

1 MS. STABE: Thank you, Your Honor.

2 KAY MCCLAIN,

3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 Q. (BY MS. STABE) Could you please introduce yourself
6 to the jury?

7 A. Hi. My name's Kay McClain.

8 Q. Where do you currently work?

9 A. I work at the Harris County Institute of Forensic
10 Sciences in the drug chemistry lab. I'm the drug chemistry
11 manager.

12 Q. What is your duty as the drug chemistry manager?

13 A. I supervise ten chemists right now. I also am able
14 to write reports and technically review those reports.

15 Q. Okay. How long have you been with the Harris
16 County Institute of Forensic Sciences?

17 A. I've been with them 13 years.

18 Q. Did you do anything else in the science field
19 before then?

20 A. Yes. I worked for five years right out of college
21 in an environmental lab and then I came to the Institute of
22 Forensic Sciences. I worked for about ten months in the
23 toxicology lab as a technician and then moved to the drug
24 chemistry lab and worked my way up through that lab as a
25 chemist until drug chemistry manager.

1 Q. What about your educational background? Can you
2 tell the jury a little bit about that?

3 A. I have a bachelor of science in environmental
4 science from Sam Houston State University.

5 Q. And are you a member of any professional
6 organizations?

7 A. I am. I'm the secretary for the Southwestern
8 Association of Forensic Scientists and I am also a certified
9 chemist with the American Board of Criminalistics.

10 Q. Is the lab that you work in also certified?

11 A. It is.

12 Q. Who is it certified by?

13 A. It's certified by American Society of Crime Lab
14 Directors Laboratory Accreditation Board, the
15 international -- under international standards and we're
16 also accredited with the Department of Public Safety.

17 Q. Okay. So you said as part of your job as the drug
18 chemistry manager, you, I guess, can write reports; you
19 review what's already been done by the evidence processors?

20 A. That's correct.

21 Q. Okay. So in this particular case, on laboratory
22 No. IFS13-03995, did you play a role in preparing that
23 report?

24 A. I did.

25 Q. What is it that you do to prepare the report?

1 A. For this report, I review the data, I interpret the
2 data and I would report the result into the report and then
3 be able to testify for that report.

4 Q. Okay. And what type of data is it that you review?
5 Can you just explain what you see for the jury?

6 A. For different cases, in general we do presumptive
7 and confirmatory testing. We have different instruments
8 that we can do both of those on. For this instance, we did
9 a gas chromatograph flame ionization detector as the
10 presumptive testing, which allows us to compare to a
11 standard to see what we possibly might have. From there we
12 would take a second sample and run it on a gas chromatograph
13 mass spectrometer, which gives us more detailed information,
14 can be compared to a library, and with that can be able to
15 confirm the compound.

16 Q. Okay. And did you do that in this case?

17 A. Yes.

18 Q. Were there any issues that you saw with the data
19 or, you know, any problems at all in this case?

20 A. No, I did not.

21 Q. Okay.

22 MS. STABE: Your Honor, may I approach the
23 overhead?

24 THE COURT: You may.

25 Q. (BY MS. STABE) I'm showing you what's been

1 admitted as State's Exhibit No. 4.

2 A. Okay.

3 Q. Do you recognize this document?

4 A. I do.

5 Q. And is your signature somewhere on this document?

6 A. Yes, it is, at the bottom in the middle.

7 Q. Okay. It says you were an analyst on this case?

8 A. That's correct.

9 Q. Okay. And so, after you reviewed all the data and
10 type up the report, did you come to a conclusion as to what
11 substance it was that's in State's Exhibit No. 3 that's been
12 admitted here?

13 A. Yes.

14 Q. Okay. I'll just show you --

15 A. Okay.

16 Q. -- for record purposes, State's Exhibit No. 3.

17 Would you agree with me that the same laboratory number is
18 on those items?

19 A. It is.

20 Q. Okay. And so, what is the conclusion that you came
21 to in this case?

22 A. That we had two items in this case, Item 1 and Item
23 1A, and the first item contained methamphetamine with a net
24 weight of 25.216 grams.

25 Q. What about the second item?

1 A. The second item we did not do any testing, so the
2 result is no analysis performed but a weight was taken, a
3 gross weight, which means that it was a packaging weight
4 with the substance, which was 2.727 grams.

5 Q. And is there a reason --

6 *THE COURT:* I'm sorry. Could you please
7 repeat the weight for me?

8 *THE WITNESS:* Yes. 2.727 grams.

9 *THE COURT:* Thank you.

10 Q. (BY MS. STABE) And what is the reason why Item 1A
11 would not have been tested?

12 A. With our protocol, we don't always test everything
13 in the case. We will test to a penalty group and a weight
14 range. We can always go back and test more if needed. The
15 customer, the agency can ask for further testing.

16 Q. Okay. Is methamphetamine a controlled substance?

17 A. Yes, it is.

18 Q. Okay. And so, in this case, the substance was
19 between the 4 grams and the 200 grams; is that right?

20 A. That's correct.

21 *MS. STABE:* I'll pass the witness.

22 *MR. AYERS:* Just a couple questions.

23 **CROSS-EXAMINATION**

24 Q. (BY MR. AYERS) Ms. McClain, in y'all's -- in the
25 lab there, in the work you do, there's nothing that you do