

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
BRANCH 1

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STATE OF WISCONSIN,

PLAINTIFF,

JURY TRIAL

TRIAL - DAY 15

vs.

Case No. 05 CF 381

STEVEN A. AVERY,

DEFENDANT.

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**DATE:** MARCH 2, 2007

**BEFORE:** Hon. Patrick L. Willis  
Circuit Court Judge

**APPEARANCES:** KENNETH R. KRATZ  
Special Prosecutor  
On behalf of the State of Wisconsin.

THOMAS J. FALLON  
Special Prosecutor  
On behalf of the State of Wisconsin.

NORMAN A. GAHN  
Special Prosecutor  
On behalf of the State of Wisconsin.

DEAN A. STRANG  
Attorney at Law  
On behalf of the Defendant.

JEROME F. BUTING  
Attorney at Law  
On behalf of the Defendant

STEVEN A. AVERY  
Defendant  
Appeared in person.

**TRANSCRIPT OF PROCEEDINGS**

Reported by Diane Tesheneck, RPR

Official Court Reporter

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<u>EXHIBITS</u>	MARKED	OFFERED	ADMITTED
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1 (Jury not present.)

2 At this time the Court calls State of  
3 Wisconsin vs. Steven Avery, Case No. 05 CF 381.  
4 We're here this morning for a continuation of the  
5 trial in this matter, outside the presence of the  
6 jury at this time. Will the parties state their  
7 appearances for the record, please.

8 ATTORNEY KRATZ: Good morning, Judge. The  
9 State appears by Calumet County District Attorney,  
10 Ken Kratz, Assistant Attorney General Tom Fallon,  
11 Assistant District Attorney Norm Gahn, all appearing  
12 as special prosecutors.

13 ATTORNEY STRANG: And good morning. At  
14 this table is Steven Avery and Jerome Buting and  
15 Dean Strang.

16 THE COURT: All right. Is there a matter  
17 the parties wish to take up before we bring in the  
18 jurors?

19 ATTORNEY FALLON: I don't think we have  
20 anything other than previously.

21 THE COURT: Very well. At this time, then,  
22 we'll bring in the jury.

23 (Jury present.)

24 THE COURT: You may be seated. And,  
25 Mr. Fallon, you may call the State's first witness

1           today.

2                   ATTORNEY FALLON: Thank you. The State  
3 would call Mr. Kenneth Olson to the stand.

4                   **KENNETH B. OLSON**, called as a witness  
5 herein, having been first duly sworn, was  
6 examined and testified as follows:

7                   THE CLERK: Please be seated. Please state  
8 your name and spell your last name for the record.

9                   THE WITNESS: Kenneth B. Olson, O-l-s-o-n.

10                                   **DIRECT EXAMINATION**

11 BY ATTORNEY FALLON:

12 Q. What do you for a living?

13 A. I'm a forensic scientist at the State Crime  
14 Laboratory in Madison. My main duties are as a  
15 trace evidence examiner. And trace evidence  
16 includes paint, glass, fibers, explosives,  
17 metals, anything that needs chemical  
18 identification that doesn't fit into either  
19 toxicology or drug analysis.

20                   I'm also a involved in our Field  
21 Response Program, going to crime scenes. And I'm  
22 also a bloodstain pattern examiner.

23 Q. All right. And how long have you been employed  
24 at the Wisconsin State Crime Lab?

25 A. Almost 27 years.

1 Q. And during that particular time, how long have  
2 you been doing or involved in the field of trace  
3 evidence analysis?

4 A. That's been my main duty since I was hired at the  
5 laboratory.

6 Q. And how long have you been involved in field  
7 response operations?

8 A. I have been involved in field response since I  
9 have been employed at the laboratory, also.

10 Q. All right. Are you currently a member of a Field  
11 Response Team?

12 A. I'm no longer actively on call, but I will assist  
13 if they need help at crime scenes.

14 Q. All right. How are you involved in this case,  
15 Mr. Olson?

16 A. I was asked to examine certain charred items that  
17 was recovered from the Avery property; items that  
18 were recovered from a burning barrel and then  
19 some charred skull fragments.

20 Q. And why are you here today?

21 A. I'm here to explain the results of my  
22 examination.

23 Q. All right. First of all, let's find out a little  
24 bit about yourself, please. Can you tell us what  
25 your educational background is.

1 A. I have a bachelors of science degree, with a  
2 major in chemistry from the University of  
3 Wisconsin at Superior.

4 Q. When did you receive that degree?

5 A. In June of 1980.

6 Q. And have you pursued any post-graduate studies of  
7 any nature?

8 A. I attended a few courses in business management.

9 Q. All right. As a member of the trace evidence  
10 unit, how many individuals are there in that  
11 particular unit?

12 A. At the Madison laboratory there are two  
13 scientists, myself and my colleague.

14 Q. All right. And as a member of that particular  
15 unit, have you attended trainings during the past  
16 27 years?

17 A. Yes. When I was hired, I went through an  
18 extensive on-the-job training in the different  
19 areas that -- in the materials that I analyze.  
20 And since being employed at the laboratory, I  
21 have attended numerous training seminars and  
22 courses in the area of trace evidence.

23 Q. And how often do you attend these types of  
24 courses?

25 A. It varies. I suppose it averages once a year.

1 Q. All right. And with respect to your training and  
2 experience, have you received any specialized  
3 training which assisted you in terms of  
4 performing any of the examinations in this  
5 particular case?

6 A. In the area of elemental analysis, I have had  
7 training using the scanning electron microscope  
8 with an energy dispersive x-ray analyzer. And  
9 that instrument is used for identifying different  
10 elements.

11 Q. And when we're saying elements, can you give us  
12 an example or an idea of what kind of elements  
13 that you are looking at with this particular  
14 instrument?

15 A. Well, we can examine approximately 70 different  
16 elements. They include carbon, oxygen, nitrogen,  
17 iron, lead, titanium, magnesium, just a broad  
18 spectrum of elements.

19 Q. And what are some of the objects and items that  
20 you are routinely called upon to examine in your  
21 trace evidence unit?

22 A. As far as elemental analysis?

23 Q. Sure.

24 A. I routinely analyze paint samples, using a scan  
25 electron microscope energy dispersive x-ray,

1 SEMEDX for short. Use it for glass samples,  
2 unknown powders, explosives and questioned  
3 metals.

4 Q. All right. Have you testified in courts of law  
5 during the past 27 years you have been with the  
6 Crime Lab?

7 A. Yes, I have.

8 Q. And approximately, do you have an estimate as to  
9 how many times you have been called to testify in  
10 cases?

11 A. Approximately 165 times.

12 Q. And have you -- During those times, have you been  
13 called upon to express or render expert opinions  
14 regarding your findings?

15 A. Yes, I have.

16 Q. And of those 165 times, do you have an idea as to  
17 approximately how many of them were trace metal  
18 or trace evidence related testimony?

19 A. The majority of my testimony has been in the area  
20 of trace evidence. And it's well over 100 times  
21 I testified in trace evidence.

22 Q. When did you first become involved in this case,  
23 Mr. Olson?

24 A. I first became involved in December of 2005. I  
25 was given some items from a burning barrel to



1           examine.

2       Q.   And did you examine the contents of a barrel?

3       A.   Yes, I did.

4       Q.   All right.  And what did you find in your  
5           examination of the barrel?

6       A.   The material that was submitted to me were  
7           charred items and in there was a charred portion  
8           of a Motorola cellphone, a charred Canon  
9           PowerShot A310 camera, and assorted other  
10          electronic components.

11      Q.   Now, is your laboratory capable of extracting  
12          data from those types of items, or not?

13      A.   No, I was just told to examine them to see if I  
14          could give any information as to what those items  
15          might be.

16      Q.   What other -- Does your particular trace unit  
17          have a supply of products on hand to assist you  
18          in attempting to identify severely burned items  
19          such as this?

20      A.   No, we don't.

21      Q.   As a result of which, did you make any  
22          recommendations with respect to your initial  
23          findings?

24      A.   I reported what I found in that charred debris to  
25          Investigator Tom Fassbender with DCI.

1 Q. All right. In addition to those items, what  
2 other charred debris were you asked to examine as  
3 part of this case?

4 A. I was asked to examine some charred skull  
5 fragments that had a defect in them that was  
6 consistent with high energy projectile.

7 Q. All right. And, first of all, I would like to  
8 direct your attention to Exhibit -- Exhibit 391.  
9 And I'm going to hand you a laser pointer. Do  
10 you recognize Exhibit 391, in particular the item  
11 on the right?

12 A. Yes, I do.

13 Q. All right. And what is that?

14 A. Exhibit 391 is a photograph of that charred skull  
15 fragment that I examined.

16 Q. All right.

17 A. And the defect, or the hole in the skull, is this  
18 area right up in here.

19 Q. All right. And as part of your analysis, do you  
20 routinely assign an item number or a Crime Lab  
21 identification number to assist you in working  
22 with these items?

23 A. Yes, we do.

24 Q. And what item designation was Exhibit 391 given?

25 A. Exhibit 391 was item EJ.

1 Q. All right. I'm going to have Exhibit 392  
2 displayed. All right. And do you recognize that  
3 item?

4 A. Yes, I do.

5 Q. And what is Exhibit 392?

6 A. Exhibit 392 is the other side of that charred  
7 skull fragment. This would be the external  
8 surface. And the defect or the hole in the skull  
9 is up in this area right here.

10 Q. Now, I see that there is an arrow shaped marker  
11 depicted on this outer view of Exhibit 392; do  
12 you know what that is?

13 A. Yes, I do.

14 Q. And what is that?

15 A. The triangular shaped marker in Exhibit 392 is a  
16 little piece of copper tape that I made into a  
17 point of an arrow so it will help me locate the  
18 area on the bone that I need to examine with the  
19 microscope and to do my elemental analysis.

20 Q. When did you receive these items?

21 A. These items were submitted to the laboratory on  
22 February 15th, 2006. And I examined them --  
23 started examining them on February 16, 2006.

24 Q. Describe for us, if you will, how item EJ  
25 appeared when you first accepted and began

1           working on it?

2       A.    Item EJ, Exhibit 392, appears very similar when I  
3           examined it.  It's a charred skull fragment that  
4           had been, obviously, in a fire.

5       Q.    All right.  And how is it packaged, tell us about  
6           the appearance of the item in its packaging?

7       A.    This item, item EJ, was one of two items that  
8           were submitted in the laboratory in sealed  
9           plastic bags that were received in a sealed box.

10      Q.    All right.  And how were they labeled; did that  
11           assist you in performing the requested  
12           examination?

13      A.    This item, which was the one I examined, there  
14           were three bags in item EJ.  This one was  
15           identified as a charred cranial fragment with a  
16           entrance defect.  And that's what I concentrated  
17           my examination on.

18      Q.    All right.  And what about the other bags that  
19           were part of the EJ designation; were they  
20           subject to examination?

21      A.    No, those were labeled as cranial refits and they  
22           didn't have any defects.  And I was more  
23           interested in looking at the hole in that item.

24      Q.    All right.  Now, you mentioned there was one  
25           other item in addition to EJ; what item was that?

1 A. That was item EK.

2 Q. All right. Did you conduct any examinations of  
3 item EK?

4 A. No, I did not.

5 Q. And why did you not conduct any examinations?

6 A. The bag, that item EK, was labeled as cranial  
7 bone fragments, dental fragments, nothing that  
8 had a defect or hole that I would be interested  
9 in.

10 Q. Now, with respect to item EJ, can you tell us,  
11 specifically, using the laser pointer, what part  
12 of that item did you examine and why did you  
13 examine it?

14 A. I examined this area right up in here, is where I  
15 concentrated most of my analysis. And through my  
16 training and experience, that bullets, when they  
17 go through bone or hard objects, if they are a  
18 lead bullet, which most bullets are, you can  
19 sometimes get a --

20 ATTORNEY BUTING: Objection, your Honor, I  
21 don't know that he's -- this is a trace chemist, I  
22 don't know that he is qualified to be talking about  
23 bullets and what they do and don't do.

24 ATTORNEY FALLON: I will rephrase the  
25 question.

1 THE COURT: Very well.

2 Q. (By Attorney Fallon)~ Were there specific -- Was  
3 there specific information that you had with  
4 respect to the condition of the defect that you  
5 have identified, that caused you to examine it  
6 more closely?

7 A. Yes, this defect is consistent with a high energy  
8 projectile.

9 Q. I understand, but my question is, what,  
10 specifically, did you -- were you -- why were you  
11 asked to examine -- I realize it has a defect,  
12 but what other information did you have to assist  
13 you that caused you to examine that specific  
14 crescent shape there?

15 ATTORNEY BUTING: Move to strike the last  
16 answer as well, your Honor.

17 THE COURT: You mean the answer about  
18 the --

19 ATTORNEY BUTING: The answer that was not  
20 responsive to Mr. Fallon's question about high  
21 energy projectiles.

22 ATTORNEY FALLON: That's not his objection  
23 and we're rephrasing the question.

24 ATTORNEY BUTING: I move to strike it.

25 THE COURT: I think he's moving to strike

1 the answer that came after his objection, if I'm not  
2 mistaken.

3 ATTORNEY BUTING: Yes.

4 THE COURT: The Court will strike that  
5 answer as nonresponsive, which I think Mr. Fallon  
6 recognized by rephrasing his question.

7 ATTORNEY BUTING: Yes.

8 THE COURT: Go ahead, Mr. Fallon.

9 Q. (By Attorney Fallon)~ Rephrasing the question,  
10 Mr. Olson, what additional information did you --  
11 Well, let's strike it this way. Did you have any  
12 x-rays that you examined before conducting this  
13 examination of item EJ?

14 A. No, I didn't.

15 Q. All right. But at that particular point -- Let's  
16 get at it this way. What did you find when you  
17 looked at the crescent shape that you have  
18 identified there, the defect area?

19 A. When I analyzed that area for elemental analysis,  
20 I detected the presence of lead.

21 Q. Okay. We'll come back to that in a moment. In  
22 addition to item EJ, were you asked to examine  
23 any other cranial fragments?

24 A. Yes, I was.

25 Q. All right. And did you obtain some cranial

1 fragments?

2 A. Yes, I did.

3 Q. And from whom did you obtain those fragments.

4 A. I obtained some more cranial fragments from  
5 Dr. Leslie Eisenberg.

6 Q. And approximately when did you obtain additional  
7 cranial fragments?

8 A. On November 17th, 2006.

9 Q. And when did you begin your analysis of these  
10 additional fragments?

11 A. I started examining those cranial fragments on  
12 November 21st of 2006.

13 Q. All right. I'm going to have Special Agent  
14 Fassbender hand you some photographs. Beginning  
15 with the top exhibit, I believe it is designated  
16 Exhibit 429; is that correct?

17 A. That's correct.

18 Q. Do you recognize that exhibit?

19 A. Yes, I do.

20 Q. What is Exhibit 429?

21 A. Exhibit 429 is a photograph of item KQ, the  
22 cranial fragment with the entrance defect that I  
23 received from Dr. Leslie Eisenberg.

24 Q. All right. And directing your attention, then,  
25 to the screen, is that the very same exhibit that



1           you are holding in your hand?

2    A.    Yes, it is.

3    Q.    All right.  And describe, if you will, in more  
4           detail, item KQ, upon your receipt of it?

5    A.    I'm sorry, could you repeat that?

6    Q.    Yes, specifically, I just want to ask you to  
7           describe that -- Well, let's do it this way.  
8           Describe for us, if you will, the size or  
9           contours of the defect.

10   A.    The bone fragment itself is an inch and a  
11          quarter, approximately, by an inch and three  
12          quarters in size.

13   Q.    All right.  And so that's from top to bottom and  
14          across the exhibit there?

15   A.    That's correct.

16   Q.    All right.  And the defect itself was  
17          approximately how much?

18   A.    It appears to be about -- the diameter of that  
19          crater is about a half inch.

20   Q.    All right.  And I would like to show you, also,  
21          Exhibit 398 at this particular time.  And do you  
22          recognize Exhibit 398?

23   A.    Yes, I do.

24   Q.    And is item KQ present in Exhibit 398?

25   A.    Yes, it is.

1 Q. And if you would use the pointer and describe for  
2 us, if you will, where that is.

3 A. Item KQ is this bone fragment right here in the  
4 upper left hand corner.

5 Q. All right. And if we could zoom in on that. And  
6 what were you examining with respect to item KQ?

7 A. I was particularly interested in these bright  
8 spots here, which indicates it could be a dense  
9 metal.

10 Q. All right. And with respect to item KQ, did you  
11 use the scanning electron microscope to conduct  
12 your analysis of those particles?

13 A. Yes, I did.

14 Q. All right. And finally, there should be the next  
15 exhibit in front of you?

16 A. Exhibit 429 or 4 --

17 Q. 430.

18 A. 430.

19 Q. Yes. And what is Exhibit 430?

20 A. Exhibit 430 is a photograph of item KQ, but the  
21 inner surface. The previous exhibit was the  
22 outer surface. And Exhibit 430 is the inner  
23 surface.

24 Q. All right.

25 A. That's what's being displayed right now.

1 Q. All right. And did you examine the inner surface  
2 of the defect area, as well as the outer surface,  
3 on this particular item?

4 A. Yes, I did.

5 Q. All right. And finally, there's one more  
6 exhibit. And I believe Exhibit 431.

7 A. Yes.

8 Q. All right. And what is Exhibit 431?

9 A. Exhibit 431 is a photograph of an x-ray of other  
10 charred bone fragments.

11 Q. All right. And particularly with respect to  
12 Exhibit 431, was there a Crime Lab designation  
13 assigned to that item?

14 A. Yes, there was.

15 Q. All right. And what was that?

16 A. That was item KR.

17 Q. All right. All right. Now, with respect to your  
18 findings, I would like to redirect your  
19 attention, again, to item EJ, Exhibit 392; did  
20 you find traces of elemental lead in the area of  
21 that defect?

22 A. Yes, I did.

23 Q. And tell us about what you found.

24 A. I was examining the entrance defect approximately  
25 in this kind of lower left hand corner.

1                   ATTORNEY BUTING: I'm sorry, is this item  
2                   EJ we're talking about?

3                   ATTORNEY FALLON: Yes, this is item EJ,  
4                   Exhibit 392.

5                   A. I examined this area in here and found traces of  
6                   elemental lead.

7                   Q. All right. And with respect to Exhibit 92, what  
8                   -- were there more than one location or area  
9                   within that defect that you examined?

10                  A. Yes, there was.

11                  Q. And what did you find with respect to other  
12                  possible locations of elemental lead?

13                  A. In this area, I examined three different areas  
14                  and found elemental lead -- traces of elemental  
15                  lead. In this area, I examined and did not  
16                  find -- I found what were very low amounts of  
17                  lead, but it was too low for me to call. So,  
18                  essentially, I did not find any lead in this area  
19                  over here.

20                  Q. All right. And did you examine other areas of  
21                  that particular fragment, Exhibit 392?

22                  A. Yes, I did.

23                  Q. And approximately how many areas did you examine  
24                  on this one particular exhibit?

25                  A. Approximately 12 different areas that I examined.

1 Q. All right. And I know it might be kind of  
2 difficult with that photograph, but could you  
3 give us a general idea of what other locations  
4 that you examined for the possibility of  
5 elemental lead?

6 A. I examined approximately seven locations here and  
7 approximately five locations down in here, as a  
8 control area.

9 Q. All right. Well, let's begin, we talked about  
10 areas one, two, and three, and you mentioned  
11 something about five, six, and seven. Let's talk  
12 a little bit about those areas. What, if  
13 anything, did you find with respect to areas  
14 five, six, and seven.

15 A. I did not find any elemental lead in five. Area  
16 six and seven, which was right next to it, over  
17 here, I saw what began to look like the presence  
18 of lead, but it was too low of a level for me the  
19 call.

20 Q. All right. Now, Mr. Olson, you used the laser  
21 pointer to point to a particular area. And would  
22 I be accurate in describing that that would --  
23 the area you pointed to, five, six and seven, was  
24 on the edge or the beginning, as it were, of the  
25 defect area?

1 A. Yes, it is.

2 Q. All right. And one, two, and three were actually  
3 in the defect area?

4 A. Either on or slightly in, yes.

5 Q. All right. How about the other areas, 8, 9, 10,  
6 11 and 12, with respect to the exhibit, where are  
7 they located?

8 A. These would be down in this area here.

9 ATTORNEY FALLON: All right. If the record  
10 would reflect, the witness is pointing to the bottom  
11 edge of Exhibit 392 of the photograph which is  
12 depicted.

13 Q. (By Attorney Fallon)~ What did you find at those  
14 locations?

15 A. I did not find any traces of elemental lead.

16 Q. All right. Now, you mentioned something -- Well,  
17 first of all, let me ask, what was the purpose of  
18 testing those locations, 5, 6, 7, and most  
19 notably, 8 through 12?

20 A. I was examining those areas, away from the  
21 entrance defect, to have a control area where I  
22 would not think or suspect to find any lead.

23 Q. And could you explain for the jury the concept of  
24 a control?

25 A. The control is just a sample that you expect to

1           have certain results, usually negative results,  
2           in this same type of material that you are  
3           analyzing.

4       Q.   All right.  So how does performing these control  
5           tests assist you in assessing your findings in  
6           the other locations, particularly one, two, and  
7           three?

8       A.   It adds more weight to my findings, finding  
9           elemental lead in those areas around the defect.  
10          And then not finding it in the other areas goes  
11          more to the point that -- that there is traces of  
12          lead in that entrance defect.

13      Q.   All right.  Now, let's talk a little bit about  
14          item EK; did you examine EK?

15      A.   No, I did not.

16      Q.   And why was EK not examined?

17      A.   There was no entrance defect on those charred  
18          skull fragments.

19      Q.   All right.  And do you recall what they were  
20          labeled or how they were submitted to you?

21      A.   Those would have been labeled cranial, facial,  
22          dental, I believe.

23      Q.   All right.  All right.  Again, now, returning to  
24          item KQ, which we have depicted in Exhibit 398  
25          and I believe in Exhibit 429 and 430.  You

1           conducted a similar analysis of this particular  
2           item?

3       A.    Yes, I did.

4       Q.    All right.  And you were examining more closely  
5           the bright white particles which appear on this  
6           particular exhibit?

7       A.    Yes, I was particularly interested in those  
8           bright spots.  That would be indicative of a more  
9           dense material, such as lead.

10                   ATTORNEY FALLON:  And for the record,  
11           Exhibit 398 depicts several cranial fragments.  The  
12           witness is describing the fragment which appears at  
13           the upper left hand corner of the exhibit as a  
14           whole.

15       Q.    (By Attorney Fallon)~ I would like to direct your  
16           attention then back to Exhibits 429 and 430.  We  
17           will start with Exhibit 429.  All right.  And,  
18           again, is this the inner or outer depiction of  
19           Exhibit 4 of item KQ?

20       A.    This would be the outer surface of that skull  
21           fragment.

22       Q.    All right.  And then we'll start with the outer  
23           surface, did you find -- did you examine -- You  
24           said you examined the area near the defect?

25       A.    Yes, I did.



1 Q. All right. Did you find elemental lead at any of  
2 the locations you examined at this -- at this --  
3 in this particular defect?

4 A. Yes, I did.

5 Q. And what did you find?

6 A. I found elemental lead corresponding to those  
7 bright spots in this entrance defect.

8 Q. Now, in this particular case, was it more than a  
9 trace, or less than a trace; reference, you know,  
10 item EJ, comparatively speaking, was there more  
11 or less lead that you detected here?

12 A. There was considerably more lead in this sample  
13 than there was in item EJ.

14 Q. All right. And similarly, did you have a control  
15 for your examination on this outer surface of  
16 item EJ, Exhibit 429?

17 A. Yes, I did.

18 Q. And if you would be so kind as to point with your  
19 laser pointer to the control areas.

20 A. The control area was in this -- approximately  
21 this area.

22 ATTORNEY FALLON: The record is reflecting  
23 that he's pointing to the right side of his marker  
24 arrow, towards the top, almost the same height as  
25 the point of the arrow.

1 THE COURT: Record will so reflect.

2 ATTORNEY BUTING: That's fine.

3 ATTORNEY FALLON: Thank you.

4 Q. (By Attorney Fallon)~ And just so that we're  
5 clear, the areas where you did find the elemental  
6 lead, if you would be so kind, with your pointer,  
7 to indicate that area on the exhibit.

8 A. Right in this area, on and in the beveled area.

9 Q. On and in the beveled area. Very well, thank  
10 you. Now, did you similarly examine the inside  
11 of item KQ.

12 A. Yes, I did.

13 Q. All right. I would like to direct your  
14 attention, then, to Exhibit 430. And just so  
15 that we're clear, counsel advised me I may have  
16 misspoke. KQ item is our Exhibits 429 and 430;  
17 is that correct? Just so that -- I may have  
18 misspoke.

19 A. Item KQ is -- 429 is the outer surface and 430 is  
20 the inner surface of item KQ.

21 Q. All right. And we have Exhibit 430 on the screen  
22 now, which is the inner surface?

23 A. That's correct.

24 Q. All right. Now, tell us about your analysis of  
25 this particular item, how did you begin?

1 A. I concentrated my examination, elemental  
2 examination, around the entrance defect and  
3 inside the bevel of this item.

4 Q. All right. And in that particular area, did you  
5 find elemental lead?

6 A. Yes, I did.

7 Q. And approximately where on the exhibit, if you  
8 are able to tell us, that you found this?

9 A. On the edge of the defect and inside of the  
10 bevel.

11 Q. All right. And approximately how many locations  
12 did you test in or on the beveled area?

13 A. I believe it was four.

14 Q. All right. And in those four locations, did you  
15 find the presence of elemental lead at each of  
16 those locations?

17 A. Yes, I did.

18 Q. And with respect to their locations and comparing  
19 it to item EJ, was there more or less lead  
20 associated with item KQ or EJ?

21 A. There was considerably more lead in this  
22 particular item KQ.

23 Q. All right. And in terms of locations three and  
24 four, if you are able, can you direct us,  
25 roughly, where locations three and four would be?

1 A. Three would be approximately here and four would  
2 be approximately here, both of them inside the  
3 bevel.

4 Q. All right. And with respect to comparing  
5 locations one and two with three and four, what  
6 did you find with respect to the amounts of  
7 elemental lead that was present?

8 A. In areas three and four, inside the bevel, there  
9 was even more lead concentrated in those areas  
10 than in areas one and two.

11 Q. All right. Similarly, with respect to your  
12 testing of the inside of item KQ, Exhibit 430,  
13 were there any control locations that you  
14 utilized to assist you in interpreting your  
15 results?

16 A. Yes, there were.

17 Q. And if you would be so kind as to take your  
18 pointer and indicate generally where the control  
19 areas were utilized?

20 A. I believe the control area was in this area.

21 Q. All right. You are talking to the area  
22 immediately to the right and at the bottom of the  
23 marker that you placed on this exhibit?

24 A. That's correct.

25 Q. All right. In the control area, did you find the

1           presence of any lead?

2   A.   No, I did not detect the presence of lead in that  
3       area.

4   Q.   All right.  Now, we would like you to take a look  
5       at Exhibit 431, please.  Do you recognize  
6       Exhibit 431?

7   A.   Yes, I do.

8   Q.   Were you called upon to examine that particular  
9       piece?

10  A.   Yes, I was.

11  Q.   And similarly --

12                   ATTORNEY BUTING:  Can you just identify  
13       what that is, x-ray or photo.

14  A.   It's a photograph of an x-ray.

15                   ATTORNEY BUTING:  Okay.

16  Q.   (By Attorney Fallon)~ And it was your  
17       understanding this was, again, another cranial  
18       piece that you were given by Dr. Eisenberg?

19  A.   Yes, it was another cranial piece and a  
20       particular in interest was the lower piece had a  
21       bright spot consistent with a higher density type  
22       material.

23  Q.   All right.  And upon examination of KR -- Well,  
24       first of all, let me ask, did you examine KR  
25       using the same methods you did with KQ and EJ?

1 A. No, because when I examined that item I did not  
2 see the material here present on the tiny bone  
3 fragment. It wasn't on the bone any longer. It  
4 was -- It just wasn't there.

5 Q. All right. So there were no conclusions that  
6 could be drawn as to what that artifact was?

7 A. That's correct.

8 Q. All right. Did that particular artifact have any  
9 entrance, or suspected entrance defect, like  
10 items EJ and KQ?

11 A. No, it did not.

12 Q. All right. Mr. Olson, your opinion that item EJ,  
13 Exhibit 392, has traces of elemental lead in the  
14 defect area, do you hold that opinion to a  
15 reasonable degree of scientific certainty?

16 A. Yes, I do.

17 Q. Your opinion that item KQ, Exhibits 429 and 430,  
18 at locations one, two, three, and four contained  
19 elemental lead, do you hold that opinion to a  
20 reasonable degree of scientific certainty?

21 A. Yes, I do.

22 Q. And your opinion that item KR, which did not have  
23 a suspected entrance defect and showed no traces  
24 of elemental lead; do you hold that opinion to a  
25 reasonable degree of scientific certainty.

1 A. Yes, I do.

2 ATTORNEY FALLON: Subject to cross, we  
3 would move into evidence Exhibits 429, 430 and 431.

4 THE COURT: Any objection?

5 ATTORNEY BUTING: No objection.

6 THE COURT: Those exhibits are admitted.  
7 Mr. Buting.

8 ATTORNEY BUTING: Thank you, Judge.

9 **CROSS-EXAMINATION**

10 BY ATTORNEY BUTING:

11 Q. Good morning, sir.

12 A. Good morning.

13 ATTORNEY BUTING: If counsel could be so  
14 kind as to put up Exhibit 398 for a moment, please.

15 Q. (By Attorney Buting)~ Now, just leaving it at  
16 this magnification for a second, this is a  
17 photograph of an x-ray of -- which is it?

18 A. That is a projection of a photograph of an x-ray.

19 Q. Okay. Which item is it, KQ, or is it EJ?

20 A. It's neither.

21 Q. Well, this item up here?

22 A. That item is item KQ.

23 Q. Okay. So the one in the upper left is KQ.

24 ATTORNEY BUTING: Okay. Could we just look  
25 at 429 for a minute, please.

1 Q. (By Attorney Buting)~ You're quite sure this is  
2 the same item as we just saw on the x-ray.

3 A. Yes, it is.

4 Q. Well, on this item, maybe it's just my eyes, but  
5 if you look at the far right side, there is a  
6 rather prominent projection, almost looks like a  
7 large nose sticking out or something, right?

8 A. That's correct.

9 Q. I didn't see that on 398.

10 ATTORNEY BUTING: Could we go back and look  
11 at that for a minute?

12 ATTORNEY FALLON: Certainly.

13 ATTORNEY BUTING: Could we maybe zoom in on  
14 this upper?

15 Q. (By Attorney Buting)~ Where is that marking?  
16 Where is that part -- that little projection that  
17 we just saw in the other photograph? Where is it  
18 on this x-ray? I don't see it.

19 A. It is not there. This x-ray was taken before  
20 Dr. Eisenberg attempted to do her refits. And  
21 the piece that I got was after the refit. And  
22 when I got it, it was broken --

23 Q. Oh.

24 A. -- and that piece that you are seeing --

25 Q. Okay.



1 A. -- is from another portion of the cranial.

2 Q. Okay. So what you saw -- When you saw it, it had  
3 been changed slightly, that piece had been broken  
4 off?

5 A. Yes, it did not look like that.

6 Q. Okay. Well, that's good. I'm glad you cleared  
7 that up.

8 ATTORNEY BUTING: You can take that down  
9 now, counsel, that's fine. Thank you.

10 Q. (By Attorney Buting)~ Do you -- Do you know what  
11 item FL is in your lab?

12 A. No, I do not.

13 Q. Well, there's been evidence, the jury has heard  
14 that item FL has been identified and talked about  
15 quite a bit here as a alleged bullet fragment,  
16 right? Okay. You will accept that?

17 A. I will accept that, yes.

18 Q. Okay. You were not given item FL, to do any  
19 examination of?

20 A. No, I was not.

21 Q. So you didn't test the chemical composition of  
22 item FL?

23 A. No, I did not.

24 Q. So you cannot say that the trace items of lead  
25 that you saw in either one of these two cranial

1 fragments came from item FL; isn't that right?

2 A. That's correct.

3 Q. Okay. Now, you were given some other duties

4 besides this trace analysis of cranial fragments

5 in this case, right?

6 A. That's correct.

7 Q. And at one point, I believe in April, you were

8 actually asked to examine a headboard?

9 A. Yes, I was.

10 Q. And that, for the record, is an item that's -- I

11 don't know if you gave the designation or it was

12 already designated, this for you, or by someone

13 else in your lab before you got it, as item GI?

14 A. That's correct.

15 Q. And you were looking -- Among other things, you

16 were looking for the possible presence of rope

17 fibers on that headboard, right?

18 A. That's correct.

19 Q. And was it your understanding that you were

20 looking for the possible presence of rope fibers

21 on the spindles of that headboard to see whether

22 there was any evidence of possible rope being

23 used as a restraint?

24 A. That's correct.

25 Q. Did you find any rope fibers?

1 A. No, I did not.

2 ATTORNEY BUTING: Thank you, no further  
3 questions.

4 THE COURT: Any redirect?

5 ATTORNEY FALLON: Sure.

6 **REDIRECT EXAMINATION**

7 BY ATTORNEY FALLON:

8 Q. What is the main elemental composition of a  
9 bullet?

10 A. Lead.

11 Q. .22 caliber bullets contain lead?

12 ATTORNEY BUTING: Objection. This has been  
13 -- I think this was testified to by the prior  
14 witness.

15 ATTORNEY FALLON: Well, he asked, this is  
16 appropriate redirect.

17 ATTORNEY BUTING: Okay.

18 THE COURT: I believe it is.

19 ATTORNEY BUTING: That's fine.

20 Q. (By Attorney Fallon)~ The .22 caliber bullets  
21 contain lead?

22 A. Almost 99 percent lead.

23 ATTORNEY FALLON: That's all. Thank you.

24 **RECROSS-EXAMINATION**

25 BY ATTORNEY BUTING:

1 Q. Bullets also contain -- or bullets are composed  
2 of different elements, right?

3 A. The major component is lead, but depending if  
4 they want to harden the lead, they will add  
5 antimony or tin to the bullet to make it harder.  
6 Some bullets have copper jackets with a lead  
7 core. Some bullets have a silver tipped or  
8 aluminum coating with a lead core.

9 Q. Right. So some bullets are coated, some bullets  
10 are not?

11 A. Correct.

12 Q. You did not test item FL to see whether it was a  
13 coated or non-coated, did you?

14 ATTORNEY FALLON: Objection, asked and  
15 answered. He asked if he tested FL at all and he  
16 said no.

17 THE COURT: It's a fair summary question, I  
18 will allow it.

19 Q. (By Attorney Buting)~ Is that right?

20 A. Could you repeat it, please.

21 Q. You did not test item FL to see if it was a  
22 coated or non coated bullet?

23 A. I did not examine item FL.

24 ATTORNEY BUTING: That's all. Thank you.

25 THE COURT: All right. The witness is

1           excused.

2                   THE WITNESS:   Thank you, your Honor.

3                   THE COURT:    You're welcome.

4                   ATTORNEY FALLON:   Could we have a quick  
5 sidebar?

6                   THE COURT:    Sure.   Is it relating to  
7 scheduling, I take it?

8                   ATTORNEY FALLON:   Yes.

9                   THE COURT:    All right.   Members of the  
10 jury, we're going to take a short break.   We'll  
11 resume in a few minutes.   I will remind you not to  
12 discuss the case during your break.

13                               (Jury not present.)

14                   THE COURT:    You may be seated.

15                   ATTORNEY FALLON:   We're going to go check  
16 and see on the progress that Dr. Jentzen is making.

17                   THE COURT:    If he is not here yet, is he  
18 reachable by cellphone?

19                   ATTORNEY FALLON:   He may very well be.   I  
20 believe Mr. Gahn is checking on that.

21                   THE COURT:    Let me know in chambers what  
22 you find.

23                   ATTORNEY FALLON:   Sure.   Thank you.

24                               (Recess taken.)

25                               (Jury present.)

1 THE COURT: Mr. Gahn, you may call the  
2 State's next witness.

3 ATTORNEY GAHN: Thank you, your Honor. The  
4 State would call Dr. Jeffrey Jentzen to the stand.

5 DR. JEFFREY JENTZEN, called as a witness  
6 herein, having been first duly sworn, was  
7 examined and testified as follows:

8 THE CLERK: Please be seated. Please state  
9 your name and spell your last name for the record.

10 THE WITNESS: Dr. Jeffrey M. Jentzen, M.D.  
11 J-e-f-f-r-e-y J-e-n-t-z-e-n.

12 **DIRECT EXAMINATION**

13 BY ATTORNEY GAHN:

14 Q. Dr. Jentzen, what is your occupation?

15 A. I'm a forensic pathologist employed as a medical  
16 examiner for Milwaukee County.

17 Q. And are you a licensed physician in the State of  
18 Wisconsin?

19 A. I am.

20 Q. And how long have you been licensed to practice  
21 medicine in the State of Wisconsin?

22 A. For 20 years.

23 Q. And did you practice anywhere before coming to  
24 Wisconsin?

25 A. I was in Minnesota.

1 Q. Would you please outline, for the jurors, your  
2 educational background from residency on?

3 A. I graduated from White State Medical School in  
4 Detroit. I, then, did a four year anatomic and  
5 clinical pathology residency at Hennepin County  
6 Medical Center in Minneapolis.

7 Following that I did a year of special  
8 training in field of forensic pathologist at the  
9 Medical Examiner's Office in Minneapolis. I was  
10 the assistant medical examiner in Minneapolis for  
11 approximately six months before coming to  
12 Milwaukee in 1987 as the medical examiner.

13 Q. And what are the duties of a medical examiner?

14 A. I typically oversee the administrative functions  
15 of the office. I supervise other forensic  
16 pathologists and trainees. I direct a forensic  
17 drug laboratory, supervise other death  
18 investigators who go out to crime scenes in the  
19 Milwaukee County area. And I perform autopsies  
20 and testify in courts.

21 Q. Are you on the staff or are you affiliated with  
22 any universities or academic institutions?

23 A. Yes, I'm a professor of pathology at the Medical  
24 College of Wisconsin.

25 Q. And have you had teaching responsibility?

1 A. Yes.

2 Q. Could you explain those to the jury.

3 A. Typically, we have a forensic fellowship program  
4 so we teach and train other pathologists to  
5 become forensic pathologists. We're one of about  
6 35 training programs in the country. We also  
7 teach medical students, pathology residents, and  
8 other under graduate -- and other under graduate  
9 programs.

10 Q. And what professional societies or associations  
11 have you been active in?

12 A. I'm a member of the local State Medical Examiner  
13 and Coroner's Association. I'm also the -- on  
14 the -- member of the National Association of  
15 Medical Examiners where I'm currently the vice  
16 president of the organization. And I'm a fellow  
17 of the American Academy of Forensic Sciences.

18 Q. And do you specialize in any particular branch or  
19 field of medicine?

20 A. Yes, forensic pathology.

21 Q. And what exactly is forensic pathology?

22 A. Well, pathology in general is the study of  
23 disease and injury. And it's broken down into  
24 two rather broad categories.

25 And anatomic pathology has to do with



1       tissues; for example, skin, bone, heart muscle,  
2       etcetera. And clinical pathology deals with  
3       components of the body's liquids; for example,  
4       what's in the blood, the urine, bile, etcetera.  
5       And forensic pathology utilizes aspects of both  
6       clinical pathology and anatomic pathology as they  
7       pertain to general questions of the law.

8   Q.   And are you board certified?

9   A.   Yes.

10  Q.   And would you explain -- excuse me -- explain to  
11       the jurors the significance of being board  
12       certified?

13  A.   Board certification indicates that you have taken  
14       a prerequisite course of study, you have  
15       completed that course of study and taken a  
16       standardized examination. And I have -- I am  
17       board certified with the American Board of  
18       Pathology and Anatomical, Clinical and Forensic  
19       Pathology.

20  Q.   And are you the author of any specific papers  
21       that deal with the field of pathology?

22  A.   Yes, I have written a number of papers on various  
23       topics, in the field of forensic pathology,  
24       predominantly. I have also co-authored a book on  
25       death scene investigation and training

1 individuals to do death scene examinations,  
2 etcetera.

3 Q. Have you ever received any honors or special  
4 recognition in your field?

5 A. I -- I have been recognized in some areas, yes.

6 Q. Could you explain those to the jurors.

7 A. I have -- I have developed a child death review  
8 team in Milwaukee County for the last 15 years  
9 and we have been recognized for that.

10 We have also developed other testing  
11 methods and genetics to determine drug  
12 metabolism.

13 And I have been recognized as in the  
14 position of the vice president and president  
15 elect as I think an individual who would be a  
16 leader in the field.

17 Q. And would you look at, in front of you, I believe  
18 there is a document there which has been marked  
19 as Exhibit 432?

20 A. Yes.

21 Q. Do you see that?

22 A. Yes, this is a copy of my curriculum vitae. It's  
23 roughly around 24 pages and it documents the  
24 papers and presentations and other types of  
25 academic efforts that I have done over the last

1           20 years.

2       Q.   Now, Doctor, approximately how many autopsies  
3           have you performed in your career?

4       A.   I typically perform, personally, between 250 and  
5           300 autopsies a year. And then I supervise other  
6           pathologists and trainees and forensic  
7           pathologists in their cases. So I see a number  
8           of cases. Our office typically would perform  
9           around 1,000 or 1100 autopsies per year.

10      Q.   And how many times have you testified in court as  
11           a forensic pathologist?

12      A.   I would estimate that probably -- We get a number  
13           of subpoenas, but I would estimate that I  
14           probably testified once a week for the past 20  
15           years.

16      Q.   Could you put a number on this, please?

17      A.   Probably -- I would say probably around 500 or  
18           1,000 times.

19      Q.   Thank you. Have you ever been rejected --

20      A.   No.

21      Q.   -- as an expert. Now, how did you become  
22           involved in this case, Doctor?

23      A.   I was contacted by yourself in a telephone  
24           conversation and asked if I would assist in the  
25           examination of some bone materials.

1 Q. And how would you describe your role in this  
2 case?

3 A. I would describe myself as a -- somebody who was  
4 brought in as a consultant.

5 Q. And have you been a consultant before.

6 A. Yes.

7 Q. And what type of cases have you been a consultant  
8 on?

9 A. For example, I was recently in a child death  
10 case; I was a consultant. Other cases related to  
11 cause and manner of death; interpretation of  
12 gunshot wounds; and frequently asked by district  
13 attorneys around the State to inquire and make  
14 judgment on that. And I also consult with public  
15 defenders and other attorneys who might have  
16 questions related to injury and disease.

17 Q. How did this -- a case like this, where you are  
18 in the role of a consultant, differ from the  
19 typical case that you would receive at the  
20 Milwaukee County Medical Examiner's Office?

21 A. Well, in our routine business we would go to the  
22 scene of sudden and unexpected deaths that occur  
23 in the county. I might personally -- If there  
24 were a particular type of case, I might  
25 personally examine the scene myself and observe

1 materials at the scene, consult with law  
2 enforcement personnel at the scene.

3 And then, basically, process the body  
4 myself, examine x-rays and other materials,  
5 perform the autopsy, look at the tissues under  
6 the microscope with the assistance of a drug  
7 analyst. I might interpret drug levels in  
8 testing. And then if it were a case in Milwaukee  
9 County, I would determine the cause and manner of  
10 death and sign the death certificate.

11 In this case, my role was limited, as a  
12 consultant, to look at some material and render  
13 an opinion.

14 Q. And is that because the traditional autopsy would  
15 not be performed in a case such as this?

16 A. And, yes, that's true, plus -- well, an autopsy  
17 is basically an examination of a deceased person.  
18 In some cases, you have more material than are --  
19 and tissue than in other cases.

20 But in this case, it would be that I  
21 would not have performed the examinations myself,  
22 as far as the autopsy or dissection. And in this  
23 case my role is limited to examining small pieces  
24 of bone fragments and rendering an opinion.

25 Q. Would you explain to the jury what you did in the

1 course of your investigation in this case?

2 A. I was requested to go to Madison. And at the  
3 Dane County Coroner's Office I met with  
4 Dr. Leslie Eisenberg, the forensic  
5 anthropologist, and some attorneys and other  
6 individuals.

7 And we examined -- I was shown the  
8 material that Dr. Eisenberg had previously  
9 examined. I reviewed her report and I -- and she  
10 showed me some bone fragments. I also examined  
11 some x-rays of those bone fragments. And on the  
12 basis of those materials, I rendered an opinion.

13 Q. Did you also review various Crime Lab reports in  
14 this case?

15 A. Yes, I did. As well as the -- although I wasn't  
16 at -- I never went to the scene of this case, I  
17 was shown photographs and given laboratory  
18 information, looked at the x-rays and the  
19 reports.

20 Q. As part of your job as medical examiner, did you  
21 have experience with examining burned body parts?

22 A. Yes.

23 Q. About how many cases have you been involved in  
24 where there were burned body parts?

25 A. I would say on a routine basis we would examine

1           probably around 10 charred bodies per year, in  
2           our office.

3       Q.   And as part of your job as medical examiner, do  
4           you have experience with interpreting x-rays?

5       A.   Yes, in a general forensic sense, interpreting  
6           trauma and injury, yes.

7       Q.   How are they used in your work?

8       A.   We typically take x-rays on all pediatric cases,  
9           all gunshot wounds, stab wounds, and cases where  
10          there's some concern over identification.

11      Q.   And as part of your job as medical examiner, do  
12          you have experience with bullets and bullet  
13          fragments?

14      A.   Yes.

15      Q.   On an annual basis, approximately how many cases,  
16          involving gunshots to the skull, would you see in  
17          the Milwaukee County Medical Examiner's Office?

18      A.   I would give a rough estimate at probably around  
19          100 to 120.

20      Q.   Now, I believe you stated that you met with  
21          Dr. Eisenberg and you actually examined bone  
22          fragments in this case?

23      A.   I did.

24      Q.   Could you basically describe to the jurors, what  
25          was the condition of these bones that you

1           examined?

2       A.    I would describe the bones as fragmented and  
3           charred.  There was no intact skull fragments.  
4           And Dr. Eisenberg had separated out bone  
5           fragments from the skull and from other areas and  
6           so I was able to look at just small fragments of  
7           the bone -- bony material, as well as the x-rays  
8           of those areas.

9       Q.    In particular, did you examine certain skull  
10           fragments?

11      A.    Yes.

12      Q.    And was there anything unusual about some of  
13           those skull fragments that you observed?

14      A.    Yes, on two of the fragments, one fragment  
15           Dr. Eisenberg identified to me as the left  
16           parietal skull, or a bone from the left parietal  
17           skull.  And the parietal bone, and I'm pointing  
18           to that area just about above my ear, the  
19           parietal bone is the -- a rather large flat bone  
20           that -- there's one on the right and the left  
21           side.

22                   And Dr. Eisenberg identified a fragment  
23           of that bone and also there was a fragment that  
24           she identified as the left occipital bone.  The  
25           occipital bone is the bone that's in the back of



1           the skull, in this area. And I'm pointing to  
2           that area behind and below my left ear.

3       Q.    Was there any particular reason Dr. Eisenberg  
4           pointed these two skull fragment pieces out to  
5           you?

6       A.    Those fragments were noted, by herself and the  
7           initial examining pathologist, to have a defect  
8           called internal beveling on the fragments and so  
9           I paid particular attention to those bones;  
10          although, I did make a gross examination of  
11          multiple skull bones that she had demonstrated.

12      Q.    I'm going to put up on the screen what has  
13           previously been marked as Exhibit 390, and has  
14           been testified to by Dr. Eisenberg as a left  
15           parietal bone area; did you examine this?

16      A.    Yes.

17      Q.    And there is a laser pointer there on the desk,  
18           Doctor.

19      A.    Yes.

20      Q.    Could you point out to the jurors this beveling  
21           area and maybe amplify a bit on that for the  
22           jurors.

23      A.    In addition to the beveling area, there was a  
24           semi-circular defect that has a shape on it that  
25           I would interpret as a portion of a whole. And

1           this area, we're talking about the inside portion  
2           of the skull, so this area you can see is  
3           fragmented.

4                       And if you would imagine a stone or  
5           something striking glass and the way the glass  
6           fragments; it's the same thing for a bullet going  
7           through the skull. Typically there's an internal  
8           beveling that occurs on an entrance wound. And  
9           characteristically there's external beveling  
10          noted as the bullet exits the skull.

11                      And we use these characteristics to help  
12          identify and determine where an entrance or exit  
13          wound would be on a skull, if there were two  
14          different types of perforation. So it would be  
15          my opinion that this is consistent with a  
16          perforating entrance gunshot wound -- I'm sorry  
17          penetrating entrance gunshot wound.

18   Q.   And did you also review an x-ray that would be  
19          associated with this particular piece of skull  
20          fragment?

21   A.   Yes.

22   Q.   And I'm going to put up on the large screen what  
23          has previously been marked as Exhibit 397. And  
24          I'm going to ask you if you could again describe  
25          for the jurors what this shows?

1 A. Yes, this is the left parietal bone fragment.  
2 Again, you can see the internal beveling and the  
3 semi-circular perforation and there's also some  
4 small radio dense fragments that I'm pointing to  
5 with the pointer. I can see probably about two  
6 or three on the picture from here. And those are  
7 characteristic of metallic fragments the bullet  
8 imparts to the target as the bullet travels  
9 through bony material. It's a common finding in  
10 certain gunshot wounds to the skull and other  
11 bony fragments.

12 Q. And, again, did this support your original  
13 conclusion about this being an entrance gunshot  
14 wound?

15 A. Yes.

16 Q. I'm going to show you what has been marked as  
17 Exhibit 393, and previously testified to by  
18 Dr. Eisenberg as a bone fragment from the  
19 occipital area, and ask you if you recognize  
20 this?

21 A. Yes, that's the bone fragment located, according  
22 to Dr. Eisenberg, in the left occipital region.

23 Q. And, again, did you actually see this bone  
24 fragment when you were at Dr. Eisenberg's office?

25 A. Yes.

1 Q. And, again, would you take the pointer and just  
2 explain to the jurors, again, this beveling  
3 process that you have described about -- with the  
4 parietal?

5 A. Again, one can see the internal beveling pattern  
6 that's prominent here and there is a  
7 semi-circular appearance to the edge of the bony  
8 fragment.

9 Q. And, again, what did that indicate to you?

10 A. It was my opinion that that was consistent with a  
11 gunshot wound, entrance gunshot wound.

12 Q. And did you also review an x-ray that would be  
13 associated with this?

14 A. I did.

15 Q. And I'm going to show you what has been marked as  
16 Exhibit 398? And, again, would you take the  
17 laser point and point to any areas of particular  
18 interest for the jurors.

19 A. Yes, I'm pointing to the bony fragment on the  
20 photograph and, again, on the semi-circular area  
21 with the internal beveling. There is a rather  
22 localized area of multiple radio dense fragments.  
23 And it would be my opinion that these would be  
24 consistent with and suggestive of metallic lead  
25 type fragments that the bullet delivers to the

1 bone as it's it passing through the bone. Could  
2 I expound on that?

3 Q. Please.

4 A. The bone is actually -- the bone in the skull is  
5 actually kind of like a wafered cookie.  
6 There's -- there's a bony -- a bony surface on  
7 the outer portion, a bony surface on the inner  
8 portion and the material in the inside is rather  
9 porous. It's actually where there's bone marrow  
10 and that's how the bone grows.

11 And so we call the outer table, the  
12 outer portion of the skull. And the inner table  
13 is the inner table -- is the inner portion of the  
14 skull. And the portion between is -- is -- is  
15 rather porous. And, then, as you can see in this  
16 area, this is predominantly where these small  
17 metallic fragments are pushed into or imparted  
18 into the bony tissue.

19 Q. Based upon your examination of the skull  
20 fragments and the x-rays and all the associated  
21 records and reports that you reviewed in this  
22 case, do you have an opinion, to a reasonable  
23 degree of medical certainty, as to the manner of  
24 Teresa Halbach's death?

25 A. Yes, I do.

1 Q. And what is that opinion?

2 A. It would be my opinion that she died as a result  
3 of gunshot wounds to the head and that the manner  
4 of her death would be homicide.

5 Q. And based upon your examination of the skull  
6 fragments and x-rays and all the associated  
7 reports in this case, do you have an opinion, to  
8 a reasonable degree of medical certainty, as to  
9 the cause of Teresa Halbach's death?

10 A. Yeah, I believe that she -- her -- the cause of  
11 her death would be the gunshot wound to the head.  
12 And the manner would be the homicidal  
13 designation.

14 ATTORNEY GAHN: Thank you, Doctor. That's  
15 all I have.

16 THE COURT: Mr. Strang.

17 **CROSS-EXAMINATION**

18 BY ATTORNEY STRANG:

19 Q. Dr. Jentzen, about what -- when, I should say,  
20 was it that Mr. Gahn first called you to consult  
21 on this case?

22 A. I would say it was the early portion of November,  
23 or very late portion of October.

24 Q. 2006?

25 A. Yes.

1 Q. Just about a year after you understood that the  
2 bones were examined, or the fragments of bones  
3 were?  
4 A. I would say so, yes.  
5 Q. Give or take?  
6 A. Yeah.  
7 Q. Okay. And it was also well after you knew that  
8 Steven Avery had been charged in the homicide of  
9 Teresa Halbach?  
10 A. I had knowledge of that through the regular  
11 media, yes.  
12 Q. Sure. Widely reported case?  
13 A. Right.  
14 Q. You knew of it just from reading the paper, or  
15 looking at the internet, or whatever you do?  
16 A. Yes.  
17 Q. All right. And when you got involved, you come  
18 over to Madison, you look at some bone fragments  
19 that Dr. Eisenberg has set out for you?  
20 A. Yes. Actually we looked at all the bone  
21 fragments that she had, yeah.  
22 Q. She identified for you the parietal bone  
23 fragments?  
24 A. Correct.  
25 Q. She identified for you the occipital bone

1 fragments?

2 A. Correct.

3 Q. You were not able to identify those bones  
4 yourself?

5 A. I could probably identify them as a skull bone  
6 fragment, but it would be difficult for me to  
7 place them specifically into a left occipital and  
8 parietal bone.

9 Q. Okay.

10 A. And that would be in the area of expertise of an  
11 anthropologist.

12 Q. Reasonable in your view to rely on  
13 Dr. Eisenberg's expertise in telling you where in  
14 the skull she thought these bones came from?

15 A. Correct.

16 Q. The meeting that you described with  
17 Dr. Eisenberg, you said that there were others  
18 there, including some attorneys?

19 A. Correct.

20 Q. Just to be clear, there were not defense  
21 attorneys there?

22 A. Correct.

23 Q. The attorneys were both from the State or  
24 prosecution?

25 A. The three attorneys at the table, yes.



1 Q. Fair enough. Okay. Now, you, I gather although  
2 you were only -- well, you didn't do an autopsy  
3 here, as you said?

4 A. Correct.

5 Q. Although you were in a consultant role, you asked  
6 for the information you thought might be helpful  
7 to forming an opinion?

8 A. Yes. I examined what I would typically examine  
9 in a case where I was asked to consult, autopsy  
10 protocol laboratory tests, if they were  
11 available; scene investigation materials on a --  
12 police reports. It would be consistent with the  
13 same type of examination I would do if it was any  
14 other kind of forensic examination.

15 Q. You asked for all of the information available  
16 that you thought might help you in forming your  
17 opinions?

18 A. Specifically, within my area of expertise, yes.

19 Q. I mean, you know, your opinions are within your  
20 area of expertise?

21 A. Correct.

22 Q. So you were interested in information that might  
23 bear on the opinion you hoped to form?

24 A. Correct.

25 Q. None of the information you requested was

1 withheld from you, was it?

2 A. Not to my recollection, no.

3 Q. You got what you thought you needed?

4 A. Yes.

5 Q. Here, as in any other case involving a charge of  
6 a homicide, you understand that the personal  
7 stakes are high for the family of the victim?

8 A. Yes.

9 Q. The family of the defendant?

10 A. Yes.

11 Q. The defendant himself?

12 A. Yes.

13 Q. It's a serious case when the allegation is  
14 homicide, obviously?

15 A. Yes, as I mentioned, I probably testify on  
16 probably 50 to 100 homicide type cases a year.

17 Q. Right. And you're -- because you're a forensic  
18 pathologist, every time you testify, to some  
19 extent your own reputation is -- is at stake?

20 A. I make opinions based on the evidence that I'm  
21 given and use my background experience in  
22 training and education to make opinion  
23 statements, correct.

24 Q. Sure. And you want those opinions to be  
25 expressions that you can stand behind

1           confidently?

2   A.    To the best of my ability, yes.

3   Q.    Stake your reputation to?

4   A.    Yes.

5   Q.    And, of course, any time you testify, just as

6           today, you are testifying under oath?

7   A.    Yes.

8   Q.    You came here, as I understand it, offering two

9           specific opinions: One, the more general, would

10          be manner of death; am I correct?

11   A.    Correct.

12   Q.    And then, the second, and more specific in a

13          sense, would be cause of death?

14   A.    Correct.

15   Q.    All right. Let's start with the more general,

16          manner of death. We have heard a little bit

17          about this, but not from a pathologist or medical

18          examiner. In your work, we could say that there

19          are four determined manners of death; is that

20          right?

21   A.    Typically five.

22   Q.    All right. One would be accidental?

23   A.    Correct.

24   Q.    No special order here, but one of these is

25          accidental, another is natural?

1 A. Yes.

2 Q. A third would be suicide?

3 A. Yes.

4 Q. And fourth, homicide?

5 A. Yes. Fifth is undetermined.

6 Q. Very good. That's the one we didn't hear about

7 yesterday. Unexplained or undetermined is your

8 term of choice?

9 A. Undetermined, yes.

10 Q. All right. We'll use undetermined. So that

11 would be the fifth manner of death, which is

12 different than the other four in the sense that

13 it's -- it's what you say when you don't know?

14 A. It's what we say when we can't definitively

15 determine between, or distinguish between, for

16 example, an accident and a suicide, or a homicide

17 and an accident, yes.

18 Q. Sure. Okay. And then, if we descend to the

19 specific cause of death, there is as many as

20 there are the ways that people die in some sense.

21 I mean, this would be a gunshot in one case, it

22 would be a drug overdose in another, you would

23 try to identify the drug, if you could --

24 A. Correct.

25 Q. -- in that instance?

1 A. Correct.

2 Q. It may be just any -- any of a number of ways  
3 that can cause people to die?

4 A. Yes.

5 Q. All right. And what you do in establishing cause  
6 of death, if you can, is be as specific as  
7 possible?

8 A. Yes. And I would say, based on the materials and  
9 evidence that's present, we make an opinion on  
10 that, yes.

11 Q. All right. And by specific as possible, let's,  
12 since you are talking today about gunshots, let's  
13 use a gunshot case. When you get a full course  
14 or, you know, most of the course, you may find  
15 multiple gunshot wounds in evidence at autopsy?

16 A. Yes.

17 Q. When that happens, you make an effort, to the  
18 extent medically possible, to determine which of  
19 the gunshot wounds would have led to death?

20 A. Yes. And in some cases there are multiple wounds  
21 and others I would describe as non-lethal and  
22 others are potentially lethal.

23 Q. Sure.

24 A. Others are definitely lethal.

25 Q. Sure. So -- And, again, just by way of example,

1           if someone has five gunshot wounds, you may be  
2           able to say, for example, that two of these  
3           definitely would have been lethal; two definitely  
4           would not have been lethal in the ordinary course  
5           of medical care; and maybe the fifth, possibly  
6           lethal?

7    A.    Correct.

8    Q.    Something like that.  And just as an example.

9    A.    Yes.

10   Q.    All right.  Now, here you saw evidence of two  
11       gunshot entrance wounds?

12   A.    Yes.

13   Q.    To bones that you could identify, personally, as  
14       probably being from a human skull?

15   A.    Correct.

16   Q.    And as to which you had more specific locations  
17       from Dr. Eisenberg?

18   A.    Yes.

19   Q.    You saw no bones displaying anything you viewed  
20       as an exit wound?

21   A.    Correct.

22   Q.    A bullet leaving the body.

23   A.    Correct.

24   Q.    You, therefore, were not able to draw any  
25       conclusions about what we might call wound track?

1 A. Correct.

2 Q. The direction or angle at which a bullet

3 penetrates the body?

4 A. I would say, based on the material that I had, I

5 wasn't able to do that, correct. In some cases,

6 when you have more intact specimens, you can

7 certainly render more definitive --

8 Q. Sure?

9 A. -- opinions as to wound track, direction of fire,

10 that type thing.

11 Q. But those were not opinions you were able to form

12 or render here?

13 A. Correct.

14 Q. Now, tell the -- I mean, in your opinion, the

15 cause of death here was one or two gunshot

16 wounds?

17 A. Yes.

18 Q. To the head?

19 A. Correct.

20 Q. All right. Tell, the ladies and the gentlemen of

21 the jury all of the information you have in this

22 case that allows you to conclude that either of

23 the two bullets here first struck skull bone

24 while the victim was alive?

25 A. Okay. Could you repeat that question.

1 Q. Sure. I would like you to simply tell the ladies  
2 and gentlemen of the jury what information you  
3 have here that allows you to conclude that either  
4 of these gunshot wounds occurred while the victim  
5 was alive, that is, bullet struck bone, while  
6 that person was alive?

7 A. I don't specifically think that there's any one  
8 piece of information that would say that the  
9 person was alive, with a beating heart, or an  
10 intact brain. There's material and I was given  
11 information that there was a spent bullet  
12 recovered at the scene that contained the blood  
13 specimens of the decedent.

14 And that would be indicative to me that  
15 the bullet had passed through the brain at a  
16 time, whether it was liquified blood, or that it  
17 wasn't going through specifically bone fragments.  
18 And I would think that that would be the  
19 predominant -- that would be information that I  
20 think would be helpful in making that type of  
21 opinion.

22 Q. All right. We have certainly had testimony that  
23 Teresa Halbach's DNA was found on a bullet  
24 fragment?

25 A. Right.



1 Q. I, at least, recall no testimony that Teresa  
2 Halbach's blood was found on a bullet fragment,  
3 but the jury will decide in the end, that. And  
4 in a sense it doesn't matter.

5 Is there any way to distinguish the  
6 bullet you -- hole you saw, either one, from a  
7 gunshot that was fired into the head of an intact  
8 corpse, from a gunshot that was fired into the  
9 head of a living person?

10 A. I don't think I could make a definitive  
11 determination based on whether the individual was  
12 in a peri-mortem time frame or whether the  
13 individual was skeletonized. It would be my  
14 opinion that the wounds showed an intact, robust  
15 bone that is consistent with what I would say  
16 non-skeletonized material, meaning that these  
17 look like -- typically like an entrance wound  
18 through a bone of a person who is not a skeleton.

19 And the way -- the reason I described  
20 that and I would make that -- that clarity is  
21 that in a skeletonized bone, where you have got  
22 dried bone material, as the bullet passes through  
23 it, I would suspect that there would be a  
24 different kind of fracturing and that it wouldn't  
25 get the same type of gunshot wound, particularly

1           in the parietal bone fragment that I can see.

2           That would just be my opinion on that.

3   Q.    Okay.  So, you know, I'm trying to track you  
4           here, but as I understand, you think these bullet  
5           holes were made before the body was in a purely  
6           skeletal condition?

7   A.    Yes.

8   Q.    All right.  Let's go back to the question I  
9           asked.  The gunshot wounds to the bones you  
10          observed, would be indistinguishable if the  
11          bullet had hit the bone 30 minutes after the  
12          person had expired or 3 seconds before the person  
13          expired?

14  A.    I would agree with that, yes.

15  Q.    You would.  And if the person was 30 minutes  
16          expired when the bullet hits bone for the first  
17          time, then the gunshot did not cause the death,  
18          true?

19  A.    If the individual was dead before the gunshot --  
20          sustained the gunshot wound to the head, then the  
21          bullet would not have caused the death.

22  Q.    The bullet wounds you saw are as consistent with  
23          a bullet striking a non-skeletal body after  
24          death, as they are with a bullet striking the  
25          skull before death?

1 A. I would say so, yes.

2 Q. If death occurred before the first bullet struck  
3 bone here, then there was another cause of death  
4 entirely, as a matter of logic, wasn't there?

5 A. I would agree with that, yes.

6 Q. And as to -- In that situation, as to cause of  
7 death, you cannot give an opinion?

8 A. Are you talking about specifically in this case  
9 or are you talking about if I have got a skull  
10 with two bullet holes in it without any other  
11 information?

12 Q. Well, let's start without any other information.

13 A. I would say that the two gunshot wounds to the  
14 head are highly suspicious for a non-intentional,  
15 or the individual would not have done it  
16 themselves, because of the multiple nature of the  
17 injury.

18 Q. Sure.

19 A. And with the caveat that, you know, whether it  
20 was done before or after the person died.

21 Q. Okay. So, let's -- let's unpack that. If we  
22 have two gunshots to the head, we're highly  
23 doubtful that this is suicide?

24 A. I would say so, yes.

25 Q. Right. Most suicides --

1 A. Assuming that these were the ones that caused her  
2 death --

3 Q. Sure.

4 A. -- yes.

5 Q. Most suicides don't get off a second shot?

6 A. Correct.

7 Q. All right. You would suspect homicide?

8 A. Correct.

9 Q. But you also would have to suspect accidental  
10 death if you had gunshot holes in a skull, absent  
11 other information.

12 A. I wouldn't suspect that there would be two  
13 perforations with a accidental type -- or two  
14 entrance wounds with an accidental type death,  
15 unless it was a multiple missiles; for example,  
16 like a buck shot injury, or something along those  
17 lines.

18 Q. Sure. And in that instance it would be relevant  
19 information if the deceased was found dressed in  
20 blaze orange in shrubbery, in the middle of the  
21 woods in the third week of November. That's  
22 information that might be relevant to determining  
23 whether two gunshot wounds to the head were  
24 accidental or homicidal?

25 A. I would say that would be helpful information

1           yes.

2       Q.    Sure.  You would need more information, in any  
3           event?

4       A.    Yes.

5       Q.    By homicide, if we back up on manner of death, we  
6           didn't explain that here, but this, in your  
7           argot, homicide would mean the intentional  
8           causation of another persons death?

9       A.    That a homicide in my, would be that the death  
10          was caused by another person, correct.

11      Q.    Correct.  And it does not necessarily connote  
12          legal liability, homicide in that sense?

13      A.    I don't make those determinations.

14      Q.    Right.  So if something later proves to be, let's  
15          say a justified shooting in self defense, it's  
16          still a homicide in your world because it's one  
17          person causing the death of another?

18      A.    Correct.

19      Q.    All right.  Now, back closer, I guess to this  
20          case, you can't tell whether these bullet holes  
21          in the skull were made before death or after  
22          death.  You can -- You can tell only that they  
23          are made before the remains are skeletal?

24      A.    Correct.

25      Q.    All right.  And if the bullet wounds were made

1           after death, then necessarily something else is  
2           the cause of death?

3    A.    I would agree with that.

4    Q.    And as to what that might be, there's almost  
5           nothing you could rule out, based on the  
6           information you had?

7    A.    Based on the evidence that I have, yes.

8    Q.    So --

9    A.    There could be other -- There could be other, for  
10           example, drugs or something along those lines --

11   Q.    Sure.

12   A.    -- that I don't have access to.

13   Q.    And we could sit here all a day on that, but  
14           someone could have been strangled and then shot  
15           after -- after they --

16   A.    Certainly is possible.

17   Q.    -- expired.

18   A.    Yes.

19   Q.    Beaten, shot after they expired.

20   A.    Correct.

21   Q.    Drugs, as you say, a drug overdose, shot after  
22           they had died of the drug overdose?

23   A.    Correct.

24   Q.    And I won't go on but, in other words, there's  
25           nothing that you can say about opining on cause

1 of death, if the gunshot wounds occurred after  
2 death?

3 A. On the cause of death, yeah, I would say so.

4 Q. And then, likewise, once -- once we don't have a  
5 cause of death, it's similarly difficult to  
6 assign a manner of death?

7 A. Well, medical examiners and forensic pathologists  
8 don't make determinations on manner of death in a  
9 vacuum. We utilize, as I mentioned, evidence  
10 from the scene. And if we can go to the scene,  
11 personally, we use that information. Or if we  
12 can't, then we use photographs and other people's  
13 reports to use that information.

14 We use laboratory data. We use evidence  
15 that's recovered. And we -- we put that together  
16 and we render our opinion as to what the manner  
17 of death is. We don't do it in a vacuum with a  
18 single piece of information, in isolation from  
19 all others.

20 Q. Of course not. Of course not. And in a cause of  
21 death, for example, you cited to these jurors,  
22 your understanding that a bullet or bullet  
23 fragment was found with what you thought was  
24 blood of the victim on it. And that, initially,  
25 factored into your opinion on cause of death?

1 A. That was one of the things, yes.

2 Q. Sure. You now acknowledge, that as long as the  
3 remains weren't skeletal, blood or DNA could have  
4 been left on that bullet, passing through the  
5 skull of a dead person?

6 A. Correct.

7 Q. Likewise, with manner of death you, of course,  
8 consider all the information you have, that's  
9 almost obvious, isn't it?

10 A. Correct.

11 Q. And some of the information you have here is that  
12 the bone fragments you saw were burned?

13 A. Correct.

14 Q. Badly burned?

15 A. Correct.

16 Q. Burned to the point that they had fragmented and  
17 fallen apart?

18 A. Yes.

19 Q. That suggested to you, in your line of work, some  
20 effort to conceal the body or disguise the body?

21 A. Exactly.

22 Q. And you said to yourself, now, with that  
23 information, why would someone want to conceal  
24 the fact of death. Well, one obvious reason  
25 would be that the death itself, you know, the



1 fact that the person died, might be incriminating  
2 or awkward in some way.

3 A. That would be information that would be valuable,  
4 yes.

5 Q. Sure. And an effort to conceal death is  
6 something you see frequently, or at least not  
7 infrequently, in homicide cases?

8 A. Correct.

9 Q. It's also something you will see less frequently,  
10 but it's happened in your experience, you will  
11 see this in accidental deaths, on occasion?

12 A. I would say it would be pretty rare, yes.

13 Q. Well, let's -- let's offer some paradigms and see  
14 if you have had these kinds of cases in your  
15 experience. None of them -- And I'm not  
16 suggesting any of these paradigms bear any  
17 similarity to this case, but I want to explore  
18 the relation between an unknown cause of death  
19 and the manner of death.

20 A. Sure.

21 Q. Okay? A young teenager who's become pregnant out  
22 of wedlock, feels a great deal of shame about  
23 that, conceals the pregnancy, ultimately gives  
24 birth by herself, the baby dies for want of  
25 medical care and an effort is made to conceal the

1 newborn.

2 A. And you are giving that as an example of what --

3 Q. Concealment.

4 A. -- manner of death?

5 Q. Concealment in connection with an accidental  
6 manner of death.

7 A. I don't know if I would attribute that to an  
8 accidental manner of death; it would depend upon  
9 the totality of the information that's available.

10 Q. Sure.

11 A. Resuscitation efforts, evidence of trauma and  
12 injury on the child, age, etcetera. So, again,  
13 you can't take a specific issue and look at it in  
14 isolation. You need all the information.

15 Q. Understood. And sometimes in the sort of  
16 paradigm that I have explained, sometimes,  
17 unfortunately, the young mother will smother the  
18 infant or do something active to cause the  
19 infant's death, other times it simply the lack of  
20 medical care, the infant can't thrive or survive?

21 A. Correct.

22 Q. Dies of, in a sense, a natural cause or an  
23 accidental cause, for want of medical care at the  
24 time of birth?

25 A. Again, I don't know if we're talking about an

1           accident or ...

2       Q.    Right.

3       A.    -- or another type of injury, that you are  
4           talking about.

5       Q.    Yes.

6       A.    But I think it would be very rare to call a death  
7           like that an accident.

8       Q.    All right.

9       A.    There -- I mean, there might be other examples.

10      Q.    Another example would be, something you may have  
11           run across, two people involved in an adulterous  
12           affair or liaison and one drops dead of a heart  
13           attack. Some effort may be made under those  
14           circumstances to conceal the fact, or at least  
15           the timing or place of death.

16                   ATTORNEY GAHN:  Objection, your Honor, as  
17           to relevancy of this.

18                   THE COURT:  Mr. Strang.

19                   ATTORNEY STRANG:  I'm simply trying to  
20           establish that there are instances in which  
21           accidental death, as a manner, will be matched with  
22           concealment.

23                   THE COURT:  Is that in dispute?

24                   ATTORNEY STRANG:  Is that in dispute?

25                   THE COURT:  Do you acknowledge that such

1           circumstances can exist?

2                   THE WITNESS: I would acknowledge that  
3           there's concealment in some cases, your Honor, but  
4           examples that are given here, I don't think I would  
5           agree with. Could I expound on that?

6                   THE COURT: Go ahead.

7                   ATTORNEY STRANG: Sure.

8   A. I have never seen a individual burned in an  
9       attempt to conceal an adulterous affair and  
10      somebody who dies suddenly during an act of  
11      intercourse. On occasion, we will see  
12      individuals who die from drug overdoses that  
13      would be dumped at a different location, but it  
14      would be very uncommon or rare to see any  
15      mutilation or other types of bodily disruption to  
16      hide that kind of death.

17   Q. Okay. Fair enough.

18   A. And so the type of burning and charring that I  
19       would see in this case would be, in my opinion  
20       and my experience, most consistent with homicidal  
21       type of manners of death and extremely rare in  
22       others.

23   Q. Fair enough. Okay. You simply, you think this  
24       is most consistent, you can't rule out other  
25       possibilities?

1 A. I can't rule out other possibilities beyond --  
2 beyond the impossible, correct.

3 Q. Well, and one of the problems we have here is  
4 that we're dealing -- we're in a forensic  
5 setting, the intersection of the pathology with  
6 law, correct?

7 A. Yes.

8 Q. And you know that there is both a first degree  
9 intentional homicide charge that these folks will  
10 have to decide and a mutilating a corpse charge  
11 they will have to decide, correct?

12 A. I'm not aware of what the -- of what the legal  
13 standards are being used here as far as --

14 Q. Or what the charges are?

15 A. And what the charges are.

16 Q. You are familiar with the fact that Wisconsin has  
17 a crime for mutilating or concealing a corpse?

18 A. I am, yes.

19 Q. All right. And you are familiar that Wisconsin  
20 has a crime of first degree intentional homicide?

21 A. I am aware of that, yes.

22 Q. All right. And you are not -- Your field of  
23 expertise does not allow you to render an opinion  
24 on who fired a shot, or shots, into this skull?

25 A. No. I don't have that information, no.

1 Q. Your area of expertise does not allow you to  
2 render an opinion on who caused the burning or  
3 charring of the bone fragments you saw?

4 A. That's correct.

5 Q. And whether one or more, two, three, four,  
6 however many people are involved, in one or the  
7 other of those alleged crimes, you are not able  
8 to say?

9 A. In this case I can't, no.

10 Q. Right. And whether one person is involved in one  
11 offense, but not in the other, you are not able  
12 to say?

13 A. Correct.

14 Q. All right. So these are the reasons for my  
15 questions and I guess in the end, what you are  
16 telling us is that your opinion on manner of  
17 death rests in part on the fact that you see  
18 gunshot entrance wounds?

19 A. Correct.

20 Q. And then rests on the burning or charring that  
21 you saw here, of the skeleton?

22 A. Correct. Could I expound on that?

23 Q. Well, I don't want to -- if you have useful  
24 information --

25 A. There may be other issues.

1 Q. -- you can answer that question.

2 A. There may be other issues related to the

3 determination of manner of death, in addition to

4 simply the evidence of gunshot wounds and the

5 evidence of concealment.

6 Q. And are there other specific issues here that you

7 rely upon in offering the opinion that homicide

8 is the manner of death here?

9 A. I would have other information, yes.

10 Q. Do you have other information in this case?

11 A. Yes.

12 Q. That came from the police?

13 A. It came from the investigators, yes.

14 Q. All right. Your opinion, in any event, is that

15 homicide was the manner of death?

16 A. Correct.

17 Q. You did not view this as unexplained?

18 A. Correct.

19 Q. Notwithstanding the fact that you cannot here,

20 as I understand you, assign a cause of death

21 other than by assuming that the bullet holes were

22 made, at least one of them was made, while the

23 person was alive?

24 A. Correct.

25 Q. Just to be perfectly clear here, in the end, as

1           you sit here today, you can't tell this jury  
2           whether one or both of these gunshots were made  
3           while the person was alive?

4       A.    That would be correct, yes.

5       Q.    If they were made after death, they did not cause  
6           the death?

7       A.    That would be true, also.

8       Q.    But your opinion remains that gunshot is the  
9           cause of death?

10      A.    Correct.

11                   ATTORNEY STRANG:   That's all I have.

12                   THE COURT:   Mr.   Gahn.

13                   ATTORNEY GAHN:   Thank you, your Honor.

14                               **REDIRECT EXAMINATION**

15   BY ATTORNEY GAHN:

16   Q.    Dr. Jentzen, you talked about, as a medical  
17           examiner, not viewing one particular piece of  
18           information in a vacuum and you talked about  
19           having helpful information and looking at the  
20           totality of the circumstances; would you explain  
21           what all of that means, to the jurors, in the  
22           context of this case.

23   A.    Well, on a daily basis, the medical examiner, I  
24           mean, for example, I would investigate hundreds  
25           of deaths a year.   And that investigation entails



1       seeing information: History, medical history of  
2       the individual, habits and social habits of the  
3       individual, past medical history, and then,  
4       finally, the appearance of the body. Possibly  
5       the position of the body in some cases, at the  
6       scene, may determine whether the death is an  
7       accident or a natural death, based simply on the  
8       position and other artifacts that we would see on  
9       the body.

10               Medical examiners and coroners do this  
11       on a routine basis and looking at individual  
12       cases. And to take one specific area or one  
13       single piece of information and to say that this  
14       is an accident, or a homicide, or a undetermined  
15       case, I think is not real consistent with how  
16       medical examiners and coroners function in  
17       evaluating and investigating deaths.

18               On a daily basis, we make determinations  
19       as to cause and manner of death, based on  
20       evidence, information, scene investigation,  
21       medical history.

22   Q.   And how many years have you been in the  
23       profession as a medical examiner?

24   A.   This is my 21st year as a medical examiner for  
25       Milwaukee.

1 Q. And did you state that annually you will look at  
2 maybe 100 cases involving gunshot wounds to the  
3 skull?

4 A. Typically our office would investigate between, I  
5 would say, roughly 100 to 120 or 30 homicides and  
6 probably 100 to 130 or 40 suicides. And 60 to 70  
7 percent of those are gunshot wounds. And the  
8 vast majority of those are to the head and upper  
9 torso areas. Many times there's multiple wounds,  
10 there's different types of ammunition.

11 And in addition, that we attend lectures  
12 and other educational programs to expand our  
13 understanding of both the -- the bodies, and the  
14 projectiles and weapons, and the circumstances,  
15 and we render opinions, legally bound -- binding  
16 that determine cause and manner of death where  
17 there is a lot at stake.

18 ATTORNEY STRANG: Your Honor, I object to  
19 the reference to a legally binding determination of  
20 this witness, that's entirely out of place and the  
21 jury should be told that there is no legally binding  
22 determination by this witness.

23 ATTORNEY GAHN: I don't believe that's what  
24 the doctor was saying.

25 THE COURT: Well, I agree, I guess it

1 depends on your definition of legally binding, but  
2 to the extent, certainly, it invades the province of  
3 the jury, the Court agrees very strongly, that's the  
4 jury's determination in this case. And I will  
5 instruct the jury to that affect. I'm not sure of  
6 the context in which it was used.

7 ATTORNEY GAHN: I took it to mean that he  
8 just gives opinions in cases that other people make  
9 decisions on. That's what I took the context in.

10 THE COURT: Anything else?

11 ATTORNEY GAHN: Yes.

12 Q. (By Attorney Gahn)~ Doctor, do you believe that  
13 you had sufficient information in this case to  
14 render an opinion as to manner of death and cause  
15 of death?

16 A. Yes.

17 Q. And today you are in Calumet County testifying,  
18 right?

19 A. Correct.

20 Q. If this case had happened in Milwaukee County and  
21 with all the information that you know in this  
22 case, would you have rendered an opinion as to  
23 manner and cause of death, if this were your case  
24 in the Milwaukee County Medical Examiner's  
25 Office?

1 A. I would have rendered the same opinion.

2 Q. And is that opinion -- And, again, what is your  
3 opinion as to the manner of death of Teresa  
4 Halbach?

5 A. It would be my opinion that she died as a result  
6 of gunshot wounds to the head and the manner of  
7 her death is homicide.

8 ATTORNEY GAHN: Thank you. That's all I  
9 have.

10 THE COURT: Anything else, Mr. Strang?

11 ATTORNEY STRANG: No, thank you.

12 THE COURT: All right. The witness is  
13 excused. Members of the jury, that is all the  
14 evidence that we're going to hear today. At this  
15 time I'm going to excuse you for the rest of the  
16 day. I will let you know in a minute, because of  
17 the order of things, why. Before I do that, since  
18 we are adjourning for the weekend, at this point I  
19 want to read to you the warning that you have heard  
20 before, but it's still very important.

21 The Court's decision not to sequester  
22 the jury during the trial in this case is  
23 dependent on the jurors not listening to,  
24 watching, or reading any news accounts of the  
25 case, nor discussing it with anyone, including

1 members of your family or other jurors.

2 For these reasons it is vital that you  
3 do not listen to any conversation about this  
4 case. Do not read any newspaper or internet  
5 reports or listen to any news reports on radio or  
6 television about this case.

7 To assure that you are not exposed to  
8 any improper media coverage, the Court has  
9 ordered that, for the duration of the trial, you  
10 do not watch the local news on television, do not  
11 listen to the local news on radio, and do not  
12 read the newspaper unless you first have someone  
13 remove any articles about the case. In addition,  
14 you are not to visit any internet websites or web  
15 logs which may include any information about the  
16 case.

17 Since we are breaking for the weekend, I  
18 understand that some of you may be working at  
19 places of employment. Do not discuss the case  
20 with any employers, employees, or patrons, do not  
21 volunteer your status as a juror to anyone.

22 If anyone attempts to discuss the case  
23 with you, politely but firmly notify them that  
24 you are prohibited from discussing the case. If  
25 you're involuntarily exposed to any information

1           about the case from any source, take steps to  
2           immediately avoid any further exposure.

3                       Should you be exposed to any reports or  
4           communications from any source concerning the  
5           case during the trial, or should you become aware  
6           of anything you believe may affect your ability  
7           to serve as a juror, you should not discuss your  
8           concerns with any other jurors but should report  
9           any concerns to the jury bailiff.

10                      Now, I have also told you, previously,  
11           that occasionally during the trial there will be  
12           times when the Court has to take up matters with  
13           the attorneys, outside the presence of the jury.  
14           There is going to be one such occasion on Monday.  
15           And because it is a matter which may take the  
16           greater part of the day, rather than have you  
17           sitting around and waiting until we're finished,  
18           I'm not going to have the jury report for duty on  
19           Monday. I'm going to have you report for duty on  
20           Tuesday at the normal time.

21                      Because of the fact that you are not  
22           going to be here on Monday and it's a weekday, I  
23           want to make especially sure that you pay  
24           attention to the warning I just read, that is,  
25           make sure you don't discuss it with anyone, avoid

1 any exposure to the case.

2 But it is necessary for the Court to  
3 hear information outside your presence on Monday  
4 and for that reason you will not be reporting on  
5 Monday but reporting on Tuesday morning, at the  
6 normal time. With that, I will excuse you for  
7 the weekend at this time.

8 ATTORNEY GAHN: Your Honor, may I move in  
9 Exhibit 432, the CV of Dr. Jentzen?

10 ATTORNEY STRANG: No objection.

11 THE COURT: All right. That exhibit is  
12 admitted.

13 (Jury not present.)

14 THE COURT: You may be seated. Appears the  
15 jury is not disappointed that we'll be going home  
16 early. All right. Then, on Monday, we'll report  
17 back to this courtroom at the normal time. Correct,  
18 counsel?

19 ATTORNEY STRANG: Yes, sir.

20 THE COURT: All right. I will see you  
21 then.

22 ATTORNEY FALLON: Your Honor, could we have  
23 an accounting on the exhibits; there's a number of  
24 exhibits that may not have been moved in that we  
25 would like to move into evidence at this time. And

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then if the Clerk would check her score cards.

THE CLERK: Sure.

THE COURT: I have to address another matter at this time. Let me suggest this, why don't the attorneys meet with the clerk first thing Monday morning. If you discover there is action that needs to be taken with respect to any of the exhibits, we'll do it at that time.

ATTORNEY FALLON: All right. Thank you.

(Proceedings concluded.)



1 STATE OF WISCONSIN )  
 )ss  
2 COUNTY OF MANITOWOC )  
3

4 I, Diane Tesheneck, Official Court  
5 Reporter for Circuit Court Branch 1 and the State  
6 of Wisconsin, do hereby certify that I reported  
7 the foregoing matter and that the foregoing  
8 transcript has been carefully prepared by me with  
9 my computerized stenographic notes as taken by me  
10 in machine shorthand, and by computer-assisted  
11 transcription thereafter transcribed, and that it  
12 is a true and correct transcript of the  
13 proceedings had in said matter to the best of my  
14 knowledge and ability.

15 Dated this 21st day of November, 2007.  
16  
17  
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19 \_\_\_\_\_  
Diane Tesheneck, RPR  
20 Official Court Reporter  
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