

GREGORY WAYNE WALLIS

1 MR. ALVAREZ: No objection.

2 THE COURT: You may be released.

3 (The witness was finally excused.)

4 THE COURT: Have you been sworn in?

5 THE WITNESS: No, sir.

6 (The following witness was duly sworn by
7 the Court.)

8 THE COURT: You may lower your hand, have a
9 seat on the stand.

10 (The witness was instructed as to the
11 rule of evidence by the Court.)

12 THE COURT: You may proceed.

13 MR. ALVAREZ: Thank you, sir.

14 TIMOTHY C. FALLON,
15 called as a witness in behalf of the State, having been
16 first duly sworn by the Court, was examined and
17 testified on his oath, as follows:

18 DIRECT EXAMINATION

19 BY MR. ALVAREZ:

20 Q. Sir, would you please tell us your name and
21 spell your last name for the court reporter, please.

22 A. Timothy C. Fallon, F-a-l-l-o-n.

23 Q. And, sir, how are you employed?

24 A. I am a trace evidence analyst with the
25 Southwestern Institute of Forensic Sciences in Dallas.

1 Q. And how long have you been with forensics?

2 A. For almost ten years.

3 Q. Okay. And the job that you hold, sir, could
4 you tell us a little bit about it and what is it that
5 you do?

6 A. As a trace evidence analyst, I analyze
7 evidence such as hairs, fibers, glass, paint, chemical
8 residues for their value in civil and criminal
9 investigations.

10 Q. Okay. And what type of educational
11 background do you have for the position you hold at
12 forensics?

13 A. I have a Bachelor of Science degree from
14 Texas A&M University in microbiology and I've received
15 specialized training in hairs, fibers, and explosive
16 residues from the FBI Academy in Quantico, Virginia.

17 Q. Sir, did you have an opportunity to
18 investigate and run tests in a case involving the
19 complainant Marilyn Morris?

20 A. Yes, sir, I did.

21 Q. And where were those tests run?

22 A. There were several different tests run. The
23 initial test was run on or about the date of September
24 28th, 1988.

25 Q. Okay. And on that date, sir, what type of

1 tests were you involved in and what were the results?

2 A. The initial examination were the pubic hair
3 combings were examined and two bed sheets were also
4 examined, the results being that there were no hairs
5 found in the pubic hair combings and that hairs removed
6 from the bed sheets had been stored.

7 Q. Okay. And the pubic hairs that you describe,
8 whose pubic hairs were those?

9 A. There were no hairs found in the combings.

10 Q. Okay. Did you run another series of tests
11 following the September 28th evaluation?

12 A. Yes, sir, I did.

13 Q. Okay. And what type of tests were run on
14 that day?

15 A. Examinations on or about the date of December
16 21st, 1988, were the hairs removed from the bed sheets
17 were compared to hair standards received from a Marilyn
18 Morris and a Ron R. Sturgeon.

19 Q. Okay. What were the results of those tests
20 that were run?

21 A. The results were that one hair from one of
22 the bed sheets was different in appearance from the
23 head hair standards of Marilyn Morris and Ron Sturgeon
24 and the other head and pubic hairs removed from the bed
25 sheets were the same in all physical and observable

1 characteristics as the head and pubic hair of Marilyn
2 Morris, and that therefore the hairs from the head and
3 pubic hairs, excluding the one foreign hair were --
4 could have originated from Marilyn Morris.

5 Q. Okay. So the bottom line on your December
6 21st exam was that the hairs found in the bed sheets
7 could be traced back to Marilyn Morris?

8 A. They're consistent with having come from
9 Marilyn Morris, yes, except for the one hair.

10 Q. All right. Now, you didn't stop there, did
11 you, Mr. Fallon?

12 A. No, sir.

13 Q. Okay. What tests were run after that?

14 A. There were a head hair standard from a Greg
15 Wallis and an additional head hair standard from
16 Marilyn Morris. The head hair standard from Greg
17 Wallis received December 29th, 1988, and the additional
18 head hair standard from Marilyn Morris was received
19 January 6th, 1989.

20 Q. Okay. And what was done with those
21 standards?

22 A. The one hair found on the bed sheet that was
23 different from the first head hair standard of Marilyn
24 Morris was compared to the head hair standard of Greg
25 Wallis and was found to be different from -- different

1 in characteristics of Greg Wallis and therefore did not
2 come from Greg Wallis.

3 The same hair was then reexamined and
4 compared to a selected group of hairs obtained from
5 Marilyn Morris and the results were found that
6 Ms. Morris had had some type of chemical alteration of
7 her hair at some period in between the alleged offense
8 and at the time at which the first hair standard was
9 received.

10 The second hair standard was received, after
11 which the length of time sufficient that hair had grown
12 out of the original state and the results were that the
13 one questioned hair removed from the bed sheet that was
14 found to be different originally from Marilyn Morris
15 was indeed the same characteristics as the natural
16 state of Marilyn Morris's head hairs.

17 Q. So the bottom, Mr. Fallon, is that there was
18 one standard when you first observed, it was your
19 belief that it belonged to neither Mr. Sturgeon,
20 Mr. Wallis, or Marilyn Morris?

21 A. That's correct.

22 Q. And then after further investigation, you
23 realized that Marilyn Morris had bleached her hair,
24 basically?

25 A. Essentially, yes, sir.

1 Q. Okay. And that standard, the hair that we
2 just discussed was the hair of Marilyn Morris before
3 she bleached it?

4 A. That's correct.

5 Q. So, after all the investigation and test
6 analysis that you ran, Mr. Fallon, could you summarize
7 the evidence received and what conclusions did you
8 make?

9 A. My summary of all the reports written would
10 be that of the pubic hair combings taken from Marilyn
11 Morris, there were no hairs found in the combings.

12 Of the bed sheets that were submitted by
13 Irving Police Department, September 22nd, 1988, the
14 head and pubic hairs removed from these two bed sheets
15 are consistent in all physical and observable
16 characteristics to the hair standards, both pubic and
17 head hair, of Marilyn Morris, and are different in
18 appearance from Ron Sturgeon and Greg Wallis and
19 therefore did not originate from Ron Sturgeon or Greg
20 Wallis.

21 Q. Okay. And that standard, the hair that
22 you're talking about that was different, in effect came
23 back to that -- came back to being that of Marilyn
24 Morris?

25 A. That is correct.

1 MR. ALVAREZ: Mr. Fallon, thank you for
2 coming down, sir. That's all I've got. This
3 gentleman may have some questions for you.

4 CROSS-EXAMINATION

5 BY MR. MORROW:

6 Q. Mr. Fallon, my name is Mike Morrow, I
7 represent the defendant. I have some questions for
8 you.

9 (Defendant's Exhibit No. 5 was marked
10 for identification.)

11 MR. MORROW: Thank you.

12 Q. (By Mr. Morrow) Mr. Fallon, I'm going to
13 hand you what has been marked as Defense Exhibit Number
14 5 and ask you if that's a lab report from the
15 Southwestern Institute of Forensic Sciences.

16 A. Yes, it appears to be.

17 Q. Okay. Does it involve the assault case of
18 Marilyn Morris?

19 A. It so states on here.

20 Q. Okay, thank you.

21 MR. MORROW: We'd offer into evidence Defense
22 Exhibit Number 5.

23 MR. ALVAREZ: Judge, this is not the witness
24 to get this piece of evidence in, but we won't
25 object to it.

1 THE COURT: Defense 5 is admitted.

2 (Defendant's Exhibit No. 5 was received
3 in evidence, and is attached hereto.)

4 Q. (By Mr. Morrow) Mr. Fallon, for
5 identification purposes, would you please tell the jury
6 what Defense Exhibit Number 5 is.

7 A. Defendant's Exhibit Number 5 is a report from
8 Southwestern Institute of Forensic Sciences dated
9 October the 6th as pertaining to Irving Police
10 Department case number 88 14 26.

11 Q. Okay. Would you skip down to the results and
12 read those to the jury.

13 A. The results state that acid phosphatase
14 suggestive of seminal fluid was not detected on items
15 1, 3, 8, or 9. Spermatozoa were not detected on items
16 1, 2, or 4.

17 Q. Thank you.

18 Mr. Fallon, it appears from your testimony,
19 and I didn't understand it fully, that you made two or
20 more comparisons of hair samples with the hair found in
21 the bed sheets. Is that correct?

22 A. That is correct.

23 Q. And that on each occasion you were aware of
24 the name of the lady that made the complaint about the
25 sexual assault?

1 A. That is correct.

2 Q. And on each occasion you were aware of a hair
3 sample that came from her?

4 A. That is correct.

5 Q. And then on each occasion you were attempting
6 to match any of the found hairs with the hair of
7 Gregory Wallis?

8 A. Each of the examinations was an attempt to
9 compare questioned hairs, hairs found in the bed
10 sheets, to one of the hair standards that was found.
11 Now, I received hair standards from three different
12 individuals.

13 Q. And you received hair samples from a couple
14 of people more than once, didn't you?

15 A. I believe I received two head hair standards
16 from Marilyn Morris. According to my records, I
17 received two separate head hair standards from Marilyn
18 Morris.

19 Q. What type of samples did you receive from
20 Gregory Wallis?

21 A. I received head hair standard -- excuse me --
22 head hair and pubic hair standard of Greg Wallis.

23 Q. Were those obtained from Gregory Wallis
24 pursuant to a court order?

25 A. I don't have that information in my report.

1 Q. When we're talking about the hair samples
2 that you looked at that you obtained from Mr. Wallis or
3 that you used -- that came from Mr. Wallis and the hair
4 samples that you used that came from Ms. Morris, are we
5 talking about a complete hair with a follicle with a
6 root on the bottom?

7 A. Yes.

8 Q. Okay. Is that what you need for your best
9 analysis, that root attached to the hair?

10 A. Optimally that's what I would prefer.

11 (Defendant's Exhibit No. 6 was marked
12 for identification.)

13 Q. (By Mr. Morrow) Mr. Fallon, I'm going to
14 hand you State's Exhibit Number 14 and ask you to look
15 at that. Would you describe what's in that photograph?

16 A. An individual, a male individual.

17 Q. Okay.

18 A. With a -- male individual without a shirt on
19 with a tattoo on his left shoulder.

20 Q. What is the tattoo on his left shoulder of?

21 A. It appears to be a image of a woman.

22 Q. And is there a tattoo on his right bicep?

23 A. Yes, sir.

24 Q. What does that tattoo appear to be of?

25 MR. ALVAREZ: Judge, I'm going to object to

1 any questions of this witness with respect to this
2 picture. This man ran analyses on hair samples.
3 He has no other expertise in or knowledge of this
4 case whatsoever, and I'm going to object to him
5 showing this exhibit and asking him to testify
6 from it.

7 THE COURT: What exhibit is that, is that one
8 in evidence?

9 MR. MORROW: Yes, Your Honor, it is.

10 THE COURT: Approach the bench, Counsel.

11 (An off-the-record discussion was had at
12 the bench.)

13 THE COURT: I'm going to overrule the last
14 objection, but I will remind counsel that the
15 picture is in evidence, it's the best evidence of
16 what it is, and I don't think you really need to
17 have the jury told what's in a picture that's in
18 evidence.

19 Q. (By Mr. Morrow) Mr. Fallon, I'll hand you
20 State's Exhibit Number 13 and ask you what's
21 contained -- what's that a photograph of.

22 A. It's a photograph of a tattoo with the image
23 of a woman.

24 Q. Okay. Would you describe the two people in
25 these photographs as having -- let me back step a

1 little bit.

2 How often do you analyze hair samples at the
3 Institute of Forensic Sciences in Dallas?

4 A. On a daily basis.

5 Q. Is your Institute of Forensic Sciences out
6 there by Parkland Hospital and out there by the
7 Southwestern Medical School?

8 A. Yes, sir, it is.

9 Q. Are you under the auspices of either one of
10 them?

11 A. No, sir, we are not.

12 Q. Okay. Do you work closely with either one of
13 them?

14 A. We work -- on occasion we do work with them,
15 yes.

16 Q. You analyze hair samples on a daily base
17 basis?

18 A. Yes, sir.

19 Q. Have you made a study of the examination of
20 hair studies and how they pertain to -- how they occur
21 in the natural -- as a natural phenomena in the human
22 population?

23 A. I'm not sure I understand the question.

24 Q. Well, does your knowledge go further than
25 just being able to examine two hairs? Are you familiar

1 with the background and history of hair analysis and
2 the chemistry involved and the accumulation and loss of
3 hair in individuals?

4 A. Yes, I have some knowledge of these areas.

5 Q. Okay. You've had a chance to see State's
6 Exhibit -- the ones I just showed you?

7 A. Yes, sir.

8 Q. Would you describe the individual in that
9 photograph as having a unusual or large amount of hair?

10 MR. ALVAREZ: Judge, I can see where he's
11 going. We had a sidebar on this, and I'm going to
12 object, make the same objection as the one made
13 previously. Some knowledge does not qualify this
14 man to testify to that point. We object to it.

15 MR. MORROW: Your Honor, if I might reply,
16 the prosecution has presented Mr. Fallon as an
17 expert on trace evidence, including hair. And I
18 don't think he's allowed to present his expert and
19 then to object to me cross-examining him on the
20 same subject.

21 THE COURT: I think the subject you're about
22 to inquire in is not exactly the subject he's
23 testified on. I will sustain the objection at
24 this time unless you can have further proof as to
25 his expertise in hair loss.

1 Q. (By Mr. Morrow) How long have you been
2 examining hair on an individual, daily basis?

3 A. For approximately ten years.

4 Q. Does your background include medical or
5 technical or biological studies or readings on the
6 subject matter involved, hair?

7 A. Yes, sir, it does.

8 Q. How often have you been used as an expert
9 witness by the District Attorney's Office or by other
10 lawyers since you've been with the Institute of
11 Forensic Sciences?

12 A. Numerous times.

13 Q. At least several a month?

14 A. At least once a month for the last ten years.

15 Q. Has this testimony usually involved some
16 aspect of hair loss, hair retrieval or hair analysis?

17 A. Yes, sir, it does.

18 Q. Legally speaking, you consider yourself an
19 expert on this subject?

20 A. I would consider myself an expert on forensic
21 hair comparisons and some satellite subjects such as
22 general aspects of biochemistry of hair and the medical
23 dermatology aspects of hair.

24 I am not a medical doctor, so therefore I
25 would not have the expertise of a medical doctor in the

1 area of medicine, but in the -- as a perfunctory
2 information as dealing with forensic hair comparisons,
3 yes, I would consider myself an expert.

4 Q. Well, Mr. Fallon, even lay people are aware
5 that hair falls out all over the body and comes in on a
6 regular, daily --

7 MR. ALVAREZ: I'm going to object to his
8 testifying, Judge, what lay people should or
9 should not know as far as hair loss.

10 THE COURT: Sustained.

11 Q. (By Mr. Morrow) Mr. Fallon, are there any
12 areas of the human body where hair is not found?

13 A. I believe there's no hair found on the palms
14 or the bottom of the feet, and to the best of my
15 knowledge, those are the only areas that hair is not
16 found.

17 Q. Is body hair -- and by that I include all
18 forms of it -- is it a permanent nature or is it
19 cyclical and continually regenerating itself?

20 A. It is cyclical and continually regenerates
21 itself.

22 Q. Does that mean that on a person of average
23 hairiness that hairs fall out from all parts of his
24 body every day?

25 MR. ALVAREZ: Objection, Judge. This witness

1 hasn't been qualified as an expert in hair loss,
2 and we're going to object to any questions, any
3 further questions in that area.

4 THE COURT: Overruled. He may answer the
5 question.

6 A. Yes, hair, all forms of hair fall out and are
7 cyclical in nature: head hair, pubic hair, and body
8 hairs such as limb hair and chest hair, leg hair,
9 et cetera.

10 Q. Would it help you to view an individual's
11 clothes to determine at what rate hair falls out and
12 are replaced?

13 A. In the area of how -- the frequency of body
14 hair loss, I would not know. I do know studies in
15 which head hair is lost at a rate of approximately a
16 hundred hairs per day. Now, pubic hair and body hair,
17 I know of no studies.

18 Q. Does often your analysis that you do on a
19 daily basis involve pubic hair?

20 A. It's both pubic and head hair, mainly head
21 hair.

22 Q. Showing you again State's Exhibit 13 and 14
23 and asking you to look at the individual in those
24 photographs, and asking you to assume some facts, and
25 one of these facts being that the individual in that

1 photograph was unclothed in a condominium apartment
2 over a period of approximately four hours and that
3 during that four hours he engaged in five different
4 acts of sexual intercourse and that during that four
5 hours he was unclothed and spent the majority of that
6 time in a bed in the bedroom of that condominium
7 engaged in sexual acts.

8 Taking all those facts into consideration,
9 Mr. Fallon, would you expect to find some evidence of
10 the person who I'm describing, his hair in that bed?

11 A. In the area of body hairs, I will first
12 address body hairs, in the area of bed hair, body hairs
13 are not suitable for forensic hair comparisons;
14 therefore they are not analyzed. So the presence, if
15 the body hairs are present from that individual, they
16 would not be -- they would not be analyzed simply
17 because there is not enough distinguishing features
18 between one individual's body hair to another
19 individual's body hair, and in the field body hairs are
20 not sufficient for use in helping identify an
21 individual.

22 In the area of pubic hairs, the institute has
23 had a five-year long study on the frequency of pubic
24 hairs found, foreign pubic hairs found in pubic hair
25 combings of alleged sexual assaults. In the five-year

1 study we have found that in less than two percent of
2 all the alleged sexual assault pubic hair combings are
3 there ever found foreign hairs.

4 Based on that, I would not expect,
5 necessarily expect to find foreign hairs in or on a
6 complainant alleging a sexual assault from the
7 assailant.

8 Q. Are you about to move to head hairs? You
9 covered body hair and pubic hair. Were you going to
10 cover head hair?

11 A. Head hairs, there are not -- we do not have
12 any frequency data on the presence or absence of head
13 hair, but it has been my experience over the last ten
14 years that frequently we do not have foreign hairs
15 found in sexual assaults.

16 Q. Thank you, Mr. Fallon.

17 Now, the hair that you were analyzing and
18 trying to compare to Gregory Wallis was his head hair,
19 wasn't it?

20 A. That's correct.

21 Q. And that's the hair that you've testified
22 falls out a hundred hairs a day?

23 A. That's correct.

24 Q. I'm going to hand you a three-page report
25 marked Defendant's Exhibit Number 6 and ask you to

1 identify it.

2 A. Yes, sir. These are copies of three of the
3 reports that I have issued from the laboratory,
4 excluding one correction report that I don't know if
5 you have a copy of. Would you like to see the
6 correction?

7 Q. Yes.

8 (Pause)

9 Q. (By Mr. Morrow) Well, let me ask you about
10 the correction. Is the correction just -- is it just
11 concerning the police department involved in the case
12 numbers identifying it?

13 A. That is correct. It was initially
14 inadvertently sent to the Dallas Police Department and
15 it should have been sent to the Irving Police
16 Department.

17 Q. But your correction doesn't change any of the
18 results or analyses that you did?

19 A. No, sir, it does not.

20 Q. Okay. It just sends it to the Irving Police
21 Department instead of to the Dallas Police Department?

22 A. That's correct.

23 Q. Okay. Keeping in mind, Mr. Fallon, that the
24 date of the offense was reported as January the 6th of
25 1988, would you look at Defense Exhibit Number 6 and

1 tell the jury the dates that is on each of those
2 reports.

3 A. The initial report was September the 28th,
4 1988. The next report is December the 21st, 1988, and
5 the last one is January the 9th, 1989.

6 Q. Okay. Offer Defense Exhibit Number 6.

7 MR. ALVAREZ: No objection.

8 THE COURT: Defense 6 is admitted.

9 (Defendant's Exhibit No. 6 was received
10 in evidence and is attached hereto.)

11 Q. (By Mr. Morrow) Mr. Fallon, is the net
12 result of your examination conclusive -- not
13 inconclusive, I'm asking, but is the result of your
14 analysis conclusive that none of the hairs that you
15 looked at belong to Gregory Wallis?

16 A. That's correct.

17 MR. MORROW: Pass the witness.

18 REDIRECT EXAMINATION

19 BY MR. ALVAREZ:

20 Q. Let me clear something up, if I can,
21 Mr. Fallon. You're not a professional state witness,
22 by any means, are you, sir?

23 A. No, sir, I'm not.

24 Q. You don't testify specifically for the State
25 of Texas, you testify for a number of different people,

1 whoever calls you down here?

2 A. Yes, sir.

3 Q. All right. Defense lawyer, a public
4 defender, defense attorney, anyone who wants to come
5 down here and testify, they can pick up the phone and
6 call you and you will do that?

7 A. That's correct.

8 Q. You said the bottom line was that none of the
9 hairs found in the bed belonged to Mr. Wallis. Is that
10 correct?

11 A. That is correct.

12 Q. Bottom line, sir, is the only hair found and
13 analyzed was that of Marilyn Morris; is that correct?

14 A. Yes, sir.

15 Q. You didn't find any hairs belonging to Ron
16 Sturgeon, her boyfriend --

17 A. That's correct.

18 Q. -- or Mr. Wallis?

19 A. That is correct.

20 Q. The turn around on the unidentifiable piece
21 of hair came back full circle to Marilyn Morris and
22 that was because she had her hair died?

23 A. Yes, sir.

24 Q. That doesn't exclude the man to my far right
25 as being the perpetrator of this assault --

1 MR. MORROW: Objection, Your Honor, that's
2 outside the scope of his expertise.

3 THE COURT: Sustained.

4 MR. ALVAREZ: Thank you very much, sir. I
5 have nothing further.

6 RECROSS-EXAMINATION

7 BY MR. MORROW:

8 Q. Two questions, Mr. Fallon.

9 Isn't it true that you were called in this
10 case to testify as a witness for the State, Dallas
11 County, the prosecution?

12 A. Yes, sir, I was.

13 Q. And isn't it true that you have discussed
14 your testimony with several prosecutors involved in
15 this case?

16 A. The only person that I recall speaking to was
17 Mr. Alvarez. I do not have a recollection of
18 discussing it with anyone else. That doesn't mean that
19 I did not discuss it with anyone else.

20 Q. Is this the first time that you and I have
21 discussed this case?

22 A. Yes, sir.

23 Q. Okay. Is it true that the great majority of
24 the time, and it may be as high as 70, 80, or 90
25 percent of the time, you are called as a witness for

1 the State?

2 A. Yes, sir.

3 Q. And finally, my last question. Is it again
4 your conclusion that -- and a conclusion that none of
5 the hairs found were the hairs of Gregory Wallis?

6 A. That is correct.

7 Q. And the reason you reached that conclusion is
8 because you had hair samples of his obtained by court
9 order to compare them to?

10 A. That is correct.

11 MR. MORROW: Pass the witness.

12 MR. ALVAREZ: That's all we've got, sir.

13 Thank you.

14 THE COURT: You may step down.

15 Call your next witness.

16 MR. ALVAREZ: Your Honor, ladies and
17 gentlemen of the jury, at this time the State
18 rests its case in chief.

19 May this witness be released?

20 THE COURT: Any objection.

21 MR. MORROW: No objection.

22 THE COURT: You're excused.

23 Would the lawyers approach the bench, please.

24 (An off-the-record discussion was had at
25 the bench.)