

1 Q. Because you went off still with the canine  
2 still looking for maybe other suspects?

3 A. Yes, sir.

4 MR. DUARTE: I pass this witness, Judge.

5 MS. WATERS: Pass the witness.

6 THE COURT: Thank you, sir. You may step  
7 down. Let's see if we can squeeze in one more.

8 MS. FLADER: Call Robert Baldwin.

9 THE BAILIFF: The witness needs to be sworn  
10 in, Judge.

11 THE COURT: All right. Raise your right  
12 hand.

13 (Whereupon the witness is sworn by the  
14 Court.)

15 **ROBERT BALDWIN,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 BY MS. FLADER:

19 Q. Would you introduce yourself to the jury?

20 A. Good afternoon, ladies and gentlemen. My name  
21 is Robert Baldwin.

22 Q. Where are you employed?

23 A. I'm employed by the Harris County Institute of  
24 Forensic Sciences where I am the manager of the firearms  
25 section.

1 Q. What do you as the manager of the firearms  
2 section?

3 A. Well, I oversee the work within the firearms  
4 unit, which the work within that unit consist of  
5 evaluating -- primarily evaluating firearms and fired  
6 evidence items. Those evidence items can include fired  
7 cartridge cases, fired projectiles, shot shells, shot  
8 shell components. In many instances we are intercomparing  
9 those specimens to determine if they came from a common  
10 source, and if we have a particular firearm that's been  
11 recovered, we would compare those specimens back to that  
12 firearm.

13 Q. In order to do your job, do you have  
14 specialized training and education and experience?

15 A. Yes. My formal education consists of a  
16 Bachelor of Science degree, as well as jurist doctorate's  
17 degree. I've been in the field of criminalistics now for  
18 in excess of 30 years, and 25 years in the firearms  
19 related world. I've received specialized training at the  
20 FBI, ATF, Smith & Wesson arm, Colt arms, Remington arms  
21 Sig arms, Glock arms, also done coursework in forensic  
22 microscopy at the Chrome Institute.

23 Q. Okay. I'm just going to get right to it. If  
24 you have a known firearm and if you have casings, are you  
25 able to look at the fired casings and determine if they

1 came from that specific firearm?

2 A. That would depend on the condition, but yes,  
3 assuming the condition of your cartridge cases is  
4 suitable, and you're able to get known specimens, good  
5 known specimens from the firearm, you can make that type  
6 of comparison and make some determinations if they were  
7 fired from that gun.

8 Q. Does each firearm produce its own specific  
9 individualized markings on cartridge cases?

10 A. They can. Again, it depends on how well that  
11 particular firearm marks. It can also depend on the down  
12 pressure that's being generated during the firing process.  
13 So, it may not occur in every situation.

14 Q. If you have cartridges that have markings on  
15 them, can you determine if they all came from the same  
16 firearm?

17 A. You're referring to cartridge cases?

18 Q. I'm sorry. Cartridge cases, yes, sir.

19 A. Yes. Again, if there's sufficient marking  
20 present, you can intercompare them and determine if they  
21 came from the same firearm.

22 Q. Can you also -- if you have bullets that have  
23 not been damaged or destroyed, can you also look at those  
24 bullets and determine if they came from a firearm?

25 A. If they came from a particular firearm?

1 Q. Yes, sir.

2 A. Again, that is possible. It depends on the  
3 quality of the markings that are present, also how well  
4 the particular firearm that you are evaluating is marked.

5 Q. Did you have an individual that worked at your  
6 -- worked at your lab named Jennifer Turner?

7 A. Yes.

8 Q. And where is she right now?

9 A. She's out on FMLA leave.

10 Q. She had a baby?

11 A. Yes, she did.

12 Q. Okay. And she did the initial analysis of this  
13 evidence, correct, in this case?

14 A. That's correct.

15 Q. And that analysis was documented in your lab  
16 number 11-1346?

17 A. That's correct.

18 Q. But you also looked at each and every piece of  
19 that evidence to determine if she was correct in her  
20 findings?

21 A. That statement is correct to a point. The  
22 procedure within our unit requires that anytime any type  
23 of association or identification has been made, that that  
24 association or identification is reviewed by a second  
25 qualified examiner. In this case, there were fired

1 cartridge cases that were associated to each other that I  
2 evaluated. There are also some fragments, bullet  
3 fragments that were not associated with each other, which  
4 I did not review.

5 Q. Okay. But she reviewed those?

6 A. Yes, she did.

7 Q. And those were damaged to the point where they  
8 couldn't be compared; is that right?

9 A. That's correct.

10 MS. FLADER: Your Honor, may I approach the  
11 witness?

12 THE COURT: Yes, ma'am.

13 Q. (By Ms. Flader) I'm going to show you what has  
14 been previously admitted as State's Exhibits 87, 88, 89,  
15 and 90. Do you recognize those items?

16 A. Yes, ma'am. These are fired .223 Remington  
17 cartridge cases, the packaging in the case, our laboratory  
18 number, and the item designation that was given to those  
19 items, as well as the initials of Ms. Turner.

20 Q. I'm also going to show you what has been  
21 previously marked as State's Exhibit 136. Do you  
22 recognize that?

23 A. Yes, ma'am.

24 Q. And how do you recognize it?

25 A. Again, the item, the firearms case number is

1 indicated on the external packaging, as well as the lab  
2 number, the item designations, and Ms. Turner's initials.

3 Q. I'm also going to show you what has been marked  
4 as State's Exhibit 43 and its contents. I just pulled the  
5 contents out. Do you recognize that item?

6 A. Yes.

7 Q. And how do you recognize it?

8 A. The laboratory number, the item designations  
9 are clearly indicated on the external packaging, and I  
10 recognize Ms. Turner's initials.

11 Q. I'm going to show you what's been previously  
12 admitted as State's Exhibit 92 and its contents. Do you  
13 recognize those items?

14 A. 92 consist of fragments. It does have the  
15 markings of the laboratory, but I did not have occasion to  
16 evaluate those items.

17 Q. But just looking at the fragments, they are  
18 very small?

19 A. Yes, ma'am.

20 Q. And you have to have a little bit larger  
21 fragments to be able to compare them; is that right?

22 A. We have to have -- we have to have a portion of  
23 a bullet that exhibits rifling from the firearm. And I  
24 believe that none of the fragments that were recovered had  
25 sufficient rifling to do any type of conversion.

1 Q. Okay. In looking at these items that I've just  
2 shown you, State's Exhibits 87 through 90, 136 and 143,  
3 were you able to do an examination of all of these  
4 cartridge cases?

5 A. Yes, I evaluated each of the cartridge cases.  
6 Since we did not have a firearm, they were compared to  
7 each other, and a determination was made as to whether or  
8 not they were fired from a particular firearm, or the same  
9 firearm.

10 Q. What was that determination?

11 A. All of the cartridge casings, with exception of  
12 one, was identified as having been fired from the same  
13 firearm --

14 Q. Okay.

15 A. -- from the same firearm. Excuse me.

16 Q. Which one was not identifiable?

17 A. Specifically, it was the fired cartridge case  
18 that was designated as M1B, as in boy.

19 Q. Do you see that?

20 A. It would have been contained within State's 36  
21 [sic].

22 Q. Okay. So, in State's 136, there was a case  
23 that did not match the others?

24 A. Just did not exhibit sufficient markings for us  
25 to make that determination.

1 Q. Okay. But all of the other cartridge cases,  
2 you were able to make the determination that they were all  
3 fired from the same firearm?

4 A. Yes, that was my opinion.

5 Q. I want to talk to you a little bit about how  
6 firearms work. I'm showing you what has been previously  
7 marked as State's Exhibit 158.

8 MS. FLADER: And, Judge, this has been  
9 cleared.

10 Q. (By Ms. Flader) If you wouldn't mind, if you  
11 could just go over with the jury the different components  
12 of this type of a firearm; basically, how it works.

13 A. From here?

14 Q. Wherever you feel most comfortable.

15 A. Perhaps it would be better down there.

16 Q. Okay.

17 THE COURT: That's fine.

18 THE WITNESS: Is that permissible, Your  
19 Honor?

20 THE COURT: That's fine.

21 (The witness steps off the witness  
22 stand for a demonstration.)

23 THE COURT: Mr. Duarte, of course, you can  
24 position yourself.

25 A. This is a -- this is a .223 semi-automatic Colt

1 AR-15.

2           THE COURT: I need you step back just a  
3 little bit in the well so that my court reporter can  
4 read your lips. Thank you. Go ahead.

5       A.       This is an AR-15 Colt manufactured .223  
6 semi-automatic rifle. The firearm is designed to fire, as  
7 I say, the .223 round. We don't have a magazine here, but  
8 in order to operate this firearm, you would have a  
9 separate magazine. That magazine would be loaded from the  
10 top using .223 rounds.

11       Once the magazine is loaded, it would be inserted  
12 into this area of the firearm, which is known as the  
13 magazine well. It would be locked into position.

14       Once it's been locked into position, if you were  
15 trying to prepare the gun for firing, you would draw back  
16 the charging handle, as I've done here, and that would  
17 draw back the bolt assembly. You would release the  
18 charging handle. The spring contained within here, called  
19 the action spring, would force the bolt forward and it  
20 would chamber a round, or take a round from the magazine,  
21 place it into the chamber. It would also cause the action  
22 of the firearm to rotate -- the bolt portion of the  
23 firearm to rotate and to lock into position. If you were  
24 to take this apart, you could see that there are actually  
25 locking lugs on the firearm, so that when the action

1 closes, that bolt will rotate to fully lock the action  
2 closed.

3       At that point in time all that would need to be done,  
4 assuming the safety has been disengaged, would be to apply  
5 sufficient pressure to the trigger in order to cause the  
6 hammer to be released. The forward motion of the hammer  
7 would strike the firing pin, which is contained in the  
8 bolt assembly, and that would drive the forwarding pin  
9 forward and discharge the cartridge that's in the chamber.

10       Because this is a semi-automatic firearm, of course,  
11 upon the discharge of the cartridge, the projectile is  
12 going to be propelled down the barrel. And the pressure  
13 from the firing of the gun is going to cause the action to  
14 unlock. And once the action is unlocked, the bolt will  
15 move rearward. That will extract and eject the fired  
16 cartridge case.

17       The cartridge case in this instance would be ejected  
18 off to the right of the shooter. It would also force the  
19 bolt rearward, recocking the hammer. And as the bolt came  
20 forward again, it would chamber another round from the  
21 magazine into the chamber and leave the action in the  
22 cocked position.

23       At that point in time, all that would have to be done  
24 is someone apply additional pressure to the trigger in  
25 order to cause the next round to be fired.



1 admitted into evidence.)

2 (Whereupon State's Exhibit 159 is  
3 played for the jury at this time.)

4 THE COURT: Do you want me to give a quick  
5 instruction? You will remember that this is not the  
6 weapon that was recovered. It's for demonstrative  
7 purposes only. You may proceed.

8 Q. (By Ms. Flader) If you wouldn't mind, if you  
9 could -- on the screen next to you, you should be able to  
10 draw. If you could just kind of describe what's going on  
11 as it's going on.

12 A. Okay. Before you actually start the video, let  
13 me point out that the magazine is the component that you  
14 see separate from the actual firearm. The magazine is --

15 Q. You can circle it and it will allow you to --

16 A. Okay. The magazine is right here. And so --  
17 and it's already in animation. There are already  
18 cartridges loaded into the magazine.

19 So, as the video begins, you should see that the  
20 magazine will be inserted into the magazine well, as I  
21 indicated verbally a few minutes ago.

22 So, you want to start the video?

23 Q. Sure. If you push on the left-hand corner, it  
24 will clear that circle.

25 A. I'm sorry?

1 Q. If you just push to the left-hand corner, it  
2 will clear the circle.

3 A. Okay. So, at this point in time, the magazine  
4 has been loaded and the action is being drawn rearward --  
5 the bolt is being drawn rearward. The action is being  
6 released, or the bolt has been released. The hammer has  
7 fallen. The cartridge has been discharged and the fired  
8 charge has been extracted and ejected off to the right.  
9 The next round has been loaded, and the next round has  
10 just been fired. And, again, the same cycle will continue  
11 until either the next round is -- all the rounds are  
12 expended or until someone quits pulling the trigger.

13 Q. The cartridge casings that you examined, could  
14 those have been shot from an AR-15?

15 A. Yes. That's one of the firearms that is  
16 designed to fire the .223 round.

17 Q. Are there other firearms as well, but an AR-15  
18 is one of the firearms that those cartridge cases come  
19 have come from?

20 A. That's correct.

21 MS. FLADER: At this time, the State would  
22 offer State's Exhibit 157 into evidence. Tendering  
23 to opposing counsel for any objections.

24 MR. DUARTE: There's no objection, Your  
25 Honor.

1 THE COURT: It's admitted.

2 (Whereupon State's Exhibit No. 157 is  
3 admitted into evidence.)

4 Q. (By Ms. Flader) State's Exhibit 157 are just  
5 the findings written down about what you testified about  
6 already?

7 A. Okay.

8 Q. Is that correct?

9 A. Yes, this is a copy of the report that was  
10 issued with reference to this case.

11 Q. Thank you, sir.

12 MS. FLADER: I pass the witness.

13 THE COURT: Cross?

14 MR. DUARTE: Just one or two i.

15 **CROSS-EXAMINATION**

16 BY MR. DUARTE:

17 Q. Mr. Baldwin, again, that was -- the make and  
18 model of that particular firearm demonstration today was a  
19 Colt?

20 A. Yes, that was a Colt AR-15.

21 Q. So, then, we're not saying that the shell  
22 casings that were recovered that y'all analyzed, the .223  
23 casings, were -- you don't know definitively that was shot  
24 from an AR-45?

25 A. An AR-15?

1 Q. AR-15, correct?

2 A. No, sir, I do not know that.

3 Q. It could have been fired from another type of  
4 weapon?

5 A. Yes. There are other firearms that are  
6 designed to chamber and fire that round.

7 Q. Regarding this type of firearm, the magazine,  
8 how big is the magazine? They have big magazines, small  
9 magazines?

10 A. Typically, 20- or 30-round magazines would be  
11 what you would expect for this type of firearm.

12 Q. What's the smallest magazine you can get --

13 A. That, I don't know, sir.

14 Q. -- that would fit that type of weapon?

15 A. I don't know off the top of my head. I just  
16 know that, typically, 20- or 30-round magazines are common  
17 with this type of firearm.

18 Q. Have you seen smaller magazines than that?

19 A. I did review a report today that did have a  
20 smaller magazine than that.

21 MR. DUARTE: I pass this witness.

22 THE COURT: Anything else?

23 MS. FLADER: No more questions.

24 THE COURT: You may step down. Is he  
25 excused?