

1                   **THE COURT:** Thank you.

2                   **SARAH DOYLE, M.D.,**

3                   having been first duly sworn, testified as follows:

4                   **DIRECT EXAMINATION**

5                   **Q.**        **(BY MS. KNECHT)** Good afternoon.

6                   A.        Good afternoon.

7                   **Q.**        Could you please introduce yourself to the  
8                   jury?

9                   A.        Yes. I'm Dr. Sarah Doyle.

10                  **Q.**        And, Dr. Doyle, where are you employed?

11                  A.        I'm employed at the Harris County Institute  
12                  of Forensic Science.

13                  **Q.**        That was what was formally known as the  
14                  Harris County Medical Examiner's Office?

15                  A.        Yes.

16                  **Q.**        Okay. And you recently changed your name;  
17                  is that right?

18                  A.        Yes. I think it's been close to a year  
19                  now. But, yes, we changed the name to the Institute  
20                  of Forensic Science.

21                  **Q.**        And what do you do there at the Institute  
22                  of Forensic Science?

23                  A.        I'm an assistant medical examiner.

24                  **Q.**        If you would, kind of talk us through the  
25                  training that you have had and the schooling that you

1 have had in order to become employed over at the  
2 Harris County Institute of Forensic Science?

3 A. Yes. I received my undergraduate degree,  
4 Bachelor of Science degree, in cell and molecular  
5 biology from Tulane University in New Orleans. I  
6 then attended LSU Medical School in New Orleans where  
7 I received my M.D., medical doctorate, degree.

8 That was followed by five years of  
9 residency at The Mount Sinai Hospital in New York  
10 City, and I did my residency anatomical and clinical  
11 pathology with the hospital pathology. Then I did  
12 one year of fellowship at the New York City office of  
13 the chief medical examiners in forensic pathology and  
14 board certified in anatomical, clinical, and forensic  
15 pathology.

16 Q. Can you kind of describe for us what  
17 forensic pathology is?

18 A. Forensic pathology is the branch of  
19 medicine that deals with determining cause and manner  
20 of death in people who die suddenly, unexpectedly, or  
21 a violent death; and it involves doing autopsies on a  
22 deceased person's body in order to cause or determine  
23 the cause and manner of death.

24 Q. Now, while you have been employed at the  
25 Harris County Institute of Forensic Science, do you

1 perform autopsies?

2 A. Yes.

3 Q. And have you done that on few or many  
4 occasions?

5 A. Many.

6 Q. And can you describe for us what an autopsy  
7 is, what it entails?

8 A. Yes. An autopsy is basically when a person  
9 examines a dead person's body, and it includes  
10 examining the external surfaces of their body to look  
11 for any injuries or disease. It also includes  
12 examining the body internally, internal organs, to  
13 look for any injuries or disease.

14 Q. Have you been called on to testify as an  
15 expert in forensic pathology before?

16 A. Yes.

17 Q. On few or many occasions?

18 A. Many.

19 Q. And were you asked to perform an autopsy in  
20 your capacity over at the institute on September 1,  
21 2009, on Joe Fernandes?

22 A. Sorry. I'm just getting my paperwork.  
23 Yes.

24 Q. And when you perform an autopsy, do you  
25 assign a particular number to that autopsy?

1           A.       The number is not assigned by me, but our  
2 office assigns a unique number to each autopsy we  
3 perform.

4           Q.       And what is the purpose of that?

5           A.       The purpose of that is so that we can  
6 record all of the information about the autopsy and  
7 store it under that number so that it can be  
8 retrieved again, so that all of the information that  
9 we get from the autopsy is kept under the same  
10 number.

11          Q.       And was there a number assigned to Joe  
12 Fernandes in this particular case?

13          A.       Yes.

14          Q.       And what was that number?

15          A.       It was Case No. ML09-2882.

16          Q.       Now, in your employment over there, are you  
17 a custodian of records?

18          A.       Yes.

19          Q.       I'm going to show you what's been marked as  
20 State's Exhibit No. 42. Now, were you called upon to  
21 make a report on your findings in this particular  
22 case?

23          A.       Yes.

24          Q.       If you would examine this and tell me if it  
25 is a copy of the report that you made.

1           A.       Yes, it's a copy of the report that I made.  
2           And it also includes copies of the diagrams that I  
3           made and a toxicology report that was not prepared by  
4           me, but that is one of the laboratory reports from  
5           our office.

6           Q.       And then did you bring the original with  
7           you to court today?

8           A.       Yes, I did.

9           Q.       Now, is this report -- is it kept in the  
10          regular course of business?

11          A.       Yes.

12          Q.       And is it kept and made at or near the time  
13          that the autopsy is actually performed?

14          A.       Yes.

15          Q.       Okay.

16                   **MS. KNECHT:** Your Honor, at this time  
17          I tender State's Exhibit No. 42 to opposing counsel  
18          for any objections.

19                   **MR. HAMM:** Judge, may I take the  
20          witness on voir dire with respect to -- ma'am?

21                   **THE COURT:** All right.

22                   **VOIR DIRE EXAMINATION**

23          Q.       **(BY MR. HAMM)** Dr. Doyle, do I understand  
24          the lab toxicology report, excuse me, was not  
25          prepared by you?

1           A.       Yes.

2                   **MR. HAMM:** We would have no objections  
3 to, I believe, the first eight pages, Your Honor, of  
4 State's 42. I think it's -- one, two, three, four,  
5 five, six, seven -- eight, which are the autopsy and  
6 the doctor's diagrams. We would object to the ninth  
7 page, which is the toxicology report that was not  
8 prepared by the doctor and hearsay as some  
9 confrontation issues that Mr. Brown would be entitled  
10 to cross-examine the individual on.

11                   **THE COURT:** State's position?

12                   **MS. KNECHT:** Judge, this record is  
13 part of the overall record that is kept in the  
14 regular course of business at the Harris County  
15 Institute of Forensic Science. Because it is part of  
16 the record and she testified that she is the  
17 custodian of records, we believe that the entire  
18 record is admissible.

19                   **THE COURT:** Thank you.

20                   **MR. HAMM:** It --

21                   **THE COURT:** Further argument?

22                   **MR. HAMM:** Yes, ma'am. It could -- if  
23 there is a hearsay exception to the lab, that's fine;  
24 but it is a confrontation issue because she didn't  
25 prepare it.

1                   **THE COURT:** I understand your  
2 argument. That's overruled. Admitted.

3                   **DIRECT EXAMINATION (CONTINUED)**

4           **Q.**       **(BY MS. KNECHT)** Also in conducting your  
5 autopsy in this particular case, did you or someone  
6 assisting you take a series of photographs?

7           **A.**       Yes. The photography staff person  
8 assisting me took photographs.

9           **Q.**       And what is the purpose of taking  
10 photographs during the autopsy?

11          **A.**       We take photographs in every autopsy we do  
12 in order to document the way that the deceased person  
13 looked and also to document any injuries or other  
14 abnormalities they may have.

15          **Q.**       I'm going to show you State's Exhibit  
16 No. 43, 44, 45, 46, and 47. Do you recognize these?

17          **A.**       Yes.

18          **Q.**       Do these fairly and accurately depict the  
19 body as you remember it when you conducted the  
20 autopsy back on September 1, 2009?

21          **A.**       Yes.

22                   **MS. KNECHT:** Your Honor, at this time  
23 I tender to opposing counsel for any objections.

24                   **MR. HAMM:** Judge, we have no  
25 objections to State's 43 through 47.

1                   **THE COURT:** Admitted.

2           **Q.**       **(BY MS. KNECHT)** Dr. Doyle, I want to talk  
3 to you about the autopsy that you conducted in this  
4 particular case, starting with what the body is like  
5 when you first receive it.

6           A.       Okay. When Mr. Fernandes' body came in to  
7 our office, he was clothed; and his clothing was  
8 bloody. And he also had evidence paper bags taped  
9 around his hand, and I did note that he had a gunshot  
10 wound on his body.

11          **Q.**       Now, are these all part of an external exam  
12 that you begin?

13          A.       Yes. External exam just means we visually  
14 look at the person's body as it comes in, and we  
15 would describe any clothing that the person has  
16 that's also on the body. So, usually, when a body  
17 comes in to us, they haven't been, you know,  
18 undressed or anything like that. They come to us  
19 exactly as they were at the scene of their death.

20          **Q.**       So, I'm going to show you State's Exhibit  
21 No. 43. And you mentioned the clothing and the bags.  
22 Is this how he appeared when he first arrived into  
23 the Harris County Institute of Forensic Science?

24          A.       Yes.

25          **Q.**       And then showing you State's Exhibit

1 No. 44, and zooming in here, is this the particular  
2 number that was assigned to Mr. Fernandes?

3 A. Yes, it is.

4 Q. And what is the purpose of taking this  
5 particular photograph?

6 A. We photograph every deceased person's face  
7 for purposes of identification, if they need to be  
8 identified by someone who knows them.

9 Q. And you mentioned also that you observed a  
10 gunshot wound. Did you mark that in your diagram  
11 that you conducted in your report?

12 A. Yes.

13 Q. So, referencing your diagram here,  
14 basically describe for the jury what we're looking  
15 at.

16 A. This is a diagram of Mr. Fernandes' body,  
17 and the left portion of the diagram is the front of  
18 his body. Where I drew that arrow pointing to a  
19 circular defect on his -- sort of middle of his lower  
20 left chest, that's the gunshot wound entrance. And  
21 then there is an arrow pointing to a defect on his  
22 right lower back that was the gunshot wound exit.

23 Q. Okay. I heard you mention entrance and  
24 exit. So, how can you tell which wound is the  
25 entrance wound versus which wound is the exit wound?

1           A.       Basically, by the appearance of the wound  
2 on the skin, you can tell whether it's an entrance or  
3 exit. Specifically, gunshot entrance wounds tend to  
4 be more regular and round or circular in shape; and  
5 they have what we refer to as a marginal abrasion  
6 around them where the skin is scraped off when the  
7 bullet enters the surface of the skin.

8                       Exit wounds usually don't have this  
9 and are usually more irregular, slit like or star  
10 shaped. So, it's by the appearance of the wound.

11           Q.       Okay. So, then in looking at State's  
12 Exhibit No. 45, were you able -- I see this red dot  
13 in his chest area. Were you able to determine that  
14 that was, in fact, an entrance wound?

15           A.       Yes.

16           Q.       And then looking at State's Exhibit No. 46,  
17 the back side of Mr. Fernandes, were you able then to  
18 determine that that was the exit wound?

19           A.       Yes.

20           Q.       After you conduct your external  
21 examination, what do you do next?

22           A.       Next, we do an internal examination on the  
23 body in which incisions are made and the organs are  
24 removed and looked at to see if -- in this particular  
25 case, it would be to look for the track that the

1 bullet made through his body.

2 Q. Were you able to determine that?

3 A. Yes.

4 Q. Okay. Talk to us about that.

5 A. The bullet went through Mr. Fernandes'  
6 abdomen, basically enters his chest and went downward  
7 into his abdominal cavity; and it injured multiple  
8 organs in his abdominal cavity. Those organs include  
9 his colon, the small intestinal mesentery, which is  
10 the tissue that carries blood vessels. It went  
11 through his right iliac artery and vein, which are  
12 major blood vessels in the pelvis that supply the  
13 right leg. And it went through, also, his fifth  
14 lumbar vertebra and then exited out of his back.

15 Q. I have heard you mention a bunch of  
16 terminology within that answer. I want to kind of  
17 ask you and break it down. You have mentioned  
18 through and through. What does that mean?

19 A. Through and through means that the bullet  
20 passes completely through what its hitting and  
21 doesn't remain lodged in the body. So, the bullet  
22 completely passed through Mr. Fernandes' body and  
23 didn't remain lodged there.

24 Q. So, you did not find any bullet or any kind  
25 of fragment inside of him?

1           A.       That's correct.

2           Q.       And then you mentioned -- I believe it was  
3 the aorta?

4           A.       Not the aorta, but it hit his iliac artery  
5 and vein, which are a major -- major blood vessels  
6 that come off the aorta.

7           Q.       Okay. And showing you State's Exhibit 47,  
8 what are we looking at here?

9           A.       This is a picture of Mr. Fernandes' aorta  
10 and right and left iliac arteries after I have opened  
11 them. So, the aorta is the large blood vessel that  
12 comes out of the heart that carries all of the blood  
13 to the rest of the body. And at the bottom of the  
14 aorta, it splits into two main blood vessels that  
15 supply the left leg and pelvis and the right leg and  
16 pelvis.

17                               And these tubes -- all of these are  
18 tubes, and I have cut them open on the left side of  
19 the picture, in the lower left corner of the picture.  
20 That's where the bullet -- there are holes there, two  
21 holes that were where the bullet goes through the  
22 front and back sides of the iliac artery.

23           Q.       Okay. Is that what you are talking about  
24 here in the lower left-hand portion of the diagram?

25           A.       Yes.

1           Q.     Okay.  And so, also, examining him  
2 internally, were you able to observe a large amount  
3 of blood?

4           A.     Yes.

5           Q.     Okay.  What did you observe as far as that  
6 went?

7           A.     He had 1600 milliliters of blood in his  
8 abdomen, internal bleeding in his abdomen, which is  
9 over a liter and a half of blood.  It's about  
10 equivalent to close to four units of blood that he  
11 bled into his abdomen.

12          Q.     Now, going back to the holes that we see  
13 here, would that injury have been fatal?

14          A.     Yes.

15          Q.     And then what about the blood that was in  
16 his abdomen, is that fatal?

17          A.     It's basically related to the same thing  
18 because he has got these large defects from the  
19 bullet in both the iliac artery and vein, the  
20 bleeding from that.  Yes, it also is fatal.

21          Q.     Okay.  Did you observe, when you did your  
22 external injury, any stippling on Mr. Fernandes'  
23 body?

24          A.     No, I did not.

25          Q.     Okay.  And what is stippling?

1           A.       Stippling is small marks on the skin that  
2 we sometimes see around gunshot wounds, and it occurs  
3 when the gun is usually within 3 feet or less from  
4 the target. It's caused by small particles of  
5 unburned and burning gun powder that hit the skin  
6 along with the bullet. And it doesn't happen when  
7 the gun is at farther distances away. It only  
8 happens when the gun is usually, in most cases,  
9 3 feet or less from the body.

10          Q.       So, because you didn't observe any  
11 stippling on his body, is it fair to say that the gun  
12 was fired at least 3 feet away from him?

13          A.       To say that 100 percent certainty, you  
14 would have to actually test fire the weapon with the  
15 same ammunition; but it's most -- most likely that  
16 the gun was 3 feet or greater away from him.

17          Q.       Now, in talking about all of his injuries  
18 and his internal bleeding, would Mr. Fernandes have  
19 been able to have been saved if the ambulance had  
20 been there quicker or had gotten there quicker?

21          A.       No.

22          Q.       Why not?

23          A.       This injury, even if it occurred -- and I  
24 have seen it occur. An injury to the aorta, when a  
25 person is on the operating table, is very difficult

1 to repair; and in real time the -- from the time it  
2 takes an ambulance to get to an operating room, the  
3 blood loss from there is going to be fatal before you  
4 can get the person to repair.

5 Q. And in doing your examination, did you  
6 observe anything about Mr. Fernandes' aorta  
7 externally, internally, that made you think that he  
8 had any type of disease?

9 A. There is very, very minor arthrosclerosis  
10 in the heart, but nothing significant at all.

11 Q. Anything about him that would keep him from  
12 leading a normal life?

13 A. No.

14 Q. Based on your experience and your  
15 education, were you able to come up with a cause of  
16 death in this particular case?

17 A. Yes.

18 Q. And what was that?

19 A. That it was the gunshot wound of  
20 Mr. Fernandes' torso.

21 Q. And based on your training and your  
22 experience, were you able to come up with a manner of  
23 death?

24 A. Yes, that it was a homicide.

25 Q. And based on your training and experience,

1 is a firearm a deadly weapon?

2 A. Yes.

3 Q. And is a firearm capable of causing death  
4 or serious bodily injury?

5 A. Yes.

6 Q. Thank you, Doctor.

7 **MS. KNECHT:** I pass the witness.

8 **THE COURT:** Thank you.

9 May I see counsel at the bench?

10 **(At the Bench)**

11 **THE COURT:** Is your cross-examination  
12 going to be fairly lengthy? Can it be done in 5 or  
13 10 minutes?

14 **MR. HAMM:** I wasn't going to cross  
15 her. Where did he go? I was going to check with  
16 co-counsel, but I didn't have any questions for her  
17 right now.

18 **THE COURT:** Okay. In that case I will  
19 let you say that. I hate to have her come back  
20 tomorrow.

21 **MR. HAMM:** Yes, ma'am.

22 **THE COURT:** But if you want to cross  
23 her, of course, I will give you ample time.

24 **MR. HAMM:** Yes, ma'am.

25 **THE COURT:** Thank you.

1                   **(End of Bench Discussion)**

2                   **MR. HAMM:** Judge, I have no questions  
3 for the Doctor.

4                   **THE COURT:** Thank you.

5 Is Dr. Doyle released as a witness?

6                   **MS. KNECHT:** Yes, Judge.

7                   **MR. HAMM:** Without objection, Your  
8 Honor.

9                   **THE COURT:** Thank you so much.

10                   **(Witness released)**

11                   **THE COURT:** Members of the jury, we're  
12 going to be starting in the morning at 10:30 again.  
13 I suggest that we bring in lunch tomorrow so we can  
14 take a little shorter lunch hour. I nearly always  
15 need at least an hour to finish up other matters, but  
16 we will try and make it shorter so we can keep  
17 moving. So, we will plan on that.

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

19                   **THE COURT:** If you have a request for  
20 lunch, you might want to let her know. Choices  
21 aren't great -- or not extensive, I guess would be a  
22 better way to say it.

23                   Please remember the instructions I  
24 have given you. Don't discuss the case with anyone,  
25 nor read or listen to anything about the case. And