

1 THE COURT: Yes.

2 (Open court, defendant and jury present)

3 THE COURT: Well, you get an early break.

4 I'd ask you to step back into the jury room.

5 (Recess)

6 (Open court, defendant present, no jury)

7 THE COURT: Are we ready?

8 MR. RAMIREZ: We're ready, Your Honor.

9 MR. GAISER: We're ready.

10 THE COURT: Let's bring them out.

11 (Open court, jury and defendant present)

12 THE COURT: Call your next witness.

13 MR. RAMIREZ: State calls Dr. Merrill

14 Hines.

15 (Witness sworn)

16 THE COURT: You may proceed.

17 **DR. MERRILL HINES,**

18 having been first duly sworn, testified as follows:

19 **DIRECT EXAMINATION**

20 **BY MR. RAMIREZ:**

21 Q. Good morning, sir.

22 A. Good morning.

23 Q. Would you introduce yourself to the jury,
24 please?

25 A. My name is Merrill Hines. I'm an assistant

1 medical examiner at the Harris County Institute of
2 Forensic Sciences.

3 Q. What do you do in that capacity with the
4 Institute of Forensic Sciences?

5 A. I'm a forensic pathologist and as such I
6 conduct autopsies and external examinations to determine
7 the cause and manner of death, as well as collect
8 information including evidence that may be of interest
9 in legal proceedings.

10 Q. Are you a licensed doctor --

11 A. Yes, I am.

12 Q. -- here in the state of Texas?

13 A. Yes.

14 Q. How long have you been such?

15 A. Five-and-a-half, almost six years now.

16 Q. Can you briefly summarize for the jury the
17 training that you've had in order to become a doctor?

18 A. While in college, I went to medical school.

19 Q. Okay. And then you've had additional training
20 in relation to being a pathologist; is that right?

21 A. That's right. Following medical school I
22 completed five years of residency training in anatomic
23 and clinical pathology at the University of California
24 San Francisco and an additional year of forensic
25 pathology fellowship training at the Office of the

1 Medical Investigator in Albuquerque, New Mexico.

2 Q. You mentioned that one of your duties is to
3 perform autopsies. Would you explain to the jury what
4 an autopsy is?

5 A. An autopsy is an examination of a deceased
6 person. The examination consists of an external
7 examination and an internal examination. When the body
8 is received at our office and the case as it were has
9 been assigned to a pathologist, the pathologist views
10 the body, notes any interesting features such as
11 injuries, evidence of disease, clothing defects that may
12 be present, et cetera; has a series of photographs taken
13 of the decedent at that time before they've been
14 manipulated. So, they're still clothed. They're
15 basically as they were found.

16 Then the clothes are removed, the
17 decedent's body is cleaned, an additional set of
18 observations and photographs is made now without
19 clothing or anything to obstruct the view. And then in
20 the case of a full autopsy, the next step is the
21 internal examination where the body is opened, the
22 organs are examined, removed, and further dissected, all
23 the while photographs being taken as needed and samples
24 of various tissues and fluids are reserved for possible
25 toxicological analysis.

1 Q. And what's the purpose of an autopsy?

2 A. In the case of a medical examiner's office,
3 which essentially the Harris County Institute of
4 Forensic Sciences is, is to determine primarily the
5 cause and manner of death. We investigate all
6 non-natural deaths, any sudden unexpected deaths, deaths
7 of children, or deaths of people not under direct care
8 of a physician. And so, the idea is that because a
9 death is not apparent at the time of their death, so by
10 doing autopsy we gain additional information to make
11 that determination.

12 Additionally, we can recover items of
13 evidence for toxicological analysis that may be of
14 interest to other parties such as in the case of a trial
15 such as this.

16 Q. In the course of your work there at the
17 Institute of Forensic Sciences, have you performed few
18 or many autopsies?

19 A. I would say many.

20 Q. Have you had occasion to testify in the courts
21 here in Harris County before regarding your autopsy
22 work?

23 A. Yes, I have.

24 Q. Can you tell the members whether or not each
25 body that you examine in an autopsy is assigned a unique

1 case number?

2 A. Yes. Every case that is reported to our office
3 is assigned a unique number. Every case that is brought
4 in and certainly every case that is examined, including
5 autopsies, is assigned a unique sequential number that
6 is keyed to the year in which it was reported to us.

7 So, in this instance, the unique number
8 would be 09, referring to the year 2009, 1173, which
9 would indicate this was the 1,173rd case that was
10 brought into our office for some sort of examination in
11 the year 2009.

12 Q. Did you perform an autopsy in the case that you
13 just referenced, 09-1173?

14 A. Yes, I did.

15 Q. Had it been reported to you that the body was
16 recovered from a scene at 2033 Mangum, No. C, in
17 Houston, Texas?

18 A. Yes.

19 Q. Would you tell the members of the jury on what
20 date you performed this autopsy?

21 A. I performed the autopsy on April 8th, 2009.

22 Q. And was it your understanding that the body had
23 been recovered from the scene just a few hours prior?

24 A. My information indicates that the decedent was
25 pronounced dead at 12:50 in the morning, 12:50 a.m. on

1 the 8th. And I performed the autopsy beginning at 9:15
2 that same morning.

3 Q. Can you tell the members of the jury, when you
4 first viewed the body, was the body clothed?

5 A. Yes.

6 Q. And how was it clothed?

7 A. The decedent was wearing a gray T-shirt, blue
8 jeans, a pair of boxer type underpants, two pink socks,
9 and a pair of white and black athletic shoes, as well as
10 a belt.

11 Q. Did you make a note of the size of the decedent
12 in this particular case?

13 A. The decedent weighed 205 pounds and was
14 69 inches in length.

15 Q. Can you tell the members of the jury if there
16 were a number of tattoos present on the body as well?

17 A. Yes, there were numerous professional-appearing
18 tattoos.

19 Q. Did you see any evidence of injury on the
20 decedent?

21 A. Yes. I saw multiple gunshot wounds.

22 Q. How did you go about documenting and
23 categorizing the gunshot wounds?

24 A. I diagramed the location of the defects
25 representing the entrance and exit wounds. I described

1 the location and appearance of those defects and I
2 photographed the various defects as well as describing
3 the paths the projectiles took through the body, the
4 injuries those projectiles caused, where I recovered
5 projectiles, if projectiles were recovered, and
6 estimated a trajectory that the bullet or bullets took
7 through the body.

8 Q. Did you assign the various gunshot wounds
9 numbers or letters to identify them?

10 A. Yes, I did. Letters.

11 Q. And how many letters did you assign to the
12 letters on the gunshot wounds on the body of this
13 decedent?

14 A. Three.

15 Q. A, B, and C then?

16 A. Yes.

17 Q. Okay. Was there any particular reason you
18 chose to order them A, B, C?

19 A. Typically, I order them by their location on
20 the body for correlation with diagrams. My assignment
21 of letters doesn't imply severity or order of
22 occurrence. Typically, I go from top to bottom and
23 front to back.

24 Q. All right. Can you first describe for the jury
25 the gunshot wound that you -- well, let me ask you this,

1 Dr. Hines, before we do that. You mentioned that body
2 is photographed. Is that right?

3 A. Correct.

4 Q. Do you photograph the gunshot -- did you
5 photograph the gunshot wounds of this decedent?

6 A. Not personally. I had them photographed by our
7 forensic photographers.

8 Q. And they do that under your direction?

9 A. Correct.

10 Q. Okay. And so, one of the things you do in an
11 autopsy is make sure that pictures are taken of what
12 you're describing in the report that you later produce?

13 A. Yes.

14 Q. And in conjunction with the autopsy at the
15 conclusion of it at some point, do you produce a written
16 report?

17 A. Yes, I do.

18 MR. RAMIREZ: May I approach the witness,
19 Your Honor?

20 THE COURT: You may.

21 Q. (By Mr. Ramirez) Dr. Hines, I want to show you
22 some photographs that have marked for identification
23 purposes as State's Exhibit No. 310, 311, 312, 313, 314,
24 315, 316, and 317, and additionally a report multi-paged
25 that has been marked for identification purposes as

1 State's Exhibit No. 319. Do you recognize these items
2 (indicating)?

3 A. The photographs are some of the photographs
4 that were taken during the course of my autopsy. And
5 the document appears to be a complete copy of my autopsy
6 report.

7 Q. Okay. The autopsy report that is produced, is
8 this considered a public document in that it is produced
9 by a public agency, the Harris County Institute of
10 Forensic Sciences?

11 A. Yes.

12 Q. And these documents pertain to the decedent
13 that we've been discussing that you examined that
14 morning?

15 A. Yes.

16 MR. RAMIREZ: Move to introduce State's
17 Exhibit No. 310 through 317 inclusive, the photographs,
18 and State's Exhibit No. 319.

19 **(State's Exhibit No. 310 through 317 and**
20 **319 Offered)**

21 MR. GAISER: No objections, Your Honor.

22 THE COURT: Admitted without objection.

23 **(State's Exhibit No. 310 through 317 and**
24 **319 Admitted)**

25 MR. RAMIREZ: May I publish these exhibits,

1 Your Honor, as we go through his testimony on the
2 screen?

3 THE COURT: You may.

4 Q. (By Mr. Ramirez) First of all, Dr. Hines, I
5 would like to start with the photograph marked State's
6 Exhibit No. 310. Can you tell the members of the jury
7 what the purpose of this photograph is (indicating)?

8 A. This photograph is taken for identification
9 purposes in the event that the decedent is identified
10 visually.

11 Q. Does it have some identifying feature that
12 corresponds to this particular case you worked?

13 A. Yes. As with the vast majority of our
14 photographs, the photo contains a label with the
15 medical/legal identification number on it as well as a
16 small scale or ruler.

17 Q. Let me try to zoom in on this label. Is that
18 what you're speaking of (indicating)?

19 A. Yes.

20 Q. Do all the photographs -- or should all of the
21 photographs for this case have this same label on it?

22 A. Most of them, if not all. Some of our very
23 close-up photographs are too close to contain the label.
24 I don't know if that's the case in this particular
25 instance.

1 Q. All right. So, State's Exhibit No. 310 is
2 primarily for the purpose of identification?

3 A. Correct.

4 Q. Getting back to the discussion about the
5 gunshot wounds. The wound that you identified as
6 Wound A, can you tell the members of the jury where it
7 was on the body of the decedent?

8 A. Basically, on the central chest near the bottom
9 of the breastbone, slightly to the right side of the
10 midline of the body.

11 Q. Let me show you State's Exhibit No. 311. Does
12 this photograph show Gunshot Wound A (indicating)?

13 A. Yes, it does.

14 Q. Were you able to tell, Dr. Hines, whether or
15 not there was any corresponding exit wound for
16 Gunshot A?

17 A. Yes. The corresponding exit wound is on the
18 back of his lower torso. So, on the right side of his
19 lower back.

20 Q. Showing you State's Exhibit No. 315. And let
21 me rotate this. Does State's Exhibit No. 315 show an
22 exit wound that corresponds to the entrance wound for A?

23 A. Yes. That would be the red dot above the label
24 with the medical/legal identification number on it.

25 Q. Showing you a close-up here (indicating).

1 various other findings such as soot or stippling or
2 gunpowder particles which would naturally not be present
3 around an exit wound.

4 Q. Did you find any soot, stippling, or gunshot
5 powder surrounding the entrance of Gunshot Wound A?

6 A. No, I did not.

7 Q. Going back to the photograph showing the exit
8 wound, State's Exhibit No. 315, we'll zoom in on this
9 wound. It's your testimony that this is an exit wound,
10 correct (indicating)?

11 A. Correct.

12 Q. Can you explain to the jury how you can tell
13 that?

14 A. In contrast to entrance wounds, exit wounds are
15 typically irregular, sometimes slit-like, stellate or
16 star-shaped. They really look almost like a laceration
17 in many instances, as is this case here. As you see,
18 it's not round. It's really a linear defect. There's
19 no area of abrasion around it and certainly no stippling
20 or soot or gunpowder particles.

21 Additionally, it lines up with the other
22 hole. The other hole is clearly an entrance wound,
23 therefore, this must be an exit wound.

24 Q. Did you determine the trajectory the bullet
25 took through the body in Gunshot Wound A?

1 A. Yes. It passed from front to back, downward
2 and slightly from left to right. And this is in
3 reference to the decedent's body. So, it would be his
4 left and right, not looking at the person.

5 Q. Was it your testimony that the entrance wound
6 was about 20 inches below the top of his head on his
7 chest; is that right?

8 A. Yes.

9 Q. How far below the top of his head on his back
10 did you find the exit wound?

11 A. Twenty-six inches.

12 Q. So, the bullet then would have moved downward
13 6 inches moving through the body; is that correct?

14 A. Yes.

15 Q. Did you determine what bodily organs or what
16 parts of the body the bullet traveled through, Gunshot
17 Wound A?

18 A. Yes. So, although the entrance was on the
19 chest, it was on the lower chest. So, the path of the
20 bullet was actually predominantly through the abdominal
21 cavity. Therefore the organs involved were abdominal
22 organs. The organs that were injured by the bullet's
23 path were the liver, the stomach, part of the pancreas,
24 a large vein in the abdomen called the vena cava, as
25 well as some musculature in his back.

1 Q. Relative to -- relative to the position of the
2 body, what conclusions, if any, can you draw as to the
3 position of the muzzle of the gun that would have fired
4 this bullet, Gunshot Wound A?

5 A. The muzzle of the gun was in front of the
6 decedent, so he was facing the muzzle of the gun. And
7 relative to his body at the time the muzzle was pointing
8 downward. Now, that can represent either the decedent
9 standing straight up and you can picture the muzzle of
10 the gun pointed downward at a level above the entrance
11 wound, or possibly the decedent being bent forward at
12 the waist and the muzzle being nearly parallel to the
13 ground. Either way, you would get this sort of wound
14 and trajectory.

15 Q. All right. So, that's Gunshot Wound A.

16 Did you find a gunshot wound that you
17 designated Wound B?

18 A. Yes.

19 Q. Can you tell the members of the jury where you
20 found it?

21 A. It was on the front of the decedent's left hip.

22 Q. Okay.

23 MR. RAMIREZ: May I approach the witness,
24 Your Honor?

25 THE COURT: You may.

1 Q. (By Mr. Ramirez) Let me just show you this
2 photograph, State's Exhibit No. 313. Does this show
3 Gunshot Wound B (indicating)?

4 A. Yes. In this photograph two gunshot wound
5 defects are depicted. One is an exit wound and the
6 other is an entrance wound. The entrance wound is the
7 entrance for Gunshot Wound B and is actually the lower
8 of the two wounds depicted in the photograph and is not
9 underlined by the label. It is the unlabeled wound that
10 we're referring to now.

11 Q. All right. Would my index finger be pointing
12 to the proper wound that was entrance Wound B
13 (indicating)?

14 A. Yes.

15 MR. RAMIREZ: May I show this to the jury,
16 Your Honor?

17 THE COURT: You may.

18 Q. (By Mr. Ramirez) I believe your testimony is
19 this is the decedent's left hip?

20 A. Yes.

21 Q. Okay. For Gunshot Wound B, did you find a
22 corresponding exit wound?

23 A. No, I did not. This was a penetrating gunshot
24 wound versus a perforated gunshot wound. Penetrating
25 indicates that the bullet did not leave the body.

1 Q. All right. And for Gunshot Wound B, did you
2 find any firearms evidence or parts of a bullet within
3 the decedent's body?

4 A. Yes, I did. I recovered three fragments of a
5 copper-jacketed bullet.

6 Q. Where did you find the fragments?

7 A. The fragments were recovered from the right
8 leg, the back of the right leg.

9 Q. Can you tell the members of the jury what the
10 trajectory was of this bullet as it entered and traveled
11 through the decedent's body?

12 A. It passed downward from left to right and
13 slightly from front to back. So, predominately its
14 trajectory was downward and from side to side. There
15 was very little front-to-back deviation as it traveled
16 through the body.

17 Q. And so, relative to the decedent's body what
18 position would the muzzle of the gun that fired this
19 bullet have been in?

20 A. The muzzle of the gun would have been to the
21 left of the decedent and would have been higher than the
22 entrance wound, so higher than his hip. And it would
23 have been pointed downward.

24 Q. What bodily organs or parts of the body were
25 affected by this gunshot wound?

1 A. Essentially, the injuries were to muscle and
2 bone. There were no particularly large blood vessels
3 that were involved. So, I guess you could call it soft
4 tissue and bone.

5 Q. Is this Gunshot Wound B the type of wound
6 injury that would have been fatal if not treated?

7 A. It's unlikely. It's certainly possible if some
8 complications set in such as infection, or if it was
9 completely untreated it's possible that blood loss could
10 have been a problem, but it's certainly a potentially
11 survival injury.

12 Q. Going back to Gunshot Wound A, would Gunshot
13 Wound A have been a potentially fatal injury?

14 A. Yes, more so than Gunshot Wound B. In that
15 instance, multiple organs were injured and there was a
16 large quantity of blood, at least partially due to the
17 effects of the first gunshot wound in the decedent's
18 abdomen. And so, this would be something that would
19 likely result in death if not treated, but, again,
20 potentially treatable and survivable.

21 Q. Gunshot Wound B you mentioned that you had
22 recovered some bullet fragments. Were those bullet
23 fragments photographed?

24 A. Yes.

25 Q. Showing you State's Exhibit No. 317. And I'll

1 rotate this. Does this show the bullet fragment that
2 you recovered from the decedent's body (indicating)?

3 A. Yes.

4 Q. And your testimony is there are three of them;
5 is that right?

6 A. Correct.

7 Q. What was done with the bullet fragments after
8 they were recovered?

9 A. So these were submitted as evidence after being
10 sealed by me.

11 Q. Okay. They're sitting on a manila envelope; is
12 that right?

13 A. That's correct.

14 Q. Is that what they would have been sealed in?

15 A. Yes.

16 Q. Dr. Hines, I want to show you an item that has
17 been marked State's Exhibit No. 300 for identification
18 purposes. Would you look at this item and tell us
19 whether or not you recognize it (indicating)?

20 A. Yes, I do.

21 Q. What is it?

22 A. This is the manila envelope that contained the
23 three bullet fragments and also three bullet fragments
24 that looked like the ones I had sealed in this manilla
25 envelope.

1 Q. When you seal some firearms evidence that you
2 recover from a body, do you note on the envelope they're
3 sealed in the case number, your name, and so forth so
4 that you can identify them later?

5 A. Yes. I note the case number, the decedent's
6 name, my name, the date. And I initial the sealing tape
7 as well and date it.

8 MR. RAMIREZ: Move to introduce State's
9 Exhibit No. 300.

10 **(State's Exhibit No. 300 Offered)**

11 MR. GAISER: No objection, Your Honor.

12 THE COURT: Admitted without objection.

13 **(State's Exhibit No. 300 Admitted)**

14 Q. (By Mr. Ramirez) With regard to B, one last
15 question. Did you find any soot, stippling, or
16 gunpowder around the entrance of Gunshot Wound B?

17 A. No, I did not.

18 Q. And did you find another gunshot wound that you
19 characterized as C?

20 A. Yes.

21 Q. Can you tell the members of the jury where the
22 entrance for Gunshot Wound C was?

23 A. It was on the right side of his lower back in
24 what we call the right flank area here (indicating).

25 Q. Looking again at State's Exhibit No. 315, can

1 you see Gunshot Wound C here (indicating)?

2 A. Yes, I can. It's depicted as a red dot to the
3 side of the photo.

4 Q. Right there (indicating)?

5 A. Yes.

6 Q. Let me show you another photograph, State's
7 Exhibit No. 316. Does this also show the entrance to
8 Gunshot Wound C (indicating)?

9 A. Yes, it does.

10 Q. Is this a closer-up shot?

11 A. Yes.

12 Q. Did you find anything interesting surrounding
13 the entrance of Gunshot Wound C?

14 A. Yes. I found stippling and unburned gunpowder
15 particles around the wound.

16 Q. Can you explain to the jury what stippling
17 and -- I'm sorry -- first what stippling is?

18 A. Yes. Stippling are small injuries, essentially
19 abrasions, caused by material ejected from the muzzle of
20 the gun as they strike the skin of a living individual.
21 And they appear as red dots surrounding the wound.

22 Q. All right. And if I get real close, can you
23 actually see the stippling on the skin (indicating)?

24 A. Yes. The majority of these dots represent
25 stippling. And in and around some of these red dots, I

1 saw gray disks of gunpowder.

2 Q. What does the presence of stippling around an
3 entrance wound tell you?

4 A. It tells me that the muzzle of the gun was
5 within up to 4 feet of the skin of the decedent. And I
6 say up to, because it was likely less than 4 feet for a
7 variety of reasons. One, 4 feet is the absolute, in my
8 experience and training, outer distance or greatest
9 distance from the body that you would expect to see any
10 stippling. And two, the decedent was clothed at the
11 time he was shot and fabric often filters some of the
12 stippling. And so, had he been unclothed, we may have
13 seen more and denser stippling which would suggest a
14 smaller distance between the muzzle and the decedent's
15 skin.

16 Q. Did you find any gunpowder surrounding the
17 entrance to C or not?

18 A. Yes. I found stippling and gunpowder
19 particles.

20 Q. What, if anything, differently does the -- I'm
21 sorry -- does the gunpowder particles indicate?

22 A. Nothing. Its significance is the same as that
23 of stippling.

24 Q. All right. So, although the outside distance
25 from the muzzle of the gun to the skin would have been

1 4 feet, your testimony is it's more likely that the
2 muzzle of the gun was actually much closer?

3 A. It was closer. I don't know about much closer.
4 I would think it would be very unlikely that it was
5 4 feet. I think it would be less than 4 feet.

6 Q. All right. Now, when you do an autopsy -- or
7 when you do this autopsy you mentioned this decedent was
8 clothed in a T-shirt. Is that right?

9 A. Yes.

10 Q. Did you examine the T-shirt for defects?

11 A. Yes, I did.

12 Q. What did you find?

13 A. I found a total of five defects, five holes in
14 the shirt. One on the front and four on the back. Some
15 of the defects on the back being on the sides of the
16 back and one being near the bottom of the back of the
17 shirt.

18 Q. Okay. And would it be fair to say that the
19 presence of a shirt on a body would act as a block to
20 prevent some stippling?

21 A. Yes, generally so.

22 Q. Now the other entrance wounds that you talked
23 about, A and B, you did not find any stippling
24 surrounding those entrance wounds, did you?

25 A. No, I did not.

1 Q. Was there an exit wound for Gunshot Wound C?

2 A. Yes.

3 Q. Where was it?

4 A. The exit wound was on the side of the abdomen,
5 which you can see on the left adjacent to the -- let's
6 see -- entrance wound for B.

7 Q. Okay. Let me go back to the photograph showing
8 those two wounds. And it's State's Exhibit No. 314.
9 Does this show an entrance for B and an exit for C
10 (indicating)?

11 A. Yes, it does.

12 Q. And which one is the exit for C?

13 A. The one at the top which is not labeled.

14 Q. Okay. So, can you tell the jury what the
15 trajectory of this bullet would have been through the
16 decedent's body, Gunshot Wound C?

17 A. It passed from right to left, back to front,
18 and downward, but predominately from right to left.

19 Q. And relative to the decedent's body where would
20 the muzzle of the gun have been when he was shot with
21 this entry that you've designated as C?

22 A. To his right and slightly behind.

23 Q. To his right and behind.

24 And relative above or below the decent,
25 what can you say about that, if anything?

1 A. Well, the muzzle of the gun would have been
2 above the wound, although not very much. The trajectory
3 downward was fairly minimal.

4 Q. Okay. Now, what bodily organs did Gunshot
5 Wound C pass through?

6 A. This would be the most serious of the three
7 gunshot wounds. It passed through the right kidney; the
8 vena cava, which is the largest vein in the body; the
9 aorta, which is the largest artery in the body; as well
10 as some of his small intestine.

11 Q. And as a result of suffering Gunshot Wound C,
12 what happened to the decedent?

13 A. Along with the injuries sustained from Gunshot
14 Wound A, the decedent bled extensively internally both
15 from the injuries to the vena cava and particularly to
16 the injury of aorta. The aorta is a very large
17 high-pressure artery and injuries such as this to that
18 artery would leave to a rapid internal blood loss and
19 drop in blood pressure.

20 Q. Did you find a large amount of blood inside his
21 body caused by C?

22 A. Yes, I did.

23 Q. After suffering injury in Gunshot Wound C,
24 about how long could this decedent have survived?

25 A. I would estimate seconds to minutes.

1 Q. All of the gunshot wounds we've discussed, A,
2 B, and C, would these have been caused by a firearm?

3 A. Yes.

4 Q. And is a firearm considered a deadly weapon
5 under Texas law to your understanding?

6 A. I believe so.

7 Q. Aside from the three gunshot wounds that you
8 described and we've seen in the photographs, did you
9 find any other evidence of injury?

10 A. No, I did not.

11 Q. You mentioned, I believe, earlier that lab
12 tests are sometimes done on decedents. Was there a lab
13 test, a toxicology test done on this particular decedent?

14 A. Yes. All cases of homicide are examined with a
15 specific panel of toxicology testing. It's a somewhat
16 limited panel in that we don't look for the presence of
17 every illicit and prescription drug, but they're all
18 handled the same way.

19 Q. What, if anything, did the toxicology panel run
20 on this decedent show?

21 A. The presence of a substance which is the
22 metabolite of cocaine.

23 Q. What is that called?

24 A. Benzoyllecgonine.

25 Q. Can you explain how this works, how the body

1 metabolizes cocaine?

2 A. So after an individual uses cocaine, the
3 substance, the cocaine, is immediately acted upon by
4 enzymes, particularly in the blood, that break it down
5 or hydrolyze it to this metabolite called
6 Benzoyllecgonine. And this reaction occurs fairly
7 rapidly relative to other drugs in life, but also can
8 occur, to some extent, albeit more slowly after death.

9 Q. Were you able to draw any conclusions about
10 when this person might have ingested cocaine from the
11 quantity of the cocaine metabolite found?

12 A. No. All I can say is that there was no cocaine
13 or active compound in his body when the blood was
14 removed from him at the time of autopsy. When we remove
15 blood, we place it in to test tubes that contain --

16 MR. GAISER: Object to nonresponsive.

17 THE COURT: Sustained.

18 Respond only to the question that is asked,
19 Doctor.

20 Q. (By Mr. Ramirez) Dr. Hines, I'll ask you
21 another question.

22 Based on what was revealed in the
23 toxicology panel, is it likely that the deceased
24 ingested cocaine shortly before his death or not?

25 A. Not.

1 Q. Why is that?

2 A. Because there is no cocaine in his blood.

3 Q. And so, Dr. Hines, concluding here, what did
4 you determine was the cause of death of the decedent in
5 this case?

6 A. Multiple gunshot wounds.

7 Q. And what was the manner of death?

8 A. Homicide.

9 Q. Thank you, Doctor.

10 MR. RAMIREZ: I pass the witness.

11 MR. GAISER: Judge, I don't believe I have
12 any questions of this witness.

13 THE COURT: All right. You are excused,
14 Doctor. Thank you very much.

15 I think it's lunchtime. Don't you? Let's
16 go eat. Same admonishments.

17 (Lunch recess)

18 (Open court, defendant and jury present)

19 THE COURT: Call your next witness.

20 MR. RAMIREZ: State calls Kim Downs, Your
21 Honor.

22 (Witness sworn)

23 MR. RAMIREZ: May I proceed, Your Honor?

24 THE COURT: You may.

25 **KIM DOWNS,**