

State of Texas
v.
Larry C. Fuller

August 25, 1981

Testimony of Bruce Carr
Obstetrician-Gynecologist at the University of Texas
Health Science Center

1 Whereupon,

2 BRUCE CARR, MD,
3 called as a witness by the State, having been duly sworn by
4 the Court to testify to the truth, the whole truth, and
5 nothing but the truth, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. JACKS:

8 Q. Tell us your name, please.

9 A. I am Doctor Bruce Carr.

10 Q. And Doctor Carr, what is your occupation or
11 profession?

12 A. I am an obstetrician-gynecologist.

13 Q. Are you in private practice, on staff, or both,
14 or --

15 A. I am presently Assistant Professor at the
16 University of Texas Health Science Center at Parkland
17 Hospital.

18 Q. Would you tell the members of the jury your
19 educational background?

20 A. I obtained my undergraduate degree at the
21 University of Michigan. Following this, I spent four years
22 for a Medical degree at the University of Michigan; four
23 years in training in obstetrics-gynecology at Parkland
24 Hospital; three years in the US Army as a practicing
25 physician; followed by two years of post-doctoral fellowship

1 in reproductive endocrinology; and presently, I am a Health
2 Science Assistant Professor.

3 Q. Is your license to practice medicine here on
4 file at Dallas County?

5 A. Yes.

6 Q. What do your duties include as a staff
7 physician or member of the faculty at the University of
8 Texas Medical School?

9 A. Well, it involves a variety of things,
10 including examining private patients, patients in the
11 emergency room, staffing service, teaching medical students,
12 doing research.

13 Q. Is there any particular duty that the OB-GYN
14 at Parkland Hospital or the Medical School have with regard
15 to rape victims?

16 A. Yes. We are on twenty-four hour call certain
17 days of the month for examining out-patients who have
18 suspected rape.

19 Q. Is that on a rotating basis with your staff?

20 A. Yes.

21 Q. Let me ask you if you were on call in such a
22 capacity on the day of April 26th of 1981 in the early
23 morning hours?

24 A. Yes, I was.

25 Q. And did you have an occasion to see a woman

1 who was identified to you as [REDACTED]?

2 A. Yes, I did.

3 Q. And where did you see her, or where did you
4 examine her?

5 A. I examined her in the OB-GYN emergency room.

6 Q. Is that at Parkland Hospital?

7 A. Yes, it is.

8 Q. And when you perform such an examination, what
9 does that examination consist of?

10 A. First, it involves examining the patient,
11 looking for any cuts and bruises, and to make sure she's all
12 right physically.

13 Then, after that, we do a routine pelvic exam
14 and collect specimens, which includes examining the external
15 vulva area, collecting hair specimens.

16 That is followed by an internal examination,
17 where we examine the vagina for cuts or lacerations, and
18 collect any fluid or cervical mucous and examine that for
19 semen and collect specimens that are sent to the pathologist.

20 Q. Did you perform such an examination in the
21 manner you just described on [REDACTED] on April 26th, 1981?

22 A. Yes, I did.

23 Q. And, first of all, let me ask you if you saw
24 any evidence of injury to her visibly, just from looking at
25 her.

1 A. Yes. Previous to the time that I had arrived,
2 from the time they had called, she had had some surgical
3 repair of a laceration. I believe it was her left hand,
4 which was already bandaged by the time I saw her.

5 In addition to that, she had cuts on her other
6 hand, on her back, and on her neck.

7 Q. Did you take photographs or have someone take
8 photographs of those injuries?

9 A. Yes. I took photographs.

10
11 (Whereupon, State's Exhibits Numbers 21
12 thru 26 were marked for identification.)

13
14 BY MR. JACKS:

15 Q. Doctor, let me show you what's been marked for
16 identification purposes as State's Exhibits 21, 22, 23, and
17 24. First of all, let me ask you to look at them, please.

18 A. (Witness complies.)

19 Q. You have seen these before; have you not?

20 A. Yes.

21 Q. Are those exhibits or items color photographs?

22 A. Yes.

23 Q. Do they fairly and accurately portray what
24 they purport to portray?

25 A. Yes.

1 Q. And State's Exhibit 22 -- what does that
2 depict?

3 A. That is the laceration on her back.

4 Q. And State's Exhibit 23 is a picture of what?

5 A. A laceration on her neck.

6 Q. And 24 would be a picture of her hand; is that
7 right?

8 A. Her hand that had been surgically repaired.

9 Q. She had already been to the emergency room --

10 A. She was seen, I think, in the minor surgery
11 emergency room at Parkland.

12 Q. Doctor, I believe you said that you performed
13 a pelvic examination on [REDACTED]; is that correct?

14 A. Yes.

15 Q. And you obtained certain specimens or samples
16 from her?

17 A. Yes.

18 Q. Now, those samples and specimens -- did that
19 also include a blood sample?

20 A. Yes. I think it's routine.

21 Q. And did you label that with a laboratory
22 number, as well as with her name?

23 A. Yes.

24 Q. On drawing the samples, did one of those
25 samples include a vaginal swab and vaginal smear?

1 A. Yes.

2 Q. And did you place that under a microscope and
3 examine it after you drew that sample?

4 A. Yes, I did.

5 Q. Did you find any evidence of recent sexual
6 intercourse in looking at that sample?

7 A. She had active motile sperm in the examination.

8 Q. And these were visible on a wet slide; is that
9 correct?

10 A. Yes. I also take a wet slide and just a
11 sample of the fluid, itself.

12 Q. When you use the word "motile", what does that
13 mean?

14 A. It means sperm that move.

15 Q. It has a tail on it; does it not?

16 A. Yes.

17 Q. It's still alive, I guess. Is that --

18 A. Yes.

19 Q. And the nearer that sample is obtained to the
20 time of sexual intercourse, the more likely it would be
21 motile; is that correct?

22 A. That's correct.

23 Q. Doctor Carr, what did you do with the various
24 samples which you obtained from [REDACTED]?

25 A. The rest of the samples included slides and

1 swabs and hair samples. These are put into a packet which
2 is then placed into a locked box in the emergency room.

3 Q. Under a particular number and under her name?

4 A. Her name and her number is on every item.

5
6 MR. JACKS: Thank you, Doctor. I pass the
7 witness. They may have some questions for you.

8 MR. McCORKLE: No questions.

9 THE COURT: You may step down.

10
11 (Whereupon, the witness was excused to
12 the witness room.)

13
14 A JUROR: Your Honor, are we supposed to view
15 these pictures?

16 THE COURT: You may.

17
18 (Whereupon, the next witness was duly
19 sworn by the Court.)

State of Texas
v.
Larry C. Fuller

August 25, 1981

Testimony of Benita Harwood
Forensic Scientist at the Southwestern Institute of
Forensic Sciences

1 Whereupon,

2 BENITA HARWOOD,

3 called as a witness by the State, having been duly sworn by
4 the Court to testify to the truth, the whole truth, and
5 nothing but the truth, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. JACKS:

8 Q. Ma'am, would you tell us your name, please.

9 A. Benita Harwood.

10 Q. How are you employed?

11 A. I am employed as a Forensic Serologist.

12 Q. Would you tell the members of the jury what a
13 Forensic Serologist is?

14 A. I work in the identification and
15 classification of blood and body fluids.

16 Q. Tell the members of the jury your educational
17 background and experience.

18 A. I have a Bachelor of Science degree in Medical
19 Technology from the University of Texas Health Science
20 Center here in Dallas.

21 I am registered by the American Society of
22 Clinical Pathologists as a Medical Technologist.

23 I work with the Veterans Hospital here in
24 Dallas as a Clinical Blood Banker.

25 I have attended the FBI School of Biochemical

1 Analysis of Bloodstains.

2 And I have worked at the Forensic Institute
3 here in Dallas for approximately three years.

4 Q. And your employer, then, is the Southwestern
5 Institute of Forensic Sciences; is that correct?

6 A. That's correct.

7 Q. What -- You testified that your duties
8 basically include the analysis of body fluids?

9 A. Yes, blood and body fluids.

10 Q. Does that include seminal fluid, saliva,
11 perspiration, any type of body fluid?

12 A. That's correct.

13 Q. Let me ask you if you received -- in that
14 capacity, if you received any samples from Parkland Hospital
15 OB-GYN emergency room on April 27th, 1981, samplings under
16 the name -- labeled under the name of [REDACTED].

17 A. Yes, I did.

18 Q. And what type of samples did you receive?

19 A. I received a vaginal swab, a vaginal smear, a
20 blood sample, and pubic hair combings and cuttings from the
21 individual.

22 Q. And were those in a locked box when you got
23 there?

24 A. Yes, they were.

25 Q. I assume that there are only --

1 How many people in your office have access to
2 that box?

3 A. Myself; Sarah Williams, the other Serologist;
4 and Doctor Irving Stone, our supervisor.

5 Q. And did you perform an analysis on the samples
6 that you received from that locked box under the name of
7 [REDACTED]?

8 A. Yes, I did.

9 Q. Did you find any evidence in the analyses that
10 you performed of recent sexual intercourse that [REDACTED]
11 might have had?

12 A. I found in the vaginal swab the presence of
13 acid phosphatase, an enzyme present in high concentration in
14 seminal fluid, and in the vaginal smear, the presence of
15 spermatozoa.

16 Q. What is acid phosphatase?

17 A. An enzyme present in a number of body fluids,
18 but present in high concentration in seminal fluid.

19 Q. And you found spermatozoa on another sample?

20 A. On the smear from the vaginal contents, yes.

21 Q. Was it motile or not motile by that time?

22 A. By the time we received them, these are dried
23 and fixed. So, if the spermatozoa had been motile, they
24 would not show that characteristic at the time I received
25 them.

1 Q. Is it possible to analyze seminal fluid and
2 other bodily fluids, in order to determine a person's blood
3 type?

4 A. Yes, it is.

5 Q. And how is that done?

6 A. A certain percentage of the population,
7 approximately eighty percent, carry in their body fluids
8 such as seminal fluids, saliva, their ABO blood type, and
9 these individuals are called secreters.

10 The other twenty percent do not carry in their
11 body fluids their blood type.

12 Q. Let me ask you if, on July 30th of 1981, you
13 obtained another blood sample and a saliva sample from [REDACTED]
14 [REDACTED]?

15 A. Yes, I did.

16 Q. Did you also obtain a blood sample from the
17 defendant, Larry Charles Fuller?

18 A. Yes, I did.

19 Q. A blood sample, as well as a saliva sample?

20 A. Yes.

21 Q. Did you analyze the blood and saliva sample of
22 [REDACTED], to determine whether or not she was a secreteer
23 or nonsecreteer?

24 A. Yes, I did.

25 Q. And what did you find?

1 A. I found that she was Blood Group O, but a
2 nonsecreter.

3 Q. Now, in analyzing the seminal fluid that you
4 found on the sample, did you find any evidence to indicate
5 whether or not there was any blood groupings in that seminal
6 fluid?

7 A. Yes, I did.

8 Q. And did you also find evidence that there was
9 actual blood on that sample?

10 A. Yes. The sample collected by the doctor did
11 have the presence of blood mixed in the vaginal seminal
12 fluid mixture.

13 Q. What type of blood did you find in the sample?

14 A. Blood Group O.

15 Q. And what type of blood groupings were you
16 picking up in your analysis?

17 A. In the sample collected from the vaginal vault,
18 I found Blood Group O.

19 The complainant, [REDACTED], was also Blood
20 Group O. Mr. Fuller is Blood Group AB.

21 Q. All right. You found that [REDACTED] had the
22 blood type of Blood Group O; is that right?

23 A. That's correct.

24 Q. And the blood that you found in the sample
25 that is from the slide -- would that have been consistent

1 with having been her blood?

2 A. Yes, it would have.

3 Q. Now, she is a nonsecreter; is that correct?

4 A. That's correct.

5 Q. Now, what that means is -- you tell me if I am
6 misstating this -- but what that means is that you cannot
7 tell her blood type by analyzing her saliva or analyzing
8 other bodily fluids?

9 A. That's correct.

10 Q. Did you run an analysis on the defendant's
11 blood type, to determine whether he was a secreter or
12 nonsecreter?

13 A. Yes, I did.

14 Q. What did you find in that regard?

15 A. I found that Mr. Fuller was also a nonsecreter.

16 Q. And what percent of the population did you say
17 is nonsecreter?

18 A. Approximately twenty percent are nonsecreters.

19 Q. That means that if you analyze his saliva or
20 seminal fluid or perspiration, you should not be able to
21 pick up what his blood type is; is that correct?

22 A. That's correct.

23 Q. So, you found that [REDACTED] is a
24 nonsecreter; and the defendant is a nonsecreter; is that
25 correct?

1 A. That is correct.

2 Q. Assuming that the Blood Group O that you were
3 picking up on the slide came from the blood that was on the
4 slide, that being the complainant's blood -- because they
5 were both O; is that correct?

6 A. No. The defendant is Blood Group AB.

7 Q. I said "the complainant".

8 A. The complainant is Blood Group O, yes.

9 Q. Assuming the blood groupings you were picking
10 up is because her blood was on that slide, is it consistent
11 that the defendant is the person that had sexual intercourse
12 with the complainant?

13 A. The individual who left the seminal fluid
14 could have been a nonsecreter, which is consistent with Mr.
15 Fuller, yes.

16 Q. And that's twenty percent of the population?

17 A. That's correct.

18 Q. So, you would have eliminated eighty percent
19 of the male population, is that correct, or the entire
20 population?

21 A. If the O is from the blood, yes.

22 Q. Yes, assuming that fact.

23 A. Yes.

24

25 MR. JACKS: I pass the witness.

CROSS-EXAMINATION

BY MR. McCORKLE:

Q. Both Mrs. [REDACTED] and Mr. Fuller are nonsecreters?

A. That's correct.

Q. And why is it that you say that Mr. Fuller could have been the attacker because he's a nonsecreter?

A. From the findings that were present. The individual who left the seminal fluid could have been a nonsecreter. Mr. Fuller is a nonsecreter, so he would have been included in that group of the population.

Q. Which sample did you take the seminal fluid from?

A. One of the four smears taken by the doctor at the time of the examination.

Q. It was the smear labeled K-1; was it not?

A. I did my blood grouping analysis on one of the K-6 smears that were unstained.

Q. And what appeared on K-6?

A. I found the presence of blood group substance O and the presence of blood.

Q. And did you find any acid phosphatase?

A. Yes, I did.

Q. Now, you say that the assailant could have been a nonsecreter?

1 A. That's correct.

2 Q. Well, isn't that the same as saying that he
3 could have been a secreter?

4 A. Of only one blood group type could he have
5 been a secreter, an AB or B or A secreter. Only an O
6 secreter could have left the seminal fluid.

7 Q. You didn't pick up the blood type grouping
8 from the acid phosphatase?

9 A. I cannot say. It's a mixture. It could have
10 come from the blood, because blood is present.

11 Q. All right. If the blood found in K-6, a
12 vaginal smear, is O --

13 A. Yes.

14 Q. -- then it either came from the blood that was
15 in there or the acid phosphatase that was in there?

16 A. That's correct.

17 Q. If it came from the acid phosphatase, it means
18 that the assailant was a secreter?

19 A. That's correct.

20 Q. And if it didn't, it means he's a nonsecreter?

21 A. Or it could also mean he's a secreter and that
22 both the individual who left the seminal fluid and the
23 person whose blood is there are both O and a secreter. But
24 because I have a mixture of these fluids, I cannot make that
25 distinction.

1 MR. McCORKLE: No further questions.

2 MR. JACKS: Nothing further.

3 THE COURT: You may step down.

4 MR. JACKS: May she be excused, as well as
5 the doctor?

6 MR. McCORKLE: No objection.

7 THE COURT: You may be excused.

8

9 (Whereupon, the last two witnesses were
10 finally excused.)

11

12 MR. JACKS: May it please the Court.

13 Your Honor, and members of the jury, at this
14 time the State will rest its Case in Chief.

15 THE COURT: Do you need some time?

16 MR. McCORKLE: Just a few minutes, and I will
17 be ready to go.

18 THE COURT: All right. Take the jury out.

19

20 (Whereupon, the jury was retired and
21 a recess was taken, after which the
22 following proceedings were held.)

23

24 (Whereupon, Defendant's Exhibits Numbers
25 3 and 4 were marked for identification.)