

1 Your Honor.

2 THE COURT: Thank you. You may
3 proceed.

4 MR. LESLIE: Thank you, Judge.

5 DR. STEPHEN WILSON,
6 having been first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MOORE

9 Q. Can you please state your name.

10 A. Certainly, Dr. Stephen Wilson.

11 Q. And where do you work, Dr. Wilson?

12 A. I work at the Harris County, Texas
13 Institute of Forensic Sciences here in Houston,
14 Harris County, Texas.

15 Q. Is that the organization that was formally
16 known as the Medical Examiner's Office?

17 A. That is correct.

18 Q. What's your position there?

19 A. I am one of the assistant medical
20 examiners.

21 Q. And what sort of educational background and
22 professional training does it take to become a
23 medical examiner?

24 A. First requires a medical degree and I
25 received my medical degree in way back in 1977,

1 University of Arizona Medical School.

2 Q. And beyond a medical degree, what sort of
3 training do you have to have?

4 A. Many years of post doctoral work in the
5 field of medicine and in particular I did six years
6 of post doctoral medicine work at Johns Hopkins
7 University and medical school in Baltimore, Maryland
8 at the Department of Pathology and that's where I
9 learned how to perform autopsies; how to interpret
10 autopsies.

11 Q. Tell us just real briefly if you could,
12 what is forensic pathology?

13 A. Forensic pathology what we do; we basically
14 performed autopsies on people to determine how and
15 why they died for legal purposes.

16 Q. And you already sort of answered this
17 question, so in your position as an assistant medical
18 examiner, do you perform autopsies?

19 A. I do.

20 Q. If you could estimate during your career
21 how many autopsies would you say that you have
22 performed?

23 A. Well over 4,000.

24 Q. And have you testified in court before as
25 an expert?

1 A. Many times.

2 Q. Briefly, what is an autopsy?

3 A. Okay. An autopsy well, basically an
4 autopsy is performed on a dead person obviously and
5 the first thing we do is bring the person in on a
6 gurney or a tray. We photograph --

7 MR. MOORE: Objection. Your Honor, may
8 we approach?

9 THE COURT: Yes.

10 **(At the Bench)**

11 MR. MOORE: Based on what he said
12 about how he now interprets autopsies rather than
13 performs them. I'd like to take him on voir dire to
14 ask him whether he actually performed.

15 THE COURT: He said he performed over
16 4,000 autopsies.

17 MR. MOORE: Did he perform this one
18 because --

19 THE COURT: We haven't gotten to that
20 question. What's your objection to this line of
21 questioning? He's talking about what an autopsy is
22 all about, not talking about the autopsy in this
23 case. So, what is your objection?

24 MR. MOORE: I don't have one yet, but
25 I will save one till he starts.

1 THE COURT: If there is one that comes
2 up make sure you lodge it.

3 **(End of Bench Discussion)**

4 THE COURT: Please proceed.

5 Q (MR. LESLIE) You may continue, Doctor.

6 A. Standard procedure for an autopsy first
7 photograph the body. Once the body is photographed
8 then we examine, we take any evidence, that is
9 required. That might require samples from the hands
10 for gunshot residue if it's a gunshot wound case. It
11 requires fingernail clippings and scrapings for DNA.
12 Those sort of things. We get the evidence before
13 it's contaminated. After we obtain evidence then we
14 describe any clothing that's on the body. And we
15 describe any medical intervention, if a person had an
16 IV line in or placed in by medical personnel an
17 endotracheal tube or something like that. We
18 describe those. Then the next procedure is to remove
19 any clothing on the body, remove all the medical
20 devices and clean the body very carefully and then we
21 perform what's called an external examination. So,
22 we look externally on the body, the outer surface of
23 the body, looking for any types of injuries and any
24 abnormalities any trauma, those sort of things.
25 After the external examination is perform we

1 performed what's called an internal examination. So,
2 I actually; what we do is open up the body we open up
3 the chest, the abdomen, the head, sometimes the arms
4 and the legs. And we examine very carefully all the
5 internal organs and we obtain small samples from body
6 organs and tissues for DNA studies for toxicology
7 studies and for microscopic studies. That's what an
8 autopsy entails.

9 Q. And when somebody dies and has their body
10 brought into the Harris County Institute of Forensic
11 Sciences for an autopsy, is that body assigned a
12 unique case number?

13 A. It is.

14 Q. How is that done?

15 A. I assigned a chronological order. So, case
16 no. 13 year is 01 onward to the rest of the year.

17 Q. So, did you conduct an autopsy on April 23,
18 2013 in ML No. 13-1313?

19 A. I did. That's a unique number assigned for
20 that autopsy. M.L. refers to medical legal, and as
21 you pointed out, I did perform the autopsy in 2013,
22 and the number assigned was 1313.

23 Q. And was that the autopsy of Robert Vernon
24 Deberry?

25 A. It was Robert Vernon Deberry.

1 Q. I'm showing you what--

2 MR. LESLIE: First, can I approach the
3 witness, Judge.

4 THE COURT: Yes, you may.

5 Q (MR. LESLIE) I'm showing you what has
6 previously been admitted as State's Exhibit No. 40.
7 Is this the individual that you performed the autopsy
8 on in ML 13-1313.

9 A. Correct. That's a photograph of
10 Mr. Deberry's face that was taken during the autopsy
11 and the way it was indicated as taken during that
12 autopsy it has a unique number at the bottom of the
13 photograph.

14 MR. LESLIE: Permission to publish,
15 Judge?

16 THE COURT: Yes, you may.

17 **(Exhibit Published)**

18 Q. And this is the individual that you
19 performed the autopsy on April 23, 2013; is that
20 correct?

21 A. That's the face of Mr. Deberry, yes, sir.

22 Q. Doctor, would you be considered a custodian
23 of business records for the Institute of Forensic
24 Sciences?

25 A. I am.

1 Q. I'm showing you now what's been previously
2 marked as State's Exhibit No. 39. If you can take a
3 look at that?

4 A. Certainly. All right. This appears to be
5 a complete autopsy report. I perform for every
6 autopsy I performed. This appears to be the complete
7 copy of the autopsy report in case number 13-1313
8 performed on April 23, 2013, of Mr. Robert Deberry.

9 Q. And was this made by-- you said this was
10 made by you, correct?

11 A. That's correct. It was made by me.

12 Q. Are you considered a person with knowledge
13 of the events that's depicted in those records?

14 A. Indeed, I was the one who performed the
15 autopsy and that's my dictation and written report.

16 Q. Are these records kept in the regular
17 course of business for the Harris County Institute of
18 Forensic Sciences?

19 A. They are.

20 Q. And were those records made at or near the
21 time reasonably soon after the event that's described
22 in those records?

23 A. They were.

24 Q. And did you have actual knowledge of the
25 events described in the business record?

1 A. I did.

2 Q. Where are the originals?

3 A. The originals are actually in our office,
4 we keep all the originals in our office.

5 MR. LESLIE: Judge, at this point
6 after tendering to opposing counsel, the State offers
7 State's No. 39.

8 MR. MOORE: No objections.

9 THE COURT: State's Exhibit 39 is
10 admitted without objections.

11 THE COURT: You may proceed.

12 Q (MR. LESLIE) Could you describe briefly
13 the general condition of Robert Deberry's body when
14 it was brought in for your examination?

15 A. With respect to what?

16 Q. Just over all when the autopsy was begun?

17 A. Well, as I said the first page of my report
18 describes the condition of the body with the
19 clothing on the body. I describe the clothing there.
20 He's a well nourished adult male. And he has some
21 blunt force injuries that I described in my report.

22 Q. Do you know-- you said the next step in the
23 autopsy is to remove the clothing; is that correct?

24 A. That's correct.

25 Q. And then you conduct an external

1 examination?

2 A. That is correct.

3 Q. Was that done in this case?

4 A. It was.

5 Q. How is an external examination of the body
6 conducted?

7 A. I start at the head. I just carefully look
8 at the body looking for any type of abnormalities,
9 injuries, anything that looks abnormal.

10 Q. And what sort of abnormalities did you
11 observe on externalities of the body?

12 A. For Mr. Deberry, that begins on page three
13 of my report. He had a number of blunt force
14 injuries, lacerations, contusions, abrasions on his
15 head. And also some contusions and abrasions on the
16 rest of the torso, the back, and the extremities.

17 MR. LESLIE: Permission to publish,
18 Judge?

19 THE COURT: Yes, you may.

20 Q (MR. LESLIE) So, I'm showing you now a
21 portion of State's Exhibit No. 39. Do you recognize
22 this?

23 A. Yes. Those are the diagram pages that is
24 at the end of my report. So, basically this is a
25 simplified diagram of summarizing the injuries that I

1 found externally on Mr. Deberry at autopsy.

2 Q. And it appears that most of these say
3 abrasion or contusion; is that correct?

4 A. Yes. That's my relatively illegible
5 writing, but anything that looks like A for abrasion.
6 An abrasion is a scraping injury of the skin. And
7 contusion is a bruise. So, mostly contusions and
8 abrasions on his torso and extremities. And there is
9 an additional diagram showing his head where there
10 are more injuries.

11 Q. Focusing simply on the abrasions and
12 contusions for the moment. Are you able to as a
13 medical examiner determine exactly when these
14 abrasions and contusions were made?

15 A. Not with absolute certainty, not with
16 absolute certainty, no.

17 Q. And what are some things that would affect
18 your ability to say when this abrasion or contusion
19 was made?

20 A. Well, fresh abrasions is obviously gonna
21 have-- probably still have blood around it. An old
22 abrasion would have a scab on it. So that's how one
23 of the ways you can distinguish it. So, those are
24 the things we look for considering age, but there are
25 no absolute definitive criteria that you can use to

1 determine the age of those types of injuries.

2 Q. Is the same true for contusions or bruises?

3 A. That's correct. Bruises tend to change
4 color over time. They're usually red or blue when
5 they're fresh. And they tend to turn green or yellow
6 or even brown when they're older. But again, those
7 are just general appearances.

8 Q. So, is it possible for you to say these
9 abrasions or contusions were made minutes or hours or
10 days before his death?

11 A. Most of these were probably not days or
12 weeks. Probably more recent than that, but I can't
13 say again without certainty.

14 Q. Another might seem like an obvious
15 question, but are you able using your medical
16 experience to say which one of these came first and
17 second and third, the order of all of these injuries?

18 A. Certainly not. I cannot tell you the order
19 in which those injuries were inflicted.

20 Q. And also, are you able to tell exactly what
21 caused these abrasions or contusions?

22 A. Blunt object or objects, that's the best I
23 can tell you.

24 Q. So, you can't say for example whether this
25 happened in a fight or from just falling down?

1 A. I cannot say what the-- I can't tell you
2 the circumstances either and how these occurred.

3 Q. And --

4 MR. LESLIE: Permission to approach
5 the witness again.

6 THE COURT: Yes, you may.

7 Q (MR. LESLIE) I'm showing now what has been
8 marked as State's Exhibits 41 through 50. Can you
9 please take a look at these. And tell me if you
10 recognize these?

11 A. Yes, I can. These are some of the
12 photographs, certainly not all of them, but some of
13 the photographs taken during the autopsy on Mr.
14 Deberry. All of these photographs have that unique
15 identifying No. is 13-1313 to indicate it was taken
16 during the autopsy.

17 Q. And are these fair and accurate depictions
18 of Mr. Deberry as he appeared during the course of
19 your examination?

20 A. I believe they are.

21 MR. LESLIE: Tendering to opposing
22 counsel, Your Honor, and then State offers State's
23 Exhibits 41 through 50.

24 MR. MOORE: Your Honor, we would
25 object to exhibits 45 through 50 on the basis of 403.

1 THE COURT: Okay. Approach with the
2 exhibits, please.

3 **(At the Bench)**

4 THE COURT: These are the ones that
5 you're objecting to?

6 MR. MOORE: These are the ones I don't
7 object to.

8 THE COURT: That's overruled as to 45,
9 46, 47, 49. Do I see 48, 49, 50?

10 MR. LESLIE: Judge.

11 THE COURT: What's the relevancy?

12 MR. LESLIE: As testimony will make
13 clear, they're probative about the force and the
14 destructive power of the blow that struck him and
15 caused the fatal injury. The blow went all the way
16 through the skin muscle, the tissue and cracked the
17 skull and then hit the brain.

18 THE COURT: Okay. Would you agree on
19 that?

20 MR. MOORE: That one is the most
21 prejudicial of any of them.

22 THE COURT: Just wait a minute. How
23 about that one? Does that show the same one?

24 MR. LESLIE: Same one just closer.

25 THE COURT: Okay. What about that

1 one?

2 *MR. LESLIE:* That shows the same
3 injury, but it shows the actual going through how it
4 pierced the membrane surrounding the brain.

5 *THE COURT:* And 48.

6 *MR. LESLIE:* That's a close up.

7 *THE COURT:* This?

8 *MR. LESLIE:* That's the actual skull
9 showing the fractures that caused the indentation of
10 the brain and killed the decedent.

11 *MR. MOORE:* Your Honor, if the State
12 --

13 *THE COURT:* Yes.

14 *MR. MOORE:* If the State wants to show
15 proof of skull fracture there is some photos that are
16 better than others. There are two of them that if I
17 had lunch I might have lost it. I saw it. The skin
18 peeling forward from his face. I think that's just
19 inflammatory to the injuries in ways that are slight
20 unnecessary to show the injuries. Those are hideous.

21 *THE COURT:* So, you are saying this
22 one?

23 *MR. MOORE:* Uh-huh.

24 *THE COURT:* I am going to sustain as
25 to 46. But allow in 45, 47, 48.

1 MR. MOORE: Another one that was very
2 similar.

3 THE COURT: One of those two I'll
4 allow. I don't think you need both of them.

5 MR. MOORE: I think 49.

6 MR. LESLIE: Is that 49? Yeah. 49.

7 THE COURT: Okay. and then I don't
8 think that's prejudicial at all.

9 MR. MOORE: I don't have a problem
10 with that.

11 **(End of Bench Discussion)**

12 THE COURT: I will sustain your
13 objection as to State's Exhibit 46 and 48. But going
14 to allow into evidence over objections State's
15 Exhibits 45, 47, 49 and 50 and I'll allow into
16 evidence with no objections 41, 42, 43, 44; is that
17 correct?

18 MR. LESLIE: That's correct, Judge.
19 That's correct, Your Honor.

20 THE COURT: These are the ones that
21 are in, these are the ones that are out. You may
22 proceed.

23 Q (MR. LESLIE) So, Doctor, this is for the
24 body?

25 A. Yes, that's the diagram of the body as I

1 said, there are separate diagrams showing the head
2 injuries.

3 Q. Just briefly, of all these contusions and
4 abrasions were any of those life threatening?

5 A. No, none of those would have caused fatal
6 injuries.

7 Q. I'm showing the next page of State's
8 Exhibit No. 39. Can you tell what is this?

9 A. These are various diagrams of views from
10 the head of Mr. Deberry and it shows several, at
11 least a couple of lacerations on his scalp and some
12 bruise and abrasions on his face.

13 Q. So, starting with the abrasions and
14 contusions, it appears that there is one above the
15 eye, below the chin and then above his left ear; is
16 that correct?

17 A. That's correct.

18 Q. Same question for the ones on the arms and
19 his body, are you able to give a specific time that
20 any of those occurred?

21 A. No. All I can say they are not weeks old
22 or months old. They are not that old, but they could
23 be within days or hours.

24 Q. And were any of those life threatening?

25 A. The contusions, the contusions and the

1 abrasions, no. They were not-- those were not life
2 threatening injuries.

3 Q. And once again, are you able to tell
4 specifically what caused those, whether they happened
5 in a fight or whether he fell into something or
6 anything like that?

7 A. I cannot say with any certainty what the
8 circumstances were with those, no.

9 Q. Now, moving onto this jury on the top of
10 the head which you have marked as partial thickness
11 laceration?

12 A. That's what it says, partial thickness
13 laceration. A laceration is simply a tear in the
14 skin. And this is caused by a blunt object. All
15 these injuries are basically, all of them caused by a
16 blunt object, interaction with the blunt object or
17 objects. So, on the left side of the head as you
18 said partial thickness laceration against the partial
19 thickness tear in the skin, the scalp on the left
20 top.

21 Q. You said just a moment ago these are caused
22 by blunt objects, how can you tell that?

23 A. A sharp object would cause a nice linear or
24 curve linear incision or cutting moon if that's
25 caused by a sharp object. So, that's the distinction

1 I am distinguishing between a sharp object and blunt
2 object.

3 Q. So, I'm showing you now State's Exhibit No.
4 41. And then I am going to go back to State's
5 Exhibit No. 39. Can you show us on State's Exhibit
6 No. 39 where State's No. 41 is and you have a screen
7 directly to your left?

8 A. Sure, I can. I am going to circle it right
9 now. I think it is what you're alluding to right
10 here. So, that's the partial thickness laceration
11 that I'm referring to on the diagram. That's on the
12 upper left side of the head.

13 Q. And what do you mean when you say partial
14 thickness laceration?

15 A. It didn't go all the way through the scalp.
16 It only goes partially through the scalp, it's not a
17 deep laceration. It's a moderately deep laceration,
18 I guess you call it.

19 Q. And again you said this was also caused by
20 some sort of blunt object; is that correct?

21 A. A blunt object or objects, yes.

22 Q. Would this have bled?

23 A. Probably so, that's what happens with
24 lacerations, it tears blood vessels deep in the skin
25 so, yes, that probably would have bled.

1 Q. Would it have been life threatening?

2 A. This particular laceration, no.

3 Q. When you say this particular laceration,
4 what makes you give that kind of qualifying remark?

5 A. Well, that's another laceration which is
6 much more serious, much more, a deeper laceration
7 much more serious.

8 Q. If you could show us on that chart which
9 ones you are talking about there?

10 A. That's the one just above the right ear,
11 so, I will circle it on the screen here. So, within
12 that circle you can see there is a diagram, it looks
13 like an inverted V shape laceration against the tear
14 of the scalp. That's a deep laceration, of course it
15 goes way down into the skull.

16 Q. Before we get to that; I apologize I
17 neglected this. What is this in that part of the
18 diagram right there?

19 A. Oh, this area I'm circling right now,
20 that's a scar. It's a T shape scar that's old. That
21 one I can say definitively is an old scar. An old
22 injury. That's an old scar in the back of his left
23 side of his head.

24 Q. And so showing you State's Exhibit No. 43.
25 Is that the scar that you're talking about?

1 A. That's the same scar I referred to on the
2 diagram. You can see it looks like a T shape. It's
3 a T shape scar. That's an old injury that's not
4 recent.

5 Q. And when you say old, are you talking
6 years, months?

7 A. At least months, that's had time to heal.
8 That's a healed scar.

9 Q. And are you able to tell anything else
10 about that injury in terms of how deep it was or any
11 kind of other injuries that it might or anything else
12 about it at all?

13 A. I can't tell you anything in details about
14 how that occurred or what caused it.

15 Q. Now, going back to State's Exhibit No. 39
16 and what you described as a full thickness
17 laceration.

18 A. Right. I will circle that again just above
19 the right here. Full thickness laceration on the
20 right side of the scalp.

21 Q. When you say full thickness laceration,
22 what does that mean?

23 A. Again, it goes all the way down deep in the
24 skull.

25 Q. And you had described this as being caused

1 by a blunt object; is that correct?

2 A. I did.

3 Q. And so I'm showing you now what has been
4 marked as State's Exhibit No. 44. Is this the injury
5 that you had just circled in State's Exhibit No. 39?

6 A. That's correct. I will circle it on the
7 actual photograph. So, you can see that's an
8 inverted V shape. It looks like an upside down V.
9 It's a deep laceration. Again, a laceration is a
10 tearing injury of the skin. And that's a serious
11 injury caused by a blunt object.

12 Q. Going by the shape of it, is there any
13 information that you're able to tell us based on that
14 shape?

15 A. Not specifically, I mean a flatten blunt
16 object probably wouldn't cause that type of a shape.
17 It's probably something that's either got a corner to
18 it or protruding, a projection or protruding on it. I
19 can't tell you exactly how it would be shaped, but
20 something that would tear the skin in that fashion.
21 It's not going to be a flat surface like the palm of
22 my hand.

23 MR. LESLIE: Permission to approach
24 the witness.

25 THE COURT: Yes, you may.

1 Q (MR. LESLIE) I am showing you State's
2 Exhibit No. 53, would you say this is object that is
3 consistent with causing that type of injury?

4 A. Yeah, the corner of that object would
5 probably be most likely to be the cause of that kind
6 of injury. Again, that's a possibility. I can't say
7 that for certain.

8 Q. From looking at that type of injury that we
9 just saw in State's Exhibit No. 44, are you able to
10 say with any certainty whether it was caused by
11 somebody striking him directly or throwing it at him
12 or anything like any details like that?

13 A. No, again impact with a blunt object I
14 can't tell you whether his head struck a blunt object
15 or the blunt object struck him. I can't tell you how
16 that occurred.

17 Q. Going back again to when you said full
18 thickness laceration. When you say it's a full
19 thickness, what do you mean by that?

20 A. I mean it goes all the way down through the
21 full depth of the scalp.

22 Q. So, I'm showing you now State's Exhibit
23 No. 47. Can you tell us what this is that we're
24 looking at here?

25 A. Certainly. That orients the jury there.

1 What we have there we have taken the scalp. We
2 actually deflected. So, we pull the scalp back so
3 you can see underneath the scalp. Underneath that
4 scalp is muscle on the right side of the head. It's
5 called the temporales muscle. That's what you're
6 looking at there. That's the muscle that's just
7 above the ear, beneath the scalp itself that's muscle
8 and can you see the laceration extend into the
9 muscle? It goes all the way through the muscle on the
10 right side of the head.

11 Q. I'm showing you now State's Exhibit No. 49
12 Can you tell what this is that we're looking at here?

13 A. That's the skull underneath that laceration
14 site. And you can see that's kind of a circular
15 shaped what we call a depressed skull fracture. So,
16 that's actually a crack in the bone, circular shape
17 and you can see there's a dent in the center of that.
18 So, something has pushed that bone in. There is a
19 fairly forceful impact against the skull that
20 actually fractured and pushed it in.

21 Q. And finally showing you State's Exhibit No.
22 50. What is this that we're looking at here?

23 A. That's the inside of the skull looking from
24 the inside of the skull outward. So, that's the
25 inside of the skull looking at the inner surface of

1 that same bone you can see that's the back side of
2 that bone fracture and that's the circular piece of
3 bone that's actually protruding inward into the head.

4 Q. Are you able to say how much force it would
5 take to cause that kind of depressed skull fracture?

6 A. Unfortunately, I can't give you any
7 quantitative figure. Certainly it would be immoral,
8 unethical to actually perform experiments in humans
9 to find out how much force is required to produce an
10 injury like that. All I can tell you that an injury
11 like that certainly could be fatal.

12 Q. Are you able to say that it takes some
13 amount of force to be able to cause that kind of
14 depressed skull fracture?

15 A. A substantial amount of force that's all I
16 can tell you. Substantial. I can't give you
17 quantitative figure again.

18 Q. Going back to State's Exhibit 53 which I
19 just show you a moment ago, would an object of that
20 --

21 MR. LESLIE: Permission to approach
22 the witness again, Judge?

23 THE COURT: Yes.

24 Q (MR. LESLIE) Would an object of this
25 weight --

1 MR. MOORE: Objection, this witness'
2 qualification in the field of physics has not been
3 tested.

4 THE COURT: That's overruled. I will
5 allow him to ask the question.

6 Q (MR. LESLIE) Would an object of this size
7 and weight be capable of creating a compressed skull,
8 depressed skull fracture like that?

9 A. I assume that's a reason. I would assume
10 that yes an impact against the skull with that object
11 could certainly cause a fracture like that.

12 Q. And just to be fair you would had said a
13 moment ago that you couldn't tell if that injury was
14 caused by an object striking him or him striking an
15 object; is that correct?

16 A. That is correct.

17 Q. Let me ask you real quickly about blood
18 transfer on an injury such as that. Is it possible
19 to be struck with an object such as State's Exhibit
20 No. 53 and not have blood transfer?

21 A. Blood transfer on the object?

22 Q. On to the object?

23 A. That struck him or he struck?

24 Q. Correct.

25 A. That's certainly possible because the blood

1 vessels are torn. Once the blood vessels are torn it
2 takes a little bit of fractions of seconds to begin
3 to bleed again. So, if the scalp is removed from the
4 blunt object before the bleeding begins it's not
5 going to leave any blood on the object. So, that's
6 possible.

7 Q. So, based on your training and experience,
8 would it be possible that that injury would be
9 consistent with a small rock or small object thrown
10 under handed in such a manner like this at --

11 MR. MOORE: Objection, his expertise
12 in physics is not tested?

13 THE COURT: That's overruled. You may
14 ask the question.

15 Q (MR. LESLIE) Would such an injury be
16 consistent with someone taking a small rock or object
17 and lobbing it lightly under hand in the direction of
18 the complainant?

19 A. Well, it depends in large part on the mass
20 and weight of the object, but certainly could be. It
21 certainly be consistent with that.

22 Q. What are the things when you say depended
23 on the mass of -- clarify that for me a little bit.
24 What would it take for such a throw to cause such an
25 injury?

1 A. Well, again, it would be --

2 MR. MOORE: Objection, asked and
3 answered.

4 THE COURT: That's overruled. You may
5 answer.

6 THE WITNESS: Could you reask the
7 question?

8 Q (MR. LESLIE) What would it take for in
9 terms of the mass, for such a toss say a light under
10 handed toss from let's say six to 8 feet away to
11 cause that kind of injury?

12 A. Again, I don't think I could give any
13 quantitative figures. It would be difficult to give
14 you an absolute estimate how much mass is required to
15 cause that kind of injury. All I can tell you again
16 it's a serious injury caused by a blunt object.

17 Q. And by serious injury, is this injury life
18 threatening?

19 A. Yes. It actually caused damage to the
20 underlying brain. That's why it's so serious it
21 caused the laceration or tear in the underlying
22 brain.

23 Q. So, based on your training and experience
24 would you say that such an injury would be consistent
25 with once the individual received it them just going

1 out like that in terms of just dropping?

2 A. You mean almost immediate unconscious
3 state, it certainly could possibly cause that.
4 Certainly could.

5 Q. Would you expect somebody who receives such
6 and injury to be walking around for very long?

7 A. I can't say again definitively. I would
8 expect him to, but I suppose it's possible.

9 Q. And during your examination of Robert
10 Deberry's body, did you find any evidence of disease
11 that would have kept him from living a normal active
12 life?

13 A. That's a good question. That's important
14 to emphasize that we do perform a complete autopsy.

15 MR. MOORE: Objection.

16 THE COURT: Yes.

17 MR. MOORE: Relevance.

18 THE COURT: That's overruled.

19 MR. MOORE: And prejudice.

20 THE COURT: That's overruled.

21 THE WITNESS: We do a complete autopsy
22 looking for any potential cause of death and in
23 answer to your questions specifically I did not find
24 any other potential cause of death, no cancer, no
25 heart disease to explain his death.

1 Q (MR. LESLIE) You also said earlier in
2 conducting the internal examination of an individual
3 you take liquid samples and other specimens; is that
4 correct?

5 A. Yes, for toxicology testing, microspec
6 testing and DNA studies.

7 Q. Was a toxicology test done on this
8 individual?

9 A. Yes, it was, on Mr. Donahue it was.

10 Q. And --

11 A. Mr. Deberry.

12 Q. And did it show that he was intoxicated at
13 the time of death?

14 A. Yes, in answer to specifically to the
15 answer to your question, we tested his blood post
16 mortem and we found 0.18 grams of deciliter of
17 ethanol in his blood and a higher level of his urine
18 and even higher level in his vitreous humor fluid
19 from the eyes. Specifically, .24 in urine and .23
20 grams per deciliter in his vitreous humor. And just
21 for comparison purposes again .08 grams per deciliter
22 in the blood. In the State of Texas consider
23 intoxication for intoxicated for driving purposes.
24 So, he had double the legal limit for driving of
25 alcohol in his blood. Mr. Deberry did.

1 Q. So, it is safe to say he was fairly
2 intoxicated?

3 A. I would think so, yes.

4 Q. Did he have any other substance in his
5 blood?

6 A. We didn't detect any other substance
7 particularly amphetamine, barbiturates, benzocaine,
8 cocaine those sorts of things, methadone, opiates,
9 none of those were detected.

10 Q. So, based on the autopsy that you
11 performed, do you have an opinion as to the cause of
12 death of the complaining witness?

13 A. Yes, the blunt trauma to his head that I
14 just described.

15 Q. And are the wounds that you found in your
16 examination that caused his death consistent with him
17 having been struck with a brick such as State's
18 Exhibit No. 53?

19 A. That certainly is one possible scenario,
20 yes, he could have been struck by a brick.

21 Q. And based on your education and training
22 and experience as a medical doctor, and as a forensic
23 pathologist, can you tell the jury whether or not a
24 brick such as that is a deadly weapon?

25 A. It certainly could be --

1 MR. MOORE: Objection, calls for legal
2 conclusion.

3 THE COURT: That's overruled.

4 THE WITNESS: It certainly could be a
5 lethal object. A brick could be a lethal object.

6 MR. LESLIE: Pass the witness, Judge.

7 THE COURT: Okay. You may proceed,
8 Mr. Moore.

9 MR. MOORE: Thank you.

10 **CROSS-EXAMINATION**

11 BY MR. MOORE

12 Q. Dr. Wilson.

13 A. Yes, sir.

14 Q. Do you have any notes that you are using to
15 refresh your memory today?

16 A. I have my autopsy report.

17 Q. I believe I already seen a copy of that.
18 Do you have anything else?

19 A. Nope, that is it. Autopsy report.

20 Q. The second to the last page of that
21 document.

22 A. Do you have the actual page number?

23 Q. Page one of two is of the laboratory
24 report?

25 A. All right. Okay.

1 Q. I see a variety of test performed on the
2 blood which I believe you've already mentioned toward
3 the bottom of the page?

4 A. That is correct.

5 Q. Amphetamines, barbiturates, benzocaine
6 cocaine, methadone.

7 A. Correct. That's correct. All those were
8 negative. We tested all those drugs, all these
9 street drugs and controlled substances were negative
10 in the blood.

11 Q. I do not see any where on that test for
12 cannabinoid?

13 A. You are correct. We did not test for
14 cannabinoid. We do-- let's see. You're right. We
15 did not test for cannabinoid in there.

16 Q. So, if this person had cannabinoid in his
17 system, your test wouldn't know about it according to
18 your test?

19 A. No. We would not. It's not reported at
20 least.

21 Q. All right. So, if he had been smoking
22 synthetic marijuana, you wouldn't know that?

23 A. Actually, I would. Synthetic marijuana is
24 on page two. All those substances like a.m., 2201,
25 691 some of those are synthetic cannabinoid, but

1 they actually --

2 Q. Some of those are synthetic?

3 A. Some of this.

4 Q. But synthetic cannabinoid, that do not
5 appear on that list?

6 A. There may be.

7 Q. Okay. You said in your testimony that you
8 cannot determine with absolute certainty the time
9 period for an abrasion or contusion to have occurred?

10 A. That's correct.

11 Q. All right. And when you say you can
12 determine with absolute certainty that's to say any
13 conclusion that you might come up with you would have
14 some doubt in; is that fair?

15 A. You could say that with any aspect of the
16 forensic pathology or even medicine never absolute
17 certainty of rarely absolute certainty in the field.

18 Q. Of course. There's a margin for all test.

19 A. That's correct.

20 Q. So, that's another way of saying some doubt
21 to such thing?

22 A. There's always some doubt.

23 Q. And when you say absolute certainty, that's
24 to say reasonable doubt?

25 A. I'm a bit confused by the questioning but

1 go ahead.

2 Q. When you say you cannot determine the age
3 of a given abrasion or contusion, with absolute
4 certainty; you're saying you cannot determine it
5 beyond a reasonable doubt, correct?

6 MR. LESLIE: Judge, object to that as
7 invading the province of the jury, calling for legal
8 conclusion and relevance.

9 THE COURT: Well, I will sustain that,
10 but I am unclear on what you're talking about what
11 specific things you're talking about.

12 MR. MOORE: Your Honor sustained the
13 objections. That's the matter.

14 THE COURT: Well, if you will clear
15 that up. It might be admissible what I am telling
16 you.

17 MR. MOORE: I want to know whether the
18 doctor felt that he has doubts about any given
19 conclusion that he might issue and whether he feels
20 those doubts are reasonable?

21 MR. LESLIE: Judge, I objected to that
22 question as being vague and the form of the question.

23 THE COURT: More specific. That's
24 sustained.

25

1 Q (MR. MOORE) Okay. You discussed the
2 notion of blood as taking a minute? Taking a brief
3 period before it starts bleeding after trauma?

4 A. It could just take a fracture of a second,
5 but it's possible that it was alluded to a
6 possibility the explanation for why there might not
7 be blood on an object that it struck the individual
8 or he had struck.

9 Q. So, it could happened that a person could
10 receive a blow from a blunt object which produces one
11 like the one you listed as the cause of death?

12 A. Correct.

13 Q. It's possible that blunt object might not
14 have any blood on it?

15 A. That was what I was saying that's correct
16 that's possible.

17 Q. It's also possible that it would have
18 blood?

19 A. It certainly could have blood, too I can't
20 say one way or the other.

21 Q. Okay. You mentioned and I'm talking now
22 about the laceration that you listed as the cause of
23 death. You mentioned that you couldn't tell the
24 details of exactly how contact was made between the
25 blunt object and the head?

1 A. That's correct. I can't give you specific
2 details about how this happened.

3 Q. All right. Nor can you be precise or even
4 numerically precise about how much force it took?

5 A. Absolutely, as I said, it be unethical and
6 immoral probably to perform experimental studies on
7 humans to actually determine how much force is
8 required to produce an injury like this.

9 Q. As to State's Exhibit 53 you said that is
10 consistent with the injuries such that it could have
11 been caused by it, correct?

12 A. Could you repeat the question again.

13 Q. When you saw State's Exhibit 53 you said is
14 that State's Exhibit 53 is consistent with the proper
15 use of an object which could cause the laceration
16 that you listed as cause of death?

17 A. Yeah, it has the characteristic features of
18 a blunt object.

19 Q. And when you say the characteristic
20 features of a blunt object you mean to say that
21 State's Exhibit 53 is a blunt object and it doesn't
22 have any more particular characteristics than that;
23 is that fair?

24 A. Well, it certainly has the massive weight.
25 I don't know what that massive weight is, but the

1 weight and mass of that object is certainly capable
2 of producing the type of injury that I saw on Mr.
3 Deberry.

4 Q. So, that blunt object or any blunt object
5 which has any mass or weight equal to or greater than
6 that could have produced injury, correct?

7 A. Or possibly even less than that, it
8 certainly could cause the injury, correct.

9 Q. So, when you say it meets the
10 characteristics, the characteristics you mean it's a
11 blunt object with some particular mass which is
12 undefined?

13 A. Yeah, again, I can't -- again I can't give
14 you quantitative figures on how much mass is required
15 or how much force is required with that blunt object
16 to produce that type of injury like this.

17 Q. Okay.

18 A. All I can tell you is the injury is
19 serious. It's a lethal injury. It caused the
20 underlying brain damage. It caused the laceration of
21 the brain.

22 Q. So, if you will permit me to be a little
23 less precise. It appears to be that the lethal
24 injury was caused by a heavy blunt object. And
25 State's Exhibit 53 is a heavy blunt object.

1 A. Certainly. Again, whatever heavy however
2 heavy is defined. Heavy enough to cause the type of
3 injury.

4 Q. And beyond that your medical opinion gives
5 no insight?

6 A. I am not sure I can give much insight
7 beyond that.

8 Q. Okay.

9 MR. MOORE: No further questions?

10 THE COURT: Mr. Leslie.

11 MR. LESLIE: Briefly, Judge.

12 **REDIRECT EXAMINATION**

13 BY MR. LESLIE

14 Q. Regarding the shape of this object, does
15 that give you any insight into the correspondent
16 shape of the injury?

17 MR. MOORE: Objection, asked and
18 answered.

19 THE COURT: He hadn't asked the
20 question. Let him finish the question and tender
21 your objection before the answer is made. Go ahead.

22 MR. LESLIE: Thank you, Judge.

23 Q (MR. LESLIE) The shape of the injury on
24 the decedent, does that correspond to the shape of
25 State's Exhibit 53?

1 MR. MOORE: Objection, asked and
2 answered?

3 THE COURT: I will allow him to answer
4 if he did once again. I don't recall if he did or
5 not.

6 THE WITNESS: Okay. Again, I
7 suggested that because it's a depressed skull
8 fracture, it has a circular shape and it's actually
9 got a central air of depression in the middle of it,
10 it's probably caused by a blunt object that either
11 has a corner to it or some sort of protruding portion
12 to it. That would cause that localized fracture and
13 depressed fracture of the skull. So, that's
14 certainly a portion of that blunt object has a
15 feature of it which is a corner which can cause an
16 injury that's consistent with the type of injury
17 found on Mr. Deberry.

18 Q. And is that corner also something that you
19 could be looking for in terms of the way it appeared
20 on the exterior of the complainant's scalp?

21 A. Yeah, again it can cause that kind of V
22 shape laceration, that protruding corner on the blunt
23 object you showed me could cause that V shaped
24 laceration and depressed skull fracture underlying.

25 Q. So, you wouldn't expect to see that kind of

1 V shape laceration and compressed skull fracture?

2 MR. MOORE: Objection, leading.

3 THE COURT: Sustained.

4 Q (MR. LESLIE) Hypothetically, in your
5 training and experience, Doctor, would you expect to
6 see that kind of V shape tear/laceration, and
7 compressed skull fracture from say a bat, a baseball
8 bat?

9 A. Probably not because it doesn't have a--
10 the protrusion is not narrow enough to cause that
11 relatively small circular fracture.

12 MR. LESLIE: Pass the witness, Judge.

13 THE COURT: Anything more, Mr. Moore?

14 MR. MOORE: Very briefly.

15 **RECROSS-EXAMINATION**

16 BY MR. MOORE

17 Q. So, the level of correspondence between the
18 lethal wound and State's Exhibit 53 is that it is a
19 heavy blunt object with either a corner or
20 protrusion; is that accurate opinion of your analysis
21 or accurate summation?

22 A. I would say most likely. I wouldn't say
23 with absolute certainty it has to have a corner or
24 protrusion, but most likely the corner of some sort
25 of protruding portion of it to cause a localized

1 circular depressed skull fracture.

2 Q. So, your opinion about the correspondence
3 between State's No. 53 and the wound is even lesser
4 than that; is that what I am hearing than what I
5 mentioned a blunt heavy object with a protrusion or
6 corner actually know it's still just a blunt heavy
7 object maybe with a protrusion; is that an accurate
8 description of the correspondence between these two
9 things?

10 A. Probably because there's still a
11 potentially another blunt object that can produce an
12 injury like that. Again, whatever it has to have
13 some sort of something on that surface that's causing
14 a localized depressed skull fracture. Similar to
15 what we see in the photograph.

16 MR. MOORE: No further questions.

17 THE COURT: Thank you, Mr. Moore.

18 MR. LESLIE: Nothing further, Judge.

19 May the witness be excused?

20 THE COURT: Yes, you may step down and
21 you are excused, Doctor, thank you.

22 THE WITNESS: Thank you, Your Honor.

23 Please call your next witness.

24 MR. LESLIE: The State calls
25 Investigator Rexroad.

1 *THE COURT:* You may proceed.

2 **JEFFREY REXROAD,**
3 having been first duly sworn, testified as follows:

4 **DIRECT EXAMINATION**

5 *BY MR. LESLIE*

6 Q. Can you please state and spell your name
7 for the record?

8 A. Jeffrey Rexroad. J-E-F-F-R-E-Y.
9 R-E-X-R-O-A-D.

10 Q. And where do you work?

11 A. Houston Police Department, homicide
12 division.

13 Q. How long have you worked for the Houston
14 Police Department?

15 A. Eight years.

16 Q. And how long have you been with the
17 homicide division?

18 A. Two years.

19 Q. So, were you working with the homicide
20 division of the Houston Police Department on April
21 23, 2013?

22 A. Yes.

23 Q. What sort of training and experience does
24 it take to get to be assigned to the homicide
25 division?