

1 see you again, jurors. Thank you for your return.

2 You may proceed.

3 MS. FULLER: At this time the State calls Juli
4 Rehfuss.

5 THE COURT: And, ladies and gentlemen, this witness
6 was sworn just prior to your arrival.

7 JULI REHFUSS,
8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. FULLER:

11 Q. I probably said your name wrong, so would you please
12 introduce yourself to the jury.

13 A. Yes, ma'am. My name is Juli Rehfuss.

14 Q. And who are you employed with?

15 A. I'm employed by with the Houston Police Department
16 crime laboratory.

17 Q. And what is your job duty at the crime lab?

18 A. I'm a criminalist with the serology biology section.

19 Q. All right. Let's talk about your educational
20 background. Can you give the jury an idea of that?

21 A. Yes, ma'am. I have a bachelor of science degree in
22 biology from North Carolina State University.

23 Q. And have you continued your education in any type of
24 forensic studies or sciences?

25 A. Well, we have a pretty intensive in-house training

1 program that includes reading forensics textbooks, reading
2 various forensic articles, and we have a lot of written tests
3 as well as competency tests, so the training actually
4 incorporates my degree into the field of biological sciences
5 through various mock cases that we have to go through, and then
6 we're shadowed by another qualified analyst for a time, and
7 then we're signed off on actual case work.

8 Q. And that's when you become an actual serologist?

9 A. Yes, ma'am.

10 Q. How long have you been a serologist with the crime
11 lab?

12 A. I've been with the crime lab since 2000.

13 Q. And you've been a serologist since that time?

14 A. Since 2004.

15 Q. Tell us what a serologist is, what are your job
16 duties?

17 A. Well, serology basically identifies biological
18 materials, mainly blood and seen, through a series of
19 presumptive and confirmatory tests.

20 Q. Can you, just broadly speaking, kind of give us some
21 examples of what kind of testing you would do for presumptive
22 tests?

23 A. Yes. So presumptive tests are really sensitive but
24 they're not specific. So it just gives us an indication that
25 something may be there, a biological fluid, and then if that is

1 positive, then we'll take it on to a confirmatory test to tell
2 if -- to tell us if it's of human origin, and then we can
3 apportion that and send it on to DNA.

4 Q. When you are looking at a piece of evidence, can you
5 always see with the naked eye certain biological materials?

6 A. It depends on the item and the biological material
7 that I'm looking for. Such as, you know, blood is fairly easy
8 to see on light colored clothing, or a swab, whereas semen --
9 you know, it depends on what the item is. If it's just a swab,
10 I can go ahead and just press out that swab and do one of my
11 presumptive tests to see if there could be biological fluid on
12 that swab. With clothing we go through a series of presumptive
13 tests just to help us identify if there are any semen stains.

14 Q. Now, sometimes when you are trying to test to
15 determine whether or not a particular piece of evidence has a
16 biological material on it, do you have to make a determination
17 of how you're going to collect that evidence, for example,
18 swabbing it versus performing additional tests to confirm
19 whether or not a biological agent is present?

20 A. It depends on what the item is. If it is a swab that
21 was taken in a sexual assault kit, for example, then we will
22 just go ahead and take a piece of filter paper. We put
23 distilled sterile water on the filter paper. We'll actually
24 press out the swabs and then we'll test the filter paper
25 instead of testing the swab directly, and then we can perform

1 our tests from there. So if my filter paper gives me a color
2 change, it lets me know that the presumptive test was positive
3 and I can take it on to a confirmatory test where I'll
4 physically cut part of the swab and take it down the line.

5 With clothing, it depends on what I'm looking for.
6 If I'm looking for semen or blood, it depends on what type of
7 material I'm dealing with if I could swab it or if I could
8 physically cut it out off of that item.

9 Q. Let's talk about contact DNA. Can you describe to
10 the jury what contact DNA is?

11 A. Yes. Contact DNA is basically touch DNA, if you
12 will. So they're more than likely just shed skin cells that we
13 have.

14 Q. And can it be skin cells from outside your body and
15 inside your body?

16 A. Yes, ma'am. The epithelial cells, which are the skin
17 cells, contain a nucleus, and so you can find DNA in any
18 nucleated cell. So it just depends on what the item is, if you
19 were touching something or if it physically came into contact
20 with one of your, you know, bodily fluids.

21 Q. And with touch DNA, do you have the problem of that
22 DNA easily being transferred or removed from certain pieces of
23 evidence?

24 A. Well, again, it does depend on how forcefully that
25 person could have touched the item, what the item is, if it is

1 -- is it a smooth surface or rough surface, had they just
2 washed their hands or have they come into contact with somebody
3 else or another object. It all depends.

4 Q. Okay. Do you recall working on a case back in 2011
5 with the -- I believe your incident number is 119305210?

6 A. Yes, ma'am.

7 Q. And the suspect in that case was Dean Wood?

8 A. That is correct.

9 Q. All right. And in this case can you tell me what you
10 were first requested to do?

11 A. Well, there are a series of three screening reports
12 in the case file. Would you like me to go through all three or
13 one in particular?

14 Q. Let's talk particularly about what you were asked to
15 do with beer bottles and a pair of shorts.

16 A. Yes, ma'am. So the investigator requested a pair of
17 shorts to be worked, which is item 1.1. There's a t-shirt,
18 1.2; a pair of tennis shoes, 1.3; as well as four bottles; an
19 energy drink can; and then I had known saliva swabs from a
20 Julie Ostlund, which is item 11, and Mary Ostlund, which is
21 item 12.

22 Q. Okay. Let's --

23 MS. FULLER: May I approach, your Honor?

24 THE COURT: Yes.

25 Q. (By Ms. Fuller) I'm going to first show you what has

1 already been introduced as State's Exhibit 95. Do you
2 recognize the contents of State's Exhibit 95?

3 A. May I?

4 Q. Yes.

5 A. Yes. It has the unique identifier, which is the
6 incident number in this case, my initials, as well as the item,
7 which is 1.1.

8 Q. And 1.1 according to your report is?

9 A. A pair of shorts.

10 Q. Okay. And your initials are seen on the bag, on the
11 outside of the bag?

12 A. Yes, on the outside of the bag as well as the seal.

13 Q. Okay. And obviously these have been opened, they've
14 already been admitted, but do those look familiar to you?

15 A. Yes. The shorts have a lab information tag on it
16 which has the unique identifier, the incident number, my
17 initials, item 1.1, and shorts.

18 Q. Okay. All right. So when you received item 1.1,
19 which is a pair of blue shorts, what was the first thing that
20 you did with those blue shorts?

21 A. Let's see -- the first thing I would do with the
22 shorts, I would do a visual examination of the shorts just to
23 see if I can see any blood or stains, food stains, anything
24 like that. And then I'll photograph the evidence and perform
25 some presumptive, and confirmatory tests if the presumptive

1 tests are positive.

2 Q. All right. And on the shorts did you find some
3 stains that appeared to be blood?

4 A. Yes, ma'am. On the front of the shorts there were
5 four, approximately four areas that were presumptively positive
6 for the presence of blood.

7 Q. Okay. Now, at some point did you take any swabs from
8 these shorts?

9 A. Actually I pressed them out with a piece of moistened
10 filter paper, and then I tested the filter paper with my
11 presumptive test for blood.

12 Q. Okay. So moving on from the blood, at some point did
13 you come back to these shorts to do another swab of a
14 particular area of the shorts?

15 A. Yes. I also took two swabs from the inside crotch
16 area of the shorts.

17 Q. Okay. And --

18 MS. FULLER: May I approach again, your Honor?

19 THE COURT: You may.

20 Q. (By Ms. Fuller) I also want to show you what has been
21 marked as State's Exhibit 79, 80, 81, and 82. Do you recognize
22 these bags and their contents?

23 A. Yes. They have the incident number on them, my
24 initials, as well as the item numbers.

25 Q. Okay. And at some point were you requested to take

1 swabs from these bottles?

2 A. Yes, ma'am, I did.

3 Q. How did you take the swabs first from the blue
4 shorts?

5 A. Well, with the blue shorts, I was looking for
6 possible contact DNA on the inside of the shorts, so I wouldn't
7 do any testing on the swabs. I would just moisten them a
8 little bit with the sterile water. I'll take two swabs at the
9 same time, and I'll just, you know, in a forceful manner swab
10 the inside panel of the shorts, and then I portion one of those
11 swabs for DNA analysis.

12 Q. Okay. And with the bottles, how did you collect the
13 swabs from the bottles?

14 A. It was basically in the same manner. I'll just take,
15 I believe two swabs -- (checking report.) Yes. So on each of
16 the bottles, items 8.2, 8.3, 8.4, and 8.5, I took two swabs and
17 in the same manner I just swabbed the entire outside and the
18 lip area of each bottle.

19 Q. Okay. So I want to show you what has been marked
20 previously as State's Exhibit 121, 122, 123, 124, and 125. Do
21 you recognize what these are?

22 A. Yes. These are portions of the swabs that I took
23 from items 1.1, 8.2, 8.3, 8.4, and 8.5.

24 Q. And those correspond to the shorts and the four beer
25 bottles; is that correct?

1 A. Yes. So I would take two swabs and then I would
2 portion one whole swab for DNA.

3 Q. Okay.

4 A. And that's what this is.

5 Q. And how do you know that these are the swabs that you
6 took from the shorts and from the bottles?

7 A. Well, it has the incident number, my initials, the
8 item number, and my seal is on the back with my initials and
9 the date.

10 Q. Okay.

11 MS. FULLER: Your Honor, at this time the State moves
12 to admit State's Exhibit 121, 122, 123, 124 and 125 into
13 evidence.

14 THE COURT: Subject to our discussions earlier?

15 MR. HOCHGLAUBE: Yes.

16 THE COURT: Which we've already said. I'm going to
17 admit now 121, 122, 124, 124 and 125.

18 MR. HOCHGLAUBE: Thank you, Judge.

19 Q. (By Ms. Fuller) So after you obtained these swabs and
20 you sealed them up into these envelopes, what happens with
21 those swabs next?

22 A. I gave those sealed envelopes directly to analyst
23 Clay Davis.

24 Q. Okay. And analyst Clay Davis is -- what would he
25 then do with those swabs, I mean, generally speaking?

1 behind the witness?

2 THE COURT: Sure.

3 Q. (By Mr. Hochglaube) Are you ready?

4 A. Yes, sir.

5 Q. I'm sorry, I was waiting on you.

6 What was the first date that you did testing in this
7 case?

8 A. I actually did all of the testing that was requested
9 of me on March 25, 2011.

10 Q. Okay. So, and what you're saying is that you were
11 responsible for testing the shorts, the blue shorts, correct?

12 A. Yes, sir. They were navy.

13 Q. So not the gray shorts?

14 A. No, sir.

15 Q. And the four beer bottles, or three beer bottles and
16 one malt liquor bottle; is that right?

17 A. Yes, sir.

18 Q. Now, are there other dates that you can tell from
19 your records that HPD did testing in this case?

20 A. Yes, sir. There are two other screening reports.

21 Q. What are the dates?

22 A. Oh, excuse me, three prior screening reports.

23 Q. What are those dates?

24 A. The first report was submitted on September 22, 2010.

25 Q. The next one?

1 A. The second screening report is dated October 5, 2010.

2 Q. Okay.

3 A. And the third screening report is dated November 30,
4 2010.

5 Q. Okay. So basically if this incident is alleged to
6 have happened in August of 2010, then your first analyses began
7 about eight, nine months later; is that right?

8 A. Yes, sir.

9 Q. And you weren't requested to do any of these analyses
10 back in August or September, you were requested to do your
11 analyses back in March, right?

12 A. The investigator submitted the fourth request, which
13 would be my analysis.

14 Q. Okay. And so at the time you began your analysis, do
15 you know whether the rape kit in this case has been analyzed?

16 A. Yes, sir, the sexual assault kit from Flora Ryan was
17 processed.

18 Q. It had already been processed at this point, right?

19 A. Yes, sir.

20 Q. And what about swabs from the complainant's
21 fingernails?

22 A. Yes, sir, the morgue evidence from Flora Ryan was
23 also processed.

24 Q. And that included her fingernails, right?

25 A. Yes, sir.

1 Q. Now, I guess you didn't have anything to do with the
2 testing of those items, right?

3 A. No, sir.

4 Q. But you certainly have experience with doing at least
5 the serology on rape kits, right?

6 A. Yes, sir.

7 Q. And so you're aware of why a rape kit might go
8 through serology, right?

9 A. Yes, sir.

10 Q. And you're aware of why it might be completely
11 processed for DNA purposes, right?

12 A. Yes, sir.

13 Q. The idea is that with the rape kit there's a
14 gathering of all the evidence found on the complainant in this
15 case, the supposed, the victim, right? The idea is that you
16 might get DNA material off of her body, right?

17 A. It is possible.

18 Q. Right. And it doesn't happen every time, right?

19 A. That is true.

20 Q. But it happens enough of the time that it's worth
21 testing for, right?

22 A. Yes, sir.

23 Q. And the same thing is true with testing for someone's
24 fingernails, right? Is that right?

25 A. Yes, sir.

1 Q. Because basically enough of the time you will find a
2 person having acted defensively and get some DNA off of whoever
3 the person they were in contact with underneath their
4 fingernails, right?

5 A. It's a possibility.

6 Q. Right. Enough of a possibility that it's worth
7 testing for, right?

8 A. Yes, sir.

9 Q. The -- now, with these shorts, these blue shorts, you
10 did a presumptive test for blood, right?

11 A. Yes, sir.

12 Q. And that was based on you being able to see what you
13 believed to be blood on the shorts themselves, right?

14 A. Yes, sir. I did notice a reddish brown staining on
15 the front of the shorts.

16 Q. Now, one other thing about your testing, is that you
17 can't tell how or whether DNA gets to wherever it gets to, or
18 any biological matter gets to wherever it gets to?

19 A. That's true.

20 Q. You can say it's there, but you can't say when or how
21 it got there, right?

22 A. That is true.

23 Q. So but you'd agree with me that if a person is
24 performing CPR on a body that is bloody, that's a pretty
25 reasonable way that they might get blood from the person that

1 they were doing CPR on on their shorts, right?

2 A. That's a possibility.

3 Q. Right. If they got it on their hands or if they put
4 their hand on their shorts or their shorts came in contact with
5 the person they're doing CPR on they can end up with blood on
6 their shorts, right?

7 A. Yes, sir.

8 Q. And in this case, you said they were, like, four
9 different spots; is that right?

10 A. Yes, sir.

11 Q. Okay. Now, you did the presumptive testing for blood
12 on the shorts, right?

13 A. Yes, sir. I also did confirmatory testing for human
14 blood.

15 Q. Okay. And it was blood, right?

16 A. Yes, sir.

17 Q. But -- and the idea of doing that testing, right, is
18 because you can see there's something there that is worth
19 testing for, right?

20 A. Yes, sir.

21 Q. But with the beer bottles and with the malt liquor
22 bottle, you didn't make any type of blood presumptive testing,
23 right?

24 A. The only evidence that I noticed on 8.4, which is the
25 malt liquor bottle, was that it appeared to have apparent mold

1 on the inside that was visible.

2 Q. Okay. Right. But so you did not do presumptive
3 testing for blood on any of the bottles, right?

4 A. No, sir. I just swabbed it for possible contact.

5 Q. And the idea is that you're not going to do
6 presumptive blood testing on every single item that comes
7 before you; is that right?

8 A. That is true.

9 Q. You're going to do it on the things that look like
10 they might have blood to be tested, right?

11 A. Yes, sir.

12 Q. Or semen to be tested, right?

13 A. Yes, sir.

14 Q. In this case, although you could see it on the
15 shorts, you couldn't see anything and you had no reason to
16 believe that there was any type of blood on any of the beer
17 bottles or the malt liquor bottle?

18 A. I made no note of any reddish brown staining on the
19 bottles.

20 Q. Do you know whether -- there were a couple of other
21 items that were also tested through HPD, but I'm assuming you
22 didn't have anything to do with them. There was a blanket that
23 was tested, right? I think it's 7.1.3.1?

24 A. Yes, sir.

25 Q. And did you talk about the shirt stain, 4.3.2.1?

1 A. I did not test the shirt, not me personally.

2 Q. Okay. Now, one of the other things I just want to
3 cover real briefly with you is the prosecutor talked about
4 contact DNA, right?

5 A. Yes.

6 Q. And along the same lines of contact DNA is the idea
7 of contamination, right? By DNA coming -- touching an item
8 that didn't have the DNA on it before, you can contaminate, I
9 guess, the DNA and the DNA can be spread onto something
10 inadvertently, right?

11 A. I wouldn't say contaminate. I would say that
12 possible contact DNA can cross-transfer from one object to
13 another or from one person to another.

14 Q. Okay. And I appreciate you correcting me. I think
15 you're right about the wording you're using and I'm not right
16 about it.

17 The -- but hypothetically, right, if we stick items
18 like the shirt, the blanket, or other items that have sort of
19 obvious bloodstains, obvious fecal matter, fairly obvious
20 stains, right, when we put them into a washing machine with
21 clothing items, say gray shorts, right, put them all in the
22 washing machine together, right, that's a recipe for getting
23 DNA transferred from one garment to another, is it not?

24 A. Yes, sir. And it also depends on the fluid and how
25 the fluid is. So if you have liquid blood and it's not dry yet

1 it could easily transfer to something else. However, if you
2 were -- a dry crusty bloodstain, you know, it would take a
3 little more effort to actually transfer the blood flakes to
4 another item. It just depends.

5 Q. Right. And so in theory, if these gray shorts have
6 some sort of biological material on them, right, and again,
7 speaking to the idea that we don't know how or when DNA gets on
8 a particular garment, we can't say the DNA got there before the
9 washing machine or got there when it was put in the washing
10 machine, right?

11 A. No, I couldn't tell you how it got there.

12 Q. And basically either which way is totally plausible,
13 right?

14 A. It's possible.

15 Q. Do you know whether the results that come from -- I
16 think I asked this but I want to make sure I covered it. The
17 rape kit and the complainant's fingernails, right, those have
18 been submitted at an earlier day, correct?

19 A. Yes, sir. They are in the first report dated
20 September 22nd.

21 Q. And the final analysis had come back before you
22 began -- before you were requested to do your testing in March
23 of 2011, right?

24 A. The only items that went on to DNA analysis were the
25 fingernail scrapings and clippings of the left hand, item 10.3;

1 the fingernail scrapings and clippings from the right hand,
2 item 10.4; and those are processed in the DNA report dated
3 January 26, 2011.

4 Q. Okay. So again, before you ever become involved?

5 A. Yes, sir.

6 Q. All right. Are you -- you're aware, though, that a
7 rape kit was submitted for DNA evaluation somewhere, right?

8 A. Yes, sir. That was not submitted to DNA.

9 Q. Okay.

10 A. Just for screening.

11 Q. Just for screening?

12 A. Yes, sir.

13 Q. All right. The -- do you -- okay.

14 MR. HOCHGLAUBE: I'll pass the witness.

15 MS. FULLER: Just briefly, your Honor.

16 May I approach the witness?

17 THE COURT: You may.

18 REDIRECT EXAMINATION

19 BY MS. FULLER:

20 Q. I want to be sure and -- this is State's Exhibit 81,
21 but it's 8.4 in your lab report. I'm going to pull this out
22 real quick. And then 8.1 and 8.2. 8.2, which is State's
23 Exhibit 79, did you make a list regarding how exactly you
24 swabbed these bottles?

25 A. Yes. I photographed the evidence, and according to

1 my notes, I just took two swabs at the same time, moistened
2 with sterile water, and I swabbed the lip area and the entire
3 outside body of the bottle, of each bottle.

4 Q. Of each bottle?

5 A. Independently.

6 Q. Okay. Did you put the swabs down inside the lip area
7 as well?

8 A. Yes, just inside the lip. And then I concentrated
9 mostly on the outside of the bottle.

10 Q. Okay.

11 MS. FULLER: Pass the witness, your Honor.

12 THE COURT: Anything further?

13 MR. HOCHGLAUBE: No, Judge.

14 THE COURT: Call your next.

15 MS. FULLER: The State calls Clay Davis.

16 THE COURT: All right. You may proceed.

17 MS. FULLER: Thank you, your Honor.

18 CLAY DAVIS,
19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. FULLER:

22 Q. Good afternoon, Mr. Davis. Would you introduce
23 yourself to the jury.

24 A. My name is Clay Davis.

25 Q. And, Mr. Davis, who are you employed by?