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APPELLATE COURT NO. \_\_\_\_\_  
IN THE COURT OF APPEALS  
OF THE STATE OF TEXAS

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MICHAEL ANTHONY DRUMMOND,  
Appellant,  
VS.  
THE STATE OF TEXAS,  
Appellee.

-----  
APPEAL FROM 230TH DISTRICT COURT  
HARRIS COUNTY, TEXAS  
Judge Joe Kegans, Presiding  
-----

STATEMENT OF FACTS  
TRIAL  
VOLUME III OF VII VOLUMES

Bella Jo Fisher  
Official Court Reporter  
230th District Court  
Harris County, Texas

1                                   SANDRA DENNY,  
2 was called as a witness by the State and, having  
3 been duly sworn, testified as follows:

4  
5                                   DIRECT EXAMINATION

6  
7 BY MR. STANDLEY:

8  
9                                   MR. STANDLEY: May I proceed, Your Honor?

10                                  THE COURT: Yes, sir.

11                                  Q. (By Mr. Standley) Would you please state  
12 your name for the record and the members of the  
13 jury, please?

14                                  A. Sandra K. Denny.

15                                  Q. How are you employed, ma'am?

16                                  A. I'm employed as a chemist by the Texas  
17 Department of Public Safety crime lab in Houston.

18                                  Q. How long have you been with D.P.S.,  
19 ma'am?

20                                  A. A little over four years.

21                                  Q. Would you please state for the record  
22 your qualifications for the position you now hold?

23                                  THE COURT: Can you stipulate this  
24 lady's qualifications, Mr. Durant?

25                                  MR. DURANT: Yes, Your Honor.

1 THE COURT: All right.

2 Q. (By Mr. Standley) What are your duties  
3 there at the crime lab, Ms. Denny?

4 A. I am assigned to serology which deals  
5 with body fluids such as blood, saliva--

6 Q. Would you repeat that?

7 A. I am a serologist, which means I deal  
8 with analysis of body fluids and evidence which  
9 involves blood, semen, saliva and other body  
10 fluids.

11 Q. Would you explain to the jury blood  
12 analysis and what you mean by that?

13 A. Well, if we have a sample in the lab we  
14 determine whether or not blood is present and  
15 whether it's human blood and the type if it's  
16 submitted for comparison.

17 Q. And semen analysis, what does that  
18 involve?

19 A. An analysis to determine if semen is  
20 indeed present and determine the genetics of the  
21 sample.

22 Q. Did you have occasion to do an analysis  
23 of the case which would be your case number  
24 L2H62168?

25 A. Yes, I did.

1                   MR. STANDLEY: May I approach the  
2 witness, Your Honor?

3                   THECOURT: Yes, sir.

4                   Q. (By Mr. Standley) Ma'am, let me show you  
5 what has been introduced into evidence as State's  
6 Exhibit 18 and ask if you can identify this?

7                   A. Yes, this is the box containing the  
8 evidence from L2H62168.

9                   Q. How are you able to identify this?

10                  A. It has my initials on the box.

11                  Q. In fact, did you mark it on most of the  
12 sides of the box also?

13                  A. I believe it's in a couple or maybe  
14 three places.

15                  Q. Let me show you what's been marked for  
16 identification purposes as State's Exhibit 15 and  
17 ask if you can identify this?

18                  A. Yes, this is the sexual assault kit from  
19 L2H62168.

20                  Q. Now, opening State's Exhibit 15, I would  
21 like to ask if you can identify each of the  
22 contents contained in State's Exhibit 15 and I  
23 would like to ask you how you are able to identify  
24 them? If you will, please, just look through the  
25 contents and, for the record, I am referring to

1 State's Exhibit 15 A through and including S and I  
2 would like to ask you to look at each and every  
3 one of those and ask if you can identify each and  
4 every one of those? Yes or no?

5 A. Yes, my lab number and initials are  
6 present on all these items.

7 Q. And where did you receive the big box,  
8 State's Exhibit 18 and also State's Exhibit 15?  
9 Where did you retrieve these from?

10 A. At the time they were worked?

11 Q. Yes.

12 A. The sexual assault kit was retrieved  
13 from the locked refrigerator.

14 MR. DURANT: Your Honor, could we have  
15 reference be made to evidence gathering kit?

16 THE COURT: Yes, sir.

17 Q. (By Mr. Standley) Regarding the evidence  
18 gathering kit, where did you find that?

19 A. In the locked refrigerator of the lab.

20 Q. The big box -- where was it located?

21 A. In the pending evidence vault in the  
22 laboratory.

23 Q. Okay, let me also show you what has been  
24 introduced into evidence as State's Exhibit 19 and  
25 ask you if you can identify that?

1           A.    Yes, I can.

2           Q.    Okay, what are the-- let me backtrack a  
3 moment.  What date did you analyze the contents of  
4 State's Exhibit 15, the evidence collection kit?  
5 What date did you analyze that?

6           A.    It was on July 12th of 1988.

7           Q.    And regarding -- first of all, what is  
8 State's Exhibit 19?  What is that?

9           A.    It is a blood sample labeled Michael A.  
10 Drummond.

11          Q.    And did you have a chance to analyze the  
12 contents of State's Exhibit 19?

13          A.    Yes, I did.

14          Q.    And what date did you do that?

15          A.    I did it on November 14th, 1988.

16          Q.    Okay, after you were through analyzing  
17 State's Exhibit 19 who did you give it to as far  
18 as to take from the D.P.S. lab?

19          A.    The blood sample?

20          Q.    Yes.

21          A.    I gave it to Investigator Pat Smith.

22          Q.    Okay, and before getting into any type  
23 of comparisons, Doctor, would you please tell the  
24 members of the jury how many different blood types  
25 there are in the human race, or maybe I am being

1 too specific. How many blood types are there?

2 A. Are you referring the the ABS System.

3 Q. Yes, sir.

4 A. Four. The type B, type A, B, AB and O.

5 Q. Do animals have blood types?

6 A. Some do, yes.

7 Q. What are those?

8 A. Well, in particular the one I know for  
9 certain is there is a cattle that tends to show  
10 type B activity. I am not certain about all the  
11 animals in creation.

12 MR. DURANT: Your Honor, we object to  
13 the relevancy as far as animals.

14 THE COURT: Sustained.

15 Q. (By Mr. Standley) What percentage of  
16 type O blood, A, AB and A?

17 MR. DURANT: Certain percentage of what?

18 THE COURT: Of the population, I presume.  
19 Be specific.

20 Q. (By Mr. Standley) Percentage of the  
21 population.

22 A. It depends on again the reference. The  
23 reference we use is from the F.B.I. Academy  
24 notebook and the percentages they give are again  
25 broken down into black individuals and white

1 individuals.

2 Q. All right, only as to white individuals,  
3 what are you referring to?

4 A. Okay, on the type A there are  
5 approximately forty percent. Type B is  
6 approximately eleven percent. Type O  
7 approximately forty-five percent and AB  
8 approximately four percent.

9 Q. Okay, what is O?

10 A. It's approximately forty-five percent.

11 Q. And B? You were going too fast for me.

12 A. Approximately eleven percent.

13 Q. What does the term secreter mean in  
14 terms of blood analysis?

15 A. A secreter is a person who has a gene  
16 which they inherit from their parents which causes  
17 them to secrete their AB blood type. If you are a  
18 secreter your AB would be found in saliva, semen,  
19 sweat or saliva.

20 Q. What percentage of the population, again  
21 regarding the category we are talking about, are  
22 secreters versus non-secreters, if you know?

23 A. The approximate percentage is  
24 approximately seventy-six percent are secreters  
25 and approximately twenty-three percent are non

1        secreters.

2            Q.     So, if you had an individual, Doctor,  
3        that hypothetically speaking that -- for testing  
4        purposes you had a male that you just had that  
5        person ejaculate on to a rag right there in the  
6        lab and you were to take that semen and analyze it  
7        to determine the blood type of that individual, if  
8        that person was a non-secreter would you be able  
9        to tell what his blood type was from the semen?

10           A.     No, I would not.

11           Q.     And taking that same individual, if you  
12        had him spit into some sort of thing to retrieve  
13        their spit or cry -- if you were to take a female  
14        and take vaginal fluid, if they were a non  
15        secreter would you be able to tell the blood type  
16        without actually going to the source and taking  
17        the blood?

18           A.     No, I wouldn't.

19           Q.     If the person was a secreter would you  
20        be able to tell, taking the semen, the sweat or  
21        maybe tears, and tell from those secondary sources  
22        that person's blood?

23           A.     If they were a secreter and if the  
24        fluids were fairly fresh, yes.

25           Q.     Ms. Denny, regarding the comparisons in

1 this case, L2H61268, did you have an occasion to  
2 compare the vaginal slides and things contained in  
3 State's Exhibit 15 -- would you tell the members  
4 of the jury what it was that you actually  
5 analyzed in State's Exhibit 15, which is the  
6 collection kit?

7 A. Yes. There were vaginal smears, oral  
8 smears and anal smears and these were observed to  
9 determine whether or not spermatazoa, which is  
10 male reproductive cells, were present on the  
11 smears.

12 Q. Who is the person that was indicated in  
13 your records as being the person that the evidence  
14 collection kit belonged to?

15 A. From my records the sexual assault kit  
16 belonged to a --

17 MR. DURANT: Your Honor, could we have  
18 it phrased evidence collection kit?

19 THE COURT: Yes, sir. Instruct your  
20 witness, please, Counsel.

21 Q. (By Mr. Standley) Ma'am, just refer to  
22 the sexual assault kit as the evidence collection  
23 kit.

24 A. I'm sorry.

25 THE COURT: State's Exhibit 15 is in

1 evidence as a collection kit.

2 Q. (By Mr. Standley) Who is the person that  
3 those substances came from according to your  
4 records?

5 A. From [REDACTED].

6 Q. All right, and what were you requested  
7 from my office -- the District Attorney's Office --  
8 what were you requested or instructed to analyze  
9 in that kit?

10 A. At the time of the analysis or at on a  
11 later time?

12 Q. Well, both actually.

13 A. At the time of the analysis we were  
14 instructed to do a normal evidence collection kit  
15 analysis which is the routine we perform on these  
16 particular items.

17 Q. And what is that?

18 A. To determine whether or not semen was  
19 present on any of the vaginal, anal or oral  
20 specimens submitted and the type of the victim's  
21 blood and to determine if there were any foreign  
22 substances or seminal stains on any of the  
23 clothing that was submitted.

24 Q. Okay, and in regard to State's Exhibit --  
25 the vial of blood -- I believe that was 19 -- yes,

1 State's Exhibit 19, the vial of blood, what were  
2 you requested to do regarding that exhibit?

3 A. We were requested to determine the blood  
4 type and to compare the blood to any seminal  
5 stains found on the victim's clothing or in the  
6 evidence kit.

7 Q. And were you able to determine -- first  
8 of all, were you able to determine whether or not  
9 semen was present in the vaginal swabs in the  
10 evidence collection kit?

11 A. Yes, there was semen present on the  
12 vaginal smears and vaginal swab from the evidence  
13 kit.

14 Q. Would you say there was a small amount  
15 of semen or a large amount of semen?

16 A. The semen concentration on the swabs was  
17 fairly high.

18 Q. As far as any type of blood typing or  
19 anything, what did you determine came from that  
20 substance?

21 A. On the stains on the vaginal swabs and  
22 vaginal fluids I found blood stains from a person  
23 with type 0 blood.

24 Q. Did you have occasion to type Ms.  
25 [REDACTED] blood type?

1 A. Yes, I did.

2 Q. And what is that type?

3 A. Type 0.

4 Q. And did you have occasion to type  
5 State's Exhibit 19, blood taken from Mr. Drummond?

6 A. Yes, I did.

7 Q. What was that type?

8 A. Type 0.

9 Q. Were you also able to determine whether  
10 or not Ms. [REDACTED] and Mr. Drummond are secreters  
11 or non secreters?

12 A. They are both secreters.

13 Q. So, the blood type contained on the  
14 vaginal smear and swab was which blood type?

15 A. It was consistent with type 0.

16 Q. And are you able to exclude all other  
17 types of secretee blood types based on your  
18 analysis in this case?

19 A. Yes.

20 Q. And what blood types were you able to  
21 exclude?

22 A. I am able to exclude persons of type A,  
23 type B or AB secretee types.

24 Q. So. In this case you are able to rule  
25 out-- not specifically say this semen came from

1 Mr. Drummond, but you are able to say that it  
2 rules him out or includes him -- Mr. Drummond?

3 A. He would be included in the persons in  
4 the population having type O secreter type blood.

5 MR. STANDLEY: At this time, Your Honor,  
6 the State would offer into evidence State's  
7 Exhibit 15 and it's contents. For the record,  
8 that would be State's Exhibits 15 A through and  
9 including S, and I tender it to counsel for his  
10 review.

11 MR. DURANT: Judge, I object to State's  
12 Exhibits 15 A and through S. They have never  
13 really been identified by anybody.

14 THE COURT: I think you are accurate at  
15 this time in that regard.

16 MR. DURANT: So, I would certainly  
17 object to them, Your Honor.

18 THE COURT: But, other than that--

19 MR. DURANT: If I can have just a moment,  
20 Your Honor.

21 THE COURT: All right, sir. Mr. Durant,  
22 I can tell you what each of those are if you need  
23 me to.

24 MR. DURANT: I am just checking them,  
25 Judge. I made a note.

1 THE COURT: All right.

2 MR. DURANT: Your Honor, State's  
3 Exhibits 15 A through Q I would have no objection  
4 to, but R & S--

5 THE COURT: All right, State's Exhibits  
6 15A through Q are admitted.

7 (State's Exhibits 15 A through Q  
8 admitted.)

9 MR. STANDLEY: May I approach the  
10 witness, Your Honor?

11 THE COURT: Yes, sir.

12 Q. (By Mr. Standley) Let me show you what's  
13 been marked for identification purposes as State's  
14 Exhibits 15 R and S and ask you if you can  
15 identify these two items?

16 A. Yes, sir, I can.

17 Q. What are they?

18 A. State's Exhibit 15R there is a number of  
19 hairs which I recovered from a large loose  
20 collection envelope which was inside the evidence  
21 kit and I put them into this container so they  
22 would not get lost inside the kit. State's  
23 Exhibit 15S has a number of hairs recovered from a  
24 small envelope marked loose evidence collection  
25 and, again, I recovered these so they would not be

1 loose in the kit.

2 Q. Were you asked to analyze these with  
3 anything except for just collecting them?

4 A. No.

5 MR. STANDLEY: The State would offer  
6 into evidence State's Exhibits R and S, Your Honor.

7 THE COURT: 15 R and S?

8 MR. STANDLEY: 15 R and S.

9 MR. DURANT: No objection, Your Honor.

10 THE COURT: They are admitted.

11 (State's Exhibits 15 R and S admitted.)

12 Q. (By Mr. Standley) Regarding hair  
13 comparisons, in your experience as a forensic  
14 pathologist--

15 A. Forensic chemist.

16 Q. I'm sorry. If you were to take five  
17 individuals and take hair from them and say put  
18 you in a room and somebody were to take samples of  
19 hair from five individuals -- male or female, and  
20 then give them to you and then also take second  
21 samples and give them to you, would you be able to  
22 say which hair came from a particular person? In  
23 other words, are they like fingerprints? Is hair  
24 like fingerprints where you can say this hair came  
25 from that individual, no doubt?

1           A.    No, it's not.

2           MR. STANDLEY:   May I have just a moment,  
3 Your Honor?

4           THE COURT:   Yes, sir.

5           Q.    (By Mr. Standley)   Ms. Denny, did you  
6 also find semen present on any other substances?

7           A.    I did find semen on the crotch of the  
8 blue jeans.

9           Q.    And was the analysis of that particular  
10 substance -- was that consistant with the other  
11 that you testified to?

12          A.    As far as the blue jeans, the blood  
13 group typing on that item was inconclusive.

14          MR. STANDLEY:   Okay, I pass the witness,  
15 Your Honor.

16          THE COURT:   Mr. Durant.

17

18                           CROSS EXAMINATION

19

20          BY MR. DURANT:

21

22          Q.    Okay, ma'am, you did make some notes on  
23 other things in reference to this case?  Is that  
24 correct?

25          A.    Yes.

1           MR. DURANT: Your Honor, for the purpose  
2 of cross examination, we need to examine her notes.  
3 Do you have another copy of these?

4           A. No, I don't.

5           MR. DURANT: Okay, let me look at these.  
6 Judge, if I can have about one minute.

7           THE COURT: All right, sir.

8           Q. (By Mr. Durant) Ma'am, I think you said  
9 you looked at something from the F.B.I. Do you  
10 have that with you?

11          A. Yes. It's just my reference book.

12          Q. Show me what you were looking at a  
13 minute ago.

14          THE COURT: Speak loud enough for us to  
15 hear you, Mr. Durant.

16          MR. DURANT: All right, Your Honor.

17          A. This is a copy of a page from the F.B.I.  
18 book.

19          Q. (By Mr. Durant) Why don't you keep that  
20 copy and let me have this?

21          A. All right.

22          Q. Okay now, ma'am, this data you got from  
23 the F.B.I., do you know what period of time this  
24 was worked up over? Do you have any idea?

25          A. I am uncertain exactly what period of

1 time it was worked up by the F.B.I. I have no  
2 knowledge of that.

3 Q. Did they use -- if you don't know, just  
4 say you don't know. Did they use the entire  
5 continental United States in putting this together  
6 or a certain section of the country?

7 A. It's my understanding from speaking to  
8 the people who had input into it--

9 Q. No, ma'am --

10 MR. STANDLEY: Objection, Your Honor.  
11 She is allowed to get into hearsay on this.

12 THE COURT: Sustained.

13 A. It's my understanding from taking this  
14 course at the academy they did take people from  
15 all over the country because they do receive  
16 evidence from all over the country.

17 MR. DURANT: All right, I wasn't going  
18 to object --

19 MR. STANDLEY: Objection to side bar  
20 remarks, Your Honor.

21 THE COURT: Yes. No more side bar  
22 remarks. Move along, please.

23 MR. DURANT: Yes, ma'am.

24 Q. (By Mr. Durant) All right now, ma'am, as  
25 you stated earlier and-- let me get that board,

1 please. As you stated earlier now, you have four  
2 different blood types. Isn't that correct?

3 A. Yes.

4 Q. All right now, we are going to put this  
5 up on the board. And can you distinguish between --  
6 for example, let's say if you get type O blood.  
7 Is there any distinction between female type O  
8 blood and male type O blood?

9 A. No, there is not.

10 Q. Okay, so if you get somebody that is a  
11 secreter with type O blood that is a male or a  
12 female, can you make a determination as to whether  
13 or not that particular person was a secreter or  
14 non-- if you get type O blood from a male and a  
15 female, can you make a distinction as to who it  
16 came from -- whether it came from the female or  
17 the male?

18 A. No, sir.

19 Q. And does the same thing apply to saliva?

20 A. That's correct.

21 Q. Okay now, as far as this type A blood  
22 type, based on the fact we have forty percent of  
23 the white population of type A blood. Is that  
24 correct?

25 A. Yes.

1 Q. Based on the statistics you have from  
2 the F.B.I.?

3 A. Yes.

4 Q. Eleven percent has type B and forty-five  
5 percent, which is where both -- and you examined --

6 THE COURT: Go ahead.

7 Q. (By Mr. Durant) And the two people that  
8 you examined -- the male and female -- each one  
9 was an O secreter. Is that correct?

10 A. That's correct.

11 Q. So, they have that in common, not only  
12 with the two of them, but with at least forty-six  
13 percent of the population. Is that correct?

14 A. Yes.

15 Q. And they both had type O blood, which  
16 again was also not only common to each other but  
17 in common with forty-five percent of the  
18 population. Is that correct?

19 A. Yes.

20 Q. All right now. You stated that you  
21 examined some blue jeans. Now, who did the  
22 records show you these blue jeans belonged to?

23 A. I believe they were the victim's.

24 Q. Okay, we don't want to believe now.  
25 Check that.

1 A. You have my notes.

2 Q. Check and be very sure who you got these  
3 blue jeans from and who they belonged to. Give us  
4 the name of the person that your records show the  
5 blue jeans belonged to.

6 A. My records show that the clothing  
7 submitted all belonged to the victim.

8 Q. Okay, the name?

9 A. [REDACTED].

10 Q. All right, [REDACTED]. Now, when you  
11 examined and found seminal stains on the blue  
12 jeans you stated that it came up inconclusive.  
13 Can you state the reason why it would come up  
14 inconclusive based on your scientific knowledge?

15 A. There are a number of reasons. What  
16 happened in this case was --

17 Q. I didn't ask what happened in this case.

18 MR. STANDLEY: Objection, Your Honor,  
19 and I ask that she be allowed to answer the  
20 question.

21 THE COURT: Overruled.

22 MR. DURANT: Your Honor, I asked for the  
23 reason.

24 THE COURT: I overruled his objection.

25 MR. DURANT: I'm sorry.

1 Q. (By Mr. Durant) Name the reason why your  
2 tests would come up inconclusive?

3 A. In any general case there are a number  
4 of reasons which can cause an inconclusive result  
5 on ABO blood typing. These would include  
6 bacterial contamination such as certain types of  
7 oils. Some type of detergents and fabric  
8 treatments can give inconclusive results and  
9 anything the blue jeans are made of, that is the  
10 general reason for the inconclusive results.

11 Q. All right now, these stains -- let's  
12 just say if I put a stain on my pants. How long  
13 could these stains stay in your pants if you  
14 didn't wash them? They could stay in there a long  
15 time. Isn't that correct?

16 A. Yes.

17 Q. Three months?

18 A. You are asking how long --

19 Q. I am asking they could stay in as long  
20 as three months or six months. Is that correct?

21 A. If you never washed them?

22 Q. Yes, ma'am.

23 A. If you never washed them they could stay  
24 there for years.

25 Q. All right now, and as far as this type 0

1 blood is concerned-- well, let me ask you this:  
2 if you took this blood -- let's just say this man  
3 here and he had type O blood and I had type O  
4 blood, would you be able to tell whether the type  
5 O blood came from the white or black male?

6 A. Not just from the AB blood type.

7 Q. So, you would have to do some other  
8 tests then. Is that correct?

9 A. There are some markers with regard to  
10 population which could do that.

11 Q. But doing what you did you couldn't tell  
12 that?

13 A. No.

14 Q. You would have to go a lot deeper into  
15 it. Isn't that correct?

16 A. Yes.

17 Q. All right now, and as far as this type O  
18 and forty-five percent is concerned, that doesn't  
19 point to any specific individual. This points to  
20 a person with type O blood. Is that correct?

21 A. Yes, sir.

22 Q. And as far as a secreter is concerned or  
23 non secreter, that doesn't point to any specific  
24 individual again. It only points to the fact that  
25 this particular person falls into that category

1 which is seventy-six percent of the population.

2 Isn't that right?

3 A. Yes.

4 Q. Now, let's go into the hair situation.

5 Now, Mr. Standley made reference to fingerprints

6 and, of course, we know that at least to date

7 there has been no known -- no person who is known

8 to have the exact same fingerprints as another

9 person. Isn't that correct?

10 A. Yes.

11 Q. Whether or not that is it, we just know

12 to date the F.B.I. hasn't found any two people

13 with the same fingerprints?

14 A. Yes.

15 Q. You can't do hair the way you can

16 fingerprints, but can you take samples of this

17 man's hair and compare them with this man's hair

18 or my hair and that man's heroin and tell the

19 difference in the hair?

20 A. You can eliminate people, yes.

21 Q. But, the point I am making is this: you

22 can eliminate people using hair samples?

23 A. Yes.

24 Q. And you can also take -- if you have a

25 known -- let's say if you take some of my pubic

1 hairs and you know these pubic hairs are from Ben  
2 Durant this week.

3 A. Uh huh.

4 Q. And you take some more pubic hairs from  
5 Ben Durant four years later. Can you compare  
6 those pubic hairs and find similarities to me?

7 A. You are saying they would be unique to  
8 you and no one else?

9 Q. No, I am not saying that, but can you  
10 look at them and say these are the pubic hairs  
11 from Ben Durant and let's say if you compared them  
12 with the known pubic hairs that you got from me  
13 with the pubic hairs you got from this man or from  
14 this man or that man or any other man in the room.  
15 Wouldn't you see more similarities in my known  
16 pubic hairs than you would see in some unknown  
17 pubic hairs? Do you follow me there?

18 A. I believe so.

19 Q. It's possible-- the advantage is you can  
20 say first of all concerning hair, assuming they  
21 did match under the microscope, is the hairs could  
22 come from the same individual because it has been  
23 shown from the F.B.I. and people who do studies on  
24 hair that two individuals have very similar hair  
25 and you may not be able to distinguish between

1       them. What I am saying is that it has been shown  
2       by people who do hair comparisons every day and  
3       they are experts and that's all they do all their  
4       lives, there are some cases where they have not  
5       been able to distinguish between two individuals  
6       hairs because the hairs and characteristics were  
7       not unique enough so they are called microscopic  
8       characteristics?

9           A.     Yes.

10       Q.     All right now, if you take these  
11       microscopic characteristics-- so, what you are  
12       telling me then is that it would be possible to  
13       take my pubic hairs and let's say just speaking  
14       hypothetically Mr. Standley's pubic hairs and not  
15       be able to distinguish between them?

16       A.     Not in particular, but there is a  
17       possibiity there is someone in the world that has  
18       pubic hairs with similar characteristics that they  
19       could not be distinguished from yours.

20       Q.     Okay, but my pubic hairs don't have any  
21       different characteristics. They would have the  
22       same characteristics now, wouldn't they?

23       A.     If you are saying with your pubic hairs  
24       at a later date.

25       Q.     Yes, ma'am, say three to six months from

1 now.

2 A. Assuming you didn't alter or change the  
3 hairs.

4 Q. I probably wouldn't do that.

5 MR. STANDLEY: Objection to the sidebar  
6 remarks, Your Honor.

7 THE COURT: Sustained.

8 Q. (By Mr. Durant) Assuming there was no  
9 chemical alterations, if you took my pubic hairs --  
10 and isn't it true when people have sex generally  
11 speaking that people shed pubic hairs. Isn't that  
12 right?

13 A. Hairs are shed from the body at all  
14 times.

15 Q. I understand, but the reason for the  
16 taking of hair samples is to make a comparison  
17 with somebody else. Isn't that correct?

18 A. Yes.

19 Q. All right now, for example, if a lady  
20 had had sex with a man and she scraped the pubic  
21 hair and combed the pubic area for hair and the  
22 shedding of hair, there is always the possibility  
23 not only will she shed some of her hair but the  
24 hair of the person that she had intercourse with.  
25 Is that correct?

1           A.    Yes, sir.

2           Q.    And certainly you can take -- and, again,  
3 let's assume that they don't have the same  
4 microscopic characteristics. You can take those  
5 hairs and you can make comparisons with those  
6 hairs and that's also the reason that you clip  
7 certain hairs from her to make sure you do have  
8 some of her hair. Is that correct?

9           A.    If you are talking about a hair scanner,  
10 it would have to be pulled.

11          Q.    Well, you pull them to make sure you  
12 have her hair. Now, assuming that they don't have  
13 the same microscopic characteristics. You can  
14 make comparisons and say yes, these are the hairs  
15 that came from [REDACTED] and we have some hairs  
16 here which don't have the same microscopic  
17 characteristics she has in her hair and these are  
18 foreign hairs. Is that right?

19          A.    You can say there were foreign hairs  
20 present if they had different characteristics, yes.

21          Q.    And you can take those hairs with the  
22 different characteristics and compare them with  
23 not unknown hairs but known hairs. Say we take  
24 hairs from a certain man and compared them with  
25 the foreign hairs. They should have the same

1 characteristics. Isn't that true?

2 A. If you are saying the hairs came from  
3 him. Assuming the unknown hairs -- the foreign  
4 hairs from the victim's pubic combings are from  
5 the same individual the took the sample from?

6 Q. Yes.

7 A. Then you can say they have the same  
8 microscopic characterstics and they could have the  
9 same origin.

10 Q. We are talking about known hairs to  
11 compare. Isn't that correct?

12 A. Yes.

13 Q. All right, and again barring some  
14 chemical alterations or something, the hairs  
15 should match. Isn't that correct?

16 A. They should have the same  
17 characteristics, yes.

18 Q. Right, and is that the scientific way of  
19 saying microscopic characteristics?

20 A. Yes, sir.

21 Q. So, you put them under a microscope and  
22 study them and certain similarities would show  
23 then. Is that correct?

24 A. That's correct.

25 Q. All right, so if you have known hair and

1 foreign hair, if they have the same microscopic  
2 characteristics they should match?

3 A. If they are from the same individual we  
4 will say they have the same microscopic  
5 characteristics.

6 Q. All right now, as far as the -- were  
7 this-- let me see your records. Did you receive  
8 any hair samples from any other people for  
9 comparison purposes besides [REDACTED] ?

10 A. I don't believe so, no.

11 Q. You didn't receive any underwear from  
12 Michael Drummond?

13 A. I don't recall. You have my notes.

14 Q. Yes, ma'am, I know.

15 THE COURT: Counsel, let her have her  
16 notes.

17 MR. DURANT: Yes, ma'am. I'm sorry.

18 Q. (By Mr. Durant) Let me ask you this,  
19 ma'am: did you receive any evidence at all  
20 labeled Michael Drummond-- anything at all, any  
21 underwear, hair or socks or any clothing at all?

22 A. No, I did not.

23 MR. DURANT: All right. That's all I  
24 have at this time, Judge.

25 MR. STANDLEY: May I proceed, Your Honor?

1 THE COURT: Yes, sir.

2

3

RE-DIRECT EXAMINATION

4

5 BY MR. STANDLEY:

6

7 Q. Ma'am, regarding this case, is there any  
8 explanation in your expert opinion as to why the  
9 stains in the jeans may have been undetermined  
10 that you know of -- inconclusive?

11 A. Well, in this particular case as far as  
12 the way the test was actually run, the indicator  
13 steps which were put in to determine the blood  
14 type which usually indicates there is some type of  
15 contamination in the sample.

16 Q. Would an-- let me ask you this: were  
17 those jeans kept in a refrigerator or were they  
18 kept somewhere else?

19 A. They were kept in the vault and it is  
20 not refrigerated.

21 MR. STANDLEY: May I approach the  
22 witness, Your Honor?

23 THE COURT: Yes, sir.

24 Q. (By Mr. Standley) Let me show you what's  
25 been marked for identification purposes as State's

1 Exhibit 14 and ask if you can identify these?

2 A. Yes, I can.

3 Q. And what are these, please?

4 A. These are the blue jeans that were  
5 submitted from the victim in L2H61268.

6 Q. Are these marked on the jeans with your  
7 markings?

8 A. Yes.

9 Q. And was that also the number that  
10 appears on State's Exhibit 18?

11 A. Yes.

12 MR. STANDLEY: The State would offer  
13 into evidence, Your Honor, State's Exhibit 14 and  
14 tender it to counsel for his review.

15 MR. DURANT: No objection, Your Honor.

16 THE COURT: State's Exhibit 14 is  
17 admitted.

18 (State's Exhibit 14 admitted.)

19 MR. STANDLEY: Your Honor, I believe  
20 there is a hole in the crotch.

21 Q. (By Mr. Standley) Is that where the  
22 stain was taken from?

23 A. Yes, sir.

24 Q. Did you cut this out?

25 A. Yes, the area in the center of the

1 crotch is where the stain was and this is a  
2 control area. Whenever we have a stain we also  
3 take a control area to make sure of the test.

4 Q. Ma'am, the fact that the stain in the  
5 pants was inconclusive, does that necessarily say  
6 it did not come from the main source or the  
7 vaginal area of the complainant -- in other words  
8 that it would not have been -- or you just can't  
9 tell?

10 A. I can't tell.

11 MR. STANDLEY: Okay, I pass the witness,  
12 Your Honor.

13

14 RE-CROSS EXAMINATION

15

16 BY MR. DURANT:

17

18 Q. Ma'am, a stain being somewhere for a  
19 long period of time can also cause it to be  
20 inconclusive, can it not -- or can it?

21 Q. Uh huh.

22 A. Are you saying if it were kept for a  
23 long time unrefrigerated?

24 Q. Yes, ma'am.

25 A. It can be, but in general that kind of

1 result will give no result whatever. The lies can  
2 mean there was a contamination.

3 Q. What do you mean by lies?

4 A. The indicator you use ruptures and that  
5 is an indication a contaminating factor is present.

6 MR. DURANT: That's all I have.

7 MR. STANDLEY: Pass the witness

8 THE COURT: You may be excused, ma'am.

9 Call your next.

10 MR. STANDLEY: May I have just a moment,  
11 Your Honor?

12 THE COURT: Yes, sir.

13 (State's Exhibit 21 marked.)

14 MR. STANDLEY: At this time the State  
15 offers State's Exhibit 21, the diagram drawn by  
16 the doctor yesterday, and tender it to counsel for  
17 his review.

18 THE COURT: Any objection to the  
19 admission of State's Exhibit 21?

20 MR. DURANT: No objection.

21 THE COURT: State's Exhibit 21 is  
22 admitted.

23 (State's Exhibit 21 admitted.)

24 THE COURT: Call your next.

25 MR. STANDLEY: The State rests.