

1 Q. How long did it take you after you
2 got -- I think your testimony was you took him back
3 to where your partner was at because it was -- you
4 said it was hot. Found out it was okay. How long
5 before you went back to search the area?

6 A. Maybe another five minutes.

7 Q. Another five minutes. How long were you
8 over there before you made your way back to search
9 him? How long were you searching him is probably a
10 better question.

11 A. Another five minutes maybe.

12 Q. And so --

13 MR. RAMIREZ: Pass the witness,
14 Judge.

15 MS. OSWALD: Nothing further from
16 the State, Your Honor.

17 THE COURT: May this witness be
18 excused?

19 MS. OSWALD: Yes, ma'am.

20 THE COURT: Call your next witness.

21 MS. OSWALD: The State calls Miriam
22 Kane to the stand, Your Honor.

23 THE BAILIFF: This witness has not
24 been sworn.

25 (Witness sworn)

1 THE COURT: You may proceed.

2 MIRIAM KANE,

3 After having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 Q. (By Ms. Oswald) Will you please
6 introduce yourself to the jury using your first and
7 last name?

8 A. My name is Miriam Kane.

9 Q. Who are you employed by, Ms. Kane?

10 A. I'm employed by the City of Houston
11 Police Department Crime Lab.

12 Q. How long have you been with the crime
13 lab?

14 A. Since March, 2009.

15 Q. What do you do as part of your
16 employment with the Houston Police Department Crime
17 Lab?

18 A. I analyze unknown substances for the
19 presence of controlled substance.

20 Q. What kind of education did you have to
21 get to get this kind of job?

22 A. I have a bachelor in biology and
23 chemistry from Houston Baptist University.

24 Q. What kind of training did you take to
25 become an analyst?

1 A. I had to take a six months training from
2 H.P.D. Crime Lab before starting cases, casework.

3 Q. What does that training consist of?

4 A. They give -- you have lecture, final
5 exam, midterm exam. And at the end they give you 25
6 unknown samples that you have to successfully
7 identify before you can start cases.

8 Q. And do you have any certifications to
9 become an analyst?

10 A. No.

11 Q. Now, do you have to have any updates on
12 your education as a part of being an analyst, like
13 educational updates?

14 A. No. We only have proficiency exams
15 twice a year.

16 Q. Now, what is the process that you do to
17 identify a controlled substance?

18 A. I perform two tests in order to identify
19 a controlled substance.

20 Q. When a controlled substance is brought
21 in by an officer, what is the first step in that
22 process when you receive it?

23 A. The first step is to get the weight
24 without the baggy, without the container.

25 Q. So, when you get the evidence does it

1 come in the form in which the officers recover it
2 from whichever defendant? Does it come in the
3 original baggy on which they found it on the
4 suspect?

5 A. Yes, uh-huh. Yes, it does.

6 Q. What do you do at that point in time?

7 A. At that point in time I have to remove
8 the sample from the baggy and get the weight with my
9 balance.

10 Q. If it comes in multiple baggies do you
11 weigh those separately, each individual baggy?

12 A. Yes.

13 Q. So, you take the weight without the
14 baggy? What do you do after that point in time?

15 A. After that I start doing the testing.
16 The first one is a chemical test.

17 Q. What is the chemical test? What do you
18 do?

19 A. I get a sample from each container that
20 I have, and I add a reagent to it and look for a
21 specific color change.

22 Q. Are there different color changes with
23 regards to each different substance?

24 A. Yes.

25 Q. And do you do that in this case?

1 A. Yes, I did.

2 Q. And what was the result of that chemical
3 test?

4 A. After doing chemical tests on -- there
5 were five Ziplocs on this case, I obtained five blue
6 color.

7 Q. What does the blue color indicate?

8 A. That gives me an indication that the
9 powder present in those five Ziplocs might be
10 cocaine.

11 Q. Now, do you take a sample from each of
12 the five Ziploc bags?

13 A. Yes.

14 Q. And each of those came back positive,
15 indicating cocaine?

16 A. That is correct.

17 Q. After you do the chemical test, what do
18 you do after that?

19 A. The next test is the instrumental test,
20 which is a confirmation test.

21 Q. And what do you do during that test?

22 A. Okay. It's an instrument. It's called
23 the GC-MS gas chromatograph mass spectrometer. I
24 get a sample from the five Ziplocs and I mix that
25 with the solvent and then insert it inside the

1 instrument. And after a few minutes, it does come
2 up and give you what's present inside that powder.

3 Q. So, you did this five -- used this
4 instrument five separate times for each sample from
5 the five different Ziplocs?

6 A. No. Since from the indication I got
7 that confirmed that there were five blue, they all
8 acted the same, I only did one. But I got a sample
9 from each Ziploc. But I did one instrumental test.

10 Q. So, you add a solvent, place it in this
11 chromatograph?

12 A. Gas chromatograph, yes.

13 Q. What were the results of the gas
14 chromatograph?

15 A. After doing the test it gave me a
16 confirmation that this powder contained cocaine.

17 Q. Now, you stated that the first thing you
18 do is weigh?

19 A. Yes.

20 Q. And what was the weight, total weight
21 from each of these five little Ziploc baggies?

22 A. Weight with the Ziplocs or just the
23 powder?

24 Q. Just the powder.

25 A. Just the powder, it was 1.9 grams.

1 MS. OSWALD: Your Honor, may I
2 approach?

3 THE COURT: You may.

4 Q. I'm handing you what has been marked as
5 State's Exhibit 4. Is this the envelope in which
6 you received from the police officers when it came
7 to your lab?

8 A. Yes. I recognize it by the incident
9 number 142649511, and it has my initials M.K. in the
10 front and in the back.

11 Q. Now, when you remove the initial baggies
12 from there, State's Exhibit 4, do you recognize
13 this?

14 A. Yes. Also by the incident number
15 142649511, and it has my initials on the bag.

16 Q. Are these the drugs that you tested?

17 A. Yes.

18 MS. OSWALD: State offers State's
19 Exhibit 4.

20 MR. RAMIREZ: Judge, the objection
21 that I have is the one I've previously stated, and I
22 would like to renew that objection.

23 THE COURT: Your objection is
24 overruled, and State's Exhibit 4 is admitted.

25 Q. (By Ms. Oswald) Now, do you record your

1 results in your analysis in a lab report?

2 A. Yes.

3 Q. And do you upload that lab report, same
4 with the offense report like the officers do at that
5 time back in November 2nd of 2011 or November of
6 2011?

7 A. Yes. This was done in November of 2011.

8 Q. Handing you State's Exhibit 3. Do you
9 recognize it?

10 A. Yes. That's the lab report for the
11 case, yes.

12 MS. OSWALD: Tendering State's
13 Exhibit 3.

14 MR. RAMIREZ: Same objection, but I
15 think it's --

16 THE COURT: Objection is overruled,
17 and State's Exhibit 3 is admitted.

18 MS. OSWALD: Requesting to show it
19 to the jury at this time, Your Honor.

20 THE COURT: Granted.

21 (Exhibit published)

22 MS. OSWALD: Along with State's
23 Exhibit 4, Your Honor.

24 Q. (By Ms. Oswald) Now, Ms. Kane, when you
25 get the drugs, you said it comes in the baggy in

1 which it was taken from the suspect; is that right?

2 A. Yes.

3 Q. Were these individual baggies we see
4 here, were those the baggies in which it came to you
5 at the lab, or do you place them in a new baggy once
6 you empty it from the original container?

7 A. No. Everything was originally in the
8 envelope. I receive a Ziploc containing five
9 Ziplocs with powder.

10 Q. Can you mark those and place your result
11 on a lab report? Is this your copy of -- is this a
12 copy of those lab results?

13 A. Yes; that is correct.

14 Q. Is the cocaine you received pure
15 cocaine?

16 A. A purity test was not performed on this
17 test, on this case.

18 Q. Most of the cocaine you receive as an
19 analyst, is it pure cocaine? In your experience as
20 an analyst, when you receive cocaine, is it
21 generally pure cocaine?

22 A. You can tell --

23 MR. RAMIREZ: Objection --

24 A. There is a test to determine --

25 MR. RAMIREZ: Objection.

1 THE COURT: Hold on, please. I'm
2 sorry. Your objection was relevance?

3 MR. RAMIREZ: Relevance, yes.

4 THE COURT: What's the relevance,
5 Counsel?

6 MS. OSWALD: I'll rephrase the
7 question, Your Honor.

8 Q. (By Ms. Oswald) Does the 1.9 grams of
9 cocaine include adulterants and dilutants?

10 A. Yes.

11 MS. OSWALD: Pass the witness, Your
12 Honor.

13 THE COURT: Mr. Ramirez.

14 CROSS-EXAMINATION

15 Q. (By Mr. Ramirez) Ms. Kane, I know you
16 did the lab work on here, but you're not telling
17 this jury that you have any personal knowledge
18 whether or whether or not my client was in
19 possession of these substances that you tested, are
20 you?

21 A. No. I do not know.

22 Q. You don't know anything about the facts.
23 You don't know anything that happened out at the
24 scene, do you?

25 A. No.