

CROSS-
EXAMINATION
of Osborne

STATE'S
Witness:
LARRY
Huys

DIRECT
EXAMINATION
of Huys
by Mr. VANES

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CROSS-EXAMINATION BY MR. WOLTER:

Q. While you were in Mr. Mayes' presence when the samples were being taken, did you have to force him in any fashion to take the samples?

A. No, I did not.

Q. Did he seem cooperative to you?

A. Yes.

BY MR. WOLTER:

Nothing further.

BY MR. VANES:

No questions.

BY THE COURT:

That is all.

WHEREUPON THE WITNESS WAS SWORN BY THE COURT.

LARRY HUYS,

having been first duly sworn upon his oath, testified as follows:

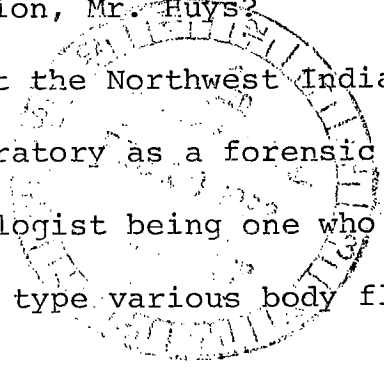
DIRECT EXAMINATION BY MR. VANES:

Q. State your full name.

A. Larry Huys.

Q. What is your occupation, Mr. Huys?

A. I am employed at the Northwest Indiana Criminal Toxicology Laboratory as a forensic serologist. A forensic serologist being one who identifies and attempts to type various body fluids, such



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as blood or saliva or semen.

Q. How long have you been a forensic serologist at the tox lab?

A. Approximately eight years.

Q. Have you had special training or experience in this field?

A. Yes, I have a Bachelor of Science Degree in both biology and chemistry from the Manchester College. I am a medical technologist for the American Society of Clinical Pathology. I trained with the FBI at Quantico, Virginia, the state police in Independence, Missouri, and the research institute in Chicago.

Q. Have you testified in our Lake County Criminal Court system before as an expert witness in the field of serology?

A. Yes.

Q. Do part of your duties as a serologist include the examination of various items collected in what is commonly known as a "rape kit"?

A. Yes.

Q. I'm going to ask you, Mr. Huys, to look at State's 11, all of the bags contained in that exhibit, and the box that is contained within the bag. Do you recognize that exhibit, Mr. Huys?

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- 1 A. Yes.
- 2 Q. Have you seen that exhibit before in connection
- 3 with your work as a serologist?
- 4 A. Yes, I have.
- 5 Q. In fact, have you been asked on two, separate occa-
- 6 sions to examine, as a serologist, the contents of
- 7 that box?
- 8 A. Yes, I have.
- 9 Q. When did you first see it for your first examination?
- 10 A. The first time would have been November 12th, 1980.
- 11 Q. Where did you first see the object?
- 12 A. In the -- I would have taken it out of the
- 13 vault in the laboratory.
- 14 Q. Your laboratory maintained a vault?
- 15 A. Yes.
- 16 Q. What is the purpose of that vault?
- 17 A. It is to secure items brought in by various
- 18 law enforcement agencies and keep them secure.
- 19 Q. And is access to that vault controlled?
- 20 A. Yes.
- 21 Q. Before you do an examination of a rape kit as a
- 22 serologist, do you examine the kit itself to deter-
- 23 mine whether it is in a sealed and uncontaminated
- 24 condition?
- 25 A. It is laboratory policy that any item coming in

1 has to be in a sealed condition, or it would
2 not be analyzed.

3 Q Was the rape kit in a sealed condition when you
4 first saw it in November of 1980?

5 A Yes.

6 Q By "sealed", was the box sealed that you recall?

7 A It was sealed inside a plastic bag, I believe.

8 Q And the various specimens contained in that, were
9 they also sealed?

10 A I don't recall if the items inside were also
11 sealed.

12 Q But the bag itself and the box? The bag in which
13 the box was, was sealed?

14 A Yes.

15 Q Were you first asked to examine the items inside
16 the specimens -- inside the rape kit for the presence
17 of semen?

18 A Yes.

19 Q How was that done?

20 A We used two techniques at the laboratory: First,
21 is an enzyme test; you look for an enzyme called
22 "acid phosphatase". It occurs in high levels
23 in seminal fluid; and the second technique is
24 to do a microscopic examination for the presence
25 of spermatozoa.

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1 Q. Did you examine the contents of that particular
2 rape kit to determine if you detect semen?
3 A. Yes.
4 Q. What were the results?
5 A. I found semen to be present in sample labeled
6 to be "vaginal swabs and smear", and also in
7 a pair of panties in the rape kit.
8 Q. Did you attempt -- Strike that. After you did that --
9 Strike that. Was that the substance of what that
10 first examination consisted of in terms of the rape
11 kit?
12 A. I also examined an oral swab in the rape kit,
13 a rectal swab would have also been in the rape
14 kit, and I did not find semen to be present on
15 those two items.
16 Q. When you did the examination, did you reseal the
17 items in any fashion?
18 A. Yes, I would have sealed -- placed the items
19 back in the box itself, and placed the box and
20 plastic bag which it came in in my own plastic
21 bag; returned it to the vault, and the police
22 agency could pick it up again.
23 Q. The rape kit, did you see it a second time after
24 you made your first check of the box?
25 A. Yes.

1 Q. When did you next see that?
2 A. It would have been November 30th, of 1981.
3 Q. After you were done with it the first time, you
4 resealed it?
5 A. Right.
6 Q. When it came back to you the second time, were
7 your seals in an uncontaminated or unbroken con-
8 dition?
9 A. It would have been sealed in my original
10 packet.
11 Q. I'm going to show you exhibit labeled 12. Look at
12 the envelope and its contents, please. Do you
13 recognize the envelope and the contents of State's
14 12?
15 A. Yes.
16 Q. What is contained within State's 12?
17 A. The manila envelope would be an envelope which
18 I returned the three, small business envelopes
19 to the law enforcement agency, and within the
20 smaller envelopes are tubes of blood, what is
21 labeled to be a saliva sample, and what we
22 determine negative control, or a clean piece
23 of gauze.
24 Q. These were submitted to you with the name of the
25 suspect, being Larry Mayes?

STATE'S
EXHIBIT 12
identified

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- 1 A. Yes.
- 2 Q. Now, were you asked to compare on the second examin-
3 ation, to make a comparison between the semen stains
4 that you had previously found in the rape kit, and
5 the blood and saliva submitted to you in the new
6 envelopes, State's 12?
- 7 A. Yes.
- 8 Q. How is it possible, Mr. Huys, that you can compare
9 semen stains in a rape kit against blood and saliva
10 samples of a suspect?
- 11 A. Certain individuals in the population, can be
12 blood-typed by their body fluid, other than the
13 blood itself. Certain people can be blood-
14 typed by their saliva, and certain people by
15 the vaginal secretions or semen sample. In fact,
16 what we would attempt to do is take, for instance,
17 a vaginal swab, and determine what ABO group blood
18 group factors being the one you are probably
19 most familiar with in school, and compare the
20 ABO blood group factors found in the swab to
21 ones from two individuals. The person from whom
22 the vaginal swab was taken, and, in this particular
23 case it would be the sample of Mr. Mayes.
- 24 Q. If I understand, then, some people in their other
25 body secretions will have the same ABO blood type that

1 they have in the blood?

2 A. Yes.

3 Q. Therefore, it is possible in some instances to
4 tell whether the person could have deposited semen
5 by comparing the semen stain versus his blood type?

6 A. Right.

7 Q. Now, did you examine the semen stains that you had
8 found earlier in an effort to detect a blood type
9 in the stains?

10 A. Yes.

11 Q. Did you find one?

12 A. Yes.

13 Q. What blood type was in the semen stains found on
14 the panties and vaginal swab?

15 A. Type O.

16 Q. Inside that rape ikit was a tube of blood labeled
17 with the victim, [REDACTED]?

18 A. Right.

19 Q. Did you attempt to find what her ABO blood type was?

20 A. Yes.

21 Q. What was her type?

22 A. She was also Type O.

23 Q. Did you make an effort, or did you determine the
24 blood type in the sample submitted to you labeled
25 "Larry Mayes"?

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No.

Q. Why not?

A. Because I determined from his blood sample that he was one of the individuals who cannot be blood-typed from their other body fluids, and at that point, there is no need to continue the examination.

Q. Mr. Mayes will not have his ABO blood type in his saliva or semen?

A. Right.

Q. Now, let's see what conclusions you can draw from this. Is it consistent that the O blood type found in the semen came from the vaginal secretions of [REDACTED]?

A. They could have.

Q. If semen is deposited in the vagina of a woman, and there are vaginal secretions, can the vaginal secretions stain or contaminate what you find in the semen?

A. If she is one of the people who can be blood-typed, you would find her blood type in her vaginal secretions, yes.

Q. Is it consistent, your findings, with the idea that the depositor of the semen was a person who secreted, but secreted the same type, blood type exactly, that

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being O, as [REDACTED]?

A. Yes. The individual who deposited the semen could also be Type O.

Q. Is it consistent with the fact, your finding, with the fact that a non-secretor like Mr. Mayes deposited the semen and therefore, the O types you found in it came from the victim?

A. Yes, that is possible, too. The semen may have come from a non-secretor.

Q. I assume that -- Well, you found Mr. Mayes to be a non-secretor?

A. Correct.

Q. Based on what you found in the semen stains, can you say that he is or is not within the group of people who could have deposited the semen?

A. He is within the group that could have, yes.

Q. But you cannot say with any specificity that that is his semen?

A. No.

Q. On the other hand, you cannot rule him out, either, as a possible depositor of that semen?

A. No.

Q. You can't say with much specificity either way?

A. That is correct.

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BY MR. VANES:

I have nothing further.

CROSS-EXAMINATION BY MR. WOLTER:

Q. Okay. Now, with reference to Mr. Vanes' most recent questions here, questions as to whether or not Mr. Mayes could be within the group that could have deposited the semen, and you said it is possible that he was. How large is that group?

A. You can't eliminate any individual. You would not be able to eliminate any individual unless you found a blood type there which was not the same as Mr. Mayes'.

Q. Okay. When we talk about the group of people that could be contained, potentially millions of people; right?

A. Yes.

Q. Okay. And the fact, am I not correct, that approximately 40 percent of black males are non-secretors, as Mr. Mayes is a non-secretor?

A. That is correct.

Q. And that is 40 percent of the general population of black males. That is not anything that is unique to Lake County here?

A. No, that is common to the United States.

Q. All right. Mr. Vanes has run you through several

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by Mr. Wolter

1 possibilities. Am I not also correct that there
2 is another possibility, and that is that the swabs
3 and the semen that was found on those swabs from
4 the victim, [REDACTED], could contain the O blood
5 factor of someone who was a secretor?

6 A. That is correct.

7 Q. In other words, someone from a group other than the
8 group Mr. Mayes is in?

9 A. Yes.

10 Q. Okay. As a matter of fact, it would be, if 40
11 percent of the black males are not secretors, leav-
12 ing 60 percent who are, if that 60 percent, a percen-
13 tage would be O blood type?

14 A. Yes.

15 Q. And that group would be potentially a group that
16 could have deposited that semen?

17 A. Correct.

18 Q. Again, given the population of black males with O
19 blood types in the United States, that is potentially
20 millions of people?

21 A. I would think so.

22 BY MR. WOLTER:

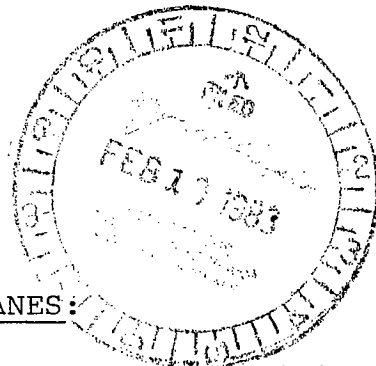
23 Nothing further.

24 REDIRECT EXAMINATION BY MR. VANES:

25 Q. When you test semen, you have the capability for

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by Mr. Vanes



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testing for more than ABO?

A. Correct.

Q. There is a possibility that you can test or detect other genetic traits which would make it more specific than ABO?

A. Right.

Q. Did you make any attempt to look for other traits?

A. I attempted to do an enzyme typing on the vaginal seminal stain.

Q. Were you successful?

A. I typed the victim's blood, but I could not make a determination on the vaginal.

Q. You were unable to get any more specific information from the semen stain, other than it had O factors in it?

A. That is correct.

BY MR. VANES:

Nothing else.

BY THE COURT:

Anything further?

BY MR. WOLTER:

No, I don't think so, Judge.

BY THE COURT:

That is all.

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BY MR. WOLTER:

I would indicate to the witness, I think I would release him from the subpoena that I had.

BY THE COURT:

All right.

BY MR. VANES:

I don't anticipate calling him.

There are exhibits that haven't been introduced: 10, 11 and 12. I would move to introduce all three of them at this point.

BY MR. WOLTER:

I would have no objection to 10, 11 and 12.

BY THE COURT:

All right. Show them admitted into evidence.

BY MR. VANES:

Corporal Fedorchak.

WHEREUPON THE WITNESS WAS SWORN BY THE COURT.

JAMES FEDORCHAK,

having been first duly sworn upon his oath, testified as follows:

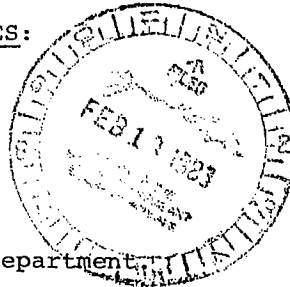
DIRECT EXAMINATION BY MR. VANES:

Q State your full name.

A James J. Fedorchak.

Q Where are you employed?

A Lake County Police Department



STATE'S
EXHIBITS
10, 11, & 12
Admitted

STATE'S
Witness:
James
Fedorchak

Direct
Examination
by
Fedorchak
by Mr. Vanes