

1 Q. (By Mr. Moncriffe) All right. Once again
2 officer that's the totality of your investigation?

3 MS. FULLER: Once again. Objection.

4 THE COURT: Sustained.

5 MR. MONCRIFFE: Judge I haven't gotten
6 there.

7 THE COURT: Once again says it all. Stand
8 down.

9 Call your next witness please.

10 MS. FULLER: State calls Dr. Milton.

11 I'll go get him.

12 THE COURT: Raise your right-hand to be
13 sworn in sir.

14 (Witness Sworn).

15 **DR. ROGER MILTON,**

16 After having been duly sworn was called to the stand
17 and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. FULLER:

20 Q. Good afternoon. Would you please introduce
21 yourself to the jury?

22 A. Yes. My name is Dr. Roger Milton.

23 Q. And Dr. Milton who are you employed by?

24 A. I'm currently employed as an Assistant
25 Medical Examiner at the Harris County Institute of

1 Forensics Sciences.

2 Q. How long have you been an Assistant Medical
3 Examiner there?

4 A. About 17 years.

5 Q. Can you give the jury a little bit of
6 information regarding your educational background?

7 A. Yes. I have a Medical Degree from Howard
8 University in Washington, DC. I completed a five-year
9 residency program at Howard University Hospital in
10 pathology and after that I completed a one year
11 fellowship training program in forensic pathology at
12 the Baltimore Medical Examiners Office.

13 Q. Can you tell the jury what forensic pathology
14 is.

15 A. Yes. Forensic pathology is a branch or
16 sub-specialty of pathology. Pathology commonly
17 referred to as laboratory medicine within a hospital
18 setting. What we do in forensic pathology we utilize
19 those skills that a general pathologist would use as
20 far as interpreting abnormal findings in the human
21 body. We use those skills as we perform autopsies to
22 try to determine why someone has died.

23 Q. So it helps you to determine cause of death?

24 A. Yes.

25 Q. All right. Are you affiliated with any

1 organizations in your field?

2 A. No.

3 Q. And do you do any written work or have had
4 anything published?

5 A. No.

6 Q. Okay. Have you testified before as an expert
7 in forensic pathology?

8 A. Yes.

9 Q. Would that be on few or many occasions?

10 A. Many occasions.

11 Q. And would that be in Harris County, Texas?

12 A. Yes.

13 Q. And were you deemed to be an expert in
14 forensic pathology in Harris County, Texas?

15 A. Yes.

16 Q. All right. I want to turn your attention to
17 an autopsy. The number is ML 11179. Did you conduct
18 that autopsy?

19 A. Is it 1791?

20 Q. 11791.

21 A. Yes.

22 Q. And tell the jury exactly what an autopsy is.
23 What do you do during an autopsy?

24 A. Yes. An autopsy is an examination that
25 occurs after someone has died that is very thorough

1 examination. It consist of two phases. The first
2 phase is the external phase of the examination in
3 which we describe and document all of the
4 distinguishing features of the decedent. Everything
5 from height, weight, hair color, eye color,
6 identifying marks, scars, tattoos and of course
7 injuries described in detail and documented.

8 After that phase we proceed to the second more
9 familiar phase of the autopsy where we make a Y shaped
10 incision on the front of the chest down the front of
11 the abdomen and reflect the soft tissue. We examine
12 and remove the internal organs and describe the
13 characteristics of them paying close attention to
14 abnormalities like disease or injury. We also do a
15 thorough examination of the internal structures of the
16 neck to search for trauma and also we examine the
17 brain as well.

18 Q. And when a body comes in and you perform an
19 autopsy on that body is a unique number assigned to
20 that individual?

21 A. Yes.

22 Q. What is that number called?

23 A. It's called the medical legal number.

24 Q. All right. So medical legal No. 11-1791 who
25 was that assigned to?

1 A. It was assigned to decedent by the name of
2 Syed Hussain.

3 Q. And when did you conduct that autopsy?

4 A. The autopsy was conducted on June 18, 2011.

5 Q. And while you perform the autopsy did you
6 document the results that you found?

7 A. Yes.

8 Q. And those documents, the documentation that
9 you did was or near the time of the autopsy?

10 A. Yes.

11 Q. And then did you keep those records in the
12 regular course of business?

13 A. Yes.

14 Q. Meaning you're the custodian of record for
15 that autopsy report?

16 A. That's correct.

17 Q. And the findings that were contained within
18 the autopsy report are in fact your findings?

19 A. Yes.

20 MS. FULLER: May I approach the witness?

21 THE COURT: You may.

22 Q. (By Ms. Fuller) I'm going to show you what's
23 been marked as State's Exhibits 38 through 48. Could
24 you take a look at those?

25 Do you recognize State's Exhibits 38 through 48?

1 A. Yes.

2 Q. And what are these photos of?

3 A. They're photographs taken at the time of
4 autopsy.

5 Q. All right. And would that be for the
6 complainant in this case Syed Hussain?

7 A. Yes.

8 Q. All right. Then I want to show you State's
9 Exhibit 50. Do you recognize State's Exhibit 50?

10 A. Yes.

11 Q. Is State's Exhibit 50 a true and accurate
12 copy of your autopsy report?

13 A. Yes it is.

14 Q. All right.

15 MS. FULLER: At this time State moves to
16 admit State's Exhibits 38 through 48 and State's
17 Exhibit 50 and tender to Defense counsel for
18 inspection.

19 THE COURT: Yes.

20 MS. FULLER: The photograph that they're
21 objecting to State's 34 that's the only one of the
22 entrance wound.

23 THE COURT: Might get there but --

24 MR. MONCRIFFE: Can we take the jury out
25 Judge?

1 THE COURT: No, not necessary.

2 MS. FULLER: Cut that portion off.

3 THE COURT: You want me to do it?

4 MR. MONCRIFFE: That's fine. May I see
5 the exhibit really fast? That's State's Exhibit 44.

6 MR. MONCRIFFE: No objections to that Your
7 Honor.

8 THE COURT: State Exhibits 38 through 48
9 and 50 are admitted.

10 MS. FULLER: Permission to publish Your
11 Honor.

12 THE COURT: You may.

13 Q. (By Ms. Fuller) Dr. Milton if you could
14 please start with telling us about your autopsy of
15 this complainant.

16 A. Yes. My initial observation was that of a
17 normally developed otherwise healthy young male. His
18 external examination was significant for a gunshot
19 wound to the lower central chest and upper abdomen
20 directly in the midline. He also had obvious evidence
21 of medical therapy. He had what's called laparotomy
22 incision on the front of his abdomen where surgeons
23 had rendered surgical care to him. He also had other
24 evidence of medical therapy such as IV lines and blood
25 pressure cup etcetera, tubes in his mouth. Obvious

1 medical therapy.

2 Q. Okay. So this instance State's Exhibit 38.

3 And what is in his mouth in State's Exhibit 38?

4 A. He has an endotracheal tube and oral gastric
5 tube, tubes in his trachea and also into his stomach.

6 Q. Were those tubes placed into him at the
7 hospital?

8 A. Yes.

9 Q. I want to go over some other photographs that
10 were taken of the complainant. State's Exhibit 39.
11 Again is that the medical intervention that you're
12 talking about?

13 A. Yes.

14 Q. And what does this appear to be to?

15 A. Looks like a intravascular catheter into the
16 back of his left-hand and also a pulse pump sensor
17 monitoring device on the third finger as well.

18 Q. Now just by looking at the outside of his
19 hand on State's Exhibit 39 did he show any signs of
20 injuries to the back of his hand?

21 A. No.

22 Q. This is State's Exhibit 40. What are we
23 looking at there?

24 A. This is a photograph of the same hand. You
25 can see the oxygen monitoring device on the third

1 finger and just to show his mid knuckles are free of
2 any acute trauma.

3 Q. So no injuries on that hand?

4 A. Correct.

5 Q. This is State's Exhibit 44.

6 A. Yes. This is a photograph of the right-hand
7 that you can see in that vascular catheter has been
8 removed, a little punctate there, needle puncture with
9 some surrounding bruising there and maybe a little bit
10 of swelling on the back of the hand.

11 Q. And is this a different hand?

12 A. Yes.

13 Q. Okay. And no injuries or let's say trauma to
14 the back of that hand?

15 A. No.

16 Q. The blood that you do see is caused from the
17 IV line that was in the hand?

18 A. Yes.

19 Q. State's Exhibit 42. This is that same hand?

20 A. Yes.

21 Q. What are we looking at here?

22 A. We're looking at the remarkable fingernails
23 that show no evidence of trauma and the tips of the
24 fingers also are free of trauma.

25 Q. Okay. State's Exhibit 43. What is State's

1 Exhibit 43?

2 A. This is the right side of his back and it
3 shows where I recovered a bullet that was just beneath
4 that bruise.

5 Q. So it's still inside contained within the
6 skin?

7 A. Yes.

8 Q. Okay. Now you said -- I want to show you
9 State's Exhibit 47. You said that you had recovered a
10 bullet from his right side.

11 A. Yes.

12 Q. Do we see that in this picture?

13 A. Yes we do.

14 Q. And your system over there is not working so
15 I'm going to try to point out.

16 Is it in the upper left-hand corner right here?

17 A. Yes.

18 Q. State's Exhibit 48. What do we see in that
19 one?

20 A. This is a upside -- I think it's a upside
21 down picture of his chest and the upper abdomen and
22 you can see --

23 Q. So I do need to turn it this way?

24 A. Yes. You can see there's multiple size of
25 surgical medical intervention within his abdomen

1 within multiple sponges to soak up hemorrhaging blood
2 and various other procedures that surgeons performed
3 on him.

4 Q. Okay. Now upon this, on the right-hand side
5 these two circular objects do you know what those are?

6 A. I'm not sure. They could be EKG pads. And
7 these X-rays are taken prior to removing all of the
8 medical intervention or if someone is clothed, the
9 X-ray's usually taken while they're still clothed so
10 he's still inside of the transport bag itself so I'm
11 not sure what that is but it's nothing that's within
12 the body.

13 Q. Now I want to show you State's Exhibit 44.
14 What part of Mr. Hussain's body is State's 44?

15 A. This is a photograph of the central chest.
16 Just to the right you can see the left nipple. And so
17 this is right at the junction of the abdomen and chest
18 in the very center.

19 Q. Okay. Can you tell whether or not this is an
20 entrance or an exit wound?

21 A. Yes. This is an entrance wound.

22 Q. And how do you know that?

23 A. The characteristics of an entrance wound are
24 very well depicted. In this case what we have is a
25 very regular just about perfectly circular defect.

1 It's a true defect rather than a tear because the
2 bullets penetrate the body with such force that they
3 actually remove skin and tissue rather than just
4 separating it. So if you were to strike someone with
5 a hammer or stick or whatever you would break tissue
6 but you wouldn't remove tissue. So a doctor could
7 come and re-close and reimpose margins because all the
8 tissue is there but is just separated.

9 In this case bullets tend to remove tissue so we
10 can see a punched out cookie cutter defect to a
11 gunshot wound.

12 Q. So let's talk a bit about your findings, what
13 you discovered with this gunshot wound that we see in
14 State's 44.

15 Was this his only gunshot wound to his body?

16 A. Yes.

17 Q. When the bullet went into his body where did
18 it travel?

19 A. The bullet entered the central lower chest
20 and lower abdomen and it penetrated the cartilage
21 ridge of the lower right chest then proceeded through
22 the liver and also grazed the right kidney and then
23 penetrated the muscles along the enter aspect of the
24 posterior right abdominal wall and the bullet passed
25 through muscle. And I recovered it in the lower right

1 back just beneath that large bruise that you saw in
2 the previous picture.

3 Q. So, State's Exhibit 45 is this the bullet,
4 photograph of the bullet that you recovered?

5 A. Yes.

6 Q. And State's Exhibit 46 demonstrate the size
7 of that bullet?

8 A. Yes.

9 Q. Can you tell us what effect would the path of
10 that bullet have caused Mr. Hussain?

11 A. This bullet caused extensive damage to the
12 liver and the right kidney. The liver's a very
13 vascular organ. Large amounts of blood percolate
14 through that liver through multiple various size
15 channels of blood and once the bullets shred through
16 that tissue you get extensive hemorrhaging and the
17 kidney was damaged, which is somewhat vascular but the
18 damage in the kidney was not as significant as the
19 liver damage so you would get extensive hemorrhaging.

20 Q. And when you say hemorrhaging what do you
21 mean by that?

22 A. Bleeding. Internal bleeding.

23 Q. Internal bleeding?

24 A. Yes.

25 Q. Okay. Now, what -- in your medical opinion is

1 this the type of injury that somebody is able to
2 survive?

3 A. It's not a universally fatal injury such as a
4 shot to the brain or a shot through the heart so it
5 could be survived according to how much damage it is
6 caused and where that damage is in the organ.

7 Q. And did you find any other signs of illness
8 to Mr. Hussain?

9 A. No.

10 Q. So did your findings uncover anything that
11 would have indicated that but for that gunshot wound
12 he was a healthy man?

13 A. That's correct.

14 Q. I'm going to show you -- on your autopsy is
15 the first page of your diagram what are you -- and
16 again it is hard to do this with your screen not
17 working.

18 Looking at the back side you recorded all of the
19 injuries that you saw. Is that fair?

20 A. Yes.

21 Q. Okay. What is this area that we're looking at
22 right here which would be on the back lower right
23 side?

24 A. Yes. This is my rendition of the contusion
25 of the bruise that's on the lower right back where I

1 recovered the bullet.

2 Q. Okay. And on the forward facing diagram this
3 area that's directly in the middle of his chest what
4 is that?

5 A. That's my depiction of the gunshot entrance
6 wound.

7 Q. All right. So the gunshot went in the middle
8 of the chest and traveled in a downward right angle?

9 A. Traveled front to back downward and from the
10 right to the left.

11 Q. When an autopsy is done, when it's performed
12 on somebody do you all test whether or not there are
13 any substances in the victim's body?

14 A. Yes.

15 Q. And what types of substances are you looking
16 for?

17 A. We're usually testing for alcohol and
18 stimulants such as cocaine, PCP, Amphetamines and
19 alcohol.

20 Q. Okay. I'm going to show the back page of
21 your autopsy report. Can you tell us whether or not
22 Mr. Hussain had any alcohol or other substances in his
23 body at the time of his death?

24 A. There were no substances detected in the tox
25 analysis.

1 Q. After you performed your autopsy were you
2 able to determine Mr. Hussain's cause of death?

3 A. Yes.

4 Q. And what was that?

5 A. His cause of death was gunshot wound of the
6 abdomen.

7 Q. All right. And were you able to determine
8 the manner of death?

9 A. Yes.

10 Q. And what was that?

11 A. Manner of death was homicide.

12 Q. All right. In your experience as Assistant
13 Medical Examiner and concerning the bullets that you
14 removed from Mr. Hussain's body in your opinion are
15 firearms deadly weapons?

16 A. Yes.

17 Q. And firearms can also be referred to as
18 handguns, guns?

19 A. Yes.

20 MS. FULLER: Pass the witness Your Honor.

21 MR. MONCRIFFE: No questions Your Honor.

22 THE COURT: You may step down.

23 MR. MONCRIFFE: Judge may we approach?

24 THE COURT: Yes.

25 Take a short break also.

1 Ladies and Gentlemen if you'd stand up
2 and go with the bailiff.

3 THE BAILIFF: All rise for the jury.
4 (Jury Out).

5 (Short Recess Taken)

6 THE COURT: Please be seated in the
7 courtroom. And before he leaves and before you get to
8 whatever it is you want I want to go through these
9 exhibits again. And if you're about to release him, 49
10 is not in.

11 MS. FULLER: 49 is supposed to have been
12 in.

13 Also not admitting 51.

14 THE COURT: That's what I also have down
15 here for him. And long as we're doing this and we
16 definitely decided 21 is not in. How about 32 and 33?

17 MS. FULLER: 32 is not in at all and 33
18 is not in right now. 21 not coming in at all. You
19 know now 38 is now in. We had it in earlier.

20 THE COURT: Right. Yes. Okay, so in
21 order the ones I don't have on your list are 21, 32,
22 33, 49, 51 and you haven't gotten to 52 and 53.

23 MS. FULLER: Correct. Except for -- you
24 said 32 and 33, yes that's right.

25 THE COURT: All right.

1 He may stand down unless she has
2 something else for you and you have --

3 MR. MONCRIFFE: Just wanted a break.
4 That's all.

5 THE COURT: Oh, you just wanted a break.
6 Go ahead and bring the Defendant back out
7 sir.

8 THE BAILIFF: Yes, sir.

9 THE COURT: Whose next?

10 (Witness Sworn)

11 THE BAILIFF: All rise for the jury.

12 (Jury Seated)

13 THE COURT: Please be seated.

14 MS. FULLER: State calls Juli Rehfuss.

15 THE COURT: This witness has been
16 previously sworn.

17 **JULI REHFUSS,**

18 After having been duly sworn was called to the stand
19 and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. FULLER:

22 Q. Good afternoon. Would you please state your
23 name for the record?

24 A. Yes, ma'am. It's Juli Rehfuss.

25 Q. Who are you employed by?