

1 (Jury not present.)

2 (Lunch recess.)

3 (Jury present.)

4 THE COURT: Be seated, please. Okay. And for
5 the record, will you call your next witness, even though
6 he's already back.

7 MS. FULLER: State calls Jason Wiersema.

8 THE COURT: And you may proceed.

9 JASON WIERSEMA ,

10 having been first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 Q. (BY MS. FULLER) You are the same Dr. Wiersema that
13 just testified in the morning; is that correct?

14 A. That's correct.

15 Q. Okay.

16 MS. FULLER: May I approach the witness?

17 THE COURT: You may.

18 Q. (BY MS. FULLER) I'm going to show you what has
19 been previously marked as State's Exhibit 123. Could you
20 take a look at that, please?

21 A. (Witness complies.)

22 Q. What is State's Exhibit 123?

23 A. Well, it's the autopsy report with the anthropology
24 report attached.

25 Q. Okay. Attached to 123 is the anthropology report.

1 Are you familiar with the anthropology report?

2 A. Yes.

3 Q. And when you make your anthropology report, do you
4 sign off on the report?

5 A. Yes.

6 Q. Okay. On the report, it also lists a Deborrah
7 Pinto. Who is Dr. Deborrah Pinto?

8 A. She is our forensic anthropology fellow.

9 Q. What's it mean to be a fellow?

10 A. She is a forensic anthropology in training, so
11 everything that she does is done under our supervision,
12 including her analysis and her report writing.

13 Q. Okay. So, her analysis and her report writing is
14 done at your direction with you at all times?

15 A. Yes.

16 Q. And even if she wrote the report, did you sign off
17 on the report?

18 A. Yes.

19 Q. Okay. And the findings that Deborrah Pinto came in
20 and documented in the report that you signed off on, are
21 those also findings that you concluded?

22 A. That's right.

23 Q. Okay.

24 A. And we also have, you'll notice, Dr. Love, who's
25 the director of our division, also reviews every case.

1 Q. Okay. Is she also working hand-in-hand with the
2 two of you?

3 A. No. She does a technical review.

4 Q. Okay. You and Dr. Pinto are the only two doctors
5 that are doing the actual testing and analysis?

6 A. That's correct. On this particular case Dr. Love
7 did. Because it was early in Dr. Pinto's training, she did
8 review this case.

9 Q. Okay. Now, were the documents -- the record that
10 you made, was it documentation that was taken down at or
11 near the time that you made the observations and did the
12 studies?

13 A. The way we approach these is we collect what we
14 call bench notes, which is what you see at the end of the
15 anthropology report. Those include the drawings, the
16 diagrams and also the Fordisc statistical results and then
17 we go back and write the report based on those.

18 Q. Okay. But you write the report at or near the time
19 that you come to those testing conclusions?

20 A. That's right.

21 Q. And are you the custodian of records for your
22 anthropology report?

23 A. I believe they're part -- I mean, they are part of
24 the autopsy report. They are attached to it. Is that what
25 you're --

1 Q. At some point do you turn over your report to
2 Dr. Pinneri in this case?

3 A. Oh, yes. Yes, we send it to her and we send it to
4 her transcription department.

5 Q. And Dr. Pinneri is the custodian of records, keeps
6 all of the records regarding the autopsy results in a given
7 case?

8 A. That's right.

9 Q. Specifically in this case, Case No. ML10-1866?

10 A. That's right.

11 Q. And all of those records that you just flipped
12 through and identified, you have personal knowledge of
13 everything that was written in those records?

14 A. In the anthropology portion?

15 Q. Yes.

16 A. Yes.

17 MS. FULLER: Pass the witness.

18 MR. CORNELIUS: I'd like to take the witness
19 on voir dire for a few questions, if I might.

20 THE COURT: Okay.

21 **VOIR DIRE EXAMINATION**

22 Q. (BY MR. CORNELIUS) Doctor, with respect to your
23 report, you list the name of the person who the bones
24 allegedly belong to?

25 A. Yes.

1 Q. You don't have personal knowledge of that, though,
2 do you?

3 A. Personal knowledge of?

4 Q. Of who it is that the bones belong to?

5 A. We base that on the identification as it's made --

6 Q. Of somebody else?

7 A. That's right.

8 Q. So, that's not within your personal knowledge.

9 A. No.

10 Q. Okay. And that would be on page 1 of your report
11 and at the top of all the pages, and flipping over to page
12 11 -- I guess that's 11. Well, no, I think it's 1 of 11,
13 the support of the verbal report, the one -- data sheets.

14 A. Okay.

15 Q. 1 of 11. It's numbered 1 of 11.

16 A. Okay.

17 Q. Okay? And you have on there the business about how
18 the bones are identified. That's written in your report, I
19 guess. I guess you wrote that. But that's not something
20 you did or something you have personal knowledge of, is it?

21 A. It's -- the personal knowledge that I had was that
22 the office had considered her positively identified.

23 Q. The personal knowledge you have is that somebody
24 told you that.

25 A. That's right.

1 Q. Okay. So, that's not within your personal
2 knowledge.

3 A. Right.

4 Q. I mean, it's not something you did.

5 A. That's correct.

6 Q. Okay. And then these pages at the back, I confess
7 I don't know what they are.

8 A. Okay.

9 Q. The page No. 9?

10 A. Uh-huh.

11 Q. I don't really know what the -- it's some sort of,
12 like, a graph of something. And did you do that graph?

13 A. No. It's generated by the program that we use to,
14 in this case, estimate ancestry. This is the output from
15 that program. So, we enter --

16 Q. Is it scientific -- I'm going to try and make it --
17 is it a scientifically approved program that anthropologists
18 such as yourself use?

19 A. That's correct.

20 Q. And you applied the data to it to get this result?

21 A. Correct.

22 Q. And the next page, page 10, what is that?

23 A. It is -- so, what you had in front of that previous
24 one was a page that looks similar to this, that's the data,
25 and what it's showing you is the numerical output of that

1 program. This -- these last two sheets pertain to stature.
2 The first two were ancestry. The second two are stature.

3 Q. Okay. Page 10 is a whole bunch of numbers and a
4 bunch of initials.

5 A. Right.

6 Q. And it's -- why?

7 A. What you're seeing along -- say on the bottom, this
8 portion here, these are the actual measurements that we took
9 and that were input into the program.

10 Q. And you input it in there yourself or somebody
11 under your supervision?

12 A. Dr. Pinto under my supervision.

13 Q. Okay. There are items that she had personal
14 knowledge of as y'all were doing your investigation?

15 A. That's correct.

16 Q. Okay. Now, page 11, it says TU.

17 A. Yeah.

18 Q. What is that?

19 A. What this is is -- the way the output comes out of
20 Fordisc and what it actually reads, when you print it, it
21 puts the word "stature" behind the report. It's just a
22 glitch in the program but it's the word "stature." It
23 doesn't -- it has nothing to do --

24 Q. It's a glitch in the program?

25 A. It's the title of the actual graph. I don't know

1 that it's a glitch. I assumed it wasn't intended to be
2 there.

3 Q. Okay. Is this a program that anthropologists such
4 as yourself use? It's accepted in your profession?

5 A. Yes.

6 Q. And the information that was put into this program
7 that produced this chart or graph or whatever you want to
8 call it is information you personally put in there or
9 someone at your supervision?

10 A. That's right.

11 Q. Okay. All right. I only have --

12 MR. CORNELIUS: Well, we'll approach the bench
13 if you don't mind, Judge.

14 (At the bench, on the record.)

15 MR. CORNELIUS: I don't have objections to the
16 back part, the photographs and diagrams, but I do have
17 objections to --

18 THE COURT: She hasn't offered it yet. I
19 assumed she was waiting to put the dentist on.

20 MS. FULLER: I was, Your Honor.

21 THE COURT: She didn't offer it.

22 MR. CORNELIUS: Well, this is -- yeah, she
23 did. This is a part of the autopsy report.

24 THE COURT: She didn't offer it when she
25 passed him this time.

1 MR. CORNELIUS: She has already offered the
2 autopsy report.

3 THE COURT: Okay.

4 MR. CORNELIUS: I thought that's what we were
5 doing, trying to decide how the autopsy report was going to
6 come in.

7 MS. FULLER: My understanding, that it was
8 going to happen after the dentist came in to link up her
9 name in it as well.

10 MR. CORNELIUS: Okay.

11 THE COURT: That was my understanding, too.
12 That's why I figured you didn't --

13 MS. FULLER: Exactly. Skip, just to be clear,
14 my dentist is not here yet. So, I'm done with him if you're
15 done with him but pending waiting.

16 THE COURT: Okay. Let me ask a question since
17 he's not here yet. Are y'all starting?

18 MR. CORNELIUS: Yeah, I can go forward right
19 now with the detective. Is that okay with you?

20 MS. FULLER: Uh-huh.

21 THE COURT: Let's do that. And we'll agree
22 we'll wait till he gets here and hear him out of order.

23 MS. FULLER: I don't have to actually close or
24 anything like that.

25 MR. CORNELIUS: He can be excused as far as

1 I'm concerned.

2 MS. FULLER: For real this time?

3 MR. CORNELIUS: Yeah.

4 THE COURT: You two.

5 (End of discussion at the bench.)

6 THE COURT: All right. Anything further,
7 Mr. Cornelius, with this witness?

8 MR. CORNELIUS: No, Your Honor.

9 THE COURT: Okay. And Ms. Fuller, did you
10 have any further questions for him?

11 MS. FULLER: No, Your Honor.

12 THE COURT: He can be excused then?

13 MS. FULLER: Yes, Your Honor.

14 MR. CORNELIUS: Yes, Your Honor.

15 THE COURT: Okay. Thank you. You're free to
16 go.

17 THE WITNESS: Thank you.

18 THE COURT: Ladies and gentlemen, the State
19 has one final witness, right?

20 MS. FULLER: Yes, Your Honor.

21 THE COURT: Okay. But he is not here yet.

22 So, rather than waiting, the defense has agreed to go ahead
23 and begin presentation of their case. So, as soon as that
24 witness gets here -- he's just coming from a little bit out
25 of town; so, when he gets here, they'll put him on.