

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF DU PAGE)

4 IN THE CIRCUIT COURT OF DU PAGE COUNTY
5 FOR THE EIGHTEENTH JUDICIAL CIRCUIT OF ILLINOIS

6 THE PEOPLE OF THE)
7 STATE OF ILLINOIS,)
8 Plaintiff,)
9 vs.)
10 JOSEPH E. TRIMARCO,)
11 Defendant.)

COPY

No. 03 CF 2948

12 REPORT OF PARTIAL PROCEEDINGS had and testimony taken
13 at the trial of the above-entitled cause, before the
14 Honorable ROBERT J. ANDERSON, Judge of said Court, and a
15 jury, commencing on Friday, the 29th day of October, A.D.
16 2004.

17 PRESENT:

18 MR. JOSEPH E. BIRKETT, State's Attorney of
19 DuPage County, by

20 MR. JAMES STEED AND MR. MICHAEL BOTTI, Assistant
21 State's Attorneys,

22 appeared on behalf of The People of the
23 State of Illinois.

24 MR. DONALD J. RAMSELL,

appeared on behalf of the Defendant.

DEFENDANT JOSEPH E. TRIMARCO.

I N D E X

	DIRECT	CROSS	REDIRECT	RECROSS
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Witnesses:

JENNIFER POLTORAK

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(Whereupon there were further proceedings had but not ordered transcribed, after which the following proceedings were had herein:)

THE COURT: Mr. Steed, are you ready to continue your direct examination?

MR. STEED: Yes, sir.

THE COURT: Ma'am, would you just state for the record and just remind us all again? Tell everybody your name again.

THE WITNESS: Jennifer Poltorak.

THE COURT: Thanks. And you're the same person who was here yesterday testifying, correct?

THE WITNESS: Yes.

THE COURT: Thanks. Back to you, Mr. Steed.

MR. STEED: Thank you, your Honor.

JENNIFER POLTORAK,
a witness called on behalf of the People of the State of Illinois herein, having been previously duly sworn, resumed the stand and testified as follows:

DIRECT EXAMINATION

By: MR. STEED

1 Q Ms. Poltorak, taking you back to yesterday. At
2 some point yesterday, we were talking about the blood
3 tubes that were used on Mr. Trimarco, correct?

4 A Correct.

5 Q What type of -- what color stopper was used on
6 these blood tubes?

7 A There was a gray stopper in the tubes.

8 Q Is there anything significant in Illinois about
9 gray topped tubes?

10 MR. RAMSELL: Object to the form of the question. We
11 don't know how to anticipate what she's about to say.

12 THE COURT: All right. Overruled. You can answer.

13 THE WITNESS: Yes.

14 BY MR. STEED:

15 Q What is the significance about gray topped
16 tubes?

17 A Gray topped tubes are commercially prepared
18 with an inside plug and a preservative.

19 MR. RAMSELL: Object. Foundation.

20 THE COURT: Sustained.

21 MR. RAMSELL: Move to strike.

22 THE COURT: Disregard her answer.

23 BY MR. STEED:

24 Q How many times have you seen these gray topped

1 tubes?

2 A Hundreds to thousands of times.

3 Q And specifically to DUI kits, how many times?

4 A Once again, hundreds to thousands. It's hard
5 to put a number on it.

6 Q And can you describe the different types of
7 toppers there are on tubes? Are there different colors?

8 A Yes.

9 Q What are --

10 MR. RAMSELL: May I approach?

11 THE COURT: Sure.

12 (Whereupon a sidebar discussion was had
13 between the Court and counsel, outside
14 the hearing of the jury, as follows:)

15 MR. RAMSELL: Judge, apparently, they're just going
16 to continue to try and prove that because the color gray
17 is on the top of the tube, it now proves the presence of
18 this preservative despite multiple rulings on your part
19 that that is not the proper legal method.

20 MR. STEED: And, your Honor, I've tendered to your
21 Honor two cases yesterday.

22 THE COURT: Right. You did.

23 MR. STEED: And I'd also --

24 THE COURT: Did you give them to Mr. Ramsell?

1 MR. STEED: I did. And I'd also call your attention,
2 this is a --

3 THE COURT: I read them.

4 MR. STEED: -- certified copy of the Illinois State
5 Police Rules and Regulations.

6 THE COURT: I read the ones -- are they the same as
7 the ones that Mr. Ramsell gave?

8 MR. STEED: They should be, because this is a
9 certified copy. Specifically to --

10 THE COURT: Okay. But you're still -- you're not
11 laying any foundation as to how she would know this.

12 MR. STEED: Your Honor, I believe --

13 THE COURT: What experience? What training? I mean,
14 you've got the experience, I guess. But what training?
15 How does she -- when she's seen them thousands of times,
16 how does she know what you're asking her to testify?

17 MR. STEED: Your Honor, I can get the gray topped
18 tubes in with anticoagulant just by the fact that it's a
19 gray topped tube pursuant to the Illinois State Police
20 Rules and Regulations.

21 THE COURT: Well, I'm sure we'll probably argue about
22 that later. But again, at least right now, I think you've
23 got to have some foundation as to, I mean, you know, was
24 this part of her training? How does she know this?

1 MR. STEED: Your Honor, I can get into training, but
2 I specifically would like to call your attention to
3 Illinois State Police Rules and Regulations.

4 THE COURT: I read the rule.

5 MR. STEED: 1286.32.

6 THE COURT: I read them.

7 MR. STEED: Okay.

8 THE COURT: Thanks.

9 MR. STEED: Thank you.

10 (The following proceedings were had
11 in open court, in the hearing and
12 presence of the jury:)

13 MR. STEED: May I continue?

14 THE COURT: You may.

15 BY MR. STEED:

16 Q In your training, have you learned anything
17 about the different types of tube stoppers?

18 A Yes.

19 Q Where did you learn about the different types
20 of tube stoppers?

21 A In training, through readings, through
22 experience, getting kits in, what different color
23 stoppers.

24 Q And is there a significance to the type in

1 color of tube stoppers?

2 A Yes, there is.

3 Q Where did you learn about this, once again?

4 A Once again, through training and experience,
5 getting different colors of tubes in.

6 Q Can you go through some of the different types
7 of tube toppers there are?

8 A Yes.

9 Q Could you list some?

10 A A red stopper tube, vacutainer tube doesn't
11 have anything in it. There's no antiblood, no
12 preservative. A purple topped tube, I believe, has EDTA,
13 which is used as an anticoagulatory preservative. A green
14 topped tube has heparin, I believe, and then there's a
15 stopper that's kind of modeled red and gray combined that
16 has a gel in it that's used as a serum separator tube.

17 Q Okay. And what's the significance about the
18 straight gray tube topper like the one we had on the
19 defendant?

20 A The gray topped tube has an anticoagulant
21 preservative in it.

22 MR. RAMSELL: Objection. Foundation.

23 THE COURT: Overruled. The answer will stand.

24 BY MR. STEED:

1 Q Are you familiar with what that anticoagulant
2 is?

3 A Yes.

4 Q What is that anticoagulant?

5 A The --

6 MR. RAMSELL: Objection. Foundation.

7 THE COURT: Overruled. You may answer.

8 THE WITNESS: The anticoagulant is potassium oxalate.

9 MR. STEED: Your Honor, I'm showing Mr. Ramsell. May
10 I approach?

11 THE COURT: You may.

12 BY MR. STEED:

13 Q People's Exhibit No. 1. You had a chance to
14 examine People's No. 1, correct?

15 A Yes.

16 Q People's No. 1 is what again?

17 A The biologic bag containing two tubes of blood,
18 one that is broken, and then two vials of urine.

19 Q And do those two vials of blood have any
20 markings in regards to what anticoagulant is present?

21 A Yes, they do.

22 Q And what anticoagulant was present?

23 MR. RAMSELL: Objection. Please, may I approach?

24 THE COURT: Sure. Come on up.

1 (Whereupon a sidebar discussion was had
2 between the Court and counsel, outside
3 the hearing of the jury, as follows:)

4 MR. RAMSELL: Judge, she can say the industry
5 suggests that, but she can't prove it by what's written on
6 there or by the color. She can't prove it in this tube.
7 She can -- they can argue that industry suggests it's
8 there, but she can't now make a scientific statement it
9 is, in fact, in there based on that.

10 THE COURT: Okay.

11 MR. STEED: Your Honor, pursuant to the cases, it is
12 an exception to the hearsay rule that the sticker can be
13 reasonably relied on pursuant to the case law I tendered
14 yesterday.

15 THE COURT: Go ahead.

16 MR. RAMSELL: Okay. The sticker does not prove as a
17 matter of law. And those were the old rules, if I might.
18 The new rules have nothing, and the new rules do not say
19 you can prove the presence of something. In fact, the
20 rules are, like I said before, silent on this subject now
21 as opposed to the old rules which had a plethora of -- on
22 it.

23 THE COURT: When you say the new -- the old rules,
24 you're referring to the new rules that you tendered to me?

1 Is that fair to say?

2 MR. RAMSELL: No. No. When the Illinois Department
3 of Public Health had --

4 THE COURT: I beg your pardon. I misunderstood what
5 you were saying.

6 MR. RAMSELL: -- governed the methods of analysis for
7 more blood testing, there were rules in there about these
8 things. Because the state police rules are silent on this
9 subject, it defaults to the regular rules of evidence
10 which would not allow one to prove the presence of a
11 chemical based on a sticker or a label.

12 THE COURT: Okay. I'm going to overrule the
13 objection.

14 (The following proceedings were had
15 in open court, in the hearing and
16 presence of the jury:)

17 THE COURT: You can proceed, Mr. Steed. The
18 objection is overruled.

19 MR. STEED: Your Honor, I don't know if the -- if it
20 was answered.

21 THE COURT: I don't believe she had. Would you go
22 back and read the last question in a loud voice to the
23 jury and then would you answer that question? Thanks.

24 (Whereupon the record was read by the

1 Reporter.)

2 THE REPORTER: "Do those two vials of blood have any
3 markings in regard to what anticoagulant is present?"
4 Should I read the answer?

5 THE COURT: Sure. Because I didn't hear the answer.

6 MR. RAMSELL: Could I just speak to the State for one
7 second, please?

8 THE COURT: Sure. Don't read it yet.

9 MR. RAMSELL: May I approach again, please?

10 THE COURT: Yeah. Can you mark that spot?

11 THE REPORTER: Yeah.

12 THE COURT: Thanks.

13 (Whereupon a sidebar discussion was had
14 between the Court and counsel, outside
15 the hearing of the jury, as follows:)

16 MR. RAMSELL: The way that the police officer put
17 these stickers on here, there's no way this witness could
18 have read the label because I'm going to show you.

19 THE COURT: Sure.

20 MR. BOTTI: The sticker is on the top.

21 THE COURT: Okay. Well, you can -- if that's what --
22 if she says that she could, you can cross-examine her.

23 MR. RAMSELL: But, Judge, it's an objection
24 foundation. Because she couldn't have read those words on

1 there. Those words don't exist on there, and it didn't
2 exist at the time she saw them.

3 THE COURT: Okay. Mr. Steed?

4 MR. STEED: Your Honor, may I?

5 THE COURT: Yes.

6 MR. STEED: May I?

7 THE COURT: Yes.

8 MR. RAMSELL: Let me see what you're talking about.
9 That's a sticker that a police officer put on there, and
10 that's not a manufacturer sticker, and the case law that
11 you had said it was a manufacturer's sticker, not police
12 officer writing using it something --

13 THE COURT: Again, you can cross-examine her about
14 that, okay?

15 (The following proceedings were had
16 in open court, in the hearing and
17 presence of the jury:)

18 THE COURT: All right. We're going to have that last
19 -- we're going to have the answer read back to you.

20 THE REPORTER: The answer now?

21 THE COURT: Please.

22 (Whereupon the record was read by the
23 Reporter.)

24 THE REPORTER: "Yes, they do." I'm sorry. I think I

1 went too far back. I guess that was the question before
2 that.

3 THE COURT: Okay.

4 THE REPORTER: There's one more after that.

5 THE COURT: Okay. And there was no answer to that?

6 THE REPORTER: Well, then we have, "What
7 anticoagulant was present?"

8 THE COURT: That's the -- read that one.

9 THE REPORTER: Objection.

10 THE COURT: Okay. You can answer that question.

11 THE WITNESS: Potassium oxalate.

12 THE REPORTER: I'm sorry?

13 THE WITNESS: Potassium oxalate.

14 BY MR. STEED:

15 Q Once again, what was the instrument -- the
16 machine that you used to test the defendant's blood?

17 A Headspace gas chromatography.

18 Q The date that you tested the defendant's blood,
19 was that machine working properly?

20 MR. RAMSELL: Objection. Foundation.

21 THE COURT: Overruled. You can answer yes or no.

22 THE WITNESS: Yes, it was.

23 BY MR. STEED:

24 Q How do you know it was working properly?

1 A The controls were run along with the case
2 sample.

3 MR. RAMSELL: Objection. Foundation. Who -- who did
4 this?

5 THE COURT: Overruled. You can answer.

6 THE WITNESS: Controls were run with the case sample.

7 BY MR. STEED:

8 Q And can you describe what you mean by that?

9 A The control is a known -- is a sample of known
10 value, known ethanol value, that has to be within a
11 certain amount in order to accept the run.

12 Q And based on your training experience, is that
13 what led you to believe the machine was working properly?

14 A Correct.

15 Q Now, the method you used to test the
16 defendant's blood, is that a generally accepted method of
17 testing blood in your profession?

18 MR. RAMSELL: Objection. Foundation.

19 THE COURT: Overruled.

20 THE WITNESS: Yes, it is.

21 BY MR. STEED:

22 Q And were you certified by the Illinois State
23 Police to perform these tests on that date?

24 MR. RAMSELL: Objection. Asked and answered six

1 times yesterday.

2 THE COURT: Sustained. That was asked and answered.

3 BY MR. STEED:

4 Q Is it the regular practice of forensic
5 scientists to test blood in this manner?

6 MR. RAMSELL: Objection. Foundation.

7 THE COURT: Overruled. You can answer.

8 THE WITNESS: Yes, it is.

9 BY MR. STEED:

10 Q From the tests that you were able to perform on
11 the defendant's blood, were you able to form an opinion as
12 to the level of ethanol in the defendant's blood?

13 A Yes, I was.

14 Q What was your opinion?

15 MR. RAMSELL: Objection. Foundation.

16 THE COURT: Overruled. You can answer.

17 THE WITNESS: The blood contained an ethanol level of
18 0.239 grams per deciliter.

19 BY MR. STEED:

20 Q I have a hypothetical for you. Hypothetically,
21 if someone had ingested another substance, would that
22 other substance have been able to skew that blood ethanol
23 level?

24 MR. RAMSELL: Objection to the form of the question.

1 THE COURT: Yeah. Why don't you approach?

2 (Whereupon a sidebar discussion was had
3 between the Court and counsel, outside
4 the hearing of the jury, as follows:)

5 THE COURT: Tell me what's your objection.

6 MR. RAMSELL: I don't even know what relevance it
7 has. It's so loose and vague. How is it to be
8 interpreted?

9 MR. STEED: Your Honor, I believe it is going to have
10 some relevance because there has been --

11 THE COURT: -- some substance?

12 MR. STEED: I mean, if we want to get into, I mean,
13 I'm just speaking about hydrocodone.

14 THE COURT: All right.

15 MR. RAMSELL: Can this be heard outside the jury?
16 Because I guess this is the time to bring something up of
17 significance to your Honor.

18 THE COURT: Okay. Sure.

19 (The following proceedings were had
20 in open court, in the hearing and
21 presence of the jury:)

22 THE COURT: Ladies and gentlemen, I'm going to send
23 you in -- we're going to have a discussion, and it's going
24 to take a few minutes. I'm going to have you go back to

1 the jury room.

2 Remember, don't talk about the case with anybody.
3 Don't let anybody talk about the case with you, including
4 each other, because you'll be alone in the jury room, and
5 we'll get you back out here soon. Thanks.

6 (The following proceedings were had
7 outside the hearing and presence of
8 the jury, in the presence of the
9 Defendant:)

10 THE COURT: Ma'am, why don't -- any reason for the
11 witness to be here for this discussion?

12 MR. RAMSELL: No. Neither way.

13 THE COURT: Okay. Whatever you want.

14 THE WITNESS: I'll wait out in the hallway.

15 THE COURT: That's fine. Thanks. Mr. Ramsell?

16 MR. RAMSELL: Why -- why do we keep talking about
17 hydrocodone in this case? Frankly, the State is doing
18 nothing but totally destroying my client's fair trial, if
19 you will. Let's talk about it.

20 The urine is not coming in. They can't prove zero
21 tolerance without it. They didn't introduce the pills.
22 They're not having somebody come in to even prove that the
23 pills contained hydrocodone.

24 And all that's going to be left here is the defendant

1 charged with DUI alcohol where there's zero relevance to
2 this Vicodin, which according to the State accepting the
3 truth of this one witness, was something he said he took
4 the day before the day of the event.

5 All -- all this has done is really destroyed,
6 frankly, brought in prejudicial, nonprobative evidence.
7 Why are we -- why was this in in the first place? And why
8 is it continuously being brought up?

9 I was going to wait till the end to say, because I
10 was going to give them every chance, but they didn't list
11 the person who tested the pills. They're not an expert.
12 They're never going to testify here.

13 They're never proving that the pills were
14 hydrocodone. They have nothing except to continuously
15 tell this jury he took a pill, a Vicodin.

16 MR. STEED: Your Honor, in response, I'm looking to
17 cut off a potential argument of Mr. Ramsell in closing
18 saying hey, he took something else. I'm anticipating the
19 defendant possibly taking the stand and saying hey, I took
20 the Vicodin. I took all kinds of Vicodin.

21 THE COURT: But then couldn't you call her back in
22 rebuttal at that point?

23 MR. STEED: I have not talked about -- I would have
24 to recall all of my witnesses, including the nurse, the

1 police officer, and the person who tested the urine to
2 prove-up the Vicodin was found in his urine.

3 I have stayed away from all those questions. I've
4 stayed away from the fact that urine was taken. That the
5 officer --

6 THE COURT: Well, could -- could I ask you this? I
7 mean, why -- why did you have me read that charge to the
8 jury on day one if you're not going to put in any of that
9 evidence?

10 MR. STEED: Your Honor, when you read that charge, I
11 was still going forward on the charge with hydrocodone. I
12 intended to put in the urine. However, we found a
13 potential problem with -- and your Honor ruled as far as
14 the first voiding of the bladder, you -- you ruled in our
15 favor.

16 However, I didn't want to even get into that section
17 after learning of the two voidings of the bladder by the
18 defendant back at the station.

19 I told Mr. Ramsell that I was not going to be getting
20 into it. This is the only -- I just want to ask her is
21 there anything that could have affected that 239 result,
22 like a drug, like something else that can skew that
23 result. That's all I'm asking.

24 THE COURT: Okay.

1 MR. RAMSELL: Judge, I understand those. But I don't
2 understand why they kept putting in all this evidence
3 about the defendant taking Vicodin. Why are his
4 statements --

5 THE COURT: Well, two -- two issues. One issue is,
6 can they ask would anything -- would anything else show up
7 that would impact on the ethanol reading? And I think
8 they can ask that type of question.

9 But I'm glad, if you want me to, I'm glad to tell the
10 jury that -- that they can't consider anything about
11 taking the -- the police officer testified as to that.
12 They can't consider anything about that at all.

13 MR. RAMSELL: In a rhetorical sense, do you honestly
14 think that will cure this issue?

15 THE COURT: Yeah. My experience -- honestly, my
16 experience has been --

17 MR. RAMSELL: Ignore the pink elephant? I mean --

18 THE COURT: -- I mean, I get to talk to juries a lot
19 after trials, and my experience is juries are very good
20 about doing what judges ask them to do. So if you want me
21 to do it, I will. It's totally up to you.

22 MR. STEED: Your Honor --

23 MR. RAMSELL: You know, that's a rock and a hard
24 place. You know, they're going to -- frankly, I've talked

1 to the ones I've lost.

2 THE COURT: Sure.

3 MR. RAMSELL: All right? And they're going to go
4 back in that room, and -- and they're not going to think
5 about the combined affects of Vicodin and alcohol and et
6 cetera. They're not going to remember that he said he had
7 Vicodin.

8 You're going to say ignore the fact that he admitted
9 to taking Vicodin. I mean, realistically, I disagree with
10 you wholeheartedly, and frankly, I would say this would --
11 when we're talking about in a DUI case the defendant's
12 impairment, if you will, to ask a jury to pretend the
13 Vicodin doesn't exist isn't like striking something less
14 relevant than that.

15 We're going to have them walk back there and say, you
16 know, forget about the fact that all this Vicodin stuff
17 came out and the State to say this is all -- this has been
18 put in as anticipatory rebuttal?

19 THE COURT: So do you -- are you saying don't? I
20 mean --

21 MR. RAMSELL: You know what? I'm going to leave it
22 up to your Honor. My position is that this has vitiated
23 my defendant's right to a fair trial. If you feel you can
24 cure it, I'm not going to make the choice. I think my

1 choice, and I'll submit under --

2 THE COURT: So -- so either way is okay by you is
3 what I'm hearing you say.

4 MR. RAMSELL: Neither way would be okay by me. My
5 position is the defendant's right to a fair trial has
6 really already been destroyed.

7 THE COURT: I understand. And I don't agree at this
8 point in time on that. Having said that, if you want me
9 to admonish the jury, I will. If you feel that it would
10 be prejudicial for me to admonish the jury and you don't
11 want me to, I won't.

12 MR. RAMSELL: Well, I'd like to wait till they're
13 done with their case-in-chief. Who knows what else is
14 coming.

15 THE COURT: Okay. That's fine.

16 MR. RAMSELL: But the second -- number one. Number
17 two, we raise my real motion at that time, if you will.
18 But I'm asking the Court at this point to stop this
19 hydrocodone Vicodin stuff from coming in.

20 THE COURT: Well, don't mention the hydrocodone. You
21 can ask if there's anything else that would impact, --

22 MR. STEED: I have no problem.

23 THE COURT: -- but don't ask --

24 MR. STEED: That's fine.

1 THE COURT: -- about the hydrocodone. You're
2 entitled to ask if there's anything else that would impact
3 on the reading. If there's some other substance that
4 would read the same way. And -- but don't raise the
5 hydrocodone.

6 MR. STEED: I will leave Vicodin and hydrocodone out
7 of my questioning.

8 And, your Honor, I just -- I believe it would have
9 been completely improper for myself not to at least raise
10 some evidence of ingestion of hydrocodone either through
11 his statements -- I mean, if you read a charge of DUI,
12 Vicodin, hydrocodone, and then I put no evidence in, I
13 believe that would have been completely improper.

14 That's why I got into his statements back at the
15 station, because I believe Mr. Ramsell would have been
16 completely correct if the charge is read to them and
17 there's absolutely no evidence put to them. That can skew
18 the jury.

19 THE COURT: All right. I understand what your
20 position is. Mike, would you get the witness back,
21 please? Randy, would you get the jury back, please?

22 (The following proceedings were had
23 in open court, in the hearing and
24 presence of the jury:)

1 THE COURT: Good morning again, folks. Again, don't
2 hold the delays against anyone but me. Back to you, Mr.
3 Steed.

4 MR. STEED: Thank you.

5 BY MR. STEED:

6 Q Ms. Poltorak, is there anything that would have
7 changed the result from a 239?

8 A No.

9 Q Was the machine that you were using that --
10 that day reading anything other than -- what was the
11 machine reading specifically?

12 A The results that I got for both samples that I
13 have knowledge for this case were 0.239 and 0.239.

14 Q Is ethyl alcohol, alcohol?

15 A Yes. Ethanol, yes.

16 Q Okay. Now, you said both tests. Can you
17 describe what you mean by both tests?

18 A The sample is basically run in duplicate. For
19 the same blood to -- one portion of blood is removed and
20 pipetted with an internal standard and placed into one
21 vial, and then a second portion of the blood is removed
22 and placed into a second vial.

23 Q And why is this done?

24 A This is basically to ensure the alcohol

1 results, ensure that the pipetter is working properly.

2 Ensure that the results are consistent.

3 Q Is this a check?

4 MR. RAMSELL: Objection. Leading.

5 THE COURT: Overruled. You can answer that question.

6 THE WITNESS: Basically, yes.

7 BY MR. STEED:

8 Q Did you record your results anywhere?

9 A Yes, I did.

10 MR. STEED: May I approach, your Honor?

11 THE COURT: You may.

12 BY MR. STEED:

13 Q I'm handing you what has been marked as
14 People's Exhibit No. 7 and People's Exhibit No. 7B. Can
15 you look at those two?

16 A Yes.

17 Q Do you recognize them?

18 A Yes.

19 Q You identified the top page yesterday. That's
20 marked as People's Exhibit No. 7. What is People's
21 Exhibit No. 7?

22 A 7 is my report that I generated for this case.

23 Q And what is People's Exhibit No. 7B?

24 A 7B is the second page of my report showing my

1 signature.

2 Q And you did not see 7B yesterday, correct?

3 A Correct.

4 Q How do you know that is your report?

5 A It has my signature. It has my case number on
6 it.

7 Q Do -- do you recognize your signature?

8 A Yes, I do.

9 Q Is this -- is this a true and accurate copy of
10 the report that you completed?

11 A Correct.

12 Q And the results of your tests are included on
13 page one of this, correct?

14 A Correct.

15 MR. STEED: May I have one moment, your Honor?

16 THE COURT: Yes, you may.

17 BY MR. STEED:

18 Q I apologize if I asked you this yesterday. In
19 regards to People's Exhibit No. 2 --

20 MR. STEED: May I approach?

21 THE COURT: You may.

22 BY MR. STEED:

23 Q Can you look over what People's Exhibit No. 2
24 is? That's a group exhibit, correct?

1 A Correct.

2 Q This is the DUI kit?

3 A Yes. That is photocopies of the DUI kit for
4 this case.

5 Q Are these true and accurate copies?

6 MR. RAMSELL: Judge, we did go through this
7 yesterday.

8 THE COURT: You can -- you can go ahead. In light of
9 the fact that it broke her testimony up, you can go
10 forward.

11 BY MR. STEED:

12 Q Is this a true and accurate copy --

13 A Yes.

14 Q -- of --

15 A I'm sorry.

16 THE COURT: Why don't you hold on? I don't think he
17 finished. Do you want to finish the question? I don't
18 think you finished the question.

19 BY MR. STEED:

20 Q Are these true and accurate copies of the DUI
21 kit that you received?

22 A Yes, it is.

23 Q After you were done testing the blood, what did
24 you do with it?

1 A The blood was placed back into the refrigerator
2 in our vault.

3 Q And when did you next see these blood tubes?

4 A The next time I saw these blood tubes was this
5 Wednesday, the 27th, when I removed them to package them
6 up for court.

7 MR. STEED: Your Honor, I have no other questions of
8 this witness.

9 THE COURT: Cross-examination?

10 MR. RAMSELL: Thank you, Judge.

11 CROSS EXAMINATION

12 By: MR. RAMSELL

13 Q Now, Ms. Poltorak, how are you today?

14 A Okay.

15 Q Okay. You said that your -- you have a
16 certification from the Illinois State Police?

17 A Correct.

18 Q So your employer gave you and the other
19 employees in your division certificates?

20 A It's in a different division within the state
21 police, yes.

22 Q Are you employed by the state police?

23 A Yes.

24 Q Who gave you the certificate?

1 A The state police.

2 Q Okay. Now, let's talk about other
3 certifications. The board -- the American Board of
4 Forensic Toxicologists, you're not board certified in
5 forensic toxicology; isn't that true?

6 A Not with the board, no.

7 Q I am correct when I say that? You are not
8 board certified?

9 A That is correct.

10 Q You could not -- you don't even qualify to be
11 board certified as a forensic toxicologist; isn't that
12 equally true?

13 A I honestly don't know what the qualifications
14 are.

15 Q You don't know what the qualifications would
16 be -- the national standard would be for you to actually
17 become board certified as a forensic toxicologist? Is
18 that what you're saying?

19 A Yes. I don't know what the qualifications are.

20 Q Would it require a doctorate in applied
21 science? Do you have a doctorate?

22 A No, I don't.

23 Q Okay. Your -- one of your two professional
24 affiliations, Midwest Association for Toxicology and

1 Therapeutic Drug Monitoring, when is the last time you
2 attended a meeting for that association?

3 A Actually, I've never attended a meeting with
4 that association.

5 Q Are you on any of their committees?

6 A No.

7 Q Do you write for their newsletter?

8 A No, I don't.

9 Q Have you ever been published in the field of
10 chemistry or forensic toxicology?

11 A No, I haven't.

12 Q The machine does all the work and prints out
13 the number, and you wrote it on another piece of paper
14 called your report, correct?

15 A The machine will generate the result, yes.

16 Q It does all the work, not you; isn't that true?

17 A Yes.

18 Q And the machine uses a computer program and
19 software, et cetera?

20 A Yes.

21 Q From time to time those are updated?

22 A Yes. That's called calibration, which we do.

23 Q Libraries? Matches?

24 A On -- on this instrument, there are no

1 libraries.

2 Q Okay. You put the -- you plug in settings, and
3 the machine does the rest?

4 A Basically, yes.

5 Q And tells you a number and you write it down?

6 A Correct.

7 Q Now, your Midwest Association for Toxicology
8 and Therapeutic Drug Monitoring, of which you are a
9 member, recognizes the Society of Forensic Toxicology as a
10 international professional association of forensic
11 toxicologists, doesn't it?

12 A I don't know.

13 Q You are familiar with the Society of Forensic
14 Toxicologists; isn't that true?

15 A I have heard of it, yes.

16 Q You're also familiar with the American Academy
17 of Forensic Sciences; isn't that equally true?

18 A Yes.

19 Q You recognize those to be valid, professional
20 associations in your industry; isn't that also true?

21 A Sure. Yes.

22 Q In fact, they publish forensic toxicology
23 laboratory guidelines for the International Forensic
24 Toxicology Society; isn't that equally true?

1 A I have no idea.

2 .Q You would consider those guide -- laboratory
3 guidelines that are published by the Society of Forensic
4 Toxicologists in conjunction with the American Academy of
5 Forensic Sciences to be authoritative and reliable in your
6 field, wouldn't you?

7 MR. STEED: Objection.

8 THE COURT: All right. Sustained.

9 MR. RAMSELL: Basis? May -- may I approach?

10 THE COURT: Sure. Come on up.

11 (Whereupon a sidebar discussion was had
12 between the Court and counsel, outside
13 the hearing of the jury, as follows:)

14 MR. STEED: Your Honor, she testified that she's not
15 aware of any --

16 MR. RAMSELL: I can ask the question, and she can say
17 whether she considers it or not, and if I might, please?

18 An expert can acknowledge the authoritativeness and
19 reliability of an association or a -- or a peer-reviewed
20 journal whether they've read it or not, and then I have
21 the right, under Wilson versus Clark, to cross-examine
22 them on it whether they've read it or not. I believe I'm
23 entitled to do that, and this is a foundational question
24 for that.

1 THE COURT: Sustained.

2 MR. RAMSELL: Then I need to make an offer of proof.

3 THE COURT: All right. I'll let you do that later.

4 (The following proceedings were had
5 in open court, in the hearing and
6 presence of the jury:)

7 THE COURT: Please proceed.

8 BY MR. RAMSELL:

9 Q Isn't it true that the Forensic Toxicology
10 Society recommends a minimum 15 milliliters of blood for a
11 sample of testing?

12 MR. STEED: Objection.

13 THE COURT: Overruled. You can answer.

14 THE WITNESS: I have no idea. I don't know what they
15 recommend. I don't know anything about their guidelines.

16 BY MR. RAMSELL:

17 Q The -- isn't it true that under proper forensic
18 laboratory guidelines that you should do replicate testing
19 of a sample?

20 MR. STEED: Objection. Foundation.

21 THE COURT: Overruled. You can answer.

22 THE WITNESS: Those are our standard operating
23 procedures. I don't know if -- what guidelines you're
24 using. I don't know where you're getting this.

1 BY MR. RAMSELL:

2 Q Right. But I mean, you just told the ladies
3 and gentlemen of the jury when the State asked you, that
4 all of your methods were in -- were in compliance with the
5 field of forensic toxicology. So wouldn't you know
6 whether your field recommends replicate testing or not?
7 You may answer that question.

8 A I don't know about what other labs do, but it
9 is generally accepted to do duplicate testing.

10 Q Okay. What you're telling us is, you know what
11 your -- your state police lab does, right?

12 A Correct.

13 Q But you can't tell us that your lab is
14 following the larger industry of forensic toxicology as a
15 whole? You don't know that much?

16 A No, I don't.

17 MR. RAMSELL: Well then, I move to strike her
18 previous answers to those questions.

19 THE COURT: Overruled.

20 MR. RAMSELL: Okay.

21 BY MR. RAMSELL:

22 Q Now, isn't it true that forensic toxicology
23 guidelines require that replicate testing be performed
24 using two different gas chromatographs, each set with

1 different ranges or parameters to ensure the results?

2 MR. STEED: Objection, your Honor. We don't know
3 what guidelines Mr. Ramsell is referring to.

4 MR. RAMSELL: May I approach?

5 THE COURT: Sure. Come on up.

6 MR. RAMSELL: Thank you.

7 (Whereupon a sidebar discussion was had
8 between the Court and counsel, outside
9 the hearing of the jury, as follows:)

10 MR. RAMSELL: I didn't bring the case because I
11 didn't anticipate these rulings, but the case of People
12 versus Thill, T-h-i-l-l, Second District, holds that the
13 defendant has the right to cross-examine a witness and ask
14 questions just to determine whether she knows the answer
15 or not. Then it is just as important when the witness
16 doesn't know an answer as to whether she does.

17 THE COURT: Okay. Mr. Steed?

18 MR. STEED: And, your Honor, if Mr. Ramsell wants to
19 ask a specific question to a specific set of guidelines,
20 he's just saying guidelines, and there's -- each lab has
21 different guidelines. They have different rules.

22 Mr. Ramsell seems to think there is this one general
23 rule that everyone except the Illinois State Police is
24 following. If such a rule exists, he can question about

1 it. Otherwise, I want specificity as to which guidelines
2 he's --

3 MR. RAMSELL: That's why I'm entitled to cross on
4 these guidelines anyway. In fact, People versus Thill was
5 my case where Neal Thompson cross-examined my expert and I
6 objected.

7 And on appeal, Judge, they said Mr. Thompson can ask
8 the questions. He's not even required to prove-up the
9 facts of the questions. But it was equally as important
10 that the witness doesn't have an answer and that was --

11 THE COURT: But you need -- but you can't say
12 general. I mean --

13 MR. RAMSELL: Judge, they opened the door. They had
14 her say she knew that what was being done was in
15 conformity with the forensic toxicology industry.

16 THE COURT: But I agree. You can't just say
17 guidelines. You can talk about several different sets of
18 guidelines. So frame your question with what guideline
19 you're asking her about. Is it her lab guidelines? Is
20 it --

21 MR. RAMSELL: They can't have it both ways then,
22 Judge. You won't strike it when she offers that
23 everything she did was in conformance with national --
24 nationally accepted standards of the industry. But then

1 my cross on that subject, that I'm not allowed to cross?

2 THE COURT: That's not my ruling. I've ruled.

3 (The following proceedings were had
4 in open court, in the hearing and
5 presence of the jury:)

6 THE COURT: The objection is sustained.

7 BY MR. RAMSELL:

8 Q Would you agree that as a general matter of
9 scientific and forensic principle, the detection or
10 initial identification of drugs and/or other toxins should
11 be confirmed whenever possible by a second technique based
12 on a different chemical principle? Do you agree with that
13 statement or not?

14 A I'm not sure. I don't know what context this
15 is taken in.

16 Q In the context of forensic toxicology, a
17 general forensic principle, the detection or initial
18 identification of drugs -- well, let me break it up. Are
19 you involved with scientific and forensic principles in
20 your work?

21 A Yeah.

22 Q Were you attempting to employ them in this case
23 as well?

24 A Of course.

1 Q Were you employing -- was your job involving
2 the detection or identification of toxins, including
3 alcohol? Alcohol is a toxin?

4 A Yes.

5 Q Okay. Would you agree that as a general matter
6 of scientific and forensic principle, the detection or
7 initial identification of drugs and other toxins should be
8 confirmed whenever possible by a second technique based on
9 a different chemical principle?

10 MR. STEED: Your Honor, --

11 MR. RAMSELL: Yes or no?

12 MR. STEED: -- I'm going to object. Same objection.

13 THE COURT: No. Overruled. You can answer that
14 question.

15 THE WITNESS: I guess my question is whenever
16 possible.

17 BY MR. RAMSELL:

18 Q Okay. Now, do you have more than one GC in
19 your laboratory?

20 A We have several instruments, yes.

21 Q Okay. Would you agree, where possible, the
22 confirmatory test should be more specific and sensitive
23 than the first test for the target analyte, and the use of
24 mass spectrometry is recommended as the confirmatory

1 technique where practicable? Would you agree with that
2 statement as a general rule?

3 A As a general rule for identifying compound,
4 mass spec gives a definite identification. However, for
5 ethanol, since it is a volatile, you need the headspace in
6 order to detect ethanol.

7 Q So that rule doesn't apply? The second
8 confirmatory technique shouldn't apply to ethanol?

9 A We do a secondary confirmatory technique.

10 Q Would you agree use of a secondary -- second
11 confirmatory technique is encouraged for all analytes,
12 including ethanol?

13 A I would agree. We -- and we do a secondary
14 analysis.

15 Q Would you agree that using the same
16 instruments, set up the same parameters, taking the same
17 sample, and running it twice during the same run is not a
18 separate second confirmatory technique? Wouldn't you
19 agree with that?

20 A No, I wouldn't.

21 Q Now, is your laboratory accredited by the
22 Society of Forensic Toxicologists?

23 A No, we're not.

24 Q Is it accredited by the National Institute on

1 Standards and Technology, the government agency called
2 NIST?

3 A No, we're not.

4 Q Okay. How many -- there's an automatic
5 headspace sampler on your machine?

6 A Yes.

7 Q Perkin Elmer was the manufacturer?

8 A No.

9 Q Okay. How many vials does that accept in an
10 individual run? Forty? Eighty? A hundred?

11 A It depends on which instrument we're using. We
12 have --

13 Q On the one that was involved with Mr. Trimarco,
14 how many vials can be placed in a single run?

15 A There are 44 slots for vials.

16 Q Okay. How many vials were run at the same time
17 as Mr. Trimarco's vial?

18 A I do not recall.

19 Q Well, how many do you usually run?

20 A It depends on the caseload. It could be
21 anywhere from a couple samples along with the controls.
22 It could be up to 15 cases.

23 Q In a week, how many vials of blood do you test
24 for ethanol a week?

1 A Once again, it depends on the caseload.

2 Q Well, give us your average, please.

3 A I'd say probably 15 to 30.

4 Q Now, so 15 to 30 in a week. How long does a
5 run take when you start it to finish?

6 A The run, itself, takes approximately 10
7 minutes.

8 Q Okay. But how long does it take to -- from the
9 point you're going to prepare a run to the point the
10 number comes out of the machine?

11 A It's hard to give an exact time --

12 Q Approximately.

13 A -- because it takes -- it takes a half hour for
14 the vial to warm up while it's working. The pipetting
15 takes about a minute, to cap and seal, seconds, and then
16 to put it on the run and set up a sequence, I'd say a
17 couple of minutes. So I mean, I'd say an hour at the
18 most.

19 Q All right. So if you were doing 15 to 30
20 samples a week and you work full time, five days a week,
21 eight hours a day at least?

22 A Uh-huh.

23 Q Yes?

24 A Yes.

1 Q Okay. So would you say putting 10 vials in a
2 single run for one hour out of your 40, all for ethanol,
3 would be an extremely large number based on an average of
4 15 to 30 vials a week normally?

5 A I -- no. I don't think so.

6 Q No? Well, how many vials did -- at least --
7 weren't there at least 10 vials in the run that you did
8 where the machine tested them at all with Mr. Trimarco's?

9 A First of all, they don't test them all at once.
10 It's a matter of a sequence.

11 Q Well, I mean, you push --

12 A For this case, right. And for this case, there
13 were four controls at the beginning, then however many
14 case samples, and then four controls at the end. So there
15 were eight, ten. Yeah. I'd say at least 10, 14 cases or
16 14 samples.

17 Q Okay. And you don't remember how many
18 different people's blood was put into this single run with
19 Mr. Trimarco's?

20 A No, I don't remember.

21 Q And does the machine -- how does it tell that
22 it's Mr. Trimarco's? Is there -- does it pick up a name,
23 or is that something humans have to figure out?

24 A No. It's all based on the case number. I

1 don't go by names. It's all based on the case number.

2 Q Okay. How does the machine figure that out?

3 A It doesn't. I put into the computer what case
4 number is being run and what vial slot that vial is going
5 into.

6 Q All right. So you have to physically type in
7 the correct vial slot number to correlate it to the right
8 person?

9 A Correct.

10 Q That's not something the machine does for you?

11 A No.

12 Q Okay. And you're also typing in, I suppose,
13 the spots, the slot numbers for the controls and the slot
14 numbers for any other people that are put in at the same
15 time?

16 A Correct.

17 Q It's all a matter of physically doing that on a
18 keyboard?

19 A Correct.

20 Q Okay. Now, you said you've seen what the
21 powder looks like in a gray top tube, right?

22 A Correct.

23 Q And you said that all gray top tubes would have
24 the same powder color?

1 A Correct.

2 Q You agree with that, right?

3 A Yeah.

4 Q And you said that the gray top tube should have
5 the presence of a chemical called -- referred to generally
6 as an anticoagulant, right?

7 A Correct.

8 Q It should also have the presence of separate
9 chemicals called preservatives?

10 A Correct.

11 Q And the anticoagulant, that it should have, you
12 called potassium oxalate?

13 A Correct.

14 Q And the preservative that you said it should
15 have, you called sodium fluoride?

16 A Correct.

17 Q Okay. Now, then you said you're familiar with
18 how these are manufactured, right?

19 A I'm familiar that commercially they are
20 manufactured with the powder in them.

21 Q Right.

22 A Yes.

23 Q So you know that they are created on an
24 assembly line, right?

1 A I would assume so. I don't know directly.

2 Q And they take a giant mixture of both powders
3 and mix them together, and then the machine is supposed to
4 drop an amount in each tube and then put a stopper on it,
5 right?

6 MR. STEED: I'm going to object to that question,
7 your Honor.

8 THE COURT: Overruled. You can answer.

9 THE WITNESS: I don't know exactly how they do it.
10 I've never seen it done.

11 BY MR. RAMSELL:

12 Q I mean, they don't have little chemists that
13 are just, you know, using a jeweler's glass and counting
14 it --

15 MR. STEED: Objection, your Honor.

16 MR. RAMSELL: -- out and putting it in each tube, do
17 they?

18 THE COURT: Overruled. He can ask. And if she
19 knows, she knows. If she doesn't, she doesn't.

20 THE WITNESS: I don't know.

21 BY MR. RAMSELL:

22 Q Now, you would agree that the mixture of these
23 two powders would be important in terms of ensuring the
24 right amount of each in each tube, right?

1 A Yeah. I would think it would be important.

2 Q Okay. And as a forensic -- as a certified
3 person for the Illinois State Police, you would agree that
4 science requires a certain minimum amount of each of those
5 chemicals to be inside that tube, right?

6 A I would agree with that.

7 Q Right. So you can't just have some of each.
8 It has to reach the minimum recommended amount of
9 anticoagulant powder and the minimum recommended amount of
10 preservatives, right?

11 A I would agree with that, yes.

12 Q Okay. So how does the manufacturer check each
13 individual tube after they've put the powder on and sealed
14 it to make sure that each one actually has the minimum
15 correct amount of each of the tube? How do they do that?

16 A I don't know.

17 Q Does anybody check that?

18 A I have no idea.

19 Q Does the state police check that?

20 A I know we don't.

21 Q Nobody checks it as far as you know, right?

22 A I would think at the manufacturer --

23 Q I'm not asking you to guess. As far as you
24 know, nobody checks that; isn't that true?

1 A As far as I know, I'm not aware of anybody, no.

2 Q And you say the two powders aren't the same

3 color; isn't that also true?

4 A I do not know.

5 Q Well, isn't it true that the mixture of

6 anticoagulant and preservative would have a pinkish hue;

7 isn't that true?

8 MR. STEED: Objection.

9 MR. RAMSELL: Why are you looking at them?

10 THE COURT: What's your objection?

11 MR. STEED: I believe there's something in Mr.

12 Ramsell's hands.

13 THE COURT: Well, he hasn't asked about it yet, so

14 it's overruled.

15 BY MR. RAMSELL:

16 Q Wouldn't you agree that when you have the

17 proper mixture of both anticoagulant and preservative, the

18 color of the powder would have a pinkish hue?

19 A I believe that's true. I believe it does have

20 a slight pink color to it.

21 Q Right. You can see the pink when you see it?

22 A Yes.

23 Q So somebody that saw a powder that was white as

24 snow, that would be missing one of the two required

1 chemicals, right?

2 A That, I don't know, because I don't know
3 which --

4 Q Okay. Let me ask it a different way. When
5 there's a correct mixture of anticoagulant and
6 preservative, the color of the powder would not be white
7 as snow; wouldn't you agree with that statement?

8 A The powder that I've seen, has all been, like,
9 a slightly pink color in the tube.

10 Q Okay. Which is -- which of the two is the
11 white powder? The potassium oxalate or the sodium
12 fluoride? Which is the what?

13 A I don't know.

14 Q Which is the pink?

15 A I don't know.

16 Q Okay. Now, the tubes are intended to have --
17 they are supposed to have the minimum -- the correct
18 amount of each powder for 10 milliliters of blood?
19 There's a ratio; isn't that true?

20 A That is correct.

21 Q If that ratio is off, that would affect those
22 scientific principles of preservation and coagulation,
23 right?

24 A I would still think it would still preserve it

1 depending on how much is there.

2 Q Right. Well, it has to have the exact minimum
3 to reach the amount in the tube, right?

4 A Right.

5 Q Okay. And the recommended amount for these
6 tubes that you're talking about, according to the
7 manufacturer, is ten milliliters, correct? Isn't that
8 what it's intended to be?

9 A For blood, yes.

10 Q And neither -- neither of Mr. Trimarco's vials,
11 either one, you only tested one of the two, --

12 A Correct.

13 Q -- was ten milliliters? Am I correct when I
14 say that?

15 A That's correct.

16 Q Okay. And now, are you familiar with a process
17 -- in fact, you said you read about forensic toxicology,
18 correct?

19 A Yes. In training, yes.

20 Q Okay. Now, first off, let's just talk about
21 coagulation, if we will. Coagulation occurs in blood when
22 blood is exposed to air; isn't that true?

23 A Yes.

24 Q These were -- these are sealed vials, correct?

- 1 A Correct.
- 2 Q So -- and they're vacuumed? They have no air?
- 3 A Correct.
- 4 Q So that whether there's a coagulant in the tube
- 5 or not, once the blood's in there, it's not being exposed
- 6 to air, is it? Once the blood is in this tube?
- 7 A No, it is not.
- 8 Q And air is what's required for coagulation?
- 9 A It has to be outside of the body.
- 10 Q Right. And exposed to air; isn't that true?
- 11 A Not necessarily.
- 12 Q Well, you can't -- you're a scientist, so
- 13 you're applying scientific principles, correct?
- 14 A Correct.
- 15 Q You went to school, and you got a chemistry
- 16 degree, correct?
- 17 A Yes.
- 18 Q And in your four years of being in school, you
- 19 spent a lot of time in the laboratory, right?
- 20 A Yes.
- 21 Q And you had to take the exams and show your
- 22 professor the correct scientific techniques, right?
- 23 A Yes.
- 24 Q One of them was you had to prove -- when you

1 wanted to prove that something was present, a chemical was
2 present, did you ever have to do that exercise in school?
3 Prove the presence of a chemical?

4 A Oh, I'm sure I did. It's been a while. I
5 don't recall.

6 Q I know. But then it would be almost automatic.
7 You would assume that would happen, right?

8 A Yes.

9 Q Did your professor ever say you could prove the
10 presence of a chemical by simply looking at it from a
11 scientific standpoint?

12 A No.

13 Q Did your professors ever say it was acceptable
14 for you to prove the presence of a chemical by smelling
15 it?

16 A Definitely not.

17 Q No. You would have to apply scientific
18 techniques, such as a microscopic examination? That would
19 be one, right?

20 A Okay.

21 Q Immunoassay?

22 A Yes.

23 Q Where you get a reaction between two chemicals,
24 and it proves one is something?

1 A Yes.

2 Q A gas chromatograph would be another way of
3 proving and identifying chemicals, right?

4 A Correct.

5 Q That would be techniques for doing it? You'd
6 have to replicate at least once in your exercises that you
7 got the same result twice using two different techniques?
8 Did you ever learn that example of how to prove something?

9 A In school, no.

10 Q Okay. You learned it in the labs?

11 A In training, yes.

12 Q Okay. Great. So you never actually -- oh, in
13 this gas chromatograph, could it be set up to identify
14 other chemicals besides an ethanol or a volatile?

15 A The headspace gas chromatograph?

16 Q Any GC.

17 A A regular GC, yes.

18 Q Okay. Do you have them at your lab?

19 A We do have them at the lab to detect drugs.

20 Q Okay. But it has -- it has a whole library of
21 15,000 different chemical structures you can get, plug it
22 into your computer, and see if something exists or not,
23 right?

24 A The mass spec has a library to identify

1 structures, but not the gas chromatograph.

2 Q Your library actually has these spectra?

3 That's what it's called?

4 A Uh-huh.

5 Q Spectra for the chemical potassium oxalate;
6 isn't that true?

7 A I have no idea. I've never seen it.

8 Q Did you check to see if your laboratory has the
9 spectra for sodium fluoride?

10 A No, I did not.

11 Q And you never actually ran that -- either of
12 those vials to prove, like you would have to in college,
13 the existence of the anticoagulant or the preservative?
14 You never did that, did you?

15 A No, I did not.

16 Q And if you were to take an exam at your school,
17 and say, professor, I believe that this vial contains
18 potassium oxalate and sodium fluoride because the police
19 officer put a label on there that says that, you would
20 fail that exam; isn't that true?

21 MR. STEED: Objection, your Honor.

22 THE COURT: Sustained. Don't answer it.

23 BY MR. RAMSELL:

24 Q That would not be a proper scientific method

1 that you were taught in how to prove the presence of a
2 chemical compound? Would you agree with me there?

3 A No, I don't think so.

4 Q You can't -- you ever have an exam at school
5 where you filled it out and said because it had that label
6 on there, this, professor, proves the existence of that in
7 a scientific community? You ever have that exercise
8 happen?

9 A No.

10 Q Okay. Now, preservative is intended to slow
11 the decomposition of blood, correct?

12 A Yes. I agree with that.

13 Q The anticoagulant is intended to slow the
14 coagulation of blood, correct?

15 A It's to prevent the coagulation of blood, yes.

16 Q Okay. So if you had anticoagulants in the
17 tube, sufficient anticoagulant with Mr. Trimarco's blood,
18 then that would prevent it from clotting, but may -- but
19 may not prevent it from decomposing because that's what
20 the preservative does, right?

21 A Yes. I agree with that.

22 Q And what I mean by decomposition is, without a
23 preservative, this -- you can put heparin in this bottle
24 and it won't coagulate. You could put potassium oxalate

1 in there, and it won't coagulate. But you must have a
2 preservative to prevent it from decomposing? Do you agree
3 with me there?

4 A Yes, I would agree with you there.

5 Q Okay. And you -- and decomposition can occur
6 without the human eye even seeing it? You can either see
7 it or not, but neither proves the lack of decomposition;
8 isn't that correct?

9 A I would agree with that. That you definitely
10 see it when it's starting to decompose.

11 Q When it's really decomposed?

12 A Correct.

13 Q But when it's slightly decomposed, the human
14 eye may not see it; wouldn't you agree?

15 A I would agree with that.

16 Q Okay. Now, in the human body -- you did take
17 biology in school, right?

18 A Yes.

19 Q And the human body -- you were asked if there's
20 anything that could interfere with the results of the
21 alcohol test, generally. I'm not asking you to repeat
22 your answer.

23 A Yes.

24 Q All right. You -- you got this -- excuse me --

1 decomposition of blood can occur even in the presence of a
2 preservative. Wouldn't you agree with that scientific
3 principle?

4 A That, I don't know.

5 Q You mean, if we look at it a hundred years from
6 now, it still won't have decomposed if it had the correct
7 amount?

8 A Oh, over a long period of time, yeah. It's
9 possible.

10 Q So decomposition --

11 A Depending on the storage conditions too.

12 Q Storage?

13 A Yes.

14 Q It has to be stored at a cooler temperature to
15 slow decomposition?

16 A Yes, I would agree with you.

17 Q Preservatives don't absolutely prevent
18 decomposition? They slow it or retard it?

19 A Yes. I would agree with that.

20 Q Okay. And storage is another method that's
21 supposed to be applied, including with the preservative,
22 storage at a cooler temperature. The cooler it's stored,
23 the slower the decomposition process?

24 A Yes. I would agree with that.

1 Q Okay. Now, you know when you got it to your
2 laboratory, that you put it in a refrigerated vault,
3 right?

4 A There was actually a refrigerator in the vault.

5 Q Okay. Great. And it's set for what? Zero
6 degrees centigrade?

7 A It is four degrees centigrade.

8 Q Four degrees. About ten and a half degrees
9 Fahrenheit, roughly?

10 A It sounds --

11 Q -- about that?

12 A Roughly, yeah.

13 Q Okay. That's what the lab recommends for
14 storage of blood?

15 A That's what we've always stored them at.

16 Q Okay. So you could assume, I guess, that's how
17 you -- it's intended to be set at that temperature?

18 A Yes.

19 Q Okay. Great. The post office, when you mail
20 something, do they store -- do they -- can you
21 refrigerate, store mail or something? Do you know of
22 anything like that?

23 A I would doubt that, no.

24 Q So the temperature, the higher the temperature,

1 the less or the higher the temperature, the faster the
2 decomposition rate occurs; would you agree?

3 A I would agree.

4 Q Okay. If you cook blood even in the presence
5 of a preservative, it will decompose?

6 A Yes.

7 Q If you microwave it, it will decompose even in
8 the presence of a preservative?

9 A Yes. I would think so.

10 Q And decomposition can cause abnormally or
11 falsely high results. Would you agree with me there?

12 A That, I don't know.

13 Q You never saw a decomposed blood or tried to
14 test it?

15 A I've tested decomposed blood. I don't know
16 whether it would cause higher or lower results.

17 Q But it would invalidate the results. Would you
18 agree with that as a scientist?

19 A I don't know if it would invalidate it, no.

20 Q Well, tell us. What does the scientific
21 industry say about the ability to perform a valid blood
22 alcohol test on decomposed blood? Has the forensic
23 toxicology community taken a position that you can do such
24 a test?

1 A I have not read anything, no.

2 Q Okay. So you can't tell these people that the
3 test is valid from a -- that your community of forensic
4 toxicologists would validate decomposed blood in this
5 arena? You can't say that, can you?

6 A The test would be correct as far as the amount
7 in that blood, but whether the decomposition would have an
8 affect, I can't say.

9 Q Right. The machine would say it's 8 million
10 or whatever because it's set up for that. But whether it
11 should be 8 million or not in the absence of
12 decomposition, the machine can't tell you?

13 A No. No.

14 Q All right. Now, there -- you were asked about
15 the possible interferences with blood generally, and you
16 would agree that there are microorganisms commonly
17 referred to as yeasts that are present in the human body?
18 Wouldn't you agree? Naturally present?

19 A I have heard of yeasts.

20 Q Right. And you know, as a scientist in this
21 field, that yeasts in combination with glucose can, by
22 themselves, create ethanol? You would agree with that
23 scientific --

24 A Yes, I would agree with that.

1 Q And you would agree that in the absence of
2 enough preservative, that microorganisms can, in
3 combination with blood glucose, artificially create
4 ethanol; isn't that true?

5 A In absence of the preservative, yes.

6 Q Or in the absence of sufficient preservative?

7 A Yes, I would agree with that.

8 Q Or in some cases, some persons who are on the
9 Atkins Diet might have a artificially high amount of yeast
10 so that the amount of preservative you need would be
11 greater than what's recommended as the standard minimum.
12 You know that too, don't you?

13 A I have never heard of that, no.

14 Q Okay. What are names of the yeasts that are
15 found in the human system? Do you know them offhand?

16 A The only one that I know of for sure is Candida
17 albicans. That's the only one that I've heard of through
18 my studies that can possibly generate ethanol.

19 Q Well, have you ever read the American Journal
20 of Clinical Pathology?

21 A No, I have not.

22 Q All right. Is this a microorganism that's also
23 known to the human body? Streptococcus fecalis,
24 f-e-c-a-l-i-s?

1 A I don't know.

2 Q How about klebsiella oxytoca?

3 A I don't know.

4 Q I've got to spell these. K-l-e-b-s-i-e-l-l-a,
5 oxytoca, o-x-y-t-o-c-a. Do you recognize the name of that
6 microorganism?

7 A No, I don't.

8 Q How about pseudomonas maltophilia? That's
9 p-s-e-u-d-o-m-o-n-a-s, maltophilia, m-a-l-t-o-p-h-i-l-i-a.

10 A I have never heard of that.

11 Q And there's -- there's several others you may
12 not even know about?

13 A Possibly, yes.

14 Q And there are also the variations of Candida,
15 besides Candida albicans, that are microorganisms also
16 found in the human body naturally created; isn't that
17 true?

18 A Possibly.

19 Q And all people have glucose in their blood.
20 You would agree with me there?

21 A Yes.

22 Q Did you test for the presence of Candida
23 albicans or any other yeasts?

24 A No, I did not.

1 Q Okay. So you can't exclude the presence of
2 that in this blood; isn't that true?

3 A Sure, that's true.

4 Q Okay. And you can't exclude the presence of
5 any other yeasts in this blood; isn't that true?

6 A Correct.

7 Q And this blood drawn October 19th wasn't tested
8 by you until what date?

9 A I actually tested it on October 29th, so 10
10 days later.

11 Q Ten days later. And how long was it in your
12 refrigerated laboratory out of those ten days?

13 A I received it on the 23rd. October 23rd. Four
14 days.

15 Q Okay. So outside of that, you don't know how
16 many of the prior days it was refrigerated?

17 A No, I don't.

18 Q Okay. And there were two vials of blood, and
19 you only tested one?

20 A Correct.

21 Q And did you -- did you create the controls?
22 You, personally?

23 A No, I did not.

24 Q And what the machine does is, it compares the

1 difference between the control and what the machine -- it
2 measures the difference between Mr. Trimarco's blood, and
3 the control uses that as a measure -- as a ruler, I
4 believe is the word you used?

5 A No. That is not correct.

6 Q The standards do that?

7 A The internal standard that is added with the
8 blood is used like a ruler to measure.

9 Q Okay. So it takes --

10 A And then --

11 Q -- it takes whatever the standard is, whatever
12 that ruler is, and it uses that to figure out the -- Mr.
13 Trimarco's?

14 A The internal standard that I used is actually
15 N-propanol. It's a different volatile compound at a known
16 volume that is added to each -- a known concentration that
17 is added to each sample.

18 Q Is that critical to the way the machine works?

19 A It's critical to determine the level of
20 ethanol, yes.

21 Q Is it critical to the validity of the analysis?

22 A Yes.

23 Q Okay. And did you make that standard?

24 A I don't recall who made it.

1 Q Who made -- you don't know who made it? Do you
2 know where it was purchased from?

3 A No. It would have been made in the laboratory,
4 yes.

5 Q Okay. If the standard is off, would you agree
6 that the entire result is off?

7 A If the internal standard is off --

8 Q Would you agree the entire result is off?

9 A No, I would not.

10 Q Okay. So the standard doesn't even have to be
11 made correctly, and it wouldn't affect the entire result
12 of the test? Yes or no?

13 A That is correct.

14 Q So why do you have a standard if it doesn't
15 affect the result of the test at all?

16 A The internal standard is only used as a ruler.
17 It's a different compound. The instrument, itself, is
18 actually set up with known ethanol standards, along with
19 that internal standard, to determine -- to be able to
20 determine what the unknown is.

21 Q So let's talk -- what standards count? Which
22 ones count, if any of them?

23 A The standards that are used for the
24 calibration.

1 Q Do they count for the validity of the test?

2 A Yes, definitely.

3 Q Who made those standards?

4 A Those are commercially prepared, I believe, --

5 Q By whom?

6 A -- by Cerraliant (phonetic), that are certified
7 standards.

8 Q Okay. So who tested those? Did your
9 laboratory test them or not?

10 A No, we do not.

11 Q Okay. And the machine assumes the truth of the
12 standard? It doesn't check the standard itself? It
13 assumes that it's true; isn't that correct?

14 A That is correct.

15 Q So that it won't -- no bells or whistles would
16 go off if the standards are off; isn't that true?

17 A That is correct.

18 Q Okay. And bells and whistles won't go off if
19 there's Candida albicans, correct?

20 A Yes.

21 Q Bells and whistles won't go off if there's not
22 enough preservative; isn't that true?

23 A Yes.

24 Q Bells and whistles won't go off if the blood

1 decomposed over four days; isn't that true?

2 A Correct.

3 Q Okay.

4 MR. RAMSELL: Can I have one second, your Honor?

5 THE COURT: Sure. Of course.

6 BY MR. RAMSELL:

7 Q I have one more area I'd like to discuss with
8 you, and it's called the salting out process.

9 A Yes.

10 Q Which of the two is the salt? The
11 anticoagulant or the preservative?

12 A The preservative, the sodium fluoride.

13 Q Right. And you are familiar with the salting
14 out affect of sodium fluoride on blood ethanol testing;
15 isn't that true?

16 A Yes, I am aware of it.

17 Q Salting out would be the opposite of having not
18 enough preservative? Salting out would occur when you
19 have too much of a preservative; isn't that true?

20 A It can occur, yes.

21 Q And what happens then is, if you have, let's
22 say, the correct amount of preservative but not enough
23 blood, that would be, like, over preserving? Are you
24 following the math there?

1 A Yes.

2 Q And that phrase is called salting out, correct?
3 That's where salting out would start?

4 A I would agree with that last statement, yes.

5 Q And then salting out would cause alcohol to
6 leach into the headspace that you test?

7 A It would cause more -- a higher concentration
8 of ethanol to go into the headspace, yes.

9 Q Salting out would cause a artificially high
10 result; isn't that correct?

11 A That is possible, yes.

12 Q So when you have, for example, let's say you're
13 supposed to have five milligrams of sodium fluoride per
14 ten milliliters of blood, and instead you have five
15 milligrams of sodium fluoride and only nine and a half
16 milliliters of blood. That would be more preservative?
17 That would be a higher ratio?

18 A I would agree with that, yes.

19 Q That would be a start in the theory of salting
20 out; isn't that true?

21 A I would agree, yes.

22 Q Right. Now, what you told us right at the
23 beginning was, what you did was what was called a
24 headspace analysis, correct?

1 A Correct.

2 Q So you didn't actually test the blood itself?
3 You tested, like, from the air above it, which is called
4 the headspace?

5 A Correct.

6 Q A good example would be if you took this closed
7 tube and there's liquid, and let's say there's space above
8 it in this closed tube. The space above it, that air, is
9 what you refer to as headspace?

10 A Yes. The air above the liquid.

11 Q And there's a presumption made that there's
12 going to be a certain amount of alcohol in the headspace
13 to reflect the amount that's in the blood?

14 A Correct.

15 Q But what happens with salting out, in effect,
16 too much preservative is, because alcohol will leach into
17 the headspace and the ratio changes?

18 A Correct.

19 Q The machine doesn't recognize the ratio? It
20 only reports the true results?

21 A Actually, that is not true.

22 Q The salting out could cause a greater amount of
23 alcohol in the air; is that correct? The salting out --

24 A Yes, that is correct.

1 Q -- causes a fair amount of alcohol in the air?
2 And how would one check -- well, did you check this tube
3 to determine if there was any salting out or not?

4 A No, I did not.

5 Q Okay.

6 MR. RAMSELL: Thank you. No other questions, your
7 Honor.

8 THE COURT: Redirect?

9 MR. STEED: Thank you.

10 REDIRECT EXAMINATION

11 By: MR. STEED

12 Q Ms. Poltorak, would an anticoagulant have any
13 affect on the results of the blood that you tested? Would
14 that have shown up?

15 A The anticoagulant, no.

16 Q Okay. Now, if there isn't enough
17 anticoagulant, enough preservative in the vial, what can
18 happen to the blood?

19 A It is possible that the blood would clot.

20 Q What if there's not enough preservative?

21 A Over time, it's -- the blood is gonna rot.

22 Q What do you mean when you say, "the blood is
23 gonna rot?"

24 A It's basically going to start to decompose.

1 Q How long does it take before blood starts to
2 rot?

3 A Without the preservative, depending on the
4 conditions that it is stored at, it could be a matter of
5 weeks or months.

6 Q And what does blood visually look like when it
7 begins to coagulate and to rot?

8 A The coagulation -- the blood, all the cells in
9 the blood will actually start to lump together, and you
10 will actually be able to visually see the clumping
11 process.

12 Rotting, the blood tubes that I've seen have rotted
13 -- are starting to turn green, starting to turn, like, a
14 dark brownish in color.

15 Q Did you notice any of that when you were
16 testing the defendant's blood?

17 A No, I did not.

18 Q Did you notice any of that when you were boxing
19 these samples up just a few days ago?

20 A No, I did not.

21 Q Why did you only test one tube of blood?

22 A The second tube is primarily saved in case --

23 MR. RAMSELL: Judge, may I approach?

24 THE COURT: Sure.

1 (Whereupon a sidebar discussion was had
2 between the Court and counsel, outside
3 the hearing of the jury, as follows:)

4 MR. RAMSELL: I knew this trick was coming. They're
5 about to suggest through this witness that I have the
6 opportunity to test the blood individually. That's called
7 burden shifting. The jury should not be -- ever be told
8 of that.

9 THE COURT: Mr. Steed?

10 MR. STEED: Your Honor, Mr. Ramsell raised the issue
11 of only one of these vials was tested.

12 THE COURT: I agree.

13 (The following proceedings were had
14 in open court, in the hearing and
15 presence of the jury:)

16 THE COURT: The objection is overruled.

17 BY MR. STEED:

18 Q Ms. Poltorak, let me ask that question. Why
19 was only one blood tube tested?

20 A It is our procedure to save the second blood
21 tube for the defense if they want to have it retested.

22 Q You were describing today that you tested the
23 defendant's blood. There were four controls, and then you
24 ran your run, and then there were some other controls.

1 Can you go into some more detail of exactly how you set
2 this machine up? What the controls were and everything
3 else?

4 MR. RAMSELL: Objection. Asked in direct.

5 THE COURT: I'm sorry. I didn't hear what you said.

6 MR. RAMSELL: This was covered in direct, Judge.

7 It's not new matters that I raised.

8 THE COURT: Why don't you come on up, and why don't
9 you tell me how you think that was raised in cross?

10 (Whereupon a sidebar discussion was had
11 between the Court and counsel, outside
12 the hearing of the jury, as follows:)

13 MR. STEED: Your Honor, Mr. Ramsell had her going
14 into specific detail as to what a control was. She
15 testified that there were four controls.

16 MR. RAMSELL: I mean, if they covered it in repeat
17 direct, because then I'm going to do repeat cross. Are we
18 narrowing, or are we just going over the same stuff again
19 because they want to repeat it twice?

20 THE COURT: They can go into the things you wanted
21 to.

22 MR. RAMSELL: Then I'm going to go into what they go
23 into too, and it'll never end.

24 THE COURT: I bet you will.

1 MR. RAMSELL: I will.

2 THE COURT: Okay. Thanks.

3 (The following proceedings were had
4 in open court, in the hearing and
5 presence of the jury:)

6 THE COURT: All right. The objection is overruled.
7 You can -- you can answer. I beg your pardon. Why don't
8 you ask the question again? Thanks.

9 BY MR. STEED:

10 Q Mr. Ramsell asked you some specific questions
11 as to you set up four controls, and then you did a run.
12 Do you recall those questions?

13 A Yes.

14 Q Can you describe specifically what you meant by
15 the four controls and then the defendant's blood run and
16 then the final controls?

17 A When a series of cases are run, controls have
18 to bracket a series of cases. What I mean a control,
19 there are a series of known values to ensure that the
20 instrument is functioning properly.

21 The one control is called a load control. It runs
22 about a .1 gram deciliter of ethanol. A whole blood
23 control, which is a commercially prepared control, is like
24 a middle of the curve, like point -- 01.5 gram per

1 deciliter of ethanol.

2 A high control, which is at a .3 gram per deciliter
3 of ethanol, and then a negative control to show that the
4 run is going. There is no carryover in pipetting and in
5 the run itself.

6 On the computer, there's a computer program that will
7 set up a sequence. I will go in and tell it what vial,
8 what the name of the sample is and what method that it's
9 going to be run on. And in this case, it was ethanol.

10 So the way the sequence works is, it starts at vial
11 number one and goes all the way down to whatever your end
12 vial is and then the corresponding sample name.

13 So the first four samples, it would be below control
14 for vial one, the whole blood control for vial two, the
15 high control for vial three, the negative control for vial
16 four, and then five on would be case samples and then what
17 the corresponding case name.

18 The last controls are the sequence, whatever vials
19 was on -- they, once again, would be the below, the whole
20 blood, and then high control. And I always run another --
21 a second negative control to show that there is no
22 carryover again.

23 Q Okay. Explain a little bit more what you mean
24 by blank and carryover?

1 A A blank control is a control that is only
2 water. It also has the internal standard to show that
3 there is no ethanol in the internal standard that is being
4 added in to show that there is no carryover. And what I
5 mean carryover, I mean from run to run there is no, like,
6 contamination.

7 Q And you talked a little bit about what salting
8 out is?

9 A Yes.

10 Q Okay. Salting out is too little blood,
11 correct, --

12 A Yes.

13 Q -- in the vial with too much -- is it
14 preservative?

15 A The salt, yes.

16 Q Okay. You had a chance to examine these test
17 tubes, correct?

18 A Yes.

19 Q Approximately, just an approximation, how much
20 blood was in each one of those test tubes?

21 A In 1A1, which is the working vial, there was
22 approximately nine and a half milliliters of blood. In
23 1A2, which is the solid tube of blood, there is
24 approximately eight and a half milliliters of blood.

1 Q So there was on the unbroken vial,
2 approximately one half of one milliliter of space?

3 MR. RAMSELL: Objection. Leading their own witness.

4 THE COURT: Overruled. You can answer the question.

5 THE WITNESS: I don't know how much space is actually
6 left in the tube. I know the tube can hold up to ten
7 milliliters, but I think there's always a little bit of a
8 headspace. I don't know exactly how much air space is in
9 the tube.

10 Q So what is the maximum, if there was
11 approximately nine and a half milliliters of blood? What
12 is the maximum that could have been space?

13 A The maximum amount of blood that's in the tube
14 is ten milliliters. However, there's still always a
15 little bit of air space. I don't know what that maximum
16 or what the actual amount of the air space is.

17 MR. STEED: May I have one moment, your Honor?

18 THE COURT: You may.

19 MR. STEED: I have no further questions, your Honor.

20 THE COURT: Mr. Ramsell?

21 MR. RAMSELL: Yes. Thank you.

22 RE CROSS EXAMINATION

23 By: MR. RAMSELL

24 Q So you would agree that alcohol production in

1 the presence of not enough preservative or too much
2 Candida albicans and blood glucose, alcohol production in
3 the blood tube will occur fairly rapidly within twelve
4 hours? Candida albicans will produce significant alcohol
5 in the presence of glucose? You would agree with that,
6 right?

7 A I don't know how -- how quickly it would
8 happen, but I know it can happen.

9 Q Well, have you ever read the Journal of
10 Forensic Sciences?

11 A I have seen it, yes.

12 Q Would you consider that an authoritative and
13 reliable journal in your field? Peer review?

14 A I would not consider it authoritative. I would
15 consider it a reference.

16 Q Okay. Well, how quickly does microorganisms
17 cause the growth of ethanol in blood?

18 A I don't know.

19 Q So you can't say it didn't happen?

20 A I don't know how quickly it --

21 Q You cannot say it did not happen?

22 A No, I can't.

23 Q And the defendant could, with the right amount
24 of money, I guess, have somebody else test the second

1 vial?

2 A Yes. That is correct.

3 Q After you've tested the vials?

4 A Yes. That's correct.

5 Q After whatever decomposition has occurred or
6 not?

7 A If decomposition? Yeah, possibly. Yes. They
8 can have the second vial tested.

9 Q Okay. And the one that you left for the
10 defendant was eight and a half milliliters of blood --

11 A Correct.

12 Q -- instead of 10?

13 A Correct.

14 Q All right. When was -- when were you finished
15 with your testing? Two weeks after the arrest?

16 A Approximately, yes.

17 Q Okay. And the standards and controls, would
18 you agree that the identity and purity of reference
19 materials should be verified by a laboratory under good
20 forensic principles?

21 MR. STEED: Objection. Beyond the scope.

22 THE COURT: Overruled.

23 THE WITNESS: I don't know what standards and
24 controls you're referring to.

1 BY MR. RAMSELL:

2 Q The ones you just talked about.

3 A The control samples that are run on the
4 instruments?

5 Q Right.

6 A Yes.

7 Q Would you agree that where practical, these
8 reference materials should be verified by the laboratory?

9 A Yes, that's true.

10 Q Okay.

11 MR. RAMSELL: I have no other questions, your Honor.

12 MR. STEED: Your Honor, nothing further.

13 THE COURT: All right. Ma'am, a motion to exclude
14 witnesses was made. I explained to you yesterday. You
15 understand what that means, right? Thanks very much for
16 your time.

17 THE WITNESS: Thank you.

18 (Witness excused.)

19 THE COURT: Thanks. Can you approach?

20
21 (Which were all the proceedings
22 in the above-entitled cause ordered
23 transcribed at this time.)

24 * * * * *

1 STATE OF ILLINOIS)
) SS:
 2 COUNTY OF DU PAGE)

3
 4 I HEREBY CERTIFY that I reported in shorthand the
 5 proceedings had at the hearing of the above-entitled
 6 cause, and that the foregoing Report of Proceedings,
 7 consisting of Pages 1 to 80, inclusive, is a true, correct
 8 and complete transcript of my shorthand notes so taken at
 9 the time and place hereinabove set forth.

10
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 12
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 14 

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