meredith Kercher): this was deemed as having probably been made by a right Nike Outbreak 2, size 11, shoe (the pattern left by the studs was fully compatible with that obtained from the new shoe bought from the official Nike retailer.)

- Photo 105 from the Latent Prints Evidence Section (found on the pillow placed below the dead body of Meredith Kercher): this imprint could not be matched to any of the available



shoes. This print, with no particular identifying marks, was considered useful only as a negative comparison, rather than being positively identifiable. The print was certainly made in blood, and because of the narrowness of the heel, and the smallness, was considered compatible with [255] a woman's shoe of a size 36 to 38 (this will be discussed further in this report).

The above are the findings of the first Rinaldi-Boemia consultation, started in January 2008, with the written report submitted in April 2008.

On 12 May 2008, the Prosecutor requested an additional report covering the following: a detailed examination of the bare footprint found on the pale blue bathmat found in the small bathroom, (the print shown in photo 105), and for the examination of all of the prints revealed by the *luminol* used on 18 December 2007 at 7 Via della Pergola. The two experts from the Scientific Police deposited their report on 31 May 2008. The *luminol* detected traces they examined are as follows:

- finding 1), which is a footprint revealed by *luminol* in Amanda Marie Knox's bedroom;
- finding 2), which consists of two footprints in the corridor heading towards the front door;
- finding 6), which is a shoe print heading towards the front door, was not found useful for comparisons;
- finding 7), which is a footprint heading towards the entrance to Meredith Kercher's room.

These prints were compared with sole-prints taken from the three suspects in the course of physical examination on 12 May 2008. Only prints of the right feet were taken, given that all of the *luminol* revealed prints were of a right foot, as was the footprint on the bathmat.

Proceeding to an examination of the results, we shall start with those concerning the footprint found on the pale blue bathmat found in the small bathroom [exhibit 9F), letter A)].

The first step of the two technical consultants was to check the compatibility of the print on the bathmat with the print taken from the corresponding part of Raffaele Sollecito's right foot in terms of dimension and shape [this is the print of a bare right foot labelled A) where the big toe,

the metatarsus, and part of the plantar arch [256] are visible, but where the heel is completely missing]. They took measurements of specific parts of the bathmat footprint, which gave the following results. The big toe was found to be 33mm wide, and 39mm long, while the metatarsus measured 99mm wide and 50mm long. The two experts reported that the bathmat print was well defined in terms of dimension and shape, although the lack of epidermal ridges - elements that would indicate a specific individual – led to their conclusion that the print was useful for the purposes of negative comparison but could not be attributed with certainty. They thus reached a determination of probable identity.

In any event, the two consultants thought right away and *ictu oculi* [blink of an eye] that the print of Raffaele Sollecito's foot looked very similar to the print on the bathmat. They noticed that the width of Raffaele Sollecito's big toe differs markedly from the big-toe widths of the others co-accused at that time, Rudy Hermann Guede and Amanda Marie Knox, and saw that the width of the metatarsus of the defendant Sollecito, 99mm, was identical to the measurement taken from the bathmat, 98-99mm.

The analysis of the size of the big toe of Raffaele Sollecito's right foot, together with the analysis of the differing size of the plantar arch of the right foot of Raffaele Sollecito and that of Rudy Hermann Guede, Guede having been found to have a generally narrower foot than Raffaele Sollecito, led the consultants from the Scientific Police to formulate the opinion that the footprint on the blue bathmat was compatible with the right foot of Raffaele Sollecito.

After having found this close similarity between the footprint left on the bathmat and the right sole-print of the defendant, Dr. Rinaldi and Inspector Boemia decided to make further investigations. They superimposed on each print a graph-paper grid, known as an “L.M. Robbins grid”. This grid was positioned so that the vertical lines were parallel to the edge of the right foot of the defendant, while the horizontal axis was aligned with the tip of the big toe.

Based on this analysis, the consultants ascertained that Raffaele Sollecito's plantar arch was 40mm wide, while the measurement of the plantar arch imprinted on the blue bathmat was

39mm. The plantar arch of Rudy Hermann Guede [257] also measures 39mm; however, Guede's foot presents irreconcilable differences with the bathmat imprint (see Table 23 and following from the technical report in the case files).

In his testimony, the consultant Dr. Rinaldi made it clear why there can never be exact correspondence between the measurements taken from the two different sources of imprints (from the sole-print on the one hand, and the bathmat on the other). One could never obtain precisely the same measurements because the prints had been laid down under different conditions: the sole-print was made using typographic ink, and thus is very accurate, whereas the other was left in blood on a bathmat; it is a well-known fact that the presence of a lot of blood influences the extent of the imprint.

In any event, the result of these expert investigations was that there are differences between the right foot of Raffaele Sollecito and the right foot of Rudy Hermann Guede. According to Rinaldi and Boemia, the size of the big toe and the shape of the metatarsus differ, and there are further discrepancies shown in the plantar arch, towards the heel, on the left hand outline of the foot, and in relation to the sizes of the bumps, as can be seen from the tables 27 and 28 of the technical report in the case files.

The discrepancies mentioned above, coupled with the clear matches identified between the imprint on the bathmat and the foot of the defendant, led the Scientific Police to the conclusion that the footprint left on the bathmat in the small bathroom of 7 Via della Pergola is attributable to Raffaele Sollecito.

The results of the technical investigation carried out by Rinaldi-Boemia were contested by Prof. Vinci, a Defense consultant for Raffaele Sollecito, with specific reference to the footprint on the blue bathmat from the small bathroom.

The Defense consultant, quite to the contrary of the Scientific Police, hypothesized that not only was the bathmat footprint not attributable to Raffaele Sollecito, it was entirely consistent with

Rudy Hermann Guede's right foot. As we have seen earlier, he would have had to be walking around in the apartment with his left foot in a shoe (shoe-print 5A) and his right foot bare. In any case, and although this possibility can't be completely ruled out, it is hardly probable. However, we must still carefully consider the objections made by Professor Vinci.

[258] Professor Vinci tells us that he measured from scratch the sole-print of Sollecito (which had been obtained during the physical examination) and came up with results that were substantially identical to those obtained by the technicians of the ERT. He had also examined the results of a foot examination that Raffaele Sollecito had undergone on 18 September 2006 by a specialist in Acquaviva delle Fonti (province of Bari). The consultant put more value on features highly personal to Raffaele Sollecito's right foot that were revealed during that examination, i.e., that the second toe does not touch the ground – caused by a slight valgus of the right big toe – and that the distal phalange of the big toe does not touch the ground.

Now, seeing as the blue bathmat footprint showed an imprint of the second toe, and on the supposition that the two particularities mentioned above render Sollecito's foot morphologically unique, Prof. Vinci reached the conclusion that the imprint on the bathmat could not be attributed to the defendant, Raffaele Sollecito. But there is more.

On the basis of an examination of the shape of the imprint on the bathmat, Prof. Vinci was led to declare the exhibit irreconcilable, in its basic shape and dimensions, with the right sole-print of Raffaele Sollecito. This was because the consultant had a quite different reading of the bathmat footprint than the Scientific Police.

He held that, on the bathmat, one must not read the width of the big toe as 30mm, but as much thinner, approximately 24.8mm. This can be done when one separates a part of a blood stain, which then no longer forms part of the imprint from the big toe but becomes a free-standing body; in other words, an imprint from the second toe, which would supposedly be absent in a footprint left by Sollecito.

Prof. Vinci, when he went on to take the measurements comparing the two exhibits (the bathmat, the sole-print of Sollecito), also made use of the "Robbins" grid but obtained results not comparable with those obtained by the Scientific Police because of a quite different positioning of the grid.

This Court holds that the observations of Prof. Vinci cannot be accepted for the following reasons.

[259] In the first place, the presence of the second toe of the foot of Raffaele Sollecito impressed in the print on the blue bathmat is not very significant, since it could be the consequence of stepping onto a soft material which will move under the pressure of a foot, allowing this second toe to make a mark which it would not make on a rigid surface.

Secondly, the decision to separate a piece of a blood stain, which then ceases to form part of the big toe but rather becomes a separate element, was made by the consultant based solely on a matter of opinion and open to contradiction by a different perception. This Court, looking at the imprint, does not perceive anything that resembles anything other than a clear and complete single imprint of a big toe.

It should also be noted that, even if we do separate a part of the stain, making the big toe smaller, and believe in the imprint of the second toe, which Raffaele Sollecito's foot would not have made, we still are not left with a footprint that is compatible with the foot of Rudy Hermann Guede, which has a much more tapered form than that of the foot of Raffaele Sollecito.

To conclude, the footprint on the bathmat is incompatible in size with the foot of Amanda Marie Knox. If we accepted Prof. Vinci's hypothesis that it is incompatible with Raffaele Sollecito, and we know it isn't Rudy Guede, the print would have to be attributable to a fourth person, still unknown and clearly an accomplice of Rudy Hermann Guede. This would be completely at odds with all of the other evidence collected.

Consequently, it is not possible to accept the alternative version that rejects the judgment of probable identity made by the Scientific Police early on, a judgment that is, if anything, strengthened by everything later brought to light in this case.

Now we come to consider the shoe-print on the pillowcase discovered under the body of Meredith Kercher (Photo 105).

According to the evaluations carried out by Dr. Rinaldi and Chief Inspector Boemia, this print was not made by any of the shoes available to them for comparison, [260] hence the shoe-print, lacking any distinguishing characteristics, was considered useful only for negative comparisons.

The Scientific Police confirmed that the print was made in blood, and hypothesized that it was formed by the heel and the central part of the sole of a left shoe. The narrowness of the heel and the generally small size, suggested a woman's shoe, size between 36 and 38. Inspector Boemia, testifying at the trial, confirmed that this print could not have been made by a man's shoe, taking into account the width, which would measure approximately 60mm for a man's shoe. The conclusions reached by the two experts from the Scientific Police were, on the other hand, hotly contested by Prof. Francesco Vinci. He, after an in depth study, concluded that the print on the pillowcase had been left by the left shoe of a Nike Outbreak 2, worn by Rudy Hermann Guede. According to Prof. Vinci, therefore, the print was deposited by the left shod foot of the co-accused Rudy Hermann Guede, which excluded from the scene of the crime a co-participant wearing a smaller shoe, or indeed anybody other than Rudy Hermann Guede.

In fact, as was shown at the first trial, it cannot be ruled out that the pillowcase was trodden upon only by Rudy Hermann Guede's left shod foot, ruling out a smaller foot belonging to the defendant Amanda Marie Knox, which in the disturbance following the murder, the pillow, being soft and where the pillowcase may have been creased, could have been trodden on by a shoe without it having left a clear imprint as would have happened on a stable surface.

### The footprints revealed by *luminol*

During the second crime scene inspection at 7 Via della Pergola, carried out by the Scientific Police of ERT on 18 December 2007, [261] *luminol* was sprayed on various areas of the floor. It was used in the corridor, in the kitchen/living room, in the bedrooms of Amanda Marie Knox and Filomena Romanelli, and in the large bathroom. The *luminol* revealed naked footprints and one shoe-print. The Scientific Police took photographs using a tripod, in order to prevent camera-shake, and without the use of fluorescent marker tapes.

Dr. Rinaldi explained during his testimony that the footprints detected by *luminol* didn't have a measure-reference because they had been photographed in complete darkness, so it was necessary to add an accurate scale to the photographs by making comparisons with a known (measure-referenced) piece of evidence. Finding 5) had been photographed in good light with a scale beside it on the floor and finding 2) had been photographed in total darkness. Comparing the two images allowed the sizing of the image photographed in the dark.

Later, the expert further clarified that, since the photographs were not taken with the camera exactly perpendicular to the floor, it was necessary to apply a perspective correction to the photographs to ensure that the image showed the exact dimensions of the sample. The traces revealed as *luminol* positive covered in the technical report are as follows:

a) finding 1) found in the room of Amanda Marie Knox, consisted of a right footprint probably made in blood, in which are clearly visible the big-toe (22mm wide); the third toe (17mm long); the metatarsus (80mm wide); and a portion of the plantar arch. This trace was considered useful for negative comparisons.

b) finding 2) found in the corridor, which was a right footprint probably made in blood and useful for negative comparison (big-toe 28mm wide; metatarsus 95mm wide and 55mm long; heel 58mm wide, with a total length of the *luminol* positive print of 245mm). [262]

c) finding 6) was of a shoe-print in the corridor, heading towards the front door. There was no measurement reference available for this print; thus it was considered not useful.

d) finding 7) is a footprint, probably made in blood, and found in the corridor outside the door of Meredith Kercher's room, heading towards the room. This print was considered

useful only for negative comparisons. The *luminol* print showed the big-toe 22.4mm width; the metatarsus 78mm width; the heel 43mm width.

The consultants Rinaldi-Boemia compared the dimensions of the *luminol* prints with the sample sole-prints taken from the defendants [Raffaele Sollecito's right sole-print had a total length of 244mm, a big-toe 30mm wide, a metatarsus 96mm wide with a height of 57mm, and a heel 57mm wide. Amanda Knox's right sole-print had the big-toe 22mm wide, the metatarsus 76.7mm wide, and the heel 43mm wide] and concluded that the print trace 1) (found inside Amanda's room) and the print trace 7) (in the corridor outside the room of Meredith Kercher) were compatible with the right foot of Amanda Marie Knox, and that the print trace 2) was compatible with the right foot of Raffaele Sollecito.

Dr. Rinaldi pointed out that trace 2) did not match the foot of Rudy Hermann Guede, because looking at Guede's sole-print (page 19 of the report with the perspective corrected photographs), his foot is a different length, has a narrower heel, a thinner big-toe, and a differently sized metatarsus.

The results of the technical investigations by Rinaldi-Boemia were contested by Prof. Francesco Vinci, the Defense consultant for Raffaele Sollecito, particularly with reference to trace 2), an exhibit the Scientific Police had deemed to be probably made by the right foot of Raffaele Sollecito.

The consultant conducted a morphological comparison with the footprint revealed in trace 2) and the sole-print taken from Raffaele Sollecito, seeing irreconcilable differences [263] in that the *luminol* print showed both the second toe and the first phalange of the big toe touching the floor, which doesn't happen with Raffaele Sollecito.

Nevertheless, again on this occasion the two footprint photographs brought up to the same size look absolutely the same shape, which means that this Judge cannot agree with the findings of the Defense consultant, having also taken into account the different characteristics of prints



deposited in a static situation on a rigid surface compared to prints left by a moving subject.

In conclusion, the shoe prints and bare foot tracks left in blood inside 7 Via della Pergola, while they can be only probably and not definitively attributed to the defendants, are attributions that are altogether consistent with the facts shown, right from the start, by all of the other evidence in this case. That is to say that the murder of Meredith Kercher was carried out by more than one person, one of whom was certainly a woman [see footprint 7) attributed by Rinaldi-Boemia to the defendant Amanda Marie Knox without substantial dispute], and that this woman stayed in the house for some time after the crime in the hope of removing any traces of her presence. This clean-up was only partially successful.

The outcome of the consideration of this particular body of evidence therefore confirms the judgment that the thesis of the Defense, which is that the murder was committed solely by Rudy Hermann Guede, is completely untenable.

#### **8. The attempted fabrication of evidence at the appeal level. The declarations of Aviello and Alessi.**

Having completed the examination of all of the evidence placed before the courts, but before going on to make the final assessments, it is necessary to address the subject of the attempt at fabrication which the case suffered at the appeal level, with respect to both the Court of Assizes of Appeal of Perugia and the present Judge.

Turning specifically to the statements given in Court by the witnesses Luciano Lucia Aviello, Mario Giuseppe Alessi, Luciano Castelluccio, Antonio De Cesare and Ciprian Trincam, in truth, the statements with specific relevance to this proceeding, since they accredit a fixed unfolding of events which led to the death of Meredith [264] Kercher and attribute specific responsibilities in relation to this murder, are those made exclusively by Luciano Lucia Aviello and Mario Giuseppe Alessi, considering that the witnesses Luciano Castelluccio, Antonio De Cesare, and Ciprian Trincam, by their own admission, had never received any confidences from the

convicted Rudy Hermann Guede who was imprisoned alongside them, but had simply been present at the repeated and fruitless attempt by Mario Giuseppe Alessi to establish that Guede could exonerate the defendants Raffaele Sollecito and Amanda Marie Knox from the murder charge.

We are dealing with testimony given almost exclusively before the Court of Assizes of Appeal of Perugia, with the exception of Aviello, who also testified under the provisions of article 197 *bis* Code of Criminal Procedure before this Court of remand, at the 4 October 2013 hearing.

To take things in order, it is useful to move to the statements made and remade by Luciano Lucia Aviello because these have involved both of the appeal court proceedings.

Luciano Lucia Aviello gave statements to the Defense counsel of defendant Amanda Marie Knox during the Defense investigations, as a consequence of which the Court of Assizes of Appeal of Perugia agreed to hear him in court, at the specific request of the Defense.

Examined at the hearing on 18 June 2011 as a witness (although Aviello was accused in a separate case for false accusation of his brother, whom he had accused of murdering Meredith Kercher), he referred to events that, if they were found to be true, would be extremely relevant to the murder case before us.

After he had given his testimony, Luciano Lucia Aviello asked for a meeting with the Prosecutor of Perugia, “ ... in order to make clear every aspect of the matter ... ” and thus he was interviewed by the Prosecutor on 22 July 2011, in the interview room of the Perugia prison (this interview was videotaped and a written record was made of the content).

In the course of the interview, Aviello retracted the testimony he had given in court, asserting in effect that he had been an instrument for tampering with the case, manipulated by the Defense counsel of the accused, who had steered [*etero-diretto*: directed from outside] his court statements with the intention of exonerating their clients.

This interview, given by Luciano Lucia Aviello on 22 July 2011, was obtained by the Court of Assizes of Appeal of Perugia which, however, rejected the request for a re-examination of the witness [265] put forward by the Prosecutor, resulting in criticism from the Supreme Court for this procedural development. This is why Aviello was newly examined by this Court.

The Court considers it appropriate to publish at length the portions of interest in the statements given by Luciano Lucia Aviello, on the occasions mentioned, starting with those made on 18 June 2011 in the Court of Assizes of Appeal of Perugia. A direct reading of these statements, as we shall detail at the end, demonstrates the absolutely clear untrustworthiness and the contradictions between the facts in the case and what the witness said.

*“DEFENSE AVV. GHIRGA – Now, I’m going to ask the main question, I’ve finished the general ones: what is it, what are the facts that you know, directly or indirectly, about the murder of Meredith Kercher?  
WITNESS – Before I was arrested I lived in Perugia, even before I was let out of prison, just to say Your Honor, that was the Ivrea jail, the section for police informers, in 2006 with the pardon. When I got out I had to face the fact that I was at bit of a loss since I’d collaborated with the police so I couldn’t go back to the place where I’d lived. Thanks, quote-unquote thanks, to old informant friends whom I’d got to know inside, some with the program and others without, thanks above all to Salvatore Menzo, I got the chance of a mini-apartment in Perugia. This little apartment put at my disposal I didn’t pay for because I was willing to get involved with dirty work in Perugia. Anyway. After I told my mother and the family that I could be found in Perugia and I’d bought a phone card, I give the details of the card, because I didn’t know anything about identity cards or my bank account, I’d done such a long time inside, so I charged things to my telephone card. Why am I telling you this? One day I got a phone call at home, on the cell phone, it was my mother telling me to rush down to Naples immediately. Remember this was the period when my family was going through difficult stuff, the second apartment we have, because we’ve got one in the Spanish Quarter and another at Scampia, in the “Blue Sails”. In this last apartment lived, and I say lived because now he doesn’t anymore, my brother Antonio, who’d refused to help the son of Ricciardi move some drugs, that is, to go and buy some drugs in Milan, to accompany him to Milan. [266]  
This meant, Your Honor, a disrespect of the organization [crime family] so my mother asked me to put*

Antonio up at my place for a bit of calm while he waited for another place. I drove down to Naples, grabbed Antonio, I asked Menzo first if I could put him up since it wasn't my apartment and I had to tell him about it. Salvatore Menzo said okay, I went down to Naples, went to the house, collected my brother and told him to behave properly and not cause any trouble in Perugia because I didn't want any problems with the Perugia police. My brother said he already knew Perugia since he'd had dealings in the past with the Albanians. This didn't bother me much because we're not a family, I'm not proud of it, who do honest work, so it didn't frighten me a lot. So I brought my brother home and gave him a key, a duplicate of course, telling him to behave and then he could come and go as he liked, no problem. At the end of October, beginning of November, if I'm not mistaken it was the evening of the first of November, after I'd come back from Salvatore Menzo's night club, I was comfortably on the sofa watching the television, it was about eleven, ten, I don't remember Your Honor, I heard the door open and said "T'you Ant?" I mean "Is that you, Antonio?", okay. My brother came in, but he came in holding his arm, and sort of falling about, stunned, I don't know how...I sat him on the sofa, and as he was sitting down I noticed that he had on this arm, it was his right arm, a rip in the jacket and I saw blood, so I says, I mean I thought, sorry, I thought, that my brother had been in a fight so I asked him, I asked my brother Antonio for an explanation. Calm down, calm down...he was telling me lies, I didn't believe him; while my brother talking about the jacket I saw a cloth bundle hidden inside it, I pulled it out, opened it, and there was a clasp-knife wrapped up with a bunch of keys. I asked my brother, frightened, because he wasn't supposed to get me into any trouble in Perugia, my brother is a...was, because I haven't seen my brother since I accused him, Honorable Prosecutors, thanks to you, a big user of cocaine and at that moment was also, he was stoned on cocaine. I shouted at him, and made a fuss, in my own way, until I got him to tell the truth, above all so I could try to sort it out, though I didn't know what had happened. He told me to calm down, I got the disinfectant from the bathroom, disinfected it, they weren't really what you'd call wounds they were deep scratches but they were scratches [267] and I disinfected it and got him to tell me what had happened. Remember I'm telling you what my brother told me, I want to make that clear, and my brother told me that that in a night club in Perugia sorry a pub he had met one of his Albanian mates, this guy Lala, Lala. The Albanian a few days after they'd met had asked him to do a job, quote-unquote not legit, to earn ten or fifteen thousand euros, I don't remember now. My brother was keen to earn this money. So what was the job my brother told me about? It was that he'd been commissioned by someone, whom the Questura knows well and that right from the start I wasn't allowed to mention, to do a

burglary to order in a house which was mistaken, the burglary was meant to be to steal a very valuable picture and the theft, sorry if I'm repeating myself, wasn't to break into the house but to use the keys, that is to open the door without breaking anything. All of this was to happen at an agreed time on a certain day when there wasn't anybody home. Everything was organized, this is what my brother told me, remember that I'm repeating him and I want to emphasize that I don't know the details. Anyway, they open the door and enter, my brother and the other guy. So going into the apartment Lala goes towards the place where the picture was supposed to be or rather where (the person) who had ordered this robbery had told him it was to be found, my brother on the other side over to the right notices a shadow and somebody walking about in a dressing gown. I don't know and I don't remember the details, the only thing my brother told me is spotting this person he put a hand over her mouth, he said she fought back and started to scratch. My brother was sweating he said, even before the scuffle with this woman or girl, sweating since he was, he'd already taken some cocaine and that makes you sweat, because of the sweating he had lifted up his jacket so that meant he got scratched automatically by this girl. From the anger and the pain of these scratches my brother got the knife out of his pocket and he made this knife attack. Meanwhile Lala noticed what was happening, they had rubber gloves and tried to put them on only they had holes in them, then they faked a break-in by breaking a window in the bathroom or kitchen, I don't remember which. In the end they didn't find the picture, they locked the apartment using the keys, my brother picked up the knife, the knife and keys that I then took off him immediately, and immediately I looked out of the window to see if I could understand exactly where this had happened but I didn't see anything, I saw a house but I didn't see anything [special]. I calmed down my brother in the sense that I tried to make him stay put and not move around, my house as I already wrote down for Avv. Dalla Vedova in an **[268]** interview in Ivrea prison and like I wrote, and like I've told Dr. Marco Chiacchiera, who refused to come and do an inspection but it wasn't for the Camorra murders but for this thing that he refused, but he wanted me to accuse that innocent lad, that I'd already spoken to him about at Terni. I took the keys, took the knife and went down, from the entrance hall of the apartment you go round the house and there's a wall, in this wall where I'm willing, as I've always told you don't believe everything I say, Your Honor, because I can be a bit crazy apart from slander that I said because I was blackmailed, beyond being called whatever you want, you just need to verify not more. That's all I ask, but it isn't for me, always for them. This said, I pulled out this stone which was loose, a loose stone in the wall, put this package with the keys and the knife inside, there was some mortar, that mortar that builders use, it was evening, late evening,

almost night we could say, as you say here, because in Naples it's not night even at midnight. I stuck it in, the stone into the wall I mean, to cover the white mortar because mortar is white so it shows up against the color of the wall, I threw some earth at it that I found that was down there and I slung it at the wall covering it more or less so you couldn't notice it much. I went back up, my brother found another place to stay in the meantime and then nothing, I started down immediately because I believed that, I make another premise I don't know if it is allowed, Your Honor, but I've often been stopped by the police in Perugia, and later I learned these were called SCO, I didn't know they were SCO, but they often stopped me, picked me up. "What are you doing here in Perugia? What are you not doing?", and I gave them the usual replies, since Menzo had a club I went there to meet friends but I never let on that I lived in Perugia when I was stopped. Mr. President this is what you can check at the house in Perugia. After this of Raffaele and Amanda it was useless for me to stay much longer because it was in the papers but inside me I knew there'd been a judicial error, but that's not for me to establish, I'm not here for that, anyway I'm going to jump ahead a bit because I want to go on. I want you to remember Mr. Judge, when I went back to being an informer I was in Terni and I got into company with Sollecito, because in Terni my cell was next to Raffaele Sollecito's. In the beginning I hardly said a word to Raffaele, but I'd always told him that I believed in his innocence and I always said to Raffaele Sollecito that his innocence would come out, like I'd told Raffaele Sollecito that I'd been collaborating with **[269]** the law, with Doctor Marco Chiacchiera, with Doctor Gabriele Paci, as I told Raffaele Sollecito that Marco Chiacchiera, Doctor Marco Chiacchiera wanted me to accuse him but not to say he wasn't to blame, him and Miss Amanda, because they had pornography at home, they were bad, a bad lot. But I have good for nothings in my family, I never said anything directly to Raffaele, because you know and even he said to me often and freely what he thought of people who put themselves into a case just to get media attention, I even told my lawyer who's here, and other people, "I don't want any video cameras", quite the contrary, convict me even for calunnia Mr. Prosecutor but just check the keys. You go ahead and convict me, I don't give a bugger, I'm a good for nothing, but go and check, that's all I've ever asked, go and check and they've given me the worst punishments, Mr. Judge. What did I do one day? When I saw that the Judge at the Court of Assizes, rightly, can I say even the Prosecutors, because I have the honor today to see them here but they haven't met me, they don't know, they can know my details on paper but you don't know me, the lies to derail anybody can say Mr. Prosecutor but...when I Mr. Judge find myself faced with this reality I don't want to talk about my brother because I've never snitched on my own brother and you

*know why? Because he is my brother, blood of my blood, I if arrived at accusing my brother it's not because I'm a rotter inside or that I'm a bad person, a mythomaniac, crazy, and I hope that if I was crazy at least Mr. Prosecutor you'd get me a pension, I'd move on with a pension. No. It's because I'm in prison thanks to my brother, for an obsession that I'd never done and not only that, my family says I've done things that I would never do, and they abandoned me, I've seen my cell searched, with the greatest respect to the Authorities for whom I've always had the greatest respect, but still, I've seen those Authorities searching my cell with a lot of arrogance. Not the Prosecutors, that'd be the last straw, but the police told me it was useless to defend that lad so much as it was a lost cause, it was a struggle because you don't believe me. But who asked you and who's asking you to believe me? You're not obliged to believe me, you're obliged to check, that's what I ask of you Judge, and I ask before Jesus, I'm not asking you to believe this poor wretch, check what I'm asking, if you believe it or you don't believe it I'm...the law has to be administered in the name of God.*

(Pages 105 and following from the transcript of the 18 June 2011 hearing before the Court of Assizes of Appeal of Perugia).

**[270]** On 22 July 2011, the Prosecutor of Perugia went to the prison to take the statements of Aviello which he himself had requested in a letter (in fact Aviello had addressed a letter to the President of the Court of Assizes Dr. Massei, who had passed on the request for the meeting to the Prosecutor of Perugia as the relevant authority), Aviello made statements completely retracting everything he had asserted in his testimony in front of the Court of Assizes of Appeal of Perugia.

From the entirety of his statements (very confused and collected in a written record of the interview of 73 pages, almost all of which is of absolutely no importance to the case) it can be evinced that Aviello would make himself available to give testimony with the aim of exonerating Raffaele Sollecito, who he had met while they were both in the same prison in Terni, because he had been offered a large sum of money that would be passed across to him by leaving it in an apartment in Torino to which he had access, a sum which would have allowed Aviello to cover the medical expenses of his sex-change operation. There follows an extract from the transcript, Aviello's tale, which flooded out in the course of the whole interview.

AVIELLO L. - *I met Raffaele in the Terni prison*

PROSECUTOR - *Yes*

AVIELLO L. - *I was sent to Terni since I was declassified as an informer, I came from Poggio Reale, when I got to Terni they put me at first in a wing that I don't know if you call 'semi-protected', pedophiles, all the rubbish as we call them in Naples. Including also Sollecito who was next to me, then I sent a letter to doctor...not to doctor, to the Prosecutor's Office if I remember correctly, now I don't remember exactly Mister...*

PROSECUTOR – *Okay*

AVIELLO L. - *on. on Salvatore Conte, rest his soul. And there I began to socialize with, I'm just summarizing, then it's you who ask the questions Mister Prosecutor, to meet Raffaele, I knew who he was from the papers, the television, it was well-known news, when I looked at him I knew it was him. I said "ciao" "ciao" we introduced ourselves, as usual, (indistinct) mate Nicola, I say "Let's go and socialize in Raffaele's cell", we socialized, me, Nicola and Raffaele Sollecito.*

PROSECUTOR – *And who is Nicola?*

[271] AVIELLO L. - *I don't remember his surname, he was an inmate who socialized with me and Raffaele. When I first met Raffaele he was, he seemed to me, a lad very very very I mean reserved and well-mannered and I've said this whenever I met with Doctor Paci and the assistant here.*

PROSECUTOR – *I see.*

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AVIELLO L. - *Since I wanted to enroll at University, to study law, and he was, let's say, attending University, I asked his advice on how to go about it, that sort of thing. As we got talking, since I know Perugia, as we were talking me and Raffaele got onto the subject of my entity [, that I'd never spoken to the police about.*

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PROSECUTOR – *But what do you mean by your entity? That is, your situation...what do you mean by entity?*

AVIELLO L. – *The way Zaccaro talked about it, the man who says that I lost one hundred thousand euros to change sex.*

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AVIELLO L. - *And so I talked about it with him because I knew that his father was a medical doctor.*



*Ignorant of the subject I trust him and talk about things that go beyond what you are hearing about now, he asks (indistinct) who I was as a person because he was expecting the infiltration of some sort of mythomaniac, those are Raffaele's words, into his case since it was such a big story in the media and he said "I'm even scared to socialize because someone might see an advantage in interfering in my case".*

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*AVIELLO L. - I want first to reply to this and put an end to it, otherwise I will make a lot of (indistinct). After I told him all this, that I was an ex-informer, we got friendly. Why did we get friendly? Because I wanted to make him believe, to understand that I had contacts with the magistrates and in the criminal world. In the magistrature because I had been an informer, and it's true, and in the criminal world because I'd been there, now and then...*

*PROSECUTOR – And why did you want him to believe these things? [272]*

*AVIELLO L. - Why? Because Raffaele is a guy who wants to feel protected, he's such a weak person and if he felt protected he would ...*

*PROSECUTOR – Become attached.*

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*AVIELLO L. - It's a fact that he has...at that time he was worried that I might accuse him of something that was invented. I say "Look, at worst, in case I can help you, and I've the possibility to do that, but then you have to help me". That's the honest truth, I know that now it comes out ...*

*PROSECUTOR – And the help of Raffaele Sollecito on your...in your favor, what would that consist of? That is, how was...how could Salvatore, yes Salvatore be able...Raffaele Sollecito, if he was so young, so weak, so defenseless, how would he be able to help you? What could he have been able to help?*

*AVIELLO L. - Raffaele didn't help me to...really he never helped me at all materially. We were just good friends and then more [he probably means "nothing more"].*

*PROSECUTOR – What do you mean by then more?*

*AVIELLO L. That he did not help me look ... intentionally, but I repeat the objective, apart from the fact that there was something that got casually said, was this, it is this, that of the change of sex.*

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*AVIELLO L. - The help of Raffaele's dad.*

*PROSECUTOR – Yes.*

*AVIELLO L. - He could have helped me then because I've got no money, I'm penniless. The lawyer works*

*for nothing, has done it for a year, but one day I'm going to have to pay when I can manage something, because he's earned it. That's my wish; if I help you, you help me. Something (indistinct) they did, this he did (indistinct)*

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*AVIELLO L. - I had a prick of conscience. And when one has a remorse, you feel more at fault and you make more problems instead of just saying you're sorry.*

*PROSECUTOR – Okay.*

*AVIELLO L. – This said, it was never true, and this lawyer already knows this, this shows that also those (indistinct) my statements which I gave to the Court of Assizes and even earlier were completely false, or better to say they were all arranged. [273]*

*PROSECUTOR – So the other day, a month ago, when? When I was watching.*

*AVIELLO L. - In the Court of Assizes, the 18 June if I'm not mistaken, they were false, agreed with the lawyer of Sollecito. I haven't had the operation like it says (indistinct) because you can't pay for an operation from prison because if I (indistinct) but the Region pays for it because someone who has a formally recognized problem about identity article 164 of the Civil Code provides for damages to be paid like in this case, so I will get the operation paid for by the State. Therefore I didn't need the money but I only found that out later...I didn't know before and I needed it but not for the, I'd no idea how to go about it, I knew that you had to buy hormones, but I didn't really know anything. And everything requires money. My brother, my brother. I'm jumping about Dottoressa, forgive me...*

*PROSECUTOR – I'm listening.*

*AVIELLO L. – My brother (indistinct) my brother and no, it is not that I chose my brother, I got up one tomorrow morning and my brother came out, but my brother Antonio already I wanted to accuse him and it is verified (indistinct), he is not responsible for this. It is right that I talk (indistinct) [he] is not responsible for what concerns...*

*PROSECUTOR – Those statements there.*

*AVIELLO L. - Completely nothing to do with it (indistinct) but...I'm saying nothing because, because, it's nothing to do with this proceeding.*

*PROSECUTOR – No, indeed.*

*AVIELLO L. - (indistinct)*

*PROSECUTOR – Perhaps you could talk about it later.*

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PROSECUTOR – *But did they give you the money?*

AVIELLO L. – *Yes.*

PROSECUTOR – *And where did they put it? Where had..., that is I mean how was (the money) handed over?*

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AVIELLO – *The keys, the keys, I gave a bunch of keys to the lawyer.*

DEFENSE AVV. ROSAPINTA – *This is true.*

PROSECUTOR – *But to whom?*

[274] DEFENSE AVV. ROSAPINTA – *Yes he did turn over a bunch of keys to me.*

PROSECUTOR – *But when? Now? Today?*

DEFENSE AVV. ROSAPINTA – *No. Some months...about six months ago.*

AVIELLO L. – *Those keys... (off microphone)*

PROSECUTOR – *Are you feeling hot? Shall I...shall I turn down...*

AVIELLO L. – *No, no... (off microphone). Those keys were sent to me in a package, it arrived by post, this package arrived even earlier, when I was in Viterbo prison, and it was recorded that (indistinct) clothes, clothes so they would not be seen, these, this bunch of keys and the keys were for an apartment in Turin, Zacchero just invented Genoa, in Via San Paolo, it is not Genoa, as in Genoa, maybe he lives in Genoa, he wanted to take a little walk, he wanted to do that. Via San Paolo, why via San Paolo? Because I lived in via San Paolo.*

PROSECUTOR – *In Turin. [275]*

AVIELLO L. – *Yes. I had and I have a friend [with] who[m] accusing him and going back I repaired the damage, I had these keys and I could keep there, I do not know if it is there, I think so, what is left to me financially, only I could not keep (indistinct) because I am penniless and could not justify such a sum.*

PROSECUTOR – *But how much money is this?*

AVIELLO L. – *It isn't 70 thousand euros, it isn't 150 (indistinct), it's not that.*

PROSECUTOR – *Less?*

AVIELLO L. – *Much less. 30 thousand euros. Much less. I am worth much less than the 158 thousand euros I've even heard talk of.*

PROSECUTOR – *Yes.*

AVIELLO L. – 158 thousand.

PROSECUTOR – (indistinct)

AVIELLO L. – (indistinct) not even 160, 158, not that there are, this, these (indistinct)...

PROSECUTOR – But who sent the parcel to you...

AVIELLO L. – (indistinct)

PROSECUTOR – ...with these keys?

AVIELLO L. – I don't understand.

DEFENSE AVV. ROSAPINTA – Who sent you the parcel with the keys?

AVIELLO L. – Maria Del Pizzo, I don't recall the other name.

PROSECUTOR – And who is this Del Pizzo?

AVIELLO L. – Oh, I don't know. At first she had to come here, then I was given bank accounts but I asked not to have them because I haven't got family who could have withdrawn the money. The same goes for the lawyer, first Maria Laura Antonini, she would not even conceive something like that, then Brizio and even today my lawyer who is present here couldn't (indistinct) for me. Trying to do the operation with no money, My world fell apart. Why did my world fall apart? Because I found myself in (indistinct) a mess, I found myself accusing my brother, not that I give a fuck about it. Poor lad? What poor lad? (indistinct).

[276] AVIELLO L. – (indistinct) Look, I was miserable there, Giulia Bongiorno turned up, when Bongiorno arrived, Dottoressa Bongiorno who I'd never met, I called her "Onorevole" [MP] because (indistinct) she is President of the Justice Commission and she said: "I'm here as a lawyer, not as an Onorevole," she talked to me about money and all this stuff and I said "But excuse me, but who is my lawyer?" because my lawyer is Emanuele Rosapinta, the lawyer who was guaranteed to me for a future defense not even I have, you know ..and that I should have got by way of the sister of Sollecito ... I didn't know who it was nor had I ever had it, thank God, however, I said: "Onore'[vole], I do this, I come in..." and there was the Inspector...

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AVIELLO L. – That's all. However, when this Onorevole came – Onorevole my foot, things went from bad to worse ["cornuto e mazziato" is a Neapolitan expression literally meaning betrayed by your wife and beaten by her lover] I ended up in Court in front of you, I didn't know what to do because beyond the fact that I knew that my lawyer was present because you had asked for it for me...

PROSECUTOR – *Well yes, but the Court said...*

AVIELLO L. – *...with the Court, however, I had all the guarantees because Bongiorno told me that everything was covered here in Perugia. I said: “Okay, I don’t want to find myself in any criminal cases,” however, I found myself from the beginning (indistinct) and then in a real spot (indistinct), what to do, but it’s true she said to me “I won’t question you, what would I ask,” it was all confusion, just confusion with you, not with me, that at the end they got their own way but it’s not for me to say that.*

(Transcript of the interview given by Luciano Lucia Aviello to the Prosecutor on 22 July 2011)

Concerning the statements made by Aviello to the Prosecutor, this Court decided to accept the Prosecutor’s request for a renewed hearing of the testimony and arranged to hear the witness in Court on 4 October 2013. The Court, having considered the overall legal position of the witness, decided to acquire (or accept) the testimony with the guarantees established by article 197 *bis*, paragraph 4, Code of Criminal Procedure, and the witness, in his testimony, made the final retraction of the retraction made in July of 2011, thus confirming his original statements made in his testimony before the Court of Assizes of Appeal of Perugia. Luciano Lucia Aviello expressed himself thus:

[277] *“WITNESS AVIELLO – It is my brother who’s guilty, not Amanda and not Raffaele. The Prosecutor of the Republic in Perugia, in another hearing, hinted to me, in the Perugia prison and after, while I was testifying, that I wanted to deliver...and today I’m talking about it again here, to deliver the keys and the knife, because, by the way, Your Honor, to tell lies or less, I think that in the end it will all be found that it’s just what I say, so...but why don’t you get hold of this knife and the keys, one of them is a blue key, as I’ve told the lawyers in the interview, the lawyer who is here? Dottoressa Comodi, since I’m going through a sex change, it was hinted to me, hinted to me in the prison in Perugia in front of a police inspector from the Flying Squad, that I was a suspect in a murder – Oh Jesus – for taking part in a murder, because I maybe knew something about it and I hadn’t told them before what I knew. Then she said to me, I’ll never forget this, that the DAP, the Department of Prison Administration, that if I worked as an informant for the Prosecutor, lying, accusing also Avv. Bongiorno, I would have lost my...*

PROSECUTOR CRINI – *But how, look...*

WITNESS AVIELLO - *...I would have lost my sex change. Living in prison isn’t like living outside, Your Honor Prosecutor.*

PROSECUTOR CRINI – Yes. How – how did this whole matter start? Now, how was it that you, we'll say, proposed it...?

WITNESS AVIELLO – I never proposed it. This situation...I lived in Perugia and then...

PROSECUTOR CRINI – No, no, excuse me.

WITNESS AVIELLO – Excuse me, Prosecutor, you excuse me.

PROSECUTOR CRINI – In relation to this letter I've read, which you signed. I'm asking about this.

WITNESS AVIELLO – I don't understand, sorry.

PROSECUTOR CRINI – I say, I'm asking you about a letter that you sent, no? It seems that your whole affair started with some letters.

WITNESS AVIELLO – No, no, absolutely not, absolutely not.

PROSECUTOR CRINI – You...

[278] WITNESS AVIELLO – My affair begins...begins...I sent them the letters after. I'm sorry Mister Judge, but will you allow me not to be filmed by the video cameras?

PRESIDENTE – No, you are not being filmed.

WITNESS AVIELLO – I'm grateful. I have never...my letters as you call them Mister Prosecutor...

PROSECUTOR CRINI – And what should I call them, if they are letters?

WITNESS AVIELLO – They were made from the statements. I met Raffaele Sollecito in the Terni prison while I was an informant for Prosecutor Paci. I knew the situation because I lived in Via della Pergola, made available to me by the Perugia police, only if they have accused you of mafia crimes, or the camorra, or the 'ndrangheta, that would please Aviello. Faced with the truth of two innocent young people, who I'm proud, really proud they're out of prison, in spite of the Prosecutors, no. Having said this, I called an agent of the Prison Police in the Iorea prison and decided to make my statements.

PROSECUTOR CRINI – Eh.

WITNESS AVIELLO – Because...

PROSECUTOR CRINI – No, but these letters...you answer the questions a bit, come on.

WITNESS AVIELLO – Forgive me.

PROSECUTOR CRINI – If not, so...it gets simpler, you understand?

WITNESS AVIELLO – No, no, no, but I want...I too want to be more brief.

PROSECUTOR CRINI – Yes, very good.

WITNESS AVIELLO – Eh.

PROSECUTOR CRINI – *No, because I don't want to cut you short, however I don't want to hear however...understood?*

WITNESS AVIELLO – *No, but you go and find the knife and the...*

PROSECUTOR CRINI – *All this idle chat...*

WITNESS AVIELLO – *Mister Prosecutor, the knife and the keys. The rest is a bore as we say at home.*

PROSECUTOR CRINI – *Eh.*

WITNESS AVIELLO – *Eh. [279]*

PROSECUTOR CRINI – *Well, meanwhile the knife and the...all right...you tell me about these letters then maybe you can tell me about the knife and the keys, come on. These letters how did they arise? Why did you pick up pen and paper...*

WITNESS AVIELLO – *Because I...*

PROSECUTOR CRINI – *...and write these letters?*

WITNESS AVIELLO – *I was explaining this to you. Perhaps I've gone on too long, I'm sorry.*

PROSECUTOR CRINI – *Please.*

WITNESS AVIELLO – *I made a voluntary statement to an agent of the Prison Police in Ivrea prison, telling about my direct knowledge of my brother having been involved in the Meredith crime, that he didn't take part in a murder, I repeat, I restate, if Mister Judge will allow me. It was a commissioned burglary, of a painting. Nothing else. The stone was a faked thing, it wasn't true the stone. Nor was the séance afterwards.*

PROSECUTOR CRINI – *The séance?*

WITNESS AVIELLO – *Okay, first I'll answer your question, sorry.*

PROSECUTOR CRINI – *Ah no, this is the question: the séance? That's a question. I'm asking...*

WITNESS AVIELLO – *Because having...having...*

PROSECUTOR CRINI – *I'm asking you for your account of these events.*

WITNESS AVIELLO – *Because the Tribunal of...the Court of Assizes of Perugia...*

PROSECUTOR CRINI – *Eh.*

WITNESS AVIELLO – *...at first they didn't want to hear my statements. If I'm not wrong, I...this is some years ago and remember I've also had health problems. To which I would have been commissioned via an Albanian, with this bunch of keys, that I still say...*

PROSECUTOR CRINI – *Yes.*

WITNESS AVIELLO – ...to get into Meredith's house, that wasn't the house of Meredith then, where Meredith was killed...

PROSECUTOR CRINI – Eh.

WITNESS AVIELLO – ...and to fake a burglary, and a fake séance. [280]

PROSECUTOR CRINI – Who?

WITNESS AVIELLO – This I still remember, this much is true. ???

PROSECUTOR CRINI – But I don't understand who had this séance.

WITNESS AVIELLO – No, no, perhaps...I said fake, it wasn't a...I don't know how to explain, I'm sorry Mister Judge.

PRESIDENTE – Aviello, you must speak into the microphone, otherwise your words won't be recorded.

WITNESS AVIELLO – It wasn't a séance, it was a fake séance.

PROSECUTOR CRINI – But who did it? This fake séance, who did it?

WITNESS AVIELLO – No, this, no...I laugh. I don't want to say.

PROSECUTOR CRINI – Ah, you don't want to say.

WITNESS AVIELLO – Absolutely not.

PROSECUTOR CRINI – But how does this fake séance fit in?

WITNESS AVIELLO – It matters...it wasn't a séance, it was to show that I'd got the keys. Nevertheless...

PROSECUTOR CRINI – It's a bit complicated, eh. If you think about it, isn't it?

WITNESS AVIELLO – Ah well, it is a bit complicated. I say, I go back to repeat, Mister Prosecutor, just find the keys and the knife. All the rest is still boring and I'll keep saying it.

PROSECUTOR CRINI – I understand. Very well. And so, therefore, these letters are a bit – so to speak – a reply to these initial contacts.

WITNESS AVIELLO – Because Dr. Massei - If I remember right, that's his name, Dr. Massei of the First Instance Court of Assizes, refused to listen to me or to hear me, and I did everything because, I repeat, Raffaele Sollecito and me had never – I want to make it clear – he never, not him himself nor his lawyers, never gave me a penny. I don't even know them. I'm meeting them here, except for the lawyer who was there at the hearing in prison. All the [281] nonsense written – and which I'm responsible for – was all created by Dotoressa Comodi against these people here, for having done their job. Period. That's the truth.



PRESIDENTE – *Well then, excuse me, eh...*

WITNESS AVIELLO – *Eh.*

PRESIDENTE – *Have patience, Prosecutor if I may interrupt for a moment, I would like to avoid the third... the third thread...*

PROSECUTOR CRINI – *Really? It's become a little...*

PRESIDENTE – *...of declarations. Two are enough. Now, to sum up, Aviello, as far as I have understood, today you are saying that what you told the Court of Assizes of Appeal of Perugia...*

WITNESS AVIELLO – *It was all true.*

PRESIDENTE – *...was all true.*

WITNESS AVIELLO – *Absolutely, yes.*

PRESIDENTE – *What you told the Prosecutor in the transcript...*

WITNESS AVIELLO – *Not...*

PRESIDENTE – *...let me finish, then you reply to me ...in the transcript of 22 July 2011, that isn't the truth?*

WITNESS AVIELLO – *It's not what I said, I'm...I was accused of something I hadn't even done and my sex change. The DAP blocked it, Mister Judge.*

PRESIDENTE – *No, no...*

WITNESS AVIELLO – *I know it's difficult. I repeat and repeat again: why did the Prosecutor refuse to go and get the knife? That's what...*

PRESIDENTE – *No, no Aviello, bear with me. This is a different issue. You must reply to the question I have asked.*

WITNESS AVIELLO – *I'm sorry.*

PRESIDENTE – *It is a very simple question.*

WITNESS AVIELLO – *I'm sorry.*

PRESIDENTE – *You have told me: "What I related to the Court of Appeal in Perugia is the truth".*

WITNESS AVIELLO – *That's what I'm saying now here. [282]*

PRESIDENTE – *Which is what you had said earlier during the defense investigations by Lawyer Dalla Vedova, and which you are saying "I confirm today". Is that right?*

WITNESS AVIELLO – *I confirm it all, all of it.*

PRESIDENTE – *Excellent.*

PROSECUTOR CRINI – *Good.*

PRESIDENTE – *From this we can therefore deduce that when you issued the statements on 22 July 2011 to the Prosecutor...*

WITNESS AVIELLO – *I never issued them.*

PRESIDENTE – *...you said things that are not true.*

WITNESS AVIELLO – *I never issued them. Maybe not...I'm not...if you do this to me...*

PRESIDENTE – *There is a transcript...*

WITNESS AVIELLO – *I am sorry, that...*

PRESIDENTE – *There is a seventy-three page transcript.*

WITNESS AVIELLO – *Oh!*

PRESIDENTE – *Which can be condensed into half a page of facts and seventy two and a half pages of chit-chat, which we are getting close to doing today, but this Court doesn't intend to repeat the seventy three pages of chat. So, to get back to the facts, I will sum them up for you. In the transcript of 22 July 2011 it is shown that you made statements to the Prosecutor, retracting what you had stated earlier.*

*Today you are telling us that those statements made on 22 July 2011 are not true, whereas what you told the Court of Assizes of Appeal of Perugia is true.*

WITNESS AVIELLO – *I confirm, I confirm.*

PRESIDENTE – *That's how it is?*

WITNESS AVIELLO – *I confirm.*

PRESIDENTE – *There you are, excellent."*

(Transcript of the 4 October 2013 hearing before the Court of Assizes of Appeal of Florence)

Now this Court holds that the outcome of examining the statements made by Luciano Lucia Aviello in different contexts and at different times cannot be other than the judgment that they are absolutely groundless.

[283] Aviello's total unreliability can be perceived, before even observing his own contradictory statements that are belied by any comparison with the evidence (it is enough to note that the entire interview given to the Prosecutor on 22 July 2011 was filmed and recorded and that this Court has decided to send a copy of the transcript of the testimony given on 4 October 2013 to

the Prosecutor for the consideration of the undoubtedly criminal content of the comments Aviello made against Dottoressa Comodi), from the way his individual statements proceed, throwing together a bunch of references to facts and events that the casual reader cannot, without extreme difficulty, make any sense of. In substance, the statements made by Luciano Lucia Aviello are completely groundless, utterly outlandish when compared with the evidence in this case; they are obviously fantasies, partially libelous, and consequently completely without merit. From this it follows that this Court will not take them into any account when assessing the evidence gathered.

The same opinion of groundlessness must also be given for the testimony of Mario Giuseppe Alessi before the Court of Assizes of Appeal of Perugia. This witness, permitted to testify at the request of the Defense, testified thus:

*DEFENSE AVV. BONGIORNO – Mr. Alessi, we must carry on with your account. In particular to move on, you know Rudy Guede, where did you meet him, what did he say to you while you were in prison together?*

*WITNESS – Yes, back to where we were like before the break, we had gone for a walk...we'd gone for a walk in the other part of the yard and I noticed that when he was telling me these things, like because, in fact at the beginning he said to me like "What good could it do me" that is Rudy: "What good would it do me if I told the Judge the truth" and on that occasion I said to him "But how come? Isn't the truth what you hear on television?" he says: "No, no, the truth" – he says – "is quite a...it's quite different and there's two of us who know about it," that is, him and another friend of his who he never told me about his name or anything. While he was telling me these things he had tears in his eyes and so I myself said let's drop it because the others were looking at us a bit. We were walking there, still in that part of the yard and after not even five minutes he stopped again, just the same near this tap, and he [284] said to me "I trust you so I'm going to tell you the whole truth and how things went" and we stood there talking. He said to me like that time, we'd been outside for more than a couple of hours, on that occasion he told me that he and his friend had met Meredith in a club, after which this is still that, that evening, after this he and his friend like started drinking, but this friend like was totally drunk, he couldn't even stand up, then he saw that Meredith was about to leave and he wanted to follow her so that, like this lad his friend couldn't stand, he asked another guy, someone else Rudy knew to join him, that him, this guy was called,*

that they called "Ciccione".

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WITNESS - "Ciccione". They were both blind drunk, they followed Meredith as far as just below the house we say, close to the house, I don't know how far away they stopped because he didn't, didn't tell me; after this they left. This friend that he had met like Meredith together with Rudy didn't have anything to do with it, I mean he stayed in the club, afterwards...

DEFENSE AVV. BONGIORNO – That would be the drunk one? No?

WITNESS – The drunk one, yes, also Rudy was, he told me he was pretty well oiled. Then, another time, after some days had passed they went to Meredith's house Rudy and his friend, the drunkard, not "Ciccione", the drunkard, and when Meredith opened the door they were like a bit surprised, and stayed a bit let's say surprised, even though they'd met some days before at the club it was still a surprise visit, and one of them, I don't remember who, which one said it, like he told her he had dropped in to make a visit while passing, so a courtesy call. After this they went inside, they sat on a sort of sofa, this is what Rudy told me, they sat on this sort of sofa after which it was Rudy himself and these are his words, Rudy himself raised the subject I mean, saying it'd be fun to have a threesome with Meredith. The girl obviously had invited them. She stood up and told both of them to get out of the house. Standing they were, I mean they stood up. Rudy asked for the bathroom, he goes to the bathroom and stayed he told me ten, fifteen, twenty minutes in the bathroom, now when he returned to the room he'd left like he found a whole different scenario. Mr. Judge, may I say something, I mean everything I'm saying was written down on 14 December 2009 and my lawyer has got copy of the original, witnessed and signed by four inmates, all the ten pages [285] witnessed and signed by four inmates who now say they don't know anything but their signatures I cannot change let alone forge. Anyway staying with the different scenario. He found Meredith thrown down with her shoulders, with her back on the ground and he had hold of her arms, I mean this girl was face up. As soon as Rudy arrived, this guy pretty much left off her, he took her where she was, he got like into a different position and Rudy got astride the girl masturbating, that's definitely the word he used, masturbating. After this they reversed roles, like Rudy held onto the girl on her knees, with his leg out, I mean one leg wide open and the other held against the girl's back, while the guy knelt down, the girl was on her knees while he, the guy, his friend, him who he'd met in a discotheque, like forced the girl to give him oral sex. The girl was struggling and Rudy told me that at some point, he hadn't even seen where the knife came from, if it was in a pocket or what, like this knife

suddenly appeared pointing it but for, not to pretend because to pretend is impossible, I mean pointing it near the neck of the girl, but the girl I mean gesticulating oh...and wriggling about like she got wounded. Rudy saw hands full of blood and he let go of his hold, he let her go and tried to find like something to stanch her wound.

He told me like that while he was trying to stanch the wound, I don't know if I can say this however it's written down on that page there, so why not say it? He said like: "Now I mean what can you do? We must try to...we must finish off this slut if not it'll land us in prison". After that like this guy again attacked the girl, while Rudy was off getting stuff to bandage the wound, he attacked the girl again. Then when they got back, when the guy had seen the blood he was taken aback and was wanting to run off, the knife as described by Rudy was a small knife, a pocket knife, ivory colored, he described the handle as being ivory colored. After this Rudy was alone in the house, he told me like actually I asked him the question, I said to him: "But how does it make sense like that broken window?" and he replied "Look I ran off after, after him – because his friend had left before – and for as long as I was there in the house I didn't hear anybody break a window and no sound of breaking glass, perhaps – he says – he came back a second time or who knows what else might have happened" but he knew nothing of this broken window. When Rudy left that, that house he went to a club, a club where by chance he met again [286] this friend of his, the guy who had knifed Meredith, after that they were seen in that club, the guy had pulled out some money, which he gave to Rudy, saying to him: "Take it, get yourself out of Italy" and after that they were not, weren't seen any more.

DEFENSE AVV. BONGIORNO – Mr. Alessi, now let's clarify some things. First of all, why did Rudy Guede tell you these things? What sort of rapport did you two have?

WITNESS – Rudy and I saw each other every day, we socialized together, we ate together, and we went outside together.

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DEFENSE AVV. BONGIORNO – And have you told this story to any other inmate? Does any other inmate know about it?

WITNESS – Yes.

DEFENSE AVV. BONGIORNO – Who and why does he know about it?

WITNESS – It's known to, like some time later Aiello knew about it...Aiello, Castelluccio and...and De Cesare.

DEFENSE AVV. BONGIORNO – *From whom did they learn about these things, Castelluccio and De Cesare?*

WITNESS – *From me.*

DEFENSE AVV. BONGIORNO – *And why did you tell them about them?*

WITNESS – *Because I didn't know what to do either, whether I should talk to a lawyer or to you (plural) or to tell somebody about this.*

DEFENSE AVV. BONGIORNO – *And after you had told those two about this, what happened? That is, did they talk about it to Guede? What happened then?*

WITNESS – *No, no, I related these...but there was then a...other, other episodes and like because then we talked also in the wing and quite a few times it was talked about also in the wing like about this thing the fact that Rudy (coughs)...Rudy spoke to me about Sollecito's father, who was a Mason, who had bought Judges, however, when we were talking like this but speaking loudly so another inmate got involved, De Cesare, who had Cell 9, and the fact also he didn't know either Sollecito or Amanda. This De Cesare intervened and said 'But how can you say that, like, that you know Sollecito's father, that you know, like, Sollecito's professors that Sollecito bought more than seventy points from these professors because his father is a Mason who buys Judges, lawyers, whatever he wants?' De Cesare said this to him and [287] he replied: 'But look at me, it was a friend of mine who suggested these things.' Again that evening De Cesare said to him and they were present, there were other prisoners who also heard this conversation. 'You told me' – because Rudy and De Cesare they were in the blue wing earlier – but then they were in the blue section – he says – 'you told me that you hadn't known either Amanda or Sollecito, so now how can you' - he says – 'you find out all these things?' and he, like, when he had said something, he (Rudy) said this phrase to De Cesare: 'You run off to bed – like, effectively made him shut him up – run off to bed because this isn't your business, it's between me and Mario'. I mean, he shut up instantly. And then there was also a time that they heard them, that they heard them when I was trying to persuade Rudy to tell the truth, and in the wing there was one, a time where I said to him loudly: 'If you're not going to tell the truth...' because he should have told it on 18 November, he should have..., like he had made me think that he was going to tell the truth but this didn't happen, and I told him I'd have told the truth if I was him. So when he returned he told me he couldn't have told the truth because if he had told the truth about this thing his sentence would have been more than the thirty years he'd got, and so he says, he says: 'It wasn't me who put them in jail, they were put there' – he says – 'by the magistrates, even if they remain*

*there it doesn't matter to me, this' – he says – 'is a war and you fight it with whatever you have got available'. Then there was an event which happened in Cell 11, Trinca's cell, Ciprian Trinca there were me, Rudy, Trinca, and De Cesare, it was when they had given the first instance verdict or the appeal, I don't remember, of Amanda and Sollecito, and he was talking about this verdict, we were playing cards in the cell, he commented on this verdict saying: 'They've done well, very – he says – look what they've done - he says – innocents yet look the Judge has found them guilty', and a lot of other things that escape me now. I stepped in and said to him: 'But you say these things with such cheek and chutzpah, since you yourself told me that you didn't know Amanda or Sollecito and you told me yourself that they were two innocents, how can you say these things?', then an argument started in that cell and De Cesare got involved trying to calm the waters, and then it was almost, because it was already half past six, social time was already nearly over, everybody went to their own cells, after which I burned my bridges with Rudy and with all, all the others."*

(Page 21 and following pages from the transcript of the 18 June 2011 hearing before the Court of Assizes of Appeal of Perugia).

[288] Luciano Castelluccio and Antonio De Cesare, appearing at the same hearing, substantially confirmed that they had learned from Alessi about the events that the latter had recounted and that they had never been taken into the confidence of the convict Rudy Hermann Guede. Both admitted to having signed as witnesses the letter written by Alessi, with which he confirmed the version reported above to the Defense of the defendants. This circumstance led to a summons to appear before the appeal court, the occasion for the preliminary examination of the aforementioned witnesses.

Ciprian Trinca, questioned at the same hearing, began by stating that he didn't fully understand Italian and spoke it with difficulty. He denied ever having been taken into Alessi's confidence and furthermore he disowned his own signature on the letter written by the latter.

Concerning the statements of the witness Mario Giuseppe Alessi, the conclusion that the events related are totally false emerges from the complete incompatibility of the reconstruction of the murder put forward by the witness with the evidence in the case. These inconsistencies include

the time the crime was committed, the method of the crime, and the weapon used. Nothing whatsoever stated by the witness can be considered consistent with the evidence acquired in the case concerning the reconstruction of the crime.

The question remains as to why Mario Giuseppe Alessi decided to involve himself in this case, contributing truths so botched as to be totally unsuitable to confuse the issues at trial, which was his intention.

It should be noted that this case has been the object of intense attempts at interference with the trial process, both from the inside (the false accusation) and from the outside, principally, though perhaps not exclusively, in the form of statements made by prisoners who, on various counts, claimed to have knowledge of facts relevant to this case.

This objective and illicit interference with the normal process of an enquiry into a serious murder can be reasonably said to have arisen, insofar as the internal interference is concerned, in the interest of Knox to deflect the pressure of the investigators away from herself, at least at a certain point during the first stage of the investigation.

It is more difficult to assess what has compelled more than one prisoner to insert himself into the case at various times and in different ways, in order to introduce a “truth” constructed to [289] the advantage of the defendants in this case. It can certainly be hypothesized, on solid grounds, that the media attention surrounding this case *incipit* [from the start] created fertile ground in which to cultivate the desire of some “personalities” to put themselves in the media spotlight, solely for their own advantage. Or one could hypothesize the existence of different motives, which, however, the investigating authorities decided not to investigate thoroughly, and which thus do not form part of the object of the present judgment.

It is a fact that the Court of Assizes of Appeal of Perugia previously determined that all of the testimony given by the witnesses Castelluccio, Alessi, De Cesare, Trincam and Aviello (page 42 of the annulled decision) was completely groundless. This Court intends to uphold this



determination of unreliability, not based on any preconceived notion but in light of the complete picture of the evidence, outlined above, which belies the reconstructions of the events put forward by both Aviello and Alessi.

## **8. The statements made by Rudy Hermann Guede**

Rudy Hermann Guede was tried separately and sentenced to a prison term of sixteen years, after being found guilty in complicity with others of the murder of Meredith Kercher. He underwent questioning by the Court of Assizes of Appeal of Perugia on 27 June 2011, in accordance with article 197 *bis* Code of Criminal Procedure (in the interim, Guede's conviction had become final on 16 December 2010), at the Prosecutor's request, in connection with the content of statements made during the hearing on 18 June 2011 by Mario Giuseppe Alessi. The questioning of this witness initially focused on his acquaintance with other witnesses (i.e., Mario Giuseppe Alessi, Luciano Castelluccio, Antonio De Cesare, and Ciprian Trincam) who had testified during the hearing held the previous 18 June. After Guede denied making any of the confidences reported by the witness Alessi, either to the latter or to the other convicts examined as witnesses, Guede answered the questions put forth directly by the Prosecutor and by the attorneys of the various parties in cross-examination about the events of the evening of 1 November 2007, inside the cottage at 7 via della Pergola.

In particular, the witness answered questions about a letter he allegedly sent to his lawyers, but that was divulged by a television program (news by TG of *Mediaset channels*<sup>25</sup>), which gave it wide and prominent coverage:

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*“PROSECUTOR: Look, are you aware that Alessi has said, has made statements about you?”*

*WITNESS-Yes, I found out from television.*

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<sup>25</sup> *Mediaset* includes the national private television channels Rete 4, Canale 5 and Italia 1, all featuring TG/TeleGiornale, a regular news program (TG4, TG5, Studio Aperto) as well as the TGCOM news website and the all-news channel TGCOM24.

PROSECUTOR: *Alright, do you remember roughly, when it was you found this out?*

WITNESS- *Look, we're talking roughly about, if I'm not mistaken still with dates in May of 2010.*

PROSECUTOR: *Did you consider confirming or denying these Alessi statements via the press?*

WITNESS-: *Look, when I heard these absurd rumors, I considered that I should write a letter, various letters that I sent to my lawyers in which I told them everything this person was saying was all lies.*

PROSECUTOR- *You've written through your lawyers, but I don't know directly or not directly a letter to News Mediaset?*

WITNESS- *Directly, no, I did not.*

PROSECUTOR- *Then, who wrote this letter?*

WITNESS- *Look, as I said before, I thought of writing to my lawyers, then afterwards, I don't know how my letter ended up arriving at News Mediaset.*

PROSECUTOR- *Well, look, if I may...if you could show, this would be the text and this is the contents of this letter, if you confirm having, that this is the content of the letter.*

PRESIDING JUDGE — *But is it offered [as evidence]?*

PG-*It will be offered if it is acknowledged.*

PROSECUTOR-*I wanted to ask the question whether...*

PRESIDING JUDGE- *If he recognizes the signature?*

PROSECUTOR- *If he recognizes it and if the contents...*

PG- *If he recognizes the content, this is the letter...[291]*

PROSECUTOR- *The content is written in boldface type on the page ....if you'd like, look at it beginning with the second page.*

WITNESS-*However, I have to say that from this point you can't read anything.*

PROSECUTOR — *No, no, no, but that is the text. I wanted to know.*

WITNESS-*Well, yes.*

PROSECUTOR-...*the content, if the content...*

DEFENSE LAWYER SACCARELLI- *Excuse me, your Honor? May I see the contents of the letter?*

PRESIDING JUDGE: *Please.*

PROSECUTOR: *Then, on the side of the page, you see the text which is the same that is enlarged, but the handwriting is hard to read, but anyway, the subject would be this? The second page, as well, this one in boldface type.*

WITNESS—*Yes, I wrote this letter, yes I did.*

PROSECUTOR—*This is a request for this letter to be submitted.*

PRESIDING JUDGE—*Alright.*

DEFENSE LAWYER SACCARELLI- *There is opposition by the Defense to submitting the letter.*

PRESIDING JUDGE-*He had been advised that he would not be compelled to make any statements, now I do not know what there is in this letter.*

DEFENSE LAWYER SACCARELLI- *If I may be permitted to speak, I wanted to make a clarification to the Court. The main point is I only wanted to say that Rudy Guede today is witness that only for the matters relating to the statements that Mario Alessi has already made in the last hearing, he can't refer to other matters, only on these matters. I think, however, that the letter makes reference, as I read it, to the responsibility of other possible people, and so it shouldn't be admitted only because Rudy Guede is a witness. I repeat, today only the matters relating to the statements made by Alessi, witness assisted according to article 197 bis because of this I am opposed to submitting this because Rudy Hermann Guede can exercise his right not to respond to certain matters for which he was sentenced and I think that this letter duplicates these matters, does not only speak of Alessi.*

PRESIDING JUDGE- *However, it's a power that remains his responsibility, not that of his defense lawyer, it is he who must decide...*

PROSECUTOR-*He has answered.*

[292] DEFENSE LAWYER SACCARELLI—*Yes, I know, he did answer but he answered only on the matters of the case relating to Mario Alessi; he can't respond to the facts, he can exercise the right to remain silent concerning other people's responsibility.*

PROSECUTOR-- *The letter concerned...*

DEFENSE LAWYER SACCARELLI—*He can exercise his right to remain silent.*

PRESIDING JUDGE-- *Alright, at the present time...*

DEFENSE LAWYER BONGIORNO—*Then may Sollecito's defense team also speak?*

PRESIDING JUDGE— *Just a moment...*

PROSECUTOR—*I am requesting...*

PRESIDING JUDGE—*Excuse me, just a minute, Prosecutor. I advised Guede before that he wasn't required to make statements that in some way could conflict with his [past] trial behavior in the proceeding now closed; I don't have the slightest idea what is in that letter, he made the assessment, his defense lawyer obviously can't do it, and he said, he simply acknowledged the letter, as for the subject I don't know what that would be.*

PROSECUTOR-- *However...*

PRESIDING JUDGE—*He acknowledged having written this letter.*

WITNESS--*If I may please address the Court...*

PRESIDING JUDGE—*Excuse me, you've read it...*

WITNESS--*If I may address the Court...*

DEFENSE LAWYER BONGIORNO—*Also the defense requested it, sooner or later.*

WITNESS--*No, in the sense that I was the one who wrote the letter, and I sent it to my attorneys, I was asked whether I had sent it to TGCOM; I never sent it to TGCOM directly.*

PRESIDING JUDGE—*I haven't understood a thing, would you kindly repeat that?*

WITNESS—I said that I was the one who wrote the letter, when I wrote it I sent it directly to my attorneys. But, I did not personally send it to TGC.COM, which was what was asked of me. What this is, the letter, I wrote it, yes.

PRESIDING JUDGE - You acknowledge having written this letter, but not having sent it...

WITNESS – ...directly to TGC.COM. [293]

DEFENSE LAWYER SACCARELLI—Judge, excuse me, Rudy Hermann Guede acknowledged that it's a letter addressed to the defense attorneys. I am asking that that the letter not put on the record, that it be excluded.

PRESIDING JUDGE—Alright. We'll set that aside until the conclusion, after having seen what's written in this letter.

PROSECUTOR--Or I'll read it to you. "Viterbo, 7 March 2010.

*"As usual, in our beloved Bel Paese<sup>26</sup> there are a quite a lot of fake people who are intent on telling lies, so as you know none of those people that give voice without asking if it is worth the least consideration to weigh distress of giving space to certain insinuations. In recent days, all I've been hearing are profane innuendos against me. False hearsay that only concerns itself with pillaging from here and there for the journalistic television channel. Although for people with common sense, it's nothing but the pure fabrication of a wicked mind.*

*It must be said that what I heard in recent days, skimming through various media, concerning how falsely claimed by this vile person by the name of Mario Alessi, whose conscience is nothing more than stinking foulness only and only the ravings of a sick and twisted mind. Made-up and false statements of a monster who is known in all of Italy, having stained himself with the horrendous murder in which he took the life of a little human angel.*

*As this individual is now falsely stating things that I never told him and that I have never said, things that are not in heaven or on earth except in his, or rather I should say their rotten declarations, it is my*

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<sup>26</sup> Beautiful country. *Bel Paese* is a classical poetical appellative for Italy, due to its mild weather, rich history and natural beauty. Its usage originates in the poetry of Dante and Petrarch. It is often used in modern language as synonym for Italy, although sometimes – as in this case – with slight irony.

*intention to state black on white that I have never confided anything to this filthy person, since I have nothing to confess or anything else, and all that I had to say I've already told to the Judges, and as long as I live I will continue to scream and fight until the truth itself and justice itself will prevail over such lies, and least of all would I have individually spoken with others or with other inmates about my court case. And if anything, if I had something to say, don't you think I would have spoken with my lawyers? To admit and give credit to what is an irreverent profane statement from the sick mind of a monster who had no mercy for a small child, with this additional theatre of the absurd sham, which I, my lawyers and my family members accustomed by now are accustomed [here illegible] the latter [individual] this ogre Alessi, I hope that Italians and the rest of the world realized what kind of they are dealing with, swine that stink of the slime of lies. But in spite of it all, they go around showing their faces and suffocate people with the stench of their lies. It seems that their umpteenth theatre of the absurd does nothing but [294] give me the strength and the awareness to fight more than ever until the truth that they are trying to hide is seen by all. As far as I am concerned, in me, the serenity and the calm of total peace of mind of he who is in the right does not make a show of this unjust suffering because I trust that in what is right and in justice and in the good sense of Italians and lastly, I hope that sooner or later the Judges realize my complete lack of involvement in what was a horrible murder of Meredith a lovely wonderful young woman, by Raffaele Sollecito and Amanda Knox.*

*--Rudy Guede."*

*PRESIDING JUDGE—However, there's no admission by Guede of his involvement. On the contrary, it seems the complete opposite, so it's not a case in which one can refrain from testifying, so we can obtain it.*

*DEFENSE LAWYER SACCARELLI-- I submit to the Court this is evidence on which Rudy Hermann Guede has testified, evidence pertaining only to Mario Alessi.*

*PRESIDING JUDGE—Let's admit this letter. Has the Prosecution finished with the witness?*

*PROSECUTOR—Yes, thank you.*

*PRESIDING JUDGE—Is there anyone who has to ask witness questions?*

*[...]*

DEFENSE ATTORNEY BONGIORNO—*Excuse me, in reference to this letter which was read by the Prosecutor, I would like to ask you: with respect to this letter did you write this after Alessi's statements?*

WITNESS—*It was, let's say, venting, a reaction that I had after these statements.*

DEFENSE ATTORNEY BONGIORNO —*To whom did you send this letter?*

WITNESS—*To my attorneys.*

DEFENSE ATTORNEY BONGIORNO—*Mr. Guede, would you rather talk about the murder of Meredith Kercher, and of matters with which you are familiar?*

DEFENSE LAWYER SACCARELLI—*Objection, irrelevant facts...I'm highly opposed.*

PRESIDING JUDGE—*It remains his own decision, not that of the defense lawyer's.*

DEFENSE ATTORNEY BONGIORNO—*It's obvious that he can choose, but at the very least, let's have him say it, don't you agree?*

PRESIDING JUDGE—*Exactly, I'm saying...*

DEFENSE LAWYER SACCARELLI—*However, these matters are irrelevant...*

**[295]** DEFENSE LAWYER SACCARELLI—*It's a cross-examination, these are not matters that are relevant to the statements that he should make.*

DEFENSE LAWYER SACCARELLI—*No, it's not fear colleague... it's just that these are not matters that are relevant to the trial.*

PRESIDING JUDGE—*If he wants to answer, he is allowed to answer, He has the leave to not do it. Therefore, if he decides to answer, he will answer.*

DEFENSE ATTORNEY BONGIORNO—*YOUR HONOR, there is something that must be said, since we have just heard the reading, the reading of a letter that explicitly accuses my client and Amanda, I'm in the midst of cross-examination, I believe it is my right to at least tell Mr. Guede, after years in which we pursued it, if he wants to tell us the truth about this murder.*

WITNESS—*May I respond? Well, since the letter has been read, I think I'm here today to answer Mario Alessi's false statements in criminal proceedings. And therefore, just as is written in the letter,*

*everything I had to say I already said to the Judges, to the Prosecutors, to my lawyers, therefore, I don't plan on answering this topic.*

*DEFENSE ATTORNEY BONGIORNO—Therefore, you don't plan on answering.*

*WITNESS - Yes.*

*\*\*\**

*DEFENSE ATTORNEY DALLA VEDOVA—Mr. Guede, I, too, having received the news today about this letter and after having heard the content, I have to ask you the question, just as it had been posed by Sollecito's defense, with all the decisions related to a possible answer, because I believe that you are making two very important affirmations: the first, you affirm in this letter that there is one truth, so it would appear to be a truth that is different from the one that you, as you've said until this point in time, as reported to the Prosecutor, to your defense attorneys, to the various people who have been, who have heard you. And so, since this appears to be something new...*

*WITNESS—But various people, in what sense?*

*DEFENSE ATTORNEY DALLA VEDOVA--...and since it seems very relevant, my question is: So, you...*

*PRESIDING JUDGE—This, more than being a question, however, Counselor Dalla Vedova, more than a question, this seems a consideration that you make, I mean, you reach a certain conclusion...*

**[296]** *DEFENSE ATTORNEY DALLA VEDOVA—No, at one point, he says in the letter...*

*PRESIDING JUDGE—Yes, yes, but this is not a question, however.*

*DEFENSE ATTORNEY DALLA VEDOVA—The question is: what is the truth, considering he referred to it now, in this letter, and it would seem to be a new truth.*

*WITNESS—It is absolutely not a new truth.*

*DEFENSE ATTORNEY DALLA VEDOVA—Why?*

*WITNESS—It is not a new truth because, well, as I said before: One, I am not here to respond to another criminal proceeding, but in reference to this criminal proceeding, that letter was one, a reaction to the statements that I heard, to the absurd statements made by a person and as I said before, I neither said*



*anything new in this letter of mine, I only transcribed all of what I have always said to the investigators to the Judges and to my lawyers.*

*DEFENSE ATTORNEY DALLA VEDOVA—And therefore, Mr. Guede, when you wrote verbatim that it was a “horrible murder of Meredith a lovely wonderful young woman, by Raffaele Sollecito and Amanda Knox” what do you mean exactly? Have you ever said this?*

*WITNESS—Well, I... this, I’ve never said it explicitly, in this way, but I’ve always thought it.*

*DEFENSE ATTORNEY DALLA VEDOVA—Then why did you write it?*

*WITNESS—I wrote it because it, because it was a thought that I always had within me.*

*DEFENSE ATTORNEY DALLA VEDOVA—And so, it’s not true.*

*WITNESS—No, it’s very true.*

*DEFENSE ATTORNEY DALLA VEDOVA—And therefore, would you mind elaborating in more detail? What does it mean?*

*WITNESS—It’s very true.*

*DEFENSE ATTORNEY DALLA VEDOVA—Are you confirming this situation? On whose behalf?*

*WITNESS—Well, I with my...well, as I told you before, this is a thought that was always in my mind, it’s a thought, however, that ultimately I decided to put in writing, hearing certain absurdities, in my opinion and I accept all responsibility, hearing of a puppet manipulated by certain people, that’s all. So if I wrote those words it’s because I’ve always had them inside of me. It’s not up to me to decide who it was who killed Meredith, in the statement that I made in my trial, I always said who was there in [ 297] that home that damned night, so, I think I’m not saying anything new, I have only put in writing my thoughts and I made them more concrete, that’s all. Therefore, I don’t see which other question I have to answer.*

*DEFENSE ATT’Y DALLA VEDOVA—With respect to this letter, I still wanted a clarification, because you wrote:” I wrote this letter because I felt like a puppet and so...”*

*WITNESS—No, it’s not that I felt like puppet, I didn’t say that.*

*DEFENSE ATT’Y DALLA VEDOVA—Well, then why did you write the letter?*

WITNESS—I wrote this letter because there was a puppet that was manipulated by certain people, who were indeed the people pulling his strings.

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DEFENSE ATT'Y DALLA VEDOVA—I only have one question that I must still ask in relation to the news that I read in this letter, still referred to as...

CIVIL ATTORNEY MARESCA—[remarks said away from the microphone]

DEFENSE ATT'Y DALLA VEDOVA: Your Honor, I could explain the question...

PRESIDING JUDGE—Let's have him ask the question and then we will see.

DEFENSE ATT'Y DALLA VEDOVA--...then I'll give everyone all the time to object, because I respect, but I would like not to be interrupted. I believe the news of this letter is contained in the fact that Guede speaks of his truth and he reiterates the involvement of Amanda Knox and Raffaele...

PRESIDING JUDGE—The question.

DEFENSE ATT'Y DALLA VEDOVA—the question is this: Why didn't you say it before?

WITNESS: Excuse me, I'm not talking...

DEFENSE ATT'Y DALLA VEDOVA—Because that evening you...

WITNESS: Excuse me, may I...?

DEFENSE ATT'Y DALLA VEDOVA—Sorry, sorry, sorry...

PRESIDING JUDGE—But this is part...

PROSECUTOR—But let's talk about his trial.

PRESIDING JUDGE—Agreed, agreed. It's part of his defense, of his defense which... [cross talk/voices heard]

DEFENSE ATTORNEY SACCARELLI—Then I want to clarify something, this very day, the answer...

[298] PRESIDING JUDGE: He has already stated that he doesn't want to answer.

DEFENSE ATT'Y DALLA VEDOVA — The Presiding Judge is speaking, if you please.

*DEFENSE ATTORNEY SACCARELLI—To the previous answer, he said that this is a thought and this is what he said. He said that he has reiterated his truth, various times: I think we should stop asking questions about this.*

*PRESIDING JUDGE: Yes, yes, I agree, I'm saying it, if you'll allow me to speak.*

*DEFENSE ATT'Y DALLA VEDOVA – The Presiding Judge is saying it...*

*PRESIDING JUDGE: Alright, so, at this point, we've now exhausted...*

*WITNESS—If I may be allowed a final word.*

*DEFENSE ATT'Y DALLA VEDOVA –But I see that the witness wants...*

*WITNESS—No, if I am permitted one final word, you see, the problem is this: it's not as though there is my truth and the truth of Tom or Dick or Harry. There is only one truth; the one I lived through that night, the one I have always described, and that's all.*

*DEFENSE ATT'Y DALLA VEDOVA—So you were there, that night.*

*WITNESS—I have always said that I was there that night.*

*DEFENSE ATT'Y DALLA VEDOVA—Well, then...*

*WITNESS—I think you know very well that I've always said that."*

(Page 12 and following, from the transcript of the 27 June 2011 hearing before the Court of Assizes of Appeal of Perugia)

Rudy Hermann Guede's statements made before the Court of Assizes of Appeal of Perugia are of significant, undeniable importance for the trial. The witness, called to testify about the circumstances related by Mario Giuseppe Alessi, fully confirmed the signed letter he sent to his attorneys, which was then disseminated by the media, written in retaliation for the statements made against him by Alessi, in which he attributed the murder of Meredith Kercher to the accused, Raffaele Sollecito and Amanda Knox.

Guede's testimony gave rise to intense cross-examination, and to the objections addressed to him by the Knox Defense, the witness, accepting to respond to the cross-examination, explicitly placed the defendants Raffaele Sollecito and Amanda Knox at the scene of the crime, attributing to them the responsibility for the murder, and he was able to do this precisely because he himself was at the scene of the crime, albeit in a role extraneous to it.

[299] Rudy Hermann Guede, responding to the objections made against him, stated that the accusatory statements that had just been made weren't at all new. Rather, the statements were the confirmation of what he had previously reported during the course of interrogations conducted as part of the proceedings initiated against him and ending with his definitive conviction.

The Court believes that, for the sole purpose of verifying the truth or falsity of this last statement made by the witness—a circumstance that is relevant for the purpose of testing his credibility —Guede's statements made during his own trial, now concluded, can be checked, in particular to see whether the particular circumstance referred to in the courtroom on 27 June 2011 before the Court of Assizes of Appeal of Perugia constituted a new element of evidence at that trial or whether in fact Rudy Hermann Guede had already previously placed the defendants at the scene of the crime in the role of the perpetrators.

In Judgment number 639 issued on 28 October 2008 against Rudy Hermann Guede, convicting him of participating in the murder of Meredith Kercher, the G.U.P. of the Tribunal of Perugia wrote the following in reference to the statements made by the defendant during the course of the preliminary investigation. *"... In the interrogation made by the German police at the time of the defendant's arrest, he claimed to have met Meredith on the evening of 31 October, while he was out with some Spanish friends of his, and at that time, they had "flirted" making a date for the next evening. At 8:30 pm on 1 November, around 7:30 pm (without being able to be more exact, because he stated he didn't have a watch available) Guede had first stopped by the home of a friend named Alex, then he had gone to Kercher's house, but without finding her home. At that point, he went to see some young men who were basketball enthusiasts, without specifying if he was speaking of the young men who lived on the floor below. However, he wasn't even able to find them. So, he went back up to the center of town, buying a*

kebab, and then returning to Via della Pergola; he waited there a few minutes, after which time Meredith arrived and opened the door for him, letting him inside.

After a brief conversation, also because of what had happened between them the evening before, the two young people kissed without, however, then getting to the point of having sexual relations: at first, however, it happened that Ms. Kercher had discovered some money missing from a drawer next to her bed and she had gone into Amanda's room – who was not there – to check whether the money was there.

From this came general accusations by Meredith against the American, the former complaining [300] above all that the other girl was smoking drugs (a detail Guede confirmed, because it had happened that he had seen Ms. Knox smoking on a previous occasion when he had been there). Without adding any further details, the defendant stated that at a certain point he had gone into the bathroom, and from there – despite having put on the headphones of his iPod – had heard someone knocking on the door and coming in: after about five minutes (anyway he remembered having listened to two or three songs whose titles he did not even name), he had heard some shouts that had drowned out the rather loud volume of the headphones, so that – without even pulling up his trousers – he came out, finding a man with his back to him who was slightly shorter than him in front of the front door to the house. Guede specified that he did not recognize this person but that he had seen Meredith lying bleeding on the floor: he had then grabbed the man, asking him what he had done, but the other man had turned around violently, trying to strike him with the knife in his hand, probably the left one, and in fact inflicting a wound on him on his right hand (from some photographic details carefully taken by the German police certainly showed some small cuts on the defendant's hand). Trying to avoid the blows, Guede moved back but fell to the floor because he had in fact not pulled up his trousers completely. He tried to defend himself using a chair and the attacker fled a few seconds later, saying "Black man found, guilty person found," before leaving the apartment, but without the defendant understanding whether those words were addressed to a third person present.

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In the questioning after the arrest, Guede claimed above all that he vaguely knew Diya Lumumba, and not having been to the pub "Le Chic" more than three or four times; he knew Knox, having seen her the first time that he had been to Patrick's premises, where Amanda had approached him as a waitress, then he had met her a few times in the street (limiting himself to greeting her in passing) and he had spent an evening with her and the lads who lived downstairs at Via della Pergola. This last episode went back,

according to him, to the first days of October, around the same time as the birthday of one of his friends, a certain Owen: after celebrating with the lad in the company of friends, Rudy had met Knox and two of the students from downstairs out and about; he knew them from having played basketball with them at the usual small court, and it had been those two who invited him to come around to their house. Amanda had gone up [301] to her apartment and it was at that moment that Guede had made a few comments about her (but the other lads had also taken part with their own remarks, which were rather coarse), while joints were passed around: a little later the American had come downstairs and a few laughs had resulted because she was the very person they were talking about. The defendant also remembered that Knox had smoked, then explained that he was a little tired because he had drunk a lot and due to the effect of the smoke in the house, and he had needed to go to the bathroom. He then went back to the others (denying that he had fallen asleep on the toilet and claiming to have flushed the toilet as usual). After a short time Meredith had come downstairs; Guede stressed that he already had been informed about the presence of an English girl in the upstairs apartment but had never seen her: hearing her accent he had understood that she was the one and he had exchanged a few words with her, appreciating her beauty. In the meantime, Ms. Kercher had also begun to smoke but it had been precisely she who had urged Amanda that they should both go home to sleep, seeing that it had gotten so late.

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On 31 October, on the occasion of Halloween, he had seen her again, and this time things had gone differently. Guede claimed to have gone to a party at the house of Spanish friends, in a house behind the "Pavone" cinema, and everyone had been in costume at a certain point a girl dressed as a vampire approached and spoke to him without his even realizing that she was actually Meredith. Once he had recognized her, he had jokingly asked her whether she wanted to suck his blood, by way of revenge for the rugby defeat, and then they had spent time together talking: the defendant also described the place where this conversation occurred, with a room between two bathrooms, and stated that he had kissed the girl, telling her that he wanted to see her again the following day. So they made a date for the next evening, at about half past eight.

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Coming to the evening of 1 November, Rudy remembered leaving home just as the TG3 regional news was starting, that is, at 7:30 pm: he went to Via della Pergola but nobody answered when he knocked on the door, neither on the girls' floor nor downstairs. At that point, Guede had decided to go and see his

friend Alex, who lived not far from there: once he had rung he had waited five minutes before the seeing the door open for him, because [302] the other lad was having a shower, then he had exchanged a few words with him, coming to the agreement to see each other later at Alex's place: Rudy then had gone to buy a kebab near the "Tirreno" cinema, meeting his other friend Philip along the way on his walk: at first he had not stopped, seeing that Philip was talking to a girl, then he had spent a few minutes there, telling him that they would see each other again at Alex's, that in the meantime he planned to see someone. Philip asked him whether it was a man or a woman, and he had told him that it was a young woman.

Upon returning to Via della Pergola, Guede once again knocked and once again got no response; however, after a few minutes Ms. Kercher had actually arrived and asked him how long he had been waiting. Rudy had told her that he had only been there a minute, even though more than a few had gone by, the girl had smiled at him, taken the keys from her bag and they had both gone inside the house. It was more or less 9:00 pm, Meredith had said in English "I am here", so as to announce her entrance, but nobody had replied, and indeed the impression was that the other girls were not there, because the room doors were closed and there was no light or noise. The defendant, because of the rather spicy kebab, had asked her if could have something to drink, and Ms. Kercher had told him to make himself at home, so that he had taken some water and fruit juice from the fridge. While he was in the kitchen he had heard the young woman complaining and cursing, and he had therefore gone to her: Meredith, in her room, had found a drawer open and was saying that the money she had placed there was no longer there, without stating the sum but making it understood that it was a considerable amount, and she had attacked Amanda straight away, describing her as a druggie. Guede had tried to calm her down, or to tell her not to accuse Knox like that without knowing what had happened, and together with her he had gone all around the house in order to check whether there were any signs of a break-in, without finding any at all; Ms. Kercher, on her part, wanted to check a drawer in the American's room, without finding the money. A little to calm her down, a little to try to make a move, the defendant had treated her more gently, starting to talk about himself and his family: a moment later, he said that he had become closer to Meredith, who had talked to him then about a romantic episode in England (not even about a boyfriend or a boy in Italy), then while they were in the [303] kitchen/living room, he had told her that he liked her, and they started to flirt and kiss until they were touching each other intimately. Guede pointed out that he had partially penetrated the girl just with his fingers, and that he had also touched her breast (and her bra) under her sweater. At

that point, after about ten minutes, it had been Meredith who asked him whether he had any condoms: he had answered no, and both of them had drawn back, realizing that they had gone a bit too far. So they had straightened themselves up (not having undressed completely, but both only undoing and lowering their trousers) and Rudy had told her that he had to go to the bathroom because the kebab had upset his stomach. He had gone to the bathroom whose door was next to the refrigerator, that the girl pointed out to him, had loaded his iPod with the usual 25 songs he listened to most and he had sat on the toilet after cleaning the seat, as was his habit: he indicated he also usually answered the call of nature with his headphones on his ears, listening to music. The young man also remembered the sequence of the first three songs he listened to, it being the usual one, and while he was in the middle of the third – despite the very high volume – he had heard a scream: wiping himself in a hurry, without even doing up his belt properly, he had gone towards Meredith's room, finding in the doorway (but just inside the room) a man with his back to him. At that point Guede had put his hand on the shoulder of that individual, catching a glimpse at the same moment of the girl's body on the floor: the other man had turned around suddenly, striking blows in his direction with a knife he was holding in his left hand, the length or any other details about which he could not specify. He described the person in question as a little shorter than he, of a similar build, with light jeans, a black "Napapijri" jacket whose brand he had noticed, a white cap with a red stripe down the middle and brown hair that could be seen underneath; he was not able to give a better description precisely because of the attack taking place, which had made him pay attention so as not to be wounded, even so the man had succeeded in grazing his right hand. Furthermore, the light was rather low, because only a lamp was on in the victim's room. As he drew back, the defendant first knocked over a drying rack in the corridor and then ended up in the kitchen again, falling between the table and the refrigerator because of his attacker following hot on his heels, whom he described as coming at him "frenziedly": he succeeded in grabbing a chair, pushing it at the other man, who – after a brief moment of hesitation – had fled, saying in perfect Italian the words "he's a black man, black man found, [304] guilty person found, let's go". Rudy continued his account explaining that, hearing the steps of the man going away on the gravel in front of the house, he had heard the noise of more than one person walking, receiving the clear impression that as well as that individual there was another: leaning out of the bedroom window overlooking the street (that is to say Ms. Romanelli's room), he had tried to see someone in the courtyard or in the street, but unsuccessfully.

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*On 25 March 2008 Guede was questioned again by the Prosecutor.*

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*Repeating in the same terms the circumstances under which he had met Amanda at Diya's pub, Rudy returned once again to his memory of the evening spent at the house of those young men, when he had met them (together with Knox) after Owen's birthday party: according to him, it was October 12<sup>th</sup> or 14<sup>th</sup>. He confirmed that, once Amanda had gone back up to her house, and before she returned, all of them had said that she was a pretty girl, making up more or less disrespectful fantasies, then – when the American had come back down – a joint had been circulated which Knox herself had started to smoke in a way that seemed exaggerated to him. After a while, Ms. Kercher had also come down, and Guede stressed again that this had been the day when they had met each other, adding, however, that he had already seen her in some night spots: having sat across from him, they had talked to each other for quite a long while, while Amanda was exchanging words with the other guys, without any one of them, however, showing himself to be particularly friendly or even in some sort of a relationship, neither with her nor with the English girl. Differently from Knox, Meredith had taken just one draw on the joint, and it was she in fact who had first said that she intended to go to bed, being followed at once by Amanda.*

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*Having noted that Meredith had not given him her cellphone number and that he had not felt the need to ask her for it, both because he would meet her anyway in the usual places and because he did not have a phone any longer since he had had it seized on October 27 in Milan, Guede claimed that he had returned to Via della Pergola around the time suggested for the meeting, noticing also a car of the subcompact type just outside the gate to the house, and a North African, a sort of scruffy vagrant, not far away. [305] He had knocked, after finding the gate open, and got no reply; retracing his steps towards the street, he had noticed Ms. Kercher arriving, while the car he had just mentioned was no longer there. Talking to the girl for a few moments outside the house, Rudy remembered having heard someone talking in the outside part of the car park above: he did not affirm, however, having seen buses leaving for the discotheques or tramps sitting on the benches in Piazza Grimana: Meredith, upon seeing him, asked him what he was doing, and he replied that he had come by, making sure to stress that he had not been waiting for long. In any case, the young woman had not been at all alarmed to find him there and had invited him in, the defendant confirming that Ms. Kercher had said aloud that she was back, as well as the detail of drinking some water and fruit juice from the fridge, after which Meredith happened to have noticed the presumed*

*theft of some money. It could have been around 9:20 pm, more or less. From this had arisen the accusations and the insults about Amanda, whom she had already mentioned, and among other things he had heard her say that she could not take any more of the guys that Knox brought home and of her behavior: seeing her in such anger about it, Rudy had understood that the English girl's missing money was not insignificant. He consequently calmed her down, paying her compliments about how she was a beautiful girl, and saying that getting angry would give her wrinkles: at this point they started to talk, a little still about the difficulties that Meredith had with the American (about whom she said that she did not even keep the bathroom clean), then about personal, more intimate things. Guede had told her that he did not have a mother but that in life he had had the good fortune to meet others, and Ms. Kercher had taken this opening to talk about her mother, telling him that she had become ill (from what the defendant had been able to understand, from kidney cancer) and that she was afraid of losing her. Then the young woman, to the question about whether she was engaged, had spoken about "someone special" in England, and he had come to the conclusion that she did not have any ties in Italy. In that context there had been the advance, which was completely natural: Rudy had kissed her on the lips, then they had mutually caressed each other, including on the genitals, and after a little while Meredith had had qualms because of the lack of a condom, so that they had stopped and pulled their trousers back up. Everything had taken place in the living room, with the two young people sitting on chairs next to one another. Feeling a stomach upset, Guede had gone to the bathroom, asking the girl permission to do so and hearing the nearest one indicated to him; [306] as soon as he went in, with Meredith, who was going to her own room but still in that sort of living room, someone rang the bell. Rudy had heard Ms. Kercher asking who it was, after which – without hearing the answer of who was ringing – he had heard the words "we need to talk" or something like that being said in English and in a different tone of voice, that is to say "we must talk". The answer, this time, was heard by the defendant (who still had the bathroom door open), because the person had entered the house in the meantime, with a female voice he claimed to recognize as that of Amanda Knox replying, still in English, "What's happening?", that is "What's happening?" or "What's the problem?"*

*Guede had claimed that he was not worried about this, and that it was not his business: so he had begun listening to the music on his iPod while using the toilet. As already reported in the first interview, during the third song he had heard a scream louder than the volume of the head-phones, and then had tried to go*

*and see what was happening, with such speed as to not take care of dressing himself properly again or flushing the toilet. Rudy specified subsequently in the interview record that, with the headphones still on his head, he had continued to hear shouting between women, still maintaining that it was between Meredith and Amanda, but not in terms to make him think that something serious was happening. Having come out of the bathroom, the young man was amazed to find the light out in the kitchen, seeing that shortly before it had been on, so he had gone towards the corridor leading to Meredith's room, and repeating the account of the individual whose back he had seen in the doorway, and who had turned around suddenly with a knife in his left hand as soon as Guede had got close to him and had glimpsed the wounded girl's body on the floor. With regard to the preceding interview, he added that this man had prominent cheekbones and a sort of double chin: he was not wearing glasses and could have been about the same age as him. Rudy, who also claimed to have heard Knox's voice, had not seen Amanda in the house, finding before him only the individual with the knife, who had made him back off until he fell to the floor when he went back into the living room, so much as to make (Rudy) take a chair to throw at him and to try to get away from him: he corrected the first piece of information, which was a little hasty and unlikely, in relation to the duration of this type of struggle, defining as "as quick as lightning" an attack that in December he had claimed had lasted five minutes or more.*

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**[307]** *Pressed by the investigators about the description of the man with the knife, above all about the eventual possibility that it was Raffaele Sollecito, Guede stated that he had been a bit influenced because he had seen images and photos, and to have thus noticed something (evidently as far as judging a similarity, if not actually fully recognizing) of that unknown individual in people whom he had happened to see, without specifically referring to Sollecito: he claimed it was preferable to try to make a composite sketch, precisely because of those suggestions, on which he insisted as well when faced with more direct questions. In any case, as far the accent of the young man in question, he decisively ruled out that he was from Perugia or Northern Italy." \*\*\**

The ruling of the Preliminary Hearing Judge ("G.U.P.") of the Court of Perugia - from which significant excerpts are quoted in relation to Rudy Hermann Guede's statements to the police and to the investigating magistrates - a ruling acquired in the records of this judgment together with sentence no. 7 dated 22 January 2009 of the Court of Assizes of Appeal of Perugia, which

confirmed the conviction of Guede for the murder of Meredith Kercher, and of ruling no. 7195 issued on 16 December 2010 by the First Section of the Court of Cassation which, rejecting the defendant's appeal, conferred the authority of definitive judgment on the sentence issued by the Preliminary Hearing Judge of the Court of Perugia in reference to the affirmation of penal responsibility and to the appeal sentence in reference to the penalty inflicted, it can be affirmed that Rudy Hermann Guede has always placed himself at the scene of the crime; he has affirmed from the formal custodial interrogation carried out in Italy at the time of his extradition from Germany that the authors of the murder of Meredith Kercher were a man and a woman; and finally, with specific reference to the interview given on 25 March 2008 to the Prosecutor, Rudy Hermann Guede explicitly placed Amanda Marie Knox at the scene of the crime, identifying her substantially as the co-perpetrator of the murder.

In relation to the version of events regarding Raffaele Sollecito, the declarations made during the investigation by Rudy Hermann Guede were certainly more "vague" (*"Pressed by the investigators about the description of the man with the knife, above all about the eventual possibility that it was Raffaele Sollecito, Guede stated that he had been a bit influenced because he had seen images and photos, and to have thus noticed something (evidently as far as judging a similarity, if not actually fully recognizing) of that unknown individual in people whom he had happened to see, without [308] specifically referring to Sollecito: he claimed it was preferable to try to make a composite sketch, precisely because of those suggestions, on which he insisted as well when faced with more direct questions. In any case, as far the accent of the young man in question, he decisively ruled out that he was from Perugia or Northern Italy."*), even if he did not exclude him specifically from the scene of the crime.

It may therefore be affirmed that, while Rudy Hermann Guede, during the hearing on 27 June 2011 when pressed by questions posed by a member of Knox's Defense, stated that he had already previously affirmed the "same truth" - that is to say, had already placed the defendants at the scene of the crime, attributing the murder to them – he was not lying, at least explicitly with respect to Amanda Marie Knox.

A final observation must be made in relation to the statements made in Court hearings by Rudy Hermann Guede.

The witness testified to having written a letter to his lawyers in which he attributed the murder to Raffaele Sollecito and Amanda Knox as retaliation for the statements made by Mario Giuseppe Alessi, which directly involved him in the murder of Meredith Kercher, a murder to which Rudy Hermann Guede has never confessed. The correlation between the accusations received from Mario Giuseppe Alessi and the accusation made against Amanda Knox and Raffaele Sollecito could escape notice, unless the conviction expressed by Rudy Hermann Guede in answer to a member of the Defense of Amanda Knox is not held to be founded, that Alessi's conduct had been "manipulated" by the defendants; "*puppeteers*" who manipulated Mario Giuseppe Alessi. This is obviously Rudy Hermann Guede's conviction, but it objectively enters into the category of possibilities that offer an explanation for an activity of tampering with the evidence in a heavy-handed way, in this trial, by detainees who are certainly without a personal stake in the outcome of the present proceedings.

## **10. Conclusions**

As result of the analysis of the complex evidentiary material, this Court believes it can draw some conclusions.

The complete body of evidence that can be drawn from the case files, indubitably substantial in quantity and significance, was analyzed and evaluated by this Court as a whole by means of an articulated approach that examined, for each separate piece of evidence, its relationship to the context in which the murder took place.[309]. None of the pieces of circumstantial evidence, individually examined, proved to be unrelated, by nature or significance, to the facts of this crime. Thus, it is now pointless to repeat the individual analysis, as this would lead to an unnecessary lengthening of the ruling. The task of this section is to evaluate all the evidence acquired, already deemed to be linked to the case, in order to verify if, with a more integrated

analysis, a clear scenario will emerge affirming the criminal responsibility of the defendants in the murder of Meredith Kercher, beyond every reasonable doubt<sup>27</sup>.

The affirmation of the criminal responsibility of the defendants for the crime ascribed can result only when no other explanation of the facts emerging from the trial discussion, apart from that of the personal responsibility of the defendants, can be reasonably considered credible. The doubt as to the meaning of the evidentiary framework that may lead to an acquittal of the defendants has to be reasonable, not a mere hypothesis unsupported by objective facts. The judicial truth that emerges from the body of evidence must be ascertained by being able to rule out a reasonable explanation of the facts presented at trial different from the personal involvement of the defendants [for all see Supreme Court, Section 1 Criminal, Sentence n.17921 of 3 March 2010: *“the rule of judgment expressed in the formula ‘beyond all reasonable doubt’ requires the pronouncement of conviction on the condition that the evidence acquired has left out only remote hypotheses, which can be formulated in the abstract and seen as possible ‘in rerum natura’ [in the real world] but whose concrete realization does not have the minimum corroboration in the facts of the trial, and is therefore beyond the natural order of things and human rationality. (The Court has also requested that the logical reasoning leading to the conclusion be characterized by a high degree of rational credibility, therefore to the ‘judicial certainty’ that, excluding the interference of alternative scenarios in the past [“decorsi”], the voluntary [“in fatto proprio”] criminal conduct be attributable to the agent)”*; again, in a similar tone, Supreme Court, Section 2 Criminal, Sentence no. 7035 dated 9 November 2012: *“the laws introducing the rule of judgment ‘beyond every reasonable doubt’, which finds its foundation in the Constitutional principle of the presumption of innocence, have not introduced a different or more restrictive criterion to evaluate evidence but have codified the legal principle by which a conviction must always be based on certainty emerging from the trial, of the responsibility of the defendant”*].

**[310]** This Court believes that an alternative explanation of the facts of the case, as they were established in this proceeding, cannot be postulated, and that the body of evidence, if evaluated critically, leads inevitably to the affirmation of criminal responsibility of both defendants for the crime ascribed.

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<sup>27</sup> *Al di là di ogni ragionevole dubbio*

It is therefore necessary to proceed with the reconstruction of the events of the evening of 1 November 2007 using only what was established in the trial; i.e., witness testimony presented at trial and the results of all the technical investigations carried out during the proceeding.

It is proved that Meredith Kercher, who had spent the afternoon at the home of her English friends viewing photo albums and some videos related to the recent Halloween festivity, returned to her flat at around 9:00 pm. At that time nobody was home at Via della Pergola. The Defense hypothesis whereby at 9:00 pm on the evening of 1 November 2007 Rudy Hermann Guede had already entered the cottage through Filomena Romanelli's bedroom window was already shown, after a detailed analysis, to be unfounded.

The young English woman arrived home and entered using her own keys. Laura Mezzetti and Filomena Romanelli were both far from the cottage (Laura Mezzetti was even far from Perugia), while Amanda Marie Knox was, at that time, at the home of Raffaele Sollecito, presumably still watching a movie with him previously downloaded from the web.

Only after 8:00 pm did both defendants learn that they could spend the evening together. In fact, Amanda Marie Knox, who had left Sollecito's flat to go to Lumumba's pub for her evening work shift, had received the text message from Lumumba communicating that she did not have to go to work that evening. The young woman had therefore returned to Raffaele Sollecito's flat. In addition, Sollecito, at around 8:30 pm, had received communication that he did not have to accompany his friend Popovic to the bus station to collect the suitcase her mother had sent.

**[311]** Therefore, at around 9:00 pm on the evening of 1 November 2007, without any previous planning but as a consequence of random events, both defendants had the chance to spend the evening together.

The last certain information of the presence of both defendants in the flat at 130 Via Garibaldi is a human interaction made on the computer of Raffaele Sollecito at around 9:20 pm, presumably by Raffaele himself. Subsequently, and until 5:30 the following morning when Raffaele Sollecito's computer, located inside the flat at 130 Via Garibaldi, was activated again by a

human interaction, the two defendants have not provided credible indications of their whereabouts.

The witness Curatolo placed them in Piazza Grimana; already, at 9:30 / 10:00 pm, the witness stated that he saw them several times until around 11:00 / 11:30 pm on the same evening; a fact that this Court has deemed credible for the reasons outlined above.

It must be observed at once that Piazza Grimana is a few tens of meters from the entrance to the cottage on Via della Pergola, a cottage that can be seen by leaning out from the fence surrounding the Piazza, from which Curatolo saw Raffaele Sollecito leaning out several times, evidently interested in what was happening near the cottage.

A first fact we can extract from the trial material is that at 9:30/10:00 pm on 1 November 2007 both defendants were standing a few tens of meters from the cottage where, at around 9:00 pm, Meredith Kercher had already returned home.

Apart from Meredith Kercher, who was in the flat, and the two flatmates, Laura Mezzetti and Filomena Romanelli, who were far from the cottage, Amanda Marie Knox was the only person in possession of the keys to the flat. No trial record shows that any other person had those keys.

We know with certainty that, on the evening of 1 November 2007, Rudy Hermann Guede was present inside the Via della Pergola cottage, not only because he said so and it is reported in the final verdict that convicted him, but also on the basis of investigations and analyses carried out by the State Police inside the cottage contained in the case file. We also know with certainty that Rudy Hermann Guede could remain inside [312] the flat with absolute ease for a considerable time, as he left his "traces" in the large bathroom [of the flat].

We know with certainty, as this is shown by the evidence, that immediately after the homicide inside the Via della Pergola cottage three people were present, surely two men and a woman. This can be observed from the genetic investigations and the results of the traces highlighted using luminol. We can also say that one of the men who walked over Meredith's blood left a very visible trace of his foot on a blue bathmat found inside the small bathroom of the flat. This



footprint was attributed by investigators to the right bare foot of Raffaele Sollecito, with an analysis this Court finds correct on the basis of the considerations already made. One of the footprints detected using luminol was then attributed to a woman's foot compatible, in size, to that of Amanda Marie Knox; in addition, mixed DNA traces found in the small bathroom of the flat (washbasin, bidet and cotton-swab box) were attributed to Amanda Marie Knox.

We have, in substance, pieces of circumstantial evidence of certain reliability, multiple and concordant, that place Rudy Hermann Guede, Amanda Marie Knox, and Raffaele Sollecito inside the Via della Pergola flat on the evening of the murder of Meredith Kercher, in the moments immediately after the murder, when the three left traces of their passage by depositing [marks in] the victim's blood, abundantly released from wounds.

From the examination of witnesses, specifically the young woman's English friends, it appears – with good reliability - that Meredith Kercher, on the evening of 1 November 2007, had no appointment with Rudy Hermann Guede, contrary to what the same Guede declared. The girl, on leaving the flat of her friends, in whom she had confidence and to whom she had made no mention of an appointment with Rudy Hermann Guede, had made it clear that she was tired, as she had partied the night before, and that the next day she would have to study. It can be held therefore that on the evening of 1 November 2007, Rudy Hermann Guede entered the flat with the keys that were available only to Amanda Marie Knox and Raffaele Sollecito.

**[313]** It should be clarified now that the fact that Raffaele Sollecito had not previously met Rudy Hermann Guede has little significance in the reconstruction of events, as the link between the latter and the defendant is no doubt made by Amanda Marie Knox, who was the girlfriend of Raffaele Sollecito and had met Rudy Hermann Guede on more than one occasion.

Anyway, what is important in the case is not whether Rudy Hermann Guede entered the flat with Amanda Marie Knox and Raffaele Sollecito or if the door was opened by Meredith Kercher (the only possible solutions, as entrance through Filomena Romanelli's bedroom window has been ruled out); the important factor is that, at a certain time, reasonably between 9:30 pm and 10:00 pm on the evening of 1 November 2007, both defendants and Rudy Hermann Guede were certainly inside the cottage with Meredith Kercher, who was in her room.

The subsequent progression of the events requires a preface.

The Prosecutor General ventured a hypothesis, in his final address, specifically mentioning the motive for the murder, that such [motive] should not be identified with an act of sexual aggression but rather with a conflictual situation between the young women, a conflict that exploded suddenly on the evening of 1 November 2007; specifically, Meredith Kercher might have blamed Amanda Marie Knox for letting Rudy Hermann Guede, who had made an “inappropriate” use of the bathroom, into the flat.

Regarding motive, firstly it is necessary to quote the teaching of the Court of legitimacy [the Supreme Court] in whose opinion the precise indication of a motive for the crime of murder loses relevance when the attribution of responsibility to a defendant derives from a precise and concordant evidentiary framework (see for all Supreme Court, Section 1 Criminal, Sentence no. 11807 of 12 February 2009).

Secondly, the motive for a serious, bloody crime is not always easy to ascertain. It is so [i.e., easy to ascertain], surely, when the crime has its origins within a criminal group, or when the crime is committed with a clear objective (for example a financial gain). Whenever, instead, as in this case, the consummation of the crime is outside a criminal framework, having its roots in personal reasons or in [314] sudden impulses, finding a motive can become very complicated.

The motives that drive a group of people to commit such a serious act as taking the life of another human being may not be the same for all, each of the perpetrators could have been driven by a mixture of reasons, some with roots in previous personal relations, others as a reaction to sudden impulses of a base nature, or even mere [acceptance and] participation in the behavior of a loved person.

The difficulty of knowing the real motive behind human acts, among which criminal acts, calls for an approach to the analysis that must remain as objective as possible. Therefore, to perform a reading of the trial material in order to understand the precise motive that drove the defendants to commit the murder of Meredith Kercher together with Rudy Hermann Guede, we cannot leave aside certain facts that, if evaluated together, can indicate the reasons why the

murder was committed; the reliability of such motivations, reconstructed *ex-post*, cannot undermine in the least the validity, in terms of responsibility, which derives unambiguously from circumstantial and direct evidence emerging from the trial material and which was investigated at length.

Thus, a first fact can be immediately noted. The relationship between Amanda Marie Knox and Meredith Kercher was not good. Meredith Kercher, who led a regular life comprised of study, spending time with her English girlfriends and, more recently, a romantic relationship with one of the young men who lived downstairs, did not tolerate the way Amanda Marie Knox behaved as a flatmate. In particular, it is evident from the testimony that the young Englishwoman did not tolerate that Amanda Marie Knox brought strangers into the flat, especially young men; did not tolerate that Amanda Marie Knox used the common areas of the flat without cleaning up; in fact, in the last period it had been necessary to assign domestic cleaning shifts among the young women.

[315] In substance, apart from the slight significance of each circumstance if considered in isolation from the wider context of relationships, there is no doubt that the concrete behavior of the defendant was the reason why she did not have the approval of Meredith Kercher.

The fact that the relationship between the young American woman and the English woman was not idyllic is adequately demonstrated in the statements given by the young English women heard as witnesses during the first instance trial; it is the same Amanda Marie Knox, in her interrogation before the First Instance Court, who mentions the difficulties in her relationship with the victim, although minimizing such circumstances.

Lastly, the statements of Rudy Hermann Guede during his interrogations after the arrest. Guede said that Meredith Kercher, on the evening of the murder, had found that money was missing from her room and had immediately attributed the responsibility for such theft to Amanda Marie Knox. Leaving aside the merits of the accusation made by the victim to the young American woman, it is interesting to observe in this story told by Guede that, considering the theft of money a very serious event in a flat shared by several young women (in which inevitably there is a situation of confusion), the young English woman immediately

attributed such conduct to Amanda Marie Knox; this is compatible with a negative evaluation of the character of the defendant on the part of the victim.

The money argument brought to the attention of the Court by the statements of Rudy Hermann Guede, and mentioned in the judgment that convicted him, introduces us to a new subject.

The witness testimony in the first instance trial shows that in the days before 1 November 2007, as the date to pay the monthly rent was getting closer, Filomena Romanelli had asked all the young women to procure the sum of 300 euros; it was the share each of them had to pay for the rental of the flat. It was shown that the victim had procured the money and that she evidently kept it inside her room.

The sum of 300 euros, surely present inside the room occupied by Meredith, was never found after the murder of the young woman, nor were her credit cards; in fact the money and the credit cards were the object [316] of a separate notification for the crime of theft as per count (D) of the indictment. It is certainly interesting to observe that, following the indictment related to the theft of the money and credit cards, there is no trace of such objects in the trial material and in the various reports of the proceeding. The only reference in the case file is on page 417 of the verdict of the First Instance Court, which reads: *“All of the elements put together, and considered singularly, create a comprehensive and complete framework without gaps or incongruities and lead to the inevitable and directly consequential attribution of the crimes to both the accused, for which therefore they have penal responsibility, with the exception of the items listed under heading D) other than the cell phones, with regard to which no evidence emerged against the accused, who are therefore absolved for the relative and residual charge because it was not proven that the crime was committed.”*

Rudy Hermann Guede was also acquitted for the crime of theft (in his case for the entire indictment [of theft]) as per article 530, second paragraph [of the Code of Criminal Procedure], by the Preliminary Hearing Judge (“G.U.P.”) of the Court of Perugia as he did not commit the crime. It must be held that the Judge has evaluated the fact as completely unfounded, since in the body of the entire sentence there is no consideration on this point.

In any event, acknowledging that both defendants and Rudy Hermann Guede have all been acquitted of the crime of theft of the 300 euros and the credit cards, the fact remains that the money and the credit cards were never found; just as it remains true that on the evening of 1 November 2007 it was not reported that other people entered the Via della Pergola flat apart from the defendants and Rudy Hermann Guede.

Therefore, while the acquittal of the defendants for the crime of theft remains unquestionable as covered by a final judgment, the disappearance of the money and the credit cards has not found explanation in the trial material and could be one of the facts that started the discussions between the defendants, the victim, and Rudy Hermann Guede (who mentions this episode in all of his interrogations, since the one conducted to validate his arrest); in addition to the circumstance that Rudy Hermann Guede had actually used one of the bathrooms in the flat [317] in a shameless manner, as he was accustomed to do, if we refer to the statements of the young men who lived downstairs in the cottage.

There is another certain element that must be evaluated to reconstruct the events of the evening of 1 November 2007 and in the possible reconstruction of the motive for the murder.

Surely Meredith Kercher was sexually attacked, with vaginal penetration by the fingers of Rudy Hermann Guede. This is ascertained in the trial as DNA of the man now convicted was found inside the vagina of the victim and admitted by the same Rudy Hermann Guede in all his interrogations, even though he placed the circumstance in a different light, saying it was an exchange of affections with the young English woman and, according to Guede, tolerated and encouraged by her.

It follows that there is a first element of fact that must be taken into account in the reconstruction of the motive for the murder. Between Amanda Marie Knox and Meredith Kercher there was no reciprocal fondness; instead, the young English woman had many reservations with respect to her roommate's behavior. On the evening of the murder, Amanda Marie Knox let Rudy Hermann Guede into the flat; the victim knew him but never had any relations with him apart from a few formal exchanges. Rudy Hermann Guede certainly behaved shamelessly inside the flat, certainly his behavior was such as to cause great annoyance to

Meredith Kercher, who had also probably discovered that her rent money was missing, as stated by Rudy Hermann Guede (the fact that Rudy Hermann Guede insisted on repeating this circumstance in every one of his interrogations, together with the certain proof that the sum of 300 euros had in fact been set aside by the victim for the payment of her share of rent, makes the story of the Ivorian objectively credible).

The two events could have actually been, as noted by the Prosecutor in the trial, a valid reason for Meredith Kercher, who had no fondness for the defendant, to press her for explanations.

**[318]**

It is therefore reasonable to believe that at a certain moment a discussion began inside the cottage, triggered by the specific accusations the young English woman felt she had to make to those present. Similarly, it is reasonable to assume that the reaction of the defendants and of Rudy Hermann Guede was not docile.

We know from the statements made by the defendant [Knox] that on the evening of 1 November 2007 Amanda Marie Knox and Raffaele Sollecito had made use of narcotics and had had sex. Amanda Marie Knox said these activities happened in the flat at 130 Corso Garibaldi at an hour of the evening when certainly both defendants were elsewhere, reasonably they were inside the cottage (the presence inside the cottage of an ashtray with a cigarette butt with mixed DNA of Amanda Marie Knox and Raffaele Sollecito, to be precise of a hand-rolled cigarette, could be a significant element in this respect, although Dr. Patrizia Stefanoni, expressly questioned on the point, stated that no chemical analysis was made on the traces but only those finalized to identify DNA, which means no data can be obtained from this trace).

The fact is that inside the cottage, after 10:00 pm, a situation could have arisen in which Amanda Marie Knox and Raffaele Sollecito were engaged in sexual activity and also using drugs. Meredith Kercher was in her room and Rudy Hermann Guede was using the flat at his own leisure.

This situation of apparent normality could have been broken by the beginning of a discussion between the two young women, in a moment in which, due to the psychophysical conditions of

the defendants as well as the situation of exasperation reached in the cohabitation, there was a progression of aggressiveness, during which we can place the conduct of sexual violence; the conduct of sexual violence corresponded, with respect to Rudy Hermann Guede, to the satisfaction of a sexual instinct that emerged in this moment, as for Amanda Marie Knox and Raffaele Sollecito, to the wish of subjugating and humiliating the young English woman.

The Court believes that the search for a reasonable motive for the murder must remain within the facts emerging in the trial; it is absolutely not credible, as unsupported by any objective fact, that the four young people had initiated a group sexual activity, with Meredith Kercher [319] later suddenly changing her mind. This hypothesis was shown to be incompatible with the character of the young English woman, as it emerges from the witness statements collected during the trial. The image witnesses leave with us is that of a “very serious” young woman, almost “puritan”, even disturbed by the behavior of Amanda Marie Knox, who she deemed almost shameless in admitting young men she did not know well in the flat. Imagining that suddenly, in the evening of 1 November 2007, Meredith Kercher decided to have a group sexual experience with Amanda Marie Knox, with whom she had no special friendship and really could not stand, Raffaele Sollecito, and Rudy Hermann Guede, people she had met only superficially, is an interpretive exercise with no objective support in the trial material.

Last, it must be noted that the search for a motive does not mean that such motive will be found with certainty and, on the other hand, once we exclude, for the reasons already expressed, that the murder was committed by a burglar caught in the act of entering the flat after breaking Filomena Romanelli’s window, no other allegations apart from the one outlined above was ever brought to the Court’s attention to provide a reasonable motive for a murder that clearly originated outside a context of common criminality.

The fact remains that at a certain time in the evening the events precipitated; the young English woman was attacked by Amanda Marie Knox, Raffaele Sollecito, who supported his girlfriend, and Rudy Hermann Guede and forced into her bedroom where the final moments of the assault and the stabbing took place.

The Court holds that the elements of evidence highlighted in the section dedicated to the reconstruction of the crime lead us to believe that the young woman was attacked jointly by all three perpetrators, and this for a number of reasons.

The DNA of Rudy Hermann Guede found on the cuff of the sweatshirt worn by Meredith Kercher on the evening of the murder and inside her vagina, into which he introduced his hand, lead us to believe that Rudy Hermann Guede, during the assault, did not hold a knife but had free hands, which he used to carry out the sexual assault and help immobilize the young woman.

[320] As already highlighted, when the victim's wounds were analyzed, the fact that the victim received different wounds from cutting weapons on opposite parts of the neck, both left and right, lead us to believe that the young woman was struck by two different cutting weapons. One of them, reasonably of smaller size, caused the wound on the right side of the neck, the one with a smaller cut.

The Court holds that a reconstruction of the attack compatible with the evidence shown at the trial leads us to think Raffaele Sollecito carried the weapon that caused the wounds on the right side of the neck. In fact, the DNA of Raffaele Sollecito was found on the clasp of the bra worn by Meredith Kercher. It is DNA from likely epithelial exfoliation, left by the defendant the moment he pulled the clasp to remove it from the back of the young woman in order to insert the blade that cut the cloth of the bra hook. Certainly it was a small blade, perfectly compatible with the lesion found on the right side of the neck of the victim and of the kind the defendant was accustomed to carrying with him.

This last circumstance was confirmed by multiple trial facts: the telephone call intercepted on 5 November 2007 at 3:00 pm during which the defendant's father, Francesco Sollecito, recommended that his son not carry his small pocket knife in those days; the witness statement of Mariano De Martino who, testifying at the 4 July 2009 hearing of the First Instance Court, declared that Raffaele Sollecito used to carry on his person a small knife with a blade of around 4cm: the witness statement of Corrado De Candia, who declared that Raffaele Sollecito always carried a little knife with a blade of 6-7cm, always very sharp.



The Court believes that the other blade, the one that caused the wound on the left side of the neck from which most of the blood came out and that caused the death of Meredith Kercher was held by Amanda Marie Knox. It is the knife that was seized from the flat of Raffaele Sollecito by the State Police and labeled as Exhibit 36, on which it is now appropriate to make some considerations.

The knife with the blade of 31cm was seized by the State Police from Raffaele Sollecito's flat during the first search performed there. [321]

The State Police officer who physically took it from the cutlery drawer declared in testimony given during the First Instance trial that his attention was caught by this knife, and not others in the drawer, as it was much cleaner than the rest of the cutlery, so as to imagine that it had been carefully and recently washed. This circumstance, which might appear to be an irrelevant personal perception, brought important conclusions to the trial. The Scientific Police analyzed the knife and found, on the blade, inside a series of streaks almost invisible to the naked eye, the mixed DNA of two contributors: Meredith Kercher and Raffaele Sollecito [sic].<sup>28</sup>

This evidence, strongly contested by the Defense, was analyzed by this Court in the section related to the genetic analyses and there is no reason to repeat those arguments. Surely it is an attribution that cannot be considered definite evidence, for the reasons reported above related to the failed repetition of the analysis of the trace, but it remains a strong piece of circumstantial evidence of the fact that this weapon is the second one used in the murder of Meredith Kercher.

On the knife there was a second different trace with sufficient DNA for an analysis, carried out by Dr. Patrizia Stefanoni, who attributed this trace to the DNA of Amanda Marie Knox. This attribution was not challenged by the Defense and can be taken as conclusive evidence.

Furthermore, after having ordered in this remand trial an analysis of the trace (I) extracted during the course of the expert analysis performed at the behest of the Judges of the Court of Assizes of Appeal of Perugia, the Carabinieri of R.I.S. [*Reparto Investigazioni Scientifiche*,

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<sup>28</sup> This is certainly an oversight of the Court, as everywhere else in the report they mention the DNA of Meredith Kercher on the streaks, as is widely known. The DNA of Raffaele Sollecito on the knife is never mentioned anywhere else and is not part of the case documentation.

Scientific Investigative Unit] of Rome highlighted DNA that could be analyzed and also attributed it to Amanda Marie Knox, without any particular challenge.

Both traces attributed to Amanda Marie Knox were extracted from the handle of the knife, from the part closer to the blade.

The evaluation of all the elements extracted from the seized knife leads this Court to believe that it is one of the two weapons used in the murder and that it was held by Amanda Marie Knox, who therefore struck Meredith Kercher on the left side of the neck, thus causing the only mortal wound.

[322] During the trial there were lengthy discussions on whether the knife was the weapon that produced the wound on the left side of Meredith Kercher's neck, as some technical investigations carried out by the parties maintained that the weapon was not compatible with the wound considering the size of the blade. Actually, the seized knife could be incompatible with the lesion, whose size is about 8cm, only if it is maintained that the cutting weapon that produced the wound penetrated the victim's neck with the full length of the blade, stopping at the handle. In that case it would be evident the seized weapon is incompatible as the length of the blade is far greater than 8cm.

On the other hand, in the evidence discussion nobody was able to point out reasons why, in striking a blow with the knife, the blade must necessarily be thrust in the soft part of the neck up to the handle. Furthermore, the bruise observed along one side of the wound does not indicate such dynamic, as attributing the bruise to the touch of the handle of the knife is a statement that has no certainty.

The technical consultants who maintained the weapon was incompatible have stated that the wound was produced by a knife which, penetrating for the full length of the blade, could not have a blade longer than 8cm. Later, however, moved by the necessity to explain the particular structure of the wound for its whole length and, above all, the fact that the internal soft tissues were mangled, the consultants of the parties have also affirmed that whoever struck the neck on

the left side of the victim had done it with a weapon 8cm long but had done it twice, in the same cut and causing the soft tissues inside the wounds to be mangled.

This statement does not appear to the Court to be convincing, for a simple reason. Whoever struck Meredith Kercher on the left side of the neck with a stab that penetrated 8cm (the entire length of the cut) caused violent and abundant bleeding, as shown by the quantity of blood that came out and the splashes of blood on the furniture, so as to hide completely the surface of entry of the blade, thus making [323] impossible the reintroduction of the weapon in the same cut where it was introduced with the first blow.

It must be stated therefore that whoever struck Meredith Kercher on the left side of her neck did so only once, causing a devastating wound from which, pushed by arterial pressure, a great gush of blood came out, as shown by the splashes of blood on the furniture near the spot where the young woman was struck.

Thus, it must be concluded that the weapon seized is not incompatible with the wound on the left side of Meredith Kercher's neck, certainly a mortal wound, and that the finding of Meredith Kercher's DNA on the blade of the knife is evidence fully compatible both with the nature of the weapon and with its use.

The first instance Judges, in attempting to explain the reasons why a knife of large size would be transported from the flat of Raffaele Sollecito to the Via della Pergola cottage, hypothesized that the knife had been placed in the large bag Amanda Marie Knox used the evening of the murder and that it was there as the young woman had taken it from the flat of Raffaele Sollecito and placed it in the bag to possibly use it in self-defense when out at night. This circumstance was strongly criticized by the Defense; the Defense lawyers observed that, had the knife in question been the murder weapon, the defendants would certainly have gotten rid of it.

Regarding the first point, the Court believes that the explanation provided by the First Instance Court is fairly plausible; in any case, it must not be forgotten that no. 130 Via Garibaldi is located just a few hundred meters from the Via della Pergola cottage and that Amanda Marie Knox had chosen Raffaele Sollecito's flat as her second home, dividing her time between this

flat and the Via della Pergola cottage. As the defendant had both flats fully available, the reasons a kitchen knife might be found at one or the other on a certain evening can be numerous, all of them plausible.

In this case, what matters is the availability of the weapon on the part of the defendants, its actual portability from one flat to the other, and its compatibility with the lesions and the presence of the DNA of Meredith Kercher on the blade. All of these facts, ascertained during the trial, lead us to hold that the knife (sample number 36) is [324] one of the two weapons used for the assault and the weapon used by Amanda Marie Knox to inflict the mortal wound to the throat of Meredith Kercher.

With reference to the fact that the defendants did not get rid of the knife, it must be observed that the knife was specifically catalogued in the inventory of the furnishings of the apartment leased to Raffaele Sollecito. In the event it had not been found, in a situation of homicide committed with a large cutting weapon, suspicions would have been directed straight at Raffaele Sollecito. It was preferred to wash the knife carefully, with a particularly meticulous cleaning operation which, only due to a fortuitous event (the presence of streaks not immediately visible), did not eliminate all traces of Meredith Kercher from the knife blade.

The fact that, on the handle of the knife, only DNA attributable to Amanda Marie Knox was found leads us to believe that the weapon was held by her; and even this assertion is compatible in full with the other evidence related to the dynamics of the assault. It has already been noted that Rudy Hermann Guede had free hands at the moment of the attack; one was used to commit sexual violence and the other, holding the wrist of the victim tightly, was used to immobilize her. Similarly, it is reasonable to believe that Raffaele Sollecito, at the moment he was cutting the cloth of the bra that he had raised from the back of the victim pulling the clasp, had both hands engaged in doing this.

Therefore, on the basis of the elements obtained from a rational reconstruction of the events, it is also possible to reconstruct the roles of the defendants in the assault and murder of Meredith Kercher.

The attack on the young English woman was simultaneous and performed by all three culprits jointly; they all collaborated on the proposed objective: to immobilize Meredith Kercher and commit acts of violence against her. The young woman was surely immobilized and unable to raise any effective resistance as [she was] overwhelmed by more than one attacker and, at the same time, struck by the blades of two knives. Certainly the blow that reached her on the right side of the neck, a small cut that was not enough to cause death, was nonetheless a blow that produced a great deal of pain and certainly caused the heart-rending scream of the victim that was heard by Nara Capezzali and Maria Ilaria Dramis, who gave an account in their examination [325] during the trial, a scream that even Amanda Marie Knox describes in the memorial seized and produced in court.

It is certain that the second blow, which struck the young woman on the left side of the neck, was made after she had screamed, to prevent her from repeating the scream; in fact, following the stabbing that penetrated 8cm into the victim's throat, the resulting bleeding would have prevented Meredith Kercher from screaming. It was a fatal stab wound due to the violence employed and the size of the blade as well as the nature of the soft tissues located where the blade reached.

Concerning the dynamics of the assault, this Court believes it can agree with the results of the investigations performed by the State Police Unit for the Analysis of Violent Crime, which filed a detailed technical report which, taking into account the results of the site inspections and the unrepeatably analyses performed by the Scientific Police and by the State Police inside the Via della Pergola cottage, reached conclusions concerning the reconstruction of the dynamics of the murder that this Court finds reliable. Police personnel wrote the following: *"...[O]n the left door of the white wardrobe with sliding doors is found, at a height of approximately 50cm, a high concentration of blood traces. It is reasonable to suppose that, at the moment of the assault, the victim was kneeling down, or in a similar position, in front of the same wardrobe. The woman then dragged herself (or was dragged by the attacker or attackers) along the floor to the inside left shoulder of the same piece of furniture, and was later found dead in this same spot (this consideration is drawn from the presence of clear blood streaks). This reconstruction is further confirmed from a technical scientific point of view, by the results of the technical report on B.P.A. (Blood Pattern Analysis) performed by the Principal*

Technical Director [D.T.P.] Physics, Dr. Francesco Camana, as a result of the site inspection on 18 December 2007... On the left hand of the victim it is possible to observe numerous blood spots and, in particular, a larger patch on the tip of the index finger of the same hand. The circumstances lead us to believe that the victim's hand was near the wound when the blow was inflicted or was brought to that point a few moments later. This consideration can lead us to think that the individual who was holding the victim still, immediately after this blow, struck [326] in all likelihood by another person, relaxed his or her grip and the woman was able, at the same time, to put her left hand on the wound. It is interesting to observe that there were no stains of a similar nature on the woman's right hand. It cannot be excluded, therefore, that the victim's right arm remained in the grip of the attacker who, in so doing, probably held the body of the victim until the moment she fell onto the floor. ... The observation, in sequence, of the light blue sweatshirt, of the white T-shirt worn by the victim, of the type of stain in the breast area of the victim and of the bra, allow us to develop other important evaluations. Firstly we must focus our attention on the characteristics of the stain on the aforementioned sweatshirt. In fact, this appears to be soaked with blood on the right hand side, i.e., in correspondence of one of the lesions produced in the victim of the attack. This aspect is a confirmation of the possibility that the garment was worn [by the victim] at the moment of the crime. Further observations lead us to believe the garment was rolled towards the neck and that the zipper was open. Further, it must be held that the aforementioned sweatshirt was removed in a second moment from the body of the victim who still wore it. ... The clear splashes of blood found on the central part of the breasts allow us to argue as follows. At the moment the blow was struck the breasts were covered only by the bra and as the sweatshirt and the white T-shirt were rolled up towards the shoulders....The victim's bra was found near the feet of the dead body, both straps and the closing band appear to be neatly cut. On the bra cups and on the breasts of the victim there are numerous traces of blood. Therefore, the bra was certainly worn by the victim before the violent action by the attacker [started and] caused its removal, allowing blood spray to cover that part of the body. ... An analysis of the autopsy photographs shows the presence of bruises on both elbows and on the right forearm of the body, caused by the tight grip of one of more persons who in one or more stages of the event interacted violently with the arms of the victim. Such lesions are, in fact, due to the rupture of subcutaneous capillaries following strong pressure on the point ... (Pages 4 to 14 of the technical report on file).

[327] As a last point to discuss, there remains the outline of the possible differentiation of the contribution made by the joint offenders in the crime and, if such differentiation is ascertained, whether it has any relevance to the attribution of criminal responsibility in causing the event.

The Court believes that, in the absence of any assistance during the trial on the part of the perpetrators of the homicide, the assessment of the criminal responsibilities of the individuals in causing the joint crime must be performed by examining the results of the investigation and the facts objectively obtained from the proceedings.

The analysis of the trial evidence leads us to point out that all three attackers contributed through actions that were coordinated and that sought the same result, with no interruption in the causal link to the event of the death of Meredith Kercher. There is no room whatsoever, given the evidence provided, for any differentiation of criminal responsibility, which would be founded on *petitio principii* [begging the question] not demonstrated in the trial. The homicide, aggravated by sexual violence, following the scheme of the complex crime, was brought about not only when Amanda Marie Knox struck the blow that caused the bleeding that caused the victim's death by suffocation, but also as a direct consequence of the simultaneous actions of Rudy Hermann Guede and Raffaele Sollecito, who overwhelmed Meredith Kercher, immobilizing her and preventing any defensive reaction on her part, therefore collaborating causally in the event.

A final observation must be made. The homicidal intention of the attackers is obvious due to the weapons used in the attack, specifically the knife (Exhibit 36), clearly a lethal weapon, which can be ascertained by anyone; this is also obvious due to the body part touched by the knife, i.e., the neck, a vital body part, as anyone can understand, especially two well-educated young people, certainly more educated than the average. The following point is therefore unassailable, if we consider that Meredith Kercher knew her assailants; once the decision to attack the young woman was made, and to strike her on the neck with the smaller knife in order to constrain her, surely producing a painful wound, and to attack her sexual region, in face of the girl's resistance, letting her live would have meant certain punishment for the attackers. At a certain

point in the attack, things went too far. Meredith Kercher had to be put in a state where she would not report the attack she had suffered.

[328] Concluding this long overview, the Court believes that the penal responsibility of both defendants in the crimes contested under counts (A), (B) and (D), limited to the mobile phones owned by Meredith Kercher and removed from the Via della Pergola flat after the consummation of the murder of the young English woman, is clearly established and supported by a body of multiple pieces of circumstantial evidence, of univocal meaning and convergent, so much as to become full proof beyond every reasonable doubt.

In the same manner, given the reasons expressed several times in the body of this decision, the existence of the aggravation must be affirmed, relating to the crime of *calunnia*, ascertained with final [adjudicated] sentence against Amanda Marie Knox. In fact, once a conclusion is reached that Amanda Marie Knox and Raffaele Sollecito are jointly responsible for the murder of Meredith Kercher, the crime of *calunnia* committed by the sole defendant Knox finds its logical place exactly in the need to deflect suspicions of murder from herself and Raffaele Sollecito; ultimately to gain impunity from the more serious crime of murder.

## 11. Sentencing

The First Instance Court verdict recognized for both defendants generic mitigating circumstances equivalent to the aggravation as per article 575, first paragraph, number 5, Criminal Code, contested in count (A), which in the sentence was named as “*residual aggravation*”, after having excluded the aggravation as per article 577 and 61 no. 1 and 5, still contested with reference to the crime of murder under count (A), and related to having acted for trivial or abject motives and the taking advantage of the impaired Defense of the victim.

Nothing was said when the crime of *calunnia* was considered, ascribed solely to the defendant Amanda Marie Knox, regarding the two aggravations contested: that as per second paragraph of article 368 of the Criminal Code (having blamed someone for a crime that the law punishes



with a prison sentence higher, at the maximum, than 10 years or, as in this case, more serious) and that of article 61 number 2 of the Criminal Code (teleological link: committing the crime “with the goal of obtaining impunity for all and in particular for Rudy Hermann Guede as he was black like Lumumba”). [329]

Said aggravating circumstances of the *calunnia* were not expressly excluded, as those referred to the crime of murder, but no reasoning was made when the charge as per article 368 was examined briefly on pages 417-419 (the same happened when taking into consideration the crime of simulation, also aggravated as per article 61 number 2, Criminal Code).

What must be noted, in any case, relevant for the present remand sentence, is that the weighing in equivalence of the generic mitigating circumstances was effected by the first instance Judge in an explicit manner only with reference to the “*residual aggravation*” as per article 576, paragraph 1, no. 5, Criminal Code.

The penalty was so determined:

Raffaele Sollecito: base penalty of 24 years in prison for the crime of homicide, increased by 1 year as element of continuance (continuance composed of, as read in the detail summary made only with reference to Knox’s position, 6 months of prison for simulation as per count (E), 3 months for carrying the knife as per count (B) and 3 months for the theft of the mobile phones as per count (D). Therefore, the final penalty was [set] for a total of 25 years of prison.

Amanda Marie Knox: the same calculation was made and to the penalty of 25 years was added, as additional continuance, one year for the crime of *calunnia* as per count (F). Therefore the resulting penalty was 26 years in prison.

The defendants appealed the sentence of the First Instance Court, formulating different categories of grounds including the failure to recognize the mitigating circumstances as outweighing the aggravating ones; the Prosecutor also appealed, firstly on the grounds of the “*erroneous exclusion of the aggravation as per article 61, no. 1 of the Criminal Code*” and secondly on

the grounds of the *“incorrect granting of generic mitigating circumstances as per article 62 bis of the Criminal Code”*

Having set the terms of the penalty as they result from the first instance sentence, it is necessary to evaluate the grounds for appeal proposed by the defendants' Defense and by the Prosecutor regarding the concession of the mitigating circumstances, for what concerns the Prosecutor, and for the requested judgment that these should outweigh the aggravating circumstances, for what concerns the appeal by the Defense, having already judged unfounded [330] for both defendants the grounds for appeal on the merit of the conviction with regard to the contested crimes, as explained in this document.

The Court believes that both appeals are without foundation and must be rejected.

Regarding the concession of the generic mitigating circumstances, the overall evaluation of the First Instance Court in relation to the personal conditions of both defendants in the period immediately preceding the crime must be confirmed. The Court in Perugia wrote the following:

*“ ... That said, it should be noted above all that both defendants have no criminal record, no pending suit (with regard to the non-applicability of the limit to the granting of generic extenuating circumstances in article 1 Law 24.7.2008 no. 125 to crimes committed in an earlier period, compare Supreme Court 10646/2009). Other than their personal use of drugs, no unbecoming behavior of the same [defendants] was demonstrated to have been carried out to the detriment of others. No witness testified to violent actions, or to aggressions-intimidations carried out by the current defendants to the detriment of anyone at all. On the contrary, there were even shown to be circumstances in which as much one as the other, besides diligently and profitably undertaking their studies in the manner that they were expected to do as students (Raffaele Sollecito was on the point of graduating and Amanda Knox was working profitably and regularly in the classes she was attending at the University) proved themselves to be available with others (Raffaele Sollecito, on the evening of 1 November, was supposed to have accompanied Jovana Popovic to the station) and made the effort of taking on work (Amanda Knox worked in the evenings in the pub of Diya Lumumba), which was added to the effort required by their studies and attending class. These circumstances seem significant ex article 133, paragraph 2, no. 2 of the Criminal Code. Both*

*defendants are very young, and were younger still at the time the events took place. The inexperience and immaturity characteristic of youth were accentuated by the situation in which both found themselves because it was different from that in which they had grown up and did not have the usual points of reference (family, friends, acquaintances made through the years, one's own country and town of origin) that might have served as a continual support, point of comparison and check in the decisions of daily life. Thus Amanda Knox, who had been in Perugia for less two months, driven only (as far as the proceedings have allowed [us] to judge) by curiosity and by the desire to have several experiences, found herself [331] living without that protection and shelter constituted, in particular, by her family (in this regard what Amanda declared with regard to her "big" family, and to the intense and continual [lasting] relationships existing within it, appears even more significant); analogously the same applies to Raffaele Sollecito whose father phoned him regularly, signifying the need his son still had for a presence to continually listen to, support and guide him; phone calls that nonetheless could not take the place of the physical proximity and supervision that were evidently still necessary (significant circumstances as per article 133 paragraph 2 no. 4 of the Criminal Code)." [Pages 421/422 of the judgment of the First Instance Court].*

The considerations of the first instance Judge, absolutely in line with the facts that emerged during the trial, must therefore also be accepted and confirmed in this remand judgment. In the same manner, the Court accepts the evaluation of equivalence done by the first instance Judges between the generic mitigating circumstances and the aggravating one contested, and adjudicated, for the crime of murder, as per reasoning here quoted:

*" ... Such generic extenuating circumstances are considered to be equivalent and not also prevailing with respect to the aggravating circumstance of sexual violence. The latter, in fact, is highly important and significant such that it constitutes, when considered in its own right, a very serious autonomous crime and, placed in the context of the events in consideration of the crime of murder, carries a sentence of life imprisonment. In relation to the occurrence of such aggravating circumstance, the generic mitigating circumstances are evaluated, and justified on the basis of the considerations outlined above, in terms of equivalence and not also of prevalence." [Page 422 of the judgment of the First Instance Court].*

The Court, in agreeing also with this second evaluation made by the first instance Judges, believes it can integrate it with a very negative evaluation of the conduct maintained by the defendants *post delictum* [after the crime], when, with the substantial agreement of both, a massive activity of obstruction of the investigations and interference with evidence was performed, made clear by the attempt, only partially successful, to erase the traces of the crime committed and even with the construction of a simulated situation intended to sidetrack the investigation; such activity of interference with evidence reached its peak in the consummation of the very serious crime of *calunnia* by Amanda Marie Knox against Patrick Lumumba.

[332] The sentence of the Court of Assizes of Appeal of Perugia, in affirming the responsibility of Amanda Marie Knox for the crime of *calunnia* under count (F), and acquitting the defendants for the other crimes contested for not having committed the deed, excluded the aggravation under article 61, no. 2 of the Criminal Code and recognized generic mitigations equivalent to the aggravations under article 368 Criminal Code, sentencing the defendant to 3 years in prison, justifying the sanction in the following way: “ ... Taking into account the criteria established by article 133 of the Criminal Code, and acknowledging, for the reasons already explained by the Court of Assizes of first instance (lack of criminal record, young age, commitment to studies etc.), the general mitigating circumstances [as] equivalent to the aggravating circumstance under article 368 second paragraph of the Criminal Code and considering the particular seriousness of the crime that was the object of the *calunnia*, it is equitable to determine the penalty for the crime of *calunnia* as 3 years of imprisonment”.

The Prosecutor appealed this sentence of the Court of Assizes of Appeal of Perugia; he, after having explained the grounds for appeal against the acquittals, in the tenth paragraph, related to the crime of *calunnia*, complained of the failure to recognize the aggravation of the teleological link.

The Knox Defense also appealed to the Court of Cassation claiming, with regard to the affirmation of the responsibility for the *calunnia*, the lack of the material and psychological elements of the crime under article 368 of the Criminal Code (first reason); the violation, the failure to comply and the wrong application of the criminal law with regard to articles 54 and

51 of the Criminal Code (second and third reasons), as well as the failed explanation of the reasons for the choice of the prison sentence, complaining that it was imposed in a measure clearly higher than the minimum and with sharp aggravation from the penalty of one year imposed in first instance (fourth reason). The request to Cassation was that of annulling count (F). With additional grounds, Knox's Defense further maintained that as the Prosecutor General had explicitly concluded that the entire sentence under challenge should be overturned, this also applied to the decision concerning the *calunnia*, and thus the Prosecutor's appeal formally agreed on this point with the Defense's request for acquittal.

The Court of Cassation rejected the claim proposed by the defendant Amanda Marie Knox even on this argument of the penalty and indicated: "... *as adequately related to the gravity of the facts with reasoning logically sustained on the fact*".

[333] Responding, to declare it was unfounded, to the added grounds of Knox's Defense with the observation that the Prosecutor had invested the Court in point 10 of its appeal with the request for cancellation, in the conviction for *calunnia*, only of the part related to the aggravation, the Court of Cassation declared that the request of the Prosecutor was valid and sent the issue to the Judge of remand to reformulate, in accordance with more plausible parameters respecting the information gathered, the evaluation of the correlation between the *calunnia* and the more serious crime of murder and, therefore, "*on the existence or not of the teleological link initially contested and adjudicated*".

In its ruling the Supreme Court "*annuls the challenged judgment limited to the crimes in count (A) (in which count (C) is included), (B), (D), (E) and to the aggravating factor in article 61, no. 2 of the Criminal Code with regard to count (F) and remands to a new judgment at the Court of Assizes of Appeal of Florence. Rejects the appeal of Knox Amanda Marie and sentences her to the payment of the costs of this trial as well as to the reimbursement of the expenses incurred in this judgment by Lumumba Diya ...*"

This is the frame of reference within which this Court must set the penalty following the affirmation of the defendants' criminal responsibility for the crimes ascribed.

The rejection of the appeal proposed by the Prosecutor against the concession of the mitigating circumstances, together with the rejection of the appeal proposed by the Knox Defense and the Sollecito Defense on the point of the equivalence of the generic mitigating circumstances and the aggravating one adjudicated under article 575, paragraph 1, no. 5 of the Criminal Code, calls for the confirmation of the penalty already assigned to the defendants in relation to all the crimes they committed jointly, which must be determined in 25 years of imprisonment each.

There remains the evaluation of the independent crime of *calunnia* of which Amanda Marie Knox alone is charged, regarding which it is indispensable to formulate some observations on the limit posed by the substantial adjudication following the sentence of the First Section of the Court of Cassation that disposed remand to this territorial Court.

[334] It must be held that the adjudication on the responsibility of Knox for the crime of *calunnia* is certainly final, aggravated by the provision under the second paragraph of article 368 of the Criminal Code; in the same manner it must be held that the adjudication on the concession on the part of the Court of Assizes of Appeal of Perugia of generic mitigating circumstances to the defendant is also final.

From the rejection of the appeal of the Knox Defense that, apart from the grounds concerning the existence of the crime contained also a ground related to the entity of the penalty issued by the Court of Assizes of Appeal of Perugia, taken in consideration by the Supreme Court to declare it unfounded, derives that, with reference to the crime under article 368, paragraph 2 Criminal Code (thus, with one aggravation), the final adjudication was formed, with the consequence that it would be prohibited to the Judge of remand, if the further aggravation under article 61 no. 2 Criminal Code were unjustified, to decrease the penalty under 3 years of imprisonment, already evaluated by the Supreme Court as adequately reflecting the gravity of the facts.

This cannot mean, however, that said penalty must be thought as unmodifiable should it be declared the existence of the further aggravating factor of teleological link with the crime of murder.

It is an aggravating factor that characterizes the *calunnia* as particularly serious as committed by Knox, with an exclusive objective of side-tracking the investigation, obtaining impunity for herself and her two accomplices, accusing of murder a subject known by her to be completely uninvolved, thus innocent. We have a greater intensity of the malice in the crime of *calunnia* and a greater danger to be assigned to the person who committed the crime of *calunnia* in such pretense<sup>29</sup> to insure impunity for herself and the other perpetrators.

Thus, it is perfectly evident as, in light of such further aggravation, the criminal conduct is more important and serious, different from what considered by the Judges of the Court of Assizes of Appeal of Perugia, who made evaluations on the sanction limited by the conclusion that they had acquitted for the crime of murder, that the [*calunnia*] crime was serious given the enormity of the accusation directed to Lumumba but not linked by teleological link with the crime of murder.

[335] Arguing otherwise, believing that the penalty established by the first Judge of appeal were unmodifiable, would mean accepting the incongruous conclusion that the cancellation with remand disposed by the Supreme Court can produce the only effect, for the remanding Judge, of declaring the existence of the aggravation to the crime of *calunnia* without reaching, despite the significance of the same aggravation, any substantial effect on the new sentence of the remanding Judge.

Except for what can be allowed, on the basis of the principles of rationality and of economy that must characterize the criminal trial, it must be taken into account that, in this situation, an

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<sup>29</sup> “*in funzione strumentale*” literally “instrumental manner”. “*Strumentale*”: conceived and implemented not for its ostensible purpose, but for a second end and a concealed interest.

effective re-evaluation of the seriousness of the crime is prohibited by the already declared recognition by the Court of Assizes of Appeal of Perugia of the generic mitigating circumstances and of the judgment already formulated of equivalence [with the aggravating circumstances].

As already noted, it must be held that the sentence of the Supreme Court has not affected the previous concession of the [generic mitigating] circumstances under article 62 *bis* Criminal Code, considering also that in his appeal the General Prosecutor posed, with reference to the crime of *calunnia*, only the argument of the failed recognition of the teleological link.

Then, if with reference to the concession of the generic mitigations for the crime of *calunnia* with a single aggravation given by the Court of Assizes of Appeal of Perugia any evaluation must be considered prohibited by the fact it was finally adjudicated, it must be argued differently when evaluating the importance of the mitigating factors granted under article 69 of the Criminal Code.

We cannot exclude the possibility to weigh in a different way the mitigating circumstances for the crime of *calunnia* once the existence of a new aggravating factor previously excluded from the comparison is recognized; but instead this derives directly from the estimation of greater seriousness of the crime now recognized as aggravated by multiple factors, judgment that was expressly delegated to this Court from the Supreme Court.

The consequence is that, once it is affirmed, the *calunnia* aggravated under article 368 paragraph 2 of the Criminal Code is also aggravated under article 61 no. 2 of the Criminal Code, the Court believes that the generic mitigating factors are, for this crime, less important than the collection of the aggravating ones.

Thus, the penalty to be imposed on Amanda Marie Knox for the crime of *calunnia* with multiple aggravations must be established in 3 years and 6 months of imprisonment (base penalty [336] of 2 years and 6 months increased to 3 years of prison for the aggravating factor under second



paragraph of article 368 of the Criminal Code, and further increased to the above mentioned final penalty for the aggravation under article 61 no. 2 Criminal Code).

In substance, the development of the trial after the annulment of the sentence of partial acquittal issued by the Court of Assizes of Appeal of Perugia - that had re-determined the penalty for the crime of *calunnia* for Amanda Marie Knox – and as a consequence of the remand ruling on this point by the Court of Cassation, determined an independent sanctioning for the crime of *calunnia*, now released from the element of continuance decided, without reasoning, by the First Instance Court.

In conclusion, the Court, deciding as remanded by the ruling of the Supreme Court issued on 25 March 2013 no. 422, on the appeal proposed by Amanda Marie Knox, Raffaele Sollecito and the Prosecutor from the sentence issued on 4/5 December 2009 by the Court of Assizes of Perugia Court, having considered unfounded the appeals proposed by the defendants and having recognized the existence of the aggravation under article 61 no. 2 Criminal Code with regard to the crime under article 368, second paragraph of the Criminal Code and, evaluated the generic mitigating factors as per article 62 *bis* Criminal Code granted for this crime as less important than the contested aggravations, re-determines the sentence imposed on Amanda Marie Knox in a total of 28 years and 6 months of prison.

The appealed sentence is confirmed in all the other parts.

The defendants must be sentenced to the payment of the expenses of the present judgment and of the Counsel for the Civil Parties for this judgment and for that of legitimacy, that the Court believes fair to establish as follows, keeping in mind the length of the professional commitment of the lawyers of the parties:

for the Civil Party Patrick Diya Lumumba in the total sum of Euro 12,650.00, plus incidental expenses as by Law;

for the Civil Party Aldalia Tattanelli in the total sum of Euro 4,500.00, plus incidental expenses as by Law;

for the Civil Parties Lyle Kercher and Stephanie Arline Kercher in the total sum of Euro 11,000.00 each, plus incidental expenses as by Law;

[337] for the Civil Parties John Leslie Kercher, Arline Carole Lara Kercher and John Ashley Kercher in the total sum of Euro 15,000.00, plus incidental expenses as by Law.

Given the complexity of the proceedings the Court believes appropriate to set the deadline for the deposit of the sentencing report in 90 days.

P.Q.M. [for these reasons]

Under article 627 of the Code of Criminal Procedure, deciding in remand of the sentence of the Court of Cassation issued on 25.3.2013 no. 422, on the appeal proposed by Amanda Marie Knox, Raffaele Sollecito and the Prosecutor against the sentence issued on 4/5.12.2009 by the Court of Assizes of Perugia and, having considered the existence of the aggravation under article 61 no. 2 Criminal Code related to the crime under article 368, second paragraph, Criminal Code, re-determines the penalty imposed on Amanda Marie Knox in total 28 years and 6 months of prison.

The Court confirms on the rest the appealed sentence.

The Court sentences the defendants to the payment of the expenses of this judgment and of the expenses of the Civil Parties for this judgment and that of the Supreme Court, liquidated as follows:

for the Civil Party Patrick Diya Lumumba in the total sum of Euro 12,650.00, plus incidental expenses as by Law;

for the Civil Party Aldalia Tattanelli in the total sum of Euro 4,500.00, plus incidental expenses as by Law;

for the Civil Parties Lyle Kercher and Stephanie Arline Kercher in the total sum of Euro 11,000.00 each, plus incidental expenses as by Law;

for the Civil Parties John Leslie Kercher, Arline Carole Lara Kercher and John Ashley Kercher in the total sum of Euro 15,000.00, plus incidental expenses as by Law.

Under article 544, paragraph 3, the Court indicates in 90 days the deadline for the deposit of the sentencing report.

The drafting President

Signature of President of the Court Alessandro Nencini

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