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IN THE MISSOURI COURT OF APPEALS

FILED
JUL 17 1987

EASTERN DISTRICT

DEIRDRE O'MEARA AHR
CLERK, MISSOURI COURT OF APPEALS
EASTERN DISTRICT

STATE OF MISSOURI,)	
)	
Respondent,)	
)	Appeal No. 52830
-vs-)	
)	
FRED HAMILTON,)	
)	
Appellant.)	

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS

STATE OF MISSOURI

TWENTY-SECOND JUDICIAL CIRCUIT, DIVISION 19

HONORABLE THOMAS M. O'SHEA, JUDGE

STATE OF MISSOURI,)	
)	
Plaintiff,)	
)	Cause No. 851-02753
-vs-)	
)	Division No. 19
FRED HAMILTON,)	
)	
Defendant.)	

TRANSCRIPT ON APPEAL

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NANCY A. SAMMELMAN
Official Reporter, Division 19
St. Louis Circuit Court

1 THE COURT: The stipulation is
2 noted for the record. You may proceed then, sir.

3 MR. WARREN: Thank you, sir.

4 JOSEPH CROW,
5 being first duly sworn by the deputy clerk,
6 testified:

7 DIRECT EXAMINATION

8 BY MR. WARREN:

9 Q. Would you, please, state your name and
10 occupation?

11 A. Joseph Crow, criminalist.

12 Q. Mr. Crow, what is a criminalist?

13 A. A person who receives evidence submitted
14 by police officers, performs tests on the evidence
15 received, writes a report concerning the evidence
16 received and the results of the test performed and
17 to testify in Court concerning the evidence
18 received, the tests performed and the results.

19 Q. And did you have occasion to conduct any
20 tests in which a [REDACTED] was a victim?

21 A. Yes, I did.

22 Q. When did you conduct such a test?

23 A. I performed some of it on October the
24 30th, 1985.

25 Q. And what did you do on October the 30th

1 of 1985?

2 A. I examined a sexual assault kit and a
3 bag containing a pair of panties and a pair of
4 slacks.

5 Q. Okay. I am going to show you what has
6 been marked as State's Exhibit Number 27 and ask
7 you if you can tell me what that is?

8 A. It's a Metropolitan Police City of St.
9 Louis Sexual Assault kit.

10 Q. Is that the kit you just referred to a
11 minute ago that you examined?

12 A. Yes, it is.

13 Q. And I am going to show you what has been
14 marked as State's Exhibit Number 28 and ask you if
15 you can tell me what these are?

16 A. These are the panties that I received
17 and examined on 10-30-85.

18 Q. With reference to State's Exhibit Number
19 27 and 28, the sexual assault kit and the panties,
20 what tests did you perform?

21 A. On the vaginal smear from the sexual
22 assault kit, I did a microscopic examination to
23 see if any human spermatozoan was present on the
24 slide.

25 It was positive for the presence of

1 human spermatozoan on the panties. I performed a
2 test to see if any seminal acid phosphatase was
3 present. The test was positive. I then cut a
4 small piece of the stain out.

5 Extracted the stain with water. Put the
6 extract onto a glass slide. Then evaporated the
7 water and then looked at the material left
8 microscopically for the presence of spermatozoan.

9 Analysis of the slide revealed the
10 presence of human spermatozoan.

11 Q. And did you conduct any other or further
12 tests with relation to the panties or to the
13 sexual assault kit?

14 A. I looked at the anal and oral smears to
15 see if any human spermatazoa was present on those
16 items. They were negative for human
17 spermatozoan.

18 I then checked the anal and oral swabs
19 for seminal acid phosphatase. They were both
20 negative for human seminal fluid.

21 Q. So, it's your testimony that you found
22 evidence of spermatozoan in the vaginal swab and
23 on the panties; is that correct?

24 A. On the vaginal smear and on the panties.

25 Q. Smear; okay. And did you have occasion

1 to conduct on some subsequent date any tests
2 relative to saliva samples?

3 A. Yes, I did. On March the 13th, 1986, I
4 attempted to determine the blood type of the
5 person who left the seminal fluid in the victim's
6 vagina.

7 Q. And how was that done?

8 A. I am sorry. I am sorry. I tried to
9 determine the blood type of the person who left
10 the seminal stain in the crotch of the victim's
11 panties.

12 Q. And how was that test done, Mr. Crow?

13 A. I had a saliva sample from the victim
14 and a saliva sample from the defendant, and I had
15 an extract of the stain in the crotch of the
16 panties.

17 I then tried to determine the blood type
18 of all three. The results were that the victim
19 and the defendant were both type B secreters. The
20 stain in the panties revealed the presence of the
21 B and the H antigen.

22 This indicated that the defendant or
23 this indicated that had the defendant had
24 intercourse with the victim, we would -- would
25 have gotten these results.

1 Q. And is that the sum total of the tests
2 that you conducted in this case?

3 A. I had the -- excuse me. I had the
4 clothing of the defendant also.

5 Q. And did you conduct any tests with any
6 sort of results relative to those items of
7 clothing?

8 A. All items that I received that belonged
9 to the defendant were negative for human seminal
10 fluid.

11 MR. WARREN: I have no further
12 questions.

13 CROSS-EXAMINATION

14 BY MR. CHILDRESS:

15 Q. Mr. Crow, let's get a moment into your
16 background. You are not a police officer; is that
17 correct?

18 A. No, I am not.

19 Q. You are a civilian employee of the
20 police department?

21 A. Yes, I am.

22 Q. And you are a -- what is called a
23 criminalist?

24 A. Yes, I am.

25 Q. And you have a background as a

1 criminalist?

2 A. Yes.

3 Q. To become a criminalist, what have you
4 done?

5 A. I have a degree in chemistry from the
6 University of Missouri Columbia, Missouri. I have
7 taken graduate courses at Northeast Missouri State
8 University, Southeast Missouri State University
9 and the University of Virginia in forensic
10 serology.

11 I went through a six-month training
12 period in criminalistics with the United States
13 Army. I have taken courses at the FBI Academy in
14 Virginia both in the typing of blood and body
15 fluids.

16 Q. Okay. Thank you.

17 In other words, you would consider
18 yourself an expert in these fields?

19 A. Yes, I would.

20 Q. Thank you. Regarding -- All right. You
21 took the panties from the girl in this case;
22 right? You analyzed it and found some kind of
23 seminal fluids in those panties originally?

24 A. I did not take the items from the girl.

25 Q. I know. But you received them?

1 A. I had those items, and I performed tests
2 on those items.

3 Q. And you found seminal fluid on the
4 panties?

5 A. Yes.

6 Q. Later on, you analyzed those panties
7 again trying to determine the blood type of the
8 person who left that seminal fluid on the panties;
9 correct?

10 A. Yes.

11 Q. And the blood type of the person who
12 left the seminal fluid on the panties is type B;
13 correct?

14 A. Yes.

15 Q. You are sure that the person that did
16 that, the person who left the seminal fluid in
17 those panties is a type B?

18 A. No. The person who left the stain is
19 not a type A. The person who left the stain is
20 not a type A secreter, nor is the person who left
21 the stain a type AB secreter.

22 The person who left the stain could be a
23 type -- I am sorry. Let's see. The person who
24 did it could not be a type A secreter and could
25 not be a type AB secreter.

1 The person who did it could have been a
2 type B secreter, a type O secreter or a
3 non-secreter.

4 Q. Could be a type A secreter?

5 A. Could not be a type A secreter, could
6 not be a type AB secreter but could be a type B
7 secreter, a type O secreter or a non-secreter.

8 Q. Now, as I understand it, you are telling
9 tell me this could be a type O. Is that possible
10 for that person to be a secreter? I thought the
11 definition of type O, it was not secreter?

12 A. A person who is type O does not have the
13 A or the B antigen. However, if he is a secreter,
14 he will secrete the H antigen. A non-secreter
15 will not secrete the A, the B or the H.

16 Therefore, the difference between a
17 non-secreter and a type O secreter is that an O
18 secreter has the H antigen and a non-secreter does
19 not.

20 Q. Okay. Let's -- let's cut through all
21 the technicalities because I am afraid it's going
22 to be far more complicated than probably our
23 experience, but it's your opinion then that the
24 person who left the seminal fluid in the panties
25 or however they got there that that person has a

1 type of B blood type?

2 A. No.

3 Q. That is not your opinion then?

4 A. My opinion is that the person who did it
5 is either a B secreter, an O secreter or a
6 non-secreter. That and that the defendant is one
7 of these three and that had he had intercourse
8 with the victim, these are the results that I
9 would expect.

10 Q. Yes. So, of course, that isn't very
11 meaningful though, is it, considering that
12 sixty-one percent of the population has those
13 lists of blood that you talked about.

14 Sixty-one percent of the population has
15 that particular characteristic?

16 A. That is a very subjective question. If
17 you can eliminate one third of the population as
18 having been able to do it and had the possibility
19 of saying that the defendant could not have done
20 it, having done the tests, I think that the
21 results are significant.

22 Q. You think the results are significant?
23 In other words, of the members of the jury, you
24 could probably exclude four of them possibly as
25 having not done this particular rape?

1 A. Yes.

2 Q. The other eight, however, you couldn't
3 hold out for them?

4 A. That is, again, subjective. I think
5 that being able to eliminate one third is helpful
6 to both the police and to those who job it is to
7 figure out what is happening in the course of
8 justice. I think that it helps if you can help
9 them.

10 Q. You are telling us -- Excuse me if -- if
11 you don't mind my interrupting, but you are
12 telling us that if there has been a mistake made
13 in this case, your doing this kind of analysis
14 might point out that. There is a possibility that
15 your analysis could point out a mistake?

16 A. Well, had the blood typing shown that
17 the defendant could not have left the stain in the
18 panties would have done one of two things.

19 It would have at least indicated to the
20 police officers working on the case that further
21 investigation might be necessary.

22 All I was doing was trying to determine
23 the blood type of the person who left the stain,
24 and that is all I did.

25 Q. Okay. So, just to sort of recap then,

1 the blood type of the person who left the stain,
2 approximately sixty-one percent of the population
3 has that particular blood type?

4 A. Of the --

5 Q. Of the possible blood type?

6 A. Of the three possible blood types or --
7 Yes. Of the three possible blood types that could
8 have had intercourse with the victim with these
9 results, they encompass approximately sixty-one
10 percent of the population.

11 Q. What blood type did you determine Fred
12 Hamilton to have?

13 A. I believe it was B.

14 Q. You believe it was the type B?

15 A. Yes.

16 MR. CHILDRESS: Okay. Thank you.
17 I have no further questions.

18 THE COURT: Is there Redirect?

19 REDIRECT EXAMINATION

20 BY MR. WARREN:

21 Q. Mr. Crow, just so that I understand what
22 you are saying, you eliminated by this test one
23 third, thirty-nine percent of the people that you
24 could say these people in the forty percent group
25 or thirty-nine percent could not have had sexual

1 intercourse with Lynette Jarmon based upon these
2 results?

3 A. Yes.

4 Q. All right. And is it consistent that
5 the defendant is in that sixty-one percent given
6 his blood type and secretions?

7 A. Yes.

8 Q. So, he did not fit in that group that is
9 automatically excluded?

10 A. Yes.

11 MR. WARREN: No further questions.

12 MR. CHILDRESS: No further
13 questions.

14 THE COURT: All right, sir. You
15 may step down. Thank you.

16 MR. CHILDRESS: Oh, excuse me, Your
17 Honor. I do have one question.

18 THE COURT: All right, sir. You
19 may be seated.

20 RECROSS-EXAMINATION

21 BY MR. CHILDRESS:

22 Q. I am sorry, Officer. You did, of
23 course, take a look at some red rags in this case?

24 A. Yes, I did.

25 Q. And you analyzed those, and you did not

1 find them containing any -- any evidence of any
2 value?

3 A. I checked them for the presence of
4 seminal fluid and did not find any seminal fluid.

5 Q. Now, when you say that when you checked
6 for the presence of seminal fluids, if somebody
7 had wiped themselves with that rag and left some
8 seminal fluids on it, would you be able to with
9 your test to detect it?

10 A. The test is -- will find human seminal
11 fluids. However, a dilution of human seminal
12 fluids of, say, twenty to one or so would probably
13 not be detected.

14 That is, a washed sample would probably
15 not be detected. The test is a color test, and
16 it's the intensity of the color that indicates a
17 positive.

18 Therefore, a small amount of seminal
19 fluid might be read as a negative.

20 Q. The rags that you analyzed, they didn't
21 appear to be washed or anything; did they?

22 A. No, they did not.

23 Q. They were the kinds of rags that you
24 would use, you know, in a car like a car rag or
25 something; correct?

