

1 here. I don't think they'll be that long.

2 MR. NEWMAN: At your disposal.

3 THE COURT: I don't -- unless we're
4 kind of pushing ourselves and we're not yet. I don't
5 like to work past 5:00. It's counter productive, I
6 think.

7 MARY ANN SIMICEK,
8 having been previously sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. OMODELE:

11 THE COURT: Please take your seat and
12 make yourself comfortable, ma'am. Scoot your chair
13 up and arrange that microphone with your mouth. Keep
14 your voice up so everyone may hear what you have to
15 say.

16 THE WITNESS: Yes, sir.

17 THE COURT: Proceed, Ms. Omodele.

18 MS. OMODELE: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. OMODELE:

21 Q. Good afternoon, Mrs. Simicek.

22 A. Good afternoon.

23 Q. Go ahead and introduce yourself to the
24 ladies and gentlemen of the jury?

25 A. Hi. My name is Mary Ann Simicek. And I

1 was a forensic interviewer with the Children's
2 Advocacy Center of Fort Bend.

3 Q. And at some point did you go by another
4 name?

5 A. My maiden name was Reinke and have since
6 been using Simicek as my married name.

7 Q. What do you currently do for a living?

8 A. Currently a forensic interviewer for a
9 different program -- brand new property for Wharton
10 and Matagorda County. We're not doing interviews
11 yet. We're still in the process of getting going.

12 Q. Tell us a little bit about forensic
13 interviewing? What is the main purpose of a forensic
14 interview?

15 A. The purpose of a forensic interview is to
16 find out whether abuse has happened. CPS and law
17 enforcement who are interested whether abuse has
18 occurred, when they bring a child to the Children's
19 Advocacy Center to be interviewed you sit down with
20 the child -- the whole interview is recorded. And
21 the purpose of that is to minimize the amount of
22 times a child has to tell what has happened to them.
23 And in the forensic interview you are trained to find
24 out as much information about whether something has
25 happened. And if the child makes an outcry that

1 something has happened that the interviewer wants to
2 find out as much detail as possible about what
3 happened in order to minimize the amount of times
4 that the child has to tell what happened. If we can
5 get all that information in one sitting then this
6 child doesn't have to talk to a whole bunch of
7 different people. Everyone else that needs to is
8 either there watching the interview or if they are
9 not able to be there then they will watch the
10 recording so that the child doesn't have to go
11 through it over and over again.

12 THE COURT: Can you kind of scoot your
13 chair up a little bit.

14 Please go forward.

15 Q. (BY MS. OMODELE) Mrs. Simicek, tell us a
16 little bit about your educational background?

17 A. I have a bachelor's from the University of
18 Houston in psychology and graduated in 1999. And
19 then I went to -- moved to Denver and went to the
20 University of Denver. In 2001 I graduated with a
21 master's degree in forensic psychology.

22 Q. How long have you worked as a forensic
23 interviewer?

24 A. About four years and three months.

25 Q. I want to take you back to 2005.

1 Where were you working back then?

2 A. I worked for Child Advocacy Center of Fort
3 Bend.

4 Q. When you say four years and how ever many
5 months, is that in your current position?

6 A. In my current position I've been there for
7 three months. Then four years was with Fort Bend.

8 Q. So back in 2005 you were a forensic
9 interviewer?

10 A. Yes.

11 Q. With Fort Bend?

12 A. Yes.

13 Q. Okay.

14 A. I worked for Children's Advocacy Center of
15 Fort Bend from 2003 to 2007. And then in 2008 to
16 this past end of October, last of October, I worked
17 for Texana Center, which is the MHMRA for Fort Bend
18 and surrounding counties.

19 Q. Just to be clear, you were a forensic
20 interviewer for four years with Fort Bend and then
21 you did some stuff in between that?

22 A. Yes, ma'am.

23 Q. You testified earlier that you were the
24 person that conducted the forensic interview with
25 Lashonda Irving back in 2005?

1 A. Yes.

2 Q. Can you tell us when that interview was
3 conducted?

4 A. In January of 2005. I forget the exact
5 date.

6 Q. Does January 12th ring a bell?

7 A. I was going to say the 13th, but the 12th
8 is probably correct.

9 Q. Tell us where you all were located when you
10 conducted the interview?

11 A. We were in Richmond. If you're familiar
12 with the Richmond area. We are very close. Like two
13 buildings down from the Polly Ryon Hospital. I
14 believe the address is 1705 Jackson, Richmond.

15 Q. Do you recall approximately how old was
16 Lashonda Irving was when you conducted the interview?

17 A. She was 13.

18 Q. Let's talk a little bit about the beginning
19 of your interview.

20 Without going into what was said, what are
21 some of the things that you talk about in the
22 beginning just to begin things?

23 A. Usually start off the interview with basic
24 things like name, date of birth, where they go to
25 school, what kind of classes do they take, what kinds

1 of things do they do for fun to kind of get some idea
2 -- want to get to know them. To get some idea the
3 way things are working and to get comfortable to
4 talking with me. And usually spend sometime talking
5 about their family, where they live, who all lives
6 there, where does everybody sleep, things like that.

7 Q. And terms of Lashonda Irving did you spend
8 some time talking about her family and her family
9 history?

10 A. Yes.

11 Q. A good amount of time?

12 A. Yes, we spent a good amount of time. She
13 had been bounced around between different family
14 members. It took us some time to figure out where
15 everybody was living and what the relationship was
16 and who all lived there and everything like that.

17 Q. Based on that family information did it
18 appear that she had been be through a lot as a child
19 at that point?

20 A. She told me that he had been --

21 MR. NEWMAN: Objection to hearsay,
22 Your Honor, regarding that.

23 THE COURT: Sustained.

24 Q. (BY MS. OMODELE) Not what she told you?
25 Just your impression?

1 A. It seemed to me that she had been living
2 with many different family members throughout her
3 life. She didn't have a consistent long period that
4 she had lived with a single family member.

5 Q. After talking about her family did you talk
6 about some other things or get into some other
7 issues?

8 A. We would have talked about making sure she
9 knows The difference between a truth and a lie and
10 what happens if someone tells a lie and would have
11 asked that she take an oath and tell me that she
12 would only promise to talk about true things during
13 our interview.

14 Q. Why do you ask a child or why did you ask
15 Lashonda in this case whether or not she knew the
16 difference between a truth and a lie?

17 A. Well, you want to make sure that they know
18 the difference before you ask them to only tell you
19 the truth. If you ask them to tell you the truth in
20 our interview and they don't know what the difference
21 is, you need to know what the truth is and what a lie
22 is before you can ask them to make that promise to
23 only talk about true things.

24 Q. And did Lashonda indicate that she knew the
25 difference between the truth and a lie?

1 A. Yes, she did.

2 Q. Tell us about her demeanor. Let's talked
3 about her demeanor kind of early on when you talked
4 about family and some of these general things?

5 What was she like?

6 A. I found her to be very bubbly. She was
7 very easy to talk to. She had a lot to say. She
8 wasn't worried about anything. I felt like she was
9 open to talking about pretty much everything with me.

10 Q. Did her demeanor change at some point?

11 A. It was pretty consistent the entire time.
12 There were several times when I think there were some
13 pauses and it may have been a little overwhelming for
14 her. But for the most part it was appropriate
15 demeanor for the content.

16 Q. You say appropriate. Were there some
17 points where, based on her demeanor, you could tell
18 she was bit overwhelmed as you stated?

19 MR. NEWMAN: Objection to leading,
20 Your Honor.

21 THE COURT: Sustained.

22 Q. (BY MS. OMODELE) Tell us a little bit --
23 describe those changes in her demeanor that you just
24 talked about?

25 A. There was one point when there was a

1 pause. And it was a very felt very emotional -- like
2 she had just gotten to a point where it was a lot for
3 her. And so we kind of took -- left the silence and
4 let her gather her thoughts before we started to
5 continue with what we were talking about.

6 Q. And, again, without going into what was
7 said, at some point does she bring up her sister's
8 father?

9 A. Yes.

10 Q. Is that by prompting from you or is that
11 something she does on her own?

12 A. She does that on her own.

13 Q. And, again, let me ask you this. Do you
14 remember approximately how long the entire interview
15 lasted?

16 A. I believe it was around 50 minutes.

17 Q. You testified that you all spent a great
18 deal of time talking about her family?

19 A. Yes.

20 Q. And talked about some other things?

21 A. Yes.

22 Q. Again, does she go into these issues with
23 her sister's father on her own?

24 A. Yes.

25 Q. After she discusses these things and,

1 again, can't go into what was said about her sister's
2 father, do you talk about anything else?

3 A. Yes, we talk about what happens when people
4 get in trouble at home, whether there is any drug use
5 or things like that in the house to kind of check and
6 make sure that she is safe in her home.

7 Q. Are these general questions that you ask in
8 every forensic interview?

9 A. Yes.

10 MS. OMODELE: I pass the witness at
11 this point.

12 THE COURT: Thank you.

13 Mr. Newman.

14 CROSS EXAMINATION

15 BY MR. NEWMAN:

16 Q. Ms. Simicek?

17 A. Yes, sir.

18 Q. Is that a Czechoslovakian name?

19 A. It is.

20 Q. I grew up around quite a few Czechs.

21 I don't have a lot of questions for you.

22 But I do have just a couple.

23 You describe her demeanor as being bubbly
24 in there. And certainly you see a lot of different
25 children in your line of work; correct?

1 A. Right.

2 Q. And those type of reactions can pretty much
3 run the gambit of emotions; credit?

4 A. Yes.

5 Q. And everyone reacts differently?

6 A. Yes.

7 Q. You described her as bubbly?

8 A. Yes.

9 Q. At no point does she break down in tears?

10 A. No.

11 Q. You described a pause that she had?

12 A. Yes.

13 Q. When was that pause?

14 A. I'm not sure. I don't want to say when
15 exactly when I don't recall.

16 Q. So you don't remember --

17 THE COURT: Excuse me. Keep your
18 voice up or lean over into the microphone. Sorry for
19 the interruption.

20 MR. NEWMAN: It's your courtroom,
21 Judge.

22 Q. (BY MR. NEWMAN) It's -- you don't recall
23 the substance of what she called for?

24 A. It was sometime when we were talking about
25 the details of what she had come about for.

1 Q. But no crying, not getting upset, not
2 saying I don't want to talk about this?

3 A. Not that I recall.

4 Q. You mention -- Ms. Omodele asked you a
5 couple of questions. You do spend -- the general way
6 to do it you do try to ask them some questions to put
7 them at ease; correct?

8 A. Yes.

9 Q. Ask them about their hobbies, how school is
10 going, general questions to make them feel
11 comfortable with you as an interviewer; correct?

12 A. Yes.

13 Q. And typically you go into family history,
14 which you did; correct?

15 A. Yes.

16 Q. Then you began speaking to her for a bit to
17 a point -- do you recall saying -- making a statement
18 during the course of your interview stating that you
19 were confused as to what she was talking about?

20 A. Yes.

21 Q. And without going into any details, is it
22 fair to say she had gotten off topic on what your
23 understanding was or what she was there to talk
24 about?

25 A. I'm not sure I understand what you're

1 asking.

2 Q. I'm butchering the English language today.

3 At some point did you get confused because
4 she had gotten -- you -- back up.

5 When a person comes in to give an interview
6 typically you have been briefed on background;
7 correct?

8 A. For the most part.

9 Q. You know what they're there to talk about?

10 A. Yes, sir.

11 Q. And generally when you know what they're
12 there to talk about you know who they're there to
13 talk about as well; correct?

14 A. Usually.

15 Q. Usually.

16 And was that the case in this case? Were
17 you --

18 A. Was I briefed ahead of time?

19 Q. Yes, ma'am?

20 A. Yes.

21 Q. And at some point did she get off topic to
22 the point that you state, wait, I'm confused?

23 A. I did say that I was confused. It was
24 because of the variety of the different things she
25 was bringing up. I felt they were all on topic, but

1 I did not feel like anything that was in that was out
2 of topic.

3 Q. But isn't it true though that once you said
4 I'm confused, it was only after you pointed out your
5 confusion to her that she got onto the topic of
6 Edmond Davis?

7 A. I don't know specifically. I thought she
8 had already brought that up before then, but I would
9 have go and re-watch the interview to watch
10 specifically for that.

11 Q. Okay.

12 During the course of her interview she
13 basically told you of two specific separate incidents
14 involving Edmond Davis; correct? One in the kitchen
15 and one in the bedroom?

16 A. Yes.

17 Q. And just to be clear just so the jury
18 understands, your job is with -- was with the
19 Children's Assessment Center. Is that what they call
20 it in Fort Bend?

21 A. At Fort Bend it's the Children's Advocacy
22 Center.

23 Q. But the CAC?

24 A. Yes.

25 Q. And that is a separate entity from CPS;

1 correct?

2 A. Yes.

3 Q. And so any type of investigative work that
4 follows up, that would not have been work done by
5 you?

6 A. No.

7 Q. That's actually done by an actual CPS
8 workers?

9 A. Yes.

10 Q. And so you're just there to talk to the
11 child in question? You don't interview the adults or
12 any other grown ups involved?

13 A. Right. I don't interview grown ups.

14 Q. And during her interview with you she
15 basically said that she was not the only person who
16 had been abused or that Edmond Davis had been
17 sexually inappropriate around?

18 A. Correct.

19 Q. She said that other children in the
20 household had also experienced it; correct?

21 A. Yes.

22 MR. NEWMAN: I pass the witness.

23 THE COURT: Ms. Omodele.

24 MS. OMODELE: Briefly.

25

REDIRECT EXAMINATION

1
2 BY MS. OMODELE:

3 Q. Defense counsel just asked you about the
4 two specific incidents that Lashonda Irving tells you
5 about.

6 Do you recall the specific incident that
7 she tells you about?

8 A. Yes.

9 Q. In terms of the type of language that she
10 used when she described the Kitchen incident, would
11 you say that her language was appropriate for a child
12 or appropriate for an adult?

13 A. It was appropriate for a child.

14 Q. And tell us the type of language that she
15 used?

16 A. She referred to genital area as privacy.

17 THE COURT: As what?

18 A. Privacy. And she would call it. And she
19 said that -- I think she said he was playing with it
20 was her specific words.

21 Q. (BY MS. OMODELE) Does she use the term
22 masturbation?

23 A. Yes.

24 Q. What about that bedroom incident that she
25 referred to? Did she use the same terminology that

1 you just testified to?

2 A. Yes.

3 Q. In terms of doing this interview, the
4 forensic interview, why is it recorded?

5 A. It's recorded to minimize the amount of
6 times a child has to give their statement and also to
7 have a record of what was said during the interview.

8 Q. One of the reasons it's recorded so they
9 can only be interviewed that one time?

10 A. Right.

11 MR. NEWMAN: Object to leading, Your
12 Honor.

13 THE COURT: Sustained.

14 MS. OMODELE: I'll move on, Your
15 Honor.

16 THE COURT: Thank you.

17 Q. (BY MS. OMODELE) approximately how many
18 forensic interviews have you conducted?

19 A. I stopped counting at 1,000.

20 Q. So it's fair to say that you have a lot of
21 experience in dealing with children who have been
22 sexually violated or sexually abused?

23 A. Yes.

24 Q. Do all children react the same?

25 A. No.

1 Q. Tell us little bit about that? Tell us
2 about the reactions that you see? Some of the
3 reactions that you see?

4 A. Sometimes we will have children who shut
5 down, who don't want to talk about it, who become
6 fearful. Other times you may have a child who is
7 able to tell you everything without blinking. It
8 depends on the child and what they're response is.
9 You can have the whole gambit of responses.

10 Q. And I guess a factor is the child, not
11 necessarily what happened?

12 A. Yes.

13 MS. OMODELE: Pass the witness.

14 MR. NEWMAN: Brief re-cross, Your
15 Honor.

16 RE-CROSS EXAMINATION

17 BY MR. NEWMAN:

18 Q. Basically, the bottom of line for the
19 nature of your job is you're there to collect
20 evidence and not make determinations; correct?

21 A. Correct.

22 Q. You so don't pass judgment on any child
23 that you talk to as to their credibility?

24 A. Correct.

25 Q. One of the things I forgot to ask you about

1 though sometimes you do have to kind of get into the
2 nitty gritty of things and ask them some detailed
3 questions; correct?

4 A. Yes.

5 Q. And in this instance -- and sometimes that
6 involves talking about private parts on people's
7 bodies; correct?

8 A. Yes.

9 Q. And at one point during the interview,
10 which is normal, you ask her to describe Edmond
11 Davis' penis; correct?

12 A. Right.

13 Q. And one of the follow up questions that you
14 ask is to determine whether or not it was erect or
15 not; correct?

16 A. Correct.

17 Q. Isn't it true that when you asked Lashonda
18 to describe the penis -- Mr. Davis' penis, the only
19 thing she could come up with was that it was brown?

20 A. That's true.

21 Q. And when you asked her to specify whether
22 it was hard or soft, she was confused and didn't know
23 the answer to that question?

24 A. Right, she did not answer that question.

25 MR. NEWMAN: Pass the witness.

1 FURTHER DIRECT EXAMINATION

2 BY MS. OMODELE:

3 Q. In terms of it being -- and I say it, the
4 penis, being hard or soft, in your experience do
5 young children usually know the difference between
6 erect and not erect?7 MR. NEWMAN: Objection to relevance,
8 Your Honor.9 MS. OMODELE: He just opened the door
10 --11 THE COURT: You may answer that
12 question and let's move on.

13 Okay.

14 Answer the question if you can.

15 A. That's one of the questions that we have a
16 lot of difficulty asking children in a way that they
17 can answer. It's very hard for children to describe
18 whether or not a penis is erect or not just based on
19 their knowledge based on their language.20 Q. (BY MS. OMODELE) Did it concern you that
21 she doesn't know whether or not his penis was erect
22 or --

23 MR. NEWMAN: Objection to relevance.

24 THE COURT: That's sustained.

25 MS. OMODELE: I pass the witness, Your

1 Honor.

2 THE COURT: Thank you.

3 MR. NEWMAN: Nothing further.

4 THE COURT: Thank you. Excuse me.

5 May this witness be excused?

6 MS. OMODELE: She may, Your Honor.

7 THE COURT: Not subject to recall?

8 MR. NEWMAN: Not subject to recall.

9 THE COURT: Thank you for your time
10 and your testimony. You are excused.

11 THE COURT: Time for another one?

12 MS. OMODELE: I believe so, Judge.

13 THE COURT: Call your next.

14 MS. OMODELE: State calls Sandra
15 Manley.

16 MR. NEWMAN: Your Honor, may we
17 approach?

18 (At the Bench. On the record.)

19 THE COURT: Yes, sir?

20 MR. NEWMAN: Out of an abundance of
21 precaution I was noticed of three. One being the
22 deceased mother, one being the shrink and one being
23 Mrs. Manley. They can only pick one. I believe
24 Mrs. Reinke has, first of all, been identified as the
25 first adult she told. That was established through