

1 *THE COURT:* Right up here, please, Doctor.
2 Right up here, please. If you would, raise your right hand
3 to take the oath.

4 (*Witness sworn.*)

5 *THE COURT:* Have your seat, please. Just kind
6 of rearrange that microphone so we can all hear you.

7 You may proceed.

8 *MS. FULLER:* Thank you, Your Honor.

9 **PAUL G. STIMSON,**

10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 *Q.* (BY *MS. FULLER*) Good afternoon, Dr. Stimson.
13 Could you please state and spell your name for our court
14 reporter?

15 *A.* Yes, ma'am. My name is Paul G. Stimson,
16 S-T-I-M-S-O-N.

17 *Q.* Dr. Stimson, can you tell the jury a little bit
18 about yourself?

19 *A.* Yes. I was in the Navy, finished the Navy and then
20 went to San Diego State College in, obviously, San Diego.
21 In 1957 I was accepted to dental school in Chicago,
22 Illinois, at the university, Loyola University. Attended
23 there, graduated in 1961, then went to the University of
24 Chicago for what in those days was called a rotating
25 internship, which was all phases of dentistry in the

1 hospital. Now they call it general practice residency.

2 When I finished that, I was accepted into the
3 University of Chicago School of Medicine to work on a
4 master's degree in general pathology. I finished that in
5 1966 but in 1965 I moved to Houston and took a job as an
6 associate professor in the department of oral pathology at
7 the dental school and I taught oral and general pathology at
8 the dental school and till I retired in 19 -- I've been
9 retired 15 years. I've even forgotten when I retired. '97.
10 And during that time I got interested in forensic dentistry
11 and started working with the medical examiner in 1968 (sic).
12 The medical examiner at that time was on the staff of the
13 department of pathology in the dental school.

14 I'm boarded in the American Board of Forensic
15 Odontology, also boarded in oral and maxillofacial
16 pathology, which is an emeritus board because I'm retired,
17 it's retired, but the other board is active. I'm licensed
18 in the state of Illinois and also in Texas. My license in
19 Illinois is on reserve because I never used it or practiced
20 there.

21 Q. And you said that you retired 15 years ago. What
22 exactly did you retire from in 1997?

23 A. I retired from the University of Texas dental
24 branch.

25 Q. Okay. Since 1997, despite being retired from

1 there, have you still been working?

2 A. Yes, ma'am. I didn't retire my forensic practice.
3 I just retired from teaching at the dental school full-time.

4 Q. Okay. So, can you tell us a little bit about your
5 forensic dental practice that you have been active in since
6 then?

7 A. Well, forensic dentistry is the application of
8 dental skills to forensic matters and so the principal thing
9 that a forensic dentist does is identification of bodies
10 that are severely burned or perhaps fragmented and the only
11 portion that you have left is the mandible, upper or lower
12 jaw or the skull, or they are decomposed or skeletonized.
13 That's mostly what they do. We're also concerned in what's
14 called a standard of care, which is malpractice when a
15 dentist does something to a patient they shouldn't do; so,
16 we can review records and radiographs to determine whether
17 it was proper or improper. We're also concerned with child
18 abuse and injuries to the child caused by maybe a bite mark,
19 the teeth biting the child or abuse to the child in the oral
20 area. Also we're concerned about bite marks which are one
21 individual -- the first weapon that a child gets is a good
22 set of teeth. And so, bite marks continue from childhood on
23 up through adulthood and when two people attack each other,
24 it's not unusual for bite marks to occur and so, I've done
25 all of these over the years.

1 Q. Okay. I want to talk to you today specifically
2 about dental identifications of decedents. First of all,
3 are you employed full-time with the Institute of Forensic
4 Sciences or are you on a contract basis?

5 A. I'm on a contract per-case basis.

6 Q. So, you're not on salary with them. You're just a
7 consultant that they can bring in and you can do these
8 dental identifications, should they need it.

9 A. Yes, ma'am. I'm a contract worker.

10 Q. Okay. Now, can you explain to the jury just kind
11 of generally speaking, if they call you up and say we need
12 you to do a dental identification, tell us the process that
13 you would go through in order to start your portion of the
14 identification.

15 A. The first thing I do is I get the authorization of
16 the chief medical examiner through, obviously, the office
17 itself because it's against the rules to touch a deceased
18 individual without authorization. Once the authorization is
19 given, then I proceed to the morgue and ask to -- what is
20 the case about. They usually give me the paperwork about
21 the case, which means that there's been a medical
22 investigator who's been on the scene or on the telephone.
23 Most of the time on the scene. And so, I can read that and
24 get some idea of the scene. Then I ask to see the
25 photographs that are taken of the scene, just in case, you

1 know, there might be something of interest to me left at the
2 scene.

3 I don't have that problem now because they
4 have forensic anthropologists that work with the medical
5 examiner and so they go out and do a very good thorough
6 search but in the days when I first started, sometimes I'd
7 have to go back out to the scene because I'd be missing
8 teeth from the body itself. Don't have that anymore.

9 Then I ask to see pictures taken in the morgue
10 as the body is brought in of the body itself so that when I
11 go in to begin my examination, the pictures I saw fit the
12 case at hand.

13 Then I have a kit and I do what's called an
14 odontogram. I actually examine the mouth just like a
15 dentist would examine a mouth in a living individual. I
16 write up a chart, draw a chart. I used to take my own
17 photographs but now they have a medical legal photographer.
18 If I need any extra photographs, I ask them to take the
19 pictures for me. We do have an x-ray machine in the morgue.
20 So, I take radiographs. In the olden days I used to take
21 the little, like, films. Now we do digital -- digital
22 radiographs and these are then put into the system so that I
23 have a photographic, a written and a radiographic
24 examination of the individual.

25 Then I go back out to the investigators and

1 ask them if they have -- this is now what's called
2 postmortem or after-death examination. Then I go out to the
3 investigators and say, Do you have any dental records that I
4 can match this against? It's like taking a set of
5 fingerprints. You can't make an identification if you don't
6 have the fingerprints of the individual to match against.
7 So, I can't do anything without dental records and most of
8 the time they don't call me unless they have a set of
9 records or two records for me to make a comparison against.

10 Q. Okay. Now, once you are at the point where you
11 have done your examination, you've taken your radiographs --
12 and is a radiograph the same as an x-ray?

13 A. Yes, ma'am.

14 Q. Same term? Okay. So, you've done your -- you have
15 done your examination, you've taken your x-rays and you have
16 the decedent's previous dental records.

17 A. Uh-huh.

18 Q. Can you tell the jury what you look for in those
19 things to be able to make an identification of somebody, to
20 be able to say that this person matches up with these dental
21 records?

22 A. Well, yes. If you think about it, each tooth has
23 five surfaces. Front surface, the back surface, tongue
24 surface and the cheek surface and the chewing surface. So,
25 if you think 32 teeth times five, you mathematically

1 calculate this out, that's more than the population of the
2 world that you have just here. But I have to have a record
3 of each of those five surfaces. So, I've got lots of
4 material to think about and look at.

5 When you take a x-ray or a radiograph, one of
6 the things it does, it takes a picture of the tooth and the
7 surrounding substance around the tooth, the jawbone itself.
8 The jawbone has lots of little areas inside, like bridge
9 buttresses that are strengthening things in the bones. So,
10 you've got lots of those little patterns to look at.

11 The curvature of the root itself gives you
12 something to compare. Is it straight, is it curved, is it
13 crooked, is it overlapped. Then dental decay itself is a
14 disease. So, as the decay starts in the tooth, it's never
15 the same in each tooth. So, when the dentist works on this
16 tooth, he has to take out all the decayed area. Then he
17 fills it. Sometimes he has to put in an insulator or what's
18 called a base. Sometimes he has to protect the pulp.
19 Sometimes he'll have to take the pulp or the nerve out of
20 the tooth, use that. So, when he finishes, each filling
21 that's put in is unique to itself because of the disease.

22 It's like a cancer that affects a tooth. No
23 cancer is exactly the same. Some are big, some are little,
24 some are sticking out strange and so, all of these things
25 now give me a pattern to look at with the radiographs in

1 particular. It's like matching two sets of radiographs -- I
2 mean, fingerprints. So, this is essentially what you do
3 when you make your comparisons.

4 Now, a visual just with crooked teeth, with
5 fillings, with orthodontic appliances, those things, I can
6 try and use these, but I have to have whoever the dentist is
7 that did this come and make a visual comparison; so, I rely
8 almost exclusively on radiographs or x-rays.

9 Q. Okay. And is it fair to say that every person and
10 every tooth within every person is different, the appearance
11 of it is different?

12 A. Overall they're essentially the same but there are
13 subtle differences, yes, ma'am. I learned a long time
14 ago -- I used to look at radiographs and I could pick out
15 maybe five, six, seven or eight things and then I learned if
16 I would take it to a fingerprint examiner, who's used to
17 looking at all the little curls and swirls and such, they
18 finally taught me to use the same thing with the bony
19 trabeculae, which are these bridges, like I was saying, in
20 the bone so that now just two or three teeth -- one tooth,
21 pre-extraction radiograph is enough that you can find enough
22 material usually that it's unique enough you can make an
23 identification.

24 Q. Okay. So, in your experience, you can make an
25 identification off just one tooth?

1 A. I have, yes, ma'am.

2 Q. Okay. And how many years have you been doing --
3 making identifications based on dental records or based --
4 how long have you been making dental identifications?

5 A. I started this in 1968.

6 Q. Okay. Have you testified in courts in Harris
7 County on few or many occasions?

8 A. Yes, ma'am.

9 Q. Which one? Few or many?

10 A. Some years few, some years two or three. But I've
11 testified in Harris and adjacent counties over the years and
12 other states and cities as well.

13 Q. Okay. And have you been deemed an expert in your
14 field?

15 A. Yes, ma'am.

16 Q. Okay. I want to turn your attention to June of
17 2010. Were you contacted by the forensic -- Institute of
18 Forensic Sciences to make a dental comparison for them in
19 June of 2010?

20 A. Yes, ma'am.

21 MS. FULLER: Your Honor, at this time State
22 moves to admit State's Exhibit 124. This is a business
23 records affidavit that has been on file with the court for
24 greater than 15 days and tenders to defense counsel for
25 inspection.

1 *THE WITNESS:* Your Honor, may I have a glass
2 of water?

3 *THE COURT:* Absolutely. There should be some
4 cups there and I know that the water's fresh.

5 *MR. CORNELIUS:* No objection, Judge.

6 *THE COURT:* 124 will be admitted.

7 *MS. FULLER:* May I approach the witness?

8 *THE COURT:* You may.

9 Q. (*BY MS. FULLER*) Have you brought your records with
10 you concerning the identification you were asked to make?

11 A. Yes, ma'am. These are the records I generated and
12 were given to me by the medical examiner.

13 Q. Okay. First of all, when you are given a case by
14 the Institute of Forensic Sciences, do they assign the case
15 a unique identifier number that attaches just to that case?

16 A. Yes.

17 Q. Can you tell me what that unique number is in this
18 case?

19 A. Medical Legal 10-1866.

20 Q. Okay. And you stated that you were given dental
21 records that were given -- provided to you by the Institute
22 of Forensic Sciences; is that correct?

23 A. Yes, ma'am.

24 Q. Can you compare what you have to what I have here
25 in State's 124 and tell me if they are the same records that

1 you have.

2 A. Get back here to the dental portion.

3 Now, these are the same except in the records
4 I was furnished, there are the attached x-rays or
5 radiographs, which aren't here.

6 Q. Okay.

7 A. But this record is the same as this.

8 Q. Okay. And those radiographs or x-rays were
9 attached to the records that you were provided?

10 A. They were in the envelope that I was provided, yes,
11 ma'am.

12 Q. Okay. And can you tell me the name of the dentist
13 that provided -- that was the dentist in this case? Or for
14 the person?

15 A. These records came from Mathew Naftis, N-A-F-T-I-S,
16 D.D.S., 1214 West 43rd Street, 300, Houston, Texas, 77018.

17 Q. Okay. Now, when you were called in on this case,
18 can you tell me what the first thing was that you did on
19 this case?

20 A. Well, the first thing that I did, obviously I
21 request that the body be brought out of the morgue
22 refrigerator where it's usually kept. It's in a body bag.
23 You are given the medical legal number. I write the medical
24 legal number and the date on my postmortem dental
25 identification sheet and I compare that number to the body

1 bag number that's there. Then I open the case itself --
2 usually they're in a plastic bag called a body bag -- I
3 unzip that. I check the number again with the tag on the
4 body itself so that I'm making sure -- because many times
5 the bodies I work on are on a -- I mean, they're human
6 remains but they have no features or anything because
7 they're usually decomposed or badly burned, something like
8 this. So, you make sure that the numbers stay exactly the
9 same.

10 Then I go ahead and do what I call an
11 after-death or postmortem odontogram. I chart all the teeth
12 that are there, all of the situations that I can see
13 visually, all the fillings, missing teeth, unusual features,
14 all these things and so this then gives me a written record
15 or an odontogram, if you like. So, this is basically what I
16 do.

17 Q. Okay.

18 A. When I finish that, then I go ahead and take my
19 after-death radiographs. They're the same kind of x-rays.
20 I try and get exactly the same kind of x-rays taken on the
21 body that you would have taken in a dental office so that I
22 can compare apples to apples because if I do something
23 different, then it's hard to compare. So, I try and keep
24 everything standardized and the same as it is in the dental
25 office. Once I get the radiographs and the odontograph

1 done, then I've completed the examination on the body.

2 If there's some unique things or large
3 fillings or whatever, I'll contact the forensic
4 photographer, have them come and take pictures of this. So,
5 this, too, then becomes part of the total examination.

6 Sometimes I can open the mouth because the individual is
7 deceased, I can do cuts -- because no one's going to view
8 this body in a funeral home; so, I can do some things that
9 ordinarily you can't do unless the body is what's called
10 viewable. If it's someone that looks like me and you can
11 see them in a casket, then obviously I have to just open the
12 mouth; I can't do these other techniques.

13 But then we take a series of photographs, if
14 they're deemed necessary, then I've completed that phase of
15 the examination. I'm now ready to make some comparisons.

16 Q. Okay. I want to -- before we get into the
17 comparisons, can you tell me, based on the examination that
18 you did in Medical Legal 10-1866, can you tell me some of
19 the things that you learned about this person's teeth, jaw,
20 whatever? What did you learn from your examination of the
21 remains?

22 A. Well, the individual, as you can see in the
23 odontogram, has an -- only had two teeth remaining in the
24 upper jaw and some teeth remaining in the lower jaw. So,
25 this tells me that the individual probably had what we would

1 say is periodontal disease, pyorrhea, gum disease, whatever
2 you would like, and for whatever reason, decided instead of
3 having the teeth repaired, to have them removed. And so,
4 there are lots of teeth up here removed. There are still
5 teeth in the lower jaw. So, when you make the comparison,
6 you hope that, you know, you have a full set of radiographs
7 of all the jaws but you work with what you get from the
8 dentist that submits the records.

9 Q. Okay. Now, let me ask you real quick. Can you
10 tell the difference between a tooth that has been pulled
11 versus a tooth that has maybe fallen out after the person
12 died and it's fallen out of the socket at that point?

13 A. An extraction versus an exfoliated or a tooth that
14 has fallen out, the posterior teeth have multiple roots and
15 most of the time those multiple roots keep them anchored in
16 the jaw. The front teeth only have one root and so when the
17 body begins to decompose, the little fragments that hold it,
18 the periodontal membrane begins to decompose and you can
19 lose single-rooted teeth very easily.

20 When a tooth is extracted, normally the
21 dentist has to move it to get some room so it will slide out
22 of the bone. The bone is pretty tight and so they pressure
23 it and expand and compress the bone so it will slide out
24 easier. So, you can look for that. But most of the time in
25 a badly decomposed body, the radiograph tells you if it's

1 extracted or exfoliated.

2 Then you look for if it's recently fallen out,
3 there will be just a hole in the bone. If it's been out for
4 a while, depending on how long it's been since the tooth was
5 removed, there will be some filling in of the bone cavity,
6 which the jaw now repairs itself and so you can look at that
7 and make an estimation of how long the tooth has been (sic).
8 But this is the difference that you make between the two.

9 Q. Okay. So, in this case, in Medical Legal 10-1866,
10 at some point you took x-rays of some of the teeth remaining
11 in the jaw; is that correct?

12 A. Yes.

13 Q. Okay.

14 MS. FULLER: May I approach the witness?

15 THE COURT: You may.

16 Q. (BY MS. FULLER) I want to show you what's been
17 marked as State's Exhibits 127 and 128. Do you recognize
18 those?

19 A. Yeah, these are blow-ups of the radiographs. I
20 took a full set of radiographs of all of the teeth that were
21 present in the mandible and maxilla. Unfortunately in the
22 upper jaw, there were only two teeth left. And so, we
23 didn't have much to compare with. And you don't realize --
24 I mean, I didn't -- I don't know that until finally I open
25 this and the only thing that the dentist of record sent me

1 were radiographs of the upper jaw and there were lots of
2 teeth here but unfortunately he extracted most of them and
3 left these.

4 Q. Okay. Now, are these fair and accurate pictures of
5 the x-rays that you took of Medical Legal 10-1866?

6 A. Yes, ma'am.

7 MS. FULLER: Your Honor, at this time State
8 moves to admit State's Exhibits 127 and 128, tenders to
9 defense counsel for inspection.

10 MR. CORNELIUS: No objection.

11 THE COURT: They will be admitted.

12 Q. (BY MS. FULLER) Now, Dr. Stimson, can you tell us
13 the name of the patient that was treated by Dr. Mathew
14 Naftis?

15 A. The individual's name I have on the dental record
16 is Linda, L-I-N-D-A, Hartsough, H-A-R-T-S-O-U-G-H.

17 Q. Okay.

18 A. And it has an address and a phone number, and the
19 date that the records were produced was 11-07-03.

20 Q. Okay. Now, when you went into the comparison stage
21 of your identification, can you tell us a little bit about
22 what you did in terms of making the comparison itself? And
23 if you'd like me to put these up, if that helps in
24 illustrating.

25 A. Well, you can put them up but this is the

1 radiograph. I'm comparing those to this --

2 MS. FULLER: May I approach, Your Honor?

3 A. -- which is kind of unfair because basically those
4 are digital radiographs. When I took the digital
5 radiographs, it's this size. And so, when the Medical
6 Examiner's Office, I say I need copies of them, of this,
7 this is the size I get. And so, if you can visualize in
8 your mind, what I'm looking at digitally on my computer
9 screen is the same size as this. It's not this. I mean,
10 this is, like, matching a Mack truck to a Volkswagen. It's
11 difficult to do. And so what I did, I had two Volkswagens
12 that I matched but when they sent this here, they sent us a
13 Mack truck instead of a Volkswagen.

14 Q. (BY MS. FULLER) Okay. At some point you make a
15 comparison between the teeth, correct?

16 A. Yes, ma'am.

17 Q. All right. I'm going to put up State's Exhibit 127
18 and your screen there to your right, you can look at that
19 and you can touch it. Can you tell me, when you looked at
20 the x-rays that you took and you compared them to the
21 medical -- the dental records that you received on a patient
22 by the name of Linda Hartsough, can you tell me what you saw
23 that -- if any, similarities between those two pictures.

24 A. Yes, ma'am.

25 Q. X-rays.

1 A. First we look at these things. Pardon me while I
2 draw some pictures here. Those are the anatomy that's
3 present there. When you take a radiograph, it's like when I
4 take a picture of this pot, the x-ray goes clear through it
5 and takes everything that's on the pot and stacks it on the
6 picture. So, we get the front, the back, the side, the top,
7 the lid, the hook, everything and so in the individual's
8 mouth itself, all the anatomy that's present, even though
9 it's there and it's curved and stuff, it all gets stacked
10 in. So, the first thing you do when you're making a
11 comparison is to see that the anatomical outlines of
12 everything are the same, and they were.

13 Then you can see we have two fillings here.
14 This one isn't as good as it should be. And so, when I'm
15 comparing my two Volkswagens now, I look at these two. I
16 also now have a computer screen with the digital x-rays and
17 this in my hand or these, I can then take a magnifying glass
18 and magnify the small little areas of the filling, the areas
19 of the pulp, the curvature of the pulp. Sometimes there are
20 things inside. I've got this all kind of messed up here.
21 I'm sorry.

22 Q. You want me to clear that, Dr. Stimson?

23 A. But anyway, you look at all of these things and the
24 more things you find that are similar, the better you feel
25 making this.

1 The forensic folks say that you need -- well,
2 in fingerprints you need, in the state of Texas, six to
3 eight similar things got to be the same. When I do forensic
4 examinations on teeth and stuff, just as an arbitrary thing,
5 I say ten is the minimum. And then I keep looking and so,
6 when I get to 15, 18, 20, then I feel pretty certain that
7 it's pretty unique that I have this and so I can say odds
8 are that 99.999 times out of a hundred this is who it is.
9 But in nature, you know, there may be one extremely similar
10 to this somewhere in the world but I don't have that to
11 examine so I have this and so -- but I feel confident in
12 saying, yes, this is how I do it and what I do.

13 Q. Okay. And that one --

14 A. It would be nicer, obviously, to have all of these
15 to compare it to because there are root canal fillings and
16 such but I don't have those. They're all extracted. So, I
17 work with what I have.

18 Q. Okay. Now, in this case, ML10-1866, after you
19 compared the dental x-rays that were provided to you and the
20 x-rays that you took, were you able to make a dental
21 identification of who these remains belonged to?

22 A. Yes.

23 Q. And who did you make that identification of?

24 A. Based on -- well, there were no irreconcilable
25 differences. What do I mean by that? There weren't

1 things -- I have a record here that's '03 and the
2 radiographs were taken in '06. I did this in 2010. The
3 individual may have gone to other dental offices and had
4 other fillings done and those sorts of things. I don't have
5 any of those problems. So, I didn't have any of those. So,
6 there is sufficient detail here now to establish this is, in
7 fact, the same individual. And so, based on dental
8 reasonable probabilities, I would say that these radiographs
9 and this record with this name on it matches the individual
10 that I took my records from in the morgue.

11 Q. Okay. And can you tell us again what that
12 individual's name would be?

13 A. Linda Hartsough, H-A-R-T-S-O-U-G-H, as portrayed in
14 the records of Dr. Mathew Naftis.

15 Q. Okay. So, you -- it is your expert opinion that
16 Linda Hartsough, her remains are what the Institute of
17 Forensic Sciences has labeled as being Case No. 10-1866?

18 A. Yes, ma'am.

19 MS. FULLER: Pass the witness, Your Honor.

20 THE COURT: Mr. Cornelius.

21 **CROSS-EXAMINATION**

22 Q. (BY MS. FULLER) Dr. Stimson, my name is Skip
23 Cornelius. We've met and talked about this case before at
24 another time, haven't we?

25 A. Yes, sir.

1 Q. Okay. So, if I'm getting this, and some of it I'm
2 not getting, but you made your comparison based on two
3 teeth.

4 A. Two teeth, the bony pattern, the outline of the
5 fillings and the bony -- of the normal anatomy that's
6 present there, yes.

7 Q. But of only two teeth, right?

8 A. Of the two teeth -- well, there are more in the
9 individual but the records I was given, there were only two
10 teeth left in the radiographs to compare this individual to.

11 Q. Okay. So, your identification, such that it is, is
12 based on your observation of those two teeth and the bones
13 around them?

14 A. And the supporting structure and the anatomy of the
15 individual, it's the -- herself, yes.

16 Q. I don't understand what that means.

17 A. That's portrayed -- when you take an x-ray, all of
18 the picture, all of the materials here in your jaw are put
19 on the film, along with the tooth itself. And so, as I
20 showed you earlier, I showed you the normal anatomy that's
21 present, not only in my radiographs I took but also in the
22 radiographs that were furnished and so those two are the
23 same. Then you look at the bony outlines. The tooth is
24 supported by small little areas in the bone that are like
25 the wires and buttresses and such you see on a bridge for

1 strength. And these are called trabeculae. So, you look at
2 all the trabeculae in the bone as well. This now gives you
3 the pattern so that those two are the same. So, I have the
4 same anatomical pattern, I have the same interstices or the
5 supporting structure, the curvature, the root is the same,
6 the root structure itself, the pulp chamber is the same, the
7 outlines of the metal fillings are the same and so, as I'm
8 going along now, I'm putting more numbers together. So,
9 yes, I can do it on two teeth in this radiograph.

10 Q. Okay. I understand what you're saying but we're
11 only talking about, I guess, the gross jaw structure and two
12 teeth.

13 A. No, we're talking about the bone pattern, the
14 anatomic --

15 Q. Hold on. When you say "the bone pattern," the bone
16 pattern of what?

17 A. The bone pattern in the radiographs from the
18 individual, both before death and after death.

19 Q. From the individual's what? The bone pattern of
20 what? The jaw?

21 A. The jaws.

22 Q. Okay. So, the jaw.

23 A. The jaws, yes.

24 Q. So, that's the bone pattern. The jaw, to you,
25 looked the same, the bone pattern of the jaw.

1 A. The bone pattern and the normal anatomy that should
2 be in the radiographs are the same in both, yes.

3 Q. Okay. What is that? The normal anatomy, what is
4 that?

5 A. It's, you know, the individual -- let's say they
6 were in an auto accident, the anatomy may be changed because
7 there would be a fracture.

8 Q. So, no fracture was --

9 A. And it's healing. No fractures, no.

10 Q. Because there was nothing there but bone. I mean,
11 the only thing that was left on this body was bone. Did you
12 know that?

13 A. Yes, it's skeletal remains.

14 Q. Okay. So, there would be nothing to look at other
15 than the bone.

16 A. Bone and the teeth.

17 Q. Okay. So, the jawbone and two teeth.

18 A. Correct.

19 Q. Okay. There's really nothing else, right?

20 A. No, she had a lower jaw with lots of fillings in it
21 but I had from the dentist -- the only thing I could use for
22 comparison was one radiograph of two teeth. The others were
23 extracted.

24 Q. Okay. So, are you telling the jury that part of
25 your comparison is based on the lower jaw or not?

1 A. No.

2 Q. No, it's not based on the lower jaw?

3 A. I did not -- I could not use the lower jaw because
4 the only radiographs I was furnished were those of the upper
5 jaw.

6 Q. Okay. So, your comparison has nothing to do with
7 the lower jaw? We're talking --

8 A. I couldn't compare anything in the lower jaw
9 because I was not furnished any records. There were other
10 dentists that have those records but I didn't have those
11 furnished to me.

12 Q. I'm not being critical of how you did it. I'm just
13 trying to quantify exactly what your comparison is based on
14 and I'm trying to make sure the jury understands it's not
15 based on the lower jaw because you didn't have any records
16 of the lower jaw.

17 A. No records of the lower jaw were furnished me. I
18 have my own records of the lower jaw.

19 Q. But nothing to compare it to.

20 A. Nothing to compare it to.

21 Q. Okay. So, we can eliminate the lower jaw as part
22 of the basis of your comparison.

23 A. Correct.

24 Q. And then in the upper jaw, you had a jaw with two
25 teeth, right?

1 A. Yes.

2 Q. Okay. And so, the jawbone itself, which is all you
3 had of the upper jaw, looks the same to you, the bone
4 structure. Is that what you said?

5 A. The radiographs of the two are the same.

6 Q. All right.

7 A. Antemortem and postmortem. Before death and after
8 death, they're the same.

9 Q. Okay. Now -- today you're saying the same. I
10 noticed when you testified before in another hearing in this
11 case, correct?

12 A. Yes.

13 Q. And you said that in your 40 years of experience it
14 was very unlikely that someone else would have the same.
15 You didn't say they were exactly the same. "It's very
16 unlikely" is the way you phrased it before.

17 A. That's true, I mean, what are we saying? I'm --
18 somewhere in the world it's conceivable, because in nature
19 it's conceivable someone could exist with this similar
20 situation very close but --

21 Q. Okay.

22 A. I don't have time to examine 2 billion people; so,
23 I could say this is it.

24 Q. Okay. So, okay. I'm confused on the dates. You
25 said something's in 2003, something's in 2006 and then --

1 A. The written record, the date of the exam is
2 11-7-03. That's the initial exam.

3 Q. Is that --

4 A. And then there are some --

5 Q. Hold on one second. If you go fast, I get lost.

6 MR. CORNELIUS: Where is the document that's
7 in evidence?

8 Q. (BY MR. CORNELIUS) Now, this is the only document
9 that's in evidence. And this, you said, is just like yours
10 except it doesn't have the radiographs and it's dated when?

11 A. 11-7-03 was when this record was started. After
12 that the dentist saw the patient and did other examinations
13 and fillings and such and that's over here.

14 Q. Is that 2006?

15 A. Looks like the extractions were done -- it's
16 indistinct here but that looks like '04 and then there's
17 some more extractions here in '06 and some more in '06. So,
18 the initial exam and health history and such is done in '03
19 and then as the dentist progressed, they did these other
20 extractions and such and this is consistency in the record
21 of when they were done.

22 Q. Okay. And so, this, which is in evidence now, is
23 State's 124, does not include the radiograms that you used.

24 A. No, because they stayed with the case that is with
25 the medical examiner because this is what the identification

1 was made on and so we need proof of the before death with
2 the after death to keep in the medical examiner's record to
3 show proof. That's like two sets of fingerprints; we need
4 to keep those on file.

5 Q. Now, are the radiographs that you're telling the
6 jury about, are they dated?

7 A. Yes. I read on the radiograph 5-8-06.

8 Q. Okay. And so, you made your own radiograph of the
9 stuff the medical examiner had, the jaw itself?

10 A. That's correct.

11 Q. Where is that?

12 A. Those records are in the digital repository in the
13 Medical Examiner's Office.

14 Q. Okay. Did you talk to this dentist that provided
15 these records?

16 A. No.

17 Q. So, you didn't consult with him in any way?

18 A. No. I have all I need to make the comparisons, are
19 his radiographs.

20 Q. Okay. But you did not consult with him.

21 A. No.

22 Q. And did anybody from the ME's Office, as far as you
23 know, consult with him?

24 A. They had to consult with him to ask to get the
25 records.

1 Q. But I mean, consult with him about this lady's
2 teeth?

3 A. I doubt that, no.

4 Q. Okay. Well, you've consulted with a dentist before
5 when you're trying to make an identification, haven't you?

6 A. Yes.

7 *MR. CORNELIUS:* Could I have just a moment,
8 Judge?

9 *THE COURT:* Sure.

10 Q. (*BY MR. CORNELIUS*) Before when you testified did
11 you say something about the radiographs were taken at
12 slightly different angles and that made it difficult for you
13 to make the identification?

14 A. I don't recall saying that but if you have the
15 written record, then obviously I did. One of the things you
16 attempt to do is sometimes I go ahead and take the
17 radiographs -- I used to teach radiology in the dental
18 school -- and so I take the radiographs exactly the same way
19 that I would in a normal living patient. The records that I
20 get sometimes aren't taken that way and so sometimes I have
21 to go back and take a second set of radiographs with
22 differences in angulation so that I can make a proper
23 comparison because the angle in the original radiograph
24 taken by the examiner may not be exactly the way that it
25 should be; so, sometimes you have to go back and make the

1 second set of radiographs that you take match those closer.

2 Q. Okay. Did you testify at the other hearing that
3 you had four teeth to compare?

4 A. I don't recall.

5 MR. CORNELIUS: May I approach the witness?

6 THE COURT: You may.

7 Q. (BY MR. CORNELIUS) This is a transcript. You
8 can't read it out loud because it's not in evidence. But
9 you can see this is your testimony. And what I was reading
10 is this part here about the radiograph, just read that to
11 yourself and then I'll ask you if that refreshes your
12 memory.

13 A. I said --

14 Q. Before you start telling what's in this -- you
15 don't have to say what's in there. It's not in evidence
16 yet. Does it refresh your memory, though? Do you remember
17 giving this testimony?

18 A. Yes.

19 Q. Okay. All right. Then -- and you've read it?

20 A. I read it.

21 Q. Let me sit down and ask you some questions about
22 it.

23 THE COURT: And let's do this. Ladies and
24 gentlemen, why don't we go ahead and take our afternoon
25 break. We'll be in recess until 3:15.

1 (Jury not present.)

2 (Recess.)

3 (Jury present.)

4 THE COURT: And Mr. Cornelius, you may
5 proceed.

6 Q. (BY MR. CORNELIUS) Dr. Stimson, before we left, I
7 was letting you look at part of the record. You articulated
8 to the jury the various things that make this identification
9 difficult and I thought when you testified before your
10 identification was based on four teeth, not two. Was I
11 wrong about that?

12 A. Well, in reading the record and looking at my
13 record, I inadvertently said four teeth. It should be
14 three. I have three teeth --

15 Q. I'm sorry?

16 A. Three teeth in the maxilla.

17 Q. Three?

18 A. To make the identification from. Inadvertently in
19 the first hearing I said four.

20 Q. Okay. So, it's not two, it's not four. It's
21 three.

22 A. It's three.

23 Q. Where is the third tooth?

24 A. The third tooth is the maxillary right cuspid or
25 eyetooth.

1 Q. Okay.

2 MR. CORNELIUS: May I look at the exhibits,
3 Judge?

4 Q. (BY MR. CORNELIUS) It's not that tooth, the small
5 tooth there?

6 A. No. I made the comparisons with the two molar
7 teeth and the x-rays of the two molar teeth and the fillings
8 in this. The other canine tooth, I just looked at it and
9 they didn't include that radiograph. I used it in the
10 comparison but they didn't include it to be submitted.

11 Q. Okay. 127 and 128, the one on the board's 127,
12 that's the same -- it's just a different picture of the same
13 two teeth, right?

14 A. That's just the posterior tooth. That's the second
15 molar that you have there instead of -- where your thumb is
16 is the first molar.

17 Q. Okay. But is one --

18 A. It's one tooth back. The two teeth are here and
19 the x-ray you have is one tooth back and beyond it.

20 Q. Is that the third tooth? I'm --

21 A. Yes.

22 Q. Okay. So, is this two different teeth up here?

23 A. That's right. There are two molars.

24 Q. And this is a different tooth?

25 A. That's the furthest tooth back.

1 Q. Okay. All right. So, those are the three teeth
2 we're talking about?

3 A. No. This is two out of the three teeth. The other
4 tooth was the eyetooth that they didn't send a picture of
5 from the morgue but I used it in the comparison.

6 Q. Okay. Did you use this in the comparison?

7 A. Yes. That's part of this.

8 Q. Okay.

9 A. It's like two trees and we took a picture of them
10 together and then took a picture of one tree and missed the
11 other. It's next to it.

12 Q. Okay. All right. All right. I'm with you. Got
13 it. I guess the reason I'm dwelling on this is because last
14 time your testimony was you testified it was most unlikely
15 someone else would have the same situation in their mouth.
16 Those were your words, right?

17 A. That's correct. I said earlier in this testimony,
18 99.9999. Same thing. Same meaning, we're talking words,
19 now but it's practically impossible.

20 Q. Well, you know, when we are here in court and we
21 get a fingerprint identification, I mean, they don't say,
22 most likely or it's unlikely somebody else had the same
23 fingerprint. They say it is the same fingerprint. There is
24 no question but that's the same fingerprint. There is no
25 other fingerprint like that one in the world. That's what

1 they say. That is not what you're saying, though, and not
2 what you said last time. You're using words like "most
3 likely" or "99.9 percent" and stuff. And so, I'm just
4 trying to make sure I understand that.

5 A. Well, as a forensic scientist, they have never
6 proven beyond a reasonable, unequivocal doubt that there
7 aren't two sets of fingerprints that are exactly the same.
8 And so, based on that, I can't say these two are exactly the
9 same.

10 Q. Now, if I subpoena you as a witness in my next case
11 with fingerprints, will you testify to that?

12 A. It's in the literature. In fact, there are some
13 jurisdictions having difficulty with fingerprints now.

14 Q. I'll have to visit with you about that.

15 By the way, what -- how do you get compensated
16 for coming down here and testifying?

17 A. I'm compensated -- when I do the initial case, it's
18 on a per-cost basis and this testimony is included in that
19 per-cost basis.

20 Q. And who pays that?

21 A. The county, Harris County.

22 Q. Okay.

23 MR. CORNELIUS: May I approach the witness?

24 THE COURT: Sure.

25 Q. (BY MR. CORNELIUS) Do you know what this says on

1 the back -- this is State's Exhibit 24 (sic) -- what this
2 says back here? Can you read that? You were saying you
3 thought it was extractions.

4 A. Well, one of the problems that we have with
5 physicians, dentists, lots of folks, is they write in
6 hieroglyphics.

7 Q. Uh-huh.

8 A. Their penmanship is not very readable. I can more
9 or less figure this out because he has tooth numbers, like
10 No. 10, okay? Over here in my numbering system, this is
11 Tooth No. 10, which would be the maxillary left lateral.
12 That was extracted. You can see some of these others. He
13 didn't extract all of the teeth that this individual has had
14 extracted. I have one that has an open socket here. So,
15 some were so badly diseased they eventually fell out. So,
16 this individual that we identified did have very, very poor
17 oral health and periodontal situations but this is always a
18 problem in identification is taking the antemortem or
19 before-death record and making it into a nice, comply --
20 nice record like I make that I print and you can read it.
21 Sometimes it's difficult. And this record does have some
22 difficulty in it. It's hard to read. The handwriting is
23 terrible.

24 Q. But you think that that's a record of extractions,
25 some in 2004 and some in 2006.

1 A. It is a record of extractions from the dentist.

2 Q. Okay. All right. And you never talked to that
3 dentist, correct?

4 A. No.

5 MR. CORNELIUS: I'll pass the witness.

6 MS. FULLER: Just one question, Your Honor.

7 **REDIRECT EXAMINATION**

8 Q. (BY MS. FULLER) Dr. Stimson, can you tell me the
9 date that you did your dental comparison and found that the
10 remains were Linda Hartsough?

11 A. Pardon?

12 Q. Can you tell me the date that you made the dental
13 comparison?

14 A. Yes, ma'am. 6-28-2010. June, 28, 2010.

15 MS. FULLER: Pass the witness, Your Honor.

16 MR. CORNELIUS: Nothing further, Judge.

17 THE COURT: May this witness be excused?

18 MS. FULLER: Yes, Your Honor.

19 MR. CORNELIUS: Yes, Your Honor.

20 THE COURT: Thank you, Doctor. You are free
21 to go. Please do not discuss your testimony with any of the
22 other witnesses.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Thanks so much.

25 THE WITNESS: I'll take my water so somebody