

1 MR. CORNELIUS: Yes, Your Honor.

2 THE COURT: Thank you, Doctor. You are free
3 to go. Please don't discuss your testimony with any of the
4 other witnesses.

5 THE WITNESS: Thank you.

6 THE COURT: Thank you.

7 Call your next witness, please.

8 MS. FULLER: State calls Dr. Haden-Pinneri.

9 THE COURT: Come on up, Doctor. Right around
10 up here, please.

11 (Witness sworn.)

12 THE COURT: You may proceed.

13 **KATHRYN HADEN-PINNERI,**
14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 Q. (BY MS. FULLER) Good morning.

17 A. Good morning.

18 Q. Could you please state and spell your name for our
19 court reporter.

20 A. Yes. My name's Kathryn Haden-Pinneri, and it's
21 H-A-D-E-N-P-I-N-N-E-R-I.

22 Q. Dr. Pinneri, who are you employed by?

23 A. I am employed by the Harris County Institute of
24 Forensic Sciences.

25 Q. And that used to be referred to as what?

1 A. The Harris County Medical Examiner's Office.

2 Q. How long have you been employed by them?

3 A. A little over six years now.

4 Q. Can you tell us what your position is there?

5 A. I am an assistant medical examiner.

6 Q. Can you tell us what education you've had to
7 qualify you to become an assistant medical examiner?

8 A. Sure. I did my undergraduate college training at
9 Louisiana Tech University. Then I went to medical school at
10 the University of Texas Southwestern Medical School in
11 Dallas. After that, I did a five-year pathology residency
12 at the University of Tennessee Medical Center in Knoxville.
13 After that, I did a one-year fellowship training in forensic
14 pathology at the Dallas County Medical Examiner's Office.

15 Q. To be a medical examiner, do you have to continue
16 your education?

17 A. Yes.

18 Q. How so?

19 A. Well, I hold valid medical licenses in the state of
20 Texas as well as Virginia and in order to obtain that
21 licensure, you have to get a certain number of continuing
22 education credits. So I do that through attending national
23 meetings or reading articles, presenting at conferences,
24 things like that.

25 Q. What is forensic pathology?

1 A. Forensic pathology is basically a branch of the
2 field of pathology which, in basic terms, is the study of
3 disease and disease processes. So, forensic pathology takes
4 that to -- takes the field of pathology, the study of
5 disease and disease processes, and applies it to individuals
6 that have died. So, we essentially study the disease and
7 disease processes that relate to individuals that have
8 passed away.

9 Q. In your capacity as an assistant medical examiner,
10 do you perform autopsies on bodies?

11 A. Yes, I do.

12 Q. And have you testified in the courts of Harris
13 County as an expert in that field?

14 A. Yes, I have.

15 Q. Have you done so on few or many occasions?

16 A. Many.

17 Q. Okay. Can you explain to the jury essentially what
18 an autopsy is?

19 A. Sure. I basically describe an autopsy as a
20 procedure that has four basic parts. And the four parts
21 that I describe are first is an external examination where
22 we look at the body and document standard things, like hair
23 color, eye color, body height and weight, scars, tattoos,
24 and any injuries the person may have.

25 After we do that, then we'll draw some fluids

1 for toxicology, which is the second part. Then we'll do the
2 internal examination where we actually make incisions in the
3 skin in the shape of a Y so that we can look at all the
4 organs and that's the third part, the internal examination
5 where we look at the organs for things like disease
6 processes, injuries, we measure -- or we weigh them, make
7 sure they're appropriate weights, things like that.

8 As we're doing that, we're also taking little
9 pieces of some of the major tissues or most important
10 tissues, like the heart and lungs, to potentially look at
11 under the microscope, which would be the fourth part.

12 Q. Once you are done with your autopsy -- I'm speaking
13 generally -- once you're done, do you prepare a report?

14 A. Yes.

15 Q. And from your investigative findings, do you make a
16 determination regarding the cause of death?

17 A. Yes.

18 Q. And you document that in the report?

19 A. Yes.

20 Q. Okay. Now, among your -- additionally among your
21 duties as an assistant medical examiner, do you also -- are
22 you also the custodian of records for the Harris County
23 Institute of Forensic Sciences/Medical Examiner's Office?

24 A. Yes.

25 Q. Okay. And as such, do you have care, custody and

1 control over the autopsy records?

2 A. Yes.

3 Q. And are these records made and kept in the normal
4 course of business in the Institute of Forensic Sciences
5 office?

6 A. Yes.

7 Q. Are the records made at or near the time of the
8 transactions reflected in them?

9 A. Yes.

10 Q. And are they made by someone who has personal
11 knowledge of the transactions reflected in them?

12 A. Yes.

13 MS. FULLER: May I approach the witness?

14 THE COURT: You may.

15 Q. (BY MS. FULLER) I'm going to show you what has
16 been marked as State's Exhibit 123. Do you recognize that?

17 A. Yes, I do.

18 Q. Did you bring a -- what is it?

19 A. State's Exhibit 123 represents the autopsy report
20 that I prepared on Linda Sue Hartsough.

21 Q. Can you tell us what unique identifier number was
22 assigned to Linda Hartsough?

23 A. Her unique identifying number with our office is
24 ML, which stands for Medical Legal; 10, which stands for the
25 year 2010; 1866, which means it was the 1,866th case that we

1 brought into our office that year.

2 Q. Okay. And that number was assigned specifically to
3 remains that were brought to you in this case.

4 A. That's correct.

5 Q. Okay. Is State's Exhibit 123 an exact copy of the
6 records that you keep as custodian of record?

7 A. Yes, it is.

8 MS. FULLER: Okay. Your Honor, at this time
9 State moves to admit State's Exhibit 123, tenders to defense
10 counsel for objection.

11 MR. CORNELIUS: I'm going to have a lot of
12 objections, Judge.

13 THE COURT: Do you want to come on up?

14 MR. CORNELIUS: Do you want me to do it at the
15 bench?

16 THE COURT: Yeah, sure.

17 (At the bench, on the record.)

18 MR. CORNELIUS: The first one is
19 identification. There's no evidence about that. There's
20 nothing to cross-examine.

21 THE COURT: Is there going to be some evidence
22 of that?

23 MS. FULLER: I don't know what you're pointing
24 at because I can't see it.

25 MR. CORNELIUS: There.

1 MS. FULLER: I do have the dentist who can
2 come in and testify and the reason why I'm doing this so
3 early is to gauge whether or not he wanted that. The
4 dentist who did the dental comparisons is -- I just need to
5 give him an hour's notice and he can be here to testify.

6 MR. CORNELIUS: Okay. So, just to be certain,
7 no one in her office made the comparison.

8 MS. FULLER: The dentist is a contracted
9 dentist who works with the Institute of Forensic Sciences.
10 So, he is a dentist who contracts out with them to come in
11 and make the dental comparisons.

12 MR. CORNELIUS: I'd like to ask her a couple
13 questions. We may not have to have the dentist if she
14 actually supervises that guy for purposes of this report.

15 MS. FULLER: And I don't think that she did
16 but you probably need to ask her that. It's my
17 understanding he does the dental comparisons and turns that
18 information over to her.

19 MR. CORNELIUS: Okay. I may have some
20 questions of him.

21 THE COURT: I think she's planning on calling
22 him.

23 MS. FULLER: Well, I am now.

24 THE COURT: Yeah.

25 MS. FULLER: Like I said, the whole purpose of

1 me going into this right now --

2 *THE COURT:* That solves that.

3 *MS. FULLER:* -- is to gauge that.

4 *MR. CORNELIUS:* Okay. Then along with this is
5 the anthropology report. Does she supervise those people?

6 *MS. FULLER:* Their findings are turned over to
7 her after they're --

8 *MR. CORNELIUS:* I know. How does she know
9 what they're doing? How does she qualify as a business
10 records custodian for their report?

11 *THE COURT:* He just testified it was part of
12 their report.

13 *MR. CORNELIUS:* I know, but it wasn't offered.
14 I mean, how does she get his report into evidence?

15 *THE COURT:* I guess you need to put him back
16 on to testify that's -- for some reason I thought you had --

17 *MS. FULLER:* You did. You had Defense Exhibit
18 1.

19 *MR. CORNELIUS:* I asked him about specific
20 things but it's got all these -- all this stuff in the back.

21 *MS. FULLER:* And that's the dentist. If it
22 has to do with dental, that's going to be the dentist's
23 report.

24 *MR. CORNELIUS:* I don't think -- I mean, I
25 could be wrong but I think it has to do with Caucasian --

1 you think it stands for black female, white female, Hispanic
2 female?

3 *MS. FULLER:* Yeah, probably.

4 *MR. CORNELIUS:* I don't know what that is and
5 unless she's got some knowledge of how this --

6 *MS. FULLER:* She's the custodian of records;
7 so, she should have knowledge of the entire report.

8 *MR. CORNELIUS:* I'm satisfied she's custodian
9 of records but there are other questions you have to ask
10 her.

11 *MS. FULLER:* Aside from the dentist making the
12 identification of her, I'm not concerned about anything else
13 in the anthropology report.

14 *MR. CORNELIUS:* Okay.

15 *MS. FULLER:* If you are, I would assume you
16 would have asked those questions when Dr. Wiersema was on
17 the stand.

18 *MR. CORNELIUS:* No. I'd prefer it not to come
19 into evidence. So, I have objections to that stuff. I
20 don't think it qualifies as a business record, somebody
21 else's report. And then these charts back here that he's
22 included -- I say he's included -- whoever it was that did
23 this report, I don't see how her testimony covers -- and I
24 can ask her -- that she knows these are made by people that
25 know these things. These are, like, studies that are put in

1 here. They don't work for her. They don't work for her.

2 *THE COURT:* I just haven't seen it. Okay.

3 Well, this is his record, right? His measurements?

4 *MR. CORNELIUS:* I guess.

5 *THE COURT:* He signed it.

6 *MR. CORNELIUS:* Okay.

7 *THE COURT:* I just wanted to make sure. So --

8 *MR. CORNELIUS:* I don't know what it is. I
9 didn't ask him about any of that, this next chart with all
10 the things on it.

11 *THE COURT:* Okay. So -- well, then I guess
12 we'll just call him back.

13 *MR. CORNELIUS:* Okay.

14 *THE COURT:* I'll withhold my ruling until you
15 get him.

16 *MS. FULLER:* Okay.

17 *THE COURT:* So, she can testify all day long
18 from whatever she did, her part, and then you can call him
19 back and just reoffer it.

20 *MS. FULLER:* Is there a way I can try to get
21 him before he leaves --

22 *MR. CORNELIUS:* Yeah.

23 *MS. FULLER:* -- the building. I don't --

24 *THE COURT:* Yeah, please go -- let's go do
25 that.

1 MS. FULLER: Okay.

2 THE COURT: Do you have a phone number for
3 him?

4 MS. FULLER: I do. Actually I'm going to have
5 to call Andrea.

6 Do you have a number for Dr. Wiersema? Can I
7 step out for one second?

8 THE COURT: Can you step out really fast and
9 tell him not to leave so he doesn't leave? You can just
10 step in the back.

11 THE WITNESS: Okay.

12 (Witness exits courtroom.)

13 THE COURT: That should solve that. She'll
14 get him back.

15 MR. CORNELIUS: That solves everything but
16 whoever the dental expert is.

17 THE COURT: Yes, but my point is until we hear
18 from them, she can testify from the report and then when she
19 gets done with everybody, then she can offer it.

20 MR. CORNELIUS: Okay.

21 THE COURT: I'm just withholding a ruling
22 until we hear from the witnesses who put in the -- whatever
23 it is.

24 MR. CORNELIUS: Uh-huh. Okay.

25 THE COURT: It's no big deal.

1 (End of discussion at the bench.)

2 (Witness enters courtroom.)

3 THE WITNESS: I contacted him.

4 THE COURT: And tell him to come on back?

5 THE WITNESS: Uh-huh.

6 THE COURT: Thank you so much.

7 THE WITNESS: Sure.

8 THE COURT: Okay.

9 MS. FULLER: May I proceed?

10 THE COURT: Yes.

11 Q. (BY MS. FULLER) Okay. On June 26th -- let me back
12 up. The autopsy that you described is one -- generally when
13 you have more than just skeletal remains, would you agree?

14 A. Yes. Most of our -- most of the autopsy reports
15 that I perform are on more than just skeletal remains.

16 Q. When you say "more," what are you talking about?

17 A. Intact human decedents, you know, with skin and
18 soft tissue.

19 Q. Okay. What do you do when you have to perform an
20 autopsy on skeletal remains?

21 A. Well, our office is staffed with a forensic
22 anthropology department and individuals that are, in this
23 case, completely skeletonized, we enlist their help in
24 analyzing the bones for things ranging from potential age,
25 potential height or stature, potential gender, male versus

1 female, as well as trauma analysis.

2 Q. Okay. So, on June 26th, 2010, did you have an
3 occasion to perform an autopsy on some skeletal remains?

4 A. Yes, I did.

5 Q. And what was the number that your office assigned
6 those remains?

7 A. Those remains were assigned ML10-1866.

8 Q. Okay. Tell us what you did first when you come in
9 to do the autopsy on the skeletal remains.

10 A. Okay. The first thing that I did was I reviewed
11 the scene photographs, which were taken by our investigators
12 and Dr. Jason Wiersema, one of our forensic anthropologists.
13 So, I reviewed the scene photographs and we brought the
14 remains into my autopsy suite and started photographing them
15 as they were. I did a quick inventory based on my limited
16 anthropology experience and laid them out in a somewhat
17 normal profile of the individual to see what bones that we
18 had and to see if there was any distinctive trauma that I
19 could pick up.

20 Q. Let me stop you there.

21 MS. FULLER: May I approach the witness?

22 THE COURT: You may.

23 Q. (BY MS. FULLER) I'm going to show you what has
24 been marked as State's Exhibits 108, 109, 110 and 111. Do
25 you recognize those?

1 A. Yes, I do recognize them.

2 Q. Okay. And do these -- what are these photographs?

3 A. State's Exhibit 108, 109, 110 and 111 represent
4 reproductions of photographs taken of the autopsy I
5 performed on ML10-1866.

6 Q. Okay. So, these are photographs that are
7 documenting what you -- what you're doing when you go in to
8 do the autopsy?

9 A. That's correct.

10 Q. Okay. Are these a fair and accurate representation
11 of what they depict?

12 A. Yes.

13 MS. FULLER: At this time, Your Honor, State
14 moves to admit State's Exhibits 108 through 111, tenders to
15 defense counsel for inspection.

16 MR. CORNELIUS: No objection.

17 THE COURT: State's 108 through 111 will be
18 admitted.

19 MS. FULLER: May I publish, Your Honor?

20 THE COURT: You may.

21 Q. (BY MS. FULLER) Let me show you what's been marked
22 as State's Exhibit 108. What do we see in 108?

23 A. Well, this is what the remains looked like when I
24 first saw them. There was one paper bag which contained
25 some clothing items which are in a subsequent photograph and

1 the other bag contained several small bone and bone
2 fragments and then you see the rest of the long bones and
3 the skull and the pelvis there as well.

4 Q. Let me show you what's been marked as State's
5 Exhibit 109. What do we see here?

6 A. This is my attempt at laying out a skeleton without
7 a lot of anthropology background, but this is what I did
8 when I was doing an inventory of what bones were present,
9 looking at what -- making sure that it's only one individual
10 and not two, make sure there's no duplication of pieces and
11 parts. That's kind of what I was doing at this stage before
12 I turned it over to the anthropology division.

13 Q. And State's Exhibit 110?

14 A. This is a similar photograph, just the lower part
15 of the remains.

16 Q. Now, what -- you've now laid the remains out and
17 you're taking an inventory. What else are you doing?

18 A. I'm looking for any specific signs of trauma.
19 These remains also came with some clothing, which we
20 inventoried and photographed.

21 Q. Would that be State's Exhibit 111?

22 A. Yes.

23 Q. Okay. Did you also -- what do you do with the
24 clothing?

25 A. Well, the clothing -- an individual who's

1 skeletonized, clearly we don't know exactly who this person
2 is; so, we will document the clothing with the size, the
3 brand, the colors, the patterns, those types of things, just
4 for any sort of comparison with either a missing persons or
5 relative that may call, something like that, so we have an
6 idea of what the individual was wearing. After that then we
7 box them up and submit them as evidence.

8 Q. Okay. When you were doing your inspection of the
9 skeleton for trauma, did you note any visual signs of trauma
10 on any parts of the skeleton?

11 A. Yes, I did.

12 Q. What did you note?

13 A. There were lots of long bones and other bones that
14 had obvious postmortem type trauma, scavenger type trauma
15 where you could see little tooth marks in some of the bones.
16 So, that part I noted.

17 Q. Okay. Did you take any x-rays of the skeleton?

18 A. Yes.

19 Q. What did you x-ray?

20 A. We x-rayed the bags of the bones.

21 Q. Okay. And why did you do that?

22 A. Oh, that's our customary procedure in order to
23 determine if there's any sort of sharp objects, such as
24 knife tips or points that we might injure ourselves on, as
25 well as any sort of projectiles. It also helps us localize

1 any coins or other maybe personal effects that might be
2 mixed in that we might have missed.

3 Q. Does it also aid you in determining whether or not
4 there was, for instance, any bullet holes or fragments
5 contained within the bones?

6 A. Yes.

7 Q. And any other -- can you expand on that? Any other
8 means of showing signs of trauma to the bones?

9 A. Yes. Sometimes we do see obvious traumatic
10 fractures in the bones from the x-rays. It's usually more
11 helpful in that type of scenario when we have a
12 non-skeletonized individual, meaning someone with soft
13 tissues that we can't see the bones right in front of us.
14 But it does help us localize if there's any bullets
15 contained within the bones or bone fragments.

16 Q. And in this case did you find any bullets or bullet
17 fragments contained within any of the bones?

18 A. No, we did not.

19 Q. Okay. Did you see any other signs of possible
20 trauma, such as knife marks or anything else that could have
21 caused any kind of foreign -- any other foreign object
22 causing damage to the bones?

23 A. Nothing that wasn't attributed to some sort of
24 scavenger type activity.

25 Q. Okay. So, the inspection that you do of the body

1 is all visual?

2 A. Correct.

3 Q. Okay. Do you ever inspect any of the bones under a
4 microscope?

5 A. I do not personally in cases like this.

6 Q. Okay. Who would do that?

7 A. Our forensic anthropologist.

8 Q. And in this case who was it that was assigned to
9 handle that case?

10 A. Dr. Jason Wiersema and Deborrah Pinto.

11 Q. Okay. Now, you have -- you've laid the body out,
12 you've looked at it, you've taken x-rays prior to laying it
13 out. What happens with the body next?

14 A. After that, I request an anthropology consultation
15 to aid me with further classification of the case and the
16 remains are placed back in our secured morgue cooler until
17 they do their analysis.

18 Q. Okay. Was a forensic anthropology analysis done on
19 this case?

20 A. Yes.

21 Q. And were any findings reported back to you?

22 A. Yes.

23 Q. And did those findings help point you in the
24 direction of something else that you needed to investigate?

25 A. Yes.

1 Q. And what was that?

2 A. Well, as part of the smaller fragments of bone,
3 they did find a piece of the hyoid bone, which is a bone in
4 the neck, and it actually had a fracture on it, which is a
5 significant finding in the field of forensic pathology and
6 so it was a significant finding for me.

7 Q. Okay. Why is that a significant finding in your
8 field?

9 A. Typically fractures of the hyoid bone are
10 associated with some sort of neck compression, whether it's
11 from someone's hand or from ligatures, we see that sometimes
12 in hangings, things like that. So, it signifies to us there
13 was some sort of neck compression.

14 Q. Okay. Now, was the anthropology team able -- let
15 me back up.

16 Once you found that piece of information, what
17 did you do next in your investigation?

18 A. Well, at this point I don't recall if I had
19 requested the police report. I believe I spoke with the
20 police officer to find out if they knew anything more about
21 the investigation because as part of our -- as part of our
22 process of determining the cause and manner of death, it's
23 important for us to enlist the help of other things, such as
24 police reports, medical records, things like that. And so
25 in this case I contacted the police to see if they found

1 anything else out from their investigation.

2 Q. Okay. And did they give you information that
3 further helped you in your investigation?

4 A. Yes, they did.

5 Q. Now, when you're investigating the cause of death
6 of somebody, does your investigation solely begin and end
7 with your visual inspection of somebody's body or remains?

8 A. Not always, no. There are times when we can look
9 at the body and that's all that we need to determine the
10 cause and manner of death but there are also other times
11 when we have to expand our field of information to include
12 things such as police reports, talking to families, medical
13 records, those types of things, to aid us in determining the
14 cause and manner of death.

15 Q. Okay. Now, in this case when you got the
16 information about the hyoid bone, you spoke with the police
17 officers. Did you do any further investigation in making
18 your -- reaching your conclusion for cause of death?

19 A. After I spoke with the police, I went to actually
20 look at the remains and findings on the bones so that I
21 could see exactly what the anthropologist had seen and then
22 I spoke again with the police and told them that I had -- I
23 felt that I had enough information to make a ruling on -- or
24 determination on the cause and manner of death.

25 Q. Okay. How did you -- what determination did you

1 make in this case?

2 A. In this case I ruled -- I determined the cause of
3 death to be homicidal violence and the manner of death to be
4 a homicide.

5 Q. Okay. Now, what made you come to that conclusion?

6 A. Well, I felt that there were lots of -- lots of
7 circumstances or lots of information that kind of came
8 together for me with that. The first being the fracture of
9 the hyoid bone, which is an indicator of some sort of neck
10 compression, and that in addition to information I obtained
11 from the police officer, and that in addition to information
12 obtained from the circumstances that this individual had
13 gone missing under, kind of all led me together to classify
14 the death as I did.

15 Q. Okay. I want to talk about strangulation cases.

16 In a case of strangulation, is it common for -- tell me what
17 some of the body reactions might be to somebody being
18 strangled.

19 A. Well, I know what I see from -- in the postmortem
20 examination state and I do have -- I have seen videos of
21 when people either hang themselves on purpose or did it for
22 other reasons, but what happens is when the neck is
23 compressed, the blood flow is shut off and it depends on the
24 degree of pressure and that's a highly variable process but
25 sometimes the individuals experience seizure-like activity.

1 In fact, that's not a uncommon terminal event when someone
2 dies just of other causes, they can have seizure-like
3 activity or what's described as seizure-like activity but in
4 videos that I have seen where there was a hanging, there is
5 some sort of terminal seizure-like activity or convulsions
6 that have been seen. The tongue a lot of times will come
7 out between the teeth. There's other soft tissue findings
8 which aren't available to be assessed in this case, but
9 that's what I see in some of these.

10 Q. Okay. So, based on your investigation and finding
11 that the hyoid bone was fractured and linking that up with
12 other information that you received from police officers,
13 you determined that that hyoid bone could have been
14 fractured while she was strangled or during the course of
15 being strangled?

16 A. That's correct.

17 Q. Okay. And because the body was in the condition
18 that it was in, can you say that with 100 percent certainty?

19 A. I'm sorry. Can you --

20 Q. Sure. You had mentioned the state the rest of her
21 remains were in. Can you conclusively say that that hyoid
22 was fractured because of the strangulation, or what's your
23 comfort level in making that kind of a statement?

24 A. Well, I had to look at everything altogether in
25 order to make the conclusion that I did. The fracture on

1 the hyoid bone as it was shown to me and as it was described
2 to me is most consistent with a neck compression type of
3 thing. There weren't any, you know, tooth marks or anything
4 on it that we saw on the other postmortem scavenger type
5 fractures. So, it looks like it's a real fracture. It's
6 very common for the hyoid bone to be fractured in cases of
7 neck compression. That, coupled with investigative
8 information, I thought was enough to make the ruling that I
9 did.

10 Q. Okay. Was there any soft tissue on the bones for
11 you to do any kind of toxicology reports?

12 A. No.

13 Q. Or testing?

14 A. No.

15 Q. Were there any other types of soft tissue, organs,
16 anything that you could test for you to determine any other
17 type of cause of death?

18 A. No. She was completely skeletonized.

19 Q. Okay. And Dr. Pinneri, based on your education,
20 your training, your experience as a medical examiner, can
21 you tell the ladies and gentlemen of this jury whether or
22 not the hand can be used as a deadly weapon?

23 A. Yes, the hand can be used as a deadly weapon.

24 Q. And in cases of strangulation, is the hand a deadly
25 weapon?

1 A. Yes.

2 MS. FULLER: Pass the witness.

3 THE COURT: Mr. Cornelius.

4 MR. CORNELIUS: Yes, Your Honor.

5 **CROSS-EXAMINATION**

6 Q. (BY MS. FULLER) Dr. Haden-Pinneri, my name is Skip
7 Cornelius. I don't think we've met, have we?

8 A. No, sir.

9 Q. I'm the defense attorney in the case. I'm curious,
10 if you're telling the jury this is a strangulation, why
11 didn't you list that as the cause of death?

12 A. I chose the wording that I did because I'm not
13 entirely sure what other mechanisms may have been implied.
14 I didn't want to lock myself down into, say, a manual
15 strangulation if it was determined a ligature was involved
16 or if by any chance there was occlusion of the airways or
17 something like that that I can't tell from anything other
18 than bones; so, I chose to leave it more vague than to lock
19 myself into something that -- when I had a limited amount of
20 stuff to work with.

21 Q. Well, choosing the two words, "homicidal violence,"
22 I don't know how vague that is, but what is the homicidal
23 violence that you found?

24 A. Neck compression.

25 Q. Okay. So, you're saying to the jury that in your

1 opinion this was a strangulation? I mean, the neck
2 compression is a strangulation, right?

3 A. Correct.

4 Q. Okay. Whether it's done with some sort of tether
5 or with the hands, it's still a strangulation, right?

6 A. Right.

7 Q. Why didn't you put that? I mean, this sort of
8 looks like she was beaten to death or something. Homicidal
9 violence, like maybe she was beaten to death?

10 A. Well, honestly I can't say if she was or wasn't
11 beaten on the soft tissues because I don't have those to
12 evaluate.

13 Q. Okay.

14 A. So, that's kind of our -- for skeletal remains such
15 as this, unless there is a bullet wound or, you know,
16 something like that, we tend to use this terminology.

17 Q. Okay. Well, other than the fracture of the hyoid
18 bone, which we're going to talk about in a minute, other
19 than that, did you find any other trauma to these bones,
20 other than the ones by animals?

21 A. No.

22 Q. Any fractures, old or new anywhere, like in the
23 skull or anything, that would indicate the person was
24 beaten? Broken bones, healed or unhealed?

25 A. I don't see any evidence of other fractures or

1 healed trauma. There's some age-related degenerative
2 changes like arthritis.

3 Q. That wouldn't have caused her death, right? That
4 would not have caused her death, right?

5 A. Correct.

6 Q. Okay. Anything that would indicate to you that
7 there was any homicidal violence other than the fracture of
8 the hyoid bone, which we'll talk about in a moment, anything
9 else that shows homicidal violence?

10 A. No, sir. That was it.

11 Q. Okay. Do you think, Doctor, that your job is to
12 talk to the police and try to come up with a theory that's
13 consistent with their theory?

14 A. No, sir.

15 Q. Okay. Well, what is it from a medical
16 standpoint -- you're a doctor, right? What is it from a
17 medical standpoint other than this fracture of the hyoid
18 bone that supports your theory?

19 A. What is it other than that?

20 Q. Uh-huh.

21 A. That's what I -- that based on the circumstantial
22 evidence and -- or the circumstances and the investigation
23 are what led me to my cause and manner of death.

24 Q. Hold on a minute. The circumstantial evidence that
25 somebody told you about, right?

1 A. I misspoke. I meant to say circumstances.

2 Circumstances that I was informed of.

3 Q. Okay. The circumstances that somebody told you
4 about.

5 A. Correct.

6 Q. Okay. But from your standpoint as a medical
7 examiner, as a doctor, I'm just trying to find out if
8 there's anything that you know as a doctor that you can tell
9 this jury that supports the fact that this woman was
10 strangled other than the hyoid bone that has a crack.

11 A. I don't need anything other than a fracture of a
12 hyoid bone to rule a case as that.

13 Q. They might. Do you have anything else?

14 A. No, I do not.

15 Q. Okay. Are you able to say from looking at the
16 remains that this person was not shot?

17 A. I can say that she was not shot where bones were
18 involved. That's it.

19 Q. Okay. But you can't say that she wasn't shot to
20 death, can you?

21 A. Well, I don't have a bullet; I don't have any bone
22 injuries indicative of that. There were no shell casings or
23 bullets found by her, as I would expect in someone who has
24 been shot, but, no, I don't have anything other than what
25 we've already discussed.

1 Q. Is this one you did?

2 A. Yes, it is.

3 MR. CORNELIUS: Okay. May I approach the
4 screen?

5 THE COURT: Sure.

6 Q. (BY MR. CORNELIUS) Because of the fact this is all
7 you had was the bones, correct?

8 A. Yes, sir.

9 Q. This person could have been shot in any place in
10 their body where there aren't bones and died from that and
11 you wouldn't know it, right?

12 A. That's a possibility, yes, sir.

13 Q. They could have been stabbed any place in their
14 body, any soft tissue stabbing, including having their
15 throat cut, as long as the knife blade didn't touch their
16 bones, and maybe even if it did, as long as it didn't leave
17 a mark for you to see, you wouldn't know if that's how the
18 person died, would you?

19 A. That's correct.

20 Q. You don't know if this person did not die from
21 natural causes, do you, like a heart attack?

22 A. Well, I made my determination that they didn't but
23 I didn't have -- I don't have the heart to examine to make
24 that --

25 Q. You made your determination that they didn't. Is

1 that what you said?

2 A. Yes.

3 Q. Based on what? How do you know that she didn't
4 have a heart attack?

5 A. Well, I have a fracture of the bone that's typical
6 in strangulation type cases. I have -- or neck compression.
7 I had information that that was determined, what --

8 Q. Okay. Well, other than what other people told you,
9 I'm trying to -- really trying to test your expertise as a
10 medical doctor and a pathologist. I'm not trying to find
11 out whether you can hear hearsay from other people. I'm
12 trying to find out, and I think the jury wants to know, what
13 it is that you know as an expert that causes you to know
14 that this woman didn't have a heart attack.

15 A. Well, we don't find fractured hyoid bones in people
16 who die of heart attacks.

17 Q. Really?

18 A. Right, yes.

19 Q. Do you talk to your anthropologists that look at
20 this report?

21 A. I look at the hyoid bone in all my cases, every
22 single one.

23 Q. Have you talked to your expert in this case?

24 A. Yes, sir.

25 Q. Did he tell you that he thought this person was

1 strangled?

2 A. That's not their role.

3 Q. Okay. Well, did he tell you that there's no way on
4 Earth he could say that that fracture had anything to do
5 with the strangulation? Did he tell you that?

6 A. I'm sorry. I didn't -- did he tell me that -- I
7 didn't follow. I'm sorry.

8 Q. Okay. When you talked to the expert, who's
9 testified in this case already, did he tell you, as being an
10 anthropologist, an expert on bones -- right, that's what he
11 does?

12 A. Yes.

13 Q. Did he tell you that he could not say that that
14 fracture had anything to do with strangulation? Did he tell
15 you that?

16 A. I guess I'm not --

17 Q. Let me make it simpler for you. Look at his
18 report. You got his report, right?

19 A. Yes. There is a comment that they can't say
20 whether that was a hundred percent antemortem versus --
21 well, let's see. Perimortem versus postmortem.

22 Q. Well, I hear what you're saying but does it say
23 anything about a hundred percent?

24 A. No. It just says you cannot exclude --

25 Q. It says he can't tell, period, right? Not that it

1 might be 99 percent or 14 percent. He can't tell, period.

2 A. That says fracture patterns consistent with
3 perimortem trauma are present but scavenger activity cannot
4 be excluded as a possible cause. So, the fracture patterns
5 are consistent with trauma but they can't exclude scavenger
6 activity.

7 Q. Can you tell the jury that you know this woman
8 didn't die of a drug overdose?

9 A. No, I didn't have anything to test for toxicology.

10 Q. So, you don't know, right?

11 A. I do lots of autopsies on drug-related death and
12 they don't have fractures of the hyoid bone but, no, I can't
13 tell you if she had any drugs in her system.

14 Q. Okay. Well, the anthropologist is saying the hyoid
15 bone could have been bitten apart and it's supported by the
16 fact that most of the bone is gone. You don't think the
17 person strangled her and took the rest of the hyoid bone
18 away, do you?

19 A. No, sir, the skin would have still been attached at
20 that time.

21 Q. Well, how do you account for the disappearance of
22 almost the entire hyoid bone assembly?

23 A. Well, the hyoid bone is a very small bone and it's
24 made up of three pieces and sometimes those pieces are
25 connected and other times they're -- sometimes they're

1 connected by actual bone; so, the joint is connected by bone
2 and other times it's not. So --

3 Q. Is that the hyoid bone right there?

4 A. Yes, sir.

5 Q. Okay. And the only part --

6 MR. CORNELIUS: May I approach the screen?

7 THE COURT: Sure.

8 Q. (BY MR. CORNELIUS) The only part that's recovered
9 in the remains, the only part is this little bit of part
10 right here, correct?

11 A. Yes, the body.

12 Q. Rest of it's gone, okay? Right?

13 A. Yes.

14 Q. All right. Do you have people that get strangled
15 and the rest of it's gone? I mean, how do you account for
16 that? He didn't -- whoever, in your theory, allegedly
17 strangled her, he wouldn't have taken the rest of the hyoid
18 bone with him.

19 A. No, but they're very small fragments. We didn't
20 recover all of her. So, there's -- they're very tiny and,
21 you know, they just weren't recovered, for whatever reason.

22 Q. Why weren't they recovered?

23 MS. FULLER: Objection, calls for speculation.

24 MR. CORNELIUS: I'll ask her opinion. She's
25 on as an expert, if you don't mind.

1 THE COURT: If she can answer it.

2 Q. (BY MR. CORNELIUS) Why do you think they weren't
3 recovered?

4 A. I don't know. They either were too small to be
5 found or they had been moved to other areas that -- where
6 they weren't located.

7 Q. By what? Moved to other areas by what?

8 MS. FULLER: Objection, Your Honor, calls for
9 speculation.

10 THE COURT: If you can answer it based on your
11 training and experience.

12 A. Anything can move bones, especially as small as
13 they are, wind, rain, water, animals, like you were saying.

14 Q. (BY MR. CORNELIUS) Animals, correct?

15 A. Other people, yes.

16 Q. Did you see bite marks from animals all over these
17 bones?

18 A. Yes, but not on that one.

19 Q. Not on the hyoid bone, the little part that was
20 found?

21 A. Yes. There weren't any tooth marks on that.

22 Q. And you don't think it's reasonable to think that
23 an animal bit that bone and took it off and took the horns
24 off, too? You don't think that's a -- am I being
25 ridiculous? You think it just disappeared? I mean, what is

1 your explanation for that?

2 A. Well, I think that perhaps the hyoid bone is broken
3 and through the decomposition process, the two horns, the
4 three pieces separated and got moved, for whatever reason.

5 There are tooth marks on a large number of the
6 other bones that have scavenger activity and the fact that
7 this fracture looked different, there are no tooth marks,
8 discussion with anthropologists, I felt this was consistent
9 with neck compression and not scavenger activity.

10 Q. When you say "discussion with the anthropologists,"
11 you're talking about Dr. Wiersema?

12 A. Yes, and Dr. Pinto.

13 Q. Okay. Because the jury's already heard from
14 Dr. Wiersema. So, do you have any other explanation for why
15 the rest of the hyoid bone would be missing?

16 MS. FULLER: Objection, Your Honor,
17 argumentative.

18 THE COURT: Sustained.

19 Q. (BY MR. CORNELIUS) All right. There were animal
20 bites all around the neck, right? In the other bones, in
21 the shoulder, right? All kinds of bones up there close to
22 the neck are bitten, with bites, correct? You see tooth
23 marks in them.

24 A. Yes, there are -- the scapula has tooth marks and
25 left collarbone.

1 Q. When an animal is biting the collarbone, let's say,
2 of a person, a deceased person, and the body's been laying
3 there for some time, do you think the animal that is doing
4 that biting and tearing those bones is concerned with where
5 they're stepping?

6 A. No, very unlikely.

7 Q. Well, their feet would be in pretty close with the
8 neck, based on where the other bite marks are, wouldn't they
9 be?

10 MS. FULLER: Objection, argumentative.

11 THE COURT: If you can answer that question.

12 A. I would assume their feet would be close to where
13 they're eating, yes.

14 Q. (BY MR. CORNELIUS) Okay. So, in addition to
15 biting that bone, they might have just stepped on it. Is
16 that possible?

17 A. I'm not sure where the hyoid bone fragment was
18 recovered in relation to the other bones to be able to
19 answer that.

20 Q. Okay. Okay. Did you know that this woman who the
21 State believes is the person who died had had a recent
22 significant weight loss? Did you know that?

23 A. No, sir, I did not.

24 Q. So, was there any attempt to contact the family of
25 this woman, to talk to them about maybe her demeanor at the

1 time, health issues, things like that?

2 A. It is our policy to speak with the next of kin. I
3 don't have that information with me as far as what we were
4 informed about her, though.

5 Q. Did you know that she had 11 teeth missing at the
6 time of her death?

7 A. I hadn't counted them personally but we did -- the
8 anthropologist as well as our forensic odontologist did the
9 dental charting.

10 Q. Okay. Well, of course, all that would be hearsay,
11 it's what somebody else told you, but if you knew that this
12 woman had a substantial weight loss within months of this
13 happening, was unhappy and trying to figure out what she was
14 going to do with her life, if you knew that she used,
15 chronically, alcohol and drugs and she had 11 teeth missing,
16 would you consider that in deciding what her cause of death
17 may have been?

18 A. Well, yes, I consider all information that I have
19 available when I'm rule -- determining a cause and manner of
20 death.

21 Q. But you didn't know any of that, right?

22 A. Well, obviously I knew that her dentition was very
23 poor and I knew that there were some substance abuse
24 problems but as far as the weight loss, no, I was not aware
25 of that. And as far as what direction her mental status

1 was, I'm not sure I had any -- had that information either.

2 Q. What, as a doctor, particularly a pathologist, what
3 effect does long-term chronic alcohol and drug usage have on
4 your dentition, your teeth?

5 MS. FULLER: Objection to relevance, Your
6 Honor.

7 THE COURT: Overruled.

8 A. Well, it depends on the drug, depends on the
9 person's social status, what the level of their dentition
10 was prior to the initiation of the substance abuse. Some
11 drugs, especially methamphetamine, there's a condition
12 called meth mouth where the teeth go all the way down to the
13 gum line. If we see that in an individual, we automatically
14 will do a test for methamphetamine. But we see a lot of
15 people with varying degrees of dentition with non-substance
16 abuse as well. I can't say, other than with the
17 methamphetamine use, that there's a particular tooth problem
18 associated with the chronic alcoholism, if that's what you
19 are kind of asking.

20 Q. (BY MR. CORNELIUS) And drug usage.

21 A. Yeah. I mean, anyone with a substance abuse
22 problem a lot of time does tend to decrease their hygiene in
23 some ways but others maintain it. So, it just kind of
24 depends on what level the person was at before they started
25 with the substance abuse problems.

1 Q. Did you test for -- was there a way to test with
2 the bones for possible methamphetamine use?

3 A. No.

4 Q. You can't test that with the bones?

5 A. No, sir.

6 Q. Do you know from your experience that you can smoke
7 methamphetamine?

8 MS. FULLER: Objection, Your Honor, to
9 relevance.

10 THE COURT: Sustained.

11 Q. (BY MR. CORNELIUS) The clothing that was found --
12 just a second. Were you able to determine if the clothing
13 that was found was, in fact, the person whose bones you
14 found clothing?

15 A. I don't know what was done with the clothing. I
16 know from a missing person's flier that they are similar to
17 what was described that she was last seen wearing but I
18 don't know if they were actually proven to be hers.

19 Q. So, did you get her DNA?

20 A. We -- yes. We have the potential to run it, yes,
21 but we did not need to.

22 Q. You did not need to?

23 A. Correct.

24 Q. So, you don't have a DNA profile for the person
25 whose bones were recovered out there?

1 A. I don't believe they went -- complete -- they did
2 any DNA profile, no. I'm -- but I -- if they did, I'm not
3 aware of it.

4 Q. What color was the blouse that was recovered?

5 A. Well, it's pretty dirty at this point. From my
6 experience, I tend to not give clothing in this state a
7 particular color because they change colors based on the
8 decomposition of an individual. They can turn green and
9 brown when, in fact, they were white. So, I tend to not
10 necessarily give them a color unless there's an undisturbed
11 area where I can definitely tell what color they are.

12 Q. You ever seen this picture before?

13 A. I don't recall if I have. If it's from our scene
14 photos, then I would have seen it; but if it's not, then,
15 no, I have not.

16 Q. What size? You got the size, right?

17 A. Yes, sir.

18 Q. Of the blouse?

19 A. Yes, sir.

20 Q. What size was it?

21 A. It was a large.

22 Q. A large, correct?

23 A. Yes, correct.

24 Q. Let me show you this picture up close. This is --
25 they're both in evidence. This is State's 44. This is

1 State's 111. I think this is one y'all made. I don't know
2 who made that picture right now. But can you tell if that's
3 the same large blouse that you're showing in your picture?

4 A. It appears to be, yes.

5 Q. Okay. It's not pink and white, though, is it?

6 A. Not at this time. I -- it all looks brown and
7 dirty.

8 Q. Well, let me just show you. What color is the tag?
9 Got a little glare on there. Let me hold it up this way,
10 the old-fashioned way.

11 A. The tag appears to be a grayish white.

12 Q. White. Tag hadn't turned brown, has it?

13 A. No. Well, I mean, it's -- no, that area appears
14 more intact or less discolored.

15 Q. Was there any attempt to get gunshot residue off
16 the clothing?

17 A. No, sir.

18 Q. Any other trace evidence attempted off the
19 clothing?

20 A. No, sir.

21 Q. Hair or fibers?

22 A. I believe we -- you know, we look at the clothing
23 for things like that but in skeletonized cases where there's
24 obviously been scavenger activity, it wouldn't be common to
25 do that.

1 Q. How hard is it to do that?

2 A. Well, we would have looked at the clothing for
3 potential, you know, human hairs but we wouldn't do our --
4 we have a trace evidence procedure with DNA swabs and things
5 like that and they're --

6 Q. I mean, to look for hair on the clothing, you just
7 look at it with the naked eye first and then under a
8 microscope, right?

9 A. I collected the clothing and turned it over as
10 evidence and I don't know what they did with it after that.

11 Q. But I mean, that's how you do it, right?

12 A. I don't know. I don't do clothing examination like
13 that. I don't look at clothing under a microscope.

14 Q. Do you know that it's pretty easy to tell animal
15 hair from a human hair? Do you know that?

16 MS. FULLER: Objection, Your Honor, to
17 argumentative.

18 THE COURT: Sustained.

19 Q. (BY MR. CORNELIUS) I don't mean to be arguing with
20 you. I'm just asking you if you know that.

21 A. I know that there are times when it's very easy to
22 tell animal versus human, but I also know that there are
23 times when it can be very difficult.

24 Q. Okay.

25 A. With the naked eye. Maybe there's something -- I'm

1 certain there's something more scientific than that but for
2 me to just look at a short black hair versus someone -- a
3 human short black hair, I would not have the expertise to
4 make that determination that it's animal versus human.

5 Q. But in this particular case, so far as you know, no
6 one looked at that clothing to try to get gunshot residue,
7 DNA, hair, any kind of trace evidence, correct?

8 A. There is no gunshot residue test for clothing that
9 you can do. The swabs for scanning electron microscopy have
10 a head that's less than a centimeter and you cannot swab an
11 entire shirt. We don't swab clothing unless we see some
12 sort of residue on the clothing, which we did not. I did
13 look at the clothing. I did not see anything that needed to
14 be collected. And I photographed it and submitted it as
15 evidence.

16 Q. So, other than you looking at it, nothing else was
17 done?

18 A. I don't know what happens to it after -- if the
19 police did something with it, I don't know. But I know what
20 I -- I put it -- it was put into a box and it was taken to
21 the evidence room to be picked up by the investigating
22 agency.

23 Q. All right.

24 MR. CORNELIUS: I'll pass the witness at this
25 time, Judge.

1 THE COURT: Ms. Fuller.

2 MS. FULLER: Just briefly, Your Honor.

3 **REDIRECT EXAMINATION**

4 Q. (BY MS. FULLER) Why didn't you need a DNA profile
5 in this case?

6 A. Because her identification was made by dental
7 x-rays, by our forensic odontologist.

8 Q. And who was she identified as being?

9 A. She was --

10 MR. CORNELIUS: That calls for hearsay.

11 THE COURT: Sustained.

12 MS. FULLER: Pass the witness.

13 THE COURT: Anything further?

14 MR. CORNELIUS: Nothing further at this time.

15 THE COURT: All right. May this witness be
16 excused? On call?

17 MS. FULLER: Yes, Your Honor.

18 MR. CORNELIUS: Yes, Your Honor.

19 THE COURT: All right. Thank you, Doctor.

20 You are free to go. Please do not discuss your testimony
21 with any of the other witnesses.

22 Ladies and gentlemen, we're going to break for
23 lunch at this time. So, if y'all will step back into the
24 jury room, the bailiffs should be with you in just a few
25 minutes.

1 (Jury not present.)

2 (Lunch recess.)

3 (Jury present.)

4 THE COURT: Be seated, please. Okay. And for
5 the record, will you call your next witness, even though
6 he's already back.

7 MS. FULLER: State calls Jason Wiersema.

8 THE COURT: And you may proceed.

9 JASON WIERSEMA ,

10 having been first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 Q. (BY MS. FULLER) You are the same Dr. Wiersema that
13 just testified in the morning; is that correct?

14 A. That's correct.

15 Q. Okay.

16 MS. FULLER: May I approach the witness?

17 THE COURT: You may.

18 Q. (BY MS. FULLER) I'm going to show you what has
19 been previously marked as State's Exhibit 123. Could you
20 take a look at that, please?

21 A. (Witness complies.)

22 Q. What is State's Exhibit 123?

23 A. Well, it's the autopsy report with the anthropology
24 report attached.

25 Q. Okay. Attached to 123 is the anthropology report.