

1 so we can work on the jury charge.

2 THE BAILIFF: All rise for the jury.

3 THE COURT: All right. Thank you. Please be
4 seated, everyone.

5 So call your next witness, Ms. Martinez.

6 MS. MARTINEZ: The State calls Jackeline Morale.

7 THE COURT: Okay. And would you, please, stand
8 and be sworn.

9 THE WITNESS: Yes.

10 THE COURT: Thank you. All right.
11 Ms. Martinez.

12 MS. MARTINEZ: Thank you, Your Honor.

13 **JACKELINE MORALE,**

14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 **BY MS. MARTINEZ:**

17 Q. Good morning, Ms. Morale. Would you, please,
18 introduce yourself to the members of the jury and the Court?

19 THE WITNESS: Good morning. My name is
20 Jackeline Morale, and I am a chemist for the
21 Houston Police Department Crime Lab.

22 Q. (BY MS. MARTINEZ) Ms. Morale, have you ever gone by
23 a different name aside from Morale?

24 A. Yes. I just recently changed my other maiden name.
25 For all the time that I've been at HPD, it's been Hamelius. I

1 just recently change it to Morale.

2 Q. How long have you been employed with the
3 Houston Police Department?

4 A. A little over 5 years.

5 Q. And what is your current assignment there?

6 A. I'm assigned to the control substance section and the
7 Houston Police Department Crime Lab.

8 Q. And what's your actual profession, I guess? What do
9 you do for a living?

10 A. I am a chemist.

11 Q. And as a chemist, what is your educational background
12 to become a chemist?

13 A. In order to become a chemist in the controlled
14 substances, you have to have at least 30 hours of chemistry. I
15 have a Bachelor of Science in Biochemistry and a minor in
16 chemistry from Virginia Tech. In addition, after I got hired,
17 I had a five-month-in-house training provided by the Houston
18 Police Department Crime Lab in which consisted in the hands on
19 training, identification of unknown substance, a series of
20 competency tests, a final written exam, and a mock trial.

21 Q. And after that training, have you had any other
22 trainings, or have you gone to school for any other degrees?

23 A. Yes. After analyzing becoming a chemist for HPD, I
24 got my Masters in Science in Pharmaceutical Chemistry from the
25 distance learning program provided by University of Florida.

1 I am also certified as a fellow and drug analysis by the
2 American Board of Criminalistics. I also just came back last
3 week from a forensic chemistry training provided by the Drug
4 Enforcement Agency. And, in addition, this year I went to a
5 training to become a lab assessor to audit other labs and ISO
6 17025, provided by ASCLD/lab, which is American Society of
7 Crime Laboratory Directors Laboratory Accreditation Board.

8 Q. Now, as a chemist, on your daily basis, what is done
9 what is it you do --

10 THE COURT: Bailiff, would you go out there and
11 please tell them to go outside.

12 Q. (BY MS. MARTINEZ) What is it you do in your current
13 assignment as far as controlled substance analysis today?

14 A. My duties are to test evidence to determine if it
15 contains a controlled substance and to testify in court.

16 Q. So based on your answer, are you able to determine an
17 unknown substance and determine what that substance is by
18 scientific testing?

19 A. Yes.

20 Q. How is that testing performed?

21 A. Well, to give you an example, in this case what I
22 did, I performed a Presumptive Screening Test; and I also
23 performed a Confirmatory Instrumental Test. In this case it
24 was the gas from a powder-free Mass Spectrometer or otherwise
25 known as the GCMS.

1 Q. And is that the screening test or is that the
2 conformity test?

3 A. We need to do two. We need to do one presumptive
4 test and one conformity in order for us to be able to determine
5 or to be able to identify the substance and report it out.

6 MS. MARTINEZ: May I approach the witness, Your
7 Honor.

8 THE COURT: You may.

9 MS. MARTINEZ: Ms. Morale, I am going to show
10 you State's Exhibit No. 1.2 and State's Exhibit No. 1.1.

11 Q. (BY MS. MARTINEZ) Do you recognize these two
12 exhibits?

13 A. Yes. I recognize them by the Incident No. 072006411
14 and the item number in my notice is 2.1; and this
15 State's Exhibit also has the Incident No. 072006411, the item
16 numbers in my notes and my initials are both, my initials at
17 that time.

18 Q. Okay. And do you recognize them to be in the same or
19 similar circumstance as they were after you performed any test
20 on them?

21 A. Yes. They are still sealed as I sealed them on
22 June 16th, 2011.

23 Q. Did you have an opportunity to do a screening test on
24 either of these items?

25 A. I did for Item 2.1. I don't know what's the number

1 on -- the State's Exhibit number assigned to it.

2 Q. Did you have an opportunity to perform a screening
3 test on State's Exhibit No. 1.2?

4 A. I did a screening test and I also did a confirmatory
5 test for this.

6 Q. And what were the findings that you have after you
7 performed those test?

8 A. That the liquid weighed 10.1 grams and that it
9 contained Phencyclidine or otherwise known as PCP.

10 Q. Now, when you say the liquid weighed 10 milligrams,
11 do you know what that liquid was?

12 A. Based on experience, PCP is usually dissolved with
13 other strong solvents, such as ether or acetone. And it's
14 just, basically, any solvent that readily dissolves in order to
15 be able to inhale. In the liquid form, it is commonly smoked,
16 so the liquid that is used is something that evaporates quickly
17 so they can smoke the substance.

18 Q. Just to clarify, what you are testing with is a
19 diluent and then the control substance or the controlled
20 substance or, or how is it you are getting your result of
21 finding some type of control substance with that liquid?

22 A. We only test and identify control substances. We do
23 not identify adulterants and diluents.

24 Q. And as far as those diluents based on your training
25 and experience, what are the common diluents that someone will

1 use in order to control PCP?

2 A. The common diluents that come into to mind is usually
3 ether. I received a case where it had acetone, but it's
4 commonly ether.

5 Q. And does ether have any particular smell?

6 A. It has a very strong smell to it.

7 Q. And when the smell -- will ether maintain its form as
8 time goes by?

9 A. Like I mentioned before, ether and the solvents used
10 to dilute PCP, they actually evaporate with time. So when we
11 receive liquid or liquids purported to be PCP, we tend to
12 analyze them immediately after we receive them in the lab
13 because they evaporate with time.

14 Q. Okay. So if they evaporate with time, based on your
15 training and experience, will a container that had that liquid,
16 will it still maintain the smell of that particular liquid with
17 the passing of time?

18 A. I have received items that have evaporated
19 completely. And they don't retain that strong smell that I've
20 associated, based on my experience, with other strong solvents
21 are used but still has like a chemical smell if you were to
22 open it.

23 Q. Okay. As far as handling this type of liquid and
24 control substance PCP, what's the equipment that you use? Do
25 you have to usually wear gloves in order you to handle it?

1 A. Yes.

2 Q. Why is that?

3 A. Well, there's other ways that PCP can be received
4 but -- specially the liquids because it readily dissolves, it
5 can absorb liquids normally so we wear gloves all the time.

6 Q. Would it would be safe if you were to open that
7 container in the courtroom today?

8 A. I would have to wear gloves in order to open it.

9 Q. And what about if the liquid were to make contact
10 with your skin, what will be the consequence of that?

11 A. I wouldn't know firsthand.

12 MR. ISBELL: Your Honor, did she say she
13 wouldn't know? She can't testify.

14 THE WITNESS: I haven't, you know --

15 THE COURT: Okay. One second. Just ask another
16 question.

17 MS. MARTINEZ: I will rephrase, Your Honor.

18 Q. (BY MS. MARTINEZ) Based on your training and
19 experience, will it be safe for the substance containing that
20 State's Exhibit No. 1.2 to be handled here in court?

21 A. I would recommend to wear gloves. I usually when I
22 handle --

23 THE COURT: It calls for a yes or no; providing
24 what she said.

25 THE WITNESS: Yes, wear gloves.

1 Q. (BY MS. MARTINEZ) What about if someone were to
2 inhale that substance; would that be safe?

3 A. I wouldn't recommend it. But I wouldn't know
4 toxicologically what effect. Usually, we wear masks and a
5 protective gear, safety glasses and stuff; and we analyze any
6 substance in the lab. That's just a further precaution.

7 Q. Okay.

8 MS. MARTINEZ: Can I approach the witness, Your
9 Honor.

10 THE COURT: You may.

11 MS. MARTINEZ: Now, I am showing you
12 State's Exhibit No. 2.1.

13 Q. (BY MS. MARTINEZ) Do you recognize this exhibit?

14 A. I do. It has the Incident No. 072026411 and my
15 initial and also the item number, which corresponds.

16 Q. And do you recognize this State's Exhibit No. 2.2?

17 A. I do. As I mentioned before, it has the
18 Incident No. 072026411, my initials and item number.

19 Q. And as far as State's Exhibit No. 2.1, did you have
20 an opportunity to test the contents of that exhibit?

21 A. I did analyze State's Exhibit 2.1.

22 Q. What were the results of the analysis that you made
23 on that exhibit?

24 A. That it weighed 0.9 grams and that it contained
25 Phencyclidine.

1 Q. Okay. Now as far as State's Exhibit No. 2.2, did
2 you have an opportunity to test State's Exhibit No. 2.2?

3 A. I did.

4 Q. And what were your findings of your test?

5 A. That the weight was 0.2 grams and that it contained
6 cocaine.

7 MS. MARTINEZ: Pass the witness.

8 THE COURT: Mr. Isbell.

9 **CROSS EXAMINATION**

10 **BY ISBELL:**

11 Q. (BY MR. ISBELL) When did you receive the items that
12 you tested?

13 A. I received both Items 001 and 002 on June the 9th of
14 2011.

15 Q. Well you actually tested three items?

16 A. By what -- I meant by Item 001 and 002, it was two
17 evidence envelopes.

18 Q. All right. You examined in your analysis three
19 different items, correct?

20 A. Yes. And those items were contained in two evidence
21 envelopes.

22 Q. Okay.

23 A. And they are labeled "001 and 002."

24 Q. All right. And you received that on June what?

25 A. On June the 9th of 2011.

1 Q. And these items were collected by the police on
2 June 3rd; were you aware of that?

3 A. It state's in the chain of custody "items collected
4 on June the third."

5 Q. And when did you test these items?

6 A. I tested it on June 16th of 2011.

7 Q. The large --

8 MR. ISBELL: May I approach.

9 THE COURT: You may.

10 Q. (BY MR. ISBELL) This large container that is marked
11 as State's Exhibit 1.2, this is a container that the police
12 department uses, right, in sending items to you?

13 A. Yeah. For putting liquids inside.

14 Q. And the reason of that is so there would be no
15 evaporation or leakage or anything of that nature?

16 A. It's more meant for leakage.

17 Q. All right. You didn't presume that this was the
18 container that the person, or who possessed the liquid, had it
19 in, did you?

20 A. I wouldn't know. I just know that's the container we
21 normally used. I don't know if the officer placed it or I
22 don't --

23 Q. All right. You don't know whether the --

24 A. Firsthand, no.

25 Q. You don't know whether the officer placed this?

1 A. No.

2 Q. You said that the three items that you tested the
3 stained cigarette contained Phencyclidine, correct?

4 A. Yes, sir.

5 Q. And you also had a bottle that contained a small
6 amount of cocaine, correct?

7 A. Yes.

8 Q. And the liquid you received by volume, it was
9 10.1 grams?

10 A. Yes.

11 Q. For those of us who are older and dealt more in
12 ounces, how many grams in an ounce?

13 A. I would have to use my calculator. But it's -- for
14 one ounce, it has 23. --

15 Q. Isn't it 28 something?

16 A. 28.35, I believe. I would have to go back and check.

17 Q. So 10 grams is what, 30 percent of an ounce?

18 A. Yes. It's, give or take; it would be around
19 0.35 ounces. I, uh --

20 Q. It wouldn't be 3 or 4 ounces, would it, if it is only
21 10 grams?

22 A. 0.35.

23 Q. Oh, I'm sorry. I misunderstood you. You have a soft
24 voice and I have years of hearing?

25 A. All right. Can you hear me?

1 Q. They can hear you. It's me that's having a problem.
2 So it's about a .3 something ounces?

3 A. Yes.

4 Q. All right. And you said that -- you mentioned the
5 10.1 grams that included adulterants and diluents?

6 A. Yes.

7 Q. So you are not saying it is 10.1 grams of
8 Phencyclidine, are you?

9 A. No. That's why I'm -- I'm saying it contains
10 Phencyclidine.

11 Q. And most of the agents that are used as adulterants
12 are diluents, would be, you said ether and you mentioned one
13 other thing, acetone?

14 A. Acetone, any byproducts in the manufacturing process.
15 In the case of a liquid. But we don't test for those. So we
16 only identify the control substance.

17 Q. Can you tell us how much of that 10.1 grams of liquid
18 was actually Phencyclidine?

19 A. I do not perform a quantitative analysis of it
20 because the Texas Health and Safety Code states that a control
21 substance is a drug adulterant diluent that is listed in
22 penalty groups scheduled 1 through 5 and penalty groups 1
23 through 4. And that includes the aggregate weight of
24 adulterants and diluents.

25 THE COURT: Would you explain the last five

1 words you said.

2 THE WITNESS: The weight -- any other
3 adulterants and diluents or depressants or combination of
4 control substance are included. Their aggregate weight is
5 included in that definition of that control substance.

6 Q. (BY MR. ISBELL) My question that I ask you did you
7 determine how much of that 10.1 grams of liquid was in fact
8 Phencyclidine?

9 THE COURT: I think she said, "No," she didn't.

10 MR. ISBELL: Your Honor, I didn't hear that. I
11 heard a long explanation about the drug code, but I didn't hear
12 that.

13 THE COURT: But that's why I asked her to
14 repeat. She is saying -- please repeat your answer.

15 THE WITNESS: The reason why --

16 MR. ISBELL: I didn't ask the reason. My
17 question is: Can you tell us how much of that 10.1 grams of
18 liquid was actually Phencyclidine.

19 THE WITNESS: No.

20 Q. (BY MR. ISBELL) And if someone had poured 30 more
21 grams of liquid of adulterants or diluents, you would still
22 find Phencyclidine in there, correct?

23 A. Yes.

24 Q. So we are not to think that someone possessed
25 10 grams of Phencyclidine, are we?

1 A. Could you, please, rephrase your question.

2 Q. You are not implying to the jury that someone,
3 whoever it was, possessed 10 grams of Phencyclidine?

4 A. No. Only that the liquid contains Phencyclidine.

5 Q. Now, you don't have personal knowledge as to where
6 that bottle that contained this liquid was found, do you?

7 A. No. I just received this through --

8 MR. ISBELL: Excuse me?

9 THE COURT: He will ask you a question;
10 sometimes it's yes or no, and then he will follow up.

11 A. I am sorry. No. I have no personal knowledge where
12 this bottle came from.

13 Q. (BY MR. ISBELL) And you have no personal knowledge
14 of who may have had it?

15 A. No.

16 Q. And after you test the substance, do you send the
17 items back to the police department?

18 A. I work in the 26th floor in the police department,
19 1200 Travis, the 25th floor. Central Evidence Receiving is our
20 vault where we keep all control substances in cases in there.
21 And once I seal it and I'm done with my analysis, I return it
22 back to CER and that's where I received it originally, too.

23 Q. You return it to the police department then, to their
24 evidence room, correct?

25 A. Yeah. To the crime labs, Houston Police Department

1 Crime Lab, evidence receiving room.

2 MR. ISBELL: That's all I have, Your Honor.

3 THE COURT: Okay. Ms. -- redirect?

4 MS. MARTINEZ: Nothing further, Your Honor.

5 THE COURT: Thank you, ma'am. You are excused.

6 Call your next witness.

7 MS. MARTINEZ: State rest, Your Honor.

8 (State Rests)

9 THE COURT: Okay.

10 MR. ISBELL: Could we have the jury excused for
11 just a moment, Your Honor.

12 THE COURT: The State is resting on presenting
13 their evidence, so we will call you back in a few minutes,
14 ladies and gentlemen. Thank you very much.

15 MR. ISBELL: Your Honor, at this time.

16 THE COURT: Go ahead.

17 (Jury Not Present)

18 MR. ISBELL: At this time my client has insisted
19 that I call Kandilyn Lathon (phonetic) as a witness. In
20 talking with her --

21 THE COURT: Do we have Ms. Lathon in here?

22 MR. ISBELL: -- she indicated she would take the
23 Fifth Amendment in regard to the questions that would be asked
24 of her through by the State and myself. And I would like to
25 have her do that on the record.