

1 THE COURT: All right. Thank you, sir.
2 You may stand down. Keep in touch with Ms. Drehner in
3 case she needs you.

4 THE WITNESS: Yes. I'll wait.

5 THE COURT: All right. Thank you.

6 Ms. Drehner, do you have another witness?

7 MS. DREHNER: James Miller.

8 THE COURT: All right.

9 THE BAILIFF: Your Honor, the witness has
10 not been sworn.

11 (Witness duly sworn.)

12 THE COURT: Let the record reflect the
13 witness has been sworn.

14 All right. Ms. Drehner, you may proceed.

15 MS. DREHNER: Thank you, Your Honor.

16 JAMES MILLER,

17 having been first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 QUESTIONS BY MS. DREHNER:

20 Q. Would you please state your name?

21 A. James Miller.

22 Q. What do you do for a living?

23 A. I'm a chemist with the Houston Police
24 Department Crime Lab.

25 Q. And how long have you been with H.P.D. Crime

1 Lab?

2 A. For 23 years.

3 Q. What training and experience do you have with
4 regards to the testing of narcotics?

5 A. I received a Bachelor's Degree in Chemistry
6 from Ouachita Baptist University in Arkadelphia,
7 Arkansas. I moved here to Houston to attend
8 Rice University, where I received a Master's Degree in
9 Chemistry. I started working at the H.P.D. lab in 1989
10 when I finished up at Rice. I was trained there in a
11 training program on the identification of unknown
12 substances, primarily controlled substances.

13 Over the 23 years I've been working there
14 at the lab, I've attended numerous seminars and training
15 sessions in various fields of forensic science.

16 I have been certified by the American
17 Board of Criminalistics as a drug fellow analyst, and I'm
18 also a member of two professional organizations: The
19 Southwestern Association of Forensic Scientists and The
20 Clandestine Laboratory Investigating Chemists
21 Association.

22 Q. Have you had an opportunity to testify as an
23 expert in Harris County before?

24 A. Yes, ma'am.

25 Q. On how many occasions?

1 A. Numerous occasions.

2 Q. And with regards to the H.P.D. Crime Lab, was
3 the laboratory that conducted the testing in this case,
4 or the H.P.D. lab, accredited by the Texas Department of
5 Public Safety at the time that it was tested?

6 A. Yes, ma'am.

7 Q. And the D.P.S. is the accrediting agency?

8 A. We are accredited by both Texas D.P.S. and by
9 the American Society of Crime Lab Directors Laboratory
10 and Accreditation Board.

11 Q. Okay. I want to turn your attention to a lab
12 report with Incident No. 154257711.

13 Have you had an opportunity to look at the
14 report in this case?

15 A. Yes, ma'am.

16 Q. What was your role in this particular analysis?

17 A. I performed a technical and administrative
18 review of the work product in this case, including the
19 report.

20 Q. And can you tell us what that entails?

21 A. When performing a technical and administrative
22 review, I review the documents associated with the
23 analysis performed in that particular case.

24 Q. Okay. And what documents would that entail?

25 A. It would include a copy of the submission form,

1 which is attached to the evidence when it's submitted to
2 the laboratory; the examination documentation, which is
3 produced when the testing is performed; and then the
4 completed signed report of analysis.

5 Q. And did you examine those three things in this
6 case?

7 A. Yes, ma'am.

8 Q. Okay. And with regards to the examinations
9 performed on this type of case, how do you go about
10 testing something that -- or substances that are a
11 suspicion of Hydrocodone?

12 A. Evidence such as this -- mainly, pharmaceutical
13 evidence -- the first thing that our laboratory would do
14 is conduct a pharmaceutical identification.

15 Q. What does that entail?

16 A. In the case of tablets and capsules, the
17 items -- namely, the tablets and capsules themselves --
18 will be marked with a logo. That logo is an
19 identification mark which is placed on it at the time of
20 manufacture that identifies both the manufacturer and the
21 contents or ingredients of the product.

22 Q. What is the other thing that you do with
23 regards to the testing?

24 A. The second testing would be a confirmatory
25 instrumental test.

1 Q. And what does that entail?

2 A. In this case a G.C.M.S., which stands for "gas
3 chromatography mass spectrometry" test was performed; and
4 that's to confirm that the ingredients in the tablets or
5 capsules are indeed what the logo says they are.

6 Q. Were those two tests conducted in this case?

7 A. Yes, ma'am.

8 Q. Okay. Now, Mona Colca, does she work at the
9 H.P.D. Crime Lab?

10 A. Yes, ma'am.

11 Q. And how long has she been with H.P.D.?

12 A. Since 2005.

13 Q. As a technical reviewer, do you have an
14 opportunity to review her work?

15 A. Yes, ma'am.

16 Q. Does she have training and experience in this
17 field, as well?

18 A. Yes.

19 Q. And did she do the tests in this case?

20 A. Yes, ma'am.

21 Q. And were you able to verify that both the
22 pharmaceutical -- initial pharmaceutical verification and
23 then the confirmation was done in this case?

24 A. Yes.

25 Q. And was that based on the documentation that

1 she provided when she conducted these examinations?

2 A. Yes, ma'am.

3 Q. And what were the results of the initial
4 pharmaceutical examination?

5 A. The pharmaceutical indication was that
6 Hydrocodone and acetaminophen, as a non-narcotic
7 medicinal ingredient, were present.

8 Q. And was she able to confirm that?

9 A. Yes, ma'am.

10 Q. And how was she able to do so?

11 MS. QUINONES: Your Honor, I'm going to
12 object as to what Ms. Colca was able to do and confirm.
13 I believe this witness should only be able to testify as
14 to what he did and what he confirmed.

15 MS. DREHNER: Your Honor, he is the
16 technical reviewer in this case. As part of his duties
17 and responsibilities, he has to review, before he can
18 sign off on the lab report, all these things. So, he's
19 testifying to what he reviewed and the qualifications of
20 Ms. Colca.

21 MS. QUINONES: Again, Your Honor, he can
22 testify to what he's done; but he surely -- unless he was
23 present at the time that she was conducting these
24 tests -- cannot testify as to what Ms. Colca did.

25 THE COURT: Overrule the objection.

1 Q. (BY MS. DREHNER) Was she able to confirm with
2 a test -- with the second test?

3 A. Yes, ma'am.

4 Q. And what did that test indicate?

5 A. It indicated that the two ingredients
6 identified from the logo were present; namely,
7 Hydrocodone, also known as Dihydrocodeinone, and
8 acetaminophen were present.

9 Q. And what were the logo on the pills?

10 A. There were two different tablets that she
11 tested. The first was Watson 503, and the second was
12 Watson 540.

13 Q. Are those shown in your report in Item No. 4.11
14 and 4.12?

15 A. Yes, ma'am.

16 MS. DREHNER: Your Honor, may I approach?

17 THE COURT: You may.

18 MS. DREHNER: I'm showing Mr. Miller
19 what's been already entered into evidence as State's
20 Exhibits 1 and 2.

21 Q. (BY MS. DREHNER) Did you have an opportunity
22 to look at that evidence prior to your testimony today?

23 A. Yes, ma'am.

24 Q. And can you tell us what the markings on the
25 packages indicate?

1 A. State's Exhibit No. 1 has been labeled with the
2 case number, 154257711; and with Ms. Colca's initials,
3 M.M.C.; and the Subitem 4.1.

4 MS. QUINONES: Your Honor, may I take the
5 witness on voir dire?

6 THE COURT: Not at this time. You may on
7 cross-examination.

8 A. State's Exhibit No. 2 has been labeled with the
9 same case number, 154257711; the analyst's initials,
10 M.M.C.; and Subitem 4.4.

11 Q. (BY MS. DREHNER) As part of the analysis, is
12 the weight of these drugs taken?

13 A. Yes, ma'am.

14 Q. And what were the weights in Item 4.1.1 and
15 Item 4.1.2?

16 A. The weight of the evidence in 4.1.1 is 154.8
17 grams and in Item 4.1.2, 192.2 grams.

18 Q. And just on looking at the evidence, Exhibits 1
19 and 2, does it show any evidence of any tampering?

20 A. No, ma'am.

21 MS. DREHNER: Pass the witness.

22 CROSS-EXAMINATION

23 QUESTIONS BY MS. QUINONES:

24 Q. I'm sorry. I missed your name.

25 A. James Miller.

1 Q. Is it Dr. Miller or just James Miller?

2 A. Just James.

3 Q. James Miller?

4 A. Yes, ma'am.

5 Q. Mr. Miller, in Item 1, how much did you say
6 that the pills weighed?

7 A. I had two different weights.

8 Q. Okay.

9 A. The first one was 154.8 grams.

10 Q. And, now, that's conducive to Item 1 or Item 2?

11 A. That's two of the bottles that are in Item 1.

12 Q. Oh, okay. Okay. And which two bottles would
13 that be? Would it be the Hydrocodone, or would it be the
14 Soma bottle?

15 A. The Hydrocodone.

16 Q. Okay. And the next weight?

17 A. 192.2 grams.

18 Q. And that's also in the bag in Item 1?

19 A. Yes, ma'am.

20 Q. And that's Hydrocodone, as well?

21 A. Yes.

22 Q. So, you had, basically, four bottles of
23 Hydrocodone?

24 A. Yes, ma'am.

25 Q. And you did not, yourself, perform the actual

1 tests, correct?

2 A. That's right.

3 Q. You only reviewed it.

4 A. Yes.

5 Q. And what exactly does your review entail?

6 A. I received a case file, which would include the
7 draft of the report; the submission form, which was
8 attached to the evidence when it was submitted; and all
9 of the examination documentation that Ms. Colca generated
10 during her testing.

11 Q. And, so, you can only rely on the information
12 that you're given, correct?

13 A. Yes, ma'am.

14 Q. Because you don't actually perform those tests
15 yourself.

16 A. That's right.

17 Q. And, so, then, relying on that evidence, if
18 Ms. Colca had done something that was not right, you
19 wouldn't know because all you're doing is looking at the
20 paperwork that she provided to you?

21 A. That's correct.

22 MS. QUINONES: Again, Your Honor, I'd like
23 to renew my objection in regards to this witness being
24 able to testify in regards to the substances that were
25 found in the bottles in Item 1 in State's Exhibit No. 1.

1 THE COURT: Your objection is overruled.

2 Q. (BY MS. QUINONES) And other than that, sir,
3 you don't have any other evidence to offer to this case,
4 do you?

5 A. No, ma'am.

6 Q. Okay. Thank you, sir. I appreciate it.

7 MS. DREHNER: Nothing further, Your Honor.

8 THE COURT: May the witness be excused?

9 MS. QUINONES: Yes, Your Honor.

10 THE COURT: All right. Thank you, sir.
11 You may stand down.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Ms. Drehner, do you have any
14 additional witnesses?

15 MS. DREHNER: No additional witnesses.
16 The only thing I'd ask, if I didn't do it before, is just
17 to take judicial notice of the court file. That's it.

18 (State rests.)

19 THE COURT: That will be granted.

20 MS. QUINONES: Yeah, that's what you
21 didn't do the first time.

22 MS. DREHNER: Okay.

23 THE COURT: The Court will take judicial
24 notice of its file.

25 Ms. Quinones, do you wish to put on any