

STATE OF NORTH CAROLINA
COUNTY OF ONSLOW

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
CASE NOS. 82 CRS 14528
82 CRS 14529
82 CRS 14530

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

LESLY JEAN,

Defendant.

Transcript of trial proceedings taken in the General
Court of Justice, Superior Court Division, Onslow County,
North Carolina, at the November 29, 1982, Criminal Session,
before the Honorable Herbert O. Phillips, III, Judge Presiding.

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MR. VATCHER: Members of the jury, what happened here was supposed to impanel the jury before we begin the evidence and we just failed to do so. I'm not going to go over the opening statement with you. I'll say to you, the State will prove to you beyond a reasonable doubt that the defendant, Leroy Cain, raped and assaulted Alice Cathy Wilson. And I will come to you at the end of the evidence and ask you to return a verdict of guilty against him.

CURRIE: Ladies and gentlemen, I apologize for failing to instruct the clerk to impanel you prior to the time of the making of the State's opening argument. I would like you now to hear the defendant's opening argument and as I've indicated to you, listen to it very carefully.

MR. VATCHER: Will you be making the opening comments?

MR. CURRIE: Yes, your honor.

THE COURT: All right ahead.

MR. CURRIE: Thank you, sir.

Therefore, counsel for the defense made an opening statement.

CURRIE: Are we at the place now for the State to offer its evidence?

MR. VATCHER: Yes, sir, we are.

CURRIE: Is there anything that needs to be done previous to that time?

MR. VATCHER: No, sir.

1 to follow those earlier instructions that I've given you about
2 your responsibilities as jurors. Do not begin your delibera-
3 tions at this time and the bailiff will ask you to return and
4 come back again when he asks you to return.

5 Court will take a recess for 15 minutes.

6 MR. VATCHER: Judge, may I excuse Miss Britt?

7 COURT: Yes.

8 (Thereupon, a recess was taken during which Mr. Wright,
9 counsel for the defendant, returned to the courtroom.)

10 COURT: Is the State ready with its next witness?

11 MR. VATCHER: Yes, your Honor. Yes, sir, Judge, we
12 are.

13 COURT: Are you ready to offer --

14 MR. VATCHER: Yes, sir. Detective Steve Smith.

15 DETECTIVE STEVEN KIRK SMITH, being first duly sworn, testified
16 as follows during DIRECT EXAMINATION by MR. VATCHER:

17 Q Please state your name and occupation for the Court and
18 the jury?

19 A Steven Kirk Smith. Police officer, Jacksonville Police
20 Department.

21 Q Officer Smith, how are you employed with the police
22 department, sir?

23 A I'm a detective.

24 Q And as a detective, what are your duties with the Jack-
25 sonville Police Department?

1 DR. JOSEPH CARL DEESE, being first duly sworn, testified as
2 follows during DIRECT EXAMINATION by MR. VATCHER:

3 MR. VATCHER: Shall I proceed, your Honor?

4 COURT: Yes, sir, go ahead, please.

5 MR. VATCHER: Thank you, your Honor.

6 Q Please state your name and occupation for the Court and
7 jury?

8 A My name is Joseph Carl Deese and I'm a fulltime physician
9 at Onslow Memorial.

10 Q At the present time where do you reside?

11 A I live in Sneeds Ferry.

12 Q And you're employed now as a fulltime emergency room
13 physician?

14 A That's correct.

15 Q Where did you attend college, sir?

16 A I have a Bachelor degree from Pembroke State University.

17 Q And what year did you graduate?

18 A 1974.

19 Q After graduation, would you relate to the jury the formal
20 edcation you received in the field of medicine?

21 A I attended the University of North Carolina at Chapel
22 Hill for four years receiving a doctor of medicine.

23 MS. MOORE: Your Honor, if it pleases the Court,
24 we will stipulate that this doctor is an expert in the field
25 of --

1 MR. VATCHER: Field of medicine with a specialty in
2 emergency room -- what is it, sir?

3 A Emergency medicine.

4 COURT: Is that the stipulation between you?

5 MS. MOORE: Yes, sir.

6 COURT: All right. Let that stipulation enter and
7 the Court finds him, pursuant to that stipulation, finds him
8 to be a licensed North Carolina physician with a specialty
9 in emergency medicine.

10 MR. VATCHER: Yes, sir.

11 Q Okay, Dr. Deese, what does the field of emergency medi-
12 cine generally include, sir?

13 A Emergency medicine includes basically any patient that
14 is presented to the emergency room. We treat emergencies and
15 non-emergencies. Primarily we have emphasis on life-threaten-
16 ing and non-life-threatening emergencies. They take priority.
17 And we treat non-emergencies as we can fit them in the sche-
18 dule.

19 Q Did you have occasion to be on duty the morning of the
20 21st of July in the emergency room here in Onslow County?

21 A Yes, sir, I did.

22 Q Do you recall what time you came on duty that particular
23 morning?

24 A Well, I had come on duty at 7 p.m. the day before and I
25 was finishing my duty at 7 a.m. I worked 12-hour shifts.

1 Q Did you have occasion to meet Alice Kathy Wilson on
2 July 21, 1982?

3 A Yes, I did.

4 Q Would you describe her general and emotional state at
5 the time you examined her, please?

6 A Well, when I saw her initially, she had been crying; but
7 she had calmed down, apparently, a great deal and was able to
8 cooperate and answer questions appropriately at that time.

9 Q What was the purpose of your examination of her at that
10 time, doctor?

11 A Well, I was aware that we had an alleged rape victim
12 coming in. That was the basis for the, initiating the exam.

13 I feel that when I see a patient, I have to evaluate
14 if there are any physical injuries, and that's what I proceeded
15 to do.

16 Q Before examining her, did you have an interview with
17 her, sir?

18 A Yes, I did.

19 Q What did she say to you?

20 A Well, she told me she had gone to bed that night and,
21 if I remember correctly, the window had not been latched. And
22 she was awakened from her sleep by someone entering the room
23 who attacked her at that time. I was told that she had --
24 there had been an attempt for oral, vaginal and anal inter-
25 course.

1 Q Oral, vaginal and anal intercourse?

2 A Yes.

3 Q Doctor, could you step a little closer to the microphone
4 or pull it towards you, sir?

5 A (Witness complies.)

6 Q Thank you, sir. After the interview with Mrs. Wilson
7 was completed, did you then begin an examination of her?

8 A Yes, sir, I did.

9 Q And would you relate to the jury, please, sir, what the
10 examination consisted of?

11 A Well, the examination is a combination of things; securing
12 evidence for the sexual abuse kit that we have to complete,
13 also evaluating the patient for any physical abnormalities
14 whether due to the rape or any other problems that might have
15 come up, and attempting to deliver appropriate treatment.

16 We begin by obtaining clothing to put into the bags.

17 All the other information was secured

18 Q What was the first thing you did on this particular
19 morning, doctor?

20 A Well, when I saw the victim, if I remember correctly, the
21 nurse on duty was Miss Godfrey, had already taken the clothing
22 and put the clothing in a bag and the victim had on one of
23 the hospital gowns.

24 Q At that time did you begin an examination of her?

25 A Yes, I did.

1 Q Would you relate to the jury, please, what your examina-
2 tion revealed at that time, doctor, as far as any injuries
3 that she had sustained?

4 A The most glaring thing when I first saw the patient was
5 the facial injuries that she had. Her right cheek was swollen
6 and discolored, purple; and her upper lip was also swollen.
7 There was some dried blood on the lip that appeared to be
8 cut on the inner aspect by the teeth.

9 Q Did you also conduct a pelvic examination of Mrs. Wilson,
10 doctor?

11 A Yes, I did a complete physical examination.

12 Q Would you relate what that consisted of, please?

13 A The examination starts at the head and goes to the toes.
14 The examination of the mouth, examination because of head
15 injuries to rule out any intracranial -- inside the head
16 injuries to rule that out and then chest exam and exam for any
17 tenderness; examination of arms, legs, for any other trauma
18 and after that the pelvic exam is the final part of the exam-
19 ination.

20 Q Would you relate to the jury what your pelvic examination
21 consists of and its purpose, please, doctor?

22 A The initial part of the pelvic exam in a rape victim is
23 the patient is put up with the feet in the stirrups and
24 pubic hair combings were taken.

25 After that, examination of external reproductive organs,

1 then a speculum is inserted into the vagina to determine if
2 there are any internal injuries apparent.

3 Q Was this done with Mrs. Wilson?

4 A Yes, sir.

5 Q Would you relate your finding, please, doctor?

6 A The pelvic exam, the only -- there was some tenderness
7 over the bladder, but the bladder was full and there was
8 no more tenderness than you would expect.

9 The external examination showed no signs of trauma.
10 There was no sign of bruising, no cuts.

11 The internal examination revealed a bit of past history.
12 She had just had a menstrual period. There was a tampon in
13 place, but it had been pushed far up in the vagina; and there
14 was a small amount of blood on the tampon and because that
15 was not fully absorbed -- there was no pool of secretions in
16 the vaginal vault, no blood.

17 Q How far was it pushed up?

18 A To the area just past the cervix, which is a fair amount
19 farther than you would normally insert the tampon.

20 Q Doctor, in your opinion, would this cause, be caused by
21 someone having sex while having a tampon in the vagina?

22 MS. MOORE: Objection.

23 COURT: Sustained.

24 MR. VATCHER: Your Honor, may I be heard at the
25 bench?

1 COURT: Yes, sir.

2 (Thereupon, a conference was held at the bench between
3 Court and all counsel.)

4 Q Doctor, the tampon that you described as being pushed
5 up inside Mrs. Wilson's vagina, sir, about how far was that
6 tampon up inside her vagina than where it would normally
7 be placed when she is on a normal menstrual period of her
8 cycle?

9 A The tampon itself is usually an inch or slightly less
10 than an inch up inside the vagina.

11 The vagina itself has sphincter muscles that close and
12 open the vagina and it has to be past that and that's three-
13 fourths of an inch to an inch inside.

14 Q Where was this tampon? How far from the normal resting
15 position was it?

16 A I would estimate it was an inch to inch and a half up
17 farther inside.

18 Q Do you, did you yourself retrieve the tampon, sir?

19 A Yes, I did.

20 Q Describe what it looked like?

21 A The tampon had started to expand. It had absorbed a
22 small amount of menstrual fluid. It was approximately an
23 inch and a half to two inches long and approximately an inch
24 in diameter. It had started expanding as they normally do.

25 Q Doctor, based upon your examination of Mrs. Wilson and

1 based upon your expertise in medicine and emergency medicine,
2 do you have an opinion, sir, as to whether this tampon could
3 be pushed this far up inside her vagina, could this be caused
4 in your opinion by the, someone having sexual intercourse
5 with her?

6 MS. MOORE: Objection.

7 COURT: Overruled.

8 Q Do you have an opinion, doctor?

9 A It's possible.

10 COURT: Sustained.

11 Q My question, sir, is do you have an opinion as to whether
12 it could be caused?

13 A It could be.

14 Q Yes or no? Do you have an opinion?

15 MR. WRIGHT: Objection your Honor, asked and
16 answered two times.

17 MS. MOORE: And sustained.

18 COURT: Overruled. Doctor, you need to answer the
19 question whether or not you have an opinion and that means
20 just a yes or no answer, please.

21 Q Doctor, my question is do you have an opinion as to
22 whether or not the positioning of that tampon being up inside
23 the vagina than it normally would be could have been caused
24 by someone having sexual intercourse with her?

25 A Yes.

Q What is your opinion, sir?

A Yes, it could.

Q Now, doctor, you indicated earlier to the jury that you were preparing a sexual assault kit?

A Yes.

Q What is that actually, sir?

A A sexual assault kit consists of several devices to accumulate evidence. It consists of a bag to put the clothing in of the alleged victim on arrival in the emergency room.

After doing that it contains swabs and glass slides for obtaining specimens of saliva. You put the swab under the tongue, streak a couple of slides with the saliva that you accumulate, then you seal the slides in a paper case and put the swabs in a paper box. You do the same procedure for vaginal secretions and for anal secretions and you do an anal swab --

COURT: The gentleman on the far right of the jury is having trouble hearing you, Dr. Deese. If you could help by speaking a bit louder, we'd appreciate it.

A In addition to the swabs and slides that you prepare, you have also a sheet of paper and a fine-tooth comb that you put under the buttocks of the victim and you comb the pubic hair; and after that, you put the comb on the paper, folding it up, and you put that in the bag also.

You also obtain a known blood sample from the victim,

1 and that is also labeled and put inside the kit.

2 Q Doctor, what is the purpose of completing this kit?

3 A The purpose of the kit is you obtain material from the
4 victim and in an attempt to determine if there are any
5 materials that could be collected from an assailant also,
6 such as pubic hairs from -- to determine whether they were her
7 pubic hairs or if they are hers and someone else's.

8 Also, you determine if there is any semen or any other
9 type of secretions, blood or saliva or vaginal secretions or
10 anal swabs.

11 Q What is the purpose of taking her blood, doctor?

12 A With the blood sample you check for a BDRL to test for
13 any syphilis. Also, you do blood typing or secrete typing
14 and other antibody testing that is done in the State lab in
15 Raleigh.

16 Q Was this kit complete, sir, after the examination of
17 Mrs. Wilson?

18 A Yes, it was.

19 MR. VATCHER: Your Honor, may I approach the witness,
20 please, sir?

21 COURT: Yes, sir.

22 MR. VATCHER: And I'm going to be doing so through-
23 out this.

24 COURT: Go right ahead.

25 Q I show you what's been marked for identification as

State's Exhibit 9 and ask you to examine the contents and state whether or not you can identify same?

A I can state that I did not sign the tube, but I, it appears to be Miss Godfrey's signature on it.

Q Does your name also appear on that tube, sir?

A Yes, it does.

Q What is that, sir?

A It's recovered by Dr. Deese.

Q What is that?

A It's a sample of blood.

Q And whose blood is that, sir?

A Subject, Kathy Wilson.

Q Alice Kathy Wilson, the victim that you talked to on the 21st of July?

A Yes.

Q Would you relate, sir, how that blood sample was taken?

A It was taken with the standard venipuncture technique, preparing the arm with a alcohol swab and using a syringe and what is call a Vacutainer (ph.). You insert the needle and suck the blood up in the tube.

Q After the blood was sucked into the tube, what was done with the particular tube?

A The tube is enclosed in a bag included in the remainder of the sexual assault kit.

Q What did you do with that tube after you drew the blood?

1 A After I drew the blood, I handed it to Mrs. Godfrey.

2 Q For what purpose?

3 A For the purpose of labeling and put with the remainder
4 of the kit.

5 Q Would you point out Mrs. Godfrey for the Court, please?
6 Is she in the courtroom?

7 A Yes, she is.

8 Q She is the nurse in the striped blouse?

9 A Yes.

10 Q Did you do anything at all to alter the contents of that
11 particular tube?

12 A No, I did not.

13 Q Does it appear to be in the same condition today as when
14 you received it from Alice Wilson?

15 A It appears that there's a smaller amount of blood in
16 the tube.

17 Q Other than that, does it appear to be about the same?

18 A Yes.

19 Q Did you remove the tampon from Mrs. Wilson?

20 A Yes, I did.

21 Q What was done with the tampon once you removed it?

22 A The tampon was packaged. We asked the investigating
23 officer if he wanted that included and he said yes. And we
24 included that with the remainder of the evidence.

25 Q Did you package it yourself or give it to Mrs. Godfrey?

1 A I gave it to Mrs. Godfrey.

2 Q I'm going to ask you, sir, to examine State's Exhibit
3 Number 10 and state whether or not you can identify it by
4 its contents, sir?

5 A It appears the same.

6 Q What is that, sir, Exhibit Number 10?

7 A This is a used tampon.

8 Q Is that the same tampon, sir, that you pulled from the
9 vagina of Alice Kathy Wilson on the 21st of July?

10 A It looks exactly the same.

11 Q What was done with that tampon, sir, once you retrieved
12 it from her?

13 A Initially it was placed on the counter on a dish until
14 we determined that it needed to be included with the remainder
15 of the evidence; then it was packaged.

16 Q Was it given to Nurse Godfrey at that time, sir?

17 MS. MOORE: Objection, leading.

18 COURT: Overruled.

19 A At the time that I removed it, I gave it then to Miss
20 Godfrey and it was put on the counter.

21 Q While it was in your possession, was anything done, sir,
22 to change or alter the appearance of that exhibit?

23 A No.

24 Q Does it appear today to be in substantially the same
25 condition as it was when you retrieved it from Mrs. Wilson

1 on the 21st of July?

2 A It does.

3 Q Would you repackage that, please, for me?

4 I'm going to show you now what's been marked for identi-
5 fication purposes as State's Exhibit 11. I'm going to ask
6 you to examine it and ask if you can identify it and if so,
7 how?

8 A I can't definitely identify the swabs. The only way that
9 I could attempt to identify the package would be by the
10 signature.

11 Q What is the procedure used at the hospital, sir, when
12 you package various swabs?

13 A The packaging procedure?

14 Q Yes, sir.

15 A Well, after the swab is put in whatever secretion that
16 you want, it's allowed to air dry and then after it air dries,
17 you put it inside this and it --

18 Q Is it labeled at that time, sir?

19 A Yes, sir.

20 Q And who is it labeled by?

21 A The nurse.

22 Q And do you recognize Nurse Godfrey's signature or label
23 on that particular exhibit, sir?

24 A Yes, I do.

25 Q What appears on that exhibit at this time, sir?

1 A Recovered by Dr. Deese, MD, and B. Virginia Godfrey, HN.

2 Q Is there a time on that box?

3 A 0600.

4 Q Is there a date?

5 A 9-21-82.

6 Q Nine or seven, sir?

7 MS. MOORE: Objection.

8 COURT: Overruled.

9 A It looks like nine.

10 Q And is there a subject's name on that box, though?

11 A Subject, Kathy Wilson.

12 Q Have you examined Kathy Wilson more than one time, sir?

13 A No, I have not.

14 Q When was she examined, sir?

15 A It was in September.

16 Q Was it September or July, sir?

17 A I'm sorry. I'm sorry. The date on the emergency room
18 record is 7-21. I'm sorry, I see so many patients I can't
19 remember exactly. But I have not seen her at another time
20 and apparently the date on the top, 7-29-82, is correct.

21 Q 7-29 date, sir at the top of the swabs was not written
22 by Nurse Godfrey, was it, sir?

23 A Well, July, the month is correct.

24 Q Would you examine the actual swabs themselves and state
25 whether or not they appear to be the same swabs you used

1 when you swabbed the vagina of Kathy Wilson?

2 A It's the same type of swab.

3 Q After swabbing her vagina, what was done with those par-
4 ticular swabs?

5 A They were placed on the counter along with this and
6 allowed to air dry after we swabbed the slides with that.

7 Q And who was that, was that particular box given to? Who
8 packaged the box itself?

9 A Miss Godfrey.

10 Q Nurse Godfrey?

11 A Yes.

12 Q And does your name appear on that box, sir?

13 A Yes, sir.

14 Q Was anything done to change or alter those particular
15 swabs?

16 A No.

17 Q Do they appear today to be substantially the same con-
18 dition as when you used them on Kathy Wilson on July 21, 1982?

19 A Yes.

20 Q Doctor, I'm going to show you now what's been marked for
21 identification as State's Exhibit Number 12 and ask you to
22 examine the same and state whether or not you can identify
23 it and if so, how?

24 A This is the usual type of case for the slides that we
25 use in all cases, but the only way I can identify it, the

1 signature, Miss Godfrey's signature.

2 Q What appears on the actual exhibit itself, sir?

3 A Vaginal smear. Subject is Kathy Wilson. Date,
4 7-21-82. Time, 0600. Recovered by Dr. Deese, MD, and B.
5 Virginia Godfrey, HRN.

6 Q That is written by Nurse Godfrey, sir?

7 A Yes.

8 Q What is a vaginal smear?

9 A A vaginal smear is a preparation done by using a Q-Tip
10 such as the last evidence that you brought up. It is soaking
11 in a solution of saliva, in this case it's vaginal secretions,
12 or swabbing the vaginal wall and that material is smeared out.
13 a thin layer on the glass slide.

14 Q In other words -- pardon me, strike that. What was done
15 with Exhibit Number 11 for the State with respect to that
16 vaginal smear there, sir?

17 A The vaginal swab is the first part of making a smear.
18 You use the swab to soak in the secretions and then you use
19 that to rub the plate, the glass slide with.

20 Q So, what appears on the vaginal smear that you are
21 holding in your hand, is that the smear that's from the swab
22 in your hand?

23 A Yes.

24 Q Were they then packaged by you, by Nurse Godfrey and
25 placed into the package for the State?

1 A Yes.

2 Q And the purpose of that is for putting it in the rape
3 kit, is that right?

4 A That's correct.

5 Q Was anything done to change or alter the particular
6 slide or substance contained on the slide?

7 A No.

8 Q Does the packaging appear to you to be about the same
9 condition today as it was when it was packaged by you and
10 Nurse Godfrey on the 21st of July?

11 A I think so.

12 Q Doctor, I now show you what's been marked for identifi-
13 cation as State's Exhibit Number 13 and ask you to examine this
14 exhibit and state whether or not you can identify it and if
15 so, how?

16 A I can only identify this as with the previous by the
17 signature.

18 Q Would you read what appears on Exhibit 13 for the State?

19 A Anal swabs. Date, 7-21-82. Time, 0610. Recovered by
20 Dr. Deese, MD. B. Virginia Godfrey, RN.

21 Q Is there a subject's name on that particular box, sir?

22 A Subject, Kathy Wilson.

23 Q Would you examine the contents of that exhibit and see
24 if that appears to be the same as you used to swab her rectum
25 with on the 21st of July?

1 A It's the same type of swab.

2 Q After her rectum was swabbed, what was done with the two
3 swabs used to do that?

4 A The swabs were packaged.

5 Q By whom, sir?

6 A By Miss Godfrey.

7 Q Did you give them to Miss Godfrey yourself?

8 A Yes, I did.

9 Q Did you watch her package them?

10 A I don't remember.

11 Q While the swabs were in your possession, did you do
12 anything at all to change or alter the swab itself or the
13 substance on the swab?

14 A No, I did not.

15 Q Do the swabs appear today to be in about the same con-
16 dition substantially as they were after you swabbed the rectum
17 of Kathy Wilson?

18 A There's one swab present.

19 Q One swab? Does that swab appear to be the same, sir?

20 A It does.

21 Q Doctor, I show you now what's been marked as State's
22 Exhibit 14 for identification and ask you to examine the same
23 and ask if you can identify it and if so, how?

24 A By the signature, B. Virginia Godfrey, RN and it's the
25 same type of --

1 Q What is that, sir?

2 A This is an anal smear that was taken.

3 Q Is there any writing appearing on the exhibit itself?

4 A The subject's name, Kathy Wilson. The date, 7-21-82.
5 Time, 0600. Recovered by Dr. Deese, MD, and B. Virginia
6 Godfrey, RN.

7 Q And would you relate to the jury, sir, how that particu-
8 lar smear was made by you?

9 A This smear was made in the same manner as the last, only
10 this, the swab was inserted in the anus. The slides were
11 smeared with any secretions that might have been on it and
12 air dried.

13 Q So the anal swab, Exhibit 13, were pressed against that
14 and you handed that to Mrs. Godfrey?

15 A That's correct.

16 Q Did you hand that directly to Mrs. Godfrey?

17 A I prepared the smears myself, yes.

18 Q While they were in your possession, was there anything
19 done to change or alter the contents of the slide?

20 A No

21 Q Does the packaging appear to be in the same condition
22 today as when you packaged it with Mrs. Godfrey on the 21st
23 of July?

24 A Yes, it does.

25 Q Doctor, you testified earlier about some swelling that

1 appeared over Mrs. Wilson's right cheek and I believe you
2 said the upper lip as well as some abrasions that appeared on
3 her lip and some bleeding. Do you have an opinion, sir,
4 based on your expertise and satisfactory to yourself as to
5 whether or not these could be caused by a blow to the face
6 with a closed fist? Do you have an opinion?

7 MS. MOORE: Objection.

8 COURT: Overruled.

9 A Yes.

10 Q What is your opinion, sir?

11 A I believe that having seen similar injuries in the past
12 from closed fist or whatever, similar injuries do occur in
13 that manner.

14 Q Did you prescribe any medication for Mrs. Wilson, sir,
15 after examination of her?

16 A I did not prescribe any medication to be taken at home,
17 only treatment to be given in the emergency room.

18 Q Was she given, sir, any treatment in the ER?

19 A Yes, she was.

20 Q What was she given at that time, sir?

21 A She had not had a tetanus injection since childhood and
22 was given two types of tetanus injections. Also, in many
23 areas of the country it's standard practice to give prophylac-
24 tic treatment for any possible venereal diseases, and we gave
25 her a drug called Benemid orally and two injections of peni-

1 cillin.

2 Q Do you recall how long your examination of her lasted?

3 A Approximately 30 minutes.

4 Q Have you seen her since that time before today?

5 A No, I haven't.

6 Q Thank you very much, doctor.

7 MR. VATCHER: Your Honor, that's all I have of
8 Dr. Deese.

9 COURT: Any cross examination?

10 MS. MOORE: Yes.

11 CROSS EXAMINATION by MS. MOORE:

12 Q Dr. Deese, I'd like to first ask you, you stated earlier
13 on direct examination that you combed Mrs. Wilson's pubic
14 hairs, did you not?

15 A I don't remember in this particular case if I did it or
16 if Miss Godfrey did it. It's done both ways.

17 The patient is put up in the stirrups for that to be
18 done. At times, I believe that in this case, the nurse did
19 the pubic hair combings.

20 Q Do you know whether there were any other hairs found
21 other than that of Mrs. Wilson?

22 A I do not know.

23 Q Did you find any Negroid hairs around the pubic hair area
24 of Mrs. Wilson?

25 A No, I did not.

Q Were there any Negroid hairs found at all, if you know?

A Not that I know of. I haven't seen the evidence from the combings, the actual examinations.

Q So, are you saying that you might not have actually done the combings?

A That's correct. I might not have done the combings; but the analysis of the hair samples that are present or the analysis is done in Raleigh at the State laboratory. We don't do that. We only collect the specimens.

Q Now, I believe that you could tell from collecting the difference between Mrs. Wilson's hair and that of the defendant, could you not?

A Yes.

Q Did you see any hair that resembled the defendant on Mrs. Wilson's body?

A No, I did not.

Q Now, you stated earlier also that the tampon that you examined was placed further back than ordinary?

A Yes.

Q And I believe Mr. Vatcher asked you whether or not that could have been caused by someone raping a person or having sexual intercourse?

A Yes.

Q Now, is it true or do you have an opinion that that might not have been caused by that? In other words, it being

1 pushed back by many reasons, is that not correct, for many
2 reasons?

3 A It could be pushed back for other reasons. I don't know
4 what they would be.

5 Q But it doesn't necessarily have to be because of sexual
6 intercourse, does it, or rape?

7 A No, it does not have to be.

8 Q Now, when you examined Mrs. Wilson, were you able to
9 tell whether there was any trauma in relations to having been
10 raped?

11 A I did not find any evidence of trauma other than the
12 facial trauma.

13 Q Other than the facial trauma. Now, you also testified
14 that you took two cotton swabs, you took two cotton swabs
15 and you used them on her anal area, is that not correct?

16 A That's correct.

17 Q Now, that was Exhibit Number --

18 MS. MOORE: May I approach the bench?

19 Q Is this the anal swabs, the anal swabs -- is it one or
20 two in that box, if you know?

21 A There's one in the box.

22 Q So, now, doctor, when you examined Miss Wilson, how many
23 cotton swabs did you use?

24 A I don't remember.

25 Q But there's only one in the box now?

1 A There's one in the box now.

2 Q Do you know how the swabs were altered or misplaced or
3 whatever if it was supposed to be two swabs and there's only
4 one now?

5 MR. VATCHER: Objection.

6 COURT: Sustained.

7 Q How do you normally do the examination for the anal area?

8 A Well, you inspect the area and see if there are any
9 lacerations or any bruises. Before you do a rectal exam with
10 a gloved finger and lubricant, you insert the swab. That's
11 not necessarily all the way inside the rectum itself, but
12 just into the anal sphincter, in that area.

13 Q And how many swabs do you normally use?

14 A Usually one for the rectal.

15 Q How many swabs did you use on this occasion for the
16 rectal?

17 A I don't remember exactly.

18 Q Thank you.

19 MS. MOORE: I have no further questions.

20 COURT: Any redirect?

21 MR. VATCHER: Yes, sir, your Honor.

22 REDIRECT EXAMINATION by MR. VATCHER:

23 Q Dr. Deese, you testified that there was no trauma about
24 Alice Kathy Wilson's vaginal area. What is meant by the word
25 trauma, sir?

1 A Trauma includes abrasions, reddening, swelling, lacera-
2 tions, cuts or any tears that might be present.

3 Q Doctor, in your opinion as an expert in the field of
4 medicine, do you have an opinion satisfactory to yourself as
5 to whether or not a person could engage in sexual intercourse
6 without there being any evidence of trauma? Do you have an
7 opinion, sir?

8 A Yes.

9 Q What is your opinion?

10 A It is possible.

11 Q All right, thank you very much.

12 COURT: Any other cross examination?

13 MR. WRIGHT: No, your Honor.

14 COURT: Thank you, Dr. Deese. You can have a seat.
15 Who is your next witness?

16 MR. VATCHER: Your Honor, before that, would the
17 Court excuse Dr. Deese at this time?

18 COURT: Is there any request that I hold Dr. Deese
19 here?

20 MS. MOORE: No, your Honor.

21 COURT: Thank you, doctor. I can excuse you.

22 MR. VATCHER: Mrs. Godfrey.

23 BEATRICE VIRGINIA GODFREY, being first duly sworn, testified
24 as follows during DIRECT EXAMINATION by MR. VATCHER:

25 Q If you would, please, state your name and occupation for

1 the Court and jury?

2 A My name is Beatrice Virginia Godfrey, RN, registered
3 nurse at the Onslow Memorial Hospital in the emergency room
4 at the present.

5 Q What are your duties at the present time in the emergency
6 room?

7 A I'm charge nurse at the 11 to 7 shift.

8 Q What do your duties include as a nurse in charge?

9 A We take care of all we can of the legal aspects when
10 there's any legal -- sometimes the LPN does it. She's the
11 licensed practical nurse, but it's usually the RN; and I'm
12 still in charge even if she does it. I'm in charge of any
13 of the examinations and leadership, just directing the entire --

14 Q Do you also sometimes help prepare rape kits or sexual
15 assault kits?

16 A The RN always prepared the rape kit if possible.

17 Q Do you help the doctor?

18 A Yes, we do.

19 Q Are you a registered nurse?

20 A Yes.

21 Q Would you relate to jury your medical background?

22 A Well, I've been a registered nurse for 40 years. I
23 trained in Lumberton, North Carolina.

24 MS. MOORE: Your Honor, we would stipulate that
25 Mrs. Godfrey is a registered nurse and is an expert and

1 qualified as a registered nurse to take the, to do the rape
2 kit. How about that?

3 COURT: What does the State say to that tentative
4 stipulation?

5 MR. VATCHER: Would you also agree that she is an
6 expert in the field of general medicine?

7 MS. MOORE: Can you hold one second?

8 COURT: Yes, ma'am.

9 MS. MOORE: We would stipulate that she's an expert
10 in the field of general medicine.

11 COURT: Let the record show that the stipulation is
12 that the witness tendered by the State is an expert for the
13 purpose of administering the rape kit and that she is an
14 expert in the field of general medicine. And pursuant to
15 that stipulation, the Court receives and admits her as an
16 expert in those two respects.

17 MR. VATCHER: Thank you, your Honor.

18 Q Mrs. Godfrey, in your 40 years as a nurse have you ever
19 helped prepare a rape kit before?

20 A Hundreds of times.

21 Q Would you relate to the jury what a rape kit actually is?

22 A It's a kit that comes from the State and it's sealed
23 at the time we received it. And in the kit, in a box which
24 is sealed, I'm the one that breaks the kit when we have a
25 case come in, breaks the seal open. It is -- well, there

1 have been different types, but the one we're using right now
2 is square, but we've had round ones and -- but in that kit is
3 all these, well, envelopes, bags, slides, even the swabs,
4 everything that we need to complete that kit is laid out and
5 labeled. And the patient is prepared and then the doctor
6 comes in and then we return everything after the examination
7 is completed, everything; and it also comes with a direction
8 of exactly how to carry out the entire, what the State wants
9 for their evidence.

10 Q And is the purpose of this to maintain a proper chain
11 of custody of the evidence for the person who was assaulted?

12 A Yes, it is.

13 Q I'm going to show you, Mrs. Godfrey, what's been marked
14 for identification as State's Exhibit Number 15. I'll ask
15 you to examine this exhibit, Mrs. Godfrey, and state whether
16 or not this is the type of box you're talking about when you
17 describe a rape evidence kit?

18 A Yes, it is.

19 Q Mrs. Godfrey, were you present the morning of July the
20 21st when Alice Kathy Wilson came into the emergency room to
21 be examined by Dr. Deese?

22 A Yes.

23 Q And in what capacity were you working at that time?

24 A Charge nurse.

25 Q Do you recall talking to her at that time?

1 A Yes.

2 Q Would you relate to the jury, please, the conversation
3 you had with her at that time generally?

4 A Well, of course I asked her what happened. I guess they
5 get tired of answering the same questions, but as I take --
6 I try to calm the patient as I take her into the room to
7 prepare her for the doctor; and of course there's no one
8 there except she and I in the time that I'm preparing her,
9 and I try to console her because she was very upset.

10 Q What did she say to you at this time, if you can recall?

11 A I don't really recall because we have too many. There's
12 no way to remember the exact words.

13 Q Do you recall generally what had happened to her?

14 A She just said she had been attacked in her bedroom at
15 home.

16 Q Do you recall if she was dressed in a nightgown at that
17 time?

18 A Yes.

19 Q Do you recall what color it was?

20 A No, I do not.

21 Q Did you yourself take the nightgown from her?

22 A Yes.

23 Q What was done about that nightgown?

24 A At the time I removed it, it was left in the room. And
25 we usually collect the undergarments, and she had no under-

garments on, if I remember correctly. And it was placed in the room with the patient, which no one enters that room except the doctor and the nurse while the patient is there; and later I asked the evidence officer if he wanted the gown since we did not have underclothes and he said yes. At that time it was packaged up and put into the kit.

Q Mrs. Wilson testified that she gave you a pink nightgown. What was done with the nightgown once it was given to you?

A It was placed in a paper bag that is in the kit for undergarments, which she did not have on, so it was placed in the paper bag that is labeled for undergarments and placed in the rape kit before it was sealed.

Q Before it was sealed, was it then sealed by you?

A Yes.

Q Where was it placed once it was sealed by you?

A It was delivered directly to Mr. Buchanan.

Q Was it in the rape kit itself when delivered to Mr. Buchanan?

A Yes.

Q While this particular gown was in your custody, was anything done to change or to alter the substance itself or anything about the gown?

A Not to my knowledge.

Q Was it in your continuous custody until it was turned

1 over to Detective Buchanon?

2 A Yes.

3 Q Were there any changes or alterations made to the gown
4 or substances on the gown before being handed to Detective
5 Buchanon?

6 A No.

7 Q Nurse Godfrey, I'm going to show you what's been marked
8 for identification as State's Exhibit Number 16, which contains
9 Exhibit Number 8 for the State which has been identified as
10 Alice Wilson's gown which she wore that night, and examine
11 it and state whether or not you can identify them?

12 A I cannot identify this because we have too many and
13 I can't remember. I have no way of photographically remem-
14 bering, but I presume that it is if it was found in the rape
15 kit. I'm sure that it was the same gown.

16 Q Mrs. Godfrey, the gown that was given to you from the
17 witness, Mrs. Alice Kathy Wilson, was that given directly
18 to Detective Paul Buchanon?

19 A It was placed in the rape kit and the rape kit was given
20 to him.

21 Q But the actual gown itself was given to the rape kit
22 without anyone else touching it?

23 A Right.

24 Q Was it sealed before giving it to Mr. Buchanon, do you
25 recall?

1 A Yes.

2 MS. MOORE: Objection, leading.

3 COURT: Sustained. Let me ask counsel not to lead
4 the witness.

5 MR. VATCHER: Yes, sir, your Honor.

6 Q I'm going to show you now, Nurse Godfrey, what's been
7 previously identified as State's Exhibit Number 9, identified
8 as a blood sample taken from Alice Wilson and ask you to
9 examine the same and state whether or not you can identify this
10 exhibit?

11 Does your writing appear on that exhibit?

12 A Yes, it does.

13 Q What is that exhibit?

14 A This is a blood sample, apparently in the test tube.

15 Q Whose writing is on that test tube?

16 A Mine.

17 Q What appears on that test tube, ma'am?

18 A Known blood sample of the subject, Kathy Wilson. Date,
19 7-21-82. Time, 0600. Recovered by Dr. Deese, MD, and B.
20 Godfrey, RN

21 Q Was received from you by Dr. Deese?

22 A Yes.

23 Q On the 21st of July?

24 A As far as I know.

25 MS. MOORE: Objection.

COURT: Sustained.

A It's the date I have on it.

MR. VATCHER: May I approach the bench, your Honor?

(Thereupon, a conference was held at the bench between Court and all counsel.)

COURT: Let me suggest that counsel for the State -- on the record, please. Let me suggest that counsel for the State announce the stipulation which he is asking that the counsel for the defendant consent to.

MR. VATCHER: Thank you, your Honor. My stipulation is that on the 21st day of July, 1982, Mrs. Godfrey received from Dr. Joseph Deese the following items after he had examined Alice Kathy Wilson.

Item Number -- Exhibit Number 9, identified as a blood sample taken from Alice Kathy Wilson.

Item Number 10, identified as a tampon taken from Alice Kathy Wilson -- Exhibit Number 10, I'm sorry.

Exhibit Number 11, identified as vaginal swabs taken from Alice Kathy Wilson.

Exhibit Number 12, identified as vaginal smears made with Exhibit Number 11 from the vagina of Alice Kathy Wilson.

Exhibit Number 13, identified as an anal swab taken from the rectum of Alice Kathy Wilson.

Exhibit Number 14, identified as anal smears made with the anal swabs which were used to swab the rectum of Alice

Kathy Wilson.

That these items were received by her from Dr. Deese; that while they were in her custody, they were in her sole care, custody and control; that while in her custody, nothing was done to change or to alter anything contained within those exhibits; that these exhibits appear today to be in about the same conditions as the condition they were in when received from Dr. Deese on the 21st day of July; that these exhibits were placed into State's Exhibit Number 15, identified as a rape kit box, along with the nightgown of Alice Kathy Wilson and were then turned over to Detective or Lieutenant Paul Buchanon of the Jacksonville Police Department on the 21st day of July, 1982.

MS. MOORE: Your Honor, the defendant would stipulate to the exhibits that have been -- to Mrs. Godfrey's testimony as to the exhibits that Mr. Vatcher has just spoken of.

MR. VATCHER: Do we agree to that stipulation, what I've just read into the record?

MS. MOORE: Defendant so agrees.

COURT: As I understand it then, your stipulation is that Mrs. Godfrey would testify that these things occurred, or is your stipulation that these things did in fact occur?

MR. VATCHER: That they did occur.

MS. MOORE: The stipulation would be that they did

1 in fact occur.

2 COURT: Okay. Thank you folks. You have been very
3 helpful and I appreciate that. Are there any other questions
4 now in the light of this stipulation from the State?

5 MR. VATCHER: No, sir, your Honor.

6 COURT: Is there any cross examination?

7 MS. MOORE: Yes.

8 CROSS EXAMINATION by MS. MOORE:

9 Q Mrs. Godfrey, did you have an occasion to comb the vagi-
10 nal hairs of Mrs. Wilson?

11 A I don't definitely remember whether I did hers or not.
12 Sometimes the nurse does it; sometimes the doctor does it.
13 But I can't remember on this particular case.

14 Q Did you --

15 A There's no way, as many as we do, I can remember this
16 particular case.

17 Q Did you hear the doctor's testimony earlier that he
18 couldn't remember, he thought you did it?

19 A I believe I did, but I'm not positive.

20 Q Well, did you have an occasion to find any Negroid hairs
21 on Mrs. Wilson's body at all?

22 A I saw none visible.

23 Q Do you recall how many hairs you took off of her body
24 to place in the kit?

25 A No. The kit required ten to twelve, and I don't remember

1 how many we took. I usually don't count them.

2 Q Is it generally more than necessary for the kit?

3 A Usually we just snatch out or cut off a little.

4 MS. MOORE: I have no further questions.

5 COURT: Anything else on direct?

6 MR. VATCHER: No, sir, your Honor.

7 COURT: Thank you, Mrs. Godfrey. Who is your next
8 witness?

9 MR. VATCHER: Brian Deans, your Honor.

10 COURT: Could he come up and be sworn.

11 J. BRIAN DEANS, JR., being first duly sworn, testified as
12 follows during DIRECT EXAMINATION by MR. VATCHER:

13 MR. VATCHER: Your Honor, may we excuse Mrs. Godfrey?

14 COURT: May I excuse Nurse Godfrey?

15 MS. MOORE: Yes, we have no objection.

16 COURT: Thank you, Nurse Godfrey. I can excuse you.

17 Q Please state your name and occupation for the Court?

18 A J. Brian Deans, Jr., special agent, State of North Caro-
19 lina, Special Bureau of Investigation.

20 Q And, Agent Deans, as an agent with the State Bureau of
21 Investigation, sir, what are your duties generally?

22 A I am specialized in the field of crime scene search,
23 which includes specialized interviews of witnesses regarding
24 a limited number of identification functions.

25 Q Would you relate, sir, some of your background in the

1 MR. VATCHER: Yes, sir.

2 COURT: Let your next witness come up to be sworn.

3 BEVERLY RUTH SHOLAR, being first duly sworn, testified as
4 follows during DIRECT EXAMINATION by MR. VATCHER:

5 MR. VATCHER: Your Honor, I would at this time
6 introduce the composite photo, Exhibit Number 16 for the
7 State.

8 COURT: Is it numbered 16?

9 MR. VATCHER: I'm sorry, 17, your Honor.

10 COURT: 17 is offered and admitted.

11 MR. VATCHER: At the appropriate time I would ask
12 that it be passed among the jury, maybe later on.

13 COURT: Okay, sir.

14 Q Would you please state your name and occupation?

15 A Beverly Ruth Sholar.

16 COURT: Say again, please?

17 A Beverly Ruth Sholar, medical technologist.

18 Q And were you employed -- where are you employed at the
19 present time, Mrs. Sholar?

20 A Onslow Memorial Hospital laboratory.

21 Q What are your duties there at the laboratory at the
22 hospital here in Jacksonville?

23 A I'm blood bank supervisor. I also perform phlebotomy.
24 I am the phlebotomy technician, which is drawing blood.

25 Q Are you trained in the drawing of human blood from a

1 person's arm?

2 A Yes, I am.

3 Q Would you relate to the jury your general background in
4 the field of medical technology, please?

5 A I graduated in 1973 with an associate in applied arts in
6 medical technology.

7 Q Where did you obtain that degree?

8 A Winanche (ph.) Valley College, Winanche, Washington.

9 Q Did you receive your degree at that time to be a medical
10 technologist?

11 A A medical laboratory technician. I worked in various
12 places until moving to North Carolina in 1976.

13 In 1977, I took a Health, Education and Welfare --

14 Q Are you now certified as a medical technician here in
15 Onslow?

16 A Yes, I am.

17 Q Would you relate to the jury how blood is drawn by your-
18 self?

19 A A tourniquette is applied to the arm. The arm is then
20 palpated with the fingertips. Upon finding a vein, then you
21 cleanse the area with alcohol, allow it to dry and using a
22 venipuncture apparatus, which includes a sterile needle, a
23 holder and a tube that has vacuum in it, it is a vacuum tube,
24 you enter the skin, enter into the vein, push the tube so
25 that it is punctured by the other end of the needle. The

1 person's arm?

2 A Yes, I am.

3 Q Would you relate to the jury your general background in
4 the field of medical technology, please?

5 A I graduated in 1973 with an associate in applied arts in
6 medical technology.

7 Q Where did you obtain that degree?

8 A Winanche (ph.) Valley College, Winanche, Washington.

9 Q Did you receive your degree at that time to be a medical
10 technologist?

11 A A medical laboratory technician. I worked in various
12 places until moving to North Carolina in 1976.

13 In 1977, I took a Health, Education and Welfare --

14 Q Are you now certified as a medical technician here in
15 Onslow?

16 A Yes, I am.

17 Q Would you relate to the jury how blood is drawn by your-
18 self?

19 A A tourniquette is applied to the arm. The arm is then
20 palpated with the fingertips. Upon finding a vein, then you
21 cleanse the area with alcohol, allow it to dry and using a
22 venipuncture apparatus, which includes a sterile needle, a
23 holder and a tube that has vacuum in it, it is a vacuum tube,
24 you enter the skin, enter into the vein, push the tube so
25 that it is punctured by the other end of the needle. The

1 blood is flowed into the tube, you release the tourniquette,
2 withdraw the needle and apply pressure.

3 Q Were you employed on the 3rd day of August, 1982, in
4 that capacity?

5 A Yes, sir, I was.

6 Q Did you have occasion to meet Paul Buchanon and the
7 defendant, Lesly Jean, at about 2:30, 3 o'clock that day?

8 A Yes, I did.

9 Q What was the purpose of him appearing at the hospital
10 at that time?

11 A He had come to have his blood drawn.

12 Q Did you draw blood at this time?

13 A Yes, I did.

14 Q Where did this occur?

15 A You mean the area it was?

16 Q Yes, ma'am.

17 A We have a venipuncture area with a chair provided speci-
18 fically for drawing blood.

19 Q I'm going to show you what's been marked for identification
20 as State's Exhibit Number 18, ask you to examine the same and
21 state whether or not you can identify the contents of this
22 exhibit?

23 MS. MOORE: Objection.

24 COURT: Overruled.

25 A Yes, I can.

1 Q And how can you identify the contents of that exhibit,
2 Mrs. Sholar?

3 A It is in my handwriting.

4 Q What appears on the labeling on the exhibit itself?

5 A Lesly Jean. 822393. 8-3-82. 1500. B. Sholar. There
6 are two other sets of initials also.

7 Q Does the date appear?

8 A Yes, it does.

9 Q What date is that?

10 A 8-3-82.

11 Q Is it August the 3rd, 1982?

12 A Yes.

13 Q What time?

14 A 1500 or 3 o'clock.

15 Q 3 p.m.?

16 A Um-hum.

17 Q Are those the tubes in which the blood of the defendant
18 was placed?

19 A Yes, it is.

20 Q What was done with those tubes, Mrs. Sholar, after you
21 placed the blood of the defendant in them?

22 A I labeled them and handed them directly to Paul Buchanon.

23 Q While they were in your custody, were they in your con-
24 tinuous care, custody and control? While you were holding them,
25 did anybody else have any access to them while they were in

1 your hands?

2 A No, they did not.

3 Q While you had custody of them, were they changed or
4 altered at all?

5 A No, sir.

6 Q Do they appear today to be in substantially the same
7 condition as when you drew the defendant's blood on the 3rd
8 of August, 1982?

9 A Yes, they do.

10 Q Were they sealed at all.

11 A No.

12 Q Was there a top placed on it?

13 A No.

14 Q What was placed on it to seal the tube?

15 A The tube was already sealed.

16 Q Can you identify what is inside the exhibit itself?

17 A Two samples of blood from the defendant.

18 Q Contained within a test tube, is that correct?

19 A Yes.

20 Q Was it handed by you directly to Paul Buchanon at the
21 hospital?

22 MS. MOORE: Objection.

23 COURT: Sustained.

24 Q What was done with the tube of blood after you received
25 them from the defendant?

1 A I handed them to Paul Buchanon.

2 Q Thank you very much, Mrs. Sholar.

3 COURT: Any cross examination?

4 MS. MOORE: No, your Honor.

5 COURT: Thank you, Miss Sholar.

6 MR. VATCHER: Your Honor, may we excuse Mrs. Sholar
7 at this time, sir?

8 MS. MOORE: Your Honor, we would like to ask her
9 one question.

10 COURT: Miss Sholar, come have a seat back here,
11 ma'am.

12 CROSS EXAMINATION by MR. WRIGHT:

13 Q I'm sorry, Mrs. Sholar. Mrs. Sholar, did anyone tell
14 you why you were drawing blood?

15 A No, they did not.

16 Q You knew it was for a legal purpose?

17 A Legal purpose, yeah.

18 Q Is that what you were told?

19 A I have to sign a form which was signed by the defendant
20 and Paul Buchanon which stated that he was having his blood
21 drawn.

22 Q And how did the defendant appear? Was he nervous?

23 A I cannot remember. I see a lot of patients during the
24 course of the months.

25 Q Best as you can remember, he volunteered?

1 A Yes.

2 Q Thank you.

3 MR. VATCHER: Your Honor, please, I have something
4 that needs to be showed to counsel.

5 Your Honor, I have one or two further questions.

6 REDIRECT EXAMINATION by MR. VATCHER:

7 Q Mrs. Sholar, I'm going to show you what's been marked
8 for identification as State's Exhibit Number 19 and ask you
9 to examine it and state whether or not you can identify it?

10 A Yes, I can.

11 Q What is that, Mrs. Sholar?

12 A This is a consent signed by Lesly Jean.

13 Q Consent for what, ma'am?

14 A To have his blood drawn.

15 Q Does your name also appear on that?

16 A Yes, it does.

17 Q And what is the date appearing on that consent form?

18 A August the 3rd, 1982.

19 Q Would you read that consent form to the jury, please,
20 at this time?

21 A Consent of blood, hair or saliva sample. Patient, Lesly
22 Jean. 822393. Blood only. Date and time, 8-3-82, 2:13.
23 I hereby authorize Onslow Memorial Hospital to take blood,
24 head hair, body hair and/or saliva samples from me for use
25 by the Jacksonville Police Department, if needed in this

1 investigation. I grant this consent was a voluntary action.
2 I hereby release Onslow Memorial Hospital, its employees,
3 together with all physicians in any way connected with me as
4 a patient from liability for respecting and following my
5 expressed wishes and direction.

6 Q Signed Lesly Jean?

7 A Yes.

8 Q Did you see him sign that form, ma'am, do you recall?

9 A I cannot.

10 Q Thank you very much, ma'am.

11 MR. VATCHER: That's all I have of this witness.

12 MR. WRIGHT: I have no cross examination, your

13 Honor.

14 COURT: Thank you, Miss Sholar.

15 MR. VATCHER: Would you at this time excuse Mrs.

16 Sholar?

17 COURT: Unless there's some objection.

18 MR. WRIGHT: No objection, sir.

19 COURT: I'll excuse you Mrs. Sholar. Thank you for
20 coming.

21 You folks want to take five minutes now or go on. I'll
22 review my earlier instructions to you. Don't speak about it
23 or form any opinion or talk with anyone. Go with the bailiff
24 now.

25 (Thereupon, a short recess was taken.)

1 So I wouldn't know whether it had any mention of hair or not,
2 would I?

3 MR. VATCHER: Objection.

4 COURT: Overruled.

5 A No.

6 Q Thank you.

7 COURT: Thank you Officer Shingleton, you can have
8 a seat.

9 Next witness ready now, sir?

10 MR. VATCHER: Yes, sir, she is.

11 COURT: Let your witness come up.

12 MR. VATCHER: Joan P. Medlin, your Honor.

13 JONA P. MEDLIN, being first duly sworn, testified as follows
14 during DIRECT EXAMINATION by MR. VATCHER:

15 Q Please state your name and occupation for the Court and
16 jury?

17 A Jona P. Medlin. I'm a forensic serologist employed by
18 the State Bureau of Investigation.

19 MS. MOORE: I'm sorry, I missed the first name.

20 MR. VATCHER: Could you spell that, please?

21 A J-o-n-a.

22 Q And what are your duties with the State Bureau of Investi-
23 gation, Mrs. Medlin?

24 A I'm a forensic serologist.

25 Q Would you define that for the jury?

1 A A forensic serologist is an analyst who is versed in the
2 analysis, examination of body fluids.

3 Q Could you tell us something about your educational back-
4 ground in the field of serology?

5 A I have a bachelor of science degree in the field of
6 medical technology. I have a year and a half in the Rex
7 Hospital and Duke Hospital for that period of time.

8 Q When you were employed there, what were your duties at
9 the Rex and Duke Hospitals?

10 A I was employed in the hematology section.

11 Q What did you do?

12 A Hematology is a study of blood cells and you do different
13 analyses with the blood.

14 Q You also are trained in the use of the microscope?

15 A Yes. I received that at UNC when I did my med tech clinical.
16

17 Q After leaving, where did you go?

18 A I was employed by the North Carolina Department of Public
19 Health.

20 Q What were your duties?

21 A I worked for two years as a cytotechnician. I worked
22 in hemoglobin on things for three years and at the end of that
23 three years I was put in charge of the blood grouping and
24 typing for prenatal screening.

25 Q Would you relate to the jury what you did in those parti-

1 cular fields?

2 A I worked with blood again. We screened primarily for any
3 abnormal hemoglobin, specifically, sickle cell anemia. The
4 prenatal blood screening was for any antibody that would cause
5 problems in pregnancy.

6 Q After that, where you go next?

7 A To the State Bureau of Investigation.

8 Q Since when?

9 A Since 1980.

10 Q Do you have any specialized training in the identification
11 of unknown substances?

12 A Yes. I received a year and a half training with the
13 Bureau.

14 Q What did that training consist of basically?

15 A Just analyzing unknowns and analyzing case work.

16 Q Who do you work with up there?

17 A David Hedgecock is my supervisor.

18 Q Also a forensic serologist?

19 A Yes.

20 Q Have you ever been qualified in a court of law as a
21 forensic serologist?

22 A Yes, I have.

23 MR. VATCHER: Your Honor, at this time we tender to
24 the Court Mrs. Medlin as an expert in the field of forensic
25 serology.

1 COURT: Any questions from the defendant?

2 MS. MOORE: No, your Honor.

3 COURT: Let the record show that the Court accepts
4 and receives the witness Jona Medlin and admits her in the,
5 as an expert in the field of forensic serology.

6 Q Mrs. Medlin, did you have occasion to receive a kit
7 from Detective Paul Buchanan of the Jacksonville Police
8 Department sometime in August?

9 A I received a SBI rape kit from him July 29, 1982.

10 Q Did you also receive another kit from him on the 5th of
11 August, 1982?

12 A Yes, I did.

13 Q What was contained in the SBI rape kit that Mr Buchanan
14 sent to you?

15 A On July 29?

16 Q Yes.

17 A A liquid blood sample. These items were identified as
18 collected and/or prepared from the victim Alice Kathy Wilson.
19 A liquid sample, two smear slides identified as vaginal smears,
20 two cotton swabs identified as vaginal swabs, two cotton swabs
21 identified as saliva samples, a pink nightgown, hair specimens
22 from the pubic hair, known head hair and pubic hair combings.
23 Two smeared slides identified as anal smears and two cotton
24 swabs and a tampon.

25 Q Would you explain to the jury Mrs. Medlin the ABO blood

1 grouping system, please? Do you have a chart that would assist
2 you in that?

3 A May I use my chart to illustrate my testimony?

4 Q I show you a copy, which has been marked as Exhibit 24
5 for the State, and ask you if you can identify what this is?

6 A This is a semen typing chart that we've made up. This
7 is a semen typing chart that we have made up in the serology
8 section of the SRI to help illustrate our testimony for people
9 that aren't familiar with the ABO blood system.

10 Q And would this be helpful for you to illustrate your
11 testimony today?

12 A Yes, it would.

13 MR. VATCHER: We would offer State's Exhibit 24 for
14 the limited purpose of helping her illustrate her testimony.

15 COURT: Admitted for that limited purpose only.

16 MR. VATCHER: Thank you, your Honor.

17 Q Mrs. Medlin, if you would, please explain to the jury the
18 ABO blood grouping system?

19 A As you know, all of us have a blood type that is inherited
20 from our parents. That blood type remains with us throughout
21 our lifetime and cannot change.

22 With this ABO type, you are either a Type B, a Type O,
23 which is the most prevalent, or a Type AB which is the least
24 prevalent, or a Type A.

25 Q Do you know what percentage of the population have each?

A Yes. Type O is 45 percent. Type A is 40 percent and Type B is 10 percent and Type AB is whatever is left over, about 5, I think.

These ABO groupings are found in some individuals in their other body fluids. Those people are called secretors. They have the ability to secrete their ABO type into their saliva, into their semen or into the vaginal fluid.

Q By this are you saying you can determine a secretor's blood type by his body fluids?

A That's correct. 20 percent of the population are non-secretors. That is they do not exhibit their ABO type in their body fluids; and if you try to test their body fluids for this, you will get no reaction on the tests.

14 Q And 80 percent are secretors?

15 A That's correct.

16 Q What percent of the population are Type A secretors?

17 A Type A secretors, 30 percent of the population.

18 Q What percentage are Type O secretors?

19 A It would be 45 times 80.

20 Q So, about 36 percent or so?

21 A I use a calculator generally and I don't have it with me.

22 Q What about Type A?

23 A It would be 3.2.

24 Q And Type B would be the remainder?

25 A That's right.

1 Q I'm going to show you now what's been previously identi-
2 fied as the nightgown worn by Alice Kathy Wilson, which was
3 submitted to you in a rape kit and ask you to examine the
4 same and state whether or not you can identify this exhibit,
5 Mrs. Medlin?

6 A Yes, I can identify it. It has my case number, the item
7 number. I signed it with my initials and the date I examined
8 it.

9 Q Was a gown sent to you in a rape kit at any time by
10 Paul Buchanon?

11 A Yes, it was.

12 Q What was done with that gown once you received it from
13 him?

14 A Initially, when I began to examine an article of clothing,
15 I tear off a piece of clean, brown wrapping paper and spread
16 out on a clean surface table. That is in order to collect
17 any hairs that may be present that fall out so I can envelope
18 those for later identification. Then I spread the article
19 flat on the table and look for any stains that are present on
20 the article.

21 If I see any stains, I mark those either with a number
22 or circle them with a permanent ink pen.

23 Q Did you notice any stains on that pink nightgown?

24 A Yes, there were several.

25 Q Where were those stains located on the nightgown?

1 A There were several both on the front and back portion
2 of the nightgown.

3 Q Did you examine those?

4 A Yes, I did.

5 Q How?

6 A First I did a visual examination and the stains showed
7 visually; so I cut a small portion of the stains and did a
8 chemical test presumptive for the semen.

9 Q What type of chemical test?

10 A An acid phosphate test.

11 Q What does this test do for you?

12 A If semen is present, it gives a visual purple color.

13 Q After doing this test on the parts of the gown you
14 viewed visually, what was the results?

15 A There were several areas that tested positive for semen.

16 Q Did you also examine the gown microscopically?

17 A I snipped off the piece of material close to where I got
18 a positive test and made a stained slide and observed the
19 presence of spermatazoa on the slide.

20 Q Were you able to determine the type blood of the donor
21 of that semen; if so, how?

22 A Yes. I also took small cuttings in areas that were
23 positive for the presence of semen, did an inhibition and
24 occlusion test, which gave me the individual's ABO type, and the
25 results from it were an A secretor.

1 Q Which means the donor of the semen or sperm is a Type A
2 secretor, is that correct?

3 A That's right.

4 Q What was your next test that you ran at that time,
5 Mrs. Medlin? Did you also examine the vaginal and anal swabs
6 that were given to you as well as the vaginal and anal smears?

7 A Yes. I ran acid phosphatase tests on both the anal and
8 vaginal swabs.

9 Q What was the reaction to that?

10 A They both turned purple also.

11 Q I'm going to show you what's been identified previously
12 as Exhibit Number 11 for the State, a vaginal swab taken from,
13 on the 21st of July, 1982, and ask you to examine it and state
14 whether or not you can identify what this is?

15 A Yes. This is a vaginal swab box that I received in the
16 rape kit.

17 Q Did you examine that to determine the presence of sperma-
18 tozoa or the presence of semen?

19 A I ran it for the presence of semen.

20 Q What was the reaction?

21 A It was positive.

22 Q Were any further tests done with that particular swab?

23 A Yes. I also did some -- no, I'm sorry, not with the
24 vaginal swabs. It had blood present on them, and we do not
25 try to group for semen if there's blood present because the

1 blood will mask any semen present.

2 Q Will the fact that Mrs. Wilson was on her menstrual cycle
3 have any effect on that?

4 A Yes.

5 Q Did you also examine an anal swab?

6 A Yes, I did.

7 Q I show you Exhibit Number 8 and ask you if you can identi-
8 fy it?

9 A This is the anal swab box that was present in the kit also.

10 Q Did you perform a test on that?

11 A Yes, an acid phosphatase on the swab. It was positive
12 also.

13 Q Were any further tests done on that particular swab?

14 A Yes, I did blood grouping analysis on it also.

15 Q What did that reveal, ma'am?

16 A That semen was present on it. It gave blood groupings
17 for an A secretor.

18 Q A Type A secretor?

19 A That's correct.

20 Q The donor had Type A secretor blood, is that correct?

21 A In this particular case, yes, sir.

22 Q I'm going to show you now what's been previously identi-
23 fied as Exhibit Number 12 for the State, identified as a
24 vaginal smear prepared from the vaginal swab taken from Kathy
25 Wilson, ask you to examine it and state whether or not you

1 can identify what this is?

2 A This is the cardboard mailer that contains the vaginal
3 smears, has the case number, my initials and date.

4 Q What was done with the vaginal smear that you examined?

5 A I heat fixed them, stained them and observed them under
6 the microscope.

7 Q What did your examination reveal?

8 A The presence of spermatozoa.

9 Q Were any further tests done with that particular smear?

10 A No.

11 Q I'm going to show you now what's been previously identi-
12 fied as Exhibit Number 14 for the State, identified as an
13 anal smear made with the anal swab taken from Kathy Wilson on
14 the 21st of July. I'll ask you to examine it and state
15 whether or not you can identify what this is?

16 A This is the slide mailer that contains the anal smears
17 that were present in the kit also.

18 Q What tests were run on that particular slide, ma'am?

19 A They were also heat fixed, stained and observed micro-
20 scopically. Spermatozoa was present.

21 Q Were any other tests run on that particular smear?

22 A No.

23 Q I'm going to show you now what's been previously identi-
24 fied as Exhibit Number 9 for the State, blood taken from Kathy
25 Wilson on the 21st of July and ask you to examine it and state

1 whether or not you can identify what it is?

2 A This is the liquid blood sample that was identified in
3 the kit as coming from the victim.

4 Q What was done with that particular blood?

5 A I did blood grouping analysis on it.

6 Q Were you able to determine what type blood Kathy Wilson
7 has?

8 A Kathy has ABO Type O. She is a secretor. She is PGM,
9 Type 1.

10 Q You need to relate what you mean by that?

11 A Phosoglucomutase. It's an enzyme grouping that we run.
12 We are able to run about 13 enzyme groupings on blood and
13 that's just one of the groups that we do.

14 Q I'm going to show you now what's been previously identi-
15 fied as Exhibit 18 for the State, blood taken from Lesly Jean,
16 and ask you if would examine this and state whether or not
17 you can identify what this is?

18 A These are the liquid blood samples that I received. They
19 were identified as being taken from the defendant, Lesly Jean.

20 Q What was done with those particular blood samples?

21 A These blood samples were also ABO grouped and typed.

22 Q Were you able to determine what type blood Lesly Jean has?

23 A He's a Type A secretor. PGM Type 1.

24 Q Is there any significance to the fact that Lesly Jean and
25 Mrs. Wilson have different blood types?

1 A Yes.

2 Q What is that significance, ma'am?

3 A The Type O that the victim has will not mask any of the
4 other blood groupings that might be present. The semen that
5 I found on the gown and on the anal swabs was group Type A
6 secretor. She is a Type O. There is no way that she could
7 have contributed the A that was present on those items.

8 Q Is the blood type of the donor of the seminal fluid and
9 spermatozoa, is his blood type consistent with that of Lesly
10 Jean?

11 A Yes. I found Type A on those items and the defendant is
12 Type A also.

13 Q And about what percent of the population would have this
14 particular blood type, Type A secretor?

15 A 32 percent.

16 Q Of the male population?

17 A Right.

18 Q Did you also receive in the rape kit a tampon from Mr.
19 Buchanan?

20 A Yes, I did.

21 Q I ask you to examine Exhibit Number 10 and state whether
22 or not you can identify what this is, Mrs. Medlin?

23 A This is the tampon that I received that was also in the
24 rape kit.

25 Q Mrs. Medlin, did you mark all those exhibits yourself?

1 A Yes, I did.

2 Q How were they marked by you?

3 A They had my case number, my initials, the item that I
4 assigned to that particular article and the date.

5 Q Did they all have your initials on them and the date and
6 the particular case number?

7 A Yes.

8 Q And while these items were in your possession, were they
9 in your continuous care, custody and control?

10 A Yes, sir.

11 Q Other than analysis that you performed on these items,
12 have they been changed or altered in any other way?

13 A except for what I consumed in analysis.

14 Q You did consume, I believe, one swab in analysis?

15 A Probably portions of the other.

16 Q Have they been -- strike that, please. Do they appear
17 today to be in substantially the same condition they were
18 when you examined them on the date you examined them, the
19 18th of August, 1982?

20 A Yes, they do.

21 Q Now, after examining these particular items, what was done
22 with these items?

23 A They were packaged and returned to Lieutenant Buchanon.

24 Q Was this package sealed?

25 A Yes, it was.

1 Q How were they sent back?

2 A By United Parcel Service.

3 Q Mrs. Medlin, I show you what's been identified as Exhibit
4 Number 15, a rape evidence kit, and ask you to examine it and
5 state whether or not you can identify what this is?

6 A This is the rape evidence kit that I received on July 29.
7 It has my case number.

8 Q And contained in that were the items from Mrs. Wilson,
9 is that correct?

10 A That's right.

11 Q I ask you to examine Exhibit Number 20 for the State and
12 ask you if you can identify what that is?

13 A This the the box that contained the articles that were
14 collected from the defendant, and I received them on August
15 the 5th.

16 Q And these were mailed back to Lieutenant Buchanan after
17 being examined by you?

18 A Yes, sir.

19 MR. VATCHER: Your Honor, at this time the State
20 would offer into evidence the following items. The nightgown,
21 your Honor, Exhibit Number 8. Exhibit Number 9, the blood
22 sample of Kathy Wilson.

23 Your Honor, Exhibit 8 is contained within Exhibit 16, the
24 bag, so I offer both those exhibits.

25 MS. MOORE: Excuse me. I didn't catch that.

1 MR. VATCHER: The bag, it's contained within the
2 bag.

3 Your Honor, Exhibit Number 9, the blood sample of Alice
4 Kathy Wilson. Exhibit Number 10, the tampon, your Honor, of
5 Alice Kathy Wilson. Exhibit Number 11, the vaginal swabs
6 taken from Alice Kathy Wilson. Exhibit Number 12, the vaginal
7 smears. Exhibit Number 13, the anal swab. Exhibit Number 14,
8 the anal smear. Exhibit Number 15, the rape evidence kit.
9 Exhibit Number 20, the box that the defendant's blood sample
10 was contained in and also Exhibit Number 18, the defendant's
11 blood, the blood of Lesly Jean.

12 COURT: State's Numbers 8, 9, 10, 11, 12, 13, 14,
13 15, 16, 18, and 20 are offered and admitted.

14 MS. MOORE: Your Honor, I would like to note for the
15 record an objection.

16 COURT: Would you like to be heard on that, ma'am?

17 MS. MOORE: Yes, sir.

18 COURT: Come up, please.

19 (Thereupon, a conference was held at the bench between
20 Court and all counsel.)

21 MS. MOORE: I am objecting on the grounds that the
22 -- that anything taken from Lesly Jean was not properly taken
23 because he was not advised according to Miranda warnings.

24 COURT: Objection overruled. And the record would
25 again show that State's Numbers 8 through 16, 18 and 20 are

1 offered and admitted.

2 MR. VATCHER: Thank you, your Honor. Your Honor,
3 that is all I have of Mrs. Medlin at this time.

4 COURT: Any cross examination of Mrs. Medlin?

5 MS. MOORE: Yes, your Honor.

6 COURT: Go ahead then, please.

7 CROSS EXAMINATION by MS. MOORE:

8 Q Mrs. Medlin, let me start with the -- let's begin by
9 discussing the blood groupings again.

10 According to your information, you state that out of the
11 total population, how many people, what percentage is Group A?

12 A Group A is 40 percent of the general United States popu-
13 lation.

14 Q So that means that 40 percent of everybody in the United
15 States has a grouping of blood Type A?

16 A That's right.

17 Q So, now, let's say out of 12 people, how many would have
18 a blood grouping of Type A?

19 A You would multiply 12 times point 4.

20 Q Which would come to?

21 A I did not bring a calculator and I am not prepared to do
22 statistics.

23 Q So, 40 percent of the population has a blood grouping of
24 Type A?

25 A (Witness nods head.)

1 Q Now, you state that you tested Lesly Jean's blood and he
2 was Type A?

3 A That's correct.

4 Q And you also determined that the person that the blood
5 that was or on the gown that you tested for sperm and blood
6 or whatever, that person had a blood type of A?

7 A That's correct.

8 Q Now, that could be anyone out of the whole population;
9 that could be 40 percent of the people in the United States?

10 A No, because you have to take into account that of the
11 secretors status which was there also.

12 Q And that would bring it down to 32 percent?

13 A Yes, ma'am.

14 Q So, 32 percent of the population are secretors?

15 A No, 80 percent of the population are secretors.

16 Q Group A secretors?

17 A 32 percent of A secretors, that's correct.

18 Q So, that means that you cannot positively say that that
19 blood that, what you found on the victim's gown belonged to
20 Lesly Jean, can you?

21 A No, ma'am.

22 Q As a matter of fact, it's far remote that it -- well, you
23 know if it's 32 percent that could have been there it could
24 have been any of those 32 percent or any person within that
25 32 percent, is that not correct?

1 MR. VATCHER: Objection, your Honor. I don't know
2 what the question is.

3 COURT: Overruled.

4 A I believe so.

5 Q Now, did you receive any blood samples or specimens from
6 Mrs. Alice K. Wilson's husband?

7 A No, ma'am.

8 Q So you don't know what blood type he is, do you?

9 A No, ma'am.

10 Q Did you receive any -- was any sample of the defendant's
11 sperm sent to you?

12 A No, ma'am, that wouldn't be necessary.

13 Q Well, was any sample sent to you anyway?

14 A No, ma'am.

15 Q So the only thing that you can say in relation to this
16 defendant is that the person whose sperm and blood was found
17 on the gown and on the, Miss Wilson's body was a group A
18 secretor -- well, it was a person that had the blood grouping
19 A and was a secretor?

20 A The results of the examinations that I did from the gown
21 and the anal swabs revealed that whoever deposited the semen
22 there was a Type A secretor.

23 Q Now, you stated that you received some hair groupings
24 or some hair, did you not?

25 A Yes, ma'am.

1 Q And some hair specimens identified as pubic hair combings?

2 A Yes.

3 Q Did you not?

4 A Yes, ma'am.

5 Q Did you find any Negroid hairs within those pubic hair
6 combings?

7 A I did not examine those. I identified the envelopes and
8 submitted those to the hair specialists.

9 Q So, you only examined the blood?

10 A And the semen.

11 Q And the semen.

12 A Yes, ma'am.

13 Q Could you tell when the pink nightgown you examined had
14 been washed last before it was sent to you?

15 A I didn't, no, ma'am. I didn't notice any particular
16 odor about it.

17 Q But you still don't know when it had been washed or
18 anything?

19 A No, ma'am. I'd have no way of knowing that.

20 Q I would like to reiterate the fact that you cannot posi-
21 tively say that the blood that was found on Mrs. Wilson's
22 gown or the semen that you examined was Lesly Jean's, can you?

23 MR. VATCHER: Objection.

24 COURT: Sustained. She's answered that, as I recall
25 saying that she could not.

1 MS. MOORE: Thank you. No further questions.

2 COURT: Any other questions?

3 MR. VATCHER: No, sir, your Honor.

4 COURT: Thank you, Miss Medlin.

5 MR. VATCHER: Your Honor, can we excuse Mrs. Medlin?

6 COURT: Can I excuse her, Miss Moore?

7 MS. MOORE: Yes, sir.

8 MR. VATCHER: May she take her diagram also?

9 COURT: Yes, but now you have marked a copy as I
10 understand it?

11 MR. VATCHER: Yes, sir.

12 COURT: And let that remain.

13 MR. VATCHER: Your Honor, at this time we would also
14 offer in evidence the Exhibit Number 1, the Vice Grips.

15 COURT: Admitted.

16 MS. MOORE: Your Honor, I missed that. I'm sorry.
17 What did you offer?

18 COURT: Would you offer it again, please?

19 MR. VATCHER: Yes, sir. Exhibit Number 1, the Vice
20 Grips.

21 COURT: Offered and admitted.

22 MR. VATCHER: Your Honor, at this time the State
23 would call to the witness stand Marilyn Jean Britt.

24 COURT: Let her come to be sworn, please.

25 MARILYN JEAN BRITT, being first duly sworn, testified as fol-

1 lows during DIRECT EXAMINATION by MR. VATCHER:

2 Q Please state your name and occupation for the Court and
3 jury?

4 A Marilyn Jean Britt. I'm an officer with the Jacksonville
5 Police Department.

6 Q And as such, Mrs. Britt, what are your duties with the
7 police department?

8 A I'm an evidence technician in charge of crime scene
9 searches. I'm also an evidence custodian in charge of all
10 evidence that's turned in within the department. Also a photo-
11 grapher for the police department.

12 Q Are you involved in the chain of custody with the much
13 evidence of the police department?

14 A Yes, sir.

15 Q I'm going to show you, Miss Britt, what's been identified
16 as Exhibit Number 4 and 5 for the State and ask you to examine
17 these and state whether or not you can identify them, please?

18 A Yes, sir, I can.

19 Q And what are those, ma'am?

20 A They're a pair of Nike high-top tennis shoes which Detec-
21 tive Smith locked in evidence on the 27th of July, 1982.

22 Q And when did you receive those, ma'am?

23 A I emptied the locker that Detective Smith had placed those
24 tennis shoes into on the 3rd of August, 1982.

25 Q Once evidenc locked into a locker, who has control of

1 that locker?

2 A Myself, Lieutenant Buchanon and our newest officer in the
3 evidence section, Officer Rodney Waters.

4 Q Would you relate the procedure used?

5 A When an officer brings in a piece of evidence to be
6 placed into the evidence section of the department, we have
7 a master logbook which the item is written down, the case num-
8 ber, the time and date that they're logged in, a brief descrip-
9 tion of the item, the locker they're placed in. The officer
10 must sign the book; a supervisor usually signs the book. Then
11 when I empty the evidence locker after the detective has
12 placed the items in it -- he places that slip of paper that
13 describes the items. He also places a key in that only myself
14 and the other two officers have keys to.

15 Q You retrieved them on what date?

16 A the 3rd of August, 1982.

17 Q How long were they in your possession?

18 A They had been in my possession until December the 1st,
19 when I turned them back over to Detective Smith to bring to
20 court.

21 Q Have they been altered or changed in any way?

22 A No, sir.

23 Q Do they appear to be in substantially the same condition?

24 A Yes, sir.

25 Q I ask you also to examine Exhibit Number 6 for the State

1 and state whether or not you can identify what this is?

2 A Yes, sir, this is a pair of blue shorts associated with
3 the same case as the sneakers. They were also placed in the
4 same locker and I took those same items out of that locker on
5 August the 3rd, 1982.

6 Q Would the same procedures be followed as you've previously
7 enumerated to the jury?

8 A Yes, they were.

9 Q They are returned or given to Detective Smith on the
10 1st of December?

11 A Yes.

12 Q Do they appear to be in substantially the same condition
13 as when you received them from him?

14 A Yes.

15 Q Have they been changed in any way at all?

16 A No, sir.

17 Q I'm going to show you now what's been identified as a
18 blue shirt, Exhibit Number 23 for the State, and ask you to
19 examine it and state whether or not you can identify what this
20 is?

21 A It's a blue shirt that was also placed in the same locker
22 as the sneakers and shorts, and the same evidence procedures
23 were followed. I took them out of the same locker on the 3rd
24 of August and I turned them over to Detective Smith on the
25 1st of December.

1 Q While in your possession, was it changed or altered in
2 any way at all?

3 A No, sir.

4 Q Does it appear today to be in substantially the same
5 condition as when received from Detective Smith?

6 A Yes, sir.

7 Q I'm going to show you now what's been marked for identi-
8 fication as State's Exhibit 25 and ask you to examine its
9 contents and state whether or not you can identify the same?

10 A Yes, sir. This is a 90-minute cassette recording tape
11 which was placed into evidence by Detective Smith on the 4th
12 of August, 1982, and which I removed from the evidence locker
13 on the 10th of August, 1982, and it remained in my custody
14 until the 1st of December when I turned it back over to
15 Detective Smith to bring to court reference this case.

16 Q How can you identify that exhibit, Miss Britt?

17 A It was in an envelope which has been marked and sealed
18 by Detective Smith. It was marked and remained sealed and in
19 my care until I turned it back over to Detective Smith.

20 Q Was it sealed when you retrieved it from the evidence
21 locker?

22 A Yes, sir, it was.

23 Q While in your possession, was it in your continuous care,
24 custody and control?

25 A Yes, sir.

1 Q Has it been changed or altered in any way at all?

2 A None that I can tell, sir.

3 Q Was the envelope sealed?

4 A Sir, the envelope remained sealed until December the 1st.

5 Q No additions or deletions?

6 A No, sir.

7 Q Does it appear to be in about the same condition sub-
8 stantially as when received --

9 A Yes, sir.

10 Q -- as when received from Detective Smith on the 4th of
11 August?

12 A Yes, sir.

13 Q That's all I have, Miss Britt.

14 COURT: Any cross examination of Miss Britt?

15 MS. MOORE: No, your Honor.

16 COURT: Thank you, Miss Britt. You can step down.

17 MS. MOORE: Your Honor, may we approach the bench
18 one second?

19 COURT: Yes, ma'am.

20 (Thereupon a conference was held at the bench between
21 Court and both counsel.)

22 COURT: Folks, we're going to take a recess for 15
23 minutes. I'd like you to go with the bailiff to the jury room
24 and I direct you not to discuss the case among yourselves or
25 form any opinion or make any statements about the case, and