

1 THE WITNESS: Fine and yourself?

2 THE COURT: Raise your right hand.

3 (Witness sworn.)

4 THE WITNESS: I do.

5 THE COURT: All right. Feel free to
6 walk around here and have a seat right there, and
7 just answer as directly as you can. You can move the
8 microphone if you need to.

9 You may proceed.

10 MS. BENAVIDES: Thank you, Your Honor.

11 **DR. LUISA FLORES,**

12 having been first duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 BY MS. BENAVIDES:

15 Q Doctor, can you please introduce yourself to
16 the ladies and gentlemen of the jury?

17 A I'm Dr. Luisa Flores. I'm a forensic
18 pathologist and I used to work for the Institute of
19 Forensic Sciences here at Harris County.

20 Q And that's also known, or was known, as the
21 Harris County Medical Examiner's Office?

22 A That's correct.

23 Q And Dr. Flores, I'm going to ask if you can
24 speak into your microphone and loudly and clearly,
25 please.

1 A Yes, ma'am.

2 Q Thank you, Doctor.

3 Doctor, where are you originally from?

4 A Columbia, South America.

5 Q And let's talk about your education and your
6 background. Could you tell the jury what is your
7 education and background that makes you an expert in
8 autopsies and so forth?

9 A Yes. I did my medical school training in
10 Columbia and I did a specialty in pathology. Once I
11 moved to the States, by requirements of what is
12 called the ACGME, that's the American College of
13 Graduate Medical Students, by their laws it's
14 required that any foreign doctor needs to be
15 retrained here in the States.

16 So I did my retraining in pathology,
17 studying in New Orleans at Tulane Medical School.
18 Katrina happened in 2005, so I was transferred to
19 Baylor College of Medicine, where I finished my
20 pathology training. And after that I did a year of
21 neuropathology training. That's the study of the
22 diseases of the brain and peripheral nervous system.
23 And after that I did forensic pathology training here
24 at the Harris County Medical Examiner's Office.

25 Q And, Dr. Flores, how long were you at the

1 Harris County Medical Examiner's Office?

2 A Yes. I started there July 1st, 2007, and
3 was there until March of this year, 2012.

4 Q And when you were employed at the ME's
5 office, what was the position that you held?

6 A Assistant medical examiner.

7 Q And as assistant medical examiner, what were
8 your duties?

9 A I have to perform the autopsies required by
10 law. And those include murders, suicides, accidents
11 in which the cause of death has not been determined,
12 by traffic accidents, in which the person dies at the
13 scene, child abuse cases or any other suspicious
14 deaths.

15 Q And, Doctor, have you testified in court
16 before?

17 A Yes, ma'am.

18 Q And you've testified as an expert?

19 A Yes, ma'am.

20 Q On few or many occasions?

21 A At least a dozen times.

22 Q So before we go any further, could you
23 explain to the jury what is an autopsy?

24 A An autopsy is an examination and study of
25 the body of a decedent, in order to determine the

1 cause and the manner of death.

2 Q And when a body arrives at the medical
3 examiner's office, is there a number that's uniquely
4 given to that unique body?

5 A Yes. It's a unique identifier number. That
6 number is used only for that person and is associated
7 with all the studies that go with that body, like
8 toxicology reports, the x-rays, the evidence and it's
9 a unique number that never gets used again.

10 Q Did you conduct an autopsy on January 16th,
11 2011, in the medical examiner's case No. ML118178?

12 A That's correct.

13 Q Do you recall who that autopsy was?

14 A If I can pull the report, I can give you
15 the --

16 MS. BENAVIDES: Your Honor, may I
17 approach the witness?

18 THE COURT: You may.

19 Q (BY MS. BENAVIDES) Doctor, I'm showing you
20 State's Exhibit No. 38.

21 A Yes. The autopsy was on the body of the
22 decedent, Rhonda Sue Scott.

23 Q And let me also show you State's Exhibit
24 No. 39. And this has -- for the record, this has
25 already been admitted. And in State's Exhibit

1 No. 38, is there the unique number that you had told
2 the jury about?

3 A It's Exhibit 39. Yes, it's listed on our
4 board, where we put the date the autopsy is performed
5 and the medicolegal number associated with that
6 person.

7 Q Okay. So the legal numbers match?

8 A Yes.

9 Q Okay. So I want to talk to you about
10 State's Exhibit No. 38. Are you the custodian of
11 record of State's Exhibit 38?

12 A Yes.

13 Q And are you familiar with State's Exhibit
14 38?

15 A It's a report I created.

16 Q And when you created, you were an employee
17 of the medical examiner office?

18 A That's correct.

19 Q And when you created it, was it done at the
20 time or near or reasonably soon after the autopsy was
21 being done?

22 A It's dictated on the same day.

23 Q And where did you keep -- where -- is this
24 an exact duplicate of the original?

25 A Yes, it's an exact copy.

1 Q Where are the originals right now?

2 A At the Harris County Medical Examiner's
3 Office.

4 Q And when you were working on it, did you
5 act -- have actual knowledge of everything that you
6 were writing down in State's Exhibit 38?

7 A Yes.

8 MS. BENAVIDES: State offers State's
9 Exhibit 38, after tendering to defense counsel for
10 inspection.

11 MR. VILLIAREAL: May I approach, Your
12 Honor?

13 THE COURT: You may.

14 (Bench Conference.)

15 MR. VILLIAREAL: The only objection I
16 have --

17 THE COURT: Okay.

18 MR. VILLIAREAL: I have no objection to
19 most of the report. The only objection I have is to
20 the last part of the -- that's not the autopsy
21 report. So it's an e-mailed communication. But I
22 have no problem with the main gist of the report,
23 Your Honor, or objections to it.

24 THE COURT: All right. That's
25 sustained.

1 MS. BENAVIDES: I'll take that off.

2 THE COURT: And for the record, say
3 you're taking that page off and talk to her.

4 MS. BENAVIDES: And, Your Honor, for
5 the record, the last page of the -- State's Exhibit
6 No. 38 was taken off. And may I publish State's
7 Exhibit 38, Judge?

8 *(State's Exhibit No. 38 is admitted.)*

9 THE COURT: You may.

10 MS. BENAVIDES: Without the sheet of
11 paper that we talked about.

12 THE COURT: You may.

13 Q (BY MS. BENAVIDES) So, Doctor, I'm going to
14 show you State's Exhibit 38, and the case number that
15 you're talking about is ML0178; is that right?

16 A That's correct.

17 Q That's the unique number.

18 So, Doctor, when you receive a body,
19 what do you first do?

20 A We take pictures of the decedent as we
21 receive it. If the body is clothed, we describe the
22 clothing and the condition in which we receive the
23 body. We document that by a written report and also
24 by pictures.

25 In addition, we look for any injuries.

1 If there are any injuries, we proceed to take x-rays
2 to determine if the bullet or in a case of a stab
3 wound, if a piece of the blade is still inside of the
4 body. Then we proceed to take evidence. Like in
5 this case, the hands of the decedent are bagged with
6 paper bags, in order to protect from losing any
7 evidence and also avoid any contamination.

8 So we take certain tests and submit
9 them as evidence.

10 Q And when you talked about the bags, in
11 State's Exhibit No. 39, where the jury's able to see
12 what you were speaking about?

13 A That's correct.

14 Q (BY MS. BENAVIDES) So --

15 MS. BENAVIDES: Judge, may I approach
16 the witness?

17 THE COURT: You may.

18 Q (BY MS. BENAVIDES) So here's State's Exhibit
19 No. 38, ma'am. I'm also showing you what's been
20 marked as State's Exhibit No. 40, 41, 42 and 43.

21 Now, State's Exhibit 40, 41, 42 and 43,
22 can you tell us what that is?

23 A Do you want to show them at the same time
24 or --

25 Q No, before. If I want to ask you what these

1 are then I'll show them.

2 A They are -- they are -- 40 is --

3 Q They're just photographs?

4 A Yeah, pictures of the decedent, of the face
5 and also showing the injury.

6 Q The injury?

7 A Yes.

8 Q And 43 is also pictures of the decedent,
9 Rhonda Scott?

10 A Yes, it's a picture of her skull.

11 Q Okay. The internal examination?

12 A Yes, that's correct.

13 Q Okay. Now, 40, 41, 42 and 43, do these
14 fairly and accurately represent Rhonda Scott -- the
15 body of Rhonda Scott during your examination of the
16 autopsy?

17 A Yes.

18 MS. BENAVIDES: State offers 40, 41, 42
19 and 43, after tendering to defense counsel for
20 inspection.

21 MR. VILLIAREAL: Judge, I have no
22 objection to State's Exhibit 40, State's Exhibit 41,
23 State's Exhibit No. 42. May I approach the bench on
24 State's Exhibit No. 43?

25 THE COURT: You may.

1 (Bench Conference.)

2 MR. VILLIAREAL: This is the only
3 objection on this, the gruesomeness. I don't think
4 the doctor can testify about what the examination
5 showed, but the jury's seeing the insides of that,
6 right now.

7 MS. BENAVIDES: Well, Judge, what I
8 expect the -- what the doctor will testify would be
9 the trajectory of the bullet, the actual organs that
10 were pierced in which the brainstem was harmed. And
11 the way she was injured, where the bullet was lodged,
12 where the bullet was found inside the brain cavity.

13 THE COURT: Is that the bullet?

14 MS. BENAVIDES: I'm sorry, Judge?

15 THE COURT: Is that the bullet?

16 MS. BENAVIDES: The bullet should have
17 been from the eye -- from here to here (indicating).
18 So they would be able to tell where the bullet would
19 be over here. It went that way.

20 THE COURT: It went right through?

21 MS. BENAVIDES: Huh?

22 THE COURT: It went right through?

23 MS. BENAVIDES: I'm sorry, Judge?

24 THE COURT: It went right through?

25 MS. BENAVIDES: Yes, it went right

1 through and it went right through the brain stem,
2 which would be --

3 THE COURT: And then it got lodged?

4 MS. BENAVIDES: And it got lodged. It
5 wasn't taken out. She had --

6 THE COURT: Any other pic -- let me see
7 the other pictures.

8 MS. BENAVIDES: Yes, Judge. These are
9 the external observations that she had had.

10 THE COURT: Well, my ruling as to
11 State's 43, that it has some probative -- probative
12 value, but I think the probative value is
13 substantially outweighed by it's inflammatory nature.
14 It's very gruesome. She can testify from her chart.
15 She can testify from the other photos admitted into
16 evidence, but she won't exit -- not answer an exit
17 wound -- an entry wound. And based on her
18 examination of the body, where the bullet ended up,
19 without showing that cross-section of that brain and
20 hair. That's my ruling and it's sustained.

21 MS. BENAVIDES: Thank you, Judge.

22 (Bench Conference Concluded.)

23 MS. BENAVIDES: Your Honor, may I
24 publish 40, 41 and 42?

25 THE COURT: You may. Forty, 41 and 42

1 are admitted.

2 (State's Exhibit Nos. 40, 41 and 42
3 were admitted.)

4 Q (By MS. BENAVIDES) So, Dr. Flores, as part of
5 your external examination, did you take photos -- you
6 said you took photos of her body?

7 A That's correct.

8 Q So State's Exhibit No. 40, and we have a
9 unique Cause Number, and that's Ms. Rhonda Scott?

10 A That's correct.

11 Q And what is State's 40?

12 A It's a picture mainly of her face. And you
13 can see like the swollen eyes and the very purple
14 discoloration. That's associated to the injury that
15 we found.

16 Q And I'm going to show you what's been marked
17 as State's Exhibit No. 42. That's 42?

18 A Yes.

19 Q And what is this a picture of?

20 A That is a picture of the entrance wound.
21 It's difficult to see because of the location is in
22 the external angle of the eye, so it doesn't have the
23 typical characteristics of an entrance wound that is
24 like very round. But it's due -- because it's in
25 this angle. And in addition, the tissues right there

1 are very soft and pliable. So once the bullet
2 enters, the tissues will not retract. So instead of
3 being round, it tends to form like a slit like
4 opening. And you can it see right there (indicating)
5 as well. I think I put it on -- yes, it's right
6 there, this dark discoloration, and it's like a slit
7 like. And around you can see these pinpoint red
8 abrasions, that are due to burned gun particles that
9 hit the face. So are like little tiny scrapes.

10 We see this in an intermediate gunshot
11 wound. So it's not a close wound, because we are not
12 seeing any soot or it's like a black fine power. And
13 it's not a distant wound, because on the distant
14 wound you will see only the entrance hole. No
15 stippling. So that means this is an intermediate
16 wound, which will mean that it's from a distance
17 greater than 2 inches, but less than 2 feet. So it's
18 like --

19 Q Very close?

20 A It's close. So it's like greater than --

21 MS. BENAVIDES: Your Honor, may I
22 approach?

23 THE COURT: You may.

24 Q (BY MS. BENAVIDES) So for the record, I'm
25 approaching the witness and we're going to

1 demonstrate to the jury how close -- because of the
2 stippling, how close you're able to determine where
3 the gun was and -- because of the stippling.

4 A Yes.

5 Q So it would be greater than 2 inches and
6 less than 2 feet?

7 A Yes.

8 Q So --

9 A Greater than 2 inches will be like greater
10 than the -- like the length of my thumb. So about
11 from here, but less than 2 feet. That will be more
12 or less the length of her arm. So he was -- whoever
13 did it was close.

14 Q It was a close -- in close distance?

15 A Yes.

16 Q Dr. Flores, so I'm going to show you State's
17 Exhibit No. 41. And here are we able to tell -- and
18 if you could tap the left side for me, Dr. Flores.

19 A (Witness complies.)

20 Q So, in 40 -- in State's Exhibit 41, are we
21 able -- what are we able to see?

22 A The same slit like wound right there and
23 around the stippling, all of these dots. And also
24 the swollen and purple eye is not due to a punch.
25 It's due to the injuries associated with the gunshot

1 wound. That's actually why the other eye, the left
2 eye, is also swollen and purple. Because as the
3 bullet enters, it fractures the roof of both eyes.
4 So it's blood leaking into those spaces. So she
5 wasn't punched in the eyes first.

6 Q So, Doctor, when you notice all this
7 external -- observations in your external
8 examination, is there another examination that you do
9 besides the external?

10 A Yes. Once we finished with the external
11 examination and documenting the injuries and taking
12 all the evidence, we proceed to an internal
13 examination.

14 So, we open the body, including the
15 head. We remove the top of the skull and document
16 the direction of the -- or the trajectory of the
17 injury and also what parts of the brain were injured.

18 Q And on Rhonda Scott, can you tell us what
19 parts of her brain were injured?

20 A Yes. It entered right at the external angle
21 of the right eye, went just above the roof of the
22 right eye. So it fractured those very delicate bones
23 right there. It injured the right temporal lobe,
24 which is a part of the brain. Then it went through
25 the brainstem and transected it. That is a fatal and

1 immediate death.

2 After that, it went to the back of the
3 head and injured the left occipital lobe, which is
4 the back of the brain, and also the left cerebellum.
5 Once we removed the brain, I could see the bullet
6 lodged at the posterior end of the skull. There was
7 a small fracture associated in the internal table of
8 the skull.

9 Q And were you able to remove -- did you find
10 out what that obstruction was that was on the left
11 side?

12 A Obstruction?

13 Q The -- or was there a metal object or
14 something?

15 A Yes. It's a foreign object that is a small
16 caliber bullet, that created this injury and this
17 damage in the brain.

18 MS. BENAVIDES: Your Honor, may I
19 approach the witness?

20 THE COURT: You may.

21 Q (BY MS. BENAVIDES) Doctor, I'm showing you
22 what's been marked as State's exhibit No. 44. Is
23 this the foreign object that you were able to recover
24 from Rhonda Scott's body?

25 A Yes, that's the bullet I recovered.

1 Q Okay. And is this a picture of that bullet?

2 A That's correct.

3 Q Does this fairly and accurately represent
4 what was removed from her body?

5 A Yes.

6 MS. BENAVIDES: State offers State's
7 Exhibit No. 44, after tendering to defense counsel
8 for inspection.

9 THE COURT: All right.

10 MR. VILLIAREAL: No objection, Your
11 Honor.

12 THE COURT: State's 44 is admitted.
13 (State's Exhibit No. 44 was admitted.)

14 MS. BENAVIDES: May I publish, Your
15 Honor?

16 THE COURT: You may.

17 Q (BY MS. BENAVIDES) If you could tap the left
18 side for me, ma'am.

19 A (Witness complies.)

20 Q So this is State's Exhibit No. 44. Is this
21 the bullet you recovered from Rhonda's brain?

22 A That's correct.

23 Q Could you tell us the direction that the
24 bullet traveled?

25 A Yes. It was from the front to the back,

1 from the right to the left and a little bit downward.

2 Q And, Doctor, during your examination, did
3 you find -- of Rhonda's body -- did you find any type
4 of disease that would have kept her from living a
5 normal and a long life?

6 A No.

7 Q Doctor, on -- based on your examination,
8 was it consistent with Rhonda Scott being shot one
9 time?

10 A Yes, that's correct.

11 Q And based on your training and experience as
12 a medical doctor, as a forensic pathologist, would
13 you say that a firearm is a deadly weapon?

14 A That's correct.

15 Q Was there a toxicology report done on Rhonda
16 Scott?

17 A Yes. We submitted samples and it was tested
18 for alcohol, amphetamine, methamphetamine, cocaine
19 and PCP. And all tested negative. So no -- none of
20 those substances were in her body.

21 Q Could you tell us, Doctor, what the cause of
22 death was?

23 A It was a penetrating gunshot wound of the
24 head.

25 Q Could you also tell us what the manner of

1 death was?

2 A It's a homicide.

3 MS. BENAVIDES: Pass the witness, Your
4 Honor.

5 THE COURT: All right. You may
6 proceed.

7 MR. VILLIAREAL: Yes, Your Honor.

8 **CROSS-EXAMINATION**

9 BY MR. VILLIAREAL:

10 Q Hi, Doctor. Do you have the last exhibit
11 for the autopsy report? You can put it up there.

12 A The autopsy report? I have it here.

13 Q Oh, you have it.

14 A Yes.

15 Q Thank you. Thank you, Doctor.

16 A You're welcome.

17 Q Your autopsy report, looking at -- looking
18 at -- on State's Exhibit No. 38, the autopsy report
19 that has been admitted into evidence, and going I
20 think, it's Page 8, what I think it's normal
21 procedure for you all to try to draw a dry -- a
22 diagram, right?

23 A Yes, sir.

24 Q Of the -- of the body and what you observed?

25 A Yes.

1 Q What does this depict? What does this show?

2 A Well, it's our annotations of the height,
3 weight, the sex, any scars, any medical
4 interventions, description of the clothing she was
5 wearing. The identification -- it's a tracking
6 device that all decedents get. It's an electronic
7 device. We document that as well. That's the first
8 page.

9 Q Okay.

10 A That's like the general description of the
11 decedent.

12 Q Okay. Now, I notice that you even went to
13 the trouble of noting that there were some -- even
14 like some bags, I guess, over the hands as you're
15 examining the body; is that correct?

16 A Yes. I put them -- yeah, those show that
17 they were -- the hands were bagged.

18 Q Now, I notice here, you list on your report,
19 I think you call those punctate marks on the legs?

20 A Punctate scars.

21 Q What are those?

22 A Scars.

23 Q Of what?

24 A I cannot tell. Once it's a scar, it could
25 be a scratch, hundreds of things. But it's just

1 scars.

2 Q It's normal to see that -- those number of
3 scars on the legs?

4 A Yeah. We can see hundreds of scars in the
5 legs.

6 Q But this amount of scars on a body is
7 typical for a body?

8 A I won't say typical, because there is
9 nothing typical to -- there's not like a normal for a
10 body. Some people do have scars, other people don't
11 have scars.

12 Q Now, punctate is what? Is that like a
13 puncture? What do you mean by punctate?

14 A Like -- like very small, round scars. It
15 could be that she scratched her legs. They itch.
16 That she has an infant, maybe running in the bushes.
17 It could be anything.

18 Q But they're not needle marks?

19 A No, they are not needle marks. I would have
20 described them differently.

21 Q Now, if I understand correctly, Doctor, when
22 you get -- you know, your body's -- when you get a
23 body, you're just trying to make your own independent
24 examination of the injuries; is that correct?

25 A Yes.

1 Q And you get no input from any homicide
2 detective. You're getting no input from
3 investigators or anything. You're doing your own
4 independent examination; is that correct?

5 A Yes.

6 MR. VILLIAREAL: I have no further
7 questions, Your Honor.

8 THE COURT: All right. Anything else?

9 MS. BENAVIDES: Just briefly, Judge.
10 May I approach, Judge?

11 THE COURT: You may.

12 **REDIRECT EXAMINATION**

13 BY MS. BENAVIDES:

14 Q Dr. Flores, were there any defensive marks
15 on Rhonda's body?

16 A No.

17 Q And I'm showing you what has been marked as
18 State's Exhibit No. 22. You see these little red
19 marks?

20 A Yes.

21 Q And were you able to notice anything in your
22 autopsy regarding her hands?

23 A Yeah. We take pictures of the hands, just
24 to determine if there are any injuries, like she's
25 trying to defend herself or if there are any other

1 injuries that we need to document. But she has no
2 injuries.

3 Those little speckles of blood are when
4 the -- the shot enters the head, the blood just
5 splatters and just hits whatever is close by. So,
6 she could have had her hand close to her face.
7 That's why there are small speckles of blood.

8 MS. BENAVIDES: Pass the witness, Your
9 Honor.

10 THE COURT: All right. Anything else?

11 **RE-CROSS-EXAMINATION**

12 BY MR. VILLIAREAL:

13 Q Doctor, I also noticed that in your report
14 you did fingernail scrapings.

15 A Scraping and clipping. Yes, sir.

16 Q And did you do an examination of that?

17 A We submit those. We collect them and submit
18 them, but it's not up to us to be tested.

19 Q I see.

20 A It's either police, law enforcement who
21 request to proceed with the testing. So I don't know
22 if they tested it.

23 Q I notice that on Page 6 of that autopsy
24 report, you noticed, quote/unquote, evidence
25 collected. It says, paper bags to both hands with

1 gunshot residue kit?

2 A Yes.

3 Q Is that part of the evidence you're saying
4 that was submitted also?

5 A Yes.

6 Q You got fingernail clippings?

7 A Yes.

8 Q And you've got "and scrapings are
9 submitted"?

10 A Yes, sir.

11 Q So those are submitted to an independent
12 laboratory? Is that what you're saying?

13 A To the HPD. Not in the -- depending the
14 jurisdiction where the body comes from, either Harris
15 County Sheriff's Office or HPD or whoever law
16 enforcement is in charge of the case.

17 Q All right. So you gather the evidence and
18 submit; is that correct?

19 A That's correct?

20 MR. VILLIAREAL: I don't have any
21 further questions, Your Honor.

22 THE COURT: All right. Anything else?

23 MS. BENAVIDES: No further questions,
24 Judge.

25 THE COURT: All right. May Dr. Flores

1 be excused?

2 MS. BENAVIDES: Yes, Your Honor.

3 MR. VILLIAREAL: Yes, Your Honor.

4 THE COURT: All right. Thank you,
5 ma'am.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: What says the State?

8 MS. BENAVIDES: State rests, Your
9 Honor.

10 THE COURT: State rests, what says
11 defense?

12 MR. VILLIAREAL: I need to approach the
13 Court?

14 THE COURT: You may.

15 (Bench Conference.)

16 MR. VILLIAREAL: You may want to take
17 the jury out for about five minutes, just so I can
18 ask the defendant if he wants to testify or not, and
19 predicate that. Then I'll rest.

20 (Bench Conference Concluded.)

21 THE COURT: We're going to take a brief
22 break. Remember the instructions I gave you. Don't
23 discuss the case at all and don't consult any kind of
24 devices or do any kind of research whatsoever. Just
25 have a good little break and we'll resume in a few