

1 A. I talked to an Alvin Miller, I believe.

2 Q. Other than that, did you have any other
3 involvement in this case?

4 A. Other than reading the reports and the report
5 from the hospital.

6 Q. Nothing else?

7 A. That was it.

8 Q. I assume you did not make the scene of this
9 alleged incident; is that correct?

10 A. I did not.

11 Q. Did you ever speak with Officer Casas?

12 A. No, I did not.

13 Q. Have you ever spoken with Ms. Oldham?

14 A. Oldham?

15 Q. Yes, sir.

16 A. I don't recall speaking to anybody by that
17 name.

18 Q. Did you speak with any medical people of any
19 kind?

20 A. Not on this case.

21 Q. And I assume the only reason you say the swab
22 from Mr. Queeny was consensual is that is what you were
23 told; is that correct?

24 A. The question again?

25 Q. You testified that you have one swab that was

1 consensual from Mr. Queeny; is that correct?

2 A. Well, he voluntarily gave that buccal swab.

3 Q. I did not phrase it correctly. That swab was
4 taken as a result of consensual sex; is that correct?

5 A. That's what I was told.

6 Q. The only reason you know that is because
7 someone told you that; is that correct?

8 A. That's correct.

9 Q. You have no independent knowledge of the truth
10 of that; is that correct?

11 A. Other than speaking to Mr. Queeny himself.

12 Q. Listen to my question.

13 A. Okay.

14 Q. You have no independent knowledge as to whether
15 or not that's truthful or not, do you?

16 A. No.

17 MR. GREENLEE: No further questions.

18 MR. McCLEES: No further questions, Your
19 Honor.

20 THE COURT: All right. You may step down.

21 MR. McCLEES: May this witness be excused?

22 THE COURT: You're excused. Thank you.

23 Call your next witness.

24 MR. McCLEES: State calls Shamika Kelley.

25 MR. GREENLEE: Your Honor, I'm sorry. I do

1 need -- can I call him right now for one question?

2 THE COURT: Who's that?

3 MR. GREENLEE: The officer that just
4 testified.

5 MR. McCLEES: Call him for one question?

6 MR. GREENLEE: Yes. If we can do that --

7 MR. McCLEES: I have no objection to that.

8 THE COURT: Let's get ahold of him first.
9 Hope he's not already downstairs and gone.

10 Q. (By Mr. Greenlee) Sergeant, did you or anybody
11 to your knowledge ever take a swab of Mr. Carlton
12 Penright's left or right fingers?

13 A. I did not.

14 Q. Did you know if anybody did?

15 A. I do not know.

16 MR. GREENLEE: No further questions.

17 MR. McCLEES: No further questions.

18 THE COURT: Thank you, sir.

19 MR. McCLEES: May he be excused for real?

20 MR. GREENLEE: Yes, sir.

21 THE COURT: You may be excused.

22 Call your next witness. Oh, you already
23 did.

24 MR. McCLEES: Yes. So the record is clear,
25 State is calling Shamika Kelley.

1 (Witness sworn)

2 **SHAMIKA KELLEY,**

3 having been first duly sworn, testified as follows:

4 **DIRECT EXAMINATION**

5 **BY MR. McCLEES:**

6 Q. I'd like you to start by introducing yourself
7 to the jury and spelling your name for our court
8 reporter.

9 A. My name is Shamika Kelley. That's spelled
10 S-h-a-m-i-k-a. K-e-l-l-e-y.

11 Q. Who do you work for?

12 A. I'm employed at the Houston Police Department
13 Crime Lab.

14 Q. What do you do at the Houston Police Department
15 Crime Lab?

16 A. I am a criminalist and I work in the serology
17 section and I screen evidence for the presence of
18 seminal fluid as well as blood.

19 Q. All right. I want to go into what serology is
20 in just a minute, but before I do that, can you give us
21 a thumbnail sketch of your educational background and
22 your training and experience in that field?

23 A. Okay. I graduated in 2007 from Louisiana State
24 University with a bachelor of science degree in
25 biological sciences, as well as in 2010 I got master of

1 science degree from the University of North Texas Health
2 Science Center in forensic genetics.

3 Q. What did you do -- upon graduation, did you
4 immediately go to work for HPD?

5 A. I became employed at the Houston Police
6 Department in September of 2010.

7 Q. Now, you said the word serology. What is that?

8 A. Serology is basically the study of bodily
9 fluids.

10 Q. Is it possible to do testing to determine what
11 bodily fluid it is? For example, is it blood, is it
12 semen, etcetera?

13 A. That is possible, yes.

14 Q. How do you do that?

15 A. We run a series of tests. We run presumptive
16 tests, which basically tell us whether or not the
17 substance may be possible and we follow that up with a
18 confirmatory test to indicate that the presence is
19 there, that the substance is present.

20 Q. I don't want to go into excruciating detail,
21 but can you tell us what the method is for the
22 presumptive test?

23 A. So, if we're looking for semen, then we would
24 do what is called an acid phosphatase test or we would
25 do an alternative light source test. And with the

1 alternative light source test, we would use florescence
2 in order to determine whether or not semen could
3 possibly be present. And we also have an acid
4 phosphatase test, as I previously stated, and that
5 basically is where we would take filter paper and we
6 would moisten it and we would transfer a substance from
7 whatever the evidence is. If that's a swab, we would
8 transfer the substance from the swab to the filter paper
9 and the four color change. So, those are the two types
10 of presumptive tests for semen. And for blood, we would
11 look for --

12 Q. Let me stop you there because blood is a whole
13 other animal that we're not necessarily going to talk
14 about.

15 A. Okay.

16 Q. After you do the presumptive test, what kind of
17 test is there?

18 A. After the presumptive test, we would then
19 follow that up with a confirmatory test.

20 Q. How does that work?

21 A. With the confirmatory test for semen, we do a
22 microscopic examination to look for sperm. And if sperm
23 is present, then we would then just record the results.

24 Q. And were you asked at some point to do a
25 serology test in this case?

1 A. Yes.

2 Q. Am I using that term right, serology test, or
3 am I butchering it?

4 A. No. You can use serology.

5 Q. Okay. What were you asked to test?

6 A. May I refer to my notes?

7 Q. Yes, if that will help refresh your memory.

8 A. In this case, I was asked to test vaginal swabs
9 and anal swabs.

10 Q. And from where did those swabs come from?
11 What's your understanding?

12 A. These swabs were from a sexual assault kit from
13 Brittaney Rivers.

14 Q. Okay. And did you do the same type of testing
15 that you just discussed with us, the presumptive
16 testing?

17 A. Yes.

18 Q. Did it come back presumptively positive?

19 A. Yes.

20 Q. Did you do the confirmatory test?

21 A. Yes.

22 Q. And were you able to confirm that there was
23 semen?

24 A. Yes.

25 Q. Okay. Now, on what? Where did you find the

1 semen?

2 A. Semen was indicated on the anal swabs and also
3 it was detected -- spermatozoa was detected on the
4 vaginal swabs.

5 Q. Did you make a report?

6 A. Yes, I did.

7 MR. McCLEES: Your Honor, may I approach
8 the witness?

9 THE COURT: You may.

10 Q. (By Mr. McClees) Is it standard practice within
11 the HPD crime lab to make a report of your finding?

12 A. Yes, it is.

13 Q. You did that in this case?

14 A. I did.

15 Q. I'm showing you State's Exhibit No. 12. Is
16 that a copy of your report?

17 A. Yes, it's a copy.

18 MR. McCLEES: Your Honor, I tender State's
19 Exhibit No. 12 to opposing counsel and offer it into
20 evidence.

21 **(State's Exhibit No. 12 Offered)**

22 MR. GREENLEE: No objections.

23 THE COURT: Admitted without objection.

24 **(State's Exhibit No. 12 Admitted)**

25 MR. McCLEES: Exhibit 12, you said, is

1 admitted?

2 THE COURT: Yes.

3 MR. McCLEES: May I publish?

4 THE COURT: You may.

5 Q. (By Mr. McClees) Real quickly, this is the
6 report, Exhibit 12, that talks about the -- what is
7 this, spermatozoa? Am I saying that right?

8 A. It's close. Spermatozoa is the scientific name
9 for sperm.

10 Q. Okay. And semen -- I know how to say that --
11 that -- those are the -- 5.2, 5.4 are where you found
12 those. Look above and we see that's vaginal swab and
13 anal swab, right?

14 A. Yes.

15 Q. That's what you just told us, right?

16 A. Yes.

17 MR. McCLEES: Pass the witness.

18 **CROSS-EXAMINATION**

19 **BY MR. GREENLEE:**

20 Q. Ms. Kelley, is it fair to say that you're an
21 expert in DNA or not?

22 A. I am not.

23 Q. Okay. Essentially, your role is a collection
24 role; is that correct? You're collecting evidence?

25 A. I more so analyze it. I screen the evidence