A Sociolinguistic Analysis of a Homicide Case:
The Defense Point of View

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Abstract. This paper analyzes a criminal case with an attempt to show that sociolinguists can be useful in the field of law. The data consist of approximately 400 pages of transcribed hearings and written reports. What makes the problem a linguistic one is that the major piece of evidence in the case involves determining the controversy over what the defendant SAID concerning the alleged suspect in the scene of the crime (suspect topic). I establish the importance of the incriminatory nature of the suspect topic by using topic recycling analysis and show the complementary nature of the two versions of the suspect topic by formulating the potential sequence of events in the scene of the crime based on the 911 emergency call made by the defendant. I also cast doubt on the prosecutor's case by contrasting the hearings of the investigating officers with their written reports. Finally, I determine the contextual and pragmatic meaning of the verb 'see' and account for the insistence of the investigators on using this verb by drawing on the schema theory in cognitive psychology. The presented analysis is deemed to be useful for the defense for it creates a reasonable doubt about the defendant's alleged killing of his wife.

1. Introduction

This paper shows a practical illustration of a sociolinguist who applies linguistic analytical tools to a practical real-life situation which involves the use of language in a specific context. It analyses an actual criminal case to help build a case for the defense and show that sociolinguists can be useful in the field of law (see Schane 2006 and Shuy 2006). The paper is divided into ten sections. Sections two and three introduce the data, the case and the role of the linguist in the case. Sections four and five demonstrate the importance and the incriminatory nature of the suspect topic. Section six explains the emergence of two versions of the suspect topic. Sections seven and eight discuss the use of the verb 'see' and generate doubt in the testimony of the investigators. Section nine drives the case home by destroying Edward's testimony eliminating the very existence of the second version of the suspect topic (ST2). Section ten concludes the paper.

[1]Names and dates are changed to protect the anonymity of the people involved in this case.

2. The Data

The data of the study consist of approximately 400 pages of transcribed and written documents. They include (a) hearings of the three officers involved in the case, (b) written reports of the same officers, and (c) the 911 emergency call made by the defendant.

3. The Case and the Objective

On the eve of June 11, 2002, John[1] called 911 around 10:00 p.m. and asked for help. He reported that when he pulled his car into the driveway of his house, his headlights shined on somebody who ran in a northeasterly direction. He went into the house and saw his wife lying on the floor. He found out that she was beaten and that she was not alive. Then he went to the kitchen cabinet and saw a hammer lying there. He picked it up and out of frustration slammed it down onto the counter-top in the kitchen. Having realized that the hammer may have been the murder weapon, he went over to the sink and wiped it with some paper towel and hid it upstairs in the attic of his residence. Based on circumstantial evidence, charges

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were brought against John for murdering his wife.

One of the basic problems in this case is to determine the controversy over what John, the defendant, 'said' concerning the suspect in the scene of the crime (henceforth will be referred to as 'suspect topic'). The problem then is a linguistic one which deals with the use of language in a specific context. In the hearings, the three officers--Edward, Smith, and Tony--who investigate the case testify that the defendant said that he 'saw' a subject running north on the patio of his house across the yard. It is claimed that the defendant changes his story about the suspect and says that he saw the suspect running out of the back door of his living room. The importance of this piece of evidence in the case will be shown later. Suffice it to say here that the suspect topic becomes a major piece of evidence used against the defendant in this case. To build a good defense, the linguist should:

1. account for the conflicting versions of the suspect topic;
2. determine the contextual meaning of the verb 'see';
3. explain and justify the occurrence of the verb 'see' in the hearings of the investigators.

4. The importance of the suspect topic

One of the analytical tools proposed by Shuy (1982) in discourse analysis is Topic Analysis. He observes that recycling the same topic over and over again in an interaction reveals clues to the intentions of the speaker and indicates that the introduced topic is not solved. One can also claim that recycling a topic in the course of the same interaction signifies its importance in the agenda of the speaker. In a homicide case, recycling the same topic manifests its value as a crucial piece of evidence which can be used to inculpate or exculpate the defendant.

In John's case, the suspect topic becomes very controversial and is recycled throughout the preliminary hearings. This topic relates to what the defendant says about the suspect in the scene of the crime. In the 911 call made by the defendant, he says that when he pulled his car into his driveway, somebody came out of the back door of his house and headed south. When this person saw the defendant he turned around and went north. In order to show the importance of the suspect topic, a summary of its recycling in the preliminary hearings will be instructive.

Table 1. Summary of suspect topic recycling in the hearings

	Edward	Smith	Tony	Total
Direct examination by prosecutor	12	2	13	27
Cross-examination by prosecutor:	–	8	6	14
Direct examination by defense:	–	4	0	4
Cross-examination by defense:	15	0	7	22
Total	27	14	26	67

(0) Suspect topic is not initiated
(--) No direct or cross-examination

Table 1 summarizes the number of recycling the suspect topic in the hearings of the three officers involved in this case. Recycling the suspect topic 67 times shows its detrimental importance to both the prosecutor and the defense to determine the guilt or innocence of the defendant. It is useful to observe that the largest number of recycling the suspect topic occurs in Edward's hearing (27 times) followed by Tony's hearing (26 times) and finally in Smith's hearing (14 times). This makes sense if one knows that Edward and Tony were the first two officers in contact with the defendant in the scene of the crime. Moreover, they are considered the prime witnesses in the case.

What is important here is that the recycled suspect topic signifies its vital value as a crucial piece of evidence in the agenda of both the prosecutor and the defense. This becomes clear if one observes that the prosecutor in both direct- and cross-examinations recycles the suspect topic 41 times (61.20%) which is far more than that done by the defense attorney 26 times (38.80%) with a difference of 15 times (22.4%) in favor of the prosecutor. In other words, the prosecutor acts on the basis that the suspect topic constitutes a major piece of evidence to incriminate the defendant. But what is the incriminatory nature of the suspect topic?

5. The incriminatory power of the suspect topic

The previous section establishes the importance of the suspect topic in the agenda of both the prosecutor and the defense. This section discusses the incriminatory power of the suspect topic which is based on two points:

1. The emergence of two conflicting versions of the suspect topic in the case.
2. The investigators' use of the verb 'see' in reporting what the defendant says about the suspect topic.

Regarding the two conflicting versions of the suspect topic, the first version is reported in Tony's hearing in which Tony responds to a question posed by the

prosecutor in direct examination as shown in the following exchange:

SUSPECT TOPIC: Version one (ST1)
a. Tony: I asked him was the guy still around—the suspect.
b. Prosecutor: And did you get a response?
c. Tony: He responded that he pulled up into his driveway and shined his lights on the suspect, and he ran off in a northeasterly direction.

In this exchange, Tony states clearly in line (c) that the defendant detects in his driveway somebody who runs off in a northeasterly direction. According to this story, the defendant notices the suspect outside his house on the patio. This implies that he has not witnessed what happened inside the house and suggests strongly that he has nothing to do with the murder of his wife. Furthermore, ST1 supports the defendant's claim about being unable to describe the suspect in the darkness outside his house.

The second version of the suspect topic is introduced by Edward during the direct examination by the prosecutor. Edward narrates about what happened when he arrived at the scene of the crime in the house.

SUSPECT TOPIC: Version two (ST2)
Edward: And I said—let me think about this now—where did you see a suspect.
And <u>he said he went out that door there</u>, and he pointed towards the door that led to the backyard.

Edward's words can be divided into a question and an answer as follows:
    Edward: Where did you see a suspect?
    John: He went out that door there (pointing towards the door that led to the backyard).

In ST2, Edward claims that the defendant says that the suspect runs out of the back door of the living room which leads to the patio of the house. As such, ST2 places John in the scene of the crime and suggests that he has actually seen the suspect. ST2 obviously contradicts ST1 in which the defendant claims that he first spots the suspect on the patio of his house. This inconsistency between ST1 and ST2 suggests that the defendant is not telling the truth.

An additional implication of ST2 is that it makes the defendant the prime suspect in the case or perhaps an accessory in the murder. In fact, the emergence of two versions of the suspect topic is not, to say the least, in the interest of the defendant. It raises suspicion about him as being deceitful and

misleading. The incriminatory nature of the suspect topic is further aggravated by the use of the verb 'see' in the hearings. The three officers who investigate the case as well as Hanson, the telecommunication specialist, claim that John said that he 'saw' the suspect. As mentioned above, the first implication of this claim is that John sees the suspect which makes him an accessory in the murder of his wife. The second one is that there is no suspect in the first place and that John concocts the story of another suspect to cover up his crime.

In short, the prosecutor's case for indictment relies heavily on the two conflicting versions of the suspect topic. Therefore, diffusing its evidentiary power becomes one of the major tasks of the defense as well as the linguist.

6. The complementary nature of the suspect topic

One way to restore the integrity of the defendant is to provide an explanation for the emergence of ST1 and ST2 by examining the actual words of the defendant in the 911 emergency call. A sequence analysis of the events in this call can be most instructive as shown in table 2.

Table 2. The actual sequence of events in the 911 call

John's Actual Response Sequence
1. When I came into the house, I saw somebody runnin' through by backyard. I've left my boy in the car.
2. Only when <u>they</u> started going around one way. And <u>they'd</u> gone, was headed south.
3. I saw one person. I think it was a male but that's all I saw.
4. When he came out he was headed south. He saw me. He turned and went north.
5. Yes. That's towards my driveway.
6. I turned my lights on as I pulled in. He turned around, went the other direction. I left my son in the car.

Table 2 shows that John's actual response sequence in the 911 emergency call concerning the suspect topic is, to say the least, disorientated. The use of the pronoun "they" in his second response is particularly confusing because it implies that there is more than one suspect. Also, one cannot know for sure whether he first detects the suspect within the house running through by backyard (ST2) as indicated in his first response or on the patio of his house as he pulls his car towards his driveway (ST1) as indicated in the sixth response. It is highly likely, however, that ST1 occurs before ST2 simply because we know that he left his son in the car, a point which suggests that he was outside the house with his son. As such, he first pulls his car into the driveway, notices someone on the patio of his house, leaves his son in the car, enters his house, and makes the call. In other words, the actual events are reversed in John's

actual response sequence since he makes the 911 call from inside his house as illustrated in table 3.

Table 3. The potential sequence of events in the 911 call

1. I turned my lights on as I pulled in
2. I noticed somebody runnin' through by backyard (south).
3. Yes. That's towards my driveway.
4. I think it was a male.
5. He saw me.
6. He turned around and went the other direction (north).
7. I left my boy in the car.
8. I came into the house.

The constructed event sequence demonstrates that John spots the suspect running from the back of his house on the patio towards south. When the suspect sees John, he turns back and heads north. It is highly likely that when John spots the suspect running from the back of his house, he assumes that the suspect came out of the back door. When he goes into his house and sees the broken glass of the back door, he inferences that the suspect must have run out of the same door. The picture of the suspect topic becomes complete in his schema (see section 9 below).

Later in the 911 call, John reports what he inferences rather than the actual event which triggers the inferencing. The inference, again, is that the suspect runs out of the back door of the living room (ST2). The fact, however, is that he notices the suspect running on the patio of his house (ST1). This explanation accounts for his first response ("When I came into the house, I saw somebody runnin' through by backyard"). In this statement, his words are clearly influenced by the angle of the description from within the house which triggers the inference of ST2 at the

first place. The confusion in this statement is, then, due to the fact that he mixes the actual event with what he inferences about the event.

Briefly put, the suspect topic consists of two parts. The first part refers to ST1 in which the defendant actually notices the suspect running on the patio of his house as he pulls his car into the driveway. The second part refers to ST2 in which John inferences, but does not witness, that the suspect runs out of the back door of his house. Therefore, ST1 and ST2 complement each other for the schema of the suspect topic to be complete and meaningful in the mind of the defendant as discussed in detail in section nine below. If one were to accept this explanation, one can suggest that John is telling the truth and the disparity between these two versions of the suspect topic is diffused. But how can one account for the use of the verb 'see' by the defendant and the investigators when talking about the suspect?

7. Hearings versus written reports

As mentioned earlier, the incriminatory power of the suspect topic arises from the emergence of ST1 and ST2 as well as the use of the verb 'see' by both the defendant and the investigators concerning the suspect. I have already provided a reasonable account for the emergence of two versions of the suspect topic. This section investigates the use of the verb 'see' in the case.

It is generally assumed that investigators in a murder case should write down the important points in their written official reports. It is also pivotal that the information related to the suspect in the case should be accurate. Even more important is the fact

Table. 4. The use of the vers 'see' in a sample of preliminary hearings

Edward	Tony	Smith
1. He saw a subject standing	He said he saw him leave out that way.	He's seen a subject either Walking …
2. He saw him as he pulled into the driveway …	He said he saw him with his headlights and …	He's seen a subject either walking or …
3. He saw the fellow in the den run out …	He said I saw him.	He stated he'd seen a person

Table. 5. Suspect topic in the written reports of the investigators

Edward	Tony	Smith
1. R/O ask John "did you See the suspect?" He stated "yes, he ran out the door in that room," pointing to what appeared to be the den.	1. John stated "He ran that way.".	—
2. He told me that he saw the suspect on the patio …	2. He stated "I think he came in thorugh the back door.	—
3. He told me he saw him run out the door in the den.	3. He replied "He went through that door in there."	—

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that the information stated by the investigators in the hearings should be identical to the information presented in their written reports. In fact, consistency in both hearings and written reports is considered the basis for building a solid case against the defendant.

In John's case, the investigators, Edward, Smith, and Tony, repeatedly state in their hearings that the defendant "saw" the suspect. In order to determine the consistency and the accuracy of their statements regarding this issue, a contrastive analysis of the investigators' hearings with their written reports will be most relevant. Table 4 presents a sample of the hearings pertaining to the suspect topic.

Significant here is that these three investigators state over and over again that the defendant 'saw' the suspect either standing on the patio ("He saw a subject standing") or running out of the back door of the living room ("The fellow in the den run out"). Contrasting the hearings with the written reports of the same officers will be most revealing regarding the accuracy of their statements in the preliminary hearings.

It is useful to notice in table 5 that Smith, unlike Edward and Tony, does not report or quote in his written report what the defendant says about the suspect in the scene of the crime. Oddly enough, he repeatedly states in the hearings, as shown in table 4, that the defendant 'saw' the suspect. The disparity between what he mentions in his hearings and what he states in his written report raises suspicion about the validity of his testimony.

Although Tony mentions in his written report what the defendant says about the suspect, he does not use the verb 'see' in his written report. In fact, Tony in table 5 reports John's exact words in which the verb 'see' does not appear at all. It is incredible, however, that he in table 4 continuously testifies in his hearings that the defendant 'saw' the suspect. Once again, the discrepancy in Tony's statements casts doubt on his testimony.

Finally, there seems to be some consistency in Edward's hearing and his written report concerning the suspect topic. His first statement will be discussed in the next section. His second and third statements in table 5 are articulate indications that the defendant tells Edward that he saw the suspect.

It is useful to note, however, that Edward's both statements are formulated in indirect speech ("He told me that he saw the suspect…") and ("He told me that he saw him run out…"). They report what the defendant said and do not represent his exact words. In other words, one can never be sure if what is reported represents precisely the same words used by the defendant. This concept is referred to by Tannen

(1989) as "constructed dialogue."

Tannen points out that an utterance of a speaker repeated in another context by another person changes fundamentally even if reported accurately. She adds that the materials represented in reported discourse are primarily the creation of the speaker rather than the party quoted. In other words, there is a good possibility that the verb 'see' may not have been really mentioned by the defendant as it is the case in Tony's written report, and therefore some doubt is generated about the accuracy of Edward's written report.

In sum, there seems to be a clear difference between what Tony and Smith state in the hearings and their written reports. Edward's written report seems to be flawed because he uses indirect rather than direct quotation. These factors make their testimony shaky and cast doubt on their motives. However, the occurrence of the verb 'see' in Edward's first written statement deserves some attention.

8. The contextual meaning of the verb 'see'

Before discussing the contextual meaning of the verb 'see' in the case, its use in English needs some clarification. In contrast with the action verb 'look', the verb 'see' falls within the category of sensory stative verbs. When a stative verb is used in a sentence, the subject does not control the action. Rather, he or she is a passive experiencer of the event (see Celce-Murcia and Larsen-Freeman 1999). In other words, it is not expected from the subject of an event, as a passive experiencer, to give a specific description of the event as much as the active agent. This point supports the defendant's claim that he did not see the suspect long enough to give a good description.

Edward's first statement of the suspect topic in his written report is still problematic. It indicates that the defendant agrees on the propositional content of Edward's question, namely, that he saw the suspect. The exchange goes as follows:

1. Edward: Did you see the suspect?
2. John: Yes, he ran out the door in that room.

In this exchange, Edward asks a yes-no question in which he elicits either a positive or a negative response from John about seeing the suspect. The assumption, of course, is that if the answer is positive, it means that John saw the suspect; if the response is negative, he did not see the suspect. A yes-no question, then, controls the answer and gives the speaker only two options: either to agree or to disagree. As shuy (1998) observes, the speaker has a

50-50 percent chance of being true or wrong.

The problem, however, is that what happens if the speaker does not agree on the wording of the question, but he agrees on its metamessage (i.e. pragmatic meaning). How can a speaker separate in his answer between agreeing on the pragmatic meaning and not on the literal meaning of a yes-no question?

In the above exchange, John's response is divided into two parts. The first part refers to the elliptical answer "yes," and the second part is "he ran out the door in that room" which elaborates on the first part. The literal meaning of the response is that John confirms seeing the suspect and elaborates by informing Edward about the place from which the suspect exits the house.

One can argue, however, that the first part of the answer is intended to agree on the pragmatic meaning of the question, that is, the effort of being cooperative (Grice 1975) with the questioner and agreeing to divulge information about the suspect which the defendant possesses as indicated in the second part of his answer. Since the defendant has some information to contribute which falls within the frame of the suspect topic, the only cooperative option he has in this case is to agree with the premise of the question. It does not mean, however, that he agrees with the exact wording of the question, particularly the verb "see." It would be odd and conversationally uncooperative to answer the question by saying "No, he ran out the door in that room." It is simply because the first part of the answer contradicts the second part. In fact, it is commonly known in conversational analysis that the preferred answer to a yes-no question is agreement rather than disagreement (Sacks 1972), especially when the respondent has relevant information to the questioner (see Stubbs 1983: Ch. 6 for detailed discussion of yes-no questions).

In sum, restricting the speaker's options in answering a yes-no question leads to the ambiguity observed in distinguishing between the literal and the pragmatic meaning of the answer. It makes it difficult for the speaker to disagree with the wording of the question and at the same time be cooperative and provide relevant information. It is highly likely that John did not use the verb 'see' to talk about the suspect topic with Edward as it is the case in Tony's written report. Or, he may have used it, specifically, with Edward with the purpose of being cooperative and providing relevant information in his possession. The question remains, however, why these investigators use the verb 'see' in their hearings.

9. Schema theory and inferencing

So far, I have shown that the contradiction between the hearings and the written reports of the investigators invalidates strongly their testimony. I have also made the case that the use of yes-no question and indirect quotation in the written reports is problematic. In this section, I contend that one can account for the insistence of the investigators on using the verb 'see' by drawing on the schema theory in cognitive psychology.

Schema theory, which originates in the work of Bartlett (1932: 201), refers to "an active organization of past reactions or past experience." It simply refers to people's background knowledge about the world. Thorndyke and Yekovich (1980:28) observe that two of the properties of the schemata (plural of schema) are instantiation and prediction. The process of instantiation refers to matching the new incoming information to the mind with the variables in a schema. It helps organize the "incoming information into a familiar, coherent, conceptual representation." Prediction, on the other hand, refers to the expected information to fill the variables in an activated schema. In other words, prediction is very much like inferencing. Both instantiation and prediction are meant to enable a person to reason from incomplete information.

Having said that, one can easily see the connection between schema theory and the use of the verb 'see' in John's case. As a prime witness, Edward confesses in the cross-examination that he 'assumed' the defendant saw the suspect. He answers the defense's question about this matter by saying:

Edward: That was the assumption on my part when he told me he ran out, I <u>assumed</u> he saw him.

Edward's answer shows clearly, as indicated by the underlined word in his statement, that the defendant did not say he saw the suspect. Rather, Edward makes that assumption. But what does the word 'assumption' mean? How can we justify such an assumption? Webster's Dictionary (2005) defines the word 'assumption' as follows:

1.   The act of taking for granted, or supposing a thing without proof; supposition; unwarrantable claim.

Oxford Dictionary (2004) provides a similar definition as follows:

2.   A belief or feeling that something is true or that something will happen, although there is

no proof.

Definitions 1 and 2 indicate that 'assumption' refers to the already existing information or idea to be true without necessarily being proven to be true. In a sense 'assumption' is similar in meaning to schema (i.e. background knowledge) since both refer to the already existing information in people's minds.

One can doubt that Edward's background knowledge or schema about the suspect topic interferes with what is actually said about the suspect. In fact, organizing his past experiences about homicides with the case at hand necessitates that the missing information needed to activate the present suspect topic should be filled in with familiar past experiences for the current event to be coherent and comprehensible. Moreover, in order to fill in the missing elements of the suspect topic schema, Edward must draw on his inferencing power or prediction. Hence, he assumes that the defendant said that he saw the suspect. That is, the verb 'see' is the product of inferencing in the suspect topic schema. Such inferencing becomes part and parcel of Edward's background knowledge so much so that he cannot draw the boundary between what is actually said and what is inferenced, a point which is very common among the people who repeat a lie so many times that they themselves believe it after some time to be true and real.

One can argue that the defendant's confusion between what he saw and what he inferenced concerning the suspect topic is another manifestation of the prediction property of the schema theory, in which the unconscious process of inferencing clouds reality and generates disarray and hence the emergence of ST2 in his testimony.

One last point should be mentioned here is that Edward's statement ("That was the assumption on my part when he told me he ran out, I assumed he saw him") refers to ST2 in which John states that the suspect runs out of the backdoor of the house, and Edward assumes that John saw the suspect. So the act of seeing the suspect is an assumption made by Edward, not a fact stated by John. Such a statement nullifies the very existence of ST2, and therefore the only true version of the suspect topic is ST1. Hence, John is telling the truth all along and his integrity is unblemished.

10. Conclusion

The analysis in this paper showed that the suspect topic in John's case deemed to be a crucial piece of evidence in incriminating the defendant. Drawing on the contextual meaning and inferencing in pragmatics, schema theory in cognitive psychology, and contrastive analysis in discourse analysis, I diffused the incriminatory nature of the suspect topic and accounted for the occurrence of the verb 'see' in the testimony and the written reports of the investigators. Such an analysis, one would hope, can be used by the defense to refute the prosecutor's case which heavily depends on the suspect topic by creating what is legally known as "reasonable doubt."

The analysis presented also demonstrates that linguists can be helpful in legal cases. Since linguists analyze language and legal cases involve the use of language in testimonies, interviews and hearings, it would be only reasonable for both the defense and the prosecutor to seek the help of the experts in the field, particularly sociolinguists who analyze the use of language in its social context, in order to determine the incriminatory nature of the language used in any legal case.

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تحليل لملف جريمة قتل من وجهة نظر علم اللغة الأجتماعي:
موقف لصالح الدفاع

إبراهيم علي حاجي حسن

أستاذ مساعد/ قسم اللغة الإنجليزية/ جامعة الملك سعود

الرياض / المملكة العربية السعودية

يحلل هذا البحث قضية جريمة محاولاً أن يبين بأن المختصين في علم اللغة الاجتماعي يمكن أن يكونوا نافعين في حقل القانون. وتتألف معطيات البحث من حوالي ٤٠٠ صفحة من التحقيقات الأولية المدونة والتقارير المكتوبة. وما يجعل مشكلة البحث مشكلة لغوية هي أن القرينة الأساسية في القضية تتعلق بتحديد الجدل حول ما " قاله " المتهم بشأن المشتبه به في مسرح الجريمة (موضوع المشتبه). يؤكد الباحث أولاً أهمية طبيعة " موضوع المشتبه " في القضية مستخدماً تحليلاً يعتمد على " تكرار الموضوع " ويبين أيضاً الطبيعة التكاملية لنسختي "موضوع المشتبه " مستخدماً التسلسل المحتمل للأحداث في مسرح الجريمة بناء على مكالمة المتهم الهاتفية للطوارئ ٩٩١. كما يثير الباحث الشك حول قضية المدعي العام وذلك بمقارنة التحقيقات الأولية للمحققين مع تقاريرهم المكتوبة. وأخيراً يحدد المعنى السياقي البراغماتي للفعل " يرى " ويبرر إصرار المحققين على استخدام هذا الفعل مستعيناً بنظرية " البنية " في علم النفس المعرفي. ويعد التحليل الوارد هنا مفيداً للدفاع ؛ لأنه يشكك في إدانه المتهم بقتل زوجته ؛ مما قد يبرئ ساحته.