

1 MS. HARVEY: No, Your Honor.

2 THE COURT: May this witness be excused?

3 MS. HARVEY: Yes, Your Honor.

4 THE COURT: Thank you, sir. You may step  
5 down.

6 THE WITNESS: Yes, ma'am. Have a good day.

7 THE COURT: Call your next witness.

8 MS. HARVEY: State calls Dr. Michael  
9 Condron.

10 THE COURT: You may proceed.

11 MS. HARVEY: Thank you, Your Honor.

12 **DR. MICHAEL ROBERT CONDRON, II,**

13 having been first duly sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 **BY MS. HARVEY:**

16 Q. Would you tell the jury what your name is?

17 A. My name is Michael Robert Condron, II.

18 Q. Are you currently employed?

19 A. Yes, I am.

20 Q. How are you employed?

21 A. I'm an assistant medical examiner for the --  
22 for Harris County.

23 Q. Can you tell us about your educational  
24 background?

25 A. Yes. I received my doctorate of medicine

1 degree from Meharry Medical College in 2004. And I went  
2 on to finish an anatomic and clinical pathology  
3 residency at the University of Texas here in Houston. I  
4 then completed a surgical pathology fellowship at the  
5 Methodist Hospital here in Houston and then a forensic  
6 pathology fellowship at the office where I currently  
7 work. And I'm a licensed physician in the state of  
8 Texas.

9 Q. I think that was my next question. Do you hold  
10 any professional licenses?

11 A. Yes. The Texas medical license.

12 Q. What are your current job duties?

13 A. Basically, my responsibility is to perform  
14 autopsies or external examinations on decedents to  
15 determine their cause and manner of death and some other  
16 responsibilities that revolve around that.

17 Q. Were you employed by what we used to call the  
18 medical examiner's office but we now call the Harris  
19 County Institute of Forensic Sciences back on March 20th  
20 and 21st of 2011?

21 A. Yes, I was.

22 Q. And did you have occasion to perform an autopsy  
23 on the body of Henry Joseph Breaux?

24 A. Yes, I did.

25 MS. HARVEY: May I approach the witness,

1 Your Honor?

2 THE COURT: You may.

3 Q. (By Ms. Harvey) I am showing you photographs  
4 that have been marked State's Exhibits 85 through 106  
5 and State's Exhibit 107. Is each of the photographs a  
6 fair and accurate depiction of the autopsy of Mr. Breaux  
7 (indicating)?

8 A. Yes.

9 Q. As we look at State's Exhibit 107, can you tell  
10 us what that is?

11 A. This is a copy of the autopsy report that I  
12 prepared, along with diagrams, a toxicology report, and  
13 the report of the anthropologist that I consulted on the  
14 case as well.

15 Q. Now, did you prepare that report?

16 A. I prepared most of -- the bulk of the body of  
17 the report, but not the anthropologist's report.

18 Q. Did you make that report at or near the time  
19 that you were doing the autopsy?

20 A. Yes.

21 Q. Is it common business practice for the Harris  
22 County Institute of Forensic Sciences to keep that  
23 report?

24 A. Yes, it is.

25 Q. Is it kept in the regular course of business?

1           A.    Yes.

2           Q.    And is it made by a person with personal  
3 knowledge of the autopsy that occurred?

4           A.    Yes.  It's made by me, or also in this case the  
5 consulted anthropologist.

6                    MS. HARVEY:  Judge, I will remove the  
7 portions that this --

8                    THE COURT:  The anthropologist's report?

9                    MS. HARVEY:  Yes, ma'am.  The  
10 anthropologist's report and the toxicology report.

11                   THE COURT:  Okay.  And the photos, you  
12 said, were 85 through 106; is that correct?

13                   MS. HARVEY:  Yes, ma'am.  And I'll tender  
14 85 to 107 to defense counsel and offer into evidence.

15                           **(State's Exhibit No. 85 through 107**  
16                           **Offered)**

17                   MR. VARELA:  No objection to those  
18 exhibits, Your Honor.

19                   THE COURT:  They're admitted.

20                           **(State's Exhibit No. 85 through 107**  
21                           **Admitted)**

22           Q.    (By Ms. Harvey) So, as we talk about the  
23 autopsy of Henry Breaux, I'm putting up State's Exhibit  
24 85.  Can you explain to us what that photograph is  
25 (indicating)?

1           A.    Yes.  This is what we call an identification  
2 photograph.  It's a photo of the face after the body has  
3 been cleaned.

4           Q.    And what's the purpose of taking the photo of  
5 the face after the body has been cleaned?

6           A.    In case that somebody that is familiar with the  
7 decedent needs to identify him by face.

8           Q.    And in each of our -- each of our autopsy  
9 photographs, we see this little tag.  Can you explain to  
10 me what that number is?

11          A.    That's the unique case number that is assigned  
12 to this case.

13          Q.    And is that case number on every one of the  
14 photographs that you take during your autopsy?

15          A.    It's supposed to be, yes.

16          Q.    And is that the same case number, then, that  
17 appears on the autopsy report itself?

18          A.    Yes.

19          Q.    Can you tell us what the cause of death of  
20 Henry Joseph Breaux was?

21          A.    Yes.  Mr. Breaux died as a result of multiple  
22 gunshot wounds.

23          Q.    Do you diagram those gunshot wounds as part of  
24 your autopsy?

25          A.    Yes.

1 Q. And as we look at the diagram that is part of  
2 your autopsy report, as to the torso how many different  
3 wounds were there?

4 A. The torso had four gunshot wounds.

5 Q. Okay. And you number the wounds; is that  
6 right?

7 A. Yes.

8 Q. And what's the purpose of numbering the wounds?

9 A. The purpose of numbering them is simply to make  
10 it easier to refer to each one specifically. The  
11 numbers don't have any significance about sequence that  
12 they happened or which one is more severe than any other  
13 one. They're mostly assigned in the order that I go  
14 from head to toe as I look down the body, or sometimes  
15 there's other reasons for giving them different numbers,  
16 but they have no particular significance.

17 Q. And as to the wounds that you have listed as  
18 Gunshot Wound No. 1, what can you tell us about that  
19 wound?

20 A. Gunshot Wound No. 1 entered at the upper right  
21 chest and went through mostly the soft tissue of the  
22 chest and then exited the back. It also fractured  
23 several of the ribs on the right. And there was a small  
24 fragment of metal that was stuck to the skin around the  
25 exit wound that was submitted as evidence.

1 Q. And as we look at State's Exhibit No. 93, can  
2 you show us on the photograph where the entrance wound  
3 to wound one is?

4 A. I drew a line to it there (indicating).

5 Q. And in State's Exhibit 96, what is it that  
6 we're seeing there (indicating)?

7 A. That's the entrance to Gunshot Wound 1 that I  
8 circled (indicating).

9 Q. And then slightly closer up in State's Exhibit  
10 No. 97, does the shape of the wound or the size of the  
11 wound tell you anything?

12 A. This wound is by itself a little bit difficult  
13 to interpret. This could either be an exit or entrance  
14 wound. I happen to know from other elements of the  
15 entirety of the wound path that this must be the  
16 entrance.

17 Q. Where did Gunshot Wound No. 1 exit?

18 A. It exited at the upper right back. You can see  
19 here on the diagram there's an "X" there (indicating).

20 Q. And if we look at State's Exhibit No. 94, can  
21 we, in fact, see that exit wound visible in that picture  
22 (indicating)?

23 A. Yes. It's a little hard to make out. It's  
24 right here on the upper right back. I circled it  
25 (indicating).

1 Q. In State's Exhibit 101, can you tell us what  
2 we're looking at (indicating)?

3 A. This is a somewhat more close-up view of that  
4 same exit wound after the skin around it has been  
5 shaved.

6 Q. And in State's Exhibit No. 107 {sic}?

7 A. This is an extreme close-up view of that same  
8 exit wound.

9 Q. Can you tell us the direction of Gunshot Wound  
10 No. 1?

11 A. Yes. It went from front to back, somewhat  
12 downward, and a little bit left to right.

13 Q. And in terms of the internal damage that  
14 Gunshot Wound No. 1 did, can you explain that to the  
15 jury?

16 A. Yes. It fractured several of the ribs in the  
17 area, ribs six, seven, and eight. And there was some  
18 hemorrhage within the muscles, but it did not strike any  
19 major internal organ.

20 Q. Would Gunshot Wound 1 on its own have caused  
21 death?

22 A. Not right away. It's conceivable that there  
23 would be complications from it that would cause  
24 long-term problems, but not immediately, no.

25 Q. Is Gunshot Wound No. 1 the type of wound that a



1 person could walk around with for some period of time?

2 A. Probably, yes.

3 Q. As we move onto what is listed as wound three,  
4 can you describe for us what wound three -- how it  
5 presented?

6 A. We're skipping wound two?

7 Q. We'll go back to wound two. Unless you want to  
8 do wound two next.

9 A. Okay. Wound three is a graze wound on the  
10 upper left chest. You can see it in the diagram here  
11 (indicating).

12 Q. And as we look at State's Exhibit No. 95, can  
13 you explain to us anything particular about the wound?

14 A. Yes. This is a close-up view of that wound  
15 after the skin around it has been shaved. And you can  
16 see it's pretty much horizontally oriented. There's  
17 nothing about it that tells me whether the bullet was  
18 traveling left to right or right to left. I could not  
19 make that determination, but the bullet only went just  
20 barely through the skin and contacted a little bit of  
21 the underlying fat tissue, but it did not enter the  
22 chest cavity.

23 Q. Is this the type of wound that would have  
24 caused death?

25 A. No.

1 Q. Is it also the type of wound that a person  
2 could walk around with?

3 A. Definitely.

4 Q. All right. Now moving down to Gunshot Wound  
5 No. 2. What can you tell us about Wound No. 2?

6 A. All right. Gunshot Wound 2 entered on the left  
7 back. You can see it in the diagram here. I've circled  
8 it. It did quite a bit of damage. It went through the  
9 left back muscles. It went through the eleventh and  
10 twelfth ribs posteriorly. It grazed the spleen. It  
11 went through the diaphragm, part of the lower lobe of  
12 the left lung, the aorta, the two upper chambers of the  
13 heart called the atria, and part of the right lung. And  
14 then it went through the fourth rib in the front and  
15 exited on the upper right chest.

16 Q. And as we look at State's Exhibit No. 94, can  
17 we see the entrance wound there (indicating)?

18 A. Yes. It's on the left side of the back. I  
19 circled it (indicating).

20 Q. And State's Exhibit 99?

21 A. That's the same wound with the skin shaved and  
22 a closer view.

23 Q. And once the skin is shaved, is there anything  
24 notable about that wound?

25 A. Yes. There's a lot of small punctate red

1 lesions on the skin around it. That's what we call  
2 gunpowder stippling.

3 Q. When we see gunpowder stippling on a wound like  
4 this, does that tell us anything with respect to how far  
5 the end of the muzzle of the gun must have been from the  
6 skin?

7 A. Yes. Typically, stippling does not occur if  
8 the muzzle of the gun is farther away. It depends on  
9 the gun, but it's generally somewhere between 2 and 3  
10 feet, is about as far away as the gun will be for you to  
11 have stippling. It's also usually not seen if the gun  
12 is very, very close because then all of the burning  
13 gunpowder particles that cause the stippling just enter  
14 the skin -- or they enter the wound and they don't leave  
15 a mark on the skin. This one is a little difficult to  
16 interpret because there was a piece of clothing  
17 intervening. So, the ranges there, the gun was probably  
18 closer than the farther end of the range.

19 Q. Can you tell us about the direction of gunshot  
20 wound -- or rather can you tell us where Gunshot Wound  
21 No. 2 exited?

22 A. It exited on the upper right chest, very close  
23 to where Gunshot Wound 1 entered.

24 Q. And can you tell us anything about -- anything  
25 about the direction of Gunshot Wound No. 2?

1           A.    Yes.   That was going from back to front and  
2 left to right and upward.

3           Q.    Is Gunshot Wound No. 2 the type of thing that's  
4 survivable?

5           A.    No.

6           Q.    And for how long a time, if at all, would a  
7 person be able to walk around with a wound like Gunshot  
8 Wound No. 2?

9           A.    Not very long.   This would have drastically  
10 compromised the blood flow to the brain and the rest of  
11 the body and -- maybe a few seconds, at most.

12          Q.    Now, as we turn the page to Gunshot Wound 4 and  
13 the torso, what can you tell us about Gunshot Wound No.  
14 4?

15          A.    Gunshot Wound 4 entered on the left side of the  
16 torso and it exited on the right side and it went  
17 through parts of the internal soft tissues of the  
18 abdomen, but didn't hit a major organ.

19          Q.    And as we look at State's Exhibit No. 105, can  
20 you tell the jury what we see in that photograph  
21 (indicating)?

22          A.    That looks like an entrance wound.   I'm a  
23 little disoriented about which -- the label points down,  
24 but I'm not sure where on the body -- well, I know where  
25 it is because it's the entrance to Gunshot Wound 4, but

1 it's hard to orient you here. I believe this is the  
2 waistline. That's down and this is the gunshot wound  
3 right here (indicating).

4 Q. And then in State's Exhibit 103, is the exit  
5 wound visible in that photograph?

6 A. Yes. Here the orientation is easier. This is,  
7 obviously, his arm -- forearm, wrist, and hand. This is  
8 the right side of the abdomen. The thigh is that way  
9 (indicating).

10 Q. What kind of damage did Gunshot Wound No. 4 do  
11 to the victim?

12 A. This went through the soft tissues that are in  
13 the back of the abdomen. It hit what's called the  
14 mesentery, which is the -- there's sort of a sheet of  
15 tissue that connects the intestine to the rest of the  
16 body. It has a lot of blood vessels in it. It injured  
17 that. But mostly it just went through the muscles and  
18 soft tissues of the back.

19 Q. Is this the type of gunshot wound that someone  
20 can walk around with?

21 A. Probably they could walk around with it, yes.

22 Q. Would it, on its own, have caused death?

23 A. Not right away.

24 Q. And when you say "not right away," can you  
25 explain to the jury what -- what kind of a timeframe and

1 contingencies there would be?

2 A. I don't know about the timeframe, but this is  
3 the type of wound that would -- if not treated, would  
4 probably become infected and ultimately cause somebody  
5 to die, but that would take more than hours. It would  
6 take days to weeks. The wound path is very, very large,  
7 but it did not cause any acute, immediate  
8 life-terminating event.

9 Q. As we look at Gunshot Wound No. 5, can you tell  
10 the jury about Gunshot Wound No. 5?

11 A. Yes. This wound involves the right hand. It  
12 entered on the back of the right hand near the base of  
13 the thumb and then it exited on the front of the palm at  
14 the base of the thumb.

15 Q. And as we look at State's Exhibit 91, can you  
16 tell the jury what we're looking at (indicating)?

17 A. This is a view of the -- sort of the side of  
18 the hand showing the thumb and the wrist and the --  
19 yes -- the entrance, which I circled right there  
20 (indicating).

21 Q. Now, down near the base of the thumb we also  
22 see some purple bruising, it looks like. Can you  
23 explain to the jury what that is?

24 A. Yes. The bullet fractured several of the bones  
25 of the wrist and the large bone at the base of the

1 thumb. And that is probably caused by those bone  
2 fragments stretching the skin out as the bullet passed  
3 through. It's possible that that was caused by  
4 something unrelated to the gunshot wound, but it's right  
5 next to it, so it's probably related to the gunshot  
6 wound.

7 Q. As we look at State's Exhibit 92, can you tell  
8 the jury what we're looking at (indicating)?

9 A. Yes. I'm circling here the exit wound for that  
10 gunshot (indicating).

11 Q. Now, in terms of -- we have labeled five  
12 gunshot wounds, correct?

13 A. Yes.

14 Q. Is it possible for those five wounds to have  
15 been caused by four bullets?

16 A. Yes. I don't know the position of the hand at  
17 the time the shots were fired. It could have been  
18 overlying pretty much any of those wounds, except  
19 probably not two, which would have been hard to reach  
20 around and have the hand be over that one, but the other  
21 ones, it could have been overlying those. I guess it  
22 could have been next to the exit from two.

23 Q. Now, as we look at State's Exhibit No. 86, can  
24 you tell the jury what that is (indicating)?

25 A. This is a photograph of the clothing.

1 Q. And why do we photograph a victim's clothing?

2 A. To document any defects that are in the  
3 clothing that might correspond to gunshot wounds.

4 Q. Were there defects in the victim's clothing  
5 that corresponded to gunshot wounds?

6 A. Yes. There were several -- I forgot how many,  
7 but several defects in the shirt, some of which are  
8 marked with colored markers in this picture.

9 Q. As we look at State's Exhibit No. 87, can we  
10 start to see some of those colored markers?

11 A. Yes. There's two yellow ones that correspond  
12 to graze wound, which, I believe, was No. 3. And then  
13 there's a blue marker that is, I believe, the entrance  
14 for No. 1. It might be the exit for No. 2.

15 Q. In State's Exhibit 88, what does that show us  
16 (indicating)?

17 A. Those are the two holes that go along with the  
18 Graze Wound No. 3.

19 Q. And in State's Exhibit 90 (indicating)?

20 A. Yeah. That -- that's a round hole in the  
21 shirt, which usually is what we would see with an  
22 entrance wound. It's conceivable that's an exit. It's  
23 in the vicinity of one and two on the upper right chest,  
24 but it's hard for me to be sure which of those two it  
25 goes with.



1           Q.    Now, aside from the gunshot wounds that Henry  
2 Joseph Breaux suffered, what was his health like  
3 otherwise?

4           A.    He had a moderately enlarged heart.  He may  
5 have had high blood pressure.  He did not have any  
6 significant other sclerosis or any other obvious  
7 diseases that I could see.

8           Q.    Had he not been shot, conceivably, would he  
9 still be alive today?

10          A.    I would imagine so, yes.

11                   MS. HARVEY:  Pass the witness.

12                   MR. VARELA:  May we approach, Your Honor?

13                   THE COURT:  Yes, you may.

14                   (At the Bench, on the record)

15                   MR. VARELA:  Judge, before I begin cross, I  
16 need about a four-minute break.

17                   THE COURT:  Okay.

18                   MR. VARELA:  Can we have that?

19                   THE COURT:  Would it be safe to tell the  
20 jury it's going to be --

21                   MR. VARELA:  No.  It will be shorter than  
22 you think.

23                   (Open court, defendant and jury present)

24                   THE COURT:  Ladies and gentlemen, we need  
25 to take a brief recess.  And so, although it's a little

1 bit early for it, we will go ahead and take our  
2 afternoon break at this time.

3 (Recess)

4 (Open court, defendant and jury present)

5 THE COURT: Thank you. Please be seated.

6 Mr. Varela, you may proceed.

7 MR. VARELA: Thank you, Your Honor.

8 **CROSS-EXAMINATION**

9 **BY MR. VARELA:**

10 Q. Dr. Condrón --

11 A. Yes.

12 Q. -- let's talk about the gunshot wounds. You've  
13 testified earlier that they're numbered one through four  
14 in your report.

15 A. One through five.

16 Q. One through five. Yes, sir.

17 A. Yes.

18 Q. The ones to the torso were numbered one through  
19 four and then there's a hand wound that's labeled No. 5?

20 A. Yes.

21 Q. And you testified that you're not offering any  
22 opinion when you make those numberings of the order in  
23 which the shots were sustained, correct?

24 A. That's right. Usually I just number them  
25 inward starting from the front, top down, then the back,

1 and then on the extremities.

2 Q. And, in fact, based on your examination of the  
3 body, you can't tell us with any degree of certainty in  
4 what order those shots were sustained, right?

5 A. Right. In this particular case, no.

6 Q. There may be a situation in which you could  
7 give some opinion about that?

8 A. Rarely with gunshot wounds. There's different  
9 aspects of it that would tell you one might have become  
10 the other, but not in this case.

11 Q. All right. So, your numbering is strictly for  
12 identification purposes, for distinction purposes, and  
13 not in any way an opinion about which are more  
14 important, what order they were sustained, that sort of  
15 thing?

16 A. No. I could have numbered them A, B, C, D,  
17 alpha, beta, gamma. It doesn't matter.

18 Q. All right. I'm going to direct your attention  
19 to your autopsy report, which is in evidence. I  
20 think --

21 MR. VARELA: Is it 107?

22 MS. HARVEY: Yes, sir.

23 MR. VARELA: Okay. May I have it?

24 Q. (By Mr. Varela) Let me direct your attention to  
25 that, please, sir.

1 A. Okay.

2 Q. Let me put it up on the projector. Let's look  
3 at the top cover of Exhibit No. 107, which you've  
4 identified as your autopsy report. You wrote that  
5 report yourself?

6 A. Yes.

7 Q. Cause of death is multiple gunshot wounds.  
8 Correct?

9 A. Yes.

10 Q. And it says manner of death is a homicide?

11 A. Right.

12 Q. Doctor, there's a distinction between a  
13 homicide and a murder; is that correct?

14 A. Right. Uh --

15 Q. Just "yes" or "no."

16 A. Yes.

17 Q. I'll get to this. You're not giving a legal  
18 opinion as to whether there was intent or knowledge,  
19 anything like that, correct?

20 A. Right. As we use the term, it simply means  
21 these injuries were caused by another person as opposed  
22 to caused by the decedent himself.

23 Q. It does exclude things like suicide, correct?

24 A. Right.

25 Q. So, you're saying there was a death caused by

1 gunshot wounds and those gunshot wounds were caused by  
2 some other person?

3 A. And not an accident.

4 Q. And not an accident. So, you're excluding  
5 accident, correct?

6 A. Yes.

7 Q. Excluding suicide?

8 A. Correct.

9 Q. That's all you're saying when you say it was a  
10 homicide, right?

11 A. Right. As we use the term in forensic  
12 pathology, it simply means injuries that were caused by  
13 another person without any connotations of any legal  
14 criminal aspects of it whatsoever. That's outside the  
15 scope of what we use that word for.

16 Q. So, when you say homicide, you don't make an  
17 opinion about justifiable or unjustifiable homicide,  
18 correct?

19 A. Correct. We would use the same term for  
20 somebody perfectly legally defending themselves and the  
21 same term is also used for judicial executions and a  
22 variety of situations where there is no criminal  
23 responsibility at all, as well as in those cases that  
24 are criminal, yes.

25 Q. You're also not offering any opinion as to who

1 did the homicide, correct?

2 A. Absolutely not.

3 Q. Okay. Let's flip over to your report to a  
4 little drawing in the report, which I believe we've seen  
5 before. Appended to your report is a series of outlines  
6 of the human body, correct?

7 A. Yes.

8 Q. See at the bottom where it says "Page 1 of 3"?

9 A. Yes.

10 Q. Let's take a look at that. That is a standard  
11 form with the outlines of the bodies front and back, the  
12 extremities that your office uses. Correct?

13 A. Yes.

14 Q. So, in each case where it would be pertinent,  
15 you have this blank diagram and you're asked by your  
16 procedures to fill in where the entrance wounds are that  
17 you believe, where the exit wounds that you believe are,  
18 and any other injuries on those diagrams, correct?

19 A. Yes. We have a variety of diagrams showing all  
20 different parts of the body and various views and  
21 orientations for any purpose that might come up, yes.

22 Q. And in this case, you did just that. Correct?

23 A. That is what I did, yes.

24 Q. Take a look at what's on the projector now  
25 that's marked Page 1 of 3. You did that in your own

1 hand, correct (indicating)?

2 A. Yes, that's my drawing. Yes.

3 Q. And you did these drawings immediately after  
4 you examined Mr. Breaux's body, right?

5 A. These drawings were redone from the original  
6 drawings for purposes of looking neater. The drawings  
7 that are made at the time of autopsy are often a little  
8 bit messy. So, this was redrawn at the time the report  
9 was completed so that it shows the most relevant details  
10 clearly.

11 Q. Let's take a look at that drawing. Let's look  
12 at the screen up here for a second. You can look at  
13 your own or you can look -- well, why don't you look up  
14 here where I'm pointing.

15 A. All right.

16 Q. Gunshot Wound No. 1 entrance. That's in,  
17 basically, the right shoulder, correct?

18 A. Yes.

19 Q. And the wound tract you observed was slightly  
20 from top to bottom, correct?

21 A. I --

22 Q. In other words, the exit wound is lower than  
23 the entrance wound on Gunshot Wound No. 1, correct?

24 A. Yes.

25 Q. Now, it's impossible, basically, to predict the

1 path of a bullet in a given body, right?

2 A. I'm not sure what you mean by that.

3 Q. Well, there are a lot of variables to consider,  
4 aren't there, Doctor, when you're talking about the path  
5 of a wound through a human body?

6 A. I'm still not quite sure what you mean.

7 Q. Well, what I'm saying is you can't guarantee  
8 that the path through the body is the same ballistic  
9 trajectory as in which the bullet was fired through the  
10 air, correct?

11 A. Oh, okay. Right. I can't tell the orientation  
12 of the body in space when the bullet hit the decedent.  
13 The terms that I'm using, front, back, up, down, left,  
14 and right, those are with respect to the body in a  
15 standard position that we call standard anatomic  
16 position, which is the body standing face forward with  
17 the arms out like this and the palms forward. All  
18 front, back, left, right, up, down is relative to that.  
19 There's no way that I can tell how a person's body was  
20 oriented in space at the time a bullet hit them.  
21 Somebody could be upside down or bent over or in any  
22 configuration you can imagine. And all I'm doing is  
23 saying the path of the body -- I'm sorry -- the path of  
24 the bullet through the body relative to those  
25 directions, not relative to the surrounding --



1 Q. But it's possible, is it not, based on what you  
2 know from the examination, that Gunshot Wound No. 1 was  
3 indeed fired from above the entrance and did continue on  
4 a path downward through the body?

5 A. That is certainly possible. It's also possible  
6 he was leaning forward and it was -- the bullet was  
7 traveling physically upward.

8 Q. Sure. Yeah. But, in other words, it is within  
9 the realm of possibility that if the person was -- if  
10 the body was standing upright, that the gun was fired  
11 from above entrance Wound No. 1 and continued on a  
12 downward tract, right?

13 MS. HARVEY: It's asked and answered.

14 THE COURT: Sustained.

15 MR. VARELA: I'll move on, Your Honor.

16 Q. (By Mr. Varela) Did you measure a height and  
17 weight on the man you examined?

18 A. I personally don't do that, but it is done at  
19 the time the body goes through our intake procedure,  
20 yes.

21 Q. Did you come to a conclusion as to the height  
22 and weight?

23 A. Yes. He was 73 inches tall, which is 6 feet,  
24 1 inch. And he weighed 287 pounds.

25 Q. Two -- 6-foot-1 and 287?

1           A.    Yes.

2           Q.    All right.  You talked about some other  
3 injuries being located on the body, right?  That being  
4 blunt force trauma?

5           A.    Right.  We didn't talk about them during direct  
6 examination, but they are in the report, yes.

7           Q.    You talked about those in your report?

8           A.    Yes.

9           Q.    Where were those located?

10          A.    He had a faint contusion on -- which is a  
11 bruise on his right thigh and he had an abrasion and a  
12 contusion on his right knee or just below -- sorry --  
13 just below the right knee.

14          Q.    Now, when you say "blunt force trauma," that  
15 means being struck with a blunt object of some kind,  
16 correct?

17          A.    Either struck with or him striking something,  
18 like a table or a wall or whatever.  Yes.

19          Q.    And the possibilities of such an injury are  
20 manifold, correct?  It can be a number of different  
21 kinds of objects that would cause that?

22          A.    Pretty much endless, yes.

23          Q.    It has nothing to do with being shot with a  
24 firearm, correct?

25          A.    Right.  I can't tell where -- how the injuries

1 occurred.

2 Q. Okay. Could have been like a kick, a strike  
3 with an object, striking against an object, anything  
4 like that?

5 A. Right. It could have happened at a different  
6 time from when he received the gunshot wounds as well.

7 Q. Well, it's -- you might anticipate that it  
8 happened before he received Gunshot Wound No. 2,  
9 correct?

10 A. Yes. Gunshot Wound 2 would have very quickly  
11 ended his life. Any injuries he had probably came  
12 before that.

13 Q. The blunt force trauma you observed could be  
14 consistent with some kind of fight or assault, could it  
15 not?

16 A. Yes.

17 MR. VARELA: May I have a moment, Your  
18 Honor?

19 THE COURT: Yes.

20 (Pause)

21 MR. VARELA: We'll pass this witness, Your  
22 Honor.

23 THE COURT: Anything further from the  
24 State?

25 MS. HARVEY: Yes, Your Honor.

**REDIRECT EXAMINATION**

1

2 **BY MS. HARVEY:**

3 Q. Other than the gunshot wounds that he sustained  
4 to his hand, was there anything else about the victim's  
5 hands that would lead you to believe he had been  
6 involved in any sort of a fight?

7 A. Well, there was that abraded bruise near the  
8 gunshot wound entrance which, again, I think is probably  
9 related to the bones being fractured because of the  
10 bullet. It's possible, though, that that wound was  
11 caused by something else, by the back of his thumb  
12 hitting something or something hitting the back of his  
13 thumb.

14 Q. And when we talk about the bruise on his right  
15 thigh and the injury on his knee, and you say they could  
16 have happened at a different time, do you mean moments  
17 before the gunshot, do you mean days before the gunshot,  
18 do you mean weeks before the gunshot?

19 A. Well, interpreting the color of bruises is not  
20 a very scientific thing, but these are pink bruises and  
21 they are probably relatively recent, but there's no way  
22 to tell whether they were during the episode where the  
23 shots were being fired, or, perhaps, earlier in the day,  
24 something like that.

25 Q. I wanted to ask you about, do you ever collect

1 evidence during your autopsy?

2 A. Yes.

3 Q. And what kinds of evidence do you collect?

4 A. It depends on the nature of the case. On  
5 gunshot wound cases, we will always collect any  
6 projectile fragments that we find in the body. We also  
7 always collect the bags -- there are usually paper bags  
8 put on the decedent's hands at the scene or at the  
9 hospital if they were taken to the hospital. We collect  
10 those and submit those as evidence. We will always, in  
11 any case involving a gun, collect what's called a  
12 gunshot residue kit from the hands, which is a series of  
13 sticky adhesive disks that are used to collect any  
14 gunshot powder residue that might be on the hands. And  
15 in most cases where there might have been a physical  
16 struggle, we collect scrapings and clippings from the  
17 fingernails as well.

18 Q. Did you --

19 A. And the clothing. All the clothing is  
20 submitted as evidence, too.

21 Q. Did you do that in this case?

22 A. Yes.

23 Q. I want to approach and show you what I have  
24 marked as State's Exhibit 8 {sic}. Do you recognize  
25 that bundle of items (indicating)?

1           A.    Well, I recognize the bag and I recognize my  
2 signature on the seal, but I can't really see what's in  
3 it and it has been opened and resealed. The red seal is  
4 mine and the signature is mine.

5           Q.    And at the time that you sealed it, what was  
6 inside?

7           A.    What was inside? Let me make sure.

8                         So, the paper bags from the hands, the  
9 gunshot residue kit from the hands, and fingernail  
10 scrapings and clippings.

11          Q.    And the documentation that is still with this  
12 bag, is that what it reflects is in there now?

13          A.    Yes.

14                         MS. HARVEY: At this time, State offers  
15 State's Exhibit 108 and tenders to opposing counsel.

16                                 **(State's Exhibit No. 108 Offered)**

17                         MR. VARELA: No objection to 108.

18                         THE COURT: And you said that was 108?

19                         MS. HARVEY: Yes, ma'am.

20                         THE COURT: Do you not already have 108?

21                                 (Discussion off the record)

22                         THE COURT: 108 is admitted.

23                                 **(State's Exhibit No. 108 Admitted)**

24                         MS. HARVEY: 108. Yes. Okay.

25          Q.    (By Ms. Harvey) And with respect to any of

1 these gunshot wounds, can you say the location or the  
2 orientation of the body with respect to where it was in  
3 space at the time that the shooting occurred?

4 A. No. As we discussed, there's no way that I can  
5 tell the positioning of the body at the time a bullet  
6 hits it. Somebody can be standing up, leaning forward,  
7 leaning backward, sideways, upside down. I can't tell.

8 MS. HARVEY: Pass the witness.

9 THE COURT: Mr. Varela.

10 MR. VARELA: No more questions, Your Honor.

11 THE COURT: May this witness be excused?

12 MS. HARVEY: Yes, Your Honor.

13 THE COURT: Thank you, Doctor. You may  
14 step down.

15 Call your next witness.

16 MS. HARVEY: State calls Lori Bradley.

17 THE COURT: You were sworn earlier; is that  
18 correct?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Okay. You may proceed.

21 MS. HARVEY: Thank you, Your Honor.

22 **LORI CUMMINGS,**

23 having been first duly sworn, testified as follows:

24 **DIRECT EXAMINATION**

25 **BY MS. HARVEY:**