

1 or eyebrow was taken from off the patient?

2 A I don't recall.

3 Q And the pubic hair combings, did you examine
4 these or was that just -- how was that performed?

5 A I gave the -- the patient a comb and I told her
6 to comb through her pubic hair and whatever stuck
7 to the comb, you put in a little envelope.

8 MR. PRATCHER: Okay, thank you. I have no further
9 questions.

10 MR. BELLING: Nothing further either, your Honor.

11 THE COURT: Thank you, Miss.

12 MR. BELLING: Michael Krajewski, please.

13 (WITNESS SWORN BY THE CLERK.)

14 M I C H A E L R. K R A J E W S K I, 74 Franklin
15 Street, Buffalo, New York, after being duly called and
16 sworn as a witness on behalf of the People, testified
17 as follows:

18 DIRECT EXAMINATION BY MR. BELLING:

19 Q Mr. Krajewski, how are you employed, sir?

20 A I'm currently employed by Erie County as a forensic
21 chemist in the Central Police Services Laboratory.

22 Q How long have you been so employed?

23 A Approximately two years.

- 1 Q Okay. And prior to being employed with the
2 Central Police Services Laboratory, where and how
3 were you employed?
- 4 A I was employed by Erie County as a toxicologist
5 at the Erie County Medical Center, and for eight
6 years.
- 7 Q And what background and/or training do you have
8 in the fields of chemistry and/or forensic chemistry
9 or toxicology?
- 10 A I've a four year degree from Canisius College,
11 I majored in chemistry, and I graduated with the
12 class in 1972. I've attended numerous seminars,
13 including a seminar given by the Drug Enforcement
14 Agency in Washington, D.C. I'm currently a member
15 of the Northeastern Association of Forensic
16 Sciences. I'm active in the American Chemical
17 Society and the American Academy of Forensic
18 Sciences.
- 19 Q Mr. Krajewski, in regard to the area of fiber
20 identification, do you do that particular sort of
21 comparison and analysis for the Central Police
22 Services Laboratory?
- 23 A Yes, I do.

1 Q And have you been doing that since you came aboard
2 over there two years ago?

3 A Yes, I have.

4 Q Do you have any specialized training in that
5 particular area or has this been a part of any of
6 your ongoing training?

7 A I don't have any specialized training, but, I
8 have read some literature extensively, and on the
9 job training.

10 Q Now, is one of your duties at the lab to analyze
11 so-called rape kits when they come in from the
12 hospitals?

13 A Yes, sir, it is.

14 Q I'd like to show you an Exhibit which has been
15 marked here on the outside of the box People's
16 Exhibit 11 for identification, and ask if you can
17 identify this particular box?

18 A Ah -- yes, sir, I can.

19 Q And what is it?

20 A It would be what is known as a rape evidence
21 collection kit.

22 Q Okay. And in regards to this particular box, are
23 you able -- able to tell where it came from and

1 if it is one that you been involved in the test-
2 ing of?

3 A Ah -- yes, sir, I can.

4 Q Okay. What hospital did it come from?

5 A Well, it's labeled that it came from E.C.M.C.,
6 and that's short for the Erie County Medical
7 Center. And my name is on it in two different
8 places.

9 Q Okay. And your name, as a matter of fact, is on
10 a -- a seal which was originally across the closure
11 of the box, isn't it?

12 A Yes, sir, it is.

13 Q And have you assigned a lab number with this item
14 upon its receipt at the lab?

15 A Oh, yes, sir.

16 Q What's the lab number on this particular --

17 A Lab #33921.

18 Q Now, pursuant to your analysis of lab #33921, did
19 you have occasion to perform any analysis on what's
20 been marked People's Exhibit 12, which is something
21 inside Exhibit 11?

22 A Yes, sir, I did.

23 Q First of all, can you identify Exhibit 12 as being

1 the same item that you tested, and then tell us
2 what it is?

3 A It's the same item I tested, because I labeled
4 it with the lab number and inside that cardboard
5 container taken from the victim of the rape.

6 Q By the way, who is the victim associated with
7 your lab #38921?

8 A I would have to refer to my notes.

9 Q That's fine, you can refer to them.

10 A The name of the victim is [REDACTED].

11 Q And in regard to those particular slides, Exhibit
12 12, and, again, referring to your notes if you
13 need to, can you advise this jury what you found
14 -- what you did and what you found?

15 A Well, I checked the slides for the presence of
16 spermatozoa, and there were two slides present,
17 one from the cervix, one from the vagina. And on
18 both slides there was sperm present.

19 Q Okay. I'd like to now show you Exhibit 13 marked
20 for identification, and ask if you can identify
21 that as something that you processed from this
22 same particular case?

23 A Ah -- yes, sir, it has my lab number and initials
on it.

- 1 Q And what did you do with that particular portion
2 of the Exhibit, and what did you find out about it?
- 3 A Well, this particular Exhibit are particles of
4 dirt from the perineal area of the victim. And
5 in this particular instance, I mounted them on a
6 slide and just preserved them in case we would
7 need them in the future.
- 8 Q Did you have occasion to take a look at them at
9 all in terms of what they were?
- 10 A Well, I -- I identified them as including vegetable
11 matter and ground soil.
- 12 Q Vegetable matter would be leaves or -- or things
13 like that?
- 14 A Yes, sir.
- 15 Q And ground soil is ground soil, dirt.
- 16 A Dirt.
- 17 Q Thank you. Okay, Exhibit #11, can you tell us
18 what that is, and if it's something you tested in
19 regard to this case?
- 20 A Well, again, I have my lab number on it, 38921,
21 and my initials. And this was a possible eyelash
22 that was taken from the body of the victim. I
23 believe this was -- when I received it, it was in

1 the envelope, so, this was collected at Frie
2 County Medical Center. I don't know who -- who
3 collected it.

4 Q Okay. And did you have occasion to mount that on
5 a slide?

6 A Yes, sir, I did.

7 Q Okay. And did you have occasion to look at it
8 under a microscope?

9 A Yes, sir, I did.

10 Q Now, Mr. Krajewski, first of all, in regard to
11 Exhibit #14, did you have occasion at a later date
12 to receive a sample of an eyelash that was taken
13 from the defendant, Vincent Jenkins?

14 A Yes, sir, I did.

15 Q Okay. And did you compare that sample eyelash
16 with the possible eyelash in Exhibit 14?

17 A Yes, sir.

18 Q And were you able to establish either that it was
19 or it wasn't from the same person?

20 A Ah -- I have to refer to some of the notes here.

21 Q Certainly.

22 A In this particular instance, I could not make a
23 positive comparison between the two.

1 Q Now, what does that mean in -- in laymen's terms,
2 cannot make a positive comparison?

3 A It means that the hairs -- hair samples were dis-
4 tinctively different. In order for a comparison
5 to be made, two strands of hair would have to be
6 exactly identical, and in this particular case,
7 it varied in the diameter, which is measured under
8 a microscope. The hair taken off the victim had
9 been cut, the end had been cut, the hair taken
10 from Mr. Jenkins had a tapered end, which meant
11 that it was not cut. And the hair taken from Mr.
12 Jenkins had a different medulla, which is the
13 center part of the hair. And, in general, I can-
14 not possibly say that the two hairs were similar.

15 Q Okay. Now, from your analysis, could you say that
16 the two hairs could not have come from the same
17 person?

18 A No, I couldn't. It's not unusual to have different
19 hairs come from the same person.

20 Q Okay, let's move on, if we may, to Exhibit #15.
21 I'll ask you if you can identify that as part of
22 the same rape kit and something that you processed?

23 A Again, it has my lab number, 38921, with my initials

1 on it. And it contains pubic hair samples from
2 the victim.

3 Q Did you have occasion to mount those samples from
4 the victim on a slide?

5 A Yes, sir, I did.

6 Q And what did you observe about the samples col-
7 lected from the victim?

8 A They were two different types of -- of hair
9 present from the victim, one hair was a blond
10 hair or light brown, and the other hair that was
11 present from the victim was a black hair.

12 Q Now, did you have occasion at a later date to
13 examine a sample of pubic hair collected from Mr.
14 Vincent Jenkins?

15 A Yes, sir, I did.

16 MR. BELLING: Could I have this marked with the next
17 Exhibit number, please?

18 (Whereupon, SLIDE/PUBIC HAIR was then
19 received and marked as People's Exhibit
20 #17 for Identification.)

21 BY MR. BELLING:

22 Q Now, Mr. Krajewski, can you take a look at People's
23 17, and identify for us what that envelope is?

- 1 A Well, this is an envelope that contains pubic
2 hair, and that was taken from Mr. Jenkins.
- 3 Q Okay. And when did you receive that envelope,
4 Exhibit 17, for testing?
- 5 A Let me look at some more notes that I have. The
6 date that I received those were March 1st, 1983.
- 7 Q Okay. And did you have occasion, Mr. Krajewski,
8 pursuant to your duties at the laboratory to com-
9 pare the known sample from Vincent Jenkins.
10 Exhibit 17, with the evidence sample collected,
11 Exhibit 15?
- 12 A Ah -- yes, sir, I did that comparison on the 4th
13 of March.
- 14 Q Okay. And what, if anything, did you find from
15 that comparison?
- 16 A Again, I couldn't make any distinct comparisons
17 between the pubic hair, the black pubic hair that
18 was taken off the victim, and the black pubic hair
19 from Mr. Jenkins.
- 20 Q Now, did you also have occasion pursuant to your
21 analysis to compare various known strands from
22 within Exhibit 17 with each other?
- 23 A Ah -- yes, sir, I did.

1 Q And what were the results of that comparison
2 analysis?

3 A I had -- I could not find two strands of hair
4 that compared that were taken from Mr. Jenkins.
5 I observed about ten of the strands.

6 Q Okay. So, within Exhibit 17, the known Vincent
7 Jenkins sample, you couldn't match any of them?

8 A No, sir, I couldn't.

9 Q With each other.

10 A With each other. They varied in -- in their
11 diameters. Mostly, they had a very irregular
12 diameter to them and all of them were black, and
13 they had not been cut or anything of that nature.
14 I couldn't call a match between any of them.

15 Q Now, one other thing, Mr. Krajewski, can you
16 identify Exhibit 16 for us, please, tell us what
17 that envelope contains?

18 A Exhibit 16 contains some swabs.

19 Q And were those swabs part of the same rape kit
20 from [REDACTED] that you tested from the lab?

21 A Yes, sir, they do, they're labeled with my lab
22 number, 38921, and my initials.

23 Q And what did you test those swabs for?

1 A. I tested the swabs for the presence of acid
2 phosphatase.

3 Q. What is acid phosphatase?

4 A. Acid phosphatase is an enzyme that occurs in a
5 very high quantity in seminal fluid. I should
6 point out, it's present in all body fluids, but,
7 not to the extent it would be present in seminal
8 fluid.

9 Q. And based upon your training and education and
10 analysis of Exhibit 16 there, would you have a --
11 an opinion as to whether or not there was seminal
12 fluid present which those swabs were connected to?

13 A. Yes, sir, there's two swabs here, one from the
14 cervix and one from the vagina, and both swabs
15 contained acid phosphatase.

16 Q. Consistent -- in an amount consistent with seminal
17 fluid?

18 A. Yes, sir.

19 MR. BELLING: Okay, your Honor, I have no further
20 direct examination. I would at this
21 point in time offer into evidence Exhibit
22 11 and its contents, which are numbered
23 12 through 17. And there are other

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contents, which I'd remove if it is admitted.

MR. PRATCHER: I have no objection, Judge.

THE COURT: All right, 12 through 17 in evidence.

Do you want to put them back in the box?

That's 11, Mr. Belling?

MR. BELLING: Yes.

THE COURT: You have no objection to the box?

MR. PRATCHER: No.

MR. BELLING: Okay, your Honor. If I may, just so the record is clear, the other items in 11 originally are a tube of blood and a nail scraper, comb, things like that. (Whereupon, People's Exhibits #11 through 17 were then received and marked in Evidence.)

THE COURT: Cross examine.

CROSS EXAMINATION BY MR. PRATCHER:

Q Now, sir, you said that you were unable to make a comparison between the ten individual strands of Mr. Jenkins, is that correct?

A Yes, sir, positive comparison, they were all the same.

1 Q Okay. Did you have the same problem with the
2 eyebrow or eyelash of Mr. Jenkins?

3 A The eyebrow and eyelash -- well, I only had one
4 eyebrow here, I had three eyelash hairs, and the
5 three eyelash hairs were similar.

6 Q They were similar?

7 A Yes, sir.

8 Q So, you were able to make a comparison that there
9 were three similar eye -- eyebrow or eyelash hairs?

10 A The eyelash hairs were similar. The eyebrow hair
11 was different from the eyelash hairs.

12 Q Okay. Did the eyebrow hairs match that possible
13 eyelash or eyebrow found on the complainant, Mrs.

14 [REDACTED]?

15 A No, sir, there was no comparison between those two.

16 Q No match.

17 A No match.

18 Q The pubic hair which was found on Mrs. [REDACTED],
19 you compared that with the pubic hairs of Mrs.

20 [REDACTED] is that correct?

21 A Yes, sir.

22 Q And there was no match?

23 A No match.

1 Q Okay. So, it wasn't her's, right?

2 A No, it wasn't her's.

3 Q So, evidently, it belonged to her assailant?

4 A It could belong to her assailant, yes.

5 Q Okay. Could you tell whether or not that hair
6 belonged to a black person or --

7 A A person, no, it could belong to a black person.

8 Q Okay. What were the differences between Mr.
9 Jenkins' pubic hair and that one particular hair
10 you found on Mrs. [REDACTED] or which was found on
11 Mrs. [REDACTED]?

12 A Well, in particular, the pubic hair found on Mrs.
13 Werner had a pretty consistent diameter, it had a
14 very prominent medulla, and it had a split end,
15 the end was split into about four different branches.
16 The pubic hair from Mr. Jenkins did not have any
17 split ends. And, as I previously mentioned, the
18 diameter of his hair was somewhat irregular, it
19 wasn't a gentle taper, it would go narrow and get
20 wide and then it would get narrow again.

21 Q And were all ten particular hairs from Mr. Jenkin
22 consistent with that?

23 A All I can say is that they had an irregular diameter.

1 Q Okay.

2 A And between the -- the hairs that I looked at, I
3 couldn't get a -- a positive match.

4 Q Out of all of the hairs you looked at on Mr.
5 Jenkins, did any of them have split ends or
6 branches as the particular hair that was found on
7 Mrs. [REDACTED]?

8 A No, sir, they didn't.

9 Q They didn't?

10 A They did not.

11 Q They didn't have that characteristic?

12 A No, sir.

13 Q Okay. Well, pretty much then, what the bottom
14 line of what you're saying is in your report
15 which you submitted in regards to your examination,
16 could you read that report, sir, supplemental
17 report?

18 A Yes, sir. Ah -- the report reads, "The pubic --

19 MR. BELLING: Excuse me, your Honor. The witness has
20 been questioned and cross examined, I
21 don't see any reason to read the report
22 at this point in time.

23 THE COURT: What have you got, one sentence there,
two sentences?

1 MR. PRATCHER: Three sentences.

2 THE COURT: Go ahead, read it.

3 THE WITNESS: The report reads, "The pubic hair from
4 the defendant showed marked differences
5 between individual strands. The black
6 pubic hair found on the victim did not
7 match the pubic hair taken from the
8 defendant. The black eyelash hair taken
9 off the victim did not match the defen-
10 dant's eyelash hair or eyebrow hair.
11 There is no head hair from the defendant
12 for a comparison."

13 MR. PRATCHER: All right. I have no further questions,
14 your Honor.

15 REDIRECT EXAMINATION BY MR. BELLING:

16 Q Mr. Krajewski, there was also no moustache or
17 beard hair submitted for comparison, was there?

18 A No, sir, there was not.

19 Q Now, Mr. Krajewski, isn't it true that a person's
20 hair changes from day to day, whether they're out
21 in the sun, whether they swim in a swimming pool,
22 various factors can affect the hair over time?

23 A Yes, sir, chemical air pollution, the sun, can all

1 have an effect on a person's hair.

2 Q What about a change in diet, if a person for
3 several months eats different things than he was
4 eathing several months before?

5 A I'm not particularly sure, but, I do know that
6 certain heavy metal shows up in hair if a person
7 were to ingest arson -- arsenic. One way to find
8 out if a person has been poisoned is to examine
9 the hair for arsenic. So, in that aspect, the
10 diet would effect the hair.

11 Q Now, one other thing, during your -- your training
12 and your study of the literature in this area,
13 have you come across any studies that deal with
14 hair comparison and the ability to compare hairs
15 and to give numbers, statistics?

16 A Yes, sir, I have.

17 Q And what -- what's the statistical possibility of
18 making a hair comparison match up?

19 A The study shows it would not be unusual to have
20 to look at 4,500 strands of hair from the head in
21 order to get a match with any one particular hair.
22 And, from the pubic hair, one may have to look at
23 as much as 800 hairs, and it can be from the same

1 person. That gives an idea of how much a hair
2 can vary just within one single person.

3 Q Okay. So, in other words, to match one hair from
4 my head with another hair from my head, you have
5 to maybe look at 4500 of them, is that correct?

6 A It's a good possibility that you would have to
7 have that many hair samples.

8 Q Okay. And doesn't say anything about one piece
9 of hair that I may have left somewhere else, com-
10 paring that with something, that's even a bigger
11 field, isn't it?

12 A Yes, it is.

13 MR. BELLING: Okay. I have nothing further of this
14 witness, your Honor.

15 MR. PRATCHER: Neither do I, your Honor.

16 THE COURT: Thank you very much, sir. You're ex-
17 cused.

18 MR. BELLING: One more witness, your Honor. Frank
19 Rozwood.

20 (WITNESS SWORN BY THE CLERK.)

21 F R A N K R O Z W O O D, 714 Ridge Road, Lackawanna
22 New York, after being duly called and sworn as a witness
23 on behalf of the People, testified as follows: