

*Juventino Castro - July 24, 2013
Redirect Examination by Ms. Palmer*

1 witness.

2 *THE COURT:* May this witness be
3 excused?

4 *MS. PALMER:* Yes.

5 *MR. HAYNES:* Yes.

6 *THE COURT:* Thank you very much,
7 Officer.

8 *THE WITNESS:* Thank you, ma'am. Thank
9 you so much.

10 *THE COURT:* State, call your next.

11 *MS. PALMER:* Ahateva Barker.

12 *THE COURT:* Ms. Barker, can you raise
13 your right hand, please.

14 ***(Witness duly sworn)***

15 *THE COURT:* State.

16 *MS. PALMER:* May I proceed, Your
17 Honor.

18 *THE COURT:* Yes, ma'am.

19 **AHATEVA BARKER,**

20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 **BY MS. PALMER:**

23 Q. Could you please state your name for the
24 jury.

25 A. My name is Ahateva Barker.

1 Q. And how are you employed?

2 A. I am employed by the City of Houston Police
3 Department crime laboratory.

4 Q. And what is your title there?

5 A. My title is criminalist specialist.

6 Q. And the microphone isn't on right in front
7 of you; so, if you will speak up for everybody, that
8 would be great.

9 A. Okay.

10 Q. Criminalist specialist, how long have you
11 been with the Houston Police Department crime lab?

12 A. I have been an analyst there for seven and
13 a half years.

14 Q. And can you tell the jury about your
15 educational background related to this position?

16 A. Yes. I earned my bachelor's of science
17 degree in chemistry from Texas Southern University.
18 I have trained with the Houston Police Department
19 crime laboratory in identifying controlled
20 substances. I have trained with the Drug Enforcement
21 Administration as well as other various forensic
22 organizations. I am a member of CLIC, which stands
23 for Clandestine Laboratory Investigating Chemists,
24 and I am certified by the American Board of
25 Criminalistics in drug analysis.

1 Q. Now, the Houston Police Department crime
2 laboratory, is it accredited by the Department of
3 Public Safety in Texas?

4 A. Yes.

5 Q. And is it accredited by ASCLD?

6 A. The ASCLD lab, yes.

7 Q. Now, the role that you have as a chemist
8 analyst, how long have you been doing that?

9 A. Seven and a half years.

10 Q. Can you tell the jury exactly what you do
11 on a daily basis at the crime lab?

12 A. As an analyst I receive cases and test for
13 the presence of controlled substance. So, I go about
14 that by first opening up a case, inventorying it, and
15 then determining -- doing a visual inspection to
16 determine is it chunk substance, tablets, plant
17 substance. From there we perform a presumptive test.
18 That gives us an indication of what the substance is.
19 And then we'll perform a confirmatory test that gives
20 the analyst enough information to actually identify
21 what that substance is.

22 MS. PALMER: May I approach the
23 witness?

24 THE COURT: Yes.

25 Q. (BY MS. PALMER) I'm going to go through

1 this as a group. So, I am going to show you State's
2 38, 39, 40, and 41.

3 Can you tell us if you recognize
4 these?

5 A. Yes.

6 Q. How do you recognize these?

7 A. By the HPD incident number, 036696912, as
8 well as my handwritten initials.

9 Q. Okay. So on all of these items, are your
10 initials right there?

11 A. Yes.

12 Q. So, the A-B on State's Exhibit 34 is you;
13 is that right?

14 A. Yes.

15 Q. So, tell the jury what you did with State's
16 38, 39, 40, and 41.

17 A. This is State's Exhibit 38. State's
18 Exhibits 38, 39 and 40 and 41, I performed
19 presumptive tests on each one as I explained before.
20 I perform a chemical spot test and that's taking a
21 representative sample of the evidence and exposing it
22 to reagents to observe a color change. And that
23 gives us and gave me an indication of what was in
24 these containers. From there, each Ziploc, I took
25 representative samples and performed a gas

1 chromatograph mass spectrometry test, which confirmed
2 what was in these Ziplocs.

3 Q. Okay. So, let's start with 38 and I'm
4 going to ask you what you identified it as in the
5 weight?

6 A. Okay.

7 Q. So, State's 38?

8 A. State's 38 is what I have marked as Item
9 11.2. And that contained 16.8 grams of cocaine.

10 Q. Now, State's Exhibit 39?

11 A. State's Exhibit 39, I identified as Item
12 11.3 and that contained 4.5 grams of cocaine.

13 Q. State's Exhibit 40?

14 A. State's Exhibit 40, I identified as Item
15 11.1. And it weighed 23.0 grams. And it contained
16 cocaine as well.

17 Q. Okay. And State's Exhibit 41?

18 A. Forty-one I identified as Item 11.4. It
19 weighed 2.4 grams and it contains cocaine as well.

20 Q. So, I want to be clear for the jury. When
21 you get a Ziploc containing evidence at the Houston
22 Police Department, do you label this?

23 A. Yes.

24 Q. And you were talking about your numbers.
25 Do you have your own numbering system on evidence?

1 A. Yes.

2 Q. Okay. And that's how you keep it straight,
3 right?

4 A. Yes.

5 Q. On State's 42, it's your No. 11.5, can you
6 tell the jury what that is and what the weight is?

7 A. Yes. This is a Ziploc that contains two
8 smaller Zips, each containing white powder. One
9 Ziploc weighed 0.43 grams. The other Ziploc weighed
10 0.3. And when I say the Ziploc, it actually means
11 the powder inside of the Ziploc. That's a combined
12 weight of 0.7 grams. And I tested each one of the
13 Ziplocs individually and they both contained cocaine.

14 Q. So, when we're saying the weight of this
15 item, we're not including the Ziploc bag that
16 contains the item, right?

17 A. That's correct.

18 Q. Okay. Now, State's Exhibit 51, that's your
19 No. 11.6, can you tell the jury what that is?

20 A. This is a Ziploc that contains a baggie
21 with 24 white tablets. The weight of the tablets was
22 17.2 grams and I did not perform an analysis on this
23 item.

24 Q. Why not?

25 A. Because there was enough of cocaine or

1 Penalty Group I substance to not perform analysis on
2 this.

3 Q. Okay. Now, you said Penalty Group 1. Can
4 you tell the jury what the different penalty groups
5 are, generally?

6 A. Generally, a controlled substance is a
7 substance that's listed in Penalty Groups 1 through 4
8 or Schedules I through V. Cocaine is considered a
9 Penalty Group 1. So, it has a higher punishment
10 range for the different weights.

11 If I had 400 grams of white tablets
12 which is a different penalty group, Penalty Group 3,
13 the punishment may be as much as having a certain
14 amount of cocaine. So, if it were more tablets, then
15 I would have worked it because it would be a higher
16 punishment.

17 Q. So, I'm going to separate this. This is
18 State's Exhibit 43 and its contents. The contents of
19 State's 43 included one, two, three, four, five, six
20 baggies. So, if you could tell -- tell us what you
21 found in that exhibit.

22 A. Okay. State's Exhibit 43 is labeled as my
23 Ziploc 11.15. What was contained in it was 11.15.1,
24 which was this baggie. And inside the baggie were
25 several different tablets. And in the laboratory, we

1 separate them by color and logo. So each Ziploc has
2 tablets that are similar. So, this Ziploc has blue
3 tablets and they have the same logo on each of those
4 tablets. So, we separate out the tablets before we
5 perform the analysis on these.

6 So, 11.15.1.1 contains 23 blue
7 tablets, round tablets, that weighed 6.3 grams. And
8 I did perform analysis on this and these tablets
9 contained N-benzylpiperazine and 13540 methyl phenyl
10 piperazine.

11 Q. Okay. So what are the -- what's that short
12 for or what's that long word?

13 A. The first one, the short version is B-Z-P
14 and the second substance I named, the short version
15 is T-F-M-P-P.

16 Q. So these blue tablets that are included in
17 State's 43, is that commonly -- those two types of
18 drugs, is that commonly referred to or -- not
19 referred to -- is that commonly mistaken for
20 something else?

21 A. Tablets that we normally received like this
22 are all commonly called ecstasy. These are tablets
23 that are clandestinely; so, they're not made by
24 legitimate pharmaceutical companies. So, we can get
25 different types and each one may contain something

1 different. But on the street, they're all called
2 ecstasy. So, I might get one ecstasy tablet, but
3 when I analyze it, it has cocaine and caffeine. I
4 might get another ecstasy tablet, but when I analyze
5 it, it has only caffeine.

6 When I first started working seven and
7 a half years ago, they would normally all be commonly
8 what we call M-D-M-A. Now we see different types of
9 substances in the ecstasy tablets and in this
10 particular case, this one happens to contain B-Z-P
11 and T-F-M-P-P.

12 Q. And B-Z-P and T-F-M-P-P, are those
13 controlled substance?

14 A. Yes.

15 Q. Now, that's the blue tablets in your
16 No. 11.15.1.1. What about the other tablets here in
17 the four Ziplocs?

18 A. The other tablets that are here, I did not
19 perform analysis on.

20 Q. Okay. And why not?

21 A. The weight of these tablets did not equal
22 enough to bump it to a higher punishment range; so, I
23 did not perform analysis on the other ecstasy
24 tablets.

25 Q. Lastly, I want to show you State's 49 and

1 50 and see if you recognize these.

2 A. Yes.

3 Q. What are these?

4 A. My Item 11.7 is a Ziploc that contains
5 another Ziploc, which contains plant substance.

6 Q. So, State's Exhibit 49 is your No. 11.7 and
7 it contains a plant substance. Were you able to
8 analyze that?

9 A. I did not perform analysis on the plant
10 substance.

11 Q. And State's Exhibit No. 50 is your
12 No. 11.8. Did you analyze that?

13 A. No.

14 Q. Okay. Did you analyze anything that's in
15 the beakers or the digital scales?

16 A. No.

17 Q. Do you normally do that?

18 A. If we have a substantial amount of
19 controlled substance, we normally do not go ahead and
20 analyze items that have residue on them.

21 Q. So the total amount of cocaine that you
22 analyzed and found in this case is more than four
23 grams by aggregate weight; is that right?

24 A. Yes.

25 Q. And is it more than four grams by aggregate

1 weight including any adulterants or dilutants?

2 A. Yes.

3 MS. PALMER: Pass the witness.

4 THE COURT: Mr. Haynes?

5 MR. HAYNES: Nothing from the witness.

6 THE COURT: May this witness be

7 excused?

8 MR. HAYNES: Yes.

9 THE COURT: Thank you very much. You
10 may be excused.

11 THE WITNESS: Thank you.

12 THE COURT: We're going to take our
13 morning break, ladies and gentlemen. We'll -- it
14 will probably be about 20 minutes today. Give you a
15 better estimate of time. So, feel free to stretch
16 your legs, grab a drink if you need to. Don't
17 deliberate the case amongst yourselves.

18 THE BAILIFF: All rise.

19 **(Jury out)**

20 **(Recess taken)**

21 THE COURT: You may be seated, ladies
22 and gentlemen.

23 State, call your next.

24 MS. PALMER: Deputy Haley.

25 THE BAILIFF: This witness has not