

1 recess.)

2 THE COURT: Go ahead and stand, I'll swear
3 you in.

4 (Whereupon the witness is sworn by the
5 Court.)

6 THE COURT: For the record, call your next
7 witness.

8 MS. WATERS: At this time the State calls
9 Robin Freeman.

10 THE COURT: You may proceed.

11 **ROBIN FREEMAN,**

12 having been first duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 BY MS. WATERS:

15 Q. Ms. Freeman, state your name for the record,
16 please?

17 A. Robin Elaine Freeman.

18 Q. Where are you employed?

19 A. The Harris County Institute of Forensic
20 Sciences.

21 Q. And was that formally known as the Medical
22 Examiner's Office?

23 A. Yes, it was.

24 Q. What do you do for the Harris County Forensic
25 Institute of Medical Sciences -- I'm sorry. What do you

1 do for them?

2 A. I'm the DNA interpretation manager in the
3 forensic and genetic section.

4 Q. How long have you been doing that?

5 A. I've been with them for a total of eight years.

6 Q. Harris County Institute of Forensic Sciences.

7 Okay. Got it. And is that -- is the Harris County
8 Institute of Forensic Sciences an accredited lab?

9 A. Yes, it is.

10 Q. What does that mean?

11 A. Accreditation means that there's an outside
12 agency that monitors that we're following our procedures
13 and that we're following procedures that are well
14 established within the community of forensic science.

15 Q. And if you weren't an accredited lab, would you
16 be allowed to do forensic analysis of evidence that's
17 received in your lab?

18 A. Not in the state of Texas.

19 Q. Because it's required by statute; is that
20 right?

21 A. Correct.

22 Q. And has your -- was your lab accredited back in
23 2011?

24 A. Yes.

25 Q. '12 and '13?

1 A. Yes.

2 Q. Now, what kind of -- what are your duties as --
3 what was your title again?

4 A. DNA interpretation manager.

5 Q. What does that mean?

6 A. I'm over what we call the reporting analysts.
7 So, the analyst that takes the data and the information
8 that's been tested and perform an interpretation creating
9 a report that can be used for court.

10 Q. What kind of training and education do you have
11 to do that?

12 A. I have a Bachelor of Science in biochemistry; I
13 also have a Bachelor of Art in chemistry, and I have a
14 master's degree in forensic science.

15 Q. And do you also have to be accredited
16 individually?

17 A. Each individual can be certified, and I am
18 certified by the American Board of Criminalistics.

19 Q. How long have you been certified?

20 A. Almost five years.

21 Q. And as part of your responsibilities with the
22 Institute of Forensic Sciences, do you -- is it your
23 responsibility to interpret DNA results to determine if
24 people can be excluded or included in results of evidence
25 that's been analyzed?

1 A. Yes.

2 Q. And did you interpret some results out of this
3 incident under lab number IFS11-07820S1?

4 A. Yes. The original case number is IFS11-07820,
5 and the S1 is a supplement to the initial report.

6 Q. And what kind of evidence did you receive --
7 what kind of evidence did the lab receive that was
8 analyzed in this case? Was it swabs submitted by the
9 Sheriff's Department?

10 A. It was swabs submitted by the Sheriff's
11 Department.

12 Q. And did the swabs -- the Sheriff's Office
13 submitted swabs that they had taken from evidence that
14 they wanted to be analyzed?

15 A. Yes.

16 Q. What types of evidence had the swabs come from?

17 A. There were known reference samples that were
18 submitted, which were swabs that came from a known
19 individual; there's also swabbings from fired casings;
20 also from different portions of a vehicle, along with a
21 list of item numbers, as well, that they submitted.

22 Q. And those would have been swabs taken from
23 items from the vehicle, as best you can tell?

24 A. Correct.

25 Q. Now, when you talk about the known individuals,

1 can you explain to the jury what that means to you in the
2 forensic world?

3 A. A swab from a known individual means that it's
4 a witness collection from the individual. So, if a police
5 officer swabs the inside of your cheek to get your sample,
6 then that's considered a known sample because there's an
7 actual tracking and documentation of where that originated
8 from.

9 Q. Is that called the buccal swab or buccal swab?

10 A. Yes.

11 Q. What is the proper pronunciation because we
12 can't agree?

13 A. We call it a buccal swab.

14 Q. Okay, a buccal swab. So, those would be just
15 known swabs and you know whose DNA is on that swab?

16 A. Correct.

17 Q. And how many known swabs did you receive in
18 this case?

19 A. In this case, a total of nine.

20 Q. And could you tell us who they are, your known
21 swabs?

22 A. The known swabs. We received known saliva from
23 Juan Ybarra, Frederick Johnson, Kendell Davis, Sherri
24 White, Caroline Bocanegra, Sherri Katherine Bafford [sic],
25 and Nicole Hernandez, along with Brianna Garza, and

1 Richard Rodriguez.

2 Q. And did you compare those known samples to the
3 DNA from the swabs that you received from Deputy
4 Carpenter -- that was submitted by Deputy Carpenter?

5 A. The DNA profiles from the known samples were
6 compared to the DNA profiles for a match.

7 Q. How many pieces of evidence were received in
8 the lab for y'all to determine whether there was DNA on
9 them?

10 A. We received 36 different items per examination
11 for the evidence.

12 Q. That includes the casings, swabs from the car,
13 and the other swabs that are numbered?

14 A. Correct.

15 Q. Now, when -- of those 36, what is -- like, when
16 they swab a steering wheel, what is the deputy trying to
17 recover?

18 A. They are trying to recover contact DNA, and
19 that's DNA that is left off your hands when you touch an
20 item, or saliva DNA when you talk and spray onto an actual
21 steering wheel.

22 Q. Now, if you touch the steering wheel, will you
23 -- or spit on it, would you always leave DNA on the
24 steering wheel?

25 A. Not necessarily.

1 Q. So, just because you touched it doesn't mean
2 there's always going to be some sloughed off skin or items
3 of DNA present to be tested?

4 A. It doesn't mean that there will be enough for
5 us to obtain a DNA profile.

6 Q. Now, of those 36 items that were received in
7 the lab, what did you do with them once they were
8 received, the unknown items?

9 A. The unknown items. The unknown items come to
10 the lab and portions of the swabs will be cut for DNA
11 testing, and then they proceed through the process of DNA
12 testing where we isolate the DNA from the cells that are
13 contained on the item to determine the amount of DNA
14 that's present. And then we would do PCR, preliminary
15 chain reaction, in attempt to create a profile from the
16 DNA that's obtained.

17 Q. Now, just because a -- a swab looks like a big
18 Q-tip, right?

19 A. Yes.

20 Q. -- is rubbed on an item of a vehicle that many
21 people have been in and out of, is there always -- did all
22 of your DNA swabs that were submitted come back with DNA
23 present on them?

24 A. Not all of them.

25 Q. About how many did come back with DNA present

1 on them out of the 36?

2 A. Out of the 36 samples, 15 of them gave us DNA
3 results.

4 Q. So, over half had no DNA results?

5 A. Correct.

6 Q. Does it mean nobody touched those items, or it
7 just means no DNA was left on those items?

8 A. It means that based on our detection, we
9 couldn't obtain a DNA profile.

10 Q. What can -- the DNA profile that you can
11 recover from the items, what can that tell you?

12 A. The DNA profile that's obtained from the items
13 could narrow down the origin of where the profile came
14 from, what individual it came from.

15 Q. Who left it?

16 A. Who left it, yes.

17 Q. Now, every time someone is in a vehicle, do
18 they always leave DNA?

19 A. Not necessarily.

20 Q. Or in a house, or sitting here in this chair?

21 A. Not necessarily enough for us to be able to
22 detect it.

23 Q. Now, out of the 15 items, were some of those
24 items -- well, you received some casings; is that right?

25 A. Yes.

1 Q. And did you submit the swabs for those casings
2 to see if there was any DNA present on any of the casings?

3 A. The swabbings from casings were sent for DNA
4 testing, yes.

5 Q. Was there any sufficient amount of DNA present
6 on any of those swabs involving the casings that were
7 sufficient for analysis?

8 A. No DNA results were obtained from the casings
9 swabs that we tested.

10 Q. So, that doesn't mean nobody handled them; it
11 just means there's not sufficient DNA present on them to
12 do any testing?

13 A. To obtain results, yes.

14 Q. Now, also, did you receive -- did the deputy
15 label the items he swabbed from the car, and did he also
16 submit other items and numbers?

17 A. Yes.

18 Q. So, you know where the buccal -- did I say it
19 right? Buccal swabs from the car, you know where they
20 came from because the deputy made a notation on the swab
21 of where it came from?

22 A. That's correct.

23 Q. But some of the other items, you only know a
24 number because he refers to it as a number?

25 A. Yes.

1 Q. Now, out of about 15 swabs that came back with
2 sufficient sample to do a DNA analysis, did some of those
3 come back to not be anyone of your nine known people?

4 A. Yes. We obtained some that came back to
5 unknown males or females.

6 Q. And you can tell -- if you have enough DNA
7 present, you can tell whether it's a male who left it or a
8 female who left it?

9 A. Yes.

10 Q. So, could you tell us, as best you can, from
11 the car, the swabs from the car, which ones had DNA on
12 them that there was not -- that nobody on your known
13 samples left?

14 A. So, our item 21, which would be the front right
15 headrest, came back to what we listed as our unknown male
16 No. 1.

17 Q. That means it doesn't come back to any of the
18 known group of nine you had, and only seven of those were
19 men, I believe, right?

20 A. Correct.

21 Q. Okay.

22 A. From our Item No. 30, which -- that's actually
23 from a numbered item. It came from the deputy's Item No.
24 18, was an unknown female.

25 Q. Okay. It didn't match any of the women that

1 had been submitted?

2 A. Correct.

3 Q. So, somebody touched that item, but it wasn't
4 any of the ones of the known people you had?

5 A. That's correct.

6 Q. Okay.

7 A. There was also an unknown on our cigarette
8 butt, but a later submission of a known -- actually, we
9 were able to identify the source of that.

10 Q. That's a cigarette butt that was submitted by
11 the detective, the crime scene unit officer; is that
12 correct?

13 A. Correct.

14 Q. Who did that cigarette butt come back to?

15 A. The major profile came back to be consistent
16 with Richard Rodriguez.

17 Q. And on that -- with the cigarette butt --

18 MS. WATERS: May I approach, Your Honor?

19 THE COURT: Yes, ma'am.

20 Q. (By Ms. Flader) I'm going to hand you State's
21 Exhibit No. 3 that's previously been offered into
22 evidence. Is this in an envelope that y'all would have
23 received at the lab from Officer Carpenter?

24 A. Yes. It has our -- the case number and the
25 item number.

1 Q. And was this the only item that he didn't
2 actually swab himself; he submitted the actual item to
3 you?

4 A. Yes. That was actually the cigarette butt.

5 Q. So, there's a cigarette butt in here, and you
6 actually took your cuttings from the butt itself?

7 A. Yes.

8 Q. And that cigarette butt came back to belong to
9 one of your known people, Richard Rodriguez --

10 A. That's correct.

11 Q. -- the known sample? Now, can you, at this
12 point in time -- DNA of that quality, you can say that
13 Richard Rodriguez's DNA is on that cigarette butt, or can
14 you just say he's included and not excluded?

15 A. From Item No. 36, the cigarette butt, we
16 actually -- it was enough to be able to do a single source
17 stat. So, we were able to calculate the frequency of that
18 DNA profile occurring in the population.

19 Q. So, you can say it is his DNA?

20 A. I can tell you how often we would expect to see
21 someone with that DNA profile to occur in the population.

22 Q. And often would that be?

23 A. It was 806 quadrillion, 7.4 quintillion, and
24 607 quadrillion.

25 Q. And is that like more people in the whole

1 world?

2 A. Yes, more people than are presently alive on
3 earth.

4 Q. All right. And out of all those more people
5 that's presently alive on earth, only one person is going
6 to match out of your statistical analysis?

7 A. Out of the statistical analysis, that would be
8 your expectation.

9 Q. And Richard Rodriguez matches?

10 A. Correct.

11 Q. And what other known profiles did you -- were
12 you able to look at to determine if you were able to make
13 a match to any of your known samples, your unknown
14 profiles to your known samples?

15 A. We had three unknowns, and one of them was
16 identified by connecting it to Richard Rodriguez. The
17 other two, the unknown female and unknown male, even with
18 further testing they were still unknown.

19 Q. Do you know what those items were from, or are
20 those swab numbers from the deputy?

21 A. One was a swab number from the detective and
22 one was from the vehicle.

23 Q. Where from the vehicle?

24 A. From the front right headrest.

25 Q. The front right headrest?

1 A. Uh-huh.

2 Q. So, somebody's DNA is present on there, but it
3 doesn't match any of your known samples?

4 A. Correct.

5 Q. So, it's not Brianna's, it's not Richard's,
6 it's not Juan's, and it's not Kendell Davis'?

7 A. Yes, it's none of those.

8 Q. What other items from the car were you able to
9 have enough DNA on to make a comparison to your known
10 samples? I think we have the headrest, right; and then we
11 have the -- what was the other one you talked about?

12 A. We have the front left door, internal door
13 handle, and armrest.

14 Q. And who did that come back to?

15 A. That was consistent with Juan Ybarra.

16 Q. And can you say it is Juan Ybarra, or can you
17 statistically say that he is included in a large number?

18 A. The statistic for that was a partial mixture.
19 So, the statistics for that were lower. And for that one
20 it was 1 in 32 for Caucasian; 1 in 5 for Africa American;
21 and 1 in 9 for Hispanic.

22 Q. And Juan is included and everyone else is
23 excluded?

24 A. That's correct.

25 Q. And where was the location of that swab?

1 A. That swab was from the front left door,
2 internal door handle, and armrest.

3 Q. So, the driver's door?

4 A. Yes.

5 Q. Right, driver's door. And you got only a
6 partial from that swab?

7 A. Yes.

8 Q. And a mixture. A mixture or a partial, what
9 does that mean?

10 A. It means that it was partial being that for all
11 the locations that we tested, we didn't obtain results for
12 all of them. And then a mixture means that there was more
13 than one individual. So, we couldn't narrow it down to
14 belonging to one individual.

15 Q. Now, could you tell a major contributor versus
16 a minor contributor on that?

17 A. On that sample, no.

18 Q. So, that was only a partial -- even though it's
19 the inside left door handle, it's only a partial, and Juan
20 can be -- can't be excluded, but everybody else is
21 excluded?

22 A. That's correct.

23 Q. But it's numbers like 1 out of 50. So, it's
24 not like these huge -- so, you can't say absolutely it is
25 his DNA. It's like it could be in a room of 500 people,

1 10 of them could be consistent with that?

2 A. That would be your expectation.

3 Q. And what other kind of results did you get from
4 the interior of the vehicle, or exterior parts of the
5 vehicle that were swabbed?

6 A. Also, the steering wheel, we obtained DNA
7 profile from the steering wheel, which was also consistent
8 with Juan Ybarra. The statistics on that were 1 in
9 9 million Caucasians; 1.8 million African Americans; and
10 2 million Hispanics. Also, I had -- those would be the
11 only ones that we could do statistics. The other ones
12 were either insignificant information for comparison,
13 meaning that we could do not statistics on it because
14 there was such a low amount to compare that we would
15 actually call it inconclusive.

16 Q. On the steering wheel or in the car?

17 A. In the car.

18 Q. So, on the steering wheel, you were able to get
19 DNA that matches Juan Ybarra?

20 A. Correct.

21 Q. And the numbers are more reasonable numbers,
22 9 million, and 5 million, something like that?

23 A. 9 million, 1 million, 2 million.

24 Q. So, did you have -- is there any other
25 contributor on the steering wheel swab or just the one

1 contributor?

2 A. That sample was also a mixture. So, there's
3 more than one contributor.

4 Q. So, Juan was the major contributor?

5 A. He was just a contributor to the mixture.

6 Q. So, there's another mixture there, but we don't
7 know who that is?

8 A. That's correct.

9 Q. But it doesn't -- but we do know that Richard
10 Rodriguez, Brianna Garza, Kendell Davis are excluded and
11 are not contributors to that mixture; can you say that?

12 A. That's correct. The knowns that we tested
13 against it were excluded.

14 Q. So, sometimes even if you have a small sample,
15 you can at least exclude people and say their DNA is not
16 present?

17 A. Yes.

18 Q. Even though you might not have enough to always
19 say whose DNA it is?

20 A. That's correct.

21 Q. It's an exclusion-type situation?

22 A. Yes.

23 Q. And what other swabs did you have in the car
24 that had any type of DNA present that you were able to
25 compare to the known?

1 A. All of the samples that we obtained DNA from we
2 were able to compare; it's whether or not we were able to
3 determine the source of the DNA.

4 Q. Okay. What other places were you able to
5 determine the source of the DNA in the car?

6 A. So, Item No. 12, which is the rear left
7 interior door handle/armrest, this item, we obtained a DNA
8 profile, but it was inconclusive for the determination of
9 whether Juan Ybarra was present or not, and the other
10 knowns were excluded.

11 Q. So, that's the back passenger door?

12 A. The rear left interior door handle and armrest.

13 Q. The back driver side door?

14 A. Yes.

15 Q. So, Juan is a partial there, and everyone else
16 is excluded?

17 A. Well, he was inconclusive. So, we could not
18 exclude him.

19 Q. Now, did you find any items in the car that
20 belonged to Richard?

21 A. To Richard Rodriguez?

22 Q. Yes. Is he on your Item No. 29, Item No. 16,
23 which is identified as the left front seat belt buckle?

24 A. Is he on item -- which? I'm sorry.

25 Q. I think it's your 29.

1 A. 29. He was inconclusive for being included or
2 excluded for Item No. 29.

3 Q. Okay. So, everybody else was excluded?

4 A. Everyone else was excluded.

5 Q. So, Richard is a possible on the left front
6 seat belt buckle that's consistent with Item 16 on your
7 Item 29. Richard could be a contributor, everyone else is
8 excluded?

9 A. We couldn't say he was there or not there. So,
10 we could not exclude him, correct.

11 Q. Now, did you also -- your Item No. 30, which I
12 think, according to the deputy's notations, is the left
13 front headrest. Did you find a mixture of DNA on your
14 Item No. 30?

15 A. Yes, Item No. 30 was consistent with a mixture.
16 And we were able to get a major and a minor profile in
17 that sample; and the major was consistent with an unknown
18 female.

19 Q. And that unknown female did not match any of
20 your known women whose DNA had been submitted for?

21 A. That's correct.

22 Q. Brianna Garza, Sherri White, Carolyn Bocanegra,
23 Sarah-Kathryn Bafford, and Nicole Hernandez?

24 A. Correct.

25 Q. And then on your Item No. 31, which the deputy

1 marked as his Item No. 19, which is the right front
2 headrest, what does that come back to? Who could that be?

3 A. Item No. 31 was -- also, we couldn't tell
4 whether it was one person or two people. And it came back
5 to be inconclusive for Juan Ybarra, and the remaining
6 knowns were excluded.

7 Q. Everybody else was excluded as being a
8 contributor on that, possible contributor?

9 A. Correct.

10 Q. I think that would be on the -- I think the
11 deputy marked it as the left -- the right front headrest.

12 Now, what about your Item No. 33, which the deputy
13 has marked as 20-B, the left rear headrest; were you able
14 to get any DNA from that?

15 A. Yes. We were able to obtain possible profile
16 from that also, and we couldn't conclude whether it was
17 from one or more people. But all of the knowns that we
18 obtained were excluded.

19 Q. So, at this point in time, you have -- I think
20 you also 20-B -- you have 20-B and 20-C, which is the same
21 swab, same location, left rear headrest. On that one,
22 Juan could not be excluded, but everybody else was; is
23 that correct?

24 A. On which item?

25 Q. It's your No. 34.

1 A. Yes, he was inconclusive for that, and everyone
2 else was excluded.

3 Q. So, from looking at all your items, and after
4 DNA was taken from swabs, or analyzed from each of those
5 swabs, did any of that DNA come back to match Brianna
6 Garza?

7 A. She was excluded from the DNA.

8 Q. From all of them?

9 A. From all of them, yes.

10 Q. It doesn't mean that she wasn't in the car?

11 A. No.

12 Q. It just means that there's no DNA that was
13 recovered by the swabbing of the car; is that --

14 A. There was not enough DNA recovered on the items
15 possibly that could indicate it was her.

16 Q. And none of the DNA came back to Kendell Davis?

17 A. Kendell Davis, that's correct.

18 Q. And that doesn't mean he wasn't in the car?

19 A. Correct.

20 Q. It just means that what you had to test, there
21 was nothing sufficient to say he was -- any of the DNA
22 matches him?

23 A. That's correct.

24 Q. Now, also, when you -- some of the swabs were
25 done from bottles and submitted as swabs by the detective,

1 or Deputy Carpenter. Did you also get some DNA results
2 from some of those numbered items that come back to -- did
3 any of those items come back to Kendell Davis?

4 A. No.

5 Q. Did any of those items come back to Brianna
6 Garza?

7 A. No.

8 Q. Did some of those items come back to Juan
9 Ybarra?

10 A. Yes, they did.

11 Q. How many items came back to Juan Ybarra, or him
12 being a possible?

13 A. Him being a possible. So, do you want me to
14 give you the officer's item number that he gave for that?

15 Q. You can do that.

16 A. There's two sets of numbers. There's a
17 laboratory number and officer's number.

18 Q. There are three numbers: The lab number, the
19 officer has two numbers. Right, he has two numbers?

20 A. Yes.

21 Q. As best you can.

22 A. So, what the officer submitted as his Item 22,
23 was consistent with Juan Ybarra; the officer's No. 13, was
24 consistent with Juan Ybarra.

25 MS. WATERS: May I approach, Your Honor?

1 THE COURT: You may.

2 Q. (By Ms. Flader) Let me show you what's been
3 marked as State's Exhibits 130 and 166. Is this a copy of
4 your original report and your supplemental report?

5 A. Yes, it is.

6 Q. I'm going to show you 137 and 144. Have you
7 seen -- have these items been received at the lab?

8 A. Yes, these items were submitted to the lab.

9 Q. And were these two of the items that were
10 included in your 36 that were analyzed for DNA?

11 A. Yes, they were.

12 Q. What numbers -- what numbers are they that are
13 your number on your report?

14 A. These would be Items No. 5 and 6 on my report,
15 which would be casings.

16 Q. Okay. The casings that you received and that
17 you determined there was no DNA present?

18 A. Correct.

19 Q. Now, I'm going to ask to look in your report
20 and see -- do you see -- here's a list. Help us out. Did
21 he submit that? Was that submitted to the lab with the
22 way he numbered the items?

23 A. No.

24 Q. You don't have that?

25 A. No.

1 Q. Okay.

2 MS. WATERS: At this time, I would offer
3 into evidence State's Exhibits --

4 Q. (By Ms. Waters) This is your report, right?

5 A. Yes, they have my case number and my signature
6 on the report.

7 Q. And you're the one who has care, custody and
8 control of these records?

9 A. Yes.

10 Q. And they are made by you at the time you
11 learned this knowledge?

12 A. Yes.

13 Q. As you're an employee at the Harris County
14 Institute of Forensic Sciences?

15 A. Correct.

16 MS. WATERS: At this time, I would offer
17 into evidences State's Exhibits 166 and 130.

18 MR. DUARTE: There's no objection, Judge,
19 to State's Exhibits 130 or 166, Judge.

20 THE COURT: 130 and 156 are admitted.

21 MR. DUARTE: 166.

22 THE COURT: 166 is admitted.

23 (Whereupon State's Exhibit Nos. 130
24 and 166 are admitted into evidence.)

25 Q. (By Ms. Flader) Okay. I think you talked about

1 Item No. -- what's the last item that was -- I didn't
2 remember and you didn't know what the item was, the last
3 one?

4 A. The last one we were talking about was the
5 deputy's Item No. 22 and 13.

6 MS. WATERS: May I approach, Your Honor?

7 THE COURT: You may. You can approach as
8 you need.

9 MS. WATERS: I'm sorry. It's a habit.

10 THE COURT: I know. I know. That's how we
11 do it.

12 Q. (By Ms. Flader) Ms. Freeman, I'm going to show
13 you what's been marked as State's Exhibit 101. Do you
14 recognize this envelope as having been received at the
15 lab?

16 A. This has our unique case number and the item
17 number associated.

18 Q. And inside this envelope would be the swabs
19 that would have been submitted by Deputy Carpenter?

20 A. Correct.

21 Q. And, also, on the outside would be scans of
22 each of the items that were submitted. Are these scans
23 made by Deputy Carpenter or by Harris County Institute of
24 Forensic Sciences?

25 A. These are made by the Sheriff's Department.

1 Q. But they have your number on it, is that right,
2 that corresponds -- does that correspond to your number?

3 A. No.

4 Q. Okay. That's his number. Okay. That No. 37
5 doesn't mean anything to you?

6 A. I think it's just a numerical number generated
7 by the bar code system.

8 Q. By the bar code. Okay. Thank you. So, we
9 were talking about Item No. 18. Was that the last one?

10 A. The deputy's Item No. 22 and 13.

11 Q. And in the deputy's -- in his submission that's
12 already been offered into evidence, if it reflected that
13 22 was a cap and that 13 was a water bottle, would that be
14 consistent with the swabs that were submitted, reflect
15 where the swabs came from? He makes a notation of where
16 the swabs come from before he submits them. Does that
17 make sense?

18 A. In his notes or --

19 Q. On his bar code system.

20 A. In his bar code system, possibly.

21 MS. WATERS: Pass the witness.

22 THE COURT: Cross?

23 MR. DUARTE: Yes, sir, just a few.

24 **CROSS-EXAMINATION**

25 BY MR. DUARTE:

1 Q. I will try not to muck it up any more for the
2 jurors. We will see. The State moved and entered into
3 evidence Exhibit 130. That was one of your -- your first
4 lab report, I think?

5 A. Correct.

6 Q. So, you have a copy of your first lab report
7 there?

8 A. Yes.

9 Q. Now, on page 2.7 or -- or 2 of 7, and I'm
10 looking now to the last paragraph, and it says, "The DNA
11 results obtained from items 25-1." What is 25-1 in case
12 this jury wants to read this report when they are in the
13 back?

14 A. When an evidence item is submitted to the
15 laboratory, we will cut a portion of that item so that in
16 case someone wants to retest it at a later date, they can.
17 So, we make a sub numbering of that. So, the cutting that
18 we took from item 12 becomes item 25-1.

19 Q. That was a cutting from what portion then at
20 that point?

21 A. It was a cutting from the swabbing.

22 Q. I'm sorry, from what part?

23 A. From the swabs that were submitted.

24 Q. And the swab was a DNA swab taken from what
25 area; do you know? Is that the left rear interior handle

1 and armrest? On the front page of your report, that would
2 be listed as No. 12?

3 A. Are you looking at number --

4 Q. The front page of your report.

5 A. Are you looking at 12-1?

6 Q. No, No. 12 item it says, "SW10 rear level
7 interior door handle and armrest swabs." Would that be
8 that cutting that's represented there?

9 A. That cutting is actually represented on page 4
10 of 7.

11 Q. Where would that be?

12 A. 12-1 would be the third paragraph down.

13 Q. That would be the rear left interior door
14 handle and armrest, correct?

15 A. Yes, 12-1.

16 Q. As far as that rear interior door handle and
17 armrest, there was some DNA that was found, but you were
18 able to exclude Kirby or Kendell Davis as being excluded
19 from a contributor there, correct?

20 A. That's correct.

21 Q. Now, regarding any analysis regarding, say, the
22 rear left headrest -- I think it's maybe -- is that the
23 next paragraph down, maybe? Would that be 22-1, the next
24 paragraph?

25 A. Rear left headrest?

1 Q. Yes, ma'am.

2 A. 22-1?

3 Q. Yes, ma'am.

4 A. Correct.

5 Q. And I have your note, "Rear left headrest" in
6 my notes. And there was DNA found on that rear left
7 headrest, and Kendell Davis would have been excluded as a
8 DNA contributor there also, correct?

9 A. That's correct.

10 Q. What about the rear left exterior door handle;
11 did you have any DNA swabs of the rear left exterior door
12 handle that you would have looked at?

13 A. So, No. 8 is rear left exterior door handle.

14 Q. That would be the last part of a sentence where
15 it says, "Insufficient information obtained on item 8-1,
16 rear left exterior door handle?"

17 A. That's correct.

18 Q. I read it pretty closely. So, as far as the
19 areas that were examined in the rear left side that you
20 had, Kendell Davis was excluded from any DNA in that area,
21 correct?

22 A. In the DNA that we could compare, he was
23 excluded, correct.

24 Q. The headrest in front -- the headrest, I guess,
25 that would be on the driver side, was there a swab for the

1 headrest on the driver side? That would have been a
2 cutting from the backside of that headrest.

3 A. There were swabbings that were performed by the
4 deputies. So, when he puts "the headrest," I wouldn't
5 know if it would be the front or the back if he didn't
6 note it.

7 MS. WATERS: No. 22 is the back of the
8 headrest.

9 Q. (By Mr. Duarte) Right, 22. Can you refer to
10 No. 22?

11 MR. DUARTE: Thank you, Jane.

12 Q. (By Mr. Duarte) Item 22, says, "Rear left
13 headrest."

14 A. "Rear left headrest."

15 Q. Where is that referred to in your report?

16 A. It's on page 4 of 7.

17 Q. That would be 22-1, correct?

18 A. Correct.

19 Q. So, again, as far as your analysis, your
20 interpretation, Ms. Freeman, you did not find any DNA from
21 Kendell Davis inside that vehicle as far as the things you
22 looked at, correct?

23 A. From the items that we tested, we excluded
24 Kendell Davis.

25 Q. Thank you, ma'am.

1 MR. DUARTE: I'll pass the witness.

2 THE COURT: Anything else?

3 MS. WATERS: A couple of questions.

4 THE COURT: Okay.

5 **REDIRECT EXAMINATION**

6 BY MS. WATERS:

7 Q. Ms. Freeman, not only on the left rear headrest
8 and on the left rear exterior door handle, not only did
9 you exclude Kendell Davis, you also excluded Juan Ybarra,
10 Richard Rodriguez, Brianna Garza, too, right?

11 A. Yes, they are excluded.

12 Q. So, their DNA isn't on there either?

13 A. Correct.

14 Q. Which doesn't mean that they weren't -- none of
15 those four people were in the car, or none of those four
16 people touched those items?

17 A. It just means the DNA that we obtained was not
18 consistent with their DNA.

19 MS. WATERS: Nothing further.

20 THE COURT: Thank you. You may step down.

21 Please call your next witness.

22 MS. WATERS: At this time, the State calls
23 Deputy Graves.

24 May this witness be excused?

25 MR. DUARTE: Yes, Judge.