

1 MR. MARTIN: Yes, Your Honor.

2 THE COURT: Thank you, sir. You're free to
3 go. Please do not discuss your testimony with any of the
4 other witnesses.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Call your next witness, please.

7 MR. LEONARD: State calls Kimberly Zeller.

8 THE COURT: Right up here, please, ma'am. If
9 you would, please raise your right hand.

10 (Witness sworn.)

11 THE COURT: Have your seat, please. And would
12 you please state and spell your name for my court reporter.

13 THE WITNESS: Kimberly Zeller, Z-E-L-L-E-R.

14 THE COURT: You may proceed.

15 MR. LEONARD: Thank you, Judge.

16 **KIMBERLY ZELLER,**

17 having been first duly sworn, testified as follows:

18 **DIRECT EXAMINATION**

19 Q. (BY MR. LEONARD) Good afternoon, Ms. Zeller.

20 A. Hello.

21 Q. Please introduce yourself to the jury.

22 A. My name is Kimberly Zeller. I'm a firearms
23 examiner for the City of Houston at the Houston Police
24 Department crime laboratory.

25 Q. And what exactly is a firearms examiner?

1 A. I examine firearms and firearms-related evidence to
2 determine if the firearms were functioning and whether or
3 not evidence was projected from those firearms.

4 Q. Is that also commonly known as ballistics expert?

5 A. Ballistics is different. Ballistics takes place
6 after the projectiles leave the firearm; terminal
7 ballistics, for example, is how it impacts the target.
8 Firearms examination is just whether or not the fired
9 evidence comes from a particular firearm and whether or not
10 the firearm is functioning.

11 Q. Tell the jury a little bit about your training and
12 background.

13 A. I've been employed since September 29th, 2008. I
14 went through a two-year in-house training program to become
15 a firearms examiner. I've also taken armors courses through
16 Glock, Sig Sauer, Hi-Point and Colt Firearms and I've also
17 taken a tour of Irvington Ammunition Factory.

18 Q. Do you have expertise in identifying whether or not
19 a particular item is or is not a firearm?

20 A. Yes.

21 Q. Okay. And generally what are you looking for to
22 determine whether something is a firearm?

23 A. Whether -- a firearm is defined by the ability to
24 propel a projectile through the powers of combustion, that's
25 the definition of a firearm, and I'm able to tell that by

1 test firing these firearms.

2 Q. Tell the jury a little bit about how you perform
3 tests on -- or how you perform those tests.

4 A. Okay. When a firearm is received to the
5 laboratory, first we determine if it's safe to fire,
6 mechanically if it's in a intact condition when we receive
7 it, we test the safeties, determine if they are functioning
8 properly, we test the trigger pull to see how much force is
9 required to pull the trigger rearward. We also test fire
10 the firearm. We shoot unfired cartridges into a water tank
11 or a backstop to get a known set of samples from that
12 particular firearm.

13 MR. LEONARD: Judge, may I approach?

14 THE COURT: Sure.

15 Q. (BY MR. LEONARD) All right. I'm going to show you
16 what's been marked as State's Exhibit 61. Would you take a
17 look at this item and tell me if you recognize it.

18 A. May I pick it up?

19 Q. Yes.

20 A. Yes, I recognize it.

21 Q. How do you recognize it?

22 A. I recognize it from the serial number of this
23 particular firearm and we also have a unique case identifier
24 that is engraved on this firearm.

25 Q. Okay. And how did that unique case number get on

1 there?

2 A. Our laboratory evidence technician engraves all of
3 our evidence that comes into the laboratory.

4 Q. Did you perform tests on this firearm?

5 A. Yes.

6 Q. And was it functioning properly?

7 A. Yes.

8 Q. And is it a firearm?

9 A. Yes.

10 Q. Okay. I'm going to show you what's been marked as
11 State's Exhibit 62. Would you take a look at it and tell me
12 if you recognize it.

13 A. Yes, I do.

14 Q. And how do you recognize it?

15 A. By the serial number as well as the unique item
16 identifier engraved on the firearm.

17 Q. Okay. Did you perform tests on State's Exhibit 62?

18 A. Yes.

19 Q. And what did your tests conclude?

20 A. That it is a functioning shotgun.

21 Q. Okay. Is it also known as a firearm?

22 A. Yes.

23 Q. Okay. And I'm going to show you what's been marked
24 as State's Exhibit 23. 63. I'm sorry. Would you take a
25 look at that and tell me if you recognize it.

1 A. Yes, I do.

2 Q. And how do you recognize it?

3 A. By the serial number and the unique item
4 identifier.

5 Q. Okay. And did you perform tests on State's Exhibit
6 63?

7 A. Yes, I did.

8 Q. And what did your tests conclude?

9 A. That it is a firearm.

10 Q. Does it work properly?

11 A. Yes, it did.

12 Q. Okay.

13 MR. LEONARD: Pass this witness.

14 THE COURT: Mr. Martin?

15 MR. MARTIN: We have no questions, Judge.

16 THE COURT: May this witness be excused?

17 MR. LEONARD: This witness may be excused.

18 THE COURT: Thank you, ma'am. You're free to
19 go. Please do not discuss your testimony with any of the
20 other witnesses.

21 THE WITNESS: Thank you.

22 THE COURT: Call your next witness, please.

23 MR. LEONARD: State of Texas rests.

24 THE COURT: State rests. What says the
25 defense?