

1 MS. FULLER: He's not.

2 THE COURT: Ladies and gentlemen, why don't I
3 have you step in the jury room. As soon as the witness gets
4 here, we'll bring you back.

5 *(Jury not present.)*

6 *(Recess.)*

7 *(Jury present.)*

8 THE COURT: All right. And State, back to
9 you. Please call your next witness.

10 MS. FULLER: State calls Dr. Paul Stimson.

11 THE COURT: Come on back up, Doctor. If you
12 would, come around here, please. If you would, please raise
13 your right hand to take the oath.

14 *(Witness sworn.)*

15 THE COURT: If you would, have your seat. And
16 if you would, please state and spell your name for my court
17 reporter.

18 THE WITNESS: My name is Dr. Paul G. Stimson,
19 S-T-I-M-S-O-N.

20 THE COURT: You may proceed.

21 MS. FULLER: Thank you, Your Honor.

22 **PAUL G. STIMSON,**
23 having been first duly sworn, testified as follows:

24 **DIRECT EXAMINATION**

25 Q. (BY MS. FULLER) Good afternoon, Dr. Stimson.

1 Would you please tell the jury a little bit about your
2 educational background?

3 A. Yes, ma'am. After high school I spent four years
4 in the Navy as a hospital corpsman. Was honorably
5 discharged, then went to San Diego State College and three
6 years later entered Loyola University Dental School in
7 Chicago, Illinois. That was 1957. Graduated from there in
8 1961. Then I went to the University of Chicago Zoller
9 Clinic, spent a one-year rotating internship, then entered
10 the graduate program at the University of Chicago and in
11 1960 -- well, I graduated in '66 but in '65, I had completed
12 everything to get a master's degree in general pathology at
13 the University of Chicago Medical School. I was offered a
14 job at the University of Texas Dental Branch. So, I came
15 here in 1965 and began to teach oral pathology and
16 radiology. 1968, we had the then-current medical examiner,
17 Dr. Jachimczyk, on the staff and he started having some
18 problems with patients -- patients. They were his patients.
19 With individuals for dental identification. So, I started
20 doing that in 1968, at the same time was teaching pathology
21 and got to be a consultant with M. D. Anderson next door for
22 25 years. I've written about 40 to 50 scientific articles.
23 I'm boarded by the American Board of Oral and Maxillofacial
24 Pathology. That's now an emeritus status, which means
25 retired, but I'm active with the American Board of Forensic

1 Odontology, served all offices in that, was president and
2 currently am senior consultant in forensic odontology to the
3 medical examiner of Harris County. Taught at the Armed
4 Forces Institute of Pathology in forensic dentistry or
5 forensic odontology, whatever you want to call it, for 30
6 years. Taught at the symposium over in San Antonio.
7 They've had 17 and I've taught in every one. I have written
8 four textbooks on this. The last one, second edition of the
9 last textbook, came out February of last year. So, that's
10 kind of who I am.

11 Q. Is it fair to say that you've been deemed an expert
12 in the field of oral pathology?

13 A. Oral pathology and forensic dentistry, yes, ma'am.

14 Q. And have you testified in the courts of Harris
15 County as an expert on few or many occasions?

16 A. Many.

17 Q. Okay.

18 A. I don't know what you classify as "many," but I've
19 testified here in bite marks and dental identifications.

20 Q. Okay. Can you tell the jury a little bit about
21 what oral pathology and forensic dentistry is?

22 A. Well, oral pathology, oral and maxillofacial
23 pathology is the study of diseases of the oral cavity. That
24 includes teeth and gums and surrounding structures, salivary
25 glands that secrete and make your saliva for you. The lymph

1 nodes that are here and all of this is connected to all of
2 the rest of the body. And so you learn pathology and then I
3 would also go over to M. D. Anderson and look at specimens
4 and materials over there.

5 So, in oral pathology what the local dentist
6 does is he suspects you have something in your mouth that's
7 unusual. So, two things can happen. He can send it to
8 another individual that's a specialist, which may be a
9 periodontist, an oral pathologist, an oral medicine person.
10 They can then look at it and say, well, I think that it is,
11 but let's take a biopsy. When they take a biopsy, they
12 actually incise into the tissue, take a small piece of it,
13 send it to us, the oral pathologist. We take it in the
14 laboratory, cut small samples of it, look at it under the
15 microscope and say, well, it's benign, it's malignant or
16 it's this or it's that. So, this, then, is the practice of
17 oral pathology.

18 Forensic odontology, that is where any dentist
19 that's skilled can read radiographs and look at things
20 because what you're doing is comparing dental records of
21 post-death to pre-death. And we also look at dental records
22 to see that the dentist treated the patient right and
23 properly and did what was right and proper. That's called
24 malpractice. Unfortunately in some cases we're called in to
25 look at the injuries to children because that's called child

1 abuse.

2 Sometimes we're called in -- what we were
3 doing before I retired was we have illegal aliens in the
4 Country and the Government is interested in the illegal
5 aliens with a cut-off date of 18 years. If you're 18 years
6 or older, you're treated as an adult. If you're less than
7 18, then you're treated as a juvenile or a child. So, we
8 would take radiographs and look at the development of the
9 third molars and assist the Federal Government this way, to
10 say they're over 18 or they're under 18 or it's 18 plus or
11 minus a year. We can't make the decision. You interview
12 them. You make the decision. So, basically that's what
13 forensic odontology does.

14 Q. Okay. Now, you stated that you're currently a
15 consultant with the Institute of Forensic Sciences?

16 A. Yes, ma'am, and I'm licensed in the state of Texas
17 to do that.

18 Q. Okay. Do you see patients anymore?

19 A. No.

20 Q. Okay. You're retired from that part of your
21 practice?

22 A. Yes. Well, I would -- I could see patients
23 because, like I say, I'm still licensed but most of the
24 students that I know, you know, they call me and I say, you
25 know, can you refer them to so-and-so and such-and-such.

1 It's just -- I'm retired. I'd like to stay that way, except
2 for my forensic activity.

3 Q. Okay. I want to call your attention to this case.
4 Were you called to bring in -- were you called to come in
5 and make a dental identification on a particular case?

6 A. Yes, ma'am.

7 Q. Specifically, ML10-1866?

8 A. Yes.

9 Q. Okay. Do you recall what day you were brought in
10 to do that identification?

11 A. My records show it was June 28th, 2010.

12 Q. Okay. First, before we go into specifically what
13 you did in this case, can you tell me, is it possible to --
14 how is it possible to identify people from their teeth?

15 A. Well, the forensic dentist's best friend is a
16 radiograph or a photograph. If you have photographs of
17 unusual dentition, for example, someone has very, very
18 crooked anterior teeth or they have unusual fillings in the
19 anterior teeth, like I've seen cases where individuals have
20 gold teeth with diamonds put into their -- I mean, that's
21 kind of unusual. So, you could take a picture before and
22 look at an individual after and say, yeah, that's unique
23 enough, I mean, I don't know a lot of people with diamonds
24 in their front teeth or stars or these sorts of things but
25 what you do is you compare the written record. Sometimes we

1 have trouble with written records, though, because it's easy
2 to substitute right for left and upper and lower or, you
3 know, instead of a molar tooth, you put it in a premolar
4 tooth or inside of a first molar, second molar. So, x-rays,
5 radiographs, are a dentist's best friend. And you take an
6 x-ray of a tooth and that's how it is. It doesn't change.
7 You can tell right and left because the radiograph has a
8 little dot in the film. So, you just have all of the
9 pre-death records that you get from the dentist.

10 The stickler for forensic dentists is I need
11 to know the dentist and we need to go to the dentist with
12 the name of an individual because if I just call them and
13 say, you know, do you have the records of Ms. Tilly Brown,
14 Tilly Brown, who is she, you know. If I could describe
15 something unusual in Ms. Brown, maybe he'd remember but, you
16 know, the average dentist sees, what? Ten patients a day
17 and he's been in practice ten years. I don't remember.

18 So, anyway, we get the dental records and the
19 x-rays, then when I get to the morgue, I always look at the
20 scene pictures, just in case there's something unusual or
21 they left something at the scene. I'm blessed that I work
22 with forensic anthropologists at the forensic institute and
23 they gather bones and teeth and all of these kind of things.
24 So, my job is now made easier because they're there to help
25 me. But anyway, I look at the scene pictures and then

1 usually I look at the decedent, the pictures of the decedent
2 that they take at the morgue because this helps me if I go
3 in and I'm supposed to examine a female and a male body
4 shows up, then I know there's a problem, they brought me the
5 wrong body or the numbers are mixed up or something. And
6 then I just go ahead and do a routine examination like I
7 would in a living patient.

8 Q. Okay. Now, specifically with the teeth, you
9 started to say that if somebody had dental work done to
10 their teeth, that that is one of the ways that you can
11 identify them if you have their dental records to show what
12 dental work was done. Is that fair to say?

13 A. If I have the radiographs, better than the dental
14 records because a dental record is just a drawing or a
15 description of what was done.

16 Q. Okay.

17 A. And if you think about teeth, each tooth is unique
18 and when you have a disease process in it called decay,
19 that's unique, too. It may eat out the tooth a little bit,
20 eat it out more, it may go more to the left, to the right,
21 the front, to the back, down to the pulp. So, each time the
22 dentist puts a filling in, it's unique. He has to take out
23 the diseased material and then maybe put a insulating
24 material in that we call a base and then he either puts in
25 silver filling or gold filling or now they have composite,

1 the tooth-colored fillings, and so each one that he puts in
2 is unique in the tooth and so this uniqueness then allows us
3 ultimately to look at the radiograph of the patient that was
4 alive, look at the same radiographs we've taken in the mouth
5 and compare the two like a fingerprint.

6 Q. Okay. So, you are -- you have from the dentist the
7 x-rays that are taken. You actually look at the -- look at
8 an x-ray, the teeth or the jaw that is -- that -- on the
9 victim, let's say, and you can compare those to x-rays and
10 look at the unique tooth qualities to make an
11 identification?

12 A. What I do in the morgue is we have a dental
13 radiographic set-up and it's digital x-rays and so I take
14 radiographs and it ends up ultimately on a computer screen,
15 then I have, like in this case, we have the x-rays that are
16 sent in from the dentist. So, I look at that and look at
17 the other x-rays and just match -- make the comparisons.
18 Are the fillings the same? Are the outlines the same? The
19 pulp chambers, do they look the same? Is the root structure
20 the same? In the bone area is what we call trabeculae,
21 which is just another term for, like, braces on a bridge and
22 so the bone -- everyone has unique trabeculae in their mouth
23 and the radiograph shows the before and after trabeculae
24 unless it's been changed by some disease process, such as an
25 abscess or something like that.

1 MS. FULLER: Okay. Your Honor, at this time
2 State moves to admit State's Exhibit 124. This is dental
3 records that were subpoenaed and they've been on file with
4 the clerk since September 1st, 2011, and a copy was given to
5 the defense for notice that they were going on file.

6 THE COURT: It's number -- I'm sorry.

7 MS. FULLER: 124.

8 THE COURT: Okay.

9 MR. CORNELIUS: May we approach?

10 THE COURT: Sure.

11 (At the bench, on the record.)

12 MR. CORNELIUS: I have an objection. I did
13 have these but I don't have any way to know how they're
14 proven to be the complainant's records.

15 MS. FULLER: I'm getting there.

16 MR. CORNELIUS: Okay.

17 MS. FULLER: I'm going to -- I'm going to
18 compare these to the records that he has in his file to link
19 up that they're Linda's.

20 MR. CORNELIUS: How did he get Linda's
21 records?

22 MS. FULLER: We already have testimony that
23 Sergeant Cisneros picked up those dental records --

24 MR. CORNELIUS: How does he know they're
25 Linda?

1 MS. FULLER: He's told from Roger that that's
2 the dentist. He goes to the dentist, they provide the
3 records and turn them over to the ME's Office. I subpoenaed
4 the records separately, got the same records that can be
5 linked up to what was delivered to the ME's Office to show
6 that they're Linda's.

7 THE COURT: It's like a judgment and sentence.

8 MR. CORNELIUS: Yes, but you have somebody who
9 identifies the defendant's known fingerprint.

10 THE COURT: This is the way I look at it.
11 He's going to identify the complainant's teeth. That's what
12 my -- that's what he said it's like --

13 MR. CORNELIUS: He's going to identify the
14 dead teeth.

15 MS. FULLER: Right.

16 THE COURT: Right. He's going to look at the
17 records, like a fingerprint, and look at the teeth, the
18 x-ray he's taken of the victim and then he's going to
19 compare them and say that's one and the same person. It's
20 like a fingerprint.

21 MS. FULLER: Yes.

22 MR. CORNELIUS: Okay.

23 THE COURT: Okay.

24 MR. CORNELIUS: Okay.

25 THE COURT: So, since he's going to use that

1 as a business record, that objection's overruled.

2 MR. CORNELIUS: Okay.

3 THE COURT: 124 is admitted.

4 (End of discussion at the bench.)

5 MS. FULLER: May I approach the witness, Your
6 Honor?

7 THE COURT: You may.

8 Q. (BY MS. FULLER) I have what has been admitted as
9 State's Exhibit No. 124. Can you compare that to your --
10 your records that were provided to the ME's Office and tell
11 me if these are, in fact, copies of the same records that
12 you have?

13 A. Yes. They look very similar. I think they're the
14 same.

15 Q. Okay. What is the name of the patient whose dental
16 records we are now speaking of?

17 A. The last name is H-A-R-T-S-O-U-G-H, first name
18 Linda.

19 Q. And do you know the name of the doctor's office
20 where these -- where these came from?

21 A. Yes, ma'am. The envelope says Matthew Naftis,
22 N-A-F-T-I-S, 1214 West 43rd Street, Suite 300, Houston,
23 Texas, 77018.

24 Q. Okay. Now, when you received these dental records,
25 you've got a written record and you've also got access to

1 the actual teeth; is that correct?

2 A. Well, I don't have access to the teeth. The dental
3 record is a written record and radiographs.

4 Q. Right. But you actually were able to look at the
5 evidence in this case, the skull, the jawbones, and make
6 your own x-rays of those teeth.

7 A. I have a decedent that at the time is unknown that
8 the medical examiners, through their investigation and such,
9 say we think that this is whatever the patient's -- the
10 individual's name is. These are the records that we have
11 obtained for you. So, would you do an examination of the
12 individual, chart what you have, radiograph what you have
13 and then compare it to the existing records we furnish you.

14 Q. Okay. And to be specific, the remains that you
15 identified or that you -- that you looked at, they link up
16 to a unique number assigned by the Institute of Forensic
17 Sciences, right?

18 A. They give me a medical-legal number. The body --
19 each individual that comes in has a unique medical-legal
20 number.

21 Q. Okay. And what is that number in this case?

22 A. The medical-legal number in this case is Medical
23 Legal 10-1866.

24 Q. Okay.

25 MS. FULLER: May I approach the witness, Your

1 Honor?

2 *THE COURT:* You may.

3 Q. (BY MS. FULLER) I'm going to show you what has
4 been marked as State's Exhibit 127 and 128. Do you
5 recognize those photographs?

6 A. These are blown-up pictures of the digital
7 radiographs that I took in the morgue on this deceased
8 individual.

9 Q. Okay. On Medical No. 10-1866?

10 A. Yes, ma'am.

11 Q. Okay. And are these a fair and accurate
12 representation of some of the teeth that you took the
13 radiographs of?

14 A. X-rays, if you like, yes, ma'am.

15 Q. Thank you. X-rays of 10-866?

16 A. Yes.

17 *MS. FULLER:* Your Honor, at this time State
18 moves --

19 A. 1866.

20 Q. (BY MS. FULLER) 1866. Thank you.

21 *MS. FULLER:* -- State's Exhibit 127 and 128
22 into evidence and tenders to defense counsel for inspection.

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

24 *THE COURT:* 127 and 128 will be admitted.

25 Q. (BY MS. FULLER) I am going to show you -- I don't

1 know if it's easier to give them here or put them up, but
2 using State's 127 and 128 and the medical records that you
3 identified as being -- belonging to Linda Hartsough, can you
4 make a conclusion between the medical records and the films,
5 the x-rays that you took in State's Exhibit 127 and 128?

6 *THE WITNESS:* Your Honor, could I go over in
7 front of the jury to show them the outline of these --

8 *THE COURT:* We have to keep it in question and
9 answer.

10 *MS. FULLER:* May I approach?

11 *THE COURT:* You may.

12 *Q. (BY MS. FULLER)* I'm going to put these up on the
13 screen. You can actually touch that screen to illustrate
14 what you're talking about.

15 *A.* All right.

16 *Q.* Let's first look at State's 127.

17 *A.* Oh, boy. Kind of washes out, doesn't it?

18 *Q.* Yeah. Let me make it smaller. That might help.
19 Is that better?

20 *A.* Yes. You can see the filling in this tooth. And
21 you can also see the bony trabeculae up here. The shape of
22 the root, the shape of the roots, the curvature here, kind
23 of straight here, pulp chamber, and this filling that goes
24 around, you can see that it's kind of odd shaped.

25 *Q.* Okay. And how does that -- how does State's

1 Exhibit 127 match up to the dental records of Linda
2 Hartsough as provided to you?

3 A. Well, we have the same thing here. I don't know if
4 you could project this as well. But this -- I'm looking at
5 the same thing here in this small little radiograph right
6 here that has the same outline as the filling itself in the
7 tooth taken at approximately the same angle. So, this is
8 what you use to make the comparison. Is it very similar?
9 Does it have the same characteristics? Is the bone pattern
10 the same? Are the roots shaped the same? The pulp chamber,
11 the part of the tooth that gives you the toothache, is it
12 the same? Yes. The third molar, is it sticking up the
13 same?

14 Unfortunately there is an awful lot of work in
15 the anterior portion of this individual's mouth but there's
16 also what's called gum disease or periodontal problems. So,
17 the record reflects the individual came in with severe pain
18 and the dentist, unfortunately, couldn't do much for her and
19 they extracted all these other teeth that I could have used;
20 so, I'm --

21 Q. Okay. But --

22 A. Pardon?

23 Q. Okay. But based on your expert opinion, does the
24 x-ray that was taken of 127, can you make a conclusion of
25 whose tooth that belongs to in State's Exhibit 127?

1 A. Yes, ma'am.

2 Q. Who is that?

3 A. I see the same outline to the fillings and such in
4 the record that was provided to the record that I took in
5 the morgue.

6 Q. Okay. So, I'm going to also show you State's
7 Exhibit 128. Can you see that okay?

8 A. Yes, ma'am. And you can see there's a -- kind of
9 an odd-shaped filling here in this tooth and there's also a
10 little bit of a filling here and unfortunately you can't see
11 it but I'm looking at essentially the same thing in these
12 two teeth.

13 The radiograph is taken at a slightly
14 different angle but the curvature of the roots is very
15 similar to what I'm looking at. And so, I only have four
16 teeth to make this but I have unique outlines of the
17 filling, the roots, the other anatomical structures, which
18 are these. These are a part of the sinus up here and the
19 base of the skull. So, it's enough that -- it's unique
20 enough, someone else, most likely would not have the same
21 situation in their mouths.

22 Q. Okay. Doctor, are you able to, based on the dental
23 records provided to you and the x-rays that you took, are
24 you able to make a positive identification of whose remains
25 are Medical No. 10-1866?

1 A. Yes, ma'am. In my opinion these are the decedent
2 as reflected in this record.

3 Q. And what is that decedent's name, please?

4 A. The last name, again, is Hartsough,
5 H-A-R-T-S-O-U-G-H, first name Linda.

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

7 THE COURT: Mr. Cornelius?

8 **CROSS-EXAMINATION**

9 Q. (BY MR. CORNELIUS) Dr. Stimson, my name is Skip
10 Cornelius. I think we've met before but it's been a long
11 time ago on a bite case. Had you on a bite case once.

12 Few questions, if I might. If I'm
13 understanding what you've testified to, the medical
14 examiner's office provides you with some dental records,
15 some x-rays from somebody named Linda Hartsough, who you
16 don't know.

17 A. Never seen her before, no, sir.

18 Q. From a dentist whom you don't know.

19 A. That's correct.

20 Q. And you never talked to that dentist or anybody
21 else about Linda's teeth, correct?

22 A. No.

23 Q. You just took some x-rays and some, I guess, dental
24 records that were provided to you to use in comparison?

25 A. That's correct.

1 Q. Okay. The authenticity of that stuff, you didn't
2 question; you assume they gave it to you because they had
3 the right stuff to give you.

4 A. The chain of evidence in the Medical Examiner's
5 Office I presume is correct.

6 Q. Okay. And you have no way to know who actually
7 acquired those records for the medical examiner, do you?

8 A. The records were acquired by one of the medical
9 investigators on a telephone call to the family who gave the
10 dentist of record who was subpoenaed or requested by the
11 medical examiner to furnish the records, which they did.

12 Q. Now, what makes you say all that?

13 A. Because that's the routine procedure that the
14 forensic institute follows like any other forensic institute
15 in the United States.

16 Q. Okay. Would it surprise you, though, that that was
17 not the procedure in this case?

18 A. I --

19 MS. FULLER: Objection, Your Honor, I believe
20 that's a misstatement of the facts that have come out so
21 far.

22 MR. CORNELIUS: I'll rephrase my question.

23 THE COURT: Thank you.

24 Q. (BY MR. CORNELIUS) Would it surprise you to know
25 that a Houston homicide investigator acquired the records

1 directly from the dentist and took them to the Medical
2 Examiner's Office?

3 A. It doesn't matter to me where the records came from
4 as long as they're the accurate records in the case that I
5 could make a comparison.

6 Q. And that's my whole point. They just gave you the
7 records. You don't know whether they're accurate or not.

8 A. I go on an assumption that the Medical Examiner's
9 Office has been doing this for so many years that they would
10 have only proper materials to make a comparison with.

11 Q. And proper procedure would be not for the Houston
12 homicide investigator to go acquire these records from the
13 dentist and provide them to the Medical Examiner's Office;
14 it would be something for the Medical Examiner's Office to
15 acquire.

16 A. As long as I have the proper records, how they get
17 there is of no consequence to me. I mean, they provide me
18 the dentist of record's information on the patient to
19 compare and that's what I use. How they got it, I never
20 question. That's not part of my job.

21 Q. I was just repeating what you testified to awhile
22 ago, that that was the procedure all over the country.

23 A. Yes. You can also make exceptions. The dentists
24 themselves can bring it in sometime and assist me and say,
25 yes, that is my patient.

1 Q. But that didn't happen in this case?

2 A. No, it didn't.

3 Q. And so in this case you're making your
4 identification from four teeth?

5 A. Yes.

6 Q. And you said it's most likely that someone else
7 wouldn't have those same dental issues in those same four
8 teeth.

9 A. In my 40 years of experience, I could say it's very
10 unlikely that they would.

11 Q. Very unlikely.

12 A. Extremely unlikely.

13 Q. Okay. All right. But that's the basis of your
14 identification. Four teeth and it's very unlikely that
15 someone else would have those same cavities?

16 A. Well, not cavities but restorations and anatomic
17 structures, yes.

18 Q. In four teeth.

19 A. In four teeth.

20 MR. CORNELIUS: Pass the witness.

21 MS. FULLER: Nothing further, Your Honor.

22 THE COURT: May this witness be excused?

23 MS. FULLER: Yes, Your Honor.

24 THE COURT: Mr. Cornelius?

25 MR. CORNELIUS: Yes, Your Honor.