

1 MS. MERIWETHER: Your Honor, I'm going to  
2 object. It exceeds the scope of this witness' testimony  
3 and her firearms testing. The examiner that tested  
4 those items is available to testify shortly.

5 THE COURT: That's my understanding.

6 MR. CORTEZ: Then I'll pass the witness,  
7 Judge.

8 MS. MERIWETHER: No further questions, Your  
9 Honor.

10 THE COURT: You may stand down. Call your  
11 next.

12 MS. MERIWETHER: Your Honor, the State  
13 would call Tammy Lyons Reed.

14 THE BAILIFF: Your Honor, this witness has  
15 not been sworn in yet.

16 (Witness sworn.)

17 THE COURT: Proceed, please.

18 MS. MERIWETHER: Yes, Your Honor, thank  
19 you.

20 **TAMMY LYONS**

21 having been first duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 BY MS. MERIWETHER:

24 Q. Could you please introduce yourself to our  
25 jury?

1 A. My name is Tammy Lyons, T-A-M-M-Y, and then  
2 L-Y-O-N-S.

3 Q. And did I see that you were recently married  
4 and hyphenated, or did I make that up?

5 A. I'm not hyphenated, I was Reed when I worked  
6 for HPD and when I worked these cases. I got married in  
7 2012.

8 Q. Well, congratulations. I'm sorry for  
9 hyphenating. So, you just answered the next question  
10 which is you previously worked for the Houston Crime  
11 Lab; is that correct?

12 A. Yes, I did.

13 Q. And how long did you work for them?

14 A. I worked for them for approximately five and a  
15 half years.

16 Q. And where did you go from there?

17 A. I went to the Harris County Institute of  
18 Forensic Sciences.

19 Q. And when did you go to the Harris County  
20 Institute of Forensic Sciences?

21 A. In May of 2013.

22 Q. And are you still employed with them?

23 A. Yes, I am.

24 Q. Prior to joining either the Houston Crime Lab  
25 or the institute, what type of work did you do?

1       A.    I actually, right out of college I worked for  
2 the Virginia Department of Forensic Sciences in their  
3 firearms lab as, I was called a laboratory specialist.  
4 I basically just test fired the firearms and determined  
5 if they were functioning properly and wrote reports up  
6 on their functionality.

7       Q.    How long did you work for the Virginia Crime  
8 Lab?

9       A.    It was a little under two years.

10      Q.    And did you do your -- what's your education  
11 background?

12      A.    I have a Bachelor's of Science in forensic  
13 science.

14      Q.    And where did you receive that from?

15      A.    I received it from Waynesburg College, it's in  
16 Pennsylvania.

17      Q.    So Pennsylvania to Virginia and now to Texas?

18      A.    Yes.

19      Q.    Are you originally from here?

20      A.    No, I'm from Ohio.

21      Q.    All right. Ms. Lyons, I want to talk to you a  
22 little bit more about your particular training with  
23 firearms. It sounds like that's what you went to school  
24 for, and that's what you've been doing for the last  
25 ten years?

1 A. Approximately, yes.

2 Q. Have you been going to classes and keeping  
3 training or certifications?

4 A. Yes, I don't have a certification because you  
5 have to take a test to be certified by AFTI; or you take  
6 a general test to be certified by the American Board of  
7 Criminalistics. However, I have training. So, I have  
8 approximately two years of training from qualified  
9 firearms examiners with the Houston Police Department.

10 I have, during those two years, I also  
11 received six months of training from the International  
12 Forensic Science Laboratory and Training Center. I have  
13 training from Glock Armor School, High Point Firearms,  
14 Beretta, they have an armor school also, and the Smith &  
15 Wesson on their J. Frame revolvers. I also have  
16 training from the Bureau of Alcohol Tobacco and  
17 Firearms, the Association of Firearms Tool Mark  
18 Examiners and Forensic Technology.

19 Q. And is that all training that you've done at  
20 various times in your career as a firearms examiner?

21 A. Yes, it is.

22 Q. Have you been called to testify in courts  
23 before in the area of firearms?

24 A. Yes, I have.

25 Q. On few or many occasions?

1 A. I'd say many.

2 Q. I want to talk to you specifically about the  
3 case that I invited you to come down here and talk  
4 about, and by invite I mean I sent you a subpoena. Were  
5 you involved in firearms analysis related to a capital  
6 murder that occurred back on December 31, 2010, and is  
7 documented in HPD Case No. 181795510?

8 A. Yes, I was.

9 Q. And what was your involvement in that case?

10 A. I test fired, let's see, I test fired a few,  
11 quite a few firearms and compared two of the bullets  
12 that were received in the case back to all the firearms.

13 Q. I'm going to show you what's been previously  
14 offered as State's Exhibit 115. Is this the fired,  
15 jacketed bullet from this case that you had an  
16 opportunity to compare to some weapons that were  
17 recovered?

18 A. Sorry. They sent me copies and I have to --

19 Q. I don't know if this would help, but we also  
20 have the bag that 115 came from.

21 A. Yes, it is.

22 Q. So this is from the Medical Examiner's Office,  
23 and you compared it to a number of firearms --

24 A. Yes, I did.

25 Q. -- in a couple of different reports; is that

1 correct?

2 A. Yes.

3 Q. I'm going to try to make this as simple as  
4 possible and just show you a gun and ask if you compared  
5 it to State's Exhibit 115?

6 A. Okay.

7 Q. Starting with State's Exhibit No. 90, can you  
8 tell us what type of firearm this is and if you did any  
9 comparison with it?

10 A. Yes, I did.

11 Q. And you appeared to be checking on the weapon  
12 for some notations. What were you looking for?

13 A. I was looking for the incident number, which is  
14 the HPD incident number and the item number.

15 Q. And are those added to the weapon at some  
16 point?

17 A. They're actually engraved on the firearm using  
18 a Dremel tool so that every piece of evidence that comes  
19 into the laboratory at HPD is actually marked with --  
20 engraved with the incident number or the lab number and  
21 the item number.

22 Q. Okay. So, you've verified that State's Exhibit  
23 No. 90 relates to this case, and you did some firearms  
24 testing on it; is that correct?

25 A. Yes, I did.

1 Q. And did you determine if State's Exhibit 90  
2 fired State's Exhibit 115?

3 A. I did. Yes, I did a comparison between State's  
4 Exhibit 115 and State's Exhibit, this is 190, right?

5 Q. It's just 90.

6 A. 90, yes, I did a comparison.

7 Q. And what conclusions or opinions were you able  
8 to form?

9 A. I determined that State's Exhibit, what was it  
10 again, 119, 118?

11 Q. 115.

12 A. 115 was not fired in State's Exhibit 90.

13 Q. Okay. So, the bullet that we see here or the  
14 fired, jacketed bullet we see here, not fired in that  
15 gun?

16 A. Correct.

17 Q. What process did you go through to determine  
18 that?

19 A. Okay. So, what I did is when I received the  
20 firearm into the laboratory, I determined the caliber;  
21 and I test fired the firearm. And with State's  
22 Exhibit 115, it's -- I basically eliminated it on class,  
23 which do you want me to go into that?

24 Q. Just briefly. They heard a little bit of class  
25 from Ms. Downs, but if you want to explain to them, that

1 would be helpful, too?

2 A. Okay. So, State's Exhibit 6, I mean, 115,  
3 sorry, my Item 6, is actually a 38-caliber bullet; and  
4 this firearm is actually a 7.62 by 39 millimeter  
5 firearm. So, automatically it would be eliminated as  
6 having been fired in this firearm based on those caliber  
7 characteristics.

8 Q. All right. Let me take this one back. Okay.  
9 I want to show you State's Exhibit 91?

10 A. Okay.

11 Q. See if you had an opportunity to examine it?

12 A. Okay, yes, I did.

13 Q. Again, checked, compared it relates to this  
14 case?

15 A. Yes, it does.

16 Q. And did you have an opportunity to compare  
17 State's Exhibit No. 91 to our bullet that we have here  
18 on the overhead?

19 A. Yes, I did.

20 Q. And what were the results of your comparison?

21 A. State's Exhibit 115 was eliminated as having  
22 been fired from State's Exhibit 91, right?

23 Q. Yes.

24 A. Okay.

25 Q. So, bullet not fired from this weapon?

1 A. Not fired from that weapon.

2 Q. Now, let's look at State's Exhibit 92. Did you  
3 have an opportunity to do an examination on this item?

4 A. Yes, I did. Hold on, let me make sure it's the  
5 right one.

6 Q. Probably double check.

7 A. Okay. Yes, I did.

8 Q. And were you able to make any determination as  
9 to whether our bullet was fired in State's Exhibit 92?

10 A. Yes, I was.

11 Q. And what were your results?

12 A. State's Exhibit 115 was eliminated as being  
13 fired from State's Exhibit 92.

14 Q. And let me ask you a couple of questions about  
15 State's Exhibit 92. What generally would be in this  
16 area of the weapon, which is below the grip part?

17 A. It would be below the magazine.

18 Q. And are you able to tell us how many rounds  
19 this magazine typically would hold?

20 A. Hold on, give me a second.

21 Q. I know, I think I went off script, I'm sorry.

22 A. No, it's fine. Okay. So, the magazine that  
23 was submitted with that firearm held approximately 28  
24 cartridges.

25 Q. Okay. All right. And lastly I want to show

1 you State's Exhibit 96. See if you're familiar with  
2 this firearm?

3 A. Okay. Yes, I am.

4 Q. Okay. And did you do any comparisons on  
5 State's Exhibit 96 to our bullet?

6 A. Yes, I did.

7 Q. And what were the results of that comparison?

8 A. State's Exhibit 115 was eliminated as having  
9 been fired from State's Exhibit 96.

10 MS. MERIWETHER: I'll pass the witness,  
11 Your Honor.

12 MR. CORTEZ: Please the Court. May I  
13 approach, Your Honor?

14 THE COURT: You may.

15 MR. CORTEZ: Do you have the bullet?

16 MS. MERIWETHER: It's on the overhead.

17 **CROSS-EXAMINATION**

18 BY MR. CORTEZ:

19 Q. Okay. Ma'am, just to clarify, from your  
20 testing this bullet that came from the deceased was not  
21 shot by any of these guns?

22 A. No, it was not.

23 Q. From what you could tell?

24 A. Uh-huh.

25 Q. And in your training and experience, you study

1 bullets, right?

2 A. Yes.

3 Q. A 9-millimeter bullet generally speaking is  
4 pointier than a .38, correct?

5 A. It would depend on the 9-millimeter.

6 Q. But in general?

7 A. See, I didn't actually do that comparison in  
8 the case.

9 Q. I'm not talking about this one?

10 A. Go ahead, sorry.

11 Q. Let me ask it to you this way, can you tell me  
12 if this came from a .9 or a .38?

13 A. I actually could not, no.

14 Q. So, this could very well have been fired from a  
15 .38?

16 A. It could have, yes.

17 Q. Right. In your experience and training, .38s  
18 generally come as a revolver, right?

19 A. Actually, the whole caliber family as  
20 38-caliber class, which includes 9-millimeter Lugar,  
21 .38 Special, 357-Magnum.

22 Q. Yes, but when you guys are talking about .38s,  
23 you're talking about a 38-caliber bullet, which is used  
24 in a revolver, yes or no?

25 MS. MERIWETHER: That's a misstatement of

1 the testimony, Your Honor.

2 MR. CORTEZ: I'm asking her to clarify.

3 THE COURT: If you can answer yes or no,  
4 you may.

5 A. No, I would say; it's a mix between  
6 semiautomatic and revolver.

7 Q. (BY MR. CORTEZ) So, when somebody refers to  
8 .38, you're saying in your experience and training in  
9 your field of study, common knowledge, they're talking  
10 about anything from a Walter .380 to a .38 Special?

11 A. With what I do, yes, when someone says a .38,  
12 it's a very extended group.

13 Q. Okay. Thank you very much.

14 MR. CORTEZ: I pass the witness.

15 MS. MERIWETHER: No further questions.

16 THE COURT: You may stand down, call your  
17 next.

18 MS. MERIWETHER: Your Honor, the State  
19 would call Jennifer Clay.

20 THE BAILIFF: Your Honor, this witness has  
21 not been sworn.

22 (Witness sworn.)

23 THE COURT: Proceed, please.

24 MS. MERIWETHER: Thank you, Your Honor.

25

1                                   **JENNIFER CLAY,**  
2 having been first duly sworn, testified as follows:

3                                   **DIRECT EXAMINATION**

4 BY MS. MERIWETHER:

5           Q.    Could you please introduce yourself to our  
6 jury?

7           A.    Yes, ma'am, it's Jennifer Clay.

8           Q.    And how are you employed?

9           A.    I work for the Houston Forensic Science Center  
10 formerly known as the Houston Police Department Crime  
11 Laboratory.

12          Q.    And what part of the Houston Forensic Science  
13 Center do you work for?

14          A.    I am assigned to the forensic biology section  
15 and specifically in the DNA.

16          Q.    And how long have you been in that department?

17          A.    A little over nine and a half years.

18          Q.    What did you do prior to that?

19          A.    I worked for a biotech company in The Woodlands  
20 doing DNA purification at Sigma Genosys and then I got  
21 hired in with the crime lab.

22          Q.    And the work that you did at the biotech  
23 company, was that also involving DNA work?

24          A.    It was. It was DNA purifications for them.

25          Q.    What's your education background that allows