

1 Ms. Davis, call your next witness.

2 MS. DAVIS: Your Honor, we would call David
3 Woodford to the stand.

4 THE COURT: All right. Please come forward
5 and be sworn in.

6 D A V I D W O O D F O R D
7 called by the People, sworn by the Clerk, testified
8 at 11:25 a.m.

9 DIRECT EXAMINATION

10 BY MS. DAVIS:

11 Q Mr. Woodford, with you please state your full name for
12 the jury?

13 A My name is David Woodford.

14 Q And where are you employed?

15 A I'm employed by the Michigan State Police.

16 Q And in what capacity are you employed?

17 A I am a laboratory scientist and my specialty is
18 forensic serology, which has to be with the analysis of
19 body fluid, and by body fluid I mean semen, saliva,
20 blood, perpetration, et cetera.

21 Q How long have you been employed in that capacity?

22 A Almost 14 years.

23 Q And has that always been with the Michigan State
24 Police?

25 A That's correct.

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1 Q And have you had an opportunity to do analysis on
2 seminal fluid, blood, all of those things that you just
3 mentioned on numerous occasions?

4 A Yes.

5 Q Approximately how many times have you done that?

6 A I have never counted them, those types of analysis, but
7 they would have to probably range in the thousands.

8 Q Could you tell us what your educational background is
9 that allows you to do those kinds of analysis?

10 A I have a Bachelor's of Science in biochemistry. I
11 received that from Michigan State University in 1977.
12 I also was employed by a clinical lab in Lansing for
13 approximately three years, where I worked as a bench
14 chemist and serology was also part of my duties there.
15 I also worked for a period of nine months for Michigan
16 State University doing steroid research on blood.

17 Q And you indicated that you had been working in this
18 capacity for 14 years; is that correct?

19 A With the State Police, yes.

20 Q Have you ever testified in court regarding your
21 findings on your analysis of those body fluids?

22 A Yes, I have.

23 Q And approximately how many times have you done that?

24 A I would say upwards of three hundred times.

25 Q And have you been declared an expert in forensic

1 serology on those occasions?

2 A Yes.

3 MS. DAVIS: Your Honor, at this time, I would
4 move to have Mr. Woodford qualified as an expert in
5 serology.

6 MR. MARKOWSKI: No objections, Your Honor.

7 THE COURT: All right. Let the record show
8 the Court will consider him an expert in forensic
9 serology. So ordered.

10 MS. DAVIS: Thank you, Judge.

11 THE COURT: You are welcome.

12 Q (By Ms. Davis): Mr. Woodford, did you have an occasion
13 to be involved in the investigation regarding a victim
14 by the name of Diane Klug?

15 A Yes.

16 Q And how did you become involved in that investigation? *16 line 15*

17 A May the 4th, 1994, approximately 11:40 in the morning,
18 an officer by the name of Thomas Ostin came in from
19 Clinton Township, came into our lab, and with him he
20 brought an evidence collection packet or what was
21 commonly referred to as a rape kit, an item of clothing
22 or some items of clothing and some bedding items and
23 other evidence. And his -- in discussions with him, he
24 wanted me to look for any and all trace evidence and/or
25 body fluid.

1 Q Now, when you receive evidence, is it common for you to
2 sit down and discuss the case with the evidence that
3 is present? Can you with those items?

4 A Yes, yes, it is.

5 Q And for what purpose do you do that?

6 A That just kind of gives me an idea on what of a calf
7 case it is, and what are some of the details, and what
8 they would like me to do for them, and where I'm
9 supposed to send the results to. Those kinds of areas.

10 Q And did you do that in this particular case?

11 A Yes.

12 Q You indicated to the jury that you received items that
13 are commonly referred to as a rape kit. Would you
14 explain to the jury what a rape kit is?

15 A A rape kit or an evidence collection packet, as I
16 described to it in my report, is an -- is evidence that
17 the hospital collects from a sexual assault. And in
18 that kit there are vaginal swabs and rectal swabs and
19 oral swabs. There's pulled head and pulled pubic
20 hairs. There's a blood sample and a saliva sample
21 present.

22 Q In this particular kit, there was an additional item as
23 well, was there not?

24 A Yes.

25 Q And what was that additional item?

1 A That was a piece of tissue paper bearing what I believe
2 was suspected blood. And there was also some yellow *§ line*
3 stains on that tissue paper.

4 Q And did you know where that came from or how it arrived
5 at your -- what was that about? Why was that in there?

6 A I believed it was evidence that came from the victim.
7 I believe it came from her rectum or the area around
8 the victim.

9 Q And did you have an opportunity or did you do any
10 analysis on that, that you were able to draw
11 conclusions from?

12 A Yes. I -- first of all, I visually looked at it, and I
13 did notice there was redish stains on this item. So I
14 immediately suspected that it looked like blood. And I
15 went ahead and tested it chemically, and it was blood.
16 The yellow stains were negative for semen, and it also
17 appeared to me to be some sort of petroleum jelly.

18 Q Did you do any analysis on the rest of that rape kit?

19 A Yes, I did. I looked at the vaginal and the rectal and
20 the oral swabs microscopically. I checked the vaginal
21 and the rectal and the oral smears, and those were
22 negative for semen. I did not find a semen on any of
23 the swabs, swabs or smears.

24 Q Now, based on what the information you had regarding
25 this particular case, was that surprising to you?

1 A No, not really.

2 Q And why not?

3 A Just because of the information when I talked to the
4 officer that came in with the evidence, some of the
5 details that were explained to me, I didn't really
6 expect to find anything.

7 Q And why not?

8 A He told me -- do you want me to relay what I was told,
9 that a young lady had been sexually assaulted, and that
10 oral sex was involved, and that the victim was forced
11 to drink a can of Pepsi. Therefore, I wouldn't expect
12 to find anything on the vaginal or on the rectal or on
13 the oral swabs. Basically my analysis would be
14 negative.

15 Q Now, if she had vaginal sex, there's normally a
16 pre-ejaculate, a fluid like, a lubricant fluid that
17 is omitted from the penis; is that correct?

18 A That's the very first stages of ejaculation, yes. And
19 the pre-ejaculate is to lubricate the vagina. That's
20 the idea of it.

21 Q Would you normally expect to find sperm or semen with
22 pre-ejaculate, with that lubricant?

23 A There is studies that show that sperm may be present,
24 but maybe, maybe not. And looking for that on an item
25 of bedding would be a shot in the dark, and ten chances

1 of out ten you wouldn't be able to find it.

2 Q What other kind of analysis did you do in regard to
3 this particular case?

4 A I was also submitted a multi colored robe. I was also
5 submitted some pair of panties, a silk belt, two pairs
6 of panty hose, a some piece of some nylon hose, bed
7 sheets, hairs collected off the bed sheets, cigarette
8 butts, two pillows and pillow cases, one nylon, part of
9 a telephone, the base part. And that pretty much was
10 it for that, that one instance when they brought in
11 this evidence.

12 Q And did you do any analysis on those items that you
13 received?

14 A Yes, I did.

15 Q And what kind of analysis did you do?

16 A I looked at the fitted sheet and I did find semen
17 located on the fitted sheet. In fact, there was quite
18 a bit of it. Also a pubic hair was found in a pair of
19 the panties. And I looked at a cigarette butt that
20 indicated the presence of saliva. And then that was
21 the extent of my preliminary examination of the
22 evidence that originally came in. And then I told
23 Clinton Township that if they wanted the semen analyzed
24 and the cigarette butt analyzed, that I would do so,
25 but they would have to submit known whole blood and

1 saliva samples from potential suspects.

2 Q And did they do that?

3 A Yes.

4 Q And were you able to do those an analysis?

5 A Yes, I did.

6 Q And what were your findings in regard to those
7 analysis?

8 A On July 18th of this year, they submitted two tubes of
9 whole blood from Kenneth Wyniemko. They also submitted
10 some hair samples from Kenneth Wyniemko, and a saliva
11 sample from Wyniemko. Along with two whole blood
12 samples from Shawn Klug.

13 Q And did you know who Shawn Klug was at that time?

14 A I understand that he was the husband of the victim in
15 this case.

16 Q Okay. And did you, after receiving those items, then
17 do an analysis and comparisons?

18 A Yes, I did.

19 Q And what were your findings?

20 A I found out that Diane was blood type A -- or, excuse
21 me, Diane was blood type O, Shawn was blood type A, and
22 Kenneth was blood type O. And I did not know the
23 secretor status of Diane. Now, a person can either be
24 a secretor or nonsecretor. If a person is a secretor,
25 that means in their semen, in their saliva, in their

1 vaginal secretions perspiration, whatever, that
2 contains their blood type. And if you're a nonsecretor
3 just on the other conversely that would mean that your
4 blood type would not be found in your body fluid.

5 So both Kenneth Wyniemko and Shawn Klug were secretors.
6 And Diane, I'm not sure on. So when I went ahead and
7 checked out the semen stains, I'm finding blood type A.
8 Which means that these could not have originated from
9 Ken Wyniemko because he's blood type O.

10 Q And were you able to establish whether they originated
11 from Shawn Klug?

12 A Based on blood typing, it looks like they could have
13 come from Shawn Klug.

14 Q Now, did you find it unusual that you did not -- that
15 those stains on the bedding and everything did not
16 match up with Ken Wyniemko based on the information you
17 had regarding this particular case?

18 A Based on the information I received from the officers
19 involved, this information or the data that I checked
20 from the case was consistent with what happened. If
21 it went ahead and it matched the blood type of Ken
22 Wyniemko, then the scenarios would not have matched.
23 But in this case, they did not. I did not find any
24 semen stains that would have aligned to Ken Wyniemko on
25 the bed sheets.

1 Q To find semen stains on the bed sheets, would someone
2 have had to ejaculate?

3 A Correct.

4 Q And that's why it wouldn't have been consistent; is
5 that correct?

6 A Exactly.

7 Q What other tests did you do regarding this case?

8 A I also looked at some hair samples that were submitted³
9 from Ken Wyniemko. *pg 13 line 25*

10 Q And where did those hair samples originate from, if you
11 know?

12 A They came from seven different areas. They came from
13 the head, the pubic area, the chest, the right arm, the
14 left arm, the right leg, and the left leg.

15 Q Okay. And for what purpose did you receive those hair
16 samples?

17 A The purpose was to check for hair growth and to see
18 whether or not these were newly grown hairs.

19 Q And were you able to do an analysis on those hairs and
20 draw conclusions?

21 A No.

22 Q And why were you not able to do that, Mr. Woodford?

23 A The reason why I could not do that is because hair
24 grows differently. For instance, my beard hair or my
25 facial hairs grow differently than say for some of the

1 other men on the injury. Everybody has different hair
2 growth pattern. Everybody's hair is different. And I
3 couldn't say after looking at the hair samples that
4 were submitted from Ken Wyniemko, in what stage of
5 growth they were in. It just was not possible.

6 Q What would you have to do to be able to make that
7 determination on any individual?

8 A What we would have to do is we'd have to compare
9 individual against individual. If we were going to
10 compare the hairs on Ken Wyniemko for instance, we'd
11 have to shave him and then monitor his hair growth from
12 day one. And continue that along. And I don't think
13 that would be practical in this case, but that's what
14 we would have to do to make a correct scientific
15 determination on how his hair grows.

16 Q Why would you have to monitor, why couldn't you just
17 shave Kenneth Wyniemko, wait 10 weeks, and then pull
18 his hair and analyze it and compare it to with what
19 you found 10 weeks later in this case? Why couldn't
20 you do that?

21 A There's too many chances of some sort of obstruction
22 going on where the hairs may have been altered in any
23 shape or form. Diet is a comparison. He'd have to,
24 you know, particularly eat the same kind of foods that
25 he did within, you know, if he had been shaved before,

1 the job situation, stress. There's a lot of different
2 factors that go into hair growth.

3 Q Would being a drug user be one of those factors?

4 A That could be, yes.

5 Q And you would have to control all of those to be able
6 to compare apples to apples; is that correct?

7 A The whole environmental factors have to be controlled,
8 and I don't believe that that can be done.

9 Q After 10 weeks of hair growth on someone who had a
10 rapid hair growth, could they visually appear to have
11 full hair growth, just visually?

12 A Sure.

13 Q Did you do any other kind of analysis on this
14 particular case?

15 A I looked at a cigarette butt that was found, and there
16 just was not enough saliva present on it for me to come
17 up with a blood type.

18 Q Anything else that you did?

19 A We also looked at some hair samples that were checked
20 off a sheet, and those hair samples were not similar to
21 the known head hairs of Ken Wyniemko. I believe that
22 was it.

23 Q Now, Mr. Woodford, you indicated at the onset of your
24 testimony that you were not surprised by not finding
25 any samples given the scenario that Diane Klug said

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1 happened that night. Why did you do all these analysis
2 if you didn't think you'd find anything?

3 A I always do the analysis just because sometimes during
4 a sexual assault certain things may be blocked out.
5 She may be too embarrassed to talk about one thing or
6 another. So I always do it just in case things don't
7 appear to be what they are. I just -- it's just a
8 matter of we all -- or, I always do any rape kit or any
9 evidence that comes in the lab, I always analyze it the
10 same way, no matter what happens. And in this case,
11 knowing the scenario, and knowing the way that my
12 results came out, it was interesting too.

13 Q And what do you mean by it was interesting?

14 A Being that I didn't find any semen stains in the rape
15 kit. The vaginal swabs and the rectal swabs and the
16 oral swabs all came up negative. The victim claiming
17 that she only had oral sex and it was washed down with
18 a can of Pepsi.

19 Q Let me back up for a minute. Did she claim that was
20 the only kind of sex that was done or the only time he
21 ejaculated?

22 A The only time that he ejaculated. And that's about it.

23 Q Now, you indicated that you've done thousands of
24 analyses on body fluid. How many times have you done
25 those analysis in regard to rape cases?

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1 A Ninety percent of my work at the State Police Crime Lab
2 has to do with rape cases.

3 Q And is it unusual to have no physical evidence that a
4 rape occurred when you do these analyses?

5 A No. In fact, I have a standard statement when I call
6 the officers, the detective, and tell them what the
7 results of my analysis are. That if I do happen to
8 come up with a negative result, that does not mean that
9 a rape did not occur.

10 Q And why is that?

11 A Due to the fact that the -- the suspect could have wore
12 a condom. He may not have ejaculated. There's all
13 sorts of instances that one can draw up why you didn't
14 find any semen or any other trace of evidence.

15 Q Have you done analysis in cases where you were
16 absolutely sure rapes did occur and still find no
17 evidence?

18 A Absolutely.

19 MS. DAVIS: No further questions.

20 THE COURT: Cross-examination, please.

21 MR. MARKOWSKI: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. MARKOWSKI:

24 Q Do I call you doctor?

25 A Mr. Woodford is fine.

1 Q Mr. Woodford, good morning. My name is Albert
2 Markowski.

3 A Good morning.

4 Q I represent Mr. Wyniemko.

5 Now, it is your conclusion that there is no
6 physical evidence relative to this rape incident; is
7 that correct? Well, let me rephrase that.

8 There's no physical evidence pointing towards
9 Mr. Wyniemko?

10 A I did not find any physical evidence as far as semen
11 stains that would link Kenneth Wyniemko to this.

12 Q Okay. And you said you did examine some hair that was
13 presented to you from the sheet?

14 A That's correct.

15 Q And that did not match the hair type of Mr. Wyniemko?

16 A No.

17 Q And as I recall, there was various pieces of hair or
18 evidence taken from Wyniemko that was submitted to you
19 for analysis, correct?

20 A Yes.

21 Q You indicated that there is tests that can be conducted
22 to detect body odor or sweat. Did I mishear you, your
23 statement on that?

24 A Yes. There is no -- as far as I know, other than the
25 odor would one be able to test for perspiration or body

1 odor. We do not have a test in the lab to detect
2 perpetration because basically it's water. So there's
3 really nothing to test for.

4 Q And you didn't conduct any test relative to any odors
5 that you may have found or was submitted to you?

6 A No odors were submitted to me.

7 Q Okay. How about the presence of saliva if she perhaps
8 had oral sex, penile or vaginal, would there be a test
9 to determine whether or not there was saliva in the
10 vaginal area?

11 A It all depends on -- on a number of things here.
12 Number one, the saliva has to be an adequate amount for
13 us to detect. Number two, there cannot be any cleaning
14 of any sort because that would, of course, get rid of
15 the saliva. And number three, that the victim would
16 have to get to the hospital in the correct time to --
17 for the hospital to collect the saliva. If the
18 saliva's present in the vaginal area --

19 Q Let me back you up a little bit. Correct me if I'm
20 wrong, you don't do any of these collecting duties, do
21 you?

22 A No. I'm the one --

23 Q You rely on what is supplied to you for analysis?

24 A Correct.

25 Q And you do your analysis solely based on what is

1 provided and what perhaps is told to you?

2 A Correct.

3 Q This cigarette butt that you analyzed, you said there
4 was not enough to conduct a test to determine saliva
5 type or something of that nature?

6 A Blood types.

7 Q Blood type, I'm sorry.

8 Is there any test that you could have
9 performed on that cigarette butt to determine how old
10 the stain or the presence of saliva was on that
11 cigarette butt?

12 A No.

13 Q There's no test?

14 A There's no testify to determine age of saliva.

15 Q Regarding this evidence of hair growth patterns or time
16 frames or things of that nature, you did indicate that
17 there are tests possible. However, you did not conduct
18 any of those tests, correct?

19 A There are tests, but it's so far fetched that I don't
20 know if it could be done.

21 Q My question is, you didn't do any follow-up testing
22 relative to that issue?

23 A No.

24 Q Thank you.

25 MR. MARKOWSKI: I have no further questions.

1 THE COURT: Redirect, please.

2 REDIRECT EXAMINATION

3 BY MS. DAVIS:

4 Q Mr. Woodford, you said that there was hair found and
5 those supplied to you. Were you able to do an analysis
6 of those hairs for comparisons?

7 A Yes, we did.

8 Q And were you able to -- what were the findings?

9 A They were not similar to the hairs of Kenneth Wyniemko.

10 Q They were not similar hair to the hairs of Ken
11 Wyniemko, If I -- hypothetically, if I walked up and I
12 gave you a hug, and then I gave Mr. Markowski a hug,
13 and I hugged my officer in charge, and I went home,
14 tonight could I have hair from all three of you on me
15 at that point?

16 A It is possible.

17 Q Okay.

18 A Sure.

19 Q So people that you come in contact through the day, you
20 can carry hair home on your clothes from them; is that
21 correct?

22 A Definitely. In fact, if you looked at my clothing now,
23 you may find some dog hair, you may find some -- some
24 of my children's hair. I mean, you know, my own hair.
25 There would be lots of different areas, where I'm

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1 sitting, the person that sat here last, a secondary
2 transfer, there may be some hairs that I collected from
3 him or her.

4 Q You also indicated that when you tested before that,
5 because she drank something, that you would not find
6 any ejaculate in her mouth. Would you have found
7 ejaculate in her mouth or semen in her mouth even if
8 she had not had something poured into her mouth
9 afterwards?

10 A That would be also -- I hate to use the shot in the
11 dark all the time, but it really would be in that if
12 you think about your own mouth and the saliva that goes
13 through your mouth all the time, that really would be
14 just your own body's function of digesting whatever
15 came into your mouth. If you can think about eating
16 something or whatever, it doesn't stay in your mouth
17 too long before it is gone.

18 Q So even if something had not been porn in Diane's
19 mouth, there would not be a great likelihood of finding
20 any semen or any traces of ejaculate?

21 A In my entire 14 years, I have never found semen on an
22 oral swab.

23 Q Thank you.

24 MS. DAVIS: I have no further questions, Your
25 Honor.

1 THE COURT: Recross.

2 MR. MARKOWSKI: Nothing further, Your Honor.
3 Thank you.

4 THE COURT: Thank you, very much. You may
5 step down.

6 (Witness excused at 11:50).

7 THE COURT: You have one more witness to go?

8 MS. DAVIS: Yes we do, Your Honor.

9 THE COURT: Why don't we try to start at 1:30
10 so we can hear this witness. Do you know how long
11 he'll take, approximately?

12 MS. DAVIS: I wouldn't think more than a half
13 hour, Your Honor.

14 THE COURT: Well, that's your side, right?
15 And then we'll go ahead with Mr. Wyniemko. Ladies and
16 gentlemen of the jury, we're going to recess a little
17 early. I'll ask you to be back at 1:30. Hopefully,
18 you'll be prompt so, like I said, we'll finish today.
19 The attorneys and myself will present the instructions
20 and we'll have those all set also after closing
21 arguments in this matter.

22 Please do not discuss this case with fellow
23 members of the jury. Do not discuss it with anybody
24 else, remember the only time you are to discuss it is
25 when I give you the okay when you go into the jury