

Bibbins, Gene

Testimony of Annie Michelli, Baton Rouge City Police

MICHELLI

ANNIE MICHELLI, WITNESS, CALLED ON  
BEHALF OF THE STATE, HAVING BEEN  
DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. BERNIE:

- Q. PLEASE STATE YOUR NAME AND OCCUPATION FOR THE RECORD.  
A. ANNIE MICHELLI, I'M A LATENT FINGERPRINT ANALYST.  
Q. AND WHO -- BY WHOM ARE YOU EMPLOYED?  
A. BATON ROUGE CITY POLICE.

MS. BERNIE: YOUR  
HONOR, AT THIS TIME, THE STATE  
WOULD SEEK TO QUALIFY OFFICER  
MICHELLI AS AN EXPERT IN THE  
FIELD OF FINGERPRINT COMPARISON.

BY MS. BERNIE:

- Q. OFFICER MICHELLI, WHAT IS THE NATURE OF YOUR WORK?  
A. I COMPARE LATENT PRINTS TO ROLLED INKED PRINTS.  
Q. AND HOW DO YOU DO THAT?  
A. I COMPARE THE POINTS. THERE ARE BIFURCATIONS LINES AND  
DOTS AND ISLANDS. AND I COMPARE THOSE POINTS.  
Q. AND HOW MUCH OF YOUR TIME OR YOUR DUTIES ARE ASSIGNED TO  
THAT PARTICULAR TASK?  
A. EIGHT HOURS.  
Q. DO YOU -- IS THAT ALL YOU DO WITH THE POLICE DEPARTMENT?

MICHELLY

- A. YES, MA'AM.
- Q. AND HOW LONG HAVE YOU BEEN DOING THIS TYPE OF WORK?
- A. APPROXIMATELY FIVE TO SIX YEARS.
- Q. AND WHAT KIND OF TRAINING DID YOU HAVE IN FINGERPRINT COMPARISON?
- A. I HAD 40 HOURS AT LSU. IT WAS PUT ON BY THE F.B.I. AND THEN I WORKED WITH THE LOUISIANA STATE POLICE.
- Q. AND OVER THE COURSE OF THE PAST FIVE YEARS, HOW MANY TIMES HAVE YOU HAD OCCASION TO TRY TO MAKE A FINGERPRINT COMPARISON?
- A. APPROXIMATELY 150.
- Q. HAVE YOU TAKEN ANY COURSES OR READ ANY ARTICLES ABOUT FINGERPRINT COMPARISON?
- A. YES, MA'AM.
- Q. AND COULD YOU TELL ABOUT -- TELL US ABOUT THAT?
- A. ABOUT LATENTS?
- Q. WHAT COURSES YOU'VE TAKEN.
- A. OH, WELL, I JUST STUDIED THROUGH LS -- LOUISIANA STATE POLICE.
- Q. HAVE YOU HAD OCCASION TO QUALIFY AS AN EXPERT BEFORE, COMPARING LATENT FINGERPRINTS?
- A. YES, MA'AM.
- Q. AND WHERE WAS THAT?
- A. NINETEENTH JUDICIAL COURT.
- Q. AND HOW MANY TIMES? APPROXIMATELY HOW MANY TIMES HAVE YOU TESTIFIED ALONG THOSE LINES?
- A. APPROXIMATELY SEVEN TO EIGHT.

MS. BERNIE: YOUR  
HONOR, AT THIS TIME, I WOULD  
TENDER ON THE PREDICATE.

MICHELLI

MR. LAVERGNE: WE'LL  
ACCEPT HER AS AN EXPERT.

THE COURT: ALL RIGHT.  
LET HER BE ADMITTED AND  
QUALIFIED AS AN EXPERT IN  
FINGERPRINT COMPARISON.

BY MS. BERNIE:

Q. OFFICER MICHELLI, COULD YOU TELL US OR EXPLAIN TO THE  
JURY WHAT A LATENT FINGERPRINT IS?

A. A LATENT FINGERPRINT IS A FINGERPRINT LEFT AT A SCENE  
THAT'S LEFT BY YOUR -- THE RIDGES, THE PERSPIRATION FROM  
YOUR FINGERS. AND IT'S -- LATENT MEANS INVISIBLE. IT'S  
NOT READILY VISIBLE FROM THE EYE.

Q. EVERY TIME SOMEBODY TOUCHES A SURFACE, WILL THEY LEAVE A  
FINGERPRINT?

A. NOT NECESSARILY. SINCE -- SOME PEOPLE PERSPIRE MORE THAN  
OTHERS; AND, OF COURSE, WHEN YOU -- WHEN YOU TOUCH YOUR  
HAIR OR YOUR FACE, YOU'RE GOING TO LEAVE OILS. AND YOU  
CAN EITHER LEAVE A FINGERPRINT -- YOU CAN ONLY LEAVE A  
FINGERPRINT ON NON-POROUS ITEMS. YOU CAN'T LEAVE A  
FINGERPRINT ON POROUS ITEMS, BECAUSE THE POROUS ITEMS  
ABSORB THE MOISTURE AND THE GREASE INTO THEM.

Q. WHAT IS A KNOWN INKED FINGERPRINT?

A. A KNOWN INKED PRINT IS A PRINT THAT'S TAKEN ON A  
FINGERPRINT CARD WITH THE -- WITH PRINTER'S INK, AND THE  
PERSON'S FINGERS ARE ROLLED FROM SIDE TO SIDE ON TOP OF  
THE FINGERPRINT CARD, AND THEN ON THE BOTTOM; THEY'RE  
PLACED SIMULTANEOUSLY DOWN.

Q. WHEN SOMEBODY IS BEING PRINTED, FINGERPRINTED, AND IS

MICHELLI

ROLLED FROM SIDE TO SIDE AS YOU MENTIONED, IS THAT USUALLY A BETTER PRINT THAN SOMEBODY JUST TOUCHING AN ITEM?

A. YES, MA'AM.

Q. AND WHY IS THAT?

A. BECAUSE YOU'RE TAKING MORE CARE AT GETTING THE WHOLE FINGERPRINT AND PLACING IT DOWN PROPERLY WITH THE PROPER PRESSURE.

Q. AND HOW DO YOU GO ABOUT COMPARING LATENT FINGERPRINTS AND KNOWN INKED FINGERPRINTS?

A. WE COMPARE THE FOUR DIFFERENT BASICS. THERE'S THE ENDING RIDGE, BECAUSE YOUR -- YOUR FINGERS, YOUR PALMS AND YOUR SOLES ARE MADE UP OF RIDGES. AND THESE RIDGES HAVE DIFFERENT VARIATIONS. THERE'S FOUR DIFFERENT VARIATIONS. THERE'S THE LINE ENDING, AND THEN THERE'S THE BIFURCATION WHEN THE LINE COMES DOWN AND DIVIDES. AND YOU HAVE WHAT THEY CALL A DOT. THAT'S JUST A RIDGE THAT BREAKS UP AND IT'S JUST A DOT. AND THEN YOU HAVE WHAT THEY CALL AN ISLAND. IT'S WHEN A LINE, A RIDGE, COMES DOWN. IT BIFURCATES. THEN IT COMES BACK INTO ONE AND THE LINE CONTINUES.

Q. ARE YOU ALWAYS ABLE TO MAKE AN IDENTIFICATION WHEN YOU HAVE A LATENT PRINT AND YOU HAVE ROLLED, A KNOWN ROLLED PRINT?

A. NO, MA'AM.

Q. WHY IS THAT?

A. THEY JUST WON'T MATCH. YOU WON'T BE ABLE TO GET THE POINTS YOU NEED ON IT.

Q. ARE THERE TIMES WHEN YOU JUST DON'T HAVE ENOUGH ON THE LATENT PRINT TO EVEN MAKE A COMPARISON?

A. YES, MA'AM.

MICHELLI

- Q. DOES THAT NECESSARILY MEAN THAT THE LATENT PRINT, THE SMUDGE OR THE PARTIAL PRINT IS NOT THE PRINT OF THE PERSON WHO YOU HAVE THE ROLLED PRINT ON?
- A. NO, MA'AM. NOT NECESSARILY.
- Q. DID YOU HAVE OCCASION TO LOOK AT A LATENT PRINT OF GENE BIBBENS -- EXCUSE ME -- OF -- OF A PRINT LIFTED AT 1701 DUANE AVENUE, AT 328 -- APARTMENT 328?
- A. YES, MA'AM.
- Q. LET ME SHOW YOU WHAT HAS BEEN IDENTIFIED AS STATE'S EXHIBIT-12 AND ASK IF YOU RECOGNIZE THIS?
- A. YES, MA'AM. I DO.
- Q. AND WOULD YOU PLEASE TAKE THE CONTENTS OUT OF THAT ENVELOPE. AND WHAT ARE THOSE?
- A. THEY ARE TWO LATENT LIFTERS.
- Q. ARE THEY VERY GOOD SPECIMENS?
- A. NO, MA'AM.
- Q. AND DID YOU DO ANYTHING WITH THESE TWO ITEMS?
- A. I LOOKED AT THEM AND TRIED TO COMPARE THEM, BUT THERE'S -- THE LATENTS ON THEM ARE UNIDENTIFIABLE.
- Q. NOW, YOU SAID YOU TRIED TO COMPARE THEM. WHOSE KNOWN PRINTS DID YOU COMPARE THEM TO?
- A. GENE BIBBENS.
- Q. AND WHAT WERE THE RESULTS?
- A. THE LATENTS ARE UNIDENTIFIABLE. YOU CAN'T -- THEY AREN'T ANY -- THERE AREN'T ANY PRINTS ON THERE THAT WE CAN USE.
- Q. SO YOU'RE NOT SAYING THAT THEY'RE NOT THE DEFENDANT'S PRINTS, JUST THAT THE LATENTS WERE SO BAD THAT YOU COULDN'T MAKE -- REACH A CONCLUSION?
- A. YES, MA'AM.
- Q. DID YOU DOUBLE-CHECK YOUR CONCLUSION WITH THE STATE CRIME LAB?

MICHELLI

A. YES, MA'AM. BOTH --

Q. AND DID THEY HAVE THE SAME RESULTS?

A. YES, MA'AM.

MS. BERNIE: THANK  
YOU. I TENDER.

MICHELLI

CROSS-EXAMINATION

BY MR. LAVERGNE:

Q. OFFICER MICHELLI, IS IT MICHELLI?

A. MICHELLI, YES, SIR.

Q. ANNIE MICHELLI?

A. YES, SIR.

Q. YOU, BEING THE EXPERT IN THESE FINGERPRINTS AND THE  
SMUDGES THAT YOU LOOKED AT THAT WAS TAKEN FROM THE SCENE,

—

A. UH-HUH.

Q. — YOU SAID THAT YOU COULD NOT IDENTIFY THAT OR MATCH IT  
WITH ANY KNOWN PRINT THAT YOU HAD ON FILE?

A. NO, SIR.

Q. IN OTHER WORDS, THOSE SMUDGES COULD HAVE BEEN MY PRINTS  
FOR ALL YOU KNOW?

A. YES, SIR.

MR. LAVERGNE: OKAY.

I DON'T HAVE ANY FURTHER  
QUESTIONS.

THE COURT: YOU CAN  
STEP DOWN —

MS. BERNIE: OFFICER  
MICHELLI —

THE COURT: GO AHEAD.

REDIRECT EXAMINATION

BY MS. BERNIE:

- Q. THEY COULD HAVE BEEN MR. LAVERGNE'S PRINTS. THEY ALSO  
COULD HAVE BEEN MR. BIBBEN'S PRINTS, COULDN'T THEY?
- A. THEY COULD BE ANYBODY'S PRINTS, MA'AM.

MR. BERNIE: THANK  
YOU. I HAVE NO FURTHER  
QUESTIONS.

(REPORTER'S NOTE: AT  
THIS TIME, THE WITNESS WAS  
EXCUSED FROM THE WITNESS STAND.)

THE COURT: ALL RIGHT.  
THE LUNCHES ARE HERE. COURT  
WILL BE AT RECESS UNTIL 1:10.  
YOU'RE FREE TO HAVE LUNCH WITH  
US. YOU'RE FREE TO GO OUT.  
YOU'RE FREE TO EAT AND THEN GO  
OUT, WHATEVER YOU WANT TO DO.  
DO NOT DISCUSS YOUR -- THE  
EVIDENCE WITH ANYONE. WE'LL BE  
BACK AT TEN AFTER 1:00. RETIRE  
THE JURY. COURT'S AT RECESS  
UNTIL 1:10.

JURY OUT

Bibbins, Gene

Testimony of Shirley Ziegler, Louisiana State Police Crime Lab

ZIEGLER

SHIRLEY ZIEGLER, WITNESS, CALLED ON  
BEHALF OF THE STATE, HAVING BEEN  
DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. BERNIE:

Q. PLEASE STATE YOUR NAME AND OCCUPATION FOR THE RECORD.

A. OKAY. PRESENTLY, MY NAME IS ~~SHIRLEY ZIEGLER~~, AND I'M A  
FORENSIC SCIENTIST AT THE LOUISIANA STATE POLICE CRIME  
LAB.

Q. HAVE YOU EVER GONE BY SHIRLEY PHILLIPS?

A. OH, YES.

Q. AND DID YOU RECENTLY CHANGE YOUR NAME?

A. YES. I DID.

Q. WOULD YOU TELL US EXACTLY WHAT YOUR DUTIES ARE AT THE  
CRIME LAB?

A. I'M IN THE ~~PHYSICAL EVIDENCE~~ SECTION OF THE CRIME LAB  
WHICH -- AND I'M IN THE SEROLOGY UNIT OF THAT SECTION. MY  
PARTICULAR UNIT OF THE LAB IS THE ONE WHO IS IN CHARGE OF  
~~ANALYZING BLOOD AND OTHER BODY FLUIDS, STAINS MADE BY~~  
THESE -- BY BLOOD AND OTHER BODY FLUIDS; AND, ALSO,  
EXAMINATION OF HAIRS AND FIBERS.

MS. BERNIE: YOUR  
HONOR, AT THIS TIME, THE STATE  
WOULD SEEK TO QUALIFY MS.  
ZIEGLER AS AN EXPERT IN THE  
FIELD OF SEROLOGY AND IN

IDENTIFYING BODY FLUIDS, MORE PARTICULARLY, SEMINAL FLUID, UNLESS MR. LAVERGNE WOULD CARE TO STIPULATE TO HER QUALIFICATIONS?

MR. LAVERGNE: NO. I CAN'T STIPULATE, SO LET'S QUALIFY HER.

BY MS. BERNIE:

Q. HOW LONG HAVE YOU BEEN EMPLOYED IN THE CRIME LAB?

A. SEVENTEEN YEARS.

Q. AND WHAT HAVE YOUR DUTIES BEEN OVER THE PAST 17 YEARS?

A. I'VE WORKED IN THE SAME FIELD THAT I'M WORKING NOW, IN SEROLOGY.

Q. AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I HAVE A BACHELOR-OF SCIENCE DEGREE FROM LSU IN THE FIELD OF ZOOLOGY. I HAVE SOME POST-GRADUATE WORK IN BOTH ZOOLOGY AND BIOCHEMISTRY. I DID NOT COMPLETE A MASTER'S PROGRAM. AND THEN AFTER I WENT TO WORK FOR THE STATE POLICE CRIME LAB, I RECEIVED EXTENSIVE ON-THE-JOB TRAINING AND SCHOOLING IN SCHOOLS WHICH -- AROUND THE UNITED STATES SET UP BY PEOPLE WHO WERE EXPERTS IN THE FIELD OF SEROLOGY. I'VE BEEN TO THE F.B.I. TRAINING ACADEMY IN QUANTICO, VIRGINIA, TO THE SEROLOGICAL RESEARCH INSTITUTE IN EMERYVILLE, CALIFORNIA, AND TO NORTHEAST STATE -- NORTHEAST MISSOURI STATE UNIVERSITY IN KIRKVILLE, MISSOURI, AS WELL AS SEMINARS AND WORKSHOPS THROUGHOUT MAINLY THE SOUTHEASTERN PART OF THE UNITED STATES.

ZIEGLER

- Q. AND YOU'VE DONE THIS CONTINUALLY OVER THE PAST 17 YEARS?
- A. NO. I'VE DONE THIS CONTINUALLY OVER THE PAST 14. I HAD THREE YEARS OF EXPERIENCE AND THEN I TOOK OFF A LITTLE WHILE AND THEN WENT BACK TO WORK IN '74.
- Q. IS YOUR ENTIRE WORK DEVOTED TO YOUR FIELD OR DO YOU HAVE OTHER DUTIES AS WELL?
- A. PRIMARILY, IT'S DEVOTED TO SEROLOGY. I SOMETIMES HELP OUT IN SOME OF THE OTHER SECTIONS WHEN THEY GET BEHIND. BUT, FOR THE MOST PART, IT'S SEROLOGY.
- Q. AND WHAT EXACTLY IS SEROLOGY?
- A. WELL, AS I SAID, SEROLOGY IS THE ANALYSIS OF BODY FLUIDS AND THEIR STAINS. THE MOST PREDDMINANT BODY FLUID IN OVERALL CASES IS BLOOD WORK. ~~BUT I ALSO ANALYZE A CONSIDERABLE AMOUNT OF SEMINAL STAINS OR SEMINAL FLUID INVOLVED IN SEXUAL ASSAULT TYPE CASES.~~ WHEN I WORK A CASE, THE FIRST THING I HAVE TO DO IS ACTUALLY IDENTIFY THE LIQUID OR THE FLUID OR THE STAIN THAT IS PRESENT. THEN, ONCE I CAN IDENTIFY IT, I RUN OTHER TESTS TO SEE IF I CAN IN SOME WAY NARROW DOWN THE NUMBER OF POSSIBLE PEOPLE WHO COULD HAVE LEFT THIS STAIN BEHIND.
- Q. THROUGHOUT YOUR CAREER IN THE CRIME LAB DEPARTMENT, COULD YOU ESTIMATE APPROXIMATELY HOW MANY TESTS YOU HAVE RUN, SEROLOGY, AND THE IDENTIFICATION OF OTHER BODY FLUIDS?
- A. AS FAR AS TESTS, NO. THERE'S NO WAY I COULD. RIGHT NOW, I'VE BEEN ~~AVERAGING ABOUT 40 TO 60 CASES PER MONTH.~~ AND EACH CASE IS GOING TO HAVE NUMEROUS TESTS IN IT. SO I'M RUNNING UPWARDS OF TWO TO THREE HUNDRED INDIVIDUAL TESTS PER MONTH WHICH OVER A 14-YEAR PERIOD IS A CONSIDERABLE NUMBER OF TESTS.
- Q. HAVE YOU EVER TESTIFIED IN COURT BEFORE AS AN EXPERT IN THE FIELD OF SEROLOGY AND IN IDENTIFYING BODY FLUIDS,

ZIEGLER

SUCH AS SEMINAL FLUIDS?

A. YES. I HAVE.

Q. WOULD YOU APPROXIMATE HOW MANY TIMES?

A. OH, I'D SAY ABOUT 300 TIMES.

Q. HAVE YOU TESTIFIED IN EAST BATON ROUGE PARISH BEFORE?

A. YES. I HAVE.

Q. HOW MANY COURTS?

A. HOW MANY COURTS?

Q. COURTS, STATE AND FEDERAL.

A. OH, OKAY. I DIDN'T KNOW WHAT YOU MEANT.

Q. SORRY.

A. I'VE TESTIFIED BOTH IN CITY COURT AND DISTRICT COURT AND IN FEDERAL COURT.

MS. BERNIE: I HAVE NO  
FURTHER QUESTIONS ON THE  
PREDICATE.

MR. LAVERGNE: JUST A  
COUPLE OF QUESTIONS.

CROSS-EXAMINATION ON PREDICATE

BY MR. LAVERGNE:

Q. OFFICER ZIEGLER, I RECOGNIZE THAT YOU'VE HAD EXTENSIVE TRAINING, BACKGROUND, SCHOOLING IN THOSE AREAS. SO THEN YOU ARE FAMILIAR WITH EVERY TYPE OF TEST THERE ARE INVOLVED IN THESE TYPE OF THINGS, THE CURRENT TESTS?

A. I'M FAMILIAR WITH THE CURRENT TESTS THAT ARE BEING USED IN CRIME LABORATORIES. I WOULDN'T SAY I'M FAMILIAR WITH EVERYTHING. I'M SURE THERE ARE SOME THINGS THAT I'M NOT

ZIEGLER

FAMILIAR WITH.

MR. LAVERGNE: OKAY.

THAT'S ALL THE QUESTIONS I HAVE.  
I HAVE NO OBJECTION.

THE COURT: ALL RIGHT.  
SHE'LL BE QUALIFIED AS AN EXPERT  
~~TO TESTIFY~~ IN THE FIELD OF  
~~SEROLOGY.~~

DIRECT EXAMINATION CONT'D

BY MS. BERNIE:

Q. MS. ZIEGLER, TELL US EXACTLY WHAT YOU DO WHEN YOU TRY TO  
TEST AN OBJECT FOR SEMINAL FLUID.

A. OKAY. IN TESTING AN ITEM, FOR EXAMPLE, SAY, A PAIR OF  
PANTS FOR THE PRESENCE OF SEMINAL FLUIDS, THE VERY FIRST  
THING I DO ~~WHEN I RECEIVE THE ITEM OR RECEIVE THE OBJECT~~  
~~IS TO LOOK AT IT~~ PHYSICALLY TO SEE IF THERE ARE AREAS OF  
POSSIBLE STAINS. NOW, I KNOW THIS IS NOT WHAT YOU  
CONSIDER A DEFINITIVE TEST, BUT IT DOES GIVE ME AN IDEA  
OF WHERE TO CHECK NEXT. THE SECOND STEP I DO IN THIS  
PRELIMINARY EXAMINATION IS EXAMINE THE GARMENT USING A  
ULTRAVIOLET LIGHT OR A BLACK LIGHT. BODY FLUIDS WILL  
FLUORESCENCE UNDER AN ULTRAVIOLET LIGHT. SO IF I FIND AN  
AREA THAT FLUORESCES, I THEN MARK THAT AREA. NOW, OF  
COURSE, I KNOW THAT QUITE A FEW THINGS WILL FLUORESCENCE AND  
QUITE A FEW THINGS WILL LEAVE STAINS. BUT THIS GIVES ME  
AN INDICATION OF THE AREA TO BE TESTED. THE NEXT THING I  
DO IS TO TEST THESE INDIVIDUAL AREAS TO SEE IF SEMINAL

ZIEGLER

FLUID IS, IN FACT, PRESENT. THERE ARE THREE TESTS WHICH CAN BE RUN. THE FIRST ONE IS WHAT IS CALLED THE COLOR TEST OR A SPOT TEST. THIS TEST DETECTS THE PRESENCE OF A CERTAIN ENZYME THAT'S PRESENT IN THE SEMINAL FLUID OF A MALE. IT'S AN ENZYME THAT'S PRODUCED BY THE PROSTATE GLAND OF THE MALE AND IT'S PRESENT IN SEMINAL FLUID. IF I FIND THIS ENZYME PRESENT, THEN I KNOW THAT THE STAIN IS A SEMINAL STAIN. THE NEXT STEP THAT I DO IS REMOVE A SMALL PIECE OF THE GARMENT AND DISSOLVE THE STAIN IN WATER AND THEN SMEAR THIS ON A MICROSCOPIC -- MICROSCOPE SLIDE AND LOOK AT IT MICROSCOPICALLY. I TRY TO PICK OUT OR IDENTIFY INDIVIDUAL SPERM CELLS. IF I CAN SEE THE INDIVIDUAL SPERM CELLS, THEN I KNOW WITHOUT A DOUBT THAT I DO HAVE A SEMINAL STAIN PRESENT. NOW, I MENTIONED TWO DIFFERENT THINGS, AND I WOULD LIKE TO KIND OF EXPLAIN THE DIFFERENCE BETWEEN THE TWO. THE SEMINAL FLUID ITSELF IS THE LIQUID PART OF THE MALE EJACULATE. THE SPERMATOZOA IS THE ACTUAL LITTLE SEX CELL. SO WHEN I TALK ABOUT SEMINAL FLUID, I'M TALKING ABOUT THE LIQUID PART. WHEN I TALK ABOUT SPERMATOZOA, I'M TALKING ABOUT THE LITTLE INDIVIDUAL SPERM CELL. IF I CAN FIND THE PRESENCE OF SPERMATOZOA, I KNOW THAT I HAVE SEMINAL STAINS PRESENT BECAUSE THE SPERMATOZOA ARE CARRIED IN THE SEMINAL FLUID. NOW, IF THERE ARE NO -- IF THERE ARE NO SPERM PRESENT, IT IS STILL POSSIBLE TO STILL HAVE A SEMINAL STAIN. SOME PEOPLE JUST, AT CERTAIN TIMES, DO NOT PRODUCE SPERM. OR SOMETIMES A SPERM WILL DETERIORATE. SO THEN THERE IS A THIRD TEST THAT I CAN RUN WHICH IS -- I USE THE TERM ELECTRO-PHORESIS. THAT'S THE METHOD WE RUN IT IN THE LAB. BUT IT'S A TEST THAT IS SPECIFIC FOR HUMAN SEMEN. SO I HAVE TO RUN AND GET POSITIVES ON TWO OF THESE THREE

ZIEGLER

TESTS BEFORE I CAN STATE THAT SEMINAL FLUID IS PRESENT.

Q. AND WHAT ABOUT THE WORK THAT YOU DO WITH BLOOD? HOW DO YOU GO ABOUT BLOOD-TYPING?

A. OKAY. WITH BLOOD-TYPING, IF I'M TYPING LIQUID BLOOD, I USE THE EXACT SAME METHOD THAT'S RUN IN THE HOSPITAL OR IN ANY DOCTOR'S OFFICE WHERE THEY TAKE A SMALL DROP OF BLOOD, MIX IT WITH AN ANTI-SERUM AND WATCH FOR GLUTINATION. ~~AND I CAN DETERMINE~~ WHETHER A PERSON IS AN "A" OR A "B" OR AN "AB" OR AN "O." AND THIS IS THE SAME TEST THAT'S RUN IN A LOT OF DOCTOR'S OFFICES, MOST CLINICS, HOSPITALS. YOU NAME IT. IF I'M DEALING WITH A DRIED STAIN, IT'S A DIFFERENT TYPE OF PROCEDURE. I'M TESTING FOR THE SAME CHEMICALS, BUT SINCE IT'S NO LONGER IN LIQUID FORM, I HAVE TO USE A LONGER PROCEDURE THAT DETECTS THE PRESENCE OF THESE A-B-O CHEMICALS.

Q. AND WHEN YOU MENTION THE "A" AND "O" AND "AB", "B," WHAT EXACTLY ARE THOSE?

A. OKAY. ~~THOSE ARE THE FOUR DIFFERENT~~ BLOOD TYPES WHICH ARE POSSIBLE IN THE A-B-O TYPING SYSTEM. EVERYBODY INHERITS A SPECIFIC BLOOD TYPE FROM THEIR PARENTS AND THEIR BLOOD TYPE DOES NOT CHANGE THROUGHOUT THEIR ENTIRE LIFE. THE A-B-O SYSTEM HAS FOUR DIFFERENT BLOOD TYPES, -- AND I MENTIONED THEM A MINUTE AGO -- "A," "B," "AB" AND "O." AND I'M SURE MOST EVERYONE IN HERE, PROBABLY AT ONE TIME OR ANOTHER, HAD THEIR BLOOD TYPED. SO THEY MAY -- EVERYONE IN HERE MAY KNOW WHAT THEIR BLOOD TYPE IS.

Q. AND IS THERE -- AS FAR AS PERCENTAGES, IS ONE MORE COMMON THAN THE NEXT, AS FAR AS BLOOD TYPE?

A. THE "O" AND THE "A" ARE THE MOST COMMON BLOOD TYPES. AND DEPENDING UPON WHOSE REFERENCE GUIDE YOU'LL USE, THEY'LL RUN ABOUT 44 TO 45 PERCENT EACH. THE "AB" IS THE RAREST

BLOOD TYPE. AND IT RUNS ABOUT THREE PERCENT OF THE POPULATION. THE "B" RUNS ABOUT EIGHT PERCENT OF THE POPULATION.

Q. AND WHAT IS A SECRETOR?

A. OKAY. ~~A PERSON WHO IS A SECRETOR HAS THE GENETIC MAKEUP SUCH THAT ALL OF HIS BODY FLUIDS WILL CARRY HIS A-B-O BLOOD TYPING SUBSTANCE.~~ IF A PERSON IS A SECRETOR, WE CAN DETECT THEIR A-B-O BLOOD TYPE FROM ANY BODY FLUID. WE CAN DETECT IT FROM THEIR TEARS. WE CAN DETECT IT FROM THE SALIVA, LIKE SALIVA THAT'S LEFT ON A CIGARETTE. WE CAN DETECT THEIR A-B-O BLOOD TYPE FROM THE SEMINAL FLUID OR WE CAN DETECT IT FROM VAGINAL SECRETIONS. SO ANY BODY FLUID OF A PERSON WHO IS A SECRETOR CAN BE TYPED TO DETERMINE THEIR A-B-O BLOOD TYPE. A PERSON WHO IS A NON-SECRETOR DOES NOT REACT IN THIS WAY. ~~IF A PERSON IS A NON-SECRETOR, THE ONLY BODY FLUID WE CAN GET THEIR BLOOD TYPE FROM IS THEIR BLOOD.~~ BUT IF A PERSON IS A SECRETOR, ANY BODY FLUID WILL YIELD HIS BLOOD TYPE.

Q. AND WHAT IS THE PURPOSE OF THE EXAMINATIONS THAT YOU PERFORM?

A. WELL, THE PURPOSE IS TO -- ONCE I IDENTIFY A STAIN, BE IT A SEMINAL STAIN OR A BLOOD STAIN, I RUN TYPING TESTS TO TRY TO NARROW DOWN THE NUMBER OF PEOPLE FROM WHICH THIS -- THIS BODY FLUID COULD HAVE COME. IF, FOR EXAMPLE, I RUN A TEST AND FIND THAT THERE IS HUMAN BLOOD, BY KNOWING THAT IT'S HUMAN BLOOD, IT COULD HAVE COME FROM 100 PERCENT OF THE HUMANS IN THE UNITED STATES OR IN THE WORLD. IT COULD HAVE COME FROM ANYBODY WHO IS HUMAN. BUT IF I JUST DETECT, SAY, A TYPE "A," THEN IT COULD HAVE COME FROM 40 PERCENT OR 45 PERCENT OF THE PEOPLE. SO WHAT I TRY TO DO IS NARROW DOWN THE POSSIBLE NUMBER OF

ZIEGLER

PEOPLE WHO COULD HAVE LEFT THIS PARTICULAR STAIN BEHIND.

Q. DID YOU HAVE OCCASION TO EXAMINE ANY EVIDENCE THAT WAS SUBMITTED TO YOU IN THIS PARTICULAR CASE?

A. YES. I DID.

Q. FIRST, LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT-5 AND ASK YOU IF YOU RECOGNIZE THAT?

A. YES. THIS PARTICULAR BAG HAS OUR CASE NUMBER AND MY INITIAL INSCRIBED ON IT.

Q. AND HOW DO YOU USUALLY GET THIS EVIDENCE?

A. YOU MEAN FROM WHOM OR --

Q. (COUNSEL NODDED.)

A. ALL RIGHT. THE EVIDENCE IS TURNED OVER TO THE CRIME LAB BY THE SUBMITTING AGENCY AND IS GIVEN TO THE EVIDENCE CUSTODIAN WHO KEEPS IT IN A LOCKED VAULT UNTIL SUCH TIME AS I CAN WORK WITH IT. IN THE CASE OF A BODY FLUID SAMPLE, IT'S GIVEN TO ME IMMEDIATELY SO THAT I CAN KEEP IT IN MY FREEZER OR REFRIGERATOR IN THE BACK IN MY SEROLOGY LAB. AND, OTHERWISE, BODY FLUIDS WILL TEND TO DETERIORATE IN A HURRY, SO THEY HAVE TO BE KEPT REFRIGERATED.

Q. I SEE THE INITIALS HERE, S.P. ARE THOSE YOUR INITIALS?

A. YES. IT IS.

Q. AND WOULD YOU HAVE WRITTEN YOUR INITIALS AND LAB NUMBER ON THAT, THIS BAG?

A. YES. I DID.

Q. AND WOULD YOU HAVE SEALED IT?

A. YES.

Q. I'LL SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT-6 AND ASK IF YOU CAN LOOK IN THERE AND SEE IF YOU RECOGNIZE ANYTHING?

A. OKAY. EACH ONE OF THE INDIVIDUAL ITEMS CONTAINED IN THE

ZIEGLER

LARGER PLASTIC BAG IS INSCRIBED WITH THE CASE NUMBER AND MY INITIALS.

Q. AND ARE THOSE -- EXCUSE ME -- ARE THOSE ITEMS IN SUBSTANTIALLY THE SAME CONDITION THAT THEY WERE IN WHEN YOU LAST SAW THEM?

A. YES. THEY ARE.

Q. I SHOW YOU WHAT HAS BEEN MARKED ~~AS STATE'S EXHIBIT-7~~ AND ~~ASK IF YOU RECOGNIZE THAT?~~

A. OKAY. THIS BAG ~~ALSO HAS THE CASE NUMBER AND MY INITIALS~~ INSCRIBED ON IT. AND IT CONTAINS A GARMENT WHICH HAS THE CASE NUMBER AND MY INITIALS INSCRIBED ON IT.

Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT-20.

A. UH-HUH.

Q. DO YOU RECOGNIZE THAT?

A. YES. THIS ~~IS ALSO~~ LABELED WITH THE CASE NUMBER AND MY INITIALS.

Q. AND WHAT DOES THE EVIDENCE IN THAT BAG REPRESENT?

A. ~~THIS IS A~~ REFERENCE BLOOD SAMPLE AND SALIVA SAMPLE FROM MR. BIBBENS.

Q. I'LL SHOW YOU WHAT HAS BEEN MARKED AS STATE'S EXHIBIT-16 AND ASK IF YOU RECOGNIZE THIS ITEM?

A. OKAY. ~~THE BED SHEET ALSO HAS THE CASE NUMBER AND MY INITIALS INSCRIBED ON IT.~~ I'LL LEAVE THESE HERE.

Q. CAN YOU TELL US WHAT EXAMINATION THAT YOU PERFORMED WITH RESPECT TO THE BED SHEET?

A. OKAY. ON THE BED SHEET ITSELF, I FOUND TWO AREAS THAT WERE OF SUSPECT STAINS. AND I RAN FIRST OF ALL THE CHEMICAL TEST FOR THE ENZYME FROM THE PROSTATE GLAND OF THE MALE ON BOTH OF THESE. ~~THE AREA WHICH IS LABELED ON~~ THERE "T-1" GAVE NEGATIVE RESULTS, WHICH MEANS THAT AREA WAS NOT A SEMINAL STAIN. THE AREA WHICH IS LABELED "T-2"

ZIEGLER

GAVE POSITIVE RESULTS. I THEN REMOVED PART OF THIS STAIN AND MADE A SLIDE FROM IT AND LOOKED AT THAT MICROSCOPICALLY AND WAS ABLE TO IDENTIFY NUMEROUS SPERMATOZOA. SO FROM THE RESULTS OF THESE TWO TESTS, I WAS ABLE TO CONCLUDE THAT SEMINAL FLUID WAS PRESENT ON THIS SHEET IN THE AREA MARKED "T-2."

Q. DID YOU PERFORM ANY TESTS ON THE UNDERCLOTHING WHICH HAS BEEN MARKED AS STATE'S EXHIBIT-7?

A. OKAY. ON THE -- ON THE PANTIES, THE AREA IN THE CROTCH WHICH IS MARKED WITH A "T," AN OBVIOUS STAINED AREA, WAS TESTED IN THE SAME MANNER AS THE STAINED AREA ON THE SHEET. AND THE RESULTS OF THESE TESTS WERE THE SAME. I FOUND SEMINAL FLUID AND SPERMATOZOA TO BE PRESENT ON THE UNDERWEAR.

Q. AND IN STATE'S EXHIBIT-6, THERE'S SOME VAGINAL SAMPLES --

A. OKAY.

Q. -- AND EVIDENCE COLLECTED. DID YOU DO ANY TESTING OF THAT?

A. OKAY. THE EVIDENCE CONTAINS A VIAL WITH LIQUID VAGINAL WASHINGS. IT CONTAINS A VAGINAL SWABBING OR SWAB AND IT CONTAINS MICROSCOPE SLIDES WHICH WERE MADE AT THE TIME OF THE EXAMINATION. THE TESTS WERE RUN ON THESE PARTICULAR ITEMS AND SHOWED THAT BOTH THE WASHING AND THE SWAB HAD SEMINAL FLUID AND THAT SPERMATOZOA WERE PRESENT ON THE MICROSCOPE SLIDES.

Q. DID YOU TEST THE ITEMS IN THE VAGINAL WASHINGS TO DETERMINE THE TYPE OF BLOOD OR WHETHER THE INDIVIDUAL LEAVING THAT STAIN WAS A SECRETOR OR NON-SECRETOR?

A. OKAY. I RAN BLOOD-TYPING ANALYSIS ON THE STAINS FROM THE UNDER GARMENT, FROM THE SHEET AND THE MATERIAL LEFT ON THE VAGINAL SWAB WHICH IS THE Q-TIP TYPE SWAB. IN

ZIEGLER

RUNNING THESE TESTS, BLOOD-TYPING TESTS, I FOUND THAT THE SEMINAL FLUID WAS LEFT BY A TYPE "B" SECRETOR.

Q. THAT'S YOUR EXPERT OPINION?

A. THAT'S CORRECT.

Q. AND DID YOU DO ANY TESTING WITH RESPECT TO STATE'S EXHIBIT-20 WHICH IS THE DEFENDANT'S BLOOD?

A. YES. I DID.

Q. AND WHAT DID YOU DO?

A. I RAN AN A-B-O TYPE TESTING TO DETERMINE HIS A-B-O BLOOD-TYPE. AND I RAN WHAT IS CALLED THE LEWIS TEST TO DETERMINE HIS SECRETOR STATUS.

Q. AND WHAT WERE THE RESULTS --

MR. LAVERGNE: I'M GOING TO OBJECT AT THIS POINT, ENTER AN OBJECTION ON THE DEFENDANT'S BLOOD-TYPE BECAUSE IT WASN'T SHOWN WHO -- THE PERSON WHO DREW THE BLOOD WAS NOT HERE TO TESTIFY THAT HE ACTUALLY DID.

MS. BERNIE: YOUR HONOR, THE PERSON WHO SAW THE BLOOD DRAWN WAS HERE AND TESTIFIED TO THAT POINT.

THE COURT: OBJECTION OVERRULED.

MR. LAVERGNE: NOTE ERROR.

BY MS. BERNIE:

- Q. PLEASE, CONTINUE.
- A. IN EXAMINING THE REFERENCE BLOOD, I FOUND THAT HE IS A TYPE "B" SECRETOR.
- Q. AND THAT'S THE SAME RESULT AS YOU FOUND ON THE UNDER-GARMENT, THE SHEET AND THE VAGINAL SWAB?
- A. THAT'S CORRECT.
- Q. AND YOUR CONCLUSIONS ARE WITHIN THE BOUNDS OF REASONABLE SCIENTIFIC CERTAINTY?
- A. YES. THEY ARE.
- Q. MS. ZIEGLER, WHEN YOU SAY A "B" SECRETOR, CAN YOU EXPLAIN TO THE LADIES AND GENTLEMAN OF THE JURY EXACTLY, IN THE MALE POPULATION, WHAT THAT MEANS; SOMEONE IS A "B" SECRETOR?
- A. WELL, IT MEANS THAT IF A PERSON IS A "B" SECRETOR, THEN HIS SEMINAL FLUID AND HIS OTHER BODY FLUIDS SUCH AS SALIVA WILL POSSESS THE ARTICULAR CHEMICALS WHICH ARE THE ANTIGENS THAT GO INTO MAKING A TYPE "B" INDIVIDUAL, AND BY THAT, I MEAN, IF A PERSON IS A "B" SECRETOR, I CAN TAKE A SAMPLE OF ANY OF HIS BODY FLUIDS AND DETECT THE PRESENCE OF THIS "B" ANTIGEN SO THAT I KNOW HE IS A TYPE "B" SECRETOR. IF HE LEAVES A STAIN BEHIND, MADE BY ANY OF HIS BODY FLUIDS, THE ANTIGEN WILL BE ABLE TO BE DETECTED AND THE STAIN CAN BE TYPED TO DETERMINE HIS A-B-D BLOOD TYPE.
- Q. SO IN EACH OF THESE ITEMS THAT YOU REFERRED TO, THE SHEET, THE VAGINAL SWAB AND THE VICTIM'S UNDERCLOTHING, THAT WAS MADE BY A "B" SECRETOR?
- A. THAT'S CORRECT.
- Q. AND THE DEFENDANT IS A "B" SECRETOR --
- A. THAT'S --

ZIEGLER

- Q. -- BASED UPON YOUR TESTIMONY?
- A. THAT'S CORRECT.
- Q. NOW, WHAT IS THE PERCENTAGE, DID YOU SAY, OF "B" SECRETORS WITH RESPECT TO THE OVERALL BLOOD TYPE?
- A. OKAY. THE OVERALL BLOOD -- OVERALL PERCENTAGE OF TYPE "B" RUNS ABOUT EIGHT PERCENT. THE PERCENTAGE OF PEOPLE IN THE POPULATION WHO ARE SECRETORS RUNS ABOUT 80 PERCENT, SO YOU WOULD BE LOOKING AT APPROXIMATELY 6.4 PERCENT OF THE POPULATION.
- Q. SO OUT OF EVERY 100 PERSONS, ONLY 6.4 WOULD BE A "B" SECRETOR?
- A. THAT'S CORRECT.
- Q. AND THE DEFENDANT WAS A "B" SECRETOR?
- A. THAT'S CORRECT.

MS. BERNIE: I HAVE NO FURTHER QUESTIONS.

MR. LAVERGNE: I HAVE A FEW QUESTIONS I WOULD LIKE TO ASK.

CROSS-EXAMINATION

BY MR. LAVERGNE:

- Q. OFFICER ZIEGLER, THE TEST THAT YOU PERFORMED ON THE -- THE SEROLOGY TEST THAT YOU PERFORMED, ARE THERE ANY OTHER TYPE OF TESTS THAT YOU COULD HAVE PERFORMED OTHER THAN THOSE THAT YOU DID ON THE FLUIDS THAT YOU RECEIVED?
- A. YEAH. THERE -- THERE ARE OTHER TESTS THAT COULD HAVE BEEN PERFORMED.
- Q. NOW, ARE ANY OF THE TESTS THAT YOU PERFORMED WOULD TELL YOU CONCLUSIVELY OR NEAR TO A -- TO A NEAR CERTAINTY WHO THESE BODY FLUIDS BELONGED TO AS AN INDIVIDUAL?
- A. NO, SIR.
- Q. SO THE EIGHT PERCENT, AS A "B" SECRETOR, COULD BE ANY "B" SECRETOR THAT'S A "B" SECRETOR FOR BODY FLUIDS, --
- A. IT COULD HAVE --
- Q. -- ANY OF THAT PERCENTAGE IN THE POPULATION OF 6.3 PERCENT?
- A. RIGHT. IT COULD HAVE BEEN ANY OF THOSE PEOPLE.
- Q. OKAY. NOW, YOU INDICATED THAT YOUR "T-2" TEST, IS IT, YOU CALLED IT?
- A. RIGHT.
- Q. THAT, ON THE "T-2" TEST, THAT YOU FOUND ON THE SHEET AND THE UNDERGARMENTS THAT YOU HAD, THE PANTIES, YOU FOUND SEMINAL FLUIDS OR YOU FOUND FLUIDS OR SEMINAL FLUIDS?
- A. SEMINAL FLUID.
- Q. YOU CAN IDENTIFY CONCLUSIVELY THAT THOSE WERE SEMINAL FLUIDS?
- A. YES, SIR.

ZIEGLER

- Q. WERE THERE ANY OTHER BODY FLUIDS ON THERE THAT WERE NOT SEMINAL FLUIDS THAT YOU COULD --
- A. NO --
- Q. -- DETERMINE THE BLOOD-TYPE?
- A. NOT THAT I DETECTED.
- Q. NOW, YOU STATED THAT EVERY STAIN -- THAT THE "T-2" TEST THAT YOU TOOK ON THE STAINS ON THE GARMENT THAT YOU RECEIVED AND THE SHEET, YOU FOUND TO A SCIENTIFIC CERTAINTY THAT THAT WAS A "B" SECRETOR. HOW -- WHAT IS THE PROBABILITY OF ERROR?
- A. I REALLY THINK THAT WITH THE WAY THAT WE RUN CONTROLS IN THE LAB THAT THE PROBABILITY OF ERROR WOULD BE NEGLIGIBLE. I DON'T SEE HOW AN ERROR COULD OCCUR. YOU COULD GET ERROR IN NOT GETTING ANY TYPE OF RESULTS, BUT I CANNOT SEE HOW YOU COULD GET AN ERRONEOUS BLOOD-TYPE.
- Q. THEN YOU'RE SAYING THAT ANY TIME YOU TYPE BLOOD, YOU'RE A HUNDRED PERCENT ACCURATE? IF YOU -- IF YOU GET A POSITIVE RESULT, YOU'RE A HUNDRED PERCENT ACCURATE EVERY TIME?
- A. WELL, I NEVER LIKE TO SAY A HUNDRED PERCENT OF ANYTHING, BUT I -- I FEEL THAT THE PERCENT OF ERROR IS NEGLIGIBLE.

OFF-THE-RECORD DISCUSSION

MR. LAVERGNE: THAT'S  
ALL THE QUESTIONS I HAVE.

REDIRECT EXAMINATION

BY MS. BERNIE:

- Q. MS. ZIEGLER, YOU WERE ASKED WHETHER THERE ARE ANY OTHER TYPES OF TESTS THAT YOU COULD HAVE PERFORMED. ARE THE TESTS THAT YOU PERFORMED THE ROUTINE TESTS THAT YOU ALWAYS PERFORM?
- A. YES. THEY ARE.
- Q. AND DID YOU USE ALL OF THE TYPES OF TESTS THAT YOU HAVE THE CAPABILITIES FOR IN THE STATE CRIME LAB?
- A. THAT'S -- THAT'S A DIFFICULT ONE TO ANSWER. WE HAVE THE CAPABILITIES TO DO THINGS THAT WE CANNOT DO BECAUSE WE DON'T HAVE CERTAIN THINGS THAT WE'D NEED TO BE ABLE TO DO THE THINGS. WE HAVE THE KNOWLEDGE. WE DON'T HAVE THE EQUIPMENT OR THE PERSONNEL IS WHAT I'M TRYING TO SAY AND BE NICE ABOUT IT.
- Q. BUT THE TESTS THAT YOU RUN GIVE YOU RESULTS THAT ARE IN THE BOUNDS OF REASONABLE SCIENTIFIC CERTAINTY?
- A. YES. UH-HUH.
- Q. AND YOU HAVE NEVER HAD ANY PROBLEMS WITH THESE TESTS?
- A. NO. I HAVE NOT.
- Q. AND YOU DID SEPARATE TESTS ON THE SHEET -- IT WAS A SEPARATE RUNNING TEST -- THAT GAVE YOU THE SEMINAL FLUID AND THE "B" SECRETOR, A SEPARATE TEST ON THE VAGINAL SWABS, A SEPARATE TEST ON THE UNDER CLOTHING?
- A. THAT'S CORRECT.
- Q. SO YOU HAD CHECKS AND BALANCES EVEN WITHIN YOUR OWN TESTING IN THIS PARTICULAR CASE?
- A. THAT'S CORRECT.

*only  
no  
concentrated  
secretor*

MS. BERNIE: I HAVE NO  
FURTHER QUESTIONS.

MR. LAVERGNE: NO  
FURTHER QUESTIONS.

THE COURT: YOU'RE  
EXCUSED.

(REPORTER'S NOTE: AT  
THIS TIME, THE WITNESS WAS  
EXCUSED FROM THE WITNESS STAND.)

MS. BERNIE: YOUR  
HONOR, AT THIS TIME, THE STATE  
WOULD OFFER AND FILE INTO  
EVIDENCE STATE'S EXHIBIT-20.

THE COURT: ALL RIGHT.

MR. LAVERGNE: NO  
OBJECTION.

MS. BERNIE: MAY WE  
APPROACH THE BENCH, YOUR HONOR?

THE COURT: UH-HUH.

OFF-THE-RECORD DISCUSSION

THE COURT: ALL RIGHT.  
I'VE BEEN INFORMED THAT THE  
STATE IS GETTING READY TO REST  
THEIR CASE. SO WE'LL -- BEFORE  
WE START INTO ANYTHING ELSE,  
WE'LL GO AHEAD AND RECESS FOR