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APPELLATE COURT NO. _____
IN THE COURT OF APPEALS
OF THE STATE OF TEXAS
AT HOUSTON

RICK EDMUND FRAS,

Appellant,

VS.

THE STATE OF TEXAS,

Appellee.

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CLERK
APPEALS
TEXAS

APPEAL FROM 338TH DISTRICT COURT OF HARRIS COUNTY,
TEXAS

Judge Mary Bacon, Presiding

STATEMENT OF FACTS
JURY TRIAL
VOLUME 5 OF 12 VOLUMES

Carrie Hargis
Deputy Official Court Reporter
301 San Jacinto
Houston, Texas 77002

1 KAREN OSTMAN,
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 MS. KROCKER:

8 Q. Please state your name for the record.

9 A. Karen Louise Ostman.

10 Q. What kind of work do you do?

11 A. I'm employed by the Houston Police
12 Department Crime Laboratory.

13 Q. In what capacity?

14 A. My title is Criminalist II.

15 Q. What does that mean?

16 A. What I do is I work in the serology
17 section of the laboratory. My work involves the
18 analysis of evidence material for the presence of
19 blood and other body fluids.

20 Q. What does serology mean?

21 A. The analysis of blood and other body
22 fluids.

23 Q. Tell us a little bit about your
24 educational background and training and experience?

25 A. I have a bachelor's degree in biology.

1 I also have a master's degree in forensic science.
2 I've done internship with the Connecticut State
3 Police Forensic Laboratory. I've also been
4 employed by the University of New Haven Forensic
5 Laboratory. Also I've been employed by the City
6 of New York Crime Laboratory as well as the
7 Houston Police Crime Laboratory.

8 Q. How long have you been with HPD?

9 A. Just over two years.

10 Q. I'm showing you what has been marked as
11 State's Exhibit No. 9. Can you identify that,
12 please?

13 A. Yes, I can.

14 Q. What is that?

15 A. This is what we refer to as a rape kit.

16 Q. And what basically is a rape kit?

17 A. It's a kit for the collection of
18 evidence material pertaining to a sexual assault.

19 Q. Was this particular kit, State's Exhibit
20 No. -- what's the number? Can you see it?

21 A. 9.

22 Q. Was it submitted to your crime
23 laboratory?

24 A. Yes, it was.

25 Q. And when it was submitted to the crime

1 laboratory, was the tape still sealed? At the
2 time you received it?

3 A. Yes, it was.

4 Q. Did it appear to have been altered or
5 tampered with in any way?

6 A. No, it did not.

7 Q. At some point, did you observe some of
8 the items in that rape kit?

9 A. Yes, I did.

10 Q. Did you also receive some clothing in
11 the laboratory?

12 A. Yes, I did.

13 Q. Let me ask you: After you got the rape
14 kit and the clothing, what case number or
15 laboratory number was assigned?

16 A. It was assigned to the number L87 --
17 excuse me. L86-9564.

18 Q. I'm showing you State's Exhibit No. 11
19 and its contents, State's Exhibit No. 11-A. Can
20 you identify that?

21 A. Yes, I see the corresponding laboratory
22 number as well as my initials on this.

23 Q. All right. Did you receive that slip as
24 evidence in this case?

25 A. Yes, I did.

1 Q. Also State's Exhibit No. 11-B?

2 A. Yes. This also has the corresponding
3 laboratory number as well as my initials.

4 Q. And State's Exhibit No. 11-C?

5 A. This also has the same laboratory number
6 as well as my initials.

7 Q. Would you look, please, at State's
8 Exhibit No. 10 and its contents, State's Exhibit
9 10-A?

10 A. Yes. This has the same laboratory
11 number and my initials.

12 Q. What are these, for the record?

13 A. These were the clothing that was
14 submitted in this particular case.

15 Q. And State's Exhibit No. 10-A, is that
16 what this was? 10-A is a pair of panties?

17 A. That is correct.

18 Q. And at some point in the Houston Police
19 Laboratory was a small bit of fabric removed from
20 those panties?

21 A. Yes, it was.

22 Q. For what purpose?

23 A. To determine whether or not any seminal
24 stains were present on the item.

25 Q. Okay. I'm also showing you State's

1 Exhibit No. 18 and its contents, a white
2 laboratory coat marked State's Exhibit 18-A.
3 Could you identify these for the record, please?

4 A. Yes. I recognize this. It has the same
5 laboratory number, also my initials.

6 Q. Once these items, the laboratory coat,
7 the three items of personal clothing appeared --
8 I'm sorry -- four items of personal clothing and
9 the contents of the rape kit came to your
10 laboratory, did you alter or tamper with those
11 items other than to perform chemical tests?

12 A. No, I did not.

13 Q. Specifically did you look at the bra,
14 the slip and the lab coat and the panties for any
15 hairs?

16 A. Yes, I did.

17 Q. Did you find any hairs on any of those
18 items?

19 A. Yes, I did.

20 Q. What would that be?

21 A. Hairs were collected from the panties
22 the blue pantyhose and also the white half slip.

23 Q. The slip?

24 A. Yes.

25 Q. Panties and the hose?

1 A. That's correct.

2 Q. What did you do with those hairs?

3 A. They were retained in the vault in a
4 laboratory until we received samples from a
5 possible suspect with which to compare them.

6 Q. Do you, yourself, do the hair
7 comparisons?

8 A. No, I do not.

9 Q. There is someone else in the Houston
10 Police Department Crime Laboratory who does that?

11 A. That's correct.

12 Q. Can you tell me whether or not you
13 performed any tests on the vaginal smear, the anal
14 smear contained in the rape kit?

15 A. Yes, I did.

16 Q. And can you tell us what your tests
17 revealed?

18 MR. McINNIS: Objection, Your Honor.
19 May we approach the bench?

20 THE COURT: Yes, you may.

21 (The following discussion was
22 held at the bench.)

23 MR. McINNIS: This may be premature but
24 until we find out -- she said the smear. Until we
25 find out exactly what kind of tests were conducted,

1 I want to know what kind of tests were conducted
2 before we go into the results. If you want me to,
3 I can do that by voir dire.

4 MS. KROCKER: I'll be glad to lay that
5 predicate.

6 (End of discussion at bench.)

7 BY MS. KROCKER:

8 Q. Can you tell us what a vaginal smear is
9 and what is an anal smear?

10 A. Yes. The vaginal smear is simply a
11 glass microscope slide upon which the medical
12 examiner actually smears the substance which was
13 swabbed from the area in question that is smeared
14 onto the microscope slide so that we in the
15 laboratory can visualize what was in that area in
16 question.

17 Q. And would that also be true of the anal
18 smear?

19 A. That's correct.

20 Q. Now, with regard to the vaginal smear
21 and the anal smear, which you've identified,
22 they're still in the rape kit, I think, aren't
23 they? Today?

24 A. That's correct.

25 Q. With regard to those two smears, did you

1 perform some kind of a test?

2 A. Yes, I did.

3 Q. What kind of test was that?

4 A. I applied a biological stain onto the
5 material on the smear and visualized them under
6 microscope.

7 Q. And what did you visualize or what did
8 you see? What did you learn?

9 A. I saw that there was a presence of sperm
10 cells on the smear.

11 Q. What exactly is sperm?

12 A. Sperm are the reproductive male cells,
13 come from male sex organs.

14 Q. Are they contained in semen?

15 A. Yes, they are.

16 Q. Did you perform any test on the panties,
17 State's Exhibit No. 10-A?

18 A. Yes, I did.

19 Q. What kind of test was that?

20 A. I performed an initial chemical color
21 test which indicates whether or not a seminal
22 stain is present. That test was positive. So, I
23 then went on to confirm by another test whether or
24 not there was a seminal stain present and that
25 test gave me positive results for the presence of

1 seminal fluid.

2 Q. And seminal fluid is?

3 A. Seminal fluid is the male reproductive
4 fluid which contains the sperm cells.

5 Q. And did you look at the laboratory coat,
6 State's Exhibit No. 18-A?

7 A. Yes, I did.

8 Q. And did you perform a test on that, also?

9 A. Yes, I did.

10 Q. Was it the same kind of test as on the
11 others?

12 A. Yes, it was the same kind of test.

13 Q. And what did you learn about the
14 laboratory coat?

15 A. I did the preliminary color test which
16 did indicate that there was a seminal stain
17 present. At that point in time, I did retain the
18 stain on the garment since I didn't know whether I
19 had permission to cut the clothing at that point
20 or not.

21 Q. Did you also do some kind of test on a
22 piece of gauze?

23 A. Yes, I did.

24 Q. And what did you find on the gauze?

25 A. I did find on the gauze that there was

1 the presence of a seminal stain.

2 Q. Do you have any way of knowing how that
3 gauze is prepared or what is the standard
4 procedure?

5 A. I have no direct knowledge of that.

6 Q. And I'm sorry. I know you told me this
7 but I've already forgotten. Which items of
8 clothing did you find hairs on?

9 A. That was the underpants, the blue
10 pantyhose and the white slip.

11 Q. Did you look at the vaginal and anal
12 swabs to see if there were any hairs on them?

13 A. No. Once I had determined that the
14 vaginal and anal smears did contain sperm cells,
15 what I did with the swabs was to freeze them to
16 prevent any -- or to slow down the biological
17 breaking down or whatever stains were on those
18 swabs so I wanted to freeze them at that point.

19 Q. Swabs were frozen. What was done with
20 the rest of the evidence?

21 A. That was all locked up in the vault in
22 our crime laboratory.

23 Q. And does that include everything which
24 you received in the rape kit and all of the
25 clothing?

1 A. That is correct.

2 Q. And while all of this evidence was in
3 your possession, was it at any time altered or
4 tampered with other than to perform the test
5 you've just mentioned?

6 A. No, it was not.

7 Q. Did you personally give any of these
8 items to any other chemist or was it all placed in
9 the freezer in the vault?

10 A. It was all placed either in the freezer
11 or locked in the vault.

12 MS. KROCKER: Thank you. I have no
13 further questions at this time.

14 THE COURT: Mr. McInnis?

15 MR. McINNIS: Just a few, Your Honor.

16

17 CROSS EXAMINATION

18

19 BY MR. McINNIS:

20 Q. Ms. Ostman, when did you perform these
21 visual inspections, color inspections of these
22 samples?

23 A. October 17th of 1986.

24 Q. And when you say that you wanted to
25 freeze the samples taken from the swabs -- and I'm

1 talking now about the anal and the vaginal swab,
2 do you mean by that that you placed them in the
3 freezer to slow down deterioration?

4 A. Exactly.

5 Q. Do you have your report with you?

6 A. Yes, I do.

7 Q. Do you mind if I look at it?

8 A. Certainly.

9 MR. McINNIS: May I approach the witness?

10 THE COURT: Uh-huh.

11 A. This is a copy of my report.

12 MR. McINNIS: May I have a moment, Your
13 Honor?

14 THE COURT: Yes, you may.

15 BY MR. McINNIS:

16 Q. Okay. And it would be fair to say that
17 you obtained no seminal stains from the saliva
18 swab?

19 A. That is correct.

20 Q. And no seminal stains detected on
21 pantyhose?

22 A. That is also correct.

23 Q. And there were no serological stains,
24 whether blood or seminal fluids on the sweater,
25 skirt, bra or the slip?

1 A. That is correct.

2 Q. And, in fact, there were a lot of other
3 items that were taken into your possession at that
4 time including fingernail scrapings, head hair and
5 that sort of thing?

6 A. Those are included in the rape kit.

7 Q. Do you have -- I notice your report
8 doesn't tell us what the weight or the size of
9 these stains were. Did you keep any kind of
10 records as to the size, weight or measurements of
11 the samples that were taken?

12 A. No. That's not routinely done in
13 laboratory.

14 Q. I understand that. I'm just -- so what
15 you basically were doing was trying to find out if
16 the stains existed?

17 A. That's correct.

18 MR. McINNIS: Okay. Pass the witness,
19 Your Honor.

20 MS. KROCKER: Nothing further, Your
21 Honor.

22 THE COURT: May Ms. Ostman be excused
23 then?

24 MS. KROCKER: We ask that she remain
25 until the other two chemists finish testifying.

COPY

1 THE COURT: All right. If you would,
2 please wait outside.

3 MS. KROCKER: The State calls Holly
4 Hammond.

5 THE COURT: Holly Hammond.

6 Good afternoon. Would you raise your
7 right hand, please?

8 (Witness sworn.)

9 THE COURT: Please take the witness
10 stand.

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1 HOLLY HAMMOND,
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 MS. KROCKER:

8 Q. Please state your name.

9 A. My name is Holly A. Hammond.

10 Q. Where do you work?

11 A. I work for the City of Houston in the
12 Police Department Crime Laboratory.

13 Q. And what do you do there?

14 A. I work in the criminalistic section in
15 trace and serology.

16 Q. What is trace?

17 A. Trace is various types of evidence such
18 as hairs, fibers, glass, soil, gunshot residue.

19 Q. What kind of education, background and
20 training do you have for your work in the police
21 department laboratory?

22 A. I have a bachelor of science degree in
23 chemistry and a bachelor of science degree in
24 forensic science from the University of New Haven
25 in West Haven, Connecticut. I've done extensive

1 training in the crime lab and attended special
2 meetings and seminars dealings with serology.

3 Q. In April of 1987 did you receive some
4 samples in connection with Laboratory No. 86-9564?

5 A. Yes, I did.

6 Q. Specifically did you receive blood and
7 saliva samples and hair samples from Sergeant
8 Ralph Yarborough?

9 A. Yes. There were blood, saliva and hair
10 samples submitted by Ralph Yarborough.

11 Q. Was that on April 23rd of this year?

12 A. Yes, it was.

13 Q. Would you look at State's Exhibit No.
14 20-D, State's Exhibit No. 20-F and State's Exhibit --
15 State's Exhibit No. 19-B.

16 Do you recognize those items?

17 A. Yes, I do.

18 Q. And are these the items which you
19 received from Sergeant Yarborough?

20 A. Yes, they are.

21 Q. Okay. More particularly, would you look
22 at the contents of State's Exhibit No. 37, items
23 37-A through 37-I and can you tell me if you
24 recognize these little white pieces of paper and
25 their contents?

1 A. Yes, I do.

2 Q. All right. And were those also
3 submitted by Sergeant Yarborough?

4 A. Yes, they were.

5 Q. All right. Now, did you perform tests
6 on these hairs, the blood sample and the saliva
7 sample which Sergeant Yarborough turned into the
8 Houston Police Department Laboratory?

9 A. Performed tests on the blood and saliva
10 samples.

11 Q. Now, while those blood and saliva
12 samples were within your possession, were they
13 altered or tampered with in any way other than the
14 performing of tests?

15 A. No.

16 MS. KROCKER: At this time, the State
17 offers into evidence Item No. 20-D and 19-B and
18 tender it to Mr. McInnis.

19 MR. McINNIS: Excuse me, Your Honor.
20 I'm confused. Is 19-B a hair sample?

21 THE COURT: 19-B should be the saliva
22 sample.

23 THE WITNESS: Yeah, it's a saliva sample.

24 MR. McINNIS: Okay. Thank you.

25 MS. KROCKER: Actually I offer into

1 evidence the envelope, which is 20-D and saliva
2 sample -- I'm sorry, the blood sample which is
3 20-A and the saliva sample which is 19-B.

4 MR. McINNIS: Object at this time, Your
5 Honor, to relevance as shown and I think that's
6 going to come through later testimony but until
7 the relevance is shown I object to it.

8 THE COURT: Objection overruled.


9 MS. KROCKER: Thank you.

10 BY MS. KROCKER:

11 Q. I'm showing you what has been marked
12 State's Exhibit No. 19 and State's Exhibit No.
13 20-E. Would you look at these two items and can
14 you tell me if you recognize them?


15 A. Yes, I do.

16 Q. What are those items, Ms. Hammond?

17 A. They are blood and saliva samples from
18 .

19 Q. Where were those blood and saliva
20 samples taken?

21 A. They were obtained in our laboratory.

22 Q. Did Ms.  actually come to the
23 Houston Police Department laboratory to give those
24 additional samples?

25 A. Yes, she did.

1 Q. Were you present when the blood was
2 drawn and when the saliva sample were taken from
3 Ms. [REDACTED]?

4 A. Yes.

5 Q. And did you perform some tests using the
6 blood and the saliva from [REDACTED]?

7 A. Yes, I did.

8 Q. While they were in your possession until
9 the tests were performed, were they altered or
10 tampered with any in any way except for the
11 performing of the tests?

12 A. No, they were not.

13 Q. Did you also receive in case number
14 L86-9564 any clothing from the vault?

15 A. I retrieved clothing and sexual assault
16 evidence kit from our laboratory vault.

17 MR. McINNIS: Your Honor, I would like
18 the record to reflect what would be the laboratory
19 number for this case.

20 MS. KROCKER: 86-9564.

21 MR. McINNIS: Okay.

22 BY MS. KROCKER:

23 Q. And at some point did you obtain some
24 swabs in Laboratory No. 86-9564 from the freezer?

25 A. Yes, I did.

1 Q. All right. Let's begin with the blood
2 samples that Ralph Yarborough gave you from the
3 defendant Fras. All right? I believe those are
4 numbers 20-D and 19-E, the saliva and the blood
5 from Fras. Let's start out with how many
6 different blood types there are.

7 A. There are approximately 20 different
8 that we have the capability of getting in the lab.

9 Q. It's getting late in the day. I need to
10 speak up and you speak up. I'm going to move back
11 here and talk a little louder. Keep your voice up
12 so they can hear. Basically is it possible to
13 take somebody's blood and determine what kind of
14 blood they have?

15 A. Yes, it is.

16 Q. Did you do that with the defendant
17 Fras's blood?

18 A. Yes, I did.

19 Q. And were you able to determine his blood
20 type?

21 A. Yes. I determined his blood type in the
22 A-B-O Blood Grouping System.

23 Q. So, Fras has what type of blood?

24 A. Type A blood.

25 Q. Type A? Did you examine the blood

1 obtained from [REDACTED] at your laboratory?

2 A. Yes, I did.

3 MR. McINNIS: Your Honor, I would object
4 to that at this time unless I can take the witness
5 on voir dire.

6 THE COURT: You may.

7

8 VOIR DIRE EXAMINATION

9

10 BY MR. McINNIS:

11 Q. Ms. Hammond, when did you examine the
12 blood taken from Ms. [REDACTED]?

13 A. On the 23rd of April, 1987.

14 Q. Just a few weeks ago?

15 A. Yes.

16 Q. And do you know when that blood was
17 taken? When this sample was taken?

18 A. Yes. It was taken that day.

19 Q. Taken that day from her.

20 MR. McINNIS: Pass the witness on that
21 point, Your Honor.

22 THE COURT: Okay.

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DIRECT EXAMINATION CONTINUED

BY MS. KROCKER:

Q. When you performed the test on Ms. [REDACTED] blood, what did you learn her blood type to be?

A. She has Type B blood.

Q. Now, do some people's blood type show up in their body fluids?

A. Yes.

Q. What are those kinds of people called?

A. They're called secretors.

Q. And if you were a secretor then, would your blood type show up in your saliva, in your vaginal fluid or your seminal fluid, for example?

A. Yes, it would be possible to determine blood type from those body fluids.

Q. Now did you examine any of the evidence in Laboratory No. L86-9564 to determine the blood type of that evidence? That is, what blood types were present on that evidence?

A. Yes, I did.

Q. All right. Specifically, which items of evidence, either various samples from the rape kit or clothing did you look at that revealed some

1 type of blood type?

2 A. Vaginal swab.

3 Q. All right. And what did you find on the
4 vaginal swab?

5 I forgot to ask you one other question.
6 When you performed the test on Fras's blood, was
7 he a secretor or non-secretor?

8 A. We performed the test on both his blood
9 and saliva sample. He was determined to be a
10 secretor.

11 Q. So that means that Fras's blood type
12 will show up in his body fluids?

13 A. Yes.

14 Q. When you tested [REDACTED] blood,
15 did you learn if she was a secretor or not?

16 A. She was also a secretor.

17 Q. So would [REDACTED] blood Type B
18 show up in her body fluids?

19 A. Yes, it should.

20 Q. Show us what items you tested and what
21 your testing revealed in this case number?

22 A. I tested a vaginal swab.

23 Q. What did you find on the vaginal swab?

24 A. I found that it contained semen and I
25 found the presence of A-B.

1 MR. McINNIS: Your Honor, I would object
2 to that until we find out whether or not we're
3 talking about examining the saliva sample to
4 determine whether or not someone was a secretor.
5 We did not talk about examining seminal fluid or
6 that particular body fluid and --

7 MS. KROCKER: I'll clarify that, Judge.
8 BY MS. KROCKER:

9 Q. Did you at any time receive any seminal
10 fluid from this defendant? Did the State choose
11 to ask for semen from this defendant or did you
12 only receive blood and saliva?

13 A. I only received blood and saliva.

14 Q. So, all of your tests are based on what
15 you learned about defendant Fras from his blood
16 and from his saliva?

17 A. Any conclusions to that -- of my tests
18 in reference to her would be from those samples,
19 yes.

20 Q. All right. When you looked at the
21 vaginal swab and in [REDACTED] rape kit,
22 what did you find with regard to the blood type
23 present? Tell us what you found.

24 MR. McINNIS: Your Honor, I object to
25 that one again. May we approach the bench?

1 THE COURT: Yes, you may.

2 (The following discussion was
3 held at the bench.)

4 MR. McINNIS: My objection is as follows,
5 Your Honor: Mr. Fras was apparently -- gave a
6 sample of his blood and a sample of his saliva,
7 both of which were tested. Based on the saliva,
8 it was determined that Mr. Fras was a secretor. I
9 do not believe based on that that they can talk
10 about what he secretes into his seminal fluid. I
11 think that the concept of being a secretor is much
12 more complex than that and I may, myself, have to
13 call expert evidence on that.

14 At this time we are going to allow the
15 witness give a blood type that was on a swab and
16 that would be a vaginal swab, I take it, if I'm
17 not wrong, taken way back in October. Would that
18 be right?

19 MS. KROCKER: Vaginal swab was taken
20 from the victim in October.

21 MR. McINNIS: Which has been sitting in
22 a freezer for a long, long period of time.
23 There's been no testimony as to whether or not it
24 was tested in any intervening time.

25 As we know, Mr. Fras was in custody a

1 long, long time and any tests or comparisons could
2 have been made much earlier when the sample was
3 fresh. Furthermore, what my specific objection at
4 this time goes to is we're about to give a blood
5 type based on seminal fluid and this woman didn't
6 examine any seminal fluid from the defendant to
7 determine his blood type.

8 MS. KROCKER: I'll clarify it for the
9 jury. We're talking about seminal fluid that was
10 on the vaginal swab. Perfectly legitimate.

11 MR. McINNIS: But you didn't test -- he
12 never gave a sample of his semen to compare with.
13 We're trying to go through the back door on his
14 blood type because he happens to be a saliva
15 secretor.

16 MS. KROCKER: Garland, we can find out
17 if he's a secretor on his blood type from his
18 saliva.

19 MR. McINNIS: I'm familiar with the test.

20 THE COURT: I'm going to let her testify.

21 MR. McINNIS: My objection at this point,
22 the scientific basis hasn't been shown and the
23 witness hasn't been shown qualified to give it and
24 and I would object also to the comparisons between
25 a recent sample and a much, much older sample.

1 THE COURT: Objection's overruled.

2 (End of discussion at bench.)

3 BY MS. KROCKER:

4 Q. When you tested the vaginal swab, you
5 found the presence of semen. Is that where we
6 left off?

7 A. Yes.

8 Q. What did you find with regard to any
9 blood types on that seminal stain on the vaginal
10 swab?

11 A. I detected A-B and H blood group
12 substances on the vaginal swab.

13 Q. All right. A, B and H?

14 A. Yes.

15 Q. All right. What is an H? I'm going to
16 put it in parenthesis. Okay. Is H a little
17 different from A and B?

18 A. Yes, it is.

19 Q. All right. So, I'm going to put H over
20 here in a separate category. H. Tell us what
21 that is.

22 A. H is the blood group substance that very
23 simply corresponds to the O blood group in blood.
24 It is also a precursor substance to A and B, that
25 is, the A and B blood group substances are made

1 from the H blood group substance within the body.

2 Q. Is everybody who's an A or everybody
3 who's a B also have an H?

4 A. The H blood group substance is expected
5 to be found in the body fluids of A -- Type A
6 people, Type B people and Type A-B people who are
7 secretors.

8 Q. All right. Only secretors have H's or
9 all A's and B's have H's?

10 A. In body fluids, in a non-secretor you
11 would not detect any blood group substances.

12 Q. So obviously if you weren't a secretor,
13 none of this would show up in any seminal stain or
14 vaginal fluid stain, right?

15 A. That is correct.

16 Q. Now, from your test you cannot determine
17 where the A came from or where the B came from; is
18 that right? From which person?

19 A. No.

20 Q. All right. All you know is that on her
21 vaginal swab there was an indication of an A blood
22 type and of a B blood type; is that correct?

23 A. Yes, ma'am.

24 Q. Would that then be consistent with the B
25 from Ms. [REDACTED] own vaginal fluids and an A

1 from some donor of the semen who was an A blood
2 type?

3 A. Yes, that would be consistent with that.

4 Q. What then did you find on the anal swab,
5 if anything?

6 A. I was not able to detect semen on the
7 anal swab.

8 Q. Okay. What about the saliva swab?

9 A. Again, I was not able to detect semen on
10 the saliva swab.

11 Q. What about on the gauze?

12 A. Semen was detected on the gauze. And I
13 found the presence of the A and B blood group
14 substances.

15 Q. Semen and you found A and B?

16 A. Yes.

17 Q. But no H's?

18 A. No, I did not detect the H blood group
19 substance.

20 Q. Do H's always show up?

21 A. Not necessarily.

22 Q. All right. Was the gauze a smaller
23 sample? In other words, does it particularly mean
24 anything that you found H's on one sample but not
25 on the other sample?

1 A. It doesn't necessarily mean anything.

2 Q. Okay. Did you perform any tests on the
3 piece of material that was cut from the panties?

4 A. Yes, I did.

5 Q. And what did you find on the panties?

6 A. I detected the presence of semen and the
7 presence of the A, B and H blood group substances.

8 Q. Found A, B?

9 A. B.

10 Q. Any H's that time?

11 A. And H, yes.

12 Q. Would your finding on the panties then
13 be consistent with the vaginal fluid from a Type B
14 person and seminal fluid from a Type A person?

15 A. Yes, it would be consistent with that.

16 Q. What, if anything, did you find on the
17 laboratory coat?

18 A. Detected the presence of semen on the
19 coat and found A, B and H blood group substances.

20 Q. You found A, B and H again?

21 A. Yes.

22 Q. And again on the laboratory coat, would
23 that be consistent with vaginal fluids from a
24 woman who is a B blood type and a secretor and
25 seminal fluids from a man who is an A blood type

1 and a secretor?

2 A. Yes, it would be.

3 Q. Did you also find some hairs on some of
4 the swabs before you began your test?

5 A. Yes. I collected hairs from the anal
6 swab.

7 Q. From the anal swab?

8 A. Yes.

9 Q. What did you do with the hairs?

10 A. They were transferred to another chemist
11 in the laboratory for analysis.

12 Q. Who is that?

13 A. Reidun Hilleman.

14 Q. Were the hairs which you received from
15 Sergeant Yarborough from the defendant also
16 transferred to Ms. Hilleman?

17 A. Yes, they were.

18 MS. KROCKER: I pass the witness.

19 THE COURT: Mr. McInnis?

20 MR. McINNIS: Yes, Your Honor. May we
21 approach the bench?

22 THE COURT: Yes, you may.

23 (Off the record discussion.)

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CROSS EXAMINATION

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BY MR. McINNIS:

Q. Ms. Hammond, you determine blood types by examining antigens, don't you?

A. (No response.)

Q. You know what antigens is?

A. Yes.

Q. That is one of the blood substances you're talking about, isn't it?

A. The blood type is determined by examining the antigenous substances.

Q. How about antigens?

A. (No response.)

Q. How about gluten?

A. Gluten would be an antigenic substance.

Q. And that's how you determine blood types? That's one of the methods you use to determine blood types?

A. Yes, it is.

Q. Most people in the world are secretors, aren't they?

A. 80 percent of the population, approximately.

Q. 80 percent of the population of the

1 whole world?

2 A. Yes.

3 Q. And all the world's population is
4 divided into about four blood groups, aren't they?

5 A. Yes. In the A-B-O system.

6 Q. You are not telling this jury anything
7 other than that two subcategories of the majority
8 of the world's population have been found. That's
9 all you can say, isn't it?

10 A. As far as the secretor system, there are
11 two categories, yes.

12 Q. Well, as far as the blood types A and B,
13 there are millions and millions and, in fact,
14 billions of people who fall into those two blood
15 groups, aren't there?

16 A. Yes.

17 Q. And when you say consistent, that's
18 almost the same as saying it's as consistent with
19 two Americans, isn't it? It's a very general
20 thing that you're saying, isn't it?

21 MS. KROCKER: I object to that as a
22 vague and argumentative question. Two Americans?

23 MR. McINNIS: Well, it's even broader
24 than that.

25 THE COURT: I'll let her answer if she

1 can.

2 BY MR. McINNIS:

3 Q. In other words, you're not saying by
4 these tests who left this semen, are you? You can
5 only say it's consistent with a blood type?

6 A. Yes, that is correct.

7 Q. In other words, one of many, many, many
8 millions and millions of people?

9 A. As to number of people I'm not really
10 sure, but yes, it would be a lot.

11 Q. And, in fact, you don't know -- well,
12 let me ask you this: Do you know whether it was
13 the semen that left the A or the B?

14 A. We cannot distinguish what body fluid in
15 a mixed sample -- deposits what --

16 Q. Is it possible?

17 MS. KROCKER: Excuse me. May I ask the
18 witness be allowed to finish her answer?

19 THE COURT: Please let her finish her
20 answer.

21 BY MR. McINNIS:

22 Q. You can not distinguish, can you?

23 A. We cannot tell which antigenic substance
24 comes from what body fluid in a mixed sample.

25 Q. So, it's entirely possible, isn't it and

1 it is also consistent, isn't it, that the semen
2 might have been B?

3 A. I cannot say that there isn't semen
4 there that is Type B, no.

5 Q. You can't -- let me ask again: If you
6 can't say it it means it's possible it's
7 consistent, isn't it?

8 A. Yes. Yes.

9 Q. Now then, to determine if a person is a
10 secretor. You determine what a secretor is, is a
11 person whose blood type using the antigenic system,
12 you find these antigens in their body fluids;
13 isn't that true?

14 A. Yes.

15 Q. Okay. And you are saying that based on
16 a saliva swab you found an antigen and a series of
17 antigens from which you determined the blood type?

18 A. Yes, that's correct.

19 Q. You never compared the antigens found in
20 that semen or whatever bodily fluid left that
21 blood type on those panties, you never compared
22 that with a known semen from any male human that
23 you know of, did you?

24 A. No, I did not receive any such samples
25 to do such a comparison.

1 Q. And you pointed out that the H blood
2 type is consistent with secretors. Is it found in
3 other types of people, other blood groupings?

4 A. In other blood groupings?

5 Q. (Nods head affirmatively.)

6 A. You mean other blood group systems?

7 Q. Yes.

8 A. This particular H blood group substance
9 we're dealing with is with the A-B-O blood
10 grouping.

11 Q. Now there -- and so it's clear to the
12 jury, these comparisons with the antigen and
13 antigens that you took from the saliva sample,
14 these comparisons were made from samples taken a
15 few weeks ago. They were compared to samples
16 taken many, many months ago; is that true?

17 A. I believe the original samples were
18 taken sometime in October of '86.

19 Q. October of '86. And they were compared
20 with saliva taken a few weeks ago?

21 A. Yes.

22 Q. You at no time compared blood to blood,
23 semen to semen, did you?

24 A. No.

25 Q. In other words, if you were to take a

1 sample of my saliva and you determine that I fall
2 into that 80 percent of the population, I'm a
3 secretor and my blood type is A or B then I would
4 be consistent with being the person who left those
5 antigen on those panties, wouldn't I?

6 A. I could not exclude you, that's correct.

7 Q. Right. And that's what you're saying
8 with respect to the blood Type A that you found is
9 that you could not exclude?

10 A. That is correct.

11 Q. That's what you're saying about Mr. Fras.
12 You could not exclude. You were in no way
13 pointing to any kind of positive group that he's
14 the person?

15 A. No, we cannot individual --

16 MS. KROCKER: I'm sorry. Can the
17 witness finish?

18 THE COURT: Please let her finish.

19 THE WITNESS: No. We cannot
20 individualize the semen donor.

21 BY MR. McINNIS:

22 Q. You couldn't individualize by the test
23 you conducted; is that true?

24 A. It would not be possible to
25 individualize the semen by any method that I

1 believe is currently used in forensic laboratories.

2 Q. You could compare blood to blood and get
3 much more specific, couldn't you?

4 A. In a blood-to-blood comparison with
5 proper samples, yes.

6 Q. And, in fact, all you're really saying
7 to this jury is that you can say that you have
8 excluded three blood types and Mr. Fras happens to
9 fall into one of the two blood types found on the
10 panties?

11 A. He is included in the possible semen
12 donors, yes.

13 Q. In other words, possible semen donors is
14 either Blood Group A or Blood Group B?

15 A. No.

16 Q. I think you said earlier that you could
17 not distinguish from the stain which -- what left
18 the body fluid, the semen or not?

19 A. That is correct.

20 Q. Okay. It is possible, isn't it, that
21 the semen was left by a Blood Group B?

22 A. We could again not exclude the Type B
23 person as having donated the semen.

24 Q. Okay. When you say not exclude, that
25 means the same thing as consistent with that you

1 said on direct, doesn't it?

2 A. Yes. It's used in a slightly different
3 context, but, yes.

4 Q. And if the alleged victim in this case
5 had, shall we say, innocent intercourse with
6 somebody of Blood Type A or B, then it is possible
7 that the rapist might have been a non-secretor?

8 A. From testing his fluid and saliva, I
9 determined that he was not a non-secretor.

10 Q. You're talking now of Mr. Fras?

11 A. That is correct. I'm sorry.

12 Q. The jury hasn't convicted him of being a
13 rapist yet anyway.

14 MS. KROCKER: I object to that as being
15 argumentative I have, Your Honor.

16 THE COURT: Sustained. Please move onto
17 a question.

18 BY MR. McINNIS:

19 Q. Let me ask the question again. Let me
20 rephrase the question. If the alleged victim in
21 this case -- well, let's just say Ms. [REDACTED] had
22 had innocent intercourse with someone of an A
23 blood type grouping or a B blood type grouping and
24 if the rapist were a non-secretor, that is
25 possible and that is consistent with your findings,

1 also?

2 A. A non-secretor could also not be
3 excluded as the possible semen donor.

4 Q. To save time, let me just put it this
5 way. These tests that you performed do not in any
6 way point to anything more than a couple of
7 hundred million suspects, does it?

8 A. The -- they simply give us an indication
9 of the blood group substance that are present
10 there and we can only compare those two possible --
11 the blood groups of possible suspects and
12 determine whether it is -- you know, it's possible
13 that's the semen donor.

14 Q. And that's what you mean? It's possible?

15 A. Yes.

16 Q. It's possible that anybody with A-B
17 blood type; isn't that right? Or A or B blood
18 type?

19 A. Anyone with A or B we could not exclude,
20 that is correct.

21 MR. McINNIS: Pass the witness, Your
22 Honor.

23 MS. KROCKER: I have nothing further,
24 Your Honor.

25 THE COURT: May Ms. Hammond be excused

1 then?

2 MR. McINNIS: Yes, Your Honor.

3 THE COURT: Just until the end of the
4 day.

5 MS. KROCKER: Are we going to have
6 another witness today?

7 THE COURT: I think you have one more
8 crime lab person.

9 MS. KROCKER: I would like for Ms.
10 Hammond to remain until the last crime lab witness
11 testifies in case I forgot something.

12 THE COURT: The next witness is?

13 MS. KROCKER: Ms. Hilleman, Your Honor.

14 THE COURT: Ms. Hilleman.

15 Members of the jury, the hardest part of
16 being judges, aside from the heavy decisions you
17 have to make are learning to sit still, right? I
18 think that's probably real hard for all of you.
19 It was hard for me when I became a judge. It is
20 still sometimes difficult.

21 Good afternoon, Ms. Hilleman. Would you
22 raise your right hand, please.

23 (Witness sworn.)

24 THE COURT: Thank you. Please take the
25 witness stand.

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Please proceed.

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1 REIDUN HILLEMAN,
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 MS. KROCKER:

8 Q. Please state your name for the jury.

9 A. My name is Reidun Hilleman.

10 Q. How are you employed?

11 A. I'm a chemist with the Houston Police
12 Department Crime Laboratory.

13 Q. What do your duties include?

14 A. At the present time I'm the supervisor
15 of the trace evidence section. I supervise the
16 employees that are underneath me as well as case
17 work.

18 Q. Tell us something about your background,
19 where you went to school, that sort of thing?

20 A. I have a bachelor of science degree in
21 chemistry from Texas Lutheran College and I have
22 received training in the laboratory as well as
23 have attended courses pertaining to the evidence
24 which I analyze.

25 Q. How long have you been doing this type

1 of work?

2 A. For three years.

3 Q. Is it possible to examine a hair and
4 determine anything about the person that it came
5 from?

6 A. It's possible to examine a hair and
7 determine that it possibly came from somebody or
8 exclude somebody as being the source of that hair.

9 Q. Do you look at it with the naked eye?

10 A. Initially but the majority of the test
11 is done under the microscope.

12 Q. Is it -- is a hair then like a
13 fingerprint? If you pulled one of my hairs, could
14 you say that hair came from Jan Krockner?

15 A. No. It's not like a fingerprint.

16 Q. All you could say is, well, it's
17 consistent with my hair or it's inconsistent?

18 A. That's correct.

19 Q. Okay. Would you look at State's Exhibit
20 No. 37 and would you tell me whether or not you've
21 seen this exhibit before?

22 A. Yes, I have.

23 Q. Could you identify it for the record?

24 A. Yes. It is a manila envelope. It
25 contains the Laboratory Number L86-9564 as well as

1 my initials and description as to what is inside.

2 Q. What is in State's Exhibit No. 37? Did
3 I gave it the right number, 37? Yes? Uh-huh?
4 What is in there?

5 A. At this time it contains packages of
6 head and pubic hairs from the defendant in this
7 case.

8 Q. Did you also receive a hair from another
9 chemist or from the vault in the Houston Police
10 Department Crime Laboratory?

11 A. Yes. In this case, I received all the
12 the hairs from Holly Hammond.

13 Q. In particular, did you examine a pubic
14 hair which had been obtained from the panties of
15 the victim in this case?

16 A. Yes, I did.

17 Q. And did you compare that to the pubic
18 hairs of the defendant named Fras?

19 A. Yes, I did.

20 Q. Can you tell us whether or not the pubic
21 hair on the panties of Ms. [REDACTED] was consistent
22 or inconsistent with the pubic hair of the
23 defendant, Rick Fras?

24 MR. McINNIS: May I take the witness on
25 voir dire before she answers that question?

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THE COURT: Yes, you may.

VOIR DIRE EXAMINATION

BY MR. MCINNIS:

Q. Ms. Hilleman, the hair samples that were taken from the alleged victim in this case, Ms.

[REDACTED] do you know when they were taken?

A. Not of personal knowledge. From the records, I can read when they were taken.

Q. Okay. Do you know if they had come from a frozen -- locker or frozen locker or anything like that?

A. The hairs?

Q. Uh-huh.

A. No. They were stored in the vault.

Q. Do you know when the pubic hairs from the alleged defendant were taken?

A. Not from personal knowledge but I can read from the record.

Q. Do you know if they were in separate envelopes when you received them?

A. Yes. They were in separate envelopes when I received them.

Q. Okay. Were there -- were there a number

1 of hairs in each envelope?

2 A. Yes, there were.

3 Q. And so you would have no idea how long
4 trace oils from one hair sample might have
5 commingled with trace hairs from other hair
6 samples?

7 A. In the same exhibit?

8 Q. In the same exhibit, yes, to make that
9 clear so the jury doesn't get a false impression
10 by what I'm saying. I mean, you wouldn't know how
11 long hair samples mixed with Ms. [REDACTED] mixed
12 with other samples from Ms. [REDACTED] and other
13 hair samples mixed with other hair samples from
14 Mr. Fras, would you? I'm not suggesting the two
15 intermingle with each other.

16 MS. KROCKER: I have a procedural
17 objection. I feel this is appropriate for cross
18 examination and not voir dire.

19 MR. McINNIS: I'm voir diring to the
20 tests and the samples that she received to
21 determine how the tests were conducted before she
22 gives her opinion as to what the test results are.

23 THE COURT: Okay. Go ahead.

24 A. I'm not sure I understand your question.
25 The hairs from the complainant in this case, there

1 were several hairs in one envelope. Are you
2 asking --

3 BY MR. McINNIS:

4 Q. I guess the point I'm trying to reach is
5 this and let me try to simplify it. You do not
6 know whether those hairs would have been the
7 result of combings, pubic hair combings that were
8 taken the night of the alleged crime, would you?

9 A. Not of personal knowledge. I know the
10 procedure that is --

11 Q. You're familiar with that procedure?

12 A. Yes.

13 Q. And sometimes that procedure turns up
14 other hairs, hairs of suspects; isn't that true?

15 A. The combing procedure, yes, might turn
16 up.

17 Q. Let me try to simplify it. What I'm
18 trying to find out is whether or not the alleged
19 samples from Mr. Fras, the defendant in this case
20 are allegedly combings that were taken the same
21 night and might have been commingled or whether
22 they are samples that were taken from him recently
23 and compared with samples from her or they were
24 samples that were taken from her a long time ago.

25 A. I do know the hairs from the defendant

1 were taken sometime after the offense occurred.

2 Q. Okay. And so the results you're going
3 to testify today are just about general
4 consistencies with general types? In other words,
5 you're not going to try to make a positive I.D. or
6 positive comparison between -- to say that one
7 person -- that you can determine whose -- you know
8 that the two hairs are of a certain person?

9 A. We can never do that in a hair
10 comparison. It's simply the unknowns are
11 consistent with a certain sample.

12 Q. I understand.

13 MR. McINNIS: She may go ahead and
14 testify, Your Honor.

15 THE COURT: I couldn't hear you.

16 MR. McINNIS: Pass the witness.

17 MS. KROCKER: Let me start over.

18

19 DIRECT EXAMINATION CONTINUED

20

21 BY MS. KROCKER:

22 Q. At some point did you take the pubic
23 hairs which were from the defendant Fras and which
24 were submitted by Sergeant Yarborough to your lab
25 and did you compare them to the pubic hair found

1 on Ms. [REDACTED] panties?

2 A. Yes, I did.

3 Q. All right. Was it panties or swab?

4 A. The panties.

5 Q. Is the pubic hair that was found on Ms.
6 [REDACTED] panties consistent or inconsistent with
7 the defendant's pubic hair?

8 A. It is consistent with the defendant's
9 pubic hairs.

10 Q. Did you then compare or did you also
11 compare the pubic hair found on her panties with
12 Ms. [REDACTED] own known pubic hair samples
13 submitted in the rape kit as State's Exhibit No. --
14 I've lost my number. Do you know which one I'm
15 talking about, basically you compared it?

16 A. It's another envelope like that one.

17 Q. I beg your pardon. State's Exhibit 20-A,
18 pubic hair combings, State's Exhibit 20-C, known
19 pubic hair of [REDACTED]. Did you also
20 compare the pubic hair removed from her panties
21 with a -- hairs from State's Exhibit 20-C, known
22 pubic hairs of Ms. [REDACTED]?

23 A. Yes, I did.

24 Q. And was the pubic hair on her panties
25 consistent or inconsistent with Ms. [REDACTED] own

1 pubic hairs?

2 A. It was inconsistent with her own pubic
3 hairs.

4 MS. KROCKER: Thank you, Your Honor.
5 I'll pass the witness.

6 THE COURT: Mr. McInnis.

7 MR. McINNIS: Just a few quick questions.

8

9 CROSS EXAMINATION

10

11 BY MR. McINNIS:

12 Q. Ms. Hilleman, when you say the hairs
13 taken from the panties, do you know -- once again
14 to get back into what I was asking a little bit
15 earlier, do you know whether or not the hair taken
16 from those panties would there have been a mixture
17 of hair from Ms. [REDACTED] and from hair from any
18 suspect? In other words, I'm asking you was the
19 entire combing put in one envelope?

20 A. The hair that was recovered from the
21 panties was taken from the panties. There's a
22 separate exhibit that consists of pubic hair
23 combings from Ms. [REDACTED]. It's a separate
24 exhibit.

25 Q. I see. Isn't it entirely possible with

1 and I believe there may have been also a fragment
2 which was unsuitable for comparison and a body
3 hair such as a limb or a trunk hair that was also
4 unsuitable for comparison.

5 Q. So, when you examined the panties, you
6 only found -- you examined the panties which had
7 been on the shelf, so to speak, for some time, you
8 found only one pubic hair there?

9 A. I did not examine the panties myself.
10 They were examined at the same time by another
11 chemist, either Karen or Holly and hairs were
12 recovered at that time and then retained until the
13 known samples or as -- defendant or suspect is
14 developed and then the request for the hair
15 comparison is then --

16 Q. Okay. So to shorten the time today
17 greatly. The hair combings taken the night of the
18 alleged rape did not become significant, did they?

19 A. In this case, there were no loose hairs
20 in the combings at all. Which is not entirely
21 unusual. Which just means there were no loose
22 hairs at the time that the combings were taken.

23 Q. So, there were no hairs to compare?

24 A. In the combings, that's correct.

25 Q. And when you say consistent with, what

1 do you mean?

2 A. Consistent with means that the
3 microscopic hair in the hair from the panties were
4 consistent, that is, they were similar in all
5 significant respects to the characteristics of the
6 known sample of the defendant.

7 Q. In other words, they were significant in
8 the sense that it was a male hair?

9 A. No. We cannot determine the sex from a
10 hair from a microscopic examination.

11 Q. True. You can only -- the point I'm
12 trying to make and we can save a lot of time today
13 is that many, many, many people can leave a
14 consistent hair sample, can't they?

15 A. It's possible. I can't say how many.

16 Q. But it's possible there's a lot of
17 people, isn't it?

18 A. It's possible. Yes.

19 Q. For example, when we compare
20 characteristics and I'm not saying these are the
21 characteristics to compare but it's similar in
22 this sense. For example, we're comparing whether
23 or not it's curly hair, aren't we?

24 A. Yes.

25 Q. We're comparing the general thickness of

1 the hair, the general strength of the hair, aren't
2 we?

3 A. Yes.

4 Q. Basically we're talking about a general
5 fiber analysis, aren't we?

6 A. Not in the sense as a fiber analysis,
7 synthetic fiber. No, it's different. There are
8 completely different things that I'm looking at.

9 Q. I'm aware in the sense it's a living
10 fiber there would be such things as body oils and
11 things like that found.

12 A. Yes, they are but that is also not
13 examined in a microscopic examination. I'm
14 looking at the interior characteristics,
15 microscopic characteristics of the hair.

16 Q. In other words, a cross section?

17 A. Cross section and longitudinal, yes.

18 Q. And what you're basically doing is
19 saying that these two hairs look alike under the
20 microscope and, in fact, they're similar?

21 A. That's correct. Similar or consistent.

22 Q. Okay. You did not -- you were not able
23 to say these are the hairs of a certain person?

24 A. That's correct.

25 MR. McINNIS: Pass the witness.

COPY

1 THE COURT: Ms. Krocker?

2 MS. KROCKER: Your Honor, may I ask if
3 State's Exhibit 20-B is in evidence?

4 THE COURT: I do not believe so.

5 MS. KROCKER: State offers State's
6 Exhibit 20-B, known head hairs of the victim.

7 State's Exhibit 20?

8 THE COURT: That's the confusion. 20?

9 MS. KROCKER: For purposes of the record,
10 since I've misnumbered some of the exhibits.

11 These are various -- let's see. Judge, I don't
12 know that I ever had these identified.

13 THE COURT: Is that not 37?

14 MS. KROCKER: These are the hairs that
15 were removed from the clothing. Since they were
16 not identified, I withdraw my offer of State's
17 Exhibit 20.

18 MS. KROCKER: State's Exhibit 37 and
19 37-A through I, are those admitted?

20 THE COURT: They have not been tendered.

21 MS. KROCKER: State offers Exhibit 37
22 and Exhibit 37-A through I, hair samples, pubic
23 and head, from the defendant.

24 MR. McINNIS: May I have just a moment,
25 Your Honor?

1 No objection to State's 37, Your Honor.

2 THE COURT: No objection. All admitted.

3 MS. KROCKER: State's Exhibit 37 and
4 20-B.

5 MR. McINNIS: So the record's clear. No
6 objection to the exhibit itself. I do object to
7 the conclusions.

8 THE COURT: Certainly.

9 MS. KROCKER: State's Exhibit 20-EE, the
10 saliva sample from a [REDACTED]. Has that
11 been received?

12 THE COURT: I do not see that it's been
13 received.

14 MS. KROCKER: State offers 20-E.

15 THE COURT: 20-E or EE?

16 MS. KROCKER: I'm sorry. E is the
17 envelope. EE is the contents, the saliva sample
18 itself. I offer both exhibits.

19 MR. McINNIS: No objection, Your Honor.

20 THE COURT: Be admitted.

21 MS. KROCKER: State's Exhibit 20-D and
22 19-B, blood and saliva from the defendant Fras.
23 Have those been admitted, Judge?

24 THE COURT: No.

25 MS. KROCKER: State so offers.

1 MR. McINNIS: Same objection I had
2 earlier, Your Honor, to this exhibit.

3 THE COURT: Be admitted.

4 MS. KROCKER: State's Exhibit 19, a bag
5 and 19-A, blood sample from Debra Ashbrook.

6 MR. McINNIS: No objection, Your Honor.

7 MS. KROCKER: Might I inquire from the
8 Court if there are any exhibits which have been
9 marked but which have not been offered by the
10 State?

11 THE COURT: 20-C, 20-F.

12 MS. KROCKER: 20-C and F.

13 State offers Exhibit No. 20-C, known
14 pubic hair from Ms. Ashbrook. Do you show what
15 20-F is?

16 THE COURT: Blood. Actually again I'm a
17 little confused on mine because Sergeant
18 Yarborough testified to 20-F as being a blood
19 sample from the defendant.

20 MS. KROCKER: That's correct. I believe
21 that one, then, has been admitted.

22 THE COURT: I -- let's retender it
23 because I don't have a note of it.

24 MS. KROCKER: I think I must have read
25 the wrong number, Judge. State offers 20-F, the

1 blood from Rick Fras, 19-B, the saliva from Rick
2 Fras and 20-B, the bag in which they're contained.

3 MS. KROCKER: No objection, Your Honor,
4 but I do object to the conclusions reached.

5 THE COURT: All right. They'll be
6 admitted.

7 MS. KROCKER: Does that complete all of
8 the evidence except for the diagrams?

9 THE COURT: I think that does it, yes.

10 MS. KROCKER: Thank you.

11 At this time the State passes the
12 witness.

13 MR. McINNIS: Just one last question.

14

15 CROSS EXAMINATION CONTINUED

16

17 BY MR. McINNIS:

18 Q. Did you compare the hair to see if there
19 was a presence of any synthetic applications to
20 the hair?

21 A. Are you speaking --

22 Q. Of either one?

23 A. No, I did not.

24 Q. And to make the record clear, we are
25 talking about pubic hair and not head hair?

1 A. Yes. We are talking about pubic hair.

2 MR. McINNIS: Pass the witness.

3 THE COURT: Ms. Krocker.

4 MS. KROCKER: Nothing further.

5 THE COURT: Thank you. You may step
6 down.

7 Members of the jury, I think everyone in
8 this courtroom is afraid that my next words are
9 going to be call the next witness, please. But
10 I'm not going to do that. We're going to break
11 for the day since it's ten after 5:00 unless
12 there's anything else anyone wants to take up.

13 And I would ask you if you would, please,
14 in the morning to meet in the basement cafeteria
15 of this building. There's so much going on in the
16 courtroom and in the halls that it's better if you
17 don't come up individually in the morning as you
18 did this afternoon. Just -- y'all know each other
19 now, there isn't any problem finding each other.
20 If you would meet in the basement cafeteria at
21 9:15, between 9:15 and 9:30, one of the deputies
22 will be down to bring you up to the courtroom in a
23 group and right in the jury deliberating room.

24 I do have the morning docket. If all
25 goes well, I will have been able to dispose of

1 that by 9:30 and we should be able to start trial
2 at 9:30. Forgive me if I'm a couple of minutes
3 late. I'll try hard not to be.

4 Overnight, remember all the
5 admonishments that I've given you before and I'll
6 see you about 9:30 in the morning. Thank you so
7 much.

8 (Jury out.)

9 (Court in recess for the day.)

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