

# The Nencini Report

## Section 0

The development of the trial. Pg. 1-32.

## Section 1

Premise. Pg. 32-37.

## Section 2

**The context in which the murder took place. Causes and time of death of Meredith Kercher. Pg. 37-63.**

Once specified the above premises in fact and law, the Court deems to start, in the examination of the compendium of circumstantial evidence, from the findings of the pre-trial investigation concerning the reconstruction of the context in which the murder took place, as well as the analysis of the causes and the time of death of the girl. As for the specific reference to the presumable dynamic of the murderous event, instead, an in-depth reasoning in such sense cannot leave out the examination of further circumstantial elements, and therefore it is opportune to reserve it to a more advanced phase of this sentence.

The scene of the murder is formed by a cottage containing two flats intended for civil habitation, one on the basement floor, the other on the ground floor, situated in via della Pergola number 7 in Perugia. It is a building that on three sides is surrounded by countryside and on one side adjoins a connecting road, above which there is a parking lot; and facing the parking lot, the true urbanized area itself of the town centre of Perugia. The flat located on the ground floor, at the time of the events under trial, was in use by the victim Meredith Kercher and also by three other girls, Amanda Knox, Filomena Romanelli and Laura Mezzetti: the first two, foreign students at the University of Perugia, the other girls, variously employed in working activities. The flat in the basement was in use by some young men, all out-of-town students, one of whom in a sentimental relationship with the victim.

Getting back to the examination, although summary, of the flat scene of the murder, as obtainable from the report of the crime scene investigation [*verbale di sopralluogo*] drawn up by the personnel of the scientific police of the Questura of Perugia on November 2, 2007 at around 14.00, it must be pointed out that the access to the habitation, protected by a metal grate with a concertina closure which results from the photos in the records to be folded towards the left jamb and without fractions, is obtained through a wooden door, which opens towards the inside clockwise, and whose lock did not present any sign of housebreaking; but it presented the *spring latch* blocked internally through two wood fragments, previously inserted by the inhabitants of the flat, because of the defective functioning of the lock itself. As concerns the defective functioning of the lock, we refer to the declarations given both by Romanelli and by Amanda Knox herself, from which it can be deduced that, once the lock had been opened with the access key, the *spring latch* did not manage to re-enter normally in its slot in the closing phase, and therefore the defective functioning of the lock did not allow the closing of the door. About the defective functioning of the lock of the building access door, Filomena Romanelli gave precise declarations when heard as a witness in the first

degree trial at the hearing of February 7, 2009. The witness related that the defective functioning of the lock was a circumstance obviously known to all the girls who lived in the flat, and had been the subject of a complaint with the owners of the house. That situation indeed forced whomever entered the flat to close the access door behind themselves using the key, and therefore, in the case one had the intention to enter the house from outside, one had to ensure that the flat was not already occupied, and in such case ask for the help of the person who was inside; and this because, once the flat was locked from the inside, leaving the key in the keyhole, as it normally occurred, it was not possible to insert another key from the outside. This factual circumstance, around which it has been talked at length, will constitute below a moment of consideration for the understanding of the events under trial.

Once the threshold is crossed, one accesses a small area and, on the left, a living room with cooking corner, from which one can go, on the right, towards the bedroom in use by Laura Mezzetti and, even more to the right, into a first bathroom, of larger dimensions than the other one in the flat, and which therefore in all the acts of the trial will be identified as “large bathroom”. On the left of the living room opens the bedroom that was in use by Filomena Romanelli. Continuing from the living room in the central corridor one can access, on the left, the bedroom that was in use by Amanda Knox and, further down, the bedroom in use by Meredith Kercher. In the end part of the flat there is then a second bathroom, smaller than the first one and, on the right side of the corridor, the access to a terrace.

For a better understanding of all the dynamics that will be dealt with in this sentence, the Courts deems opportune to insert the graphic representation of the flat, as obtainable from the acts of the Scientific Police.

#### SCIENTIFIC POLICE OF PERUGIA

P.P. 9066/07 mod. 21                      Perugia, 2 November 2007

Prot. n. 146/07 Reg. Sopr.

Murder KERCHER Meredith Susanna Cara

Relief Map n. 1

Plan

Ground floor of the building in Perugia, via della Pergola n. 7 taken from the plan of the Urban Building Registry Office

The lifeless body of Meredith Kercher was found in her bedroom at around 13.00 on November 2, 2007. The bedroom door was locked and had prevented the access to the persons present in the habitation who, it is useful to recall, up to now were eight in total: the Inspector of the Postal Police Battistelli Michele, the assistant of the Postal Police Marzi Fabio, Raffaele Sollecito, Amanda Knox, Marco Zaroli, at the time fiancé of Filomena Romanelli, the latter, Paola Grande, and the fiancé of the latter Luca Altieri.

On the basis of the witness testimony given by all the protagonists at the hearing of February 6, 2009 in front of the first-degree Judge, the moment of discovery of the dead body can be reconstructed as follows.

Around 12.30\12.35 on November 2, 2007 the inspector Battistelli and the assistant Marzi, who had been sent to the place in order to trace down Filomena Romanelli, the owner of a phone SIM card contained in one of the two mobile phones found accidentally inside a garden of a habitation in via Sperandio – in circumstances that will be the object of examination below, but that as from now it is opportune to clarify are the two mobile phones in use by the victim in the evening in which the murder took place – arrived in via della Pergola number 7, and there they found Amanda Knox and Raffaele Sollecito sitting down. These declared to them that they had already informed the Carabinieri, because they had discovered that inside the habitation a theft had occurred (in truth from the onset the two affirmed having noticed that nothing had been stolen). The two young people reported to the policemen of having arrived at the house, having found the access door open, and the room that was in use by Filomena Romanelli turned upside-down. In the room was present a big stone, with which the access window to the flat had been broken, device through which evidently the unknown thieves had entered into the flat. The two young people also pointed out to the policemen that in the small bathroom there were traces of blood, although modest, and that the room in use by Meredith Kercher was locked. In the meanwhile, Marco Zaroли and Luca Altieri arrived in Via della Pergola onboard a car, having been invited there by Romanelli, after the latter had learned over the phone about what appeared to be a theft committed in her bedroom. Also the two newly-arrived young men recognised the anomaly of the situation, and Altieri asked whether it was normal that the bedroom of Meredith Kercher was locked. It emerges from the acts, and namely from the consistent witness depositions, that Amanda Knox answered that the circumstance was entirely normal, since Meredith Kercher was used to close [*chiudere*] the bedroom door “*also when she went to take a shower*”.

The whole situation re-acquired therefore a character of relative normality, until the arrival at the cottage of Filomena Romanelli and Paola Grande.

Romanelli, as soon as she arrived at the house, took care of verifying that from her bedroom nothing had been taken. In particular, she found both the computer, inside its own closed bag, and a digital camera, as well as some expensive – according to her – handbags, and finally all her jewellery stored inside a drawer. Once she had made the verification of her own bedroom, Filomena Romanelli learned that the bedroom in use by Meredith Kercher was locked and, at this news, showed a reaction of great concern, because she stated to those present, contrary to what had been upheld by Amanda Knox, that Meredith Kercher wasn't at all used to close [*chiudere*] the bedroom door. Romanelli remembered in fact only one episode in which Meredith Kercher had closed [*chiuso*] the door of her bedroom, when she had gone for several days to England.

Romanelli's statement threw again dejection amongst those present, who decided at this point to break down the access door to the bedroom of Meredith Kercher. The two Police officers, after having been invited to force the door open, informed those present that, in their judgement, there weren't the conditions to do so and that instead the inhabitants of the building had to take care of it. It was therefore Altieri who took it upon himself to proceed with the breaking down of the door.

According to the broadly concordant witness depositions of Altieri, Romanelli, Battistelli, Marzi and Zaroли, at the moment in which the bedroom door was kicked down, Altieri Luca and Zaroли Marco were positioned in front of the door; slightly to the left were the two girls, and finally, in a position further away, roughly in the living room of the house, Battistelli Michele and Amanda Knox. Marzi Fabio was almost at the entrance door, while nobody

managed to say, during the witness testimony in court, the position taken in that particular circumstance by Raffaele Sollecito.

One piece of data of the trial is certain, because confirmed by all the declarations of the witnesses present in via della Pergola n. 7 on November 2, 2007, a circumstance that will be below a matter of consideration: neither Amanda Knox nor Raffaele Sollecito, at the moment in which the door was broken down and there was the possibility to see inside the bedroom, were near the door, i.e. in a position that would allow them to view inside the room. Nor did the two young people have the chance subsequently to access it, because inspector Battistelli, once he realised that inside the bedroom there was on the floor abundant blood, and seeing the foot of a girl evidently dead coming out from under a duvet, prevented the bystanders from entering the bedroom.

The first-degree trial proceedings did not clarify whether inspector Battistelli entered into the room or not, he has always denied the circumstance, while witness Altieri referred that the inspector had introduced himself into the room, leaving on his left the duvet and the presumed corpse, and that he had bent to lift a part of the duvet itself. Altieri did not manage to see further because at that precise instant he had gone away from the door. In any case the circumstance, that was debated at length in the first degree so much so that it was also the subject of a confrontation between the two witnesses during the proceedings, does not have excessive relevance in the case, in the sense that inspector Battistelli, even if he entered the bedroom, certainly had no way to alter the state of the place, or anyhow to jeopardize the possibility of making a genuine collection of the traces, limiting himself evidently to ascertain that under the duvet there was the lifeless body of a girl. What instead is relevant to the case, for what will be said below, is the circumstance that none of the two defendants had means, in those moments, to verify the inside of the room where the body of Meredith Kercher was found. And this, for consistent declaration of all the witnesses present *in loco* (on site).

Once the access door had been broken down, it was found, inside the room, in the space between the wardrobe and the bed, the body of a girl, subsequently identified as Meredith Kercher. The body was covered by a beige duvet, from which came out a foot and the partly bloodstained top half of the face. This is what appeared to inspector Battistelli when the latter looked inside the just-opened room, or when he entered to verify the content of the room itself.

From the report of the crime scene investigation [*verbale di sopralluogo*] drawn up by the scientific police of the Questura of Perugia, it results that the duvet was removed at 00.45 on November 3, 2007, when there had been the presence of Dott.ssa Patrizia Stefanoni and of Dr Giunta, both Scientific Police officials who came especially from Rome, as well as of Dr Lalli, forensic pathologist of the Istituto di medicina legale dell'università di Perugia (Institute of forensic pathology of the University of Perugia). It results from the official pathology report of Dr Lalli that having delayed the examination of the corpse by many hours was a precise choice of the investigating authorities, in order to privilege the collection of the traces inside the room by the scientific police, even if that choice would then have important negative consequences on the assessment of the time of death.

In any case, once the examination of the corpse started, from the crime scene investigation report (*verbale di sopralluogo*) it can be read verbatim: “(omissis) *the corpse, which presented itself in supine position with the head turned to the left, slightly bent backwards, rests with the left temporal region on a leather left-foot boot. The eyes are open and the mouth is closed. The intermediate trunk is extended, rests with the back on the floor and with*

*the right and left gluteus region on a pillow. The upper limbs are both shifted away from the body: the right one, outstretched, rests with the back side of the arm and the back side of the forearm on the duvet; the right hand, half open, rests with the fourth and fifth fingers on the duvet, while the first finger is held between the second and the third. The left upper limb, bent at the elbow, rests with the back side on the floor; the forearm is extra-rotated and suspended; the left hand, turned towards the face of the corpse and naturally half-open, rests with the first and second fingers on the leather boot. The lower limbs are spread: the right one, bent at the knee, forms an angle of c. 100°, rests with the external side of the thigh on the pillow and on the duvet and with the external side of the leg on the duvet; the right foot, extra-rotated, rests with the external malleolus and the external side on the duvet. The left lower limb, outstretched, rests with the external side of the leg on the floor; the foot extra-rotated and bent downwards, rests on the floor with the external malleolus and the external side. The corpse wears only a cotton t-shirt rolled up to the thoracic region, clearly stained with haematic substance. During the inspection of the corpse, following the rotation of the body, we observe on the floor, the second white tennis sock, partially stained with haematic substances, a green towelling towel, an ivory towelling towel completely soaked of haematic substance, a sheet on the bed, in white cotton, stained in several points of haematic substance, a light-blue sweater with a zip with blue cuffs and collar, stained with haematic substance. Under the pillow, at 1.41 meters from the right-hand wall and 0.95 meters from the front wall, we find a piece of fabric of the bra that was missing from the latter, where are set the closing hooks. (Omissis).”*

At the end of this visual examination, the body of Meredith Kercher was transferred to the morgue of the Monteluce Hospital of Perugia, where at 10.00 am on November 4, 2007 the external examination of the body was made, and subsequently the post-mortem examination (autopsy).

It is opportune to determine the evidence of the lesions that the body of Meredith Kercher presented, providing in this first phase a simple list that will certainly be of use at the moment in which one will have to reason on the lesions found, and specifically on their nature and causation. From the report deposited by Dr Luca Lalli it transpires that the body of Meredith Kercher did not present any appreciable lesions to the external face of the scalp, and no appreciable deformity of the cranial theca. The face presented at the nostrils light ecchymotic suffusions; at the lower lip, near the labial commissure, a small ecchymosis – dark bluish in colour – and light excoriated areas on the external mucosa of the lower lip, prevalently on the left side. There were numerous ecchymotic and excoriated areas of small dimensions at the intrabuccal mucosa of the upper and lower lip, prevalently on the left, with an ecchymosis of the lower gingival fornix. On the left cheek, a superficial continuous line, oblique and frontward, 2.2cm in length, which extended forward with two continuous lines, although superficial, 0.6cm in length. Continuing the examination of the face, in correspondence with the horizontal jaw of the mandible, was visible an ecchymotic area, and to the fore, still in correspondence with the area of the mandible, another area with round-shaped ecchymosis. Under the left paramedian chin-rest symphysis, another round-shaped ecchymosis, as well as laterally, in correspondence with the right horizontal jaw of the mandible; in correspondence with the right mandible corner, another ecchymosis. Finally, in the mid under-mandible region was visible an excoriated area with a quadrangular shape.

Passing to the examination of the neck the forensic pathologist highlighted in the left latero-cervical region the presence of a wide wound with clean edges, 8cm long, obliquely positioned, which exposed the underlying tissues, which appeared to be sectioned up to the osteo-chondral plane. The edges of the wound presented a minimal haemorrhagic infarction

predominant at a distance of 3cm from the lateral external edge, where a small tail was detectable. A small excoriated and ecchymotic edging with a maximum width of 0.2cm was present at the level of the extreme anterior of the upper edge. This wound was followed by a through path [*tramite*] that inserted itself in the soft tissues with an apparent oblique direction from front to back, from left to right and slightly from low to high [*with an upward trajectory*]. Dr. Lalli found near the extreme anterior of the above-described wound, and in tight continuity with the lower edge of the wound itself, an excoriated area of a maximum width of 1cm, and below which, at a distance of c. 1cm, was detected another wound with clean edges, but slightly infiltrated with blood, with a bruised edging of 0.2cm and with a small tail positioned in the lateral extremity, with the dimensions of 1.4cm by 0.3 cm. The wound presented an oblique downward direction and at the back appeared parallel to the previously described one, with a subcutaneous through path with an oblique direction, from low to high [*with an upward trajectory*], from right to left and slightly from front to back. The through path appeared to intersect the previously described wound, ending up at a distance of c. 2cm on the upper edge of the wider wound above. Also in relation to that wound the forensic pathologist highlighted that from the anterior extremity departed a small excoriated area with superficial continuity of a maximum length of 2cm.

In the right latero-cervical region was present an area with ecchymosis of a maximum diameter of c. 3cm, inside which was visible a linear wound of the dimensions of 1.5cm x 0.4cm, obliquely positioned from high to low and towards the left, with a small tail at the anterior edge, and with a through path which entered deep into the soft tissues with an oblique direction, from low to high, toward the right, and at the back, for a maximum length of 4cm. Under such wound a superficial excoriation of irregular form and 0.5cm long. Continuing the external examination, the forensic pathologist highlighted in the left latero-cervical region and near the basal region of the neck three superficial excoriations, linear and parallel among themselves, obliquely positioned towards the low and in anterior sense from left to right.

As concerns the upper limbs, the forensic pathologist found on the lateral posterior side of the right elbow two areas of round ecchymosis of a maximum diameter of 1.2cm x 1cm positioned at a distance of c. 1cm apart. On the lateral posterior side of the forearm another area of ecchymosis, slightly oval, of small dimensions. On the palm of the right hand the forensic pathologist found, with the external examination, three superficial wounds, scarcely stained with blood, and an area of ecchymosis of 2cm.

Continuing the external examination, Dr. Lalli, while not finding any traumatic lesion at the height of the thorax, found, in the area of the abdomen, in correspondence with the upper anterior hipbone, a small area of bilateral ecchymosis.

As concerns the lower limbs, on the lateral anterior side of the left thigh were highlighted some very light ecchymotic round zones, placed at a regular distance between themselves; while on the anterior side of the right leg a round ecchymotic area of the diameter of c. 2cm.

This is what was possible to ascertain from the external inspection of the body.

As concerns the autopsy, it is sufficient to observe that no internal lesion was detected, that might be of causal effect, not even con-causal, as regards the death of Meredith Kercher.

As concerns the toxicological examination, the forensic pathologist was able to exclude that, at the moment of death, the girl presented any trace of drugs or alcohol.

Once established the aspects of the crime scene investigation concerning the finding of the body and examined the lesions that the latter presented at the moment of the external examination, it is opportune, for the interest of this part of the sentence, to go back to the examination of the crime scene investigation made on November 2, 2007 by the personnel of the scientific police of the Questura of Perugia inside the flat on the ground floor of the cottage in Via della Pergola n. 7.

The State Police personnel provided an analytic description, also of photographic nature, of the setting and of the rooms in which the flat – scene of the murder – was subdivided. After having described the part concerning the access, it passed to the description of the first room that appeared to those that accessed the flat, that is the living room; a room rectangular in shape, measuring 4.74m in width and 3.33m in length. The Police personnel found on the floor of the living room (on the top and bottom left quadrant of the floor plan above) a print of the sole of a shoe, with concentric circular signs, left by deposition of haematic substance; a second shoe print with concentric circular signs, left by deposition of haematic substance; a last shoe print, with concentric circular signs, left by deposition of haematic substance.

In the bedroom of Filomena Romanelli (that there will be the occasion to examine thoroughly in a different paragraph of this sentence), to the ends of interest here, was found on the external profile of the window, in correspondence with the stop slot of the latch, a small trace of presumed haematic substance.

In the first bathroom, that can be accessed from the living room of the house (the already mentioned “large bathroom”), inside the water, the scientific police found some faeces, partially covered with toilet paper, which later on it would be possible to attribute with certitude to Rudi Hermann Guede.

On the floor in the corridor was found a shoe print, with concentric circular signs, left by deposition of haematic substance; a second trace, identical to the previous one, was also found in the corridor of the flat.

On the floor of the second bathroom (the “small bathroom” near the room occupied by Meredith Kercher) was found, in the space under the sink, a light blue bathmat, in cotton, measuring 74cm by 48cm, which, in the external rear portion, was stained with haematic substance. It is the one that will be highlighted, during the proceedings, as a print of a naked foot attributed by the prosecution to Raffaele Sollecito, but strongly contested by the defence of the defendant.

Passing to the examination of the room where the body of Meredith Kercher was found, among the other evidence were highlighted three plantar traces [*tracce plantari*], with concentric circular signs, left by haematic deposition. These are evidently footprints left by feet without shoes. It was also found a trace presumably belonging to the back part of a shoe, in a fold of the pillowcase found in the room of Meredith Kercher. This last finding would be the subject of ample discussion during the proceedings, on the assumption of the defending counsel of Amanda Knox that it is not a shoeprint but a fold in the fabric of the pillowcase stained with haematic substance.

At the end of the examination of the findings of the scientific police and of the pathologist made immediately, and in the first hours after the finding of the body, it is necessary at this point to face two matters that have undoubted relevance in this case, and that have been the object of a long discussion, both by the defences of the accused and by the Judges in the

sentences at the first-degree, at the appeal and at the Cassazione level of the two judgements: the ordinary one that tries as defendants Amanda Knox and Raffaele Sollecito and the abbreviated one that has seen the definitive conviction of Rudi Hermann Guede. It concerns giving a plausible answer to the questions that have become evident by now: what were the causes that determined the death of Meredith Kercher, which means produced it, and when did the death occur.

The first degree sentence on the matter concluded, after making an analytic examination of all the technical advice: “(omissis) *based on the conclusions and evaluations of the medico-legal expert consultants this court finds that the death of Meredith Kercher was due to asphyxia caused by the wound of greater gravity inflicted to the neck, subsequent to which the blood ended up also in the respiratory airways preventing the respiratory activity, a situation aggravated by the breaking of the hyoid bone, this too attributable to the action of the cutting instrument – with subsequent dyspnea.* (Omissis)” [page 163 of the sentence number 7\2009 passed by the Court of Assizes of Perugia and deposited on March 4, 2010].

At the end of the examination of all the results of the medical report in the acts, this Court of appeal deems to agree with the conclusions formulated in the sentence of the first-degree Judge.

All the trial findings [*emergenze di causa*] bring to consider that the knife blow that ripped up the throat of Meredith Kercher was inflicted when she was still alive, and was held immobile. The lesions and the ecchymosis described by the external examination, also in the mandibular region and at the height of the lips and nostrils, highlighted that the girl suffered an activity of compression finalised to prevent her from screaming, and not finalised towards suffocation; action of compression which undoubtedly also had a suffocating effect, but as a collateral consequence and not as ultimate aim of the compression action. It is possible to make such affirmation on the evidence that the traces left by the compression are uniformly quite light, meaning that the aggressors did not apply the strength necessary to strangle an adult person. Besides, also the area object of the compression (mandibular and sub-facial area) cannot be considered an area which is normally attacked in a strangling activity.

Nor is it reasonable to hypothesize that a physical activity of suffocation through digital (finger) pressure took place after that the knife blow, which had a higher invasiveness, was inflicted on the victim.

And indeed, first there wouldn't have been any reason to continue with an activity of suffocation through digital pressure after the knife blow had inflicted damage which was even visually appreciable as lethal. Second, it also appears reasonable to accept the opinion of some of the medico-legal experts, who have excluded such activity of digital pressure on the basis of the objective evidence, that the great mass of blood which certainly exited immediately from the wound inflicted with a knife would have made the area of the neck extremely slippery and certainly not easy to attack with digital pressure.

Therefore this Court deems that the girl was hit with a knife whilst at the same time she was kept immobilised, or partially immobilised, and with compression at the height of the mouth to prevent her from screaming. It is reasonable to believe that at a certain point the girl, during the aggression, managed to free herself from the constriction and to utter a scream (about which there will be the occasion to refer below), and that behaviour was probably the reason of the blow inflicted to the throat that provoked the fracture of the hyoid bone and the

consequent dyspnea and the outflow of the blood of the victim in her lungs which caused the asphyxia.

This Appeal Judge deems that the above-presented reconstruction, broadly in accordance with the one given in the sentence by the first-degree Judge, is the one most closely fitting the objective findings of the type of lesions that the body of the victim presented, and the one most closely fitting the rules dictated by general experience.

As concerns the determination of the time at which the death of Meredith Kercher took place, considering that the aggression certainly occurred not long before the moment in which the lethal blow was inflicted, this Court deems that a reasoning has to be developed only on the basis of the case findings, with no need to make conjectures in order to move forward or backwards the time of death.

And, indeed, fixing with extreme precision the time of death of a murder is absolutely relevant when that piece of information must be put in relation with other case findings to be evaluated in relationship with the former; that is, when the likelihood of the charges moved against the defendant requires for the murder to have been committed unfailingly in a certain period of time, because, for example, in the remaining time the presumed author (or the presumed authors) of the murder was (were) certainly incapable of committing the crime. In the case that occupies us, instead, as we will have the opportunity to highlight dealing with the specific subject, there is no need of this kind, being able to state, without doubt of being disproved, that any placing of the murder of Meredith Kercher at a specific time of the night between the 1<sup>st</sup> and the 2<sup>nd</sup> of November 2007 instead of another time, would have scarce relevance in the complex of the circumstantial evaluations to which this Court is called to in relation to the charges against Raffaele Sollecito and Amanda Knox. In fact, from about 21.30 of November 1, 2007 to about 00.30 of November 2, 2007, no inquiry findings have indicated that Amanda Knox and Raffaele Sollecito were somewhere else than the scene of the murder; that is in company of people that might bear witness to their non-involvement in the facts. It will indeed be the task of the Court, as it has been also of the Judges that have preceded it, to verify, on the basis of the inquiry findings [*emergenze istruttorie*] and of reason, if the indications given by Amanda Knox (the so-called alibi) are worthy of belief or not.

This Court deems therefore that it has to accomplish the task of identifying the alleged time of the murder by exclusively basing itself on the inquiry findings that have character of reasonable reliability, and limiting itself therefore to the trial data that those findings are able to deliver. The time period emerging for the ascertained facts will then have to be identified as compatible with the other case findings.

In the analysis of the time of death of Meredith Kercher one can but start from what was stated by Dr Luca Lalli in the autopsy report.

The forensic pathologist, after reporting about the actions performed for the measuring of the rectal temperature of the corpse (which was done at 00.50 am on November 2, 2007, with a rectal temperature of 22° and an ambient temperature of 13°; action repeated at 12.00 pm on November 3, 2007, with a rectal temperature of 19° and an ambient temperature of 18°; and finally repeated at 10.00 am on November 4, 2007, when it was indicated that the rectal temperature had become the same as the ambient one), declared that, on the basis of the best scientific literature, it could be stated that the rectal temperature suffered a loss of 1\2 degree in the first three hours from the death, of 1° per hour in the following eight hours, with a

progressive reduction of the speed of the decrease; to arrive, around the 20<sup>th</sup>-24<sup>th</sup> hour from the death, at a body temperature equivalent to the ambient temperature.

The forensic pathologist indicated then the reasons for which he deemed scarcely reliable the examination of the gastric content, and in the end he came to the conclusion that, by applying the *Henssge nomogram* to this specific case, the death of Meredith Kercher could be dated back to a period of time included from about 8.00 pm on November 1, 2007 to 04.00 am on November 2, 2007. Then the forensic pathologist calculated that the intermediate value indicated by the mathematical reconstruction collocated the death around 11 pm on November 2, 2007, with a tolerance level of one hour before or after.

On the basis of analogous evaluations, the experts tasked by the Judge for the preliminary investigation of the Tribunal of Perugia, Professors Aprile, Cingolani and Umani Ronchi, concluded that “(omissis) *the technical-biological data indicate that the death dates back to a time range between 20 to 30 hours before 00.50 on November 3, 2007 (omissis)*”; and, therefore, in essence, between 18.50 on November 1, 2007 and 04.50 on November 2, 2007.

The experts of the parts also substantially agreed with those relevant data, and with the timeframe indicated. It can therefore be said that, on the basis of the scientific and medico-legal verifications, and once highlighted the objective impossibility of indicating with certitude the specific time of death of Meredith Kercher, it must be deemed ascertained that the death occurred in a timeframe of c. 10 hours, from 18.50 on November 1, 2007 and 04.50 on November 2, 2007; and it must be then verified if, inside that timeframe, it is possible to individuate with exactitude a more precise time through the comparative assessment of the other inquiry findings [*emergenze istruttorie*].

Well, at the hearing of February 13, 2009 some English girls – friends of the victim – were heard by the first-degree Judge. On the basis of the declarations made by Robin Carmel Butterworth, by Amy Frost and by Sophie Purton, Meredith Kercher, who had spent the entire afternoon of November 1, 2007 in the company of the three English friends, watching a film, looking at pictures of the previous Halloween party, and dining in their company, left the habitation of Amy Frost, together with Sophie Purton, at around 20.45 to go back home, along a path that was then verified by the judiciary police as possible to walk in c. 10-15 minutes (see, specifically, the transcript of the verbatim record of the hearing of December 3 [*sic*], 2009, deposition of Sophie Purton, page 101).

It can therefore be maintained that, on the basis of the witness examination, the time-interval during which the murder took place can be narrowed at least in the *ex ante* time, since it is certain that at 21.00 on November 1, 2007, Meredith Kercher said goodbye to the English friend before going to her own house, and therefore was unquestionably still alive.

This Court deems that it can set also an end time limit through the examination of the phone records of the mobile phones that the girl had at her disposal on the evening in which she was killed, and that were removed from the habitation of via della Pergola nr 7 by the authors of the murder and thrown in a garden of a small villa on Via Sperandio in Perugia.

It is indeed ascertained, through the examination of the phone records, that the phone containing the English phone card (of which there will be the occasion to speak abundantly later on) at 00.10,31 on November 2, 2007 gave a signal that was intercepted by cell nr 25622, cell that could not be interested by signals coming from Via della pergola, but that intercepts the signals coming from Via Sperandio, a road in which the mobile phone was abandoned

after the crime by the authors of the murder: the latter being an undisputed circumstance of the trial.

Reasoning therefore on that undisputed circumstance of the trial, it can be affirmed that at c. 21.00 on the evening of November 1, 2007 Meredith Kercher was alive and said goodbye to the English friend near her own house; at 00.10,31 on November 2, 2007 the murder of the girl had already been committed. This, therefore, must be the reference timeframe in relation to which it must be verified the compatibility of the other trial findings.

The trial proceedings, both of first and second degree, dedicated ample space to other trial findings, of testimonial nature, relevant for the individuation of the moment in which the aggression and the murder of Meredith Kercher occurred.

This concerns three witness testimonies, the one by Capezzali Nara, by Dramis Ilaria and the one by Monacchia Antonella, to which must be added the witness testimony of Lombardo Giampaolo: testimonies all collected in the hearing of March 27, 2009, during the first-degree trial. The witnesses were heard again also in the appeal trial in front of the Appeal Court of Perugia, which, in its sentence, deemed them unreliable.

This Court does not share the judgment of unreliability of the above-mentioned witnesses.

With no need to confront the statement made by the second-degree Judges in the rejected sentence, it is sufficient to point out, here, that the depositions of the above-mentioned witnesses will have to be evaluated by this Judge together with all the other trial findings, using exclusively the consolidated hermeneutic rules, and on the bases of the principles of law set by the Cassazione.

Passing therefore to the assessment of the reliability or non-reliability of the above-mentioned witness testimonies, it must be observed, first, that all four witnesses refer to circumstances that, although convergent – in the terms that we will say – on certain details, they refer to personal experiences that are entirely different. It must also be stressed the authenticity of the above-mentioned witness testimonies, since they were collected during the same hearing in the first-degree judgment, with no possibility therefore of contamination – even involuntary – that might compromise their credibility and, on the other side, there is not even any evidence that they might be linked by a relationship of mutual acquaintance. Finally, it must be stressed that in the assessment of the above-mentioned witness testimonies – performed necessarily on the basis of the transcript of the verbatim record of the hearing – this Court has found a substantial coherence and logicity in the tale of the events, and, above all, it has never been highlighted in the inquiry phase [*fase istruttoria*] a single reason of interest for which each of the above-mentioned witnesses might have had the intention of referring inexact circumstances.

The here-expressed judgment of reliability does not imply, obviously, that in the compound of the single declarations one must not make a selection between the objective circumstances mentioned by the witnesses, their emotive perceptions and the spatial and temporal collocation of what was perceived: this last piece of information is certainly insidious, when it is not assisted by objective confirmations, because it is inevitably influenced by personal evaluations.

It will therefore be the task of the Judge, in the assessment of the testimony in its entirety, to discern between its fully reliable content, because founded on data of objective perception

(for example, a scream is a scream, and constitutes a piece of data of objective perception) and the content that is based on personal perceptions, which for their own nature are not uniform (a scream can be “chilling”, “acute”, etc., and this is a piece of data of individual perception, which can be deemed reliable only if it is referred in a uniform way by several people). It must in any case be repeated that the assumption that all witnesses were wrong, or that they confused circumstances that they specifically mentioned, is a possibility that inserts itself in a hardly realistic picture, above all if in the context and related to people who did not evidently frequent each other before the trial.

But let’s move on to the examination of the declarations given by the above-mentioned witnesses.

Capezzali Nara said she went to bed on the evening of November 1, 2007 between 21.00 and 21.30, a time at which she normally went to sleep. That evening, since there was nothing interesting on TV, at that time she went to bed. After falling asleep, she had woken up to go to the toilet, after about two hours, or two hours and a half, from the moment in which she had gone to bed. The woman stated of not having looked at the clock, and therefore of not having a notion of the exact time, but she could reconstruct what she had stated on the basis of a habit that she had to take some diuretic pills at the moment of going to bed, pills that normally forced her to get up to go to the bathroom after about two hours, or two hours and a half. On the evening of November 1, 2007, therefore, she had gotten up to go to the bathroom, and on the way to the bathroom she had heard the “chilling” scream of a woman. The witness said verbatim:

*“QUESTION – And what happens?”*

*ANSWER – It happens that getting up I passed in front of the living-room window, because my bathroom is on the other side, and when I was there I heard a scream, but a scream that was not normal, that’s how I heard it, it made my flesh creep to be sincere. At that moment I did not know any more what was happening and so I continued and went to the bathroom. There is a small window which does not have any shutters, nothing, but through the window I can also see when the cars enter and where they go out from and the staircase going up.*

*QUESTION – The iron one?*

*ANSWER – Yes, for the people, in iron. I approached like that the glass of the window, but I did not see anybody, there wasn’t anybody, only two or three cars.*

*QUESTION – Did you hear any sound?*

*ANSWER – Then whilst I was going back to go to sleep, I still had not done that, I heard some noises, running on the iron staircase and running of the gravel, amongst the leaves, because it was still winter, amongst the leaves and the gravel of the little flat, that is the little house.*

*QUESTION – That is the little square?*

*ANSWER – Of the little square that is on the side of the little house, the drive, in other words, of the little house.*

*QUESTION – Of via Della Pergola.*

*ANSWER – I heard running.*

*QUESTION – There, let's go back to this aspects and let's try to go into them thoroughly. This scream, this scream, were you perturbed by this scream?*

*ANSWER – Yes, very. Indeed, still today each time I pass in front of that window it seems to me to hear that scream again.*

*QUESTION – This scream therefore was it human?*

*ANSWER – Yes.*

*QUESTION – Was it a man or a woman?*

*ANSWER – A woman.*

*QUESTION – Therefore the scream of a woman?*

*ANSWER – Yes. A bit prolonged but only one scream, then nothing more was heard. Until I fell asleep. (Transcript of the deposition of Capezzali Nara, hearing of March 27, 2009, in front of the Court of Assizes of Perugia).*

Monacchia Antonella said that on the evening of November 1, 2007 she went to bed with certitude at 22.00 and that after a certain time after she had fallen asleep she had been woken up by the voices of a man and a woman arguing. In that moment she had heard a loud scream of a woman, and then silence. The scream came from low in respect to her habitation, and therefore from the area where via della Pergola number 7 is placed.

Dramis Ilaria, on the evening of November 1, 2007, had gone to the cinema together with her sister, who lived with her, and on their return home they had readied themselves for sleep. At an unspecified time, that anyhow she could collocate around 23.30, she had heard the noise of fast steps on the iron staircase under her habitation (and overlooking the area of via della Pergola number 7), without however being able to specify if it was one or more people.

Finally Lombardo Giampaolo, employed in a Perugian garage, declared in the same hearing that he had made a breakdown assistance intervention in via della Pergola, on the evening of November 1, 2007. The man had been given the job to go to via della Pergola to take care of the breakdown service at around 22.40 by the owner of the garage where he worked, and had taken about 20 minutes to reach said road, where he had stayed, to take care of the breakdown, until about 23.15, after which he had gone away.

To the above-indicated witnesses we can add the deposition of Formica Alessandra, heard in the hearing of March 21, 2009. The witness, on the evening of November 1, 2007, together with her boyfriend Lucio Minciotti, had gone for dinner in a Perugian restaurant which is near the area of the events of that night. She had parked the car in the parking below piazza Grimana, and overlooking the cottage of via della Pergola. The witness reported that she had started dining around 21.30 and had finished about an hour afterwards, when she had gone again to collect her car in the parking lot. Whilst she had been descending the stairs that access the parking lot, her boyfriend had been bumped into by a young man who, advancing in the opposite direction, had been running. The witness was unable to refer anything precise that might be useful for the identification of the young man, but only that he seemed a “dark”

guy. As for the time, the witness said she had arrived home around 23.00, or at most at 23.15, and that it might take about 15 minutes to reach her habitation from the said parking lot.

This is the testimonial picture to examine in order to verify if it is possible to restrict the timeframe indicated by the medico-legal experts in which to collocate the event of the murder.

The Court deems that the time references given by the witnesses are necessarily imprecise as regards the time, but adequately reliable, especially for what concerns the witnesses Capezzali and Monacchia, as regards having perceived the scream of a woman, a scream that both witnesses collocate anyhow around 23.00\23.30 on the evening of November 1, 2007: therefore, in a time perfectly compatible with the murder as reconstructed by the medico-legal experts, and inserted in the “timeframe” deduced by the findings of the judiciary police (21.00 on November 1 \ 00.10,31 on November 2, 2007).

As concerns the depositions of witnesses Dramis and Formica, the circumstances that the two told (that is of having heard quick steps on the staircase of the parking overlooking the cottage of via della Pergola and, as concerns Formica, of having met a young man running on the same staircase at a time that can be collocated between 22.45 and 23.00), although they can undoubtedly be referred to the phase of leaving the crime scene by the murderer after the aggression, might well be referred, given their vagueness, also to other events indifferent to the case facts. One mustn't indeed forget that overlooking the cottage of via della Pergola, where the murder took place, there is a parking lot, on the edge of the town centre of Perugia, that on the evening of November 1, 2007, a bank-holiday, was quite “busy” with the presence of various cars.

These are, in good substance, witness testimonies that, although perfectly reliable, refer circumstances of very scarce usefulness in the trial, given their ambiguity. As a mere example, it is sufficient to point out that Formica Alessandra collocated the “clash” with the unknown man around 22:45 \ 23:00, at a time when, under the parking overlooking the cottage, and a few tens of meters away, was taking place the breakdown assistance intervention by Lombardo Giampaolo; an intervention that reasonably created movement and noises, that the witness never even mentioned, delivering a spatial-temporal context of absolute tranquillity and silence, broken exclusively by the presence of the “dark” young man who bumped into her fiancé.

At the end of the examination of the above testimonies, therefore, this Court deems that setting a precise time for the death of Meredith Kercher is an activity extremely dangerous, because it would be based on perceptions and memories that inevitably suffer the imprecision of a considerable time margin.

What is relevant, instead, in the above-mentioned testimonies is the factual circumstance that two different women, positioned in different buildings, but close as the crow flies to the cottage of via della Pergola, in a context substantially equivalent as far as the time is concerned, perceived the loud scream of a woman coming from the area in which the cottage – the crime scene – lies. This circumstance, compatible with the timeframe in which the murder took place, is also compatible with the reconstruction of the mortal event, with the nature of the means used, with the particularly violent aggression that Meredith Kercher suffered, as well as with other trial findings, coming directly from one of the accused, about which there will be the chance to talk later on.

In conclusion, it can be said that it was adequately proved at trial that Meredith Kercher was aggressed and killed at a time between about 21 on November 1, 2007 and 00.10,31 on November 2, 2007, and it is to this timeframe that we will have to refer to when we face the matter concerning the alibi given by Amanda Knox for both the current defendants.

It remains, finally, to clarify what were the means that caused the death of Meredith Kercher.

The lesions found during the external examination of the corpse and during the autopsy, already examined above, lead to the determination that the cutting wounds, one of which was the main cause of death of the girl, were inflicted by one or more single-blade knives, with a non-serrated blade. The proceedings have long dwelled upon the need to establish whether to commit the murder two “blades” were used, or only one; and whether the knife sequestered in the habitation of Raffaele Sollecito (finding nr 36) is one of the murder weapons.

The matter cannot in any way be faced and solved in this initial phase, because the answer to the question would inevitably have a conjectural nature. Only at the end of the evaluation of the compendium of the circumstantial evidence can a reliable answer be formulated.

At the moment it can only be stated that, in the case that the murder of Meredith Kercher was committed only by Rudi Hermann Guede, without the help of accomplices, then one should necessarily state that only one knife was used, because, for the modalities of the action, and for the varieties of the wounds found on the body of the victim, the use of two different knives by one aggressor would be objectively untenable.

This last observation serves moreover to introduce a matter that needs to be faced at the end of this first examination of the case findings, a central matter in the trial: to establish, that is, with reasonable certitude, whether Meredith Kercher was aggressed by only one person or by several persons.

The Court deems extremely relevant this verification already in the initial phase of the investigation that it is called to perform on the compendium of the circumstantial evidence, because, as we have already had the chance to specify in the premise, there is already an identified author of the murder of Meredith Kercher in the person of Rudi Hermann Guede, condemned for that crime with a final judgement. If therefore we should reach the conclusion, on the basis of these first objective findings examined, that the murder was perpetrated by only one aggressor, it should consequently be revealed that the latter has already been identified, and therefore all the further activity of evaluation of the compendium of the circumstantial evidence would have to stop, since on the matter a judgment has already intervened which has the force of “res giudicata”. Establishing therefore whether Meredith Kercher was aggressed, and killed, by one or several persons is not only a preliminary matter, but also a prejudicial one for the continuation of the argumentation.

The Court deems that there are in the acts of the trial univocal and concordant circumstantial elements, such that allow the determination that the aggression of Meredith Kercher, on the evening of November 1, 2007, was perpetrated by more than one person, and that therefore Rudi Hermann Guede had some accomplices with whom he participated) in the execution of the murder.

The reasoning must first be developed in reference to the type and position of the lesions present on the body of the victim.

We can say that on the body of Meredith Kercher were present three wounds made by a cutting weapon, one of which on the left side of the neck, certainly mortal, whilst the other two, the one immediately under the mortal wound and the one on the right side of the neck, have a nature and a type typical of lesions that have the purpose of a threat. There were then lesions by digital pressure, repeatedly described, in the mandibular region, in the sub-mandibular region, in the part of the face with the nostrils, and inside the mouth, which, for their position and for the presumable degree of strength used to cause them, lead to the probable determination that at the moment of the aggression there was an attempt to prevent the girl from screaming.

The body of Meredith Kercher did not present typical “defence” lesions (if not for some minuscule wounds in the palm region and on the thumb of the right hand, found by the Scientific Police and during the autopsy by Dr Luca Lalli, so small as to be substantially insignificant under the profile of an effective defensive activity), as it is usual to find in the cases of aggression against an adult person by a murderer armed with a knife. Almost as if the girl, certainly threatened with the knife, and wounded with it, did not oppose any valid resistance.

As far as it is known, Meredith Kercher was a girl without any particular physical problems, who had practiced sports that certainly train the muscles of the upper and lower limbs (football and boxing); from the autopsy some physical data can be obtained, such as a height of 164cm, a weight between 50 and 55 kg, and an adequate musculature, which highlight the good state of health of the girl. If to this we add that during the toxicological examination it has been ascertained by Dr Luca Lalli that Meredith Kercher had taken neither drugs or alcohol in the hours before the murder, it can reasonably be affirmed that the aggressor armed with a knife found himself facing a young girl, in her full physical vigour, perfectly conscious, and therefore capable of opposing an important physical resistance to the aggression. But that resistance was not at all opposed to the aggressor.

One piece of data is extremely significant to that end. Under the nails of the victim no traces of epithelial cells or tissue were found. Meredith Kercher, aggressed by a man like Rudi Herman [*sic*] Guede who towered over her and was holding a knife, did not oppose any reaction, was not hit by the knife on the upper limbs (as normally occurs to a person who tries to defend herself from knife blows), did not even attempt to push away the aggressor using her hands, did not scratch him, did not hold onto his clothes; in a word, she did not fight. But there is more.

On the cuff of the sweatshirt that the girl was wearing on the evening of the aggression the DNA of Rudi Hermann Guede was found; as inside the vagina of the girl was found the DNA of Rudi Hermann Guede. Both traces highlight that the man, during the aggression, blocked the wrist of the girl (evidently to attempt to immobilise her to avoid being hit) and inserted his fingers (reasonably of the other hand) in the vagina of the girl, with the aim of perpetrating that sexual violence about which we will have the occasion to talk later. However one may want to temporally collocate the above-described gestures made by Rudi Hermann Guede, be it in succession or contemporaneously, there is no doubt that, if Guede had been alone to aggress Meredith Kercher, the latter would have had, if only for brief moments, one hand free to scratch, hit, and anyhow defend herself from the aggressor. But this did not happen, the girl did not defend herself.

But let's proceed.

As already repeatedly highlighted, on the neck of the victim there were two wounds made by a cutting weapon, one on the left side of the neck, the mortal one, and one on the right side of the neck, almost mirroring the other, with a through path of 4cm, about which much has been discussed for its objective incompatibility with the knife under judicial sequester. The type of the two wounds, their mirror-like collocation on opposite sides of the neck of the victim, and the internal path of the wound anyway significant also on the right side of the neck (in the sense that it was not a scratch, but the knife penetrated in the soft parts of the tissues of the neck) lead to the determination that they cannot have been inflicted by the same person; unless to hypothesize that during the aggression the victim was twisted by 180°, thereby offering to the blade of the knife the two antithetic parts of her neck, or that the aggressor changed position around the victim, interrupting however the immobilisation. To hypothesize then that the aggressor put down the knife the first time, and then grabbed it in a second moment, or with the other hand or in a position different to hit again, appears a quite fantastical occurrence and detached from the trial data. In both cases, the dynamic of the aggression would have certainly had a development such as to allow Meredith Kercher to attempt some defence.

At the end of the examination of the picture of the circumstantial evidence presented by the type of lesions found on the body of the victim, it can therefore be stated that the absence of any ascertained and effective defensive activity by Meredith Kercher towards her aggressor armed with a knife may be reasonably and with ground explained only if read in a picture that sees Rudi Hermann Guede helped and supported by other partners in crime present in the room at the moment of the aggression.

But the picture of circumstantial evidence represented by the type of lesions suffered by the girl, which leads to the determination that the aggression was perpetrated by several persons, is supported by findings of an objective character which have brought the first-degree Judge of the trial carried out with an abbreviated trial against Rudi Hermann Guede to state in the sentence: “(omissis) *it appears interesting to highlight that several people went around those rooms barefoot after the crime.* (Omissis)” [page 56 of sentence nr 638\08 pronounced by the G.I.P. [sic] of the Tribunal of Perugia on 28.10.2008 against Rudi Hermann Guede].

And indeed, there has already been the occasion to highlight in the part dedicated to the findings of the scientific police made inside the flat of via della Pergola nr 7, that the scientific Police, during the crime-scene investigation, found in the living room of the flat three prints of the soles of shoes, with concentric circular signs, left by deposition of haematic substance; two other identical prints were found and highlighted on the floor of the corridor. This are shoe prints compatible with the shoes sequestered from Rudi Hermann Guede and, examining the position of the prints and their direction, it can reasonably be maintained that these are prints left by a person who was abandoning the habitation after having stepped in the blood of Meredith Kercher.

The scientific police found also on the floor of the second bathroom (the small bathroom next to the room occupied by Meredith Kercher), in the space under the sink, a light-blue bathmat in cotton, 74cm by 48cm in size, which, on the right rear portion, presented a plantar footprint [*orma plantare*] also left by deposition of haematic substance, that is the print of a foot without shoe that had stepped in the blood of Meredith Kercher. It has been discussed at length in the inquiry phase of the trial whether that naked footprint [*orma*] might be referred to Raffaele Sollecito, and the circumstance has been the object also of specific analysis in reports by the technical advisors. In this section, for aims limited to the investigation that the Court has decided to undertake, there is no interest in further analysing the investigation of a

technical nature already made, that will be the object of later examination; what is interesting to highlight is that in the flat, after the murder, there was one person, presumably of male gender given the dimensions of the footprint [*orma*], certainly different from the one who left the prints of shoes directed towards the exit, and that the trial has ascertained with a definitive final judgement that it is Rudi Hermann Guede.

It has finally to be pointed out that the scientific Police, when examining the room where the corpse of Meredith Kercher had been found, highlighted three plantar traces [*tracce plantari*], with concentric circular signs, left by haematic deposition. The dimensions of the footprints [*orme*] found, later examined, lead to the determination that the person who had left them may be identified as a person of female gender, being a foot of size 37 in terms of the measurements in use in Europe. Even in relation to these footprints [*orme*] it is not of interest in this phase to expatiate whether they can or cannot be referred to Amanda Knox.

To the aims of interest here, it is in fact sufficient to observe that inside the flat – scene of the murder – after the killing of Meredith Kercher (since the traces are all by haematic deposition, and therefore highlight that blood was stepped into) there was the presence of a man who was wearing shoes and who went away from the flat itself, and also the presence of at least two other persons, presumably one of male gender and a woman, who left plantar footprints [*orme plantari*] after having stepped with their naked feet in the blood of the victim. Besides, the presence on the crime scene of a person of male gender different from Rudi Hermann Guede is deduced, even before being deduced from the technical investigation that in the accusatory formulation attributed to Raffaele Sollecito the plantar footprint [*orma plantare*] found on the bathmat, from the logical observation according to which the person who exited the flat, what's more without deviating from the path taken, was wearing shoes on both feet, and therefore it was objectively impossible for him to leave the plantar footprint [*orma plantare*] of a naked foot on the bathmat found in the small bathroom.

Concluding this first portion of examination of the circumstantial elements, it can therefore be maintained that on the evening of November 1, 2007, at a time between 21:00 and 04:50 of the next day, Meredith Kercher was aggressed inside the flat of via della Pergola number 7 by Rudi Hermann Guede, who perpetrated the aggression and the murder supported by the help of other persons; presumably, on the basis of the traces found, by a person of male gender and by a person of female gender.

In any case, on the basis of this interpretation both logical and made through experience of the objective data given by the trial, in the judgement of the Court it was several persons who aggressed and killed Meredith Kercher.

## Section 3

### **Post-crime activity. Pg. 63-92.**

It has been much discussed, especially by the defense of the defendants, whether a “selective” clean-up of the crime scene is possible by the authors of the crime. This possibility was denied on the basis of the empirical impossibility of a “naked eye” to identify and select the singular traces, often invisible, to destroy. It was also excluded that someone in the cottage of Via della Pergola, on the night between November 1st and 2nd, 2007, after having committed the murder of Meredith Kercher, could “selectively clean” the traces left by the authors of the crime, destroying all of the traces of the defendants in question, and leaving at the crime scene all of those traces that would have lead investigators to Rudy Hermann Guede.

The affirmation, if apparently agreeable theoretically, must be correlated with the case in question, of which there are certain peculiarities.

It is peculiar, for example, that no traces of Amanda Marie Knox were found in the cottage of Via Della Pergola if not those which are refer-able to the murder – nor of Raffaele Sollecito. For the latter the explanation may be simple, that he had only just begun his sentimental relationship with Amanda Marie Knox, and so had his patronage of her house, but regarding Amanda Marie Knox the explanation is not simple at all, because she had been living there since the previous September.

The lack of biological traces of Amanda Marie Knox at the cottage, if not those refer-able to the murder, is a circumstance that is surely singular and at the same time not easily explainable, if not with conjecture. But there are other examples, all of which have the same vulnus: to likely be conjecture.

The Court retains that in fulfilling its duty, it must limit itself to a reasoning that is founded upon objective facts; upon that which emerged procedurally that are the most objective possible.

An argument characteristically objective that emerged procedurally was evidence that, after the murder of Meredith Kercher, selective or not, there was a clean-up of the traces of the murder, and a maneuvering of the body of poor Meredith into a position (between the armoire and the wall of the room and covered by a duvet) that certainly doesn't correspond with the position in which the girl died, at the end of the aggressive phase. Someone spent much time within the cottage on the night between November 1st and 2nd, 2007, altering the crime scene and destroying numerous traces. The evidence provided by the Scientific Police proves this incontestable truth, which the Court's reasoning must take into consideration.

## Section 4

**Slander, false alibi. Pg. 92-146.**

## Section 5

[Translation by Komponisto]

**The evidentiary framework inferable from the statements of the defendants and witnesses. Pg. 146-175.**

In the preceding section, we examined the alibi provided by the defendants, and saw that it was false.

We must now turn our attention to examining the statements made by the defendants in the present trial — leaving out those we have already examined relating to the alibi — and the documentation put into the record by Amanda Marie Knox (autograph defensive memorandum of November 9, 2007) as well as the witness statements collected in the course of the first-level trial, with specific reference to the facts of the morning of November 2, 2007.

1) Reconstruction of the Events of November 2, 2007 According to the Statements of Amanda Marie Knox.

In the reconstruction of events provided [in a] note written by Amanda Marie Knox on the date of November 9, 2007, we read: *“Here is what happened on November 2, 2007 starting from when I got up. I got up late in the morning and left Raffaele to sleep for a bit. I said to Raffaele that I would be back after taking a shower. I left Raffaele’s house and walked to my house. When I got there the door was wide open, my first thought was that this was strange because we always lock the door to my house. Otherwise the wind blows it open, but I assumed that someone at my house had quickly gone out to find neighbors and so I didn’t think much about it. I closed the door but I didn’t lock it, assuming that the person would be back. I called to see if there was anyone home [and] I didn’t receive a response. I went to my room and undressed. I put my dirty clothing behind my guitar and went to take a shower. Before going into the shower I took off my earrings and noticed drops of blood in the sink. I thought that they came from my ears and I touched one of the drops but it was dry. I went into the shower [and] after the shower I walked on the mat in the kitchen and noticed the blood on the mat. I looked more closely in the sink and saw blood on the faucet. But it wasn’t a lot of blood. I guessed that someone had cut themselves or had menstrual problems. I had forgotten the towel in my room so I used the mat to go into my room without getting the floor wet to get my towel. Then I took it back into the bathroom. I didn’t yet think anything was 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 feces 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 anything bad had happened. It seemed that someone had just left our house very quickly. I didn’t think anyone had been murdered. I didn’t know what to think. I took the <mop > from our closet and I left the house closing the door and then locking it. I walked back to Raffaele’s house and together we began to clean the floor with the <mop >. He started it but then went to put his clothes on and I finished wiping up the water with the <mop >. Then we ate breakfast. During breakfast I told Raffaele about what I had found in my house. He said that I needed to call one of my housemates. I called Filomena. She was worried so after her I called Meredith three times. Once on her English phone, once on her Italian phone, once again on her English number. I never received a response. Filomena called me again, she wanted to know if I had made contact with Meredith because she was the only housemate not accounted for. She had already informed me that Laura was in Rome. So Raffaele and I got ready to go and went back to my house carrying < the mop > with us. When we got there I opened the door I went to Filomena’s room and opened the door. The window was broken and the room was a mess, but her PC was there and so I was confused. I also looked in Laura’s room but her room was completely in order. What kind of burglar comes in but doesn’t take anything? Raffaele went into my room and I followed him. There was nothing missing. Then we knocked on Meredith’s door and didn’t get a response. I tried with the doorknob but it was locked. We went to the terrace to see if we could see into her window, I even tried to climb up onto the balcony to see inside but didn’t manage to. We looked through the keyhole [but] all we could see was her purse on the bed. I ran out to see if neighbors had heard something but nobody was home. The lights were off and nobody answered when I banged on the door. I went back inside the house and Raffaele said he wanted to try to break down the door. He tried but didn’t succeed. Then he called his sister for advice. I called Filomena to tell her what was going on. She told me she was on her way back to the house. Raffaele’s sister said to call the Carabinieri. We did so. We waited a bit inside, I put away the < mop >, but then we went out to see Filomena’s window. I couldn’t understand why someone could break the window if it seemed impossible 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 the feces in the bathroom had gone down although I didn’t look carefully. Then Filomena arrived with her boyfriend and two friends. She took care of talking with the police. I was in the kitchen with Raffaele and they broke Meredith’s door. I heard Filomena yell “A*

*foot! A foot!” And the police told us to go outside. Not long after, the Carabinieri arrived and I waited. I waited with Raffaele for a bit outside and then I was offered a place to sit where it was warmer in Filomena’s friends’ car, with Raffaele. Not long after the police told all of us to go to the police station.”* (document provided by the defendant deposited in the records office of the *Corte di Assise* of Perugia on the date of July 1, 2009).

The detailed version of events provided by the defendant via the defensive memorandum of November 9, 2007, which was substantially confirmed during examination at trial on June 12-13, 2009, albeit with a few “adjustments”, allows us to make a few observations.

First of all, Amanda Marie Knox has never explained why, on the morning of November 2, 2007, she needed to return to her house on Via Della Pergola to take a shower and change clothing.

Already the previous day, the two youths had planned a trip to Gubbio for the day of November 2, 2007. On the afternoon of November 1, 2007, both of them left the Via Della Pergola residence around 5:00 pm and went to Sollecito’s house to spend the night. Knowing that she was to be traveling to Gubbio the following day, it would have been logical for the defendant to bring with her what was necessary in order to change clothing and take a shower at Raffaele’s residence, from where she would then be leaving in order to travel to Gubbio. There was no need to return home to take a shower (it turns out furthermore that Amanda Marie Knox had already taken a shower at Raffaele Sollecito’s residence on November 1, 2007, thus displaying a familiarity with the residence of the other defendant, which the young woman had selected for her second home); nor was there any need to return home to retrieve an instrument for the cleaning of the kitchen (the <mop>) where the sink pipe had been broken, since the remaining water that had not dried during the night could have been collected easily with what was present in the residence at Via Garibaldi 130 .

We are therefore dealing with behavior that is peculiar, non-usual, even if not significant on its own – unless we evaluate it in an overall context together with what we will have occasion to consider in the sequel.

What does appear significant from the outset, however, is the anomalous behavior described by Amanda Marie Knox upon arrival at the cottage.

As soon as she arrived, the young woman noticed that the door to the house was open, without any of the occupants being present in the apartment. Finding the door to one’s apartment open should, by itself, induce any person, if not to immediately call the police, certainly to enter the apartment with understandable caution, with the aim of ascertaining the condition of the house, since nothing could rule out the possibility that, if some ill-intentioned person had furtively entered, they might still be inside. It was furthermore well known to Amanda Marie Knox – because the circumstance was reported by witness Filomena Romanelli – that the lock on the entrance to the cottage was not perfectly functional, this being a reason for concern on the part of the young women who resided there.

Notwithstanding this, she entered the apartment through the small entrance to the left of which is the bedroom of Filomena Romanelli. It would have been wholly natural for the young woman to have checked all of the rooms of the apartment — which would have allowed her to immediately ascertain the state of disorder in Romanelli’s bedroom and the probable entrance of a burglar. One cannot understand the reason for which Amanda did not

perform this check immediately, deciding [instead] to take a shower in an environment which ought to have aroused some apprehension. But there is more.

It is objectively difficult to imagine a burglar penetrating the interior of a residence to commit a theft, and surprised by one of the occupants of the apartment, deciding to use violence on her and then to kill her, and, after perpetrating the crime, closing the door to the room through which he had entered. It is thus reasonable to suppose that, in the event that the defense theory of the entrance of an intruder into the apartment via the window of Filomena Romanelli's bedroom were true – and we have already established that this defense theory conflicts with the objective evidence found in the residence – the door to Filomena Romanelli's bedroom inside the apartment should have remained open, and thus the situation of havoc in the room would have been immediately perceptible to anyone who had entered through the main door with the predictable caution of someone entering an apartment where they have found the entry door open.

But Amanda Marie Knox did not bother to perform a preliminary inspection of the place, as would have been reasonable to do; [instead] she decided to take a shower.

Entering the small bathroom, she noticed spots of blood in the sink; she noticed spots of blood above the faucet, but most especially she noticed a large spot of blood on the light-blue carpet inside the bathroom (this being the trace left in blood by the sole of a foot, which we will have occasion to discuss at length in the sequel). The discovery of these blood spots, together with the finding of the open door, did not, however, induce any apprehension on the part of the young woman, nor even any caution. Amanda took a shower, used the bathroom carpet by jumping on it and dragging it all the way to her own room, and subsequently repositioned it in the bathroom. She then dressed, closed the door behind her, and returned to the apartment of Raffaele Sollecito where she had spent the night. Together with the latter individual, she had breakfast with tranquility, and only afterward, totally calmly, made the first telephone call to her housemates.

The behavior reported by the defendant is contrary to common sense.

It would have been reasonable, under the given circumstances, after having found the entry door to the apartment open, to immediately call, if not the police, the other housemates; or, if indeed the intention was not to alarm anyone before verifying the reality of the situation, to call Raffaele Sollecito on the phone, to have him come to the cottage to ascertain what had happened together.

But that did not happen, and moreover the anomalous nature of this behavior must be read in conjunction with what will be discussed presently.

Amanda Marie Knox, in the manuscript indicated above, described the events as follows: “( omissis ) *During breakfast I told Raffaele about what I had found in my house. He said that I needed to call one of my housemates. I called Filomena. She was worried so after her I called Meredith three times. Once on her English phone, once on her Italian phone, once again on her English number. I never received a response.* ( omissis )”.

From the telephone records traced to the cellular phone used by Amanda Marie Knox, it emerges that the first telephone contact of the day of November 2, 2007 was made at 12:07:12 pm on the English unit used by Meredith Kercher. Subsequently, at 12:08:44 pm, the cellular phone used by Amanda Marie Knox called Filomena Romanelli's unit. This was the first call

made to Romanelli by the defendant on November 2, 2007, preceded by an initial telephone contact with the English unit used by the victim.

A first discrepancy between what is reported by the defendant in her note and what the telephone records establish is immediately perceptible.

At the time Amanda Marie Knox telephoned Filomena Romanelli, she had already made a call to the English cellular phone used by Meredith Kercher, not the reverse. This first version of events would then be modified by the defendant in June of 2009, in the course of examination during trial before the first-level Judges, when the young woman inverted the order of the two calls, reconciling her own statements with the objective investigative facts which had become known in the meantime, and which, on the date of November 9, 2007, could not have been known, insofar as the phone records had not yet even been acquired.

The first-level Judges, commenting on the fact that the defendant had made the first contact with the English unit used by the victim before calling Filomena Romanelli, hypothesized that the call made to the victim's unit had been carried out for the sole purpose of verifying that the cellular phones, removed from the Via Della Pergola residence after the murder, had not yet been found by anyone. The finding is well-founded, since one cannot otherwise understand, even leaving aside the timing of the calls which the defendant modified in the course of the investigation, why Amanda Marie Knox, if her intention was to check on the condition of her English friend, after failing to receive a response from the cellular unit used by Meredith Kercher, did not try to call the other unit, that with an Italian card, of which the defendant was perfectly aware. And indeed the defendant, after having the first conversation with Filomena Romanelli of 12:08:44 pm, and at the request of the latter, made no fewer than two calls to the units used by Meredith: at 12:11:02 pm to the Vodafone Italian unit, and at 12:11:54 pm to the English unit.

With respect to the two telephone calls recalled above, an observation must be made which the Court considers to be of certain evidentiary value.

The telephone records in evidence show that when Amanda Marie Knox made the two calls to the victim's unit, at 12:11:02 pm to the Vodafone Italian unit, and at 12:11:54 pm to the English unit, she had been specifically asked to do so by Filomena Romanelli, with whom she had spoken at 12:08:44' pm.

The psychological condition in which the defendant found herself should obviously have been one of understandable apprehension, since, having verified a worrying situation within the apartment on Via Della Pergola, and after having spoken with Romanelli who had pointed out the necessity of checking on the condition of Meredith Kercher, the only one of the young women of whom there was not certain news, Amanda Marie Knox should have naturally been moved by a certain anxiety in calling Meredith Kercher's units.

The telephone records show that the call of 12:11:02 pm to the Vodafone Italian unit of the victim had a duration of 3 seconds; that of 12:11:54 pm to the victim's English unit had a duration of 4 seconds. Possibly not even enough time to repeat the first ring.

Filomena Romanelli made no fewer than two unsuccessful calls to the unit used by Amanda Marie Knox, at 12:12:35 pm and at 12:20:44 pm, and let the defendant's phone ring the first time for 36 seconds and the second for some 65 seconds; an insistence which is normal for anyone with the intention of speaking by phone with someone, who, however, does not

respond to the device immediately. The phone was allowed to ring for a considerable period of time, in the hope of receiving a response before resigning oneself to “closing” the call.

But that did not happen when Amanda Marie Knox called the two cellular phones used by Meredith Kercher. The two calls were barely initiated. And if with respect to the Vodafone unit 348-4673711 the records show the activation of the voicemail (though this should itself have created apprehension) with respect to the English unit with the card inserted into the Sony-Erikson cellular phone they show nothing other than the lack of a response to the call.

The fact that the two calls to the units used by Meredith Kercher did not alarm the defendant has only one plausible explanation.

There was no apprehension in the mind of Amanda Marie Knox when so she made the two phone calls to the young English woman simply because she knew perfectly well that Meredith Kercher would not have been able to respond to the calls; calls which had to be made because they were requested by Filomena Romanelli, but which the defendant knew to be futile. Having thrown the phones away in an open field (or at least so believed Amanda Marie Knox) in an unvisited location, no one would have been able to respond to those calls; least of all poor Meredith Kercher, whom the defendant knew to be locked up lifeless in her own bedroom.

But the contacts between Amanda Marie Knox and Filomena Romanelli continued further on the morning of November 2, 2007 and are of undoubted interest for the purpose of reconstructing the events of the morning following the murder.

It is appropriate to recall them in their chronological succession.

The first contact occurred at 12:08:44 and the call originated from the unit of Amanda Marie Knox which connected to the “cell” serving Via Garibaldi 130. Amanda Marie Knox was therefore at the house of Raffaele Sollecito. The second contact occurred at 12:12:35 and was Filomena Romanelli calling Amanda Marie Knox; it was likewise Romanelli who called Knox at 12:20:44; these last two contacts went “into the void”. Both of them also connected to a “cell” serving Via Garibaldi 130; Amanda Marie Knox was still at Raffaele Sollecito’s residence.

The last call between the girls occurred at 12:34:56 on November 2, 2007, at which time Filomena Romanelli finally succeeded in speaking to her, by connecting to a “cell” serving the area of Via Della Pergola.

Thus, by examining the telephone records, and in particular the “cells” to which the calls connected, as reconstructed by the police and the first-level *Corte di Assise* (see pp. 333-353 of the ruling under appeal) it is possible to reconstruct the movements of Amanda Marie Knox on the morning of November 2, 2007 with a certain exactness.

At 12:07:12 pm she was certainly at Via Garibaldi number 130, the residence of Raffaele Sollecito, where she remained until 12:20:44 pm, at which time she received a telephone call from Filomena Romanelli. Subsequently, at 12.34’56” the defendant was already at Via Della Pergola no. 7, where she received the last call from Filomena Romanelli.

It is appropriate at this point, in order to understand the real significance of the recorded times of the phone calls exchanged between the two girls, to focus on the statements that Filomena

Romanelli made at trial during the hearing of February 7, 2009 before the *Corte di Assise* of Perugia.

Romanelli reported that on the morning of November 2, 2007, after waking up at the house of her boyfriend, had taken her car to pick up her friend Paola Grande to go to a fair in the Pian di Massiano locality:

“(Omissis)

*QUESTION – What time was it?*

*ANSWER – More or less around noon, we hung around a bit before, and at noon or thereabouts I went to pick up Paola to go...*

*QUESTION – Who lived?*

*ANSWER – Near (Elce) I don't remember what the street is called. I went to pick up Paola, we bought cigarettes and headed toward Pian di Massiano, however halfway there I received a phone call from Amanda, in other words while we were actually near the area where the fair was I received a phone call from...*

*QUESTION – Hold on a minute, what time was it, when you received the phone call?*

*ANSWER – Uh, it probably wasn't even 10 minutes, in other words very little with respect to when we got going because we hadn't yet even had enough time to get there when already Amanda called me and from the Elce area to Pian di Massiano is not a very long distance anyway, it's close.*

*QUESTION – So 10 minutes passed?*

*ANSWER – Yes, we were already in the area, but we weren't in the parking area, let's say.*

*QUESTION – So what time was it, approximately?*

*ANSWER – More or less 10 minutes, a quarter of an hour.*

*QUESTION – So at?*

*ANSWER – I went to pick her up at noon, a quarter past 12.*

*QUESTION – What did Amanda say to you?*

*ANSWER – So, <Hi Mando something strange is going on in the house> <Hi Amanda what happened, what do you mean?> <I got back at the door was open, I went in...? and she was speaking a little in English and a little in Italian, I remember well that she said <Were is sunfing stranger>, so there is something strange going on, she said: <Anyway I'm going to Raffaele's now, I took a shower, I'm going to Raffaele's so I'll have him come. There's blood I think>. I said: <Amanda I don't understand, tell me why there's something strange, the door is open, you took a shower, there's blood, but where's Meredith?> <I don't know>. I didn't understand what she was telling me because I couldn't follow her, that is the door open, you took a shower, but there's blood, I said: <Maybe Meredith hurt herself, I don't*

*know, she probably cut herself> it can happen, I don't know, I told her: <(Do a check)> <Do a check and call me back right away>.*

(omissis)

*QUESTION – So she called you at around 12.15?*

*ANSWER – Yes.*

*PRESIDING JUDGE – So that's right, she called you at 12.15.*

*ANSWER – Yes, I mean maybe 12.13 or 12.16 but around 12.15 yes.*

( omissis )

*QUESTION – Before we go further, when Amanda tells you... You told me before that she was returning, that she was going to Raffaele's.*

*ANSWER — Yes, she said “I'll go with Raffaele, I'll come back with him to see what is going on”.*

*QUESTION – So what was your understanding, that she was in the house on Via Della Pergola and that she would head back to Raffaele's?*

*ANSWER – Exactly, I understood that she got home, that the house was open, that something strange was going on, that she even went into the bathroom and so I thought that she was talking about her bathroom, hers, based on the division of the rooms, her bathroom and that there was something strange, so for this reason she was going back out, going to Raffaele's to go back to the house.*

*QUESTION – With him.*

*ANSWER – With him.*

(transcripts of Filomena Romanelli deposition – hearing of 7 February 7, 2007 before the Corte di Assise of Perugia ).

Thus, if the findings relating to the unusual conduct of Amanda Marie Knox, and even the irrationality of her behavior, as well as with respect to the fact that she inexplicably made one single call to the victim's English cellular unit, as the first call of November 2, 2007, contrary to what is asserted in the note written by her on November 9, 2007 for clearly defensive purposes, analyzed individually might appear to be exercises in logic applied to human behavior, which at times may not follow the rules of logic, here we are confronted with the first element of evident falsehood in the defendant's version.

In the first call that the defendant made to Filomena Romanelli, she clearly said that she would go home to inform Raffaele of the strange findings inside the apartment, in order to then return with him in to check out the situation. This was said by the defendant to Filomena Romanelli, who reported it in a precise manner in the course of her trial testimony. Well, this circumstance is glaringly false, because at the time that Amanda Marie Knox made the first call to Filomena Romanelli at 12:08:44 pm on November 2, 2007 she was at the residence of

Raffaele Sollecito, at Via Garibaldi 130, and not at Via Della Pergola no. 7. This fact is certain because it can be seen, as we have already noted, from the telephone records, and specifically from the fact that the call recalled above connected to the “cell“ which in fact served Via Garibaldi 130 – a cell that was unreachable by anyone at Via Della Pergola no. 7.

Furthermore, in none of the versions given by the defendant, whether at trial, or *per tabulas* [Latin: “ through writing“] , did she ever report making any call in the period of time during which she remained at the cottage on Via Della Pergola to take a shower and change clothing.

The version that has always been espoused by Amanda Marie Knox has her returning to Via Garibaldi 130 after having taken a shower and changing clothing, and, after having partaken in breakfast in absolute tranquility together with her co-defendant, beginning her “round” of phone calls.

It is hardly necessary to point out that, due to the absolute specificity of the circumstance and the certainty with which Filomena Romanelli reported it to the judges, there is no possibility that there was a misunderstanding between the two girls in the course of the call. Amanda Marie Knox phoned Filomena Romanelli from the residence of Raffaele Sollecito, representing to [Romanelli] that she was located at the cottage on Via Della Pergola, and reporting a reality that was not before her eyes at the moment she spoke, but of which she had perfect awareness.

This circumstance of fact, ascertained in an incontrovertible manner by the investigation, must be read in conjunction with the description previously given of the anomalies in the defendant’s behavior, as she herself described it, which thus finds a logical explanation.

None of any of what the defendant described in the note, and then confirmed in the testimony at trial, had actually happened; at least at the times and in the manners described.

In the cottage on Via Della Pergola no. 7, on the day of November 2, 2007, from the first hours of the day and until about 12.00 pm, nobody took a shower, just as no burglar had penetrated Filomena Romanelli’s room via the window; more simply, the body of evidence hitherto examined shows us clearly that the defendants carried out a cleaning of the traces of the murder that had been committed, and a[n attempt at] “diversion” of the investigation that manifested itself in a series of behaviors, some of which are still to be revealed.

This was not, moreover, the only lie told that morning by Amanda Marie Knox.

There was a specific circumstance about which, this time, both of the defendants lied. Namely, the succession of events at the moment when the postal police entered upon the scene.

This circumstance has been the subject of ample discussion during trial, and was also the subject of an opinion on the part of the first-level Judges, an opinion which this Court does not feel itself able to share.

It is therefore necessary to reconstruct, as accurately as possible and on the basis of critical examination of the records in the case, the chronology according to which the *Carabinieri* were alerted by Raffaele Sollecito, they having surely entered the scene at a moment subsequent to the discovery of poor Meredith’s body. But let us proceed in order.

The first-level ruling, treating the question in an incidental manner in the context of a more detailed argument, and taking for granted that the *Carabinieri* were alerted before the intervention of the [postal] police, as has always been claimed by both Amanda Marie Knox and by Raffaele Sollecito, states on this point: “ (omissis) and *then a change of story happens and it is said to the postal police (whom we find, following what is claimed by the defense, to have arrived after Raffaele Sollecito called 112 and this if for no other reason than the fact that of these calls to 112 the postal police say nothing, just as they say nothing of those that preceded them, at 12: 40 and at 12:50, and were each time calls of non-short duration which, therefore, could not have been missed by the two policemen) that there had been a burglary. (Omissis)*” (page 81 of the first-level ruling).

The observation of the first-instance Judges does not appear to this Court to take into account the importance of a series of findings of fact which lead one to conclude, contrary to what has always been claimed by the defendants, that the latter alerted the *Carabinieri* after the arrival of the police officers and not before; and that therefore, when the police arrived, the two defendants were seated outside the cottage waiting not for the *Carabinieri*, but [rather] for Filomena Romanelli.

It is known, since we have already treated the subject in another section, that the first ones to enter upon the crime scene were two officers of the State Police, belonging to the specific division of the postal police: Inspector Michele Battistelli and Officer Fabio Marzi.

The two police officers entered upon the crime scene not because anyone called them, but because they were sent by the official directing the postal police division of the *Questura* of Perugia, Filippo Bartolozzi, to seek out Filomena Romanelli, who turned out to be the holder of the telephone card found inside one of the two cellular phones, which would later be discovered to belong to the victim, both taken from the garden of the residence of the Lanas, on Via Sperandio in Perugia.

This was thus a circumstance that initially appeared extraneous to the murder investigation, in the sense that the two policemen went to Via Della Pergola to conduct an ordinary inquiry on the ownership of telephone card, so that certainly neither Amanda Marie Knox nor Raffaele Sollecito could have foreseen the arrival of the police.

Inspector Battistelli, at the hearing of February 6, 2009 before the first-level judge, reported:

*WITNESS –Around noon, I was on duty and then-director Bartolozzi sent me to Via Della Pergola to track down Filomena Romanelli, because a phone had been found, it had been explained to me just in broad outlines, a telephone had been found registered to her, so since there wasn't ... Then we did some checks, since there weren't any reports of theft or misplacement relative to that phone, we went in search of this Romanelli to find out.*

*PUBLIC MINISTER – You left at 12.00 about?*

*WITNESS –Yes, about 12.00.*

*PUBLIC MINISTER – Did you look at the clock?*

*WITNESS – Yes, I had just come back from another call.*

*PRESIDING JUDGE – You have your records, they can be consulted.*

*PUBLIC MINISTER – The cell phone that had been found, Mr. Bartolozzi told you that a cell phone had been found, when you left.*

*WITNESS – But there I wasn't given much explanation, I knew that a cell phone had been found, but I didn't know anything else, I knew who it was registered to...*

*PUBLIC MINISTER – Did you have this cell phone with you?*

*WITNESS – No.*

*PUBLIC MINISTER – Go ahead, tell us when you went and with whom.*

*WITNESS – With Lead Officer Marzo, we went up Via Della Pergola to track down..., but we left around noon, we arrived a little..., it took us at least twenty minutes to find the cottage, because it's positioned, you know, in that location, we actually made a few turns around there because we didn't find it right away.*

*PRESIDING JUDGE – The cottage you say, Via Della Pergola?*

*WITNESS – Via Della Pergola 7, because Via Della Pergola turns to the left of the square, however there... So we were a little misled.*

*PUBLIC MINISTER – And you arrived at about what time, approximately?*

*WITNESS – Around half past twelve.*

*PUBLIC MINISTER – Again, you looked at the clock, did you by chance look at the time on the parking lot cameras?*

*WITNESS – We didn't, no.*

*PUBLIC MINISTER – So around 12:30?*

*WITNESS – Yes, maybe a few minutes before, because I remember that I looked at the clock, in fact the time that I indicated in the log is what I saw from the clock, but I had already arrived on the scene [and] had made contact with the youths.*

*PUBLIC MINISTER – Okay, you arrived, what did you see when you arrived, who was there?*

*WITNESS – When I arrived there were the two youths seated.*

*PUBLIC MINISTER – The two youths, that is the two defendants?*

*WITNESS – The two defendants, yes, seated in front of the windows of the cottage where...*

*PUBLIC MINISTER – Oh, in front, that is, where specifically were they?*

*WITNESS – They were near the corner, where the fence makes a corner, right in front of the windows.*

*PUBLIC MINISTER – In other words basically, more or less, Romanelli's window?*

*WITNESS – Romanelli’s, yes.*

( omissis )

*PUBLIC MINISTER – Okay, what did the two of them say to you?*

*WITNESS – Well as soon as we got there they told us that they were waiting for a car from the Carabinieri who had been called as soon as...*

*PUBLIC MINISTER – Did they say when the Carabinieri had been called?*

*WITNESS – When, no, that they were waiting for a squad from the Carabinieri, because they had found the door open coming back in the morning to the cottage because they had been out for the night, they had come back in the morning and said they had found the door open and the window broken ( omissis )” (Michele Battistelli witness statement at the hearing of February 6, 2009 before the Corte di Assise of Perugia. ).*

The witness statements recalled above thus show clearly that both of the defendants (but to be precise it was Raffaele Sollecito who expressed himself to the police about this) stated to Inspector Battistelli that they were seated there waiting for the arrival of the *Carabinieri* whom they had already called. Except that Inspector Battistelli indicated in the service log that he arrived on the scene at 12:35 pm, and, upon examination during trial by the first-level Judges, explained that he had looked at his watch at the time he had accessed the cottage.

This Court regards this circumstance as reliable, on the basis of ordinary procedural experience. It is in fact customary for police officers to establish a time at the moment when they perform an intervention, in order to be able to then write with precision in the log, or in the report, the times of the police intervention, given that the drafting of the police records occurs normally at a time subsequent to the intervention; and the reports and the logs must account for both times.

But Inspector Battistelli’s statements are also corroborated by the finding that the police made on the time of camera number 7) positioned at the top of Via Della Pergola. In the service report of September 29, 2008 signed by the head superintendent of the State police Stefano Gubbiotti, produced in court during the hearing, we read: “(omissis) *in particular attention was paid to the image from camera number seven , which allows one to monitor the road overlooking the residence and not also, except in a partial manner, the area adjacent to the entrance leading to the square belonging to the residence of Via Della Pergola number seven also due to the sun’s reflection. In a sequence relative to the time which starts at 12:35:51 pm [the] postal police vehicle, a Fiat Grande Punto of black color, is seen taking the ramp to the upper parking lot where it stops for a few seconds. Then at 12:36:16 pm it performs a maneuver and stops for another 32 seconds in front of the entrance to the parking lot on the street level, with only the driver on board. It should be noted, as confirmed by the postal police personnel, that Chief Inspector Michele Battistelli had gotten out of the car to identify house number seven on Via Della Pergola. In the sequence of 12.36’.48 [the] vehicle moves in reverse to rejoin colleague on foot but the camera does not manage to capture the actual entrance into the square of Via Della Pergola no. 7. (Omissis)* The finding was confirmed by Superintendent Gubbiotti at the hearing of February 28, 2009, before the first-level Corte di Assise.

Now, the telephone records relative to the unit used by Raffaele Sollecito show with absolute certainty that the latter at 12:50:34 on November 2, 2007 called his sister Vanessa Sollecito, with whom he conversed for 39 seconds; subsequently, at 12:51:40 he called the “ 112 “ number (an emergency number used by the *Carabinieri*) with whom he spoke for 169 seconds; finally, at 12:54 he called “112” again and conversed with the dispatcher for about 57 seconds.

From these findings of fact and verifications made by the police, it emerges that the first call to the *Carabinieri*'s emergency number was made at 12:51:40, and thus more than 15 minutes after Inspector Battistelli had arrived in the black Fiat Punto used by his division at the residence on Via Della Pergola.

It follows from this that when Raffaele Sollecito communicated to Inspector Battistelli that he had already called the *Carabinieri*, he had not yet done so, and would do so about a quarter of an hour later.

We must at this point confront the findings made in the first-level ruling, and the claims maintained by the defendants' attorneys, in particular by those of Raffaele Sollecito, in the course of the discussion before this Court.

In the first-level ruling, it is to be observed that the Judges gave credit to the defendants' version – that is that they called the *Carabinieri* before the arrival of the police – on the basis of the argument, logical in nature, according to which the police officers had not reported seeing Raffaele Sollecito make a call, and this circumstance had to be considered significant, since he had made at least three phone calls, all within the span of barely five minutes, one to his sister and two to 112.

Consequently, it was to be considered reliable that the postal police arrived subsequently to the calls made to the *Carabinieri*, and thus, the Court finds, necessarily after 12:54 pm on November 2, 2007.

The finding of the first-level Judges necessarily suffers from an inadequate attention to the plurality of the statements of the witnesses known to have been present at Via Della Pergola number 7 from 12.00 pm to 1:00 pm on November 2, 2007, in the excited moments which preceded the breaking of the door to the victim's room.

[The witnesses in question are] Michele Battistelli, Fabio Marzi, Luca Altieri and Marco Zaroli.

Michele Battistelli reported to the Judges the moment in which the decision was made to break down the door to Meredith's bedroom as follows:

“(omissis) *PUBLIC MINISTER* – Describe for us the position that you [all] were in.

*WITNESS* – Well I was at the end...

*PUBLIC MINISTER* – Who was in front of the door?

*WITNESS* – Altieri, the dark-haired youth.

*PUBLIC MINISTER* – Luca Altieri.

*WITNESS – Luca Altieri.*

*PUBLIC MINISTER – And then what?*

*WITNESS – With two or three kicks he knocked it down.*

*PUBLIC MINISTER – Hold on, let's take it in order. Luca Altieri in front of the door.*

*WITNESS – Yes.*

*PUBLIC MINISTER – And where was the other?*

*WITNESS – They were there near him, the four of them were there, right in front of the door.*

*PUBLIC MINISTER – Grande and Romanelli, they were in front of the door, then.*

*WITNESS – Yes, okay, they were all there.*

*PRESIDING JUDGE – The four of them if you can tell us who they are, who are the four of them?*

*WITNESS – Zaroli, Altieri, Romanelli, and Paola Grande.*

*PUBLIC MINISTER – That is the two girls and their two respective boyfriends?*

*WITNESS – Yes, exactly.*

*PUBLIC MINISTER – So, where were you then?*

*WITNESS – I was back there in the hallway three more steps back from them.*

*PUBLIC MINISTER – Three steps back.*

*WITNESS – Yes.*

*PUBLIC MINISTER – Where was your colleague?*

*WITNESS – Even farther back, I think.*

*PUBLIC MINISTER – Farther back.*

*WITNESS – Yes.*

*PUBLIC MINISTER – Where were the two of them?*

*PRESIDING JUDGE – Excuse me, those two...*

*PUBLIC MINISTER – The two defendants.*

*PRESIDING JUDGE – Raffaele Sollecito and Amanda Marie Knox.*

*WITNESS – Raffaele Sollecito I think was actually outside.*

*PUBLIC MINISTER – They were outside?*

*WITNESS – Yes.*

*PUBLIC MINISTER – Sollecito, where was Amanda?*

*WITNESS – Sollecito yes, Amanda I don't remember.*

*PUBLIC MINISTER – But was she there in front of the door?*

*WITNESS – No, no, no.*

*PUBLIC MINISTER – She was surely not there.*

*WITNESS – No, in front there were [just] the four of them.*

*PUBLIC MINISTER – So she was probably in the living room?*

*WITNESS – Either in the living room or she was actually outside, you know.*

*PRESIDING JUDGE – When you say outside, outside of that environment or outside of the house?*

*WITNESS – Outside of the house itself.*

*PRESIDING JUDGE – Outside of the house.*

*PUBLIC MINISTER – So they certainly weren't there.*

*WITNESS – No. ( omissis )*

( pp. 70-72 of the transcripts hearing of February 6, 2009 before the *Corte di Assise* of Perugia – statement of Michele Battistelli).

Fabio Marzi, the other member of the State Police, reported on this point:

“ ( omissis ) *PUBLIC MINISTER – So, where were you? Where was Inspector Battistelli, where were the four youths Zaroli, Altieri, Romanelli, and Grande, and where were the two defendants.*

*WITNESS – okay so...*

*PUBLIC MINISTER –try to place them accurately at the moment when they're about to break down the door.*

*WITNESS – Right. When...*

*PUBLIC MINISTER – there's a hallway, right?*

*WITNESS – yes, so, I wasn't near the door the Inspector wasn't either. I was more off to the side with respect to the Inspector who was around the table, around the table positioned in the living room , at least that's where I think I saw him the last time that... in other words at that point in time. I was almost on the doorstep of the house.*

*PUBLIC MINISTER – almost outside.*

*WITNESS – almost outside, yes. Beside me was Amanda and Altieri is the one who actually...*

*PUBLIC MINISTER – Right, excuse me, before we go further, not to interrupt you, but before going further: where was Sollecito?*

*WITNESS – Sollecito I don't remember him there at the moment.*

*PUBLIC MINISTER – Did you see him inside?*

*WITNESS – no, we were all together, on the door, to work on the ... on...the opening, you know, to force the door down, there was Altieri and...*

*( omissis )*

*WITNESS – there was Altieri and the other young man whose name is Zaroli.*

*PUBLIC MINISTER – Who else? Continue.*

*WITNESS – That's it, just the two of them.*

*PUBLIC MINISTER – Who was further out? I mean, Altieri was in front, right? In front of the door.*

*PRESIDING JUDGE – Altieri and?*

*WITNESS – Altieri and Zaroli, the other young man who arrived.*

*PRESIDING JUDGE – Continue with this photo representation.*

*WITNESS – yes, the location of the Inspector with respect to them was further back.*

*PUBLIC MINISTER – So hold on, let me understand. Altieri was in front of the door.*

*WITNESS – Yes.*

*PUBLIC MINISTER – Where was Zaroli?*

*WITNESS – He was beside him, he wasn't very far from him.*

*PUBLIC MINISTER – To his left or his right?*

*WITNESS – whether he was on his left or right I don't remember. Again, I was off to the side, I didn't get a good look.*

*PUBLIC MINISTER – Where were Romanelli and Grande?*

*WITNESS – Romanelli and Grande, I think, were inside the house, but more or less where the Inspector was, in the living room, something like that.*

*PUBLIC MINISTER – I see. So the two youths, Altieri and Zaroli. were there in front of the door.*

*WITNESS – Yes.*

*PUBLIC MINISTER – and then Battistelli was in the living room.*

*WITNESS – Yes.*

*PUBLIC MINISTER – Grande, if I understand correctly, and then on the outside, let's go back to what I was talking about before, on the outside, almost on the outside there was you with Amanda.*

*WITNESS – Yes.*

*PUBLIC MINISTER – [And] Sollecito?*

*WITNESS – I don't know where Sollecito was at that moment.*

*PUBLIC MINISTER – Okay, here we are. At a certain point the door is broken down.*

*WITNESS – Yes.*

*PUBLIC MINISTER – What happens when the door is broken down? Who breaks it down?*

*WITNESS – Altieri.*

*PUBLIC MINISTER – And what happens?*

*WITNESS – What happens is that we hear the screams of the people who see... “Meredith, Meredith!” because this foot was coming out from under this quilt and I looked out from the doorstep to see what was going on. In the meantime the Inspector had seen who was behind there inside the room and had removed everyone from the house. And together we removed everyone.*

( pp. 132-135 of the transcripts of the hearing of February 6, 2007 before the *Corte di Assise* of Perugia – statement of Fabio Marzi ).

Turning to the statement of Marco Zaroli, the witness reported:

“ ( omissis ) *PUBLIC MINISTER – okay here we are, so think [about it]: you're in front of the door to Meredith's bedroom, right? You were in front, who else was in front of the door?*

*WITNESS – exactly in front was Luca who was to my right, I was right to his left, Luca broke down the door by kicking.*

*PUBLIC MINISTER – Where were Amanda and Sollecito?*

*WITNESS – I remember when we opened the door and saw the body, after an impasse of a few seconds processing the whole thing I turned around to get out, I saw Amanda past the kitchen door, so she was in the kitchen at that moment.*

*PUBLIC MINISTER – in the kitchen. And Raffaele?*

*WITNESS – I don't know.*

*PUBLIC MINISTER – he wasn't in the hallway in any case?*

*WITNESS – no.*

*PUBLIC MINISTER – and not even in the kitchen at this point, if you didn't see him?*

*WITNESS – well but I had a view limited to the door.*

*PUBLIC MINISTER – so at the very least he was in the kitchen.*

*WITNESS – yes.*

( pp. 180-183 of the transcripts of the hearing of February 6, 2007 before the *Corte di Assise* of Perugia – statement of Marco Zaroli ).

Luca Altieri expressed himself thus:

“ ( omissis ) *PUBLIC MINISTER – now let's try to precisely indicate the position of the various people who were in front of the door. So there's Meredith's door..?*

*WITNESS – so, right in the ha...right in front of the door were Marco and I, while I tried to break it down.*

*PUBLIC MINISTER – right.*

*WITNESS – to the side, immediately to the left, were Paola, Filomena and the two postal officers. The position of Amanda and Raffaele I can't tell you where Amanda and Raffaele were, I can tell you where they weren't, that is they were certainly not in a position to look inside the room, and nor did they do so afterward, I don't think.*

*PUBLIC MINISTER – You mean, they were behind the two from the Postal Police or even outside the hallway?*

*WITNESS – I couldn't tell you.*

*PUBLIC MINISTER – you don't know. But anyway they weren't in a position to be able to see.*

*WITNESS – they weren't in the space where they could look in the room, but whether they were somewhere else or outside I don't know ( omissis )“*

( pp. 220-221 of the transcriptions of the hearing of February 6, 2007 before the *Corte di Assise* of Perugia – statement of Luca Altieri ).

As is easily seen from the statements recalled above, none of the persons present were in a position to place the two defendants in the moments preceding the breaking-down of the door to Meredith Kercher's bedroom. In particular, the postal police officers themselves had become separated inside the residence, and while Fabio Marzi was led by Amanda Marie Knox to look at the blood traces, Inspector Battistelli on the other hand followed the long conversation that was followed by the breaking of the door. It is a fact that in the excited moments preceding the breaking and during the breaking [itself], some four witnesses among the six persons present, excluding the defendants, were unable to physically place Raffaele Sollecito inside the apartment. Indeed, one of the police officers placed the defendant outside the apartment.

What this means is that this argument of a logical nature adopted by the first-level Judges does not withstand the simple finding that in the time before the discovery of the body none of those present, including the police officers, paid attention to the movements of Raffaele Sollecito, who thus had the possibility of removing himself from the view of those present, and making, in the span of a few minutes, the calls to his sister and to 112. It is indeed of significance that inside the cottage at Via Della Pergola no. 7, between 12:30 pm and 1:00 pm on November 2, 2007, the crowd of people that had been brought there all for different reasons, had created an appreciably confusing situation, which certainly prevented the police officers from paying attention to what each of the individual youths were doing.

And, moreover, it should be observed that neither Inspector Battistelli nor Officer Marzi had any need to keep track of those present, since, until the moment of the discovery of poor Meredith Kercher's body, their intervention could be considered a *routine* one, aimed at a simple inquiry on the misplacement of a cellular phone. To this it must be added that the arrivals were differentiated, in the sense that Battistelli and Marzi arrived first, [then] Paola Grande and Filomena Romanelli arrived next, and this kind of scanning would certainly add to the confusion among those present.

And in any case, a hypothetical argument, like that of the first-instance Judges, moreover not founded on objectively perceived facts, is not capable of invalidating the results on the timing of the phone calls, and the findings of a camera positioned in such a manner as to be able to record the accesses to the cottage.

Defendant Sollecito's defense has also put forth an argument centered on the fact that camera number seven had an unreliable clock, in the sense that the time recorded by the device did not correspond to reality. And this would be found by observing the recording of the passage of the car of the *Carabinieri* who intervened after the call to 112.

Raffaele Sollecito's defense [on this point] came about from the finding that, in the service report of September 29, 2008 recalled above, the police officer stated, in the concluding part, that the time on the device was ahead by 10 minutes with respect to the legal time, and thus all the times recorded, including that of the arrival of the postal police, which the camera recorded at 12:36:16 pm, should thus have been read as happening at 12:26:16 pm. The defense attorneys stated that at the hearing of March 2009, when the police officer was heard expressly on the reasons for this statement, he had admitted that he did not remember the episode, but that was certainly mistaken when he referred to the so-called "*legal time*". The defense had thus proceeded to an independent investigation, which had shown that the time on

the camera was indeed wrong, but in exactly the opposite way; that is, the time needed to be increased by 10 minutes. This finding derived from a specific circumstance that was given weight. It could be verified that the time in which the *Carabinieri* car appeared for the first time was indicated by the video camera as 1:22:38 pm, and this time was contradicted by the fact that the *Carabinieri* had contacted Amanda Marie Knox's telephone unit at 1:29 pm in order to have it explained to them exactly where the entrance to the cottage was located, since they were having difficulties in finding it. Consequently, if at 1:29 pm the *Carabinieri* car had not yet found the entrance to the cottage, it could not have been recorded at 1:22:38 pm at the entrance to the cottage itself; so that there was proof in the record that the camera indicated a different time from the actual one; but was behind and not ahead.

The Court observes that this reconstruction by the defendant's attorneys, although suggestive at first glance, is in fact misleading, because it is founded on undemonstrated assertions and an erroneous calculation.

In the first place, the passage of the *Carabinieri* car at 1:22:38 pm can hardly be identified as the only passage made by the car, which evidently made various passages before [its occupants] resigned themselves to calling their headquarters to ask for an explanation on how to find the location of the intervention.

In the second place, it would have to be asserted that the call made at 1:29 pm to the unit of Amanda Marie Knox took place contemporaneously with the first passage of the *Carabinieri* vehicle captured by the camera. Only in this way, indeed, can we appreciate the approximately seven minutes of difference that would constitute the imprecision of the camera. However, not only does nothing tell us that this coincidence actually happened, but we have in the record the testimonial finding that it did not. It was not in fact the *Carabinieri* in their squad car who called Amanda Marie Knox's cellular phone directly, but [rather] they contacted headquarters, as is standard procedure, and were put into contact with the young woman. A bit of time thus elapsed from the moment when the *Carabinieri* arrived in the vicinity of the cottage to when they made the call to obtain the exact indication of the address; with the consequence that the 6:22 of difference calculated by the Sollecito Defense must be reduced further.

But even if one wanted to claim that the camera's time was ahead by 6:22 (because this, and nothing else, is what emerges, if we grant everything, from the time discrepancy revealed by the defense) the times of the calls do not agree with the proposed defense line either.

We would in fact have to maintain that the postal police arrived at the cottage not at 12:36:16 pm of November 2, 2007, but rather at 12:42:38 pm. This, still nine minutes before the first call to 112 recorded at 12:51:40.

And, on the other hand, the police officers who intervened, Inspector Battistelli and Officer Marzi, have always stated that precisely due to the difficulty of finding the entrance to the residence, Inspector Battistelli got out of the car and started off on foot while his colleague set about the task of parking the vehicle.

Therefore, even if we were to consider the defense's point about the imprecision of the time on the camera as well-founded, and if we were to maintain that Inspector Battistelli was wrong by a quarter of an hour when he looked at the clock to find the time to be inserted in the service log, there still remains a discrepancy of some nine minutes between the time when

the 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 nature that rule out the possibility that Inspector Battistelli and his colleague arrived at the cottage on Via Della Pergola around 1:00 pm on November 2, 2007, as claimed by defendant Sollecito's attorneys.

We know with certainty, in fact, that, even disregarding the time, Inspector Battistelli together with his colleague arrived at the cottage on Via Della Pergola when the two defendants were still by themselves, and Inspector Battistelli saw them seated outside the residence; neither Filomena Romanelli nor her friend Paola Grande, nor their two boyfriends 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 (calls of 12:12:35 pm and 12:20:44 pm ) managed to speak with Amanda Marie Knox, and the testimony gives us a sense of her call:

“(omissis) *QUESTION – So there were other calls?*

*ANSWER – Yes, I tried to call Amanda right away but she didn't respond and I got agitated a bit more.*

*QUESTION – What time was it, roughly?*

*ANSWER – Now everything starts going really fast, let's say, everything overlaps in my memory because I tried, if I'm not mistaken in the end I spoke with Amanda two or three times, I tried to call her back, she responded, I asked her what had happened and was sincerely hoping for a positive response that everything was OK, something like that, but she said that in my room there the window was broken and everything was a mess and to come to the house, that is to go to the house and I said to her “Call the Carabinieri, call somebody, I'm at the fair now, I'm taking the car and coming to the house right away”.*

*QUESTION – And how did Amanda reply to the invitation to call the Carabinieri...*

*ANSWER – Yes, yes.*

*QUESTION – In other words I'll do it?*

*ANSWER – Yes, she said yes, yes.*

*QUESTION – So, the reference to the room being in a state of disorder, this was made in the last or in the second call?*

*ANSWER – Yes, not right away.*

*QUESTION – At what time roughly, try to place these...Even if I understand.*

*ANSWER –Everything was very fast, maybe not even at half past 12, I don't know so it was all very fast, I wasn't looking at the time, between a quarter past 12 quarto and half past 12 ( omissis )”.*

( pp.. 36-8 of the transcriptions of the hearing of February 7, 2009 before the Corte di Assise of Perugia – statement of Filomena Romanelli).

From the chronological succession it thus emerges that at 12:34:56 pm on November 2, 2007, Amanda Marie Knox received the last telephone call from Filomena Romanelli, to whom she reported the situation of disorder found in her bedroom, and the two girls agreed that something serious had happened, that probably some stranger had penetrated into her room with the obvious aim of perpetrating a burglary. Filomena Romanelli, understanding the seriousness of the situation that had been represented to her, recommended to Amanda Marie Knox that she call the *Carabinieri* right away and told her that she, who was at a country fair not far from Perugia, would immediately return to the house. The first call to the *Carabinieri* made by Raffaele Sollecito bears the time of 12:51:40 pm, that is, about a quarter of an hour after Romanelli's last call.

Neither of the defendants has ever explained, in their defense case, what happened, or rather, what supposedly happened during those 15 minutes in which both of the youths were at the Via Della Pergola residence alone, since, according to their defense case, the police had not yet arrived; neither had Marco Casoli and Luca Altieri.

But the behavior of the two defendants is especially hard to explain.

Once they had discovered the burglary, the blood traces, the open door, and the locked door to Meredith's room, and once Filomena Romanelli had urgently asked Amanda to call the *Carabinieri* right away, why was there ever any need to wait a further quarter of an hour to make a call to 112? But above all we are not given to know, because no one has explained it, why in the world Raffaele Sollecito, before making a call to 112, in a situation which manifestly required the intervention of the police, called his sister, at the time an official of the *Carabinieri*, at 12:50:34 pm. In those conditions there was no advice to be received on what to do. From 12:35 pm it was clear that the police force had to be called; and indeed Filomena Romanelli had said as much. We are thus not given to know what Amanda Marie Knox and Raffaele Sollecito were up to for a whole quarter of an hour (a significant and very long time to spend, if their state of mind had been one of understandable anxiety) before deciding to call 112. No one has ever explained it.

In conclusion, the reconstruction of the events of the morning of November 2, 2007 provided by the defendants is not only without any objective confirmation in what emerges from the records, but especially without any explanation of a logical nature.

The behavior of the two defendants appears wholly disconnected from any conduct consequential to what they respectively verified inside and outside the cottage.

It is thus reasonable to attempt a reconstruction of what actually happened on the morning of November 2, 2007, more closely adhering to the facts in the record, and in line with the evidentiary framework already explained in the preceding paragraphs.

Amanda Marie Knox and Raffaele Sollecito made a first call from their residence to Meredith's English unit, in order to verify that the phones, thrown during the night in an open field (or what they believed to be an open field, anyway) had not been found.

From Raffaele Sollecito's residence, and not from Via Della Pergola as Amanda Marie Knox expressly stated by telephone to Filomena Romanelli, the latter was alerted in order to induce her to return to the residence, where Meredith's body was to have been discovered, not by Amanda Marie Knox and Raffaele Sollecito, but in the presence of other witnesses, who

would have been able to lend credence to the staging of the aggressor's furtive entrance via the window of the bedroom used by Romanelli.

At 12:32:56 pm on November 2, 2007, the two defendants were reached by phone by Romanelli to whom they communicated the supposed burglary, which prompted her return to the cottage. A few minutes elapsed during which the two defendants were probably deciding what to do, when the unexpected arrival of Inspector Battistelli created a sudden disturbance. The police were not expected, because no one had yet called the police, and the two defendants were not aware of the reasons for the intervention.

Amanda Marie Knox and Raffaele Sollecito thus were faced with a situation that they had not foreseen, which was not planned, and which required that counter-measures be taken immediately. The officers were thus directed to what was to have seemed like the scene of a burglary, and were reassured that the *Carabinieri* had already been alerted, and that therefore their intervention was not absolutely necessary. But the two policemen had not shown up there by chance, since they were looking for Filomena Romanelli, who lived there, and thus did not leave. They remained on the scene for the arrival of Romanelli, her friend Paola Grande, and the boyfriends of the two girls. In the meantime Raffaele Sollecito made the calls to 112, preceded by that to his sister, while Amanda Marie Knox, at 12:47:23 pm, called the American unit of her mother, with whom she spoke for 88 seconds.

It is to be pointed out that no one kept track of the movements of the two defendants in the half-hour that elapsed from the arrival of Inspector Battistelli to when, presumably around one in the afternoon, the door to Meredith Kercher's bedroom was broken down and the body was discovered. This can be deduced from the witness statements recalled above, but also from the fact that the situation which presented itself in the eyes of the police officers was that of a probable burglary that occurred in the night, and the postal police had not intervened to perform an inspection in relation to that crime, but to conduct an inquiry which entailed making contact with Filomena Romanelli.

It was essentially a situation of relative calm, in which the telephonic activities of the persons present might indeed escape one's attention. Until Meredith Kercher's body was discovered.

This in essence is what the Court holds to be the most reliable reconstruction of the events of the morning of November 2, 2007, a reconstruction that further enriches the evidentiary framework that leads one to affirm the criminal responsibility of the defendants in the murder of Meredith Kercher.

## **Section 6**

**The genetic investigations of the evidence. Pg. 175-250.**

## **Section 7**

[Translation by Luca Cheli]

**Shoe prints, footprints, and hand prints. Pg. 250-263.**

The shoe prints and the traces of bare feet left through deposition of hematic substance inside the house at 7 Via della Pergola are an additional extremely important element of assessment in the context of this trial.

The specific findings of the scientific police have been extensively debated during the first instance trial, while they have not been and have not been the object of an in-depth analysis nor in the appeal proceedings held before the Court of Assizes of Appeal of Perugia, nor in the present re-trial; this because the material gathered by the law enforcement, assessed by two separate technical experts' reports arranged by the Public Prosecutor and by the technical reports of the consultants of the parties, who have extensively discussed on said material in the first instance trial, constitute, in the opinion of this Court, a summary sufficient to make an assessment of relevance in order to ascertain penal responsibilities in this trial.

It must be preliminarily pointed out that a part of the findings is made of footprints visible to the naked eye and collected, at least as photographs, up from the first inspection of November 2, 2007. Moreover to such material must be added the one photographically collected on December 18, 2007, when luminol was sprinkled inside the cottage, thus highlighting those traces of hematic origin (see in this regard what this Court stated in the section on genetic investigations with regard to the evidence obtained through the luminol).

All these traces were examined by the scientific police – and in particular by the forensic department that specifically deals with the personal identification through evaluation of plantar footprints – at two different times, and we could say with progressive specification of the investigation.

The prosecutor ordered, in January 2008, a first technical investigation and entrusted it to Dr. Lorenzo Rinaldi (engineer, chief technical director with the State Police, director of three sections that comprise the Identity Division of the E.R.T. of Rome) and to Chief Inspector of Police Pietro Boemia of the E.R.T. of Rome, with instructions to proceed to the comparison between the shoe prints found and photographed during the inspection of the Scientific Police at the house at 7 Via della Pergola between 2 and 5 November 2007, and a series of shoes retrieved inside the bedrooms respectively of Amanda Marie Knox and Meredith Kercher, or otherwise seized at the homes of Raffaele Sollecito and Rudy Hermann Guede.

It should be immediately made clear that the object of this first technical investigation entrusted to the two police officers was also a scientific re-assessment of the results of a previous experts' report carried out by the scientific police already in November 2007 on the exhibit labeled 5 A), and consisting of a shoe print, impressed by the deposition of blood, and found in the room of the British student, near the corpse, facing in the direction of the exit from the room, and that an initial technical advice had attributed to defendant Raffaele Sollecito.

The two officials then proceeded to the investigation requested and deposited a technical report in April 2008; technical report which was then discussed at a public hearing and in the context of cross-examination before the Court of Assizes of Perugia on May 2009.

It is appropriate to specify that, in order to carry out the technical investigation, the consultants had the availability of a good quantity of footwear, nearly all seized inside the houses of the defendants and of Herrmann Rudi Guede, except for a pair of shoes that had been purchased brand new by the law enforcement to carry out laboratory analysis, as a result of the retrieval, inside the apartment of Rudi Hermann Guede, of the container box, which

reported the model, make, and the size of the shoes, without on the other hand finding the pair of shoes, which apparently had been “made to disappear” by the then defendant, today definitively convicted.

An inspection was then made on the photographic material collected by the scientific police.

Regarding the samples of the shoes used for the comparisons, they were a shoe model Nike “Air Force 1” size 9 (corresponding to n. 42.5) seized to Raffaele Sollecito, a Skechers shoe size 7 (corresponding to the number 37) belonging to Amanda Marie Knox, a Adidas shoe model “Universal” size 10 (number 44) taken from the house of Rudy Hermann Guede during the search and inspection that took place on November 16, 2007, and finally a Timberland shoe, model “RLLTP Camo Wheat” number 11 seized at the home of Rudy Hermann Guede on November 21, 2007. Finally the police, as previously said, had purchased a pair of shoes model “NIKE OUTBREAK 2” size 11 (number 45) whose box had been found inside Guede’s apartment..

Through the use of these samples was then carried out, at this first stage of the investigation and during this first consultancy assignment , the examination of the prints detected by the scientific police during the survey inside the house at 7 Via della Pergola, survey performed between 2 and 5 November 2007, and marked with the letters F, C, J, Y, I, H, and with the numbers 2,3,5 / A, 5 / B, 5 / F.

In particular, attention was also paid to the prints left by deposition of blood on the pillow placed by the attackers under the by then lifeless body of Meredith Kercher, prints classified by the scientific police with photo numbers 104 and 105 in the report of the Latent Print Highlighting Section of the E.R.T.; the attention was also directed towards some traces that could be related to footprints [left] by deposition of hematic substance found on a postcard collected as evidence inside the room of Filomena Romanelli, as well as on some presumed prints imprinted on papers and found inside the room of Meredith Kercher; finally, some shoe prints found at the apartment of Rudy Hermann Guede at 26 Via del Canerino, and specifically in the bathroom, were also examined.

It seems fit to clarify since now, giving an account of the results of the investigation made by Dr. Rinaldi and Chief Inspector Boemia, that they did not confirm the attribution of the shoe print corresponding to exhibit 5 A) to defendant Raffaele Sollecito, as it had previously been believed on the basis of the findings of the scientific police, even in the pronouncement about preventative detention issued by the Court of legitimacy [Court of Cassation] of April 1, 2008, concluding instead for the compatibility of the shoe print 5 A) with the shoe model “NIKE OUTBREAK 2” size 11, which was certainly in used by Rudy Hermann Guede, given that at the Ivorian’s apartment the box corresponding to such a specimen of footwear had been found. And not just for this latter finding.

Indeed according to the checks performed in the meantime at the home of Rudy Hermann Guede, the comparison between the two shoe prints found in the bathroom and the aforementioned shoe model had led Rinaldi and Bohemia to assess that the shoes “NIKE OUTBREAK 2” size11 had been actually used in the house by the then defendant Rudi Herrmann Guede.

At the same conclusion – that is the non-attribution of the shoe print labeled with the number 5 A) to defendant Raffaele Sollecito – had indeed already arrived Professor Francesco Vinci, associate professor of Forensic Medicine at the University of Bari, and director of the

University Center of Forensic Ballistics of the same university, who on January 15, 2008, drew up the first of several technical reports, concerning the imprint of the sole of the shoe “5 A” found for deposition of hematic substance near the body of Meredith Kercher.

The Raffaele Sollecito’s defense consultant, after having critically reviewed the findings of the judicial police previously carried out on the same shoe print, had clearly stated in his report, that the Nike shoes mod. Air Force 1 Low size 9, belonging to Raffaele Sollecito, should be regarded as extraneous to the trace in question, since the edge of the shoe left an imprint of the crawler type, with a characteristic pattern, which was absent in the sample under examination, while the traces of the shoe print were adequately compatible with the pattern of the sole of the other Nike model, the model Outbreak 2, owned by the then codefendant Rudy Hermann Guede. The remark was clearly correct.

It must be observed, to conclude on the specific point, that the conclusions of the Rinaldi-Boemia expert report, reached without having knowledge of the conclusions attained by the party consultant Prof. Francesco Vinci since January 2008, when evaluated together with the conclusions of the defense report written by Prof. Vinci, constitute undoubtedly an ascertained element of the trial, in the sense that the impossibility of attributing to Raffaele Sollecito the shoe print labeled 5) is a fact ascertained in trial; as it can be considered established in the trial the attribution of said shoe print to the footwear surely donned by Rudi Hermann Guede the evening when the latter participated in the attack and murder of Meredith Kercher.

But the survey made by the two consultants Rinaldi-Boemia was not restricted to the examination of trace 5 A), as the same had been tasked with the investigation of a plurality of exhibits.

The two technicians reached hence, in April 2008, the following conclusions of great interest in these proceedings:

- Exhibits F and H (living room), 2 and 3 (corridor): the technicians came to a judgment of probable identity between these findings and the left shoe of Guede’s Nike “OUTBREAK 2” size 11;

- Exhibits 5 / A, 5/11, 5 / C (found near the body of Meredith Kercher, the three prints labeled as 5 / C were observed very close to the outer edge of Meredith Kercher’s jeans sticking out from the blanket that covered the body): similar judgment of probable identity with the abovementioned left shoe;

- photo 104 of the report by the Latent Fingerprint Highlighting Section (noticed on a pillow placed under the lifeless body of Meredith Kercher): judgment of probable identity with the sole of the right shoe Nike “OUTBREAK 2” Size 11 ( there is full compatibility with the marks left by the cleats of the brand new shoe purchased from a Nike official dealer)

- photo 105 of the Latent Fingerprint Highlighting Section (noticed on a pillow placed under the lifeless body of Meredith Kercher): this print was not produced by any of the shoes available as samples. The shoe print, in the absence of special marks, was deemed useful only to negative comparisons, rather than to an identity judgement. It was certainly a shoe print left by deposition hematic substance, and, due to the limited width of the heel and to the small size, was deemed compatible with a print of a female shoe, of size between 36 and 38 (except for what said afterward).

These are the results of the first Rinaldi-Bohemia survey, entrusted to them in January 2008, and whose written report was delivered in April 2008.

But on May 12, 2008, the Public Minister entrusted them with a new task, concerning the specific examination of the footprint on the blue mat found inside the small bathroom, for the specific examination of the shoe print portrayed in photo 105, as well as for the examination of the footprints found in the house on Via della Pergola with the luminol sprinkling technique during the inspection of December 18, 2007.

The two technicians of the scientific police filed their report on May 31, 2008, report in which they acknowledged having specifically examined the following exhibits highlighted by luminol:

- Exhibit 1) a footprint, highlighted by luminol inside the bedroom of Arnanda Marie Knox;
- Exhibit 2) that was formed by two footprints present in the corridor and oriented towards the exit;
- Exhibit 6) consisting of a shoe print found in the corridor toward the exit, found not useful for comparisons;
- Exhibit 7) consisting of a footprint oriented towards the entrance of Meredith Kercher's room.

The detected prints were compared with the reference footprints taken from the three suspects in the course of the body inspection performed on May 12, 2008, limited to the right foot since all of the footprints highlighted by luminol, and the footprint on the mat, were of a right foot.

Going ahead to the examination of the results, one has to preliminarily point out those concerning the footprint detected on the blue mat inside the small bathroom [Exhibit 9F), letter A)].

The two technical consultants proceeded to a preliminary verification of dimensional and morphological compatibility between the footprint imprinted on the mat and the corresponding part of Raffaele Sollecito's right foot [this is the right bare foot print labeled with the letter A), in which are visible in the big toe, the metatarsus and a portion of the plantar arch, the heel instead being completely missing] performing a measurement of the characteristic parts of the print that gave the following results: a width of 33 millimeters and a length of 39 for the big toe, while the metatarsus had a length [sic, but probably width] of 99 millimeters and a width [sic, but probably length] of 50. Moreover the two consultants observed that the bathmat print showed a good definition of the general characteristics of shape and dimension, even if the absence of the details present on papillary crests – these being highly individualizing elements – led them to deem the bathmat print useful for negative comparisons, but not for positive ones, being it possible to obtain a judgment of probable, but not certain, identity.

At any rate, the two consultant believed they found immediately and *ictu oculi* [something so evident that it *hits the eyes*] a characteristic of the footprint of defendant Raffaele Sollecito [which was] common to the print left on the mat: it was the noteworthy size in width of Raffaele Sollecito's big toe with respect to the comparable sizes of the then codefendants,

Rudi Hermann Guede and Amanda Marie Knox; in addition to the fact that defendant Sollecito's metatarsus is 99 mm in width, while the consultants found on the mat an identical size of 99-98 mm in width.

The analysis of the size of the big toe of Raffaele Sollecito's right foot, together with the analysis of the difference in the size of the plantar arc between Raffaele Sollecito's right foot and Rudi Hermann Guede's right foot, which appeared to be narrower than Raffaele Sollecito's foot, led the consultant[s] of the scientific police to formulate a judgment of compatibility between the print left on the blue mat and Raffaele Sollecito's right foot.

Consequently to the assessment of this first strong similarity between the print left on the mat and the defendant's right foot, Dr. Rinaldi and Inspector Boemia decided to proceed to further checks, superimposing to each print a *centimetered grid* called "*L.M. Robbins grid*", oriented in such a way as to have the vertical axis coinciding with the border of the defendant's right foot, while the horizontal axis was aligned with the top of the height of the big toe.

On the basis of such a method of analysis it was ascertained from the consultants that Raffaele Sollecito's plantar arc had a width of 40 mm, while the [width of the] plantar arc of the print on the blue mat was of 39 mm, this size of 39 mm being also the one found for the plantar arc of the right foot of Rudi Hermann Guede, whose foot however showed irreconcilable differences with respect to the print on the mat (see the tables 23 and following of the technical report filed in the trial documents).

Consultant Rinaldi clarified, under cross-examination, that an absolute correspondence of the measurements in the two categories of prints (footprints on the one hand and print on the mat on the other) could have never been achieved because the two prints had been imprinted in different conditions: the reference one with printing ink, and hence very sharp, while the other through deposition of hematic substance on the mat, it being well known that the presence of an important quantity of blood influences the width of the print.

At any rate, according to the results of the technical investigations performed, the differentiation between Raffaele Sollecito's right foot and Rudi Hermann Guede's right foot, according to the opinion of technicians Rinaldi and Boemia, was represented by the width of the big toe and by the shape of the metatarsus, adding to that the further differences found in the plantar arc, in the initial part of the heel, in the left [sic] profile of the foot [probably this means the profile of the left, i.e. internal, side of the right foot], and finally in the size of the bulges, as it can be seen from tables 27-28 of the report filed in the trial documents.

The aforementioned differences, together with the strong identities found between the print on the mat and the defendant's foot, led the scientific police to conclude in favor of the attribution of the footprint left on the mat inside the small bathroom of the cottage at 7 Via della Pergola to Raffaele Sollecito.

The results of the Rinaldi-Boemia forensic investigation were challenged by Prof. Francesco Vinci, technical consultant of the Raffaele Sollecito's defense, with specific reference to the print on the blue mat found in the small bathroom.

The defense consultant, going against the opinion of the scientific police's officials, hypothesized that the print left on the mat was not to be attributed to Raffaele Sollecito, but that it was completely attributable to the right foot of Rudi Hermann Guede; who, as already noticed previously, would have hence walked inside the apartment with the left foot donning a

shoe (shoeprint 5A) and a right barefoot. At any rate, since the circumstance cannot be considered unrealistic a priori, even if rather unlikely, Professor Vinci's objections must be accurately considered in their contents.

Professor Vinci reported having measured again from scratch Sollecito's reference footprints (the ones acquired through body inspection), with results substantially identical to those obtained by the ERT technicians, and of having also evaluated the results of an examination of the feet Raffaele Sollecito did on September 18, 2006 with a specialist in Acquaviva delle Fonti (BARI). The consultant then attributed relevance as elements very peculiar to Raffaele Sollecito's right foot, highlighted in the above mentioned examination, to the fact that the defendant did not lean the second toe because of a slight valgus of the right big toe, nor the first distal phalanx of the big toe.

Now, since the print on the blue mat showed the contact of the second toe, and with the assumption that the two aforementioned peculiarities would make Sollecito's foot morphologically characterized by absolute particularities, Prof. Vinci drew the conclusion that the print on the mat could not be attributed to defendant Raffaele Sollecito.

But there is more.

On the basis of a morphological investigation of the print on the mat, Prof. Vinci deemed the exhibit, because of general characters of size and shape, incompatible with the reference print taken from Raffaele Sollecito's right foot; and this due to the fact that the consultant gave an interpretation of the print left on the mat different from the one given by the scientific police.

On the mat one should indeed not get a 30 mm wide print of the big toe, but a much reduced one, of about 24,8 mm, obtained through the detachment of a blood particle, not considered anymore as being part of the big toe, but rather considered as a separate element; that is the print of the second toe, which should be totally absent in Sollecito's right foot.

Prof. Vinci, when performing measurements to compare the two elements ([print on the] mat, [reference] footprint of Sollecito), used he too the Robbins grid,, but with results of not compatibility between the compared elements, because of a positioning of the grid totally different from the one used by the scientific police.

This Court deems that Prof. Vinci's objections cannot be subscribed to for the following reasons.

First, the presence of Raffaele Sollecito's second toe in the print on the blue mat is not particularly important, since it could be due to the foot leaning on a soft surface, that gets modified by the pressure of the foot, causing that imprinting of the second toe one would not have on a rigid surface.

Secondly, the detachment of a blood particle, which is not considered as being anymore part of the big toe, and which is instead considered as a separate element, is an assessment made by the consultant which, being based on a merely perceptive datum, can be contradicted from a different perception. And indeed the global view of the print does not at all give to this Court the perception of the detachment of a part of the big toe; which in truth appears as solid in its imprinting.

It must be then observed that, even should one deem as real the detachment of the blood particle from the big toe, and deem it as being the contact of the second toe, a situation incompatible with Raffaele Sollecito's foot, the deriving footprint does absolutely not become compatible with Rudi Hermann Guede's foot, which shows a contact of the second toe distinct from the big toe, and whose foot is at any rate morphologically more tapered than Raffaele Sollecito's one.

In conclusion, having to be excluded, because of size, that the bathmat print may be referred to Amanda Marie Knox, and being incompatible with Raffaele Sollecito and Rudi Hermann Guede, according to the arguments of Prof. Vinci's expert's report, one should attribute the print to a fourth person, remaining unknown and evidently an accomplice of Rudi Hermann Guede, a circumstance incoherent and eccentric with respect to the whole spectrum of the data collected in the trial.

The consequence is that the alternative version, which would challenge the judgment of probable identity previously expressed by the scientific police, is deemed not viable, while the judgment, if anything, finds support in the interpretation of the datum in light of the overall information gathered during the proceedings.

It was then examined the print on the pillowcase found below the body of Meredith Kercher (photo 105).

According to the technical expertise of Dr. Rinaldi and of Chief Inspector Boemia, said print was not made by any of the seized shoes used as reference, and hence the print, for lack of peculiar marks, was deemed useful only for negative comparisons.

The technicians of the scientific police could however assert that it was a print made by deposition of hematic substance and they hypothesized that the print had been made by the heel and central part of the sole of a left shoe, which, because of the limited width of the heel and of the small overall size, was deemed being a female shoe print, of 36-38 number size. Inspector Boemia, during his cross-examination in front of the Court of Assizes of first grade, confirmed that the print shown on photo 105 could not correspond to one left by a male shoe, because of the different size in width, it being given that a male shoe would be about 60 mm wide.

The conclusions obtained by the two technicians of the scientific police were however again vehemently challenged by Prof. Francesco Vinci, who, thanks to a detailed study, concluded in favor of the probable correspondence of the print left on the pillowcase with the sole of the left shoe, model Nike Outbreak mod. 2, donned by Rudi Hermann Guede. So, according to Professor Vinci, the print was left by the shoe-wearing foot of codefendant Rudi Hermann Guede, the left one, with the result of excluding from the crime scene the presence of an accomplice wearing a shoe of a necessarily small size, and in any case of a person different from the convicted Rudi Hermann Guede.

Indeed, as already observed by the Court of Assizes of first grade, it cannot be excluded that the pillow leaning on the floor was trampled by the left shoe-wearing foot of Rudi Hermann Guede, hence with the exclusion of a foot of smaller size, like the one of defendant Amanda Marie Knox, since surely, the pillow having a non-rigid structure, the fabric of its pillowcase could have been not perfectly stretched, but on the contrary soft and easy to get folded, so that in the frenzied moments after the murder it [the pillow] could have been trampled by a shoe-

wearing foot that not necessarily left a clearly identifiable print, like the one usually left when treading on a rigid surface.

### The luminol enhanced prints

During the second inspection at the cottage at 7 Via della Pergola, performed by the ERT of the Scientific Police on December 18, 2007, luminol was sprinkled on selected areas of the floor; in some of the rooms of the cottage in the corridor of the apartment, in the kitchen-living room, in the bedrooms of Amanda Marie Knox and Filomena Romanelli, and finally in the big bathroom of the cottage. Luminol highlighted footprints and only one shoe print. The pictures were taken by the scientific police using a tripod, to prevent the shaking of the camera, and without the use of *fluorescent metric ribbons*.

Dr. Rinaldi pointed out during his cross-examination that the prints highlighted by luminol were characterized by the absence of a metric reference, since the photographs had been taken in a condition of total darkness, and that hence it had been necessary to devise on the photos a sure metric reference using the method of comparison between two exhibits, Exhibit number 5), for which a metric ribbon leaning on the floor had been used, and Exhibit number 2), [whose photo had been] taken in a condition of total darkness. The comparison between the two exhibits allowed to obtain a metric reference also for pictures taken in the dark.

The consultant subsequently clarified also that, since the photos had not been taken by the police officer in a condition of perpendicularity [of the camera] with respect to the floor, it had been necessary to perform a correction of perspective, aimed at making the image exactly identical to the real dimensions.

The luminol-positive exhibits considered in the technical investigation were:

- a) Exhibit 1) situated in the bedroom of Amanda Marie Knox and made of a right footprint, likely imprinted by deposition of hematic substance, whose big toe (22 mm wide), third toe (17 mm long) and metatarsus (80 mm wide) and finally [also] a portion of the plantar arc, are visible. Said exhibit was deemed useful exclusively for negative comparisons.
- b) Exhibit 2), situated in the corridor of the apartment and made of a right footprint, likely imprinted by deposition of hematic substance, exclusively useful for negative comparisons (big toe 28 mm wide; metatarsus 95 mm wide and 55 long; heel 58 mm wide, with a total length of the luminol-positive print of 245 mm).
- c) Exhibit 6) made of a shoeprint situated in the corridor, oriented towards the exit. Lacking the metric reference necessary to find the correct size [of the print], this print was deemed not useful for any comparisons.
- d) Exhibit 7) made of a footprint likely imprinted by deposition of hematic substance, and situated in the corridor, right in front of the door of Meredith Kercher's room and oriented towards it. The print was deemed useful exclusively to negative comparisons. The dimensions of the luminol-positive print were: big toe 22,4 mm wide, metatarsus 78 mm wide, heel 43 mm wide.

The consultants Rinaldi and Boemia, after having performed the comparisons between the dimensions of the prints detected by the luminol technique and the dimensions obtained from the [reference] samples taken from the defendants [where the length of the right plantar print

of Raffaele Sollecito is 244 mm long with a big toe 30 mm wide, a metatarsus 96 mm wide and 57 mm long, and a heel 57 mm wide; for what concerns the right plantar print of Amanda Marie Knox the big toe is 22 mm wide, the metatarsus 76,7 mm wide and the heel 43 mm wide] concluded for the compatibility of the prints of Exhibits 1) (in Amanda's bedroom) and 7) (in the corridor outside Meredith Kercher's room) with Amanda Marie Knox's right foot and for the compatibility of the print of Exhibit 2) with Raffaele Sollecito's right foot.

In particular, Dr. Rinaldi pointed out the aspects of dissimilarity between the luminol positive Exhibits 2) and Rudi Hermann Guede's right foot, since in the plantar print of the latter (on page 19 of the report concerning the perspective correction) a different foot length, a narrower width of the heel, a smaller length of the big toe and finally a different width of the metatarsus were noted.

The results of the Rinaldi-Boemia experts' report were challenged by Prof. Francesco Vinci, technical consultant of Raffaele Sollecito's defense, with specific reference to the luminol-positive Exhibit 2), for which the scientific police had expressed a judgment of probable identity with Raffaele Sollecito's right foot.

The consultant performed a comparative morphological examination between the print of Exhibit 2) and the [reference] one taken from defendant Raffaele Sollecito, remarking irreconcilable differences, like the contact of the second toe, which would be present in the luminol-positive print, besides the contact of the big toe's first phalanx, missing in Raffaele Sollecito [s foot].

However, also in this case, the perception of the images shows an absolute morphological similarity of the two prints once rescaled to the same size, hence this Judge cannot agree with the party [defense] consultant [Vinci], also in light of the sizable dissimilarity between traces made by a foot resting on a flat rigid surface and in static conditions and those made in dynamic conditions.

In conclusion the shoe prints and the footprints made by deposition of hematic substance inside the house at 7 Via della Pergola, if surely allow only a probable and not certain attribution to the defendants, nevertheless confirm the datum [conclusion] already highlighted since the first contact with the evidentiary material of this proceeding, namely that Meredith Kercher's murder was perpetrated by several people, a woman certainly being among them [cfr. Exhibit 7) attributed by consultants Rinaldi and Boemia to defendant Amanda Marie Knox, without being substantially challenged], who remained for a long time, after the murder, in the house, with the evident aim of erasing the traces of their presence. An operation which was only partially possible.

At the outcome of the examination of the evidentiary material on hand it can hence be confirmed the judgment of total unreliability of the defendants' defensive thesis, according to which the murder of Meredith Kercher was perpetrated by Rudi Hermann Guede alone.

## **Section 8**

**The attempt to pollute the evidence in the appellate court. The testimonies of witnesses Aviello and Alessi. Pg. 263-289.**

## **Section 9**

**The testimonies of Rudy Hermann Guede. Pg. 289-308.**

## **Section 10**

**Conclusive evaluations. Pg. 308-328.**

From the results of the analysis of the entire body of evidence, this Court finds it possible to develop some conclusive considerations.

Each piece of evidence from the entire body of evidence that was been obtained from the proceedings, of absolute consistency in their quantity and significance, was singularly evaluated and analyzed by this Court with the articulated treatment that verified their part in the context in which the homicide occurred. None of the clues examined individually resulted eccentric, by nature or by significance, in respect to the means of their cause. It is also useless to go over them individually again in this circumstance. It would be a useless weighing down of this report. The assignment of this concluding paragraph is instead to evaluate altogether the circumstantial clues collected and already evaluated as conferring, in order to verify, by examining them together, if there emerges a probative picture of unequivocal significance that affirms the criminal responsibility of the defendants of the murder of Meredith Kercher, beyond a reasonable doubt.

Confirmation of the criminal responsibility of the defendants of the crime ascribed to them can be reached only if there is no reasonably reliable explanation other than the theory that emerged in the investigation of their personal involvement in the crime. Doubt over the significance of the circumstantial evidence that would justify an acquittal of the defendants must be reasonable, and not just a hypothesis unsupported by any objective evidence. The truth that emerges from the probative picture must be ascertained with exclusion of any reasonable explanation of the means of their cause that is different than the involvement of the defendants.

This Court affirms that an alternate explanation of the causes of the circumstantial evidence, for how they were ascertained in the proceedings, is not conceivable, and that the body of evidence, if evaluated critically, inevitably affirms the criminal responsibility of both the defendants of the crime ascribed to them.

One must then proceed to the reconstruction of the events of the evening of November 1st, 2007 exclusively using that which was ascertained from the proceedings and that which one may obtain from the procedural material of a declarative nature, as well as that which results from the technical investigations that took place in the course of the trial.

It is proven that Meredith Kercher, who had spent the afternoon at the house of her British friends looking at photographs and some videos having to do with the past night of Halloween, returned home around 9:00 p.m. in the evening. At that time no one was present in the cottage of Via della Pergola. The proposal by the defense that by 9:00 p.m. Rudy Hermann Guede would have already been present within the cottage via the window in Filomena Romanelli's bedroom has already resulted, from a detailed analysis, to be unfounded.

The British girl arrived home and entered using the keys that she had at her disposal. Laura Mezzetti and Filomena Romanelli were both distant from the cottage (Laura Mezzetti gone

from Perugia even) while Amanda Marie Knox was at Raffaele Sollecito's house, presumably together intent on watching the film previously downloaded from the internet.

Both the defendants only by 8:00 p.m. of the evening of November 1st, 2007 were aware that they could spend the night together. In fact, Amanda Marie Knox, who had left Sollecito's apartment to go to Patrick Lumumba's pub where she was to work for the whole evening, received a text from Lumumba communicating to her that she didn't have to work that night at the pub. The girl then returned to Raffaele Sollecito's home. He then received a communication at 8:30 p.m. that there was no longer the necessity that he accompany his friend, Popovic, to pick up a suitcase from the bus station at midnight that had been sent to her by her mother.

Around 9:00 p.m. on the evening of November 1st, 2007, therefore, without it having been possible before, but by coincidence, both the defendants had the possibility to spend the evening together.

The last certain evidence of the presence of both of the defendants in the apartment of Via Garibaldi #130 consists in the human interaction on Raffaele Sollecito's computer around 9:20 p.m. that night, presumably by Sollecito himself. Then, until 5:30 a.m. the morning after, when Raffaele Sollecito's computer in his apartment at Via Garibaldi #130 was again solicited by human interaction, neither of the defendants provided reliable indications of where they were.

The witness Curatolo placed them in Piazza Grimana already from 9:30/10:00 p.m. of that evening, where the witness claimed to have noticed them many times until 11:00/11:30 p.m. of the same evening; a circumstance that the Court holds to be reliable for the reasons already expressed.

One must immediately observe that Piazza Grimana was a few tens of meters from the entrance of the cottage of Via della Pergola; a cottage that can be observed by leaning on the railing that borders the piazza, and from which Curatolo saw Raffaele Sollecito lean, evidently interested in what was happening around the cottage.

A first fact that can be inferred from the procedural acquisitions is that both the defendants from 9:30/10:00 p.m. on the night of November 1st, 2007, were stationed a few tens of meters from the cottage which Meredith Kercher had already entered, around 9:00 p.m.

Amanda Marie Knox was the only person, other than Meredith Kercher who was in the apartment and the other housemates Laura Mezzetti and Filomena Romanelli who were far away from the cottage, to have access to the keys to the house. It doesn't result from the facts that any other person was also in possession of them.

We know for certain that the evening of November 1st, 2007 Rudy Hermann Guede was present inside the cottage of Via della Pergola, and not only because this was affirmed in his conviction and also by his own testimony, but also based upon the investigations of the judicial police inside the cottage and evidence they deposited. Just as we know with certainty that Rudy Hermann Guede remained in the cottage for a considerable period of time with absolute tranquility, seeing as he left his "traces" in the big bathroom of the apartment.

We know for certain, because the probative picture allows it, that immediately after the murder within the cottage of Via della Pergola there were three persons present, certainly two

men and a woman. This is confirmed by the genetic investigations and from the results of the traces revealed by luminal. We can also affirm that one of the men, who stepped in Meredith Kercher's blood, left a visible trace of his foot on the blue bathmat found in the small bathroom of the apartment. This footprint was attributed by the investigators, an attribution that this Court agrees with based on the already developed considerations, to the right bare foot of Raffaele Sollecito. One of the footprints revealed by luminal was attributed by the judicial police to a female foot corresponding, by measurement, to that of Amanda Marie Knox, just as the mixed traces of DNA in the small bathroom of the apartment were attributed to Amanda Marie Knox (sink, bidet and Q-tip box).

We have altogether probative elements of certain reliability, that are numerous and concordant, that place Rudy Hermann Guede, Amanda Marie Knox and Raffaele Sollecito within the apartment of Via della Pergola the evening of the murder of Meredith Kercher, and in the immediate phases after the murder, when the three left traces of their presence by stepping in the blood of the victim that poured copiously from her wounds.

From the examination of the testimonies discussed, and noted by the girl's British friends, there emerges with reasonable reliability the fact that Meredith Kercher, the evening between November 1st and 2nd, 2007, did not have an appointment with Rudy Hermann Guede, contrary to his own testimony. The girl, at the moment of leaving her friends' house, with whom she had confidence and to whom she had not mentioned any appointment with Rudy Hermann Guede, had led them to believe she was tired, because the preceding night she had partied and the next day she had to study. One may therefore affirm that Rudy Hermann Guede entered into the apartment with the use of keys that, the night of November 1st, 2007, only Amanda Marie Knox and Raffaele Sollecito had at their disposal.

It's prudent to clarify at this point that the fact that Raffaele Sollecito had never before met Rudy Hermann Guede has scarce significance in the reconstruction of the events, because the connection between the latter and the defendant is constituted without a doubt by Amanda Marie Knox, who was Raffaele Sollecito's girlfriend and who had met Rudy Hermann Guede on more than one occasion.

In any case, what matters is not whether Rudy Hermann Guede entered the apartment with Amanda Marie Knox and Raffaele Sollecito or if Meredith Kercher opened the door for him (the only possible options, excluding the entrance via the window of Filomena Romanelli's bedroom); what's important is that, at a certain point, most likely between 9:30 and 10:00 p.m. the night of November 1st, 2007, both of the defendants and Rudy Hermann Guede were certainly within the cottage, and Meredith Kercher in her bedroom.

The development of the successive events necessitates a premise.

The prosecutor hypothesized in his closing arguments, specifically in relation to the motive of the murder, that it cannot be identified as a sexual aggression, but one that roots itself in a situation of conflict between the girls, a conflict that suddenly exploded the night of November 1st, 2007; and specifically by the fact that Meredith Kercher had blamed Amanda Marie Knox for having let Rudy Hermann Guede into the apartment, and he having made inurbane use of the apartment's bathroom.

With regard to the problematic issue of the motive, it is first of all prudent to remember the direction of the Court of Legitimacy, according to which the exact identification of the motive

of a murder loses its relevancy when the attribution of the responsibility of the defendant is derived from a probative picture that is precise and concordant.

Second of all, the motive of a grave, bloody crime cannot always be readily deciphered. It may certainly be when the crime occurs in the context of criminal association, or when the crime was committed with evident finality (profit, for example). But where instead, as in this case, one is working with the consummation of a crime completely detached from a criminal framework, but in all likelihood is rooted in motivations of a personal character or in instantaneous drives, the identification of the motive may become extremely complicated.

Motivations that drive multiple persons reunited to commit an act as grave as that of taking the life of another human being may not be united in character, in the sense that each of the accomplices may be the carrier of an accumulation of motives, some of which may be embedded in previous personal relationships, while others may respond to instantaneous drives of a communal nature, or also the simple adhesion to the behavior of the person to whom one is affectively tied.

The difficulty in pursuing an effective knowledge of the motivations that regulate human actions—in whose scope also enters the consummation of crimes—imposes an analytical approach that is as objective as possible. To effect an analysis of the facts that emerged during the trial for the sake of identifying a precise motive that would have driven the defendants, together with Rudy Hermann Guede, to the murder of Meredith Kercher, one must begin with an evaluation of a series of facts that, if evaluated together, may produce an indication of the reasons for which the murder was committed; without, however, the validity of that or any other motivation, reconstructed a posteriori, minimally affecting the conclusion, in regards to the responsibility, derived in a unique manner from the circumstantial and incriminating evidence that emerged in the course of the trial and that were thoroughly investigated.

And so a first fact may be immediately perceived. Amanda Marie Knox and Meredith Kercher did not have a good relationship. Meredith Kercher, who conducted a very regulated lifestyle of study and spending time with her fellow British friends, and who had begun an intimate relationship with one of the young men who lived in the semi-underground apartment of the cottage, did not tolerate the way in which Amanda Marie Knox interpreted cohabitation of the same apartment. In particular it has arisen from witness statements that the British girl did not tolerate the fact that Amanda Marie Knox brought strange persons to the apartment, especially young men; she did not tolerate that Amanda Marie Knox used communal spaces of the apartment and didn't take part in the cleaning, such that in the last period of their cohabitation, it was necessary for the young women to construct a kind of schedule system for the performing of domestic chores.

Essentially, and looking beyond the scarce significance of the singular circumstances, once taken together in a greater context of relations, there is no doubt that the concrete behaviors of the defendant constituted reason for which she did earn the sympathy of Meredith Kercher.

The fact that the relationship between the American girl and the British girl was not idyllic is adequately illuminated in the testimonies of the British girls who were examined in the course of the first trial; and it is Amanda Marie Knox herself who, in her interrogation before the Court of Perugia, hinted at the difficulty of her relationship with the victim, if undervaluing the circumstance.

Lastly are the declarations made by Rudy Hermann Guede in the course of the interrogations made following his arrest. Guede claimed that Meredith Kercher, the night she was murdered, had discovered money was missing from her bedroom, and she immediately blamed the theft on Amanda Marie Knox. Regardless of whether or not the victim's blame of the American girl was justified, that which interests the Court is to observe that in this circumstance referred by Guede, the fact is that, in the face of an event of objective severity, that of the theft of money within an apartment shared by multiple girls, a situation of inevitable promiscuity, the British girl immediately attributed the action to Amanda Marie Knox; a circumstance that is compatible only with a negative evaluation of the personality of the defendant by part of the victim.

But the theme of money brought to the attention of the Court by the declarations made by Rudy Hermann Guede and recalled in the conviction of the same, introduces another reflection.

It results from the witness testimonies heard in the first trial that in the days preceding November 1st, 2007, nearing the due date of the monthly rent payment, Filomena Romanelli invited all of the girls to procure the sum of 300 euro that constituted the amount each of them had to pay for the payment of the rent of the apartment they occupied. It also results that the victim had the money at her disposal, and evidently kept it in her bedroom.

The sum of 300 euro was certainly in the bedroom occupied by Meredith Kercher and it was not found after her murder, just as her credit cards were not found; such that the sum of money and the credit cards constituted an object of the theft noted in letter D) of the indictment. It is surely of interest to observe, after the elevated indictment relative to the theft of the sum of the money and the credit cards, there was no further trace of those goods in the court documents or in the minutes of the proceedings. The only reference is on page 471 of the sentence handed down by the Court of Perugia at the first trial, which reads: "the total of the given evidence that was evaluated singularly demonstrates a overall and unitary picture, without holes or incongruencies, that demands as a necessary and strictly consequential result the attribution of the hypothesized facts of the crime to both of the defendants to which is therefore declared the criminal responsibility, with exclusion of the objects of letter D) that are other than the cell phones, of which no evidence emerged incriminating the defendants, for which they are acquitted of the rest of the indictment because the crime doesn't subsist."

Rudy Hermann Guede was also absolved of the theft (in his case of the entire indictment) according to article 530,2 by the GUP of the Court of Perugia for not having committed the act. One understands that the Judge evaluated the circumstance as totally devoid of proof, because in the entire body of the sentence there is no evaluation on the subject.

In any case, and noting that both of the defendants and Rudy Hermann Guede were all absolved of the theft in relation to the indictment with reference to the 300 euro and the two credit cards, there remains the fact that both the money and the cards were never found; just as the fact remains that on the evening of November 1st, 2007 it does not result that anyone entered the cottage of Via della Pergola other than the defendants and Rudy Hermann Guede.

If, then, the acquittal of the defendants of the theft described above constitutes an indisputable element seeing as it is covered by the judgment, in any case the circumstance of the disappearance of the money and the credit cards never was explained in the court documents, and could constitute an element that could have sparked a discussion between the defendants, Rudy Hermann Guede (who references the circumstance explicitly in all of his interrogations,

including the guaranty hearing) and Meredith Kercher; in addition to the circumstance that Rudy Hermann Guede effectively used the bathroom of the residence in a casual manner, as he was used to do, at least in that one which was in use of the young men who resided in the lower part of the cottage.

But there is another certain element that must be evaluated in the scope of the reconstruction of the events on the night of November 1st, 2007 and in the possible reconstruction of the motive of the murder.

Surely Meredith Kercher suffered a sexual assault, with vaginal penetration by the fingers of the hand of Rudy Hermann Guede. This fact is confirmed by the finding of the convict's DNA inside the vagina of the victim and, furthermore, expressly admitted by the same Rudy Hermann Guede in all of his interrogations, if however in the context of a situation of affectionate exchange with the British girl which advances were, according to Guede, not only tolerated by the victim, but also encouraged.

## **Section 11**

**Sanctioning treatment. Pg. 328-337.**