

Guilt Innocence Phase
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1 This witness has not been sworn, Your
2 Honor.

3 THE COURT: Thank you.

4 **MATT QUARTARO,**
5 having been first duly sworn, testified as follows:

6 **DIRECT EXAMINATION**

7 **BY MR. SECREST:**

8 Q. Mr. Quartaro, good afternoon. How are you,
9 sir?

10 A. Doing well. How are you?

11 Q. I'm fine.

12 Where are you from?

13 A. I live in Plano, Texas, now.

14 Q. Okay. How are you employed?

15 A. I have my own DNA consulting business, which is
16 Quartaro Forensics.

17 Q. Let's talk about your educational background.
18 Would you please tell the members of the jury your
19 educational achievements?

20 A. Yes. I have a bachelor's degree in molecular
21 biology from Texas A&M University, and a master's degree
22 in molecular biology from the University of Texas of
23 Dallas.

24 Q. What training have you received in the field of
25 DNA testing and analysis?

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1 A. I worked for a private crime lab for
2 approximately 14 years prior to me starting my own
3 consulting business about a year and a half ago. During
4 that time, I did perform all of the trainings to become
5 a DNA analyst, which was months and months of training,
6 reading all the background information, as well as
7 attending continuing education every year to make sure I
8 was current on all the techniques used.

9 Q. And let's talk specifically about your
10 employment history. What is your experience in the
11 field of DNA testing and analysis?

12 A. Sure. Well, in 2002, I began working at
13 Cellmark Forensics. I started as a DNA analyst and was
14 promoted to a supervisor, associate laboratory director.
15 I also served as -- served the role of quality manager
16 for our proficiency testing program and acting technical
17 leader for a few months.

18 Q. What is Cellmark Forensics?

19 A. They're a privately owned DNA testing facility.
20 So there will be -- I don't know if you read it in the
21 news or not, I know I do. But there's a lot of
22 Government labs who have surplus DNA testing that they
23 can't handle themselves. So they would outsource those
24 -- that DNA testing to labs like Cellmark Forensics to
25 perform the DNA testing for them. And then they would

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1 review that work, and then upload it into whatever
2 databases they wanted to.

3 Q. So how long were you employed with Cellmark?

4 A. Approximately 14 years.

5 MR. SECREST: May I approach the witness,
6 Your Honor?

7 THE COURT: Yes.

8 Q. (BY MR. SECREST) Let me show you what has been
9 marked as Defense Exhibit No. 39. Would you please --
10 don't read from it, but please tell us what this
11 document is?

12 A. Yes. That's my CV.

13 Q. What is a CV?

14 A. That's basically a summary, a resume or
15 summary of all my work experiences.

16 MR. SECREST: Your Honor, I would move to
17 introduce Defense Exhibit 39 and give to the prosecutor
18 for her review.

19 MS. BARNETT: No objection.

20 THE COURT: Defense 39 will be admitted.

21 Q. (BY MR. SECREST) Have you ever testified as an
22 expert witness in a court of law?

23 A. Yes, sir.

24 Q. In what capacity?

25 A. As an expert in DNA analysis.

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1 Q. Approximately how many times have you testified
2 as an expert in DNA analysis in courts?

3 A. It's getting close to 80 times.

4 Q. And where have you been qualified to testify as
5 an expert witness before?

6 A. I've been qualified in, I believe, 17 different
7 states, as well as the territory of Guam.

8 Q. Did you recently testify in South Korea?

9 A. I was there consulting on a case. I never
10 actually took the stand, but I was there consulting on a
11 case, yes.

12 Q. So the 80-plus times you testified as an expert
13 in DNA in courts, how many of those times have you
14 testified on behalf of the prosecution?

15 A. The vast majority. I would say just a handful
16 of cases that I've testified on behalf of the defense.

17 Q. What does DNA stand for? You're going to have
18 to spell that, I bet you.

19 A. Sure. It stands for deoxyribonucleic acid.
20 And it is -- would you like me to spell it for you?

21 COURT REPORTER: No, thank you.

22 A. Basically the building blocks that make you a
23 person and make you unique. You get half of your DNA
24 from your mother and half of your DNA from your father.
25 So that makes each individual, with exception of

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1 identical twins, unique.

2 Q. Why are forensic scientists and crime scene
3 investigators particularly interested in DNA?

4 A. DNA is a great way to identify a particular
5 individual. DNA that is stored under the right
6 conditions can be stable for many years. And again, has
7 that discrimination power to be able to differentiate
8 between individuals. You know, except for identical
9 siblings. You can sort of separate out who may have
10 left DNA at a crime scene, or who didn't leave that
11 there.

12 Q. What bodily substances can be tested for
13 presence of DNA?

14 A. Really all your bodily fluids will contain some
15 DNA. You know, substances like blood and saliva are all
16 rich sources of DNA. In saliva or mucous, or any of
17 those, it's really the skin cells that are in that
18 substance where the DNA is found.

19 Q. Speaking of skin cells, is it possible to test
20 the cells of human skin and determine who they belong
21 to?

22 A. Sure. One of the techniques that's used a lot
23 more frequently than it used to be is touch DNA.
24 Someone may have touched an object, or a person came
25 into contact with a person's skin. There can be some

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1 transfer of skin cells from that person to that object.
2 If there's enough DNA present there, it is possible to
3 obtain a DNA profile from that sample.

4 MR. SECREST: May I approach the witness?

5 THE COURT: You may.

6 Q. (BY MR. SECREST) Turn toward me, if you would,
7 Matt.

8 So if I were to touch you right here like
9 that, is that a pretty good way to maybe leave DNA?

10 A. Definitely possible, yes.

11 Q. Now, if I touch this, and maybe my DNA's not on
12 there?

13 A. Yes, that's possible, as well.

14 Q. Can I take a bath, and you're not going to find
15 my DNA, maybe?

16 A. Sorry. I didn't understand that question.

17 Q. If I take a bath, and then later on you get in
18 my tub with one of your swabs, are you going to find my
19 DNA?

20 A. It's possible, but it's possible that you
21 wouldn't as well.

22 Q. Okay. Would you expect to find the DNA of
23 homeowners in their own home?

24 A. Absolutely. Like I said, any time you come in
25 contact with an item, you can leave some DNA behind. So

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1 items in your house that you touch repeatedly, over and
2 over between washing them and everything, you would
3 expect to find some DNA of those people there.

4 Q. Have I retained you to review the DNA findings
5 in this case, **The State of Texas versus Sandra Jean**
6 **Melgar**, wherein Sandy is charged with the murder of her
7 husband?

8 A. Yes, sir.

9 Q. Have you examined the DNA reports generated by
10 the Texas Department of Public Safety and Harris County
11 Institute of Forensic Sciences?

12 A. Yes.

13 Q. Let me ask you just a couple of preliminary
14 questions. It's probably going to be a little boring,
15 but I have to lay the predicate to get some of these
16 exhibits in.

17 Is it to your understanding that back on
18 December 23rd, 24th of 2012, Crime Scene Investigators
19 obtained various items of evidence from a residence of
20 Jaime and Sandra Melgar located at 9538 Kelsey Meadows
21 Court in Harris County?

22 A. Yes, sir, it is.

23 Q. Now, let me show you what's been marked as
24 Defense Exhibit No. 15 as the Harris County Sheriff's
25 Office evidence log prepared by Crime Scene Investigator

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1 Carpenter?

2 A. Yes, sir.

3 Q. Is this a three-page document?

4 A. Yes, it's a three-page document.

5 MR. SECREST: At this time, I would offer
6 Defense 15 into evidence.

7 MS. BARNETT: No objection.

8 THE COURT: It will be admitted.

9 Q. (BY MR. SECREST) And we're not going to go
10 through every entry here, but just to make sure we cover
11 and familiarize ourselves with the paperwork.

12 As Deputy Carpenter basically itemed here
13 on the left-hand corner various objects, if you will,
14 that were taken from the crime scene and has also
15 indicated on the right-hand corner where this stuff came
16 from.

17 A. That's correct.

18 Q. So for example, we can see that there's a --
19 one white undershirt, Item Number 6. Do you see that
20 there?

21 A. Yes.

22 Q. And that looks like it came from the master
23 bedroom closet?

24 A. Okay.

25 Q. All right. So beyond physical items taken from

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1 the scene, does Defense Exhibit 15 also categorize
2 various swabs taken from the crime scene as well?

3 A. Yes, it does.

4 Q. I'll come back to this in a second. But do you
5 see these three entries here: M.E. 1 and M.E. 2 and M.E.
6 3?

7 A. Yes.

8 Q. What does M.E. stand for?

9 A. Typically medical examiner.

10 Q. Okay. So does that indicate that basically
11 tissue -- picking of hair by the HCIF, what does that
12 stand for?

13 A. The Harris County Institute of Forensic
14 Sciences.

15 Q. Is that basically the morgue, the medical
16 examiner?

17 A. Yeah. It was formerly called the Medical
18 Examiner's Office, but changed to that name.

19 Q. Does that appear the pickings of hair were
20 obtained by the trace team when they were out there that
21 evening, the 23rd and 24th?

22 A. Yes, sir.

23 Q. And two tape lifts by the same team, and maybe
24 three various swabs that were taken?

25 A. Yes.

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1 Q. And in your experience, when I use the word
2 "swab," what are we talking about?

3 A. Swab, generally you think of a Q-tip. These
4 are sterilized or DNA free. They come individually
5 packaged so you can open at the crime scene, and
6 typically are 6-inches long or so, and they're used to
7 collect evidence from a scene.

8 Q. And typically based upon your experience and
9 training, once you -- I assume you got gloves on and all
10 that kind of deal, to try to prevent contamination?

11 A. Yes, sir, absolutely.

12 Q. So when you swab, what do you do with that
13 Q-tip thing?

14 A. At that point you would try to isolate it in
15 some ways so it won't come in contact with anything
16 else. You want to dry it and then seal it somewhere
17 where it would be obvious if anyone else had access to
18 it. Then you would log it in as evidence, submit it to,
19 I guess, either an investigator or the property room.

20 Q. Okay. And then you -- again, I'm not going to
21 go over all of this with you. But if you look right
22 below the A, B, C, D, E, F, G, do these basically break
23 out various categories of swabs that were taken relative
24 to your investigation of this case?

25 A. Yes, basically swabbings of different items.

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1 Q. Okay. And then the last page, there's a thing
2 here, if I'm pronouncing it right, B1, B as in boy, B1
3 to B6. Is that a buccal -- is that the way you
4 pronounce it?

5 A. You can actually say buccal or buccal. Both
6 are acceptable.

7 Q. How do you say it?

8 A. I say buccal swab.

9 Q. Okay. So it indicates that buccal swabs were
10 taken. For instance, B1 is Sandra Melgar, our client.
11 So a buccal swab was taken from her?

12 A. Yes, sir.

13 Q. So how would that have happened? Even though
14 you weren't there, is that the standard way that it
15 takes place, is it?

16 A. Sure. Typically a buccal swab is going to be
17 called a reference sample or a known sample. And so to
18 sort of differentiate it from the samples that come from
19 the crime scene or the evidence, you want a known sample
20 from this individual so you can compare the two. So you
21 can say that this person is either included or excluded.
22 So typically a buccal swab is performed. You rinse
23 their mouth out, and someone with a gloved hand will
24 swab the inside of the cheek, and obtain some buccal
25 swabs from inside the cheek. Again, they would be dried

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1 and packaged and sealed and then labeled and then
2 submitted as evidence.

3 Q. Okay. And your general understanding when we
4 look at B1 through B6 here, these are going to be the
5 buccal swabs taken of Sandra Melgar and the other folks
6 that were in the house that day before the police and
7 emergency people showed up?

8 A. That's correct.

9 Q. And then you got HS, as in high school, HS1 and
10 HS2. What is that?

11 A. Those are hand swabs. So there's a swabbing of
12 the left hand and the right hand from Ms. Melgar.

13 Q. And why would the investigators swab the left
14 and right hand of a suspect?

15 A. Just to see if there was any evidence, any
16 trace evidence, any DNA evidence that was present on the
17 hand of a potential suspect.

18 Q. And then you've got FS, as in Frank Smith, and
19 FS1, FS2. And what is that?

20 A. Those are are fingernail scrapings.

21 So basically, just like the hands, DNA can
22 become lodged underneath fingernails as well. This is
23 the way to collect any DNA that may end up underneath
24 the fingernails.

25 Q. Okay. Now, let me go to the next exhibit.

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1 Defense Exhibit 16, can you tell us what this is?

2 A. That's the trace evidence collection submission
3 form. And basically this was -- as we saw those items
4 that were collected by the Harris County Institute of
5 Forensic Sciences, this is basically their submission
6 form to these items.

7 Q. So let me walk you through this quickly to make
8 sure we're on the same page.

9 A. Sure.

10 Q. You go back to Defense Exhibit 15, M.E.1, 2,
11 and 3?

12 A. That's correct.

13 Q. The technician is out there doing the swabbing,
14 doing whatever they do. And after they isolate that
15 evidence, then what is left is shown on State's Exhibit
16 16. This is the actual evidence collection submission
17 form indicating that those very items are being
18 submitted to the laboratory for analysis?

19 A. That's correct.

20 Q. Let me show you Defense Exhibit 17.

21 MS. BARNETT: Your Honor, there's a number
22 of exhibits. I think the only one that's been offered
23 and admitted is 15.

24 MR. SECREST: I'll offer Defense Exhibit
25 16.

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1 MS. BARNETT: We have no objection. Can
2 you just do all of them?

3 THE COURT: So hang on; 16 is admitted.

4 MR. SECREST: Sixteen was the last one I
5 offered. I believe there's no objection from the State.

6 THE COURT: And it's now admitted.

7 Q. (BY MR. SECREST) 17 here, what is that?

8 A. That is the lab submission form from the Texas
9 Department -- Texas Department of Public Safety.

10 Q. So again, this deals with the same items that
11 were submitted for laboratory analysis?

12 A. Yes, sir.

13 MR. SECREST: And I will formally move
14 into evidence Defense Exhibit 17?

15 THE COURT: Any objection?

16 MS. BARNETT: No objection.

17 THE COURT: 17 is admitted.

18 Q. (BY MR. SECREST) Defense Exhibit 18, what is
19 that?

20 A. Again, that's another evidence submission form
21 to the Harris County Institute of Forensic Sciences.

22 Q. Does that correlate -- again, this will only
23 take a second so we're all on the same page. Does that
24 correlate back to -- in fact, if you look at that
25 document, it shows the case officer is Mr. Carpenter?

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1 A. Yes.

2 Q. Okay. So these items here like a piece of
3 clear tape, white tissue, plastic package, white blouse,
4 yada-yada, all that is basically tracking the items that
5 we've already seen in State's Exhibit 15?

6 A. Yes, sir.

7 Q. So that established basically that Deputy
8 Carpenter would have retrieved evidence from the crime
9 scene, taken into the back in his shop, put them in some
10 kind of lockbox for safe care. And then at some point
11 in the future, looks like January 24th, '13, he
12 submitted those items to the Harris County Institute of
13 Forensic Sciences for them to test those items?

14 A. That's correct.

15 MR. SECREST: I will offer into evidence
16 Defense Exhibit 18.

17 MS. BARNETT: No objection.

18 THE COURT: They will be admitted.

19 Q. (BY MR. SECREST) Let me show you Defense
20 Exhibit 19. Actually, let me show you 20 first.

21 Look at 20. I represent to you that this
22 is a list of evidence that was obtained from the same
23 crime scene, but on a later date, like December 26th.
24 Okay?

25 A. Yes, sir.

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1 Q. So this appeared to be a list of items that
2 were picked up by a CSI Deputy at that point. A list of
3 items that were picked up on December 26th, that's your
4 understanding?

5 A. Yes, sir.

6 Q. And then we go now --

7 MR. SECREST: And I would offer 20 into
8 evidence, Your Honor.

9 THE COURT: Any objection?

10 MS. BARNETT: No objection.

11 THE COURT: 20 is admitted.

12 Q. (BY MR. SECREST) Now, 19 is then the laboratory
13 submission form dealing with the stuff we just saw on
14 the previous exhibit showing that all of these items
15 were submitted for DNA testing at the Harris County
16 Institute of Forensic Sciences. And that looks like
17 that occurred -- and I can't read this right here -- 12,
18 something, 12, 16, 28, whatever it is?

19 A. Yes, sir.

20 Q. Now, let me show you what's been marked as
21 Defense Exhibit 21: Laboratory report. Remember, we
22 have some analysis that's been completed. And that's a
23 laboratory report, Amended Trace Laboratory Report,
24 dated October 17, 2014?

25 A. Yes.

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1 MR. SECREST: I'll offer that into
2 evidence, Your Honor.

3 THE COURT: Any objections?

4 MS. BARNETT: No objections.

5 THE COURT: They'll be admitted.

6 Q. (BY MR. SECREST) Let's talk about this report
7 right here. Again, I'm sorry, but if we look at -- this
8 is the actual analysis of the tape lifts, and of the
9 pickings and the swabs and that kind of stuff that was
10 done by the trace team from the Harris County Institute
11 of Forensic Sciences that was out there on December 23rd
12 and 24th; is that correct?

13 A. Yes, this was evidence collected by the trace
14 team.

15 Q. It's submitted to the DPS Crime Laboratory. Is
16 that done probably on purpose, since HCISF collected it,
17 or they don't want to analyze it, or am I all wet?

18 A. I don't know.

19 Q. When we look at -- look at the tape lift
20 picking of hair on the right hand. Now, we're talking
21 about the picking of something that is on the body of
22 Jaime Melgar at the crime scene; is that correct?

23 A. That's correct, yes.

24 Q. If you look, again, I'm going to talk about
25 0101AB01. That's one of the tape lifts. Was animal

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1 hair found on that tape lift?

2 A. Yes, sir.

3 Q. And, again, it indicates that that was from the
4 right hand of the deceased?

5 A. Yes.

6 Q. And then we go to the bottom one: Tape lift
7 No. 1, 0101AZ01. And it says the location is the front
8 both legs and the feet. Have I read that correctly?

9 A. Yes, sir.

10 Q. What was found in that tape lift after it was
11 submitted to the laboratory for analysis?

12 A. There was dirt and debris, animal hairs, body
13 hairs, some possible head hair fragments, hair fragments
14 of an unknown origin, and some possible pubic hairs.

15 Q. Dirt and debris, as well as animal hairs,
16 correct?

17 A. Yes, sir.

18 Q. And we look at the front right side torso and
19 the arm. Same question: We see, again, dirt and
20 debris -- wait a minute, here, front right side torso
21 shoulder and arm. Let me flip the page. Again, do we
22 see up here, do we see indication of dirt and debris,
23 again?

24 A. Yes, sir.

25 Q. Animal hairs?

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1 A. Yes, sir.

2 Q. Body hairs and some other hair fragments of
3 unknown origin?

4 A. Yes, sir.

5 Q. And then same thing from the back of the body,
6 those injuries are there?

7 A. Correct.

8 Q. Let me go down to FS1. What is FS1,
9 Mr. Quartaro?

10 A. Again, those are fingernail scrapings from
11 Mr. Melgar.

12 Q. And FS2 is another fingernail scraping from
13 another hand?

14 A. Yes, sir.

15 Q. And it says, "No analysis was done on this
16 item."

17 A. Correct.

18 Q. And do you know why no analysis was done?

19 A. I believe there was no trace evidence done at
20 that time.

21 Q. Okay. And now let me show you another
22 laboratory report.

23 MR. SECREST: And for the record, this is
24 Defense Exhibit 22. And I would offer into evidence
25 Defense Exhibit 21, Your Honor.

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1 MS. BARNETT: No objections.

2 THE COURT: It will be admitted.

3 (Defense Exhibit 21 already admitted.)

4 Q. (BY MR. SECREST) Let's talk about Defense
5 Exhibit 22. Again, what's your understanding of Defense
6 Exhibit 22, what does this represent?

7 A. This was actual DNA testing that was performed
8 by the Texas Department of Public Safety on a few items.

9 Q. Okay. And so what items based on this report
10 of DNA testing performed on?

11 A. I have a printout of that report. Is it okay,
12 if I look at it?

13 Q. Sure. Whatever you need to refresh your
14 memory. That's fine.

15 A. So it appears that they were fingernail
16 scrapings from -- just want to make sure I'm looking at
17 the correct report.

18 So fingernail scrapings collected from
19 both Mr. Melgar and Ms. Melgar. And so this report has
20 the DNA testing results of the fingernail testing.

21 Q. Why wouldn't a crime scene investigator take
22 the time and effort to scrape the fingernails of the
23 deceased and a suspect?

24 A. Did you ask why they would do that?

25 Q. Yeah. Why would they do that, based on your

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1 experience?

2 A. Sure. Basically, if there's a struggle, a lot
3 of times if there's any sort of scratching or contact of
4 DNA between the two parties, if there is some sort of
5 altercation, it can get lodged underneath the
6 fingernails. And oftentimes will be collected even
7 after the hands are washed or time has passed because
8 DNA is underneath the fingernails.

9 Q. What was the finding of the supplemental DNA
10 laboratory report issued October 17, 2016, by the Texas
11 Department of Public Safety as to analysis -- fingernail
12 scrapings of both Jaime Melgar and Sandra Melgar?

13 A. Basically in a nutshell, the DNA profile from
14 Ms. Melgar's fingernail scrapings matched Ms. Melgar.
15 In the DNA profile from the fingernail scrapings of Mr.
16 Melgar, matched Mr. Melgar. So it was just their own
17 DNA underneath their own fingernails, which is not
18 surprising.

19 Q. So if you do a swab on me, you're going to find
20 my DNA under my nails?

21 A. Yes, absolutely.

22 Q. Okay. But if I were to scratch Sandy, you
23 might also find her DNA under my nails, right?

24 A. Correct. If there was, like, blood or some
25 richer source of DNA, you may see more of that person's

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1 DNA there.

2 Q. Let me ask you about that: Even beyond
3 scratches, if I got -- if I assaulted Sandy, and I got
4 her blood on me under my fingernails, would it be quite
5 possible to do scrapings and determine that her blood or
6 her DNA is under my nails?

7 A. Yes.

8 Q. So the upshot is that no DNA of Jaime Melgar
9 was under her nails, and none of her DNA under his
10 nails?

11 A. That's correct.

12 MR. SECREST: I would offer into evidence
13 Defense 22.

14 MS. BARNETT: No objection.

15 THE COURT: I think it's already admitted.

16 Q. (BY MR. SECREST) Now let's go to Defense
17 Exhibit 23.

18 MR. SECREST: For the record, that is the
19 amended laboratory report dated 5/24/2016, from the
20 Harris County Institute of Forensic Sciences.

21 Q. (BY MR. SECREST) Are you aware of this report?

22 A. Yes, sir.

23 Q. Have you looked at it and studied it in going
24 through all of the analysis and DNA?

25 A. Yes, sir.

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1 Q. Now let's look at the first three pages,
2 please, Mr. Quartaro. Look at the bottom page 1 of 29,
3 page 2 of 29. Do you see that?

4 A. Yes, sir.

5 Q. So look at the first three pages under the top
6 of items submitted. Does this set out, if you will,
7 item number on the left hand column, and then we have
8 two different numbers for each of these -- two different
9 numbers for each of these items tested, do we not?

10 A. Yes, sir.

11 Q. What is your understanding of what the number
12 in the left-hand column represents as opposed to the
13 number in the right-hand column?

14 A. The number in the left-hand column would be the
15 item number from the lab itself. They would give it its
16 own individual number.

17 The column on the right would be the
18 agency number. That number that the item was labeled
19 when it was submitted to the lab.

20 Q. And if we go back -- and we're not going to do
21 it -- and if we go back to M.V. Carpenter's evidence
22 log, those three pages of items, we're going to see some
23 of his numbers more on the left-hand corner?

24 A. That would be in the right-hand column, yes,
25 sir.

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1 Q. Okay. Thank you for correcting me.

2 A. Yes, sir.

3 Q. And same thing, we go back to items that were
4 found in the backpack on December 26th at the Melgar
5 residence the second time law enforcement was out there,
6 we're going to find these items indicated as well?

7 A. Yes, sir.

8 Q. And then finally, let's go to page 4 of Defense
9 Exhibit 23.

10 MR. SECREST: Before I get any deeper into
11 this, I formally offer into evidence Defense Exhibit 23.

12 MS. BARNETT: No objection.

13 THE COURT: 23 will be admitted.

14 Q. (BY MR. SECREST) So let's go to the fourth page
15 of Defense Exhibit 23. What is this business up here at
16 the top that says "Summary of Results and
17 Interpretation," and I'm talking about this first
18 paragraph?

19 A. Sure. That first paragraph starts with
20 Serology Screening was performed on these particular
21 items.

22 Q. All right. Let me stop you. Two questions,
23 one at a time: What are we talking about when we
24 say "Serology screening?"

25 A. Serology is basically when you're looking to

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1 identify bodily fluids. So if you're going to try to
2 identify blood or semen or saliva, that's basically what
3 serology is.

4 Q. Okay. And a list of items that serology
5 screening was performed on, are we saying by definition
6 that some items were never subjected to serology
7 testing?

8 A. That's correct.

9 Q. And even though there was a bunch of tests
10 submitted, not everything was ever analyzed with respect
11 to serology?

12 A. That's correct.

13 Q. Let me ask you a couple of general questions:
14 What is meant by a mixture of DNA?

15 A. Sure. Well, a mixture of DNA is basically just
16 that. It's DNA that comes from more than one person.
17 So say you and I, we both take a drink out of the same
18 Coke can. We want to go back and swab that Coke can. I
19 would expect to find DNA from me and from you. So we
20 would have a mixture of DNA. Doesn't mean it's just two
21 people. It could be three or four. If you swabbed a
22 door handle or somewhere that didn't get cleaned often,
23 you'd expect to find many people's DNA present. So
24 basically a DNA sample that has more than one person's
25 profile in it.

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1 THE COURT: Mr. Secrest, let me stop you
2 there.

3 Let's take our afternoon break. We'll be
4 in recess until, let's say, 10 until 4:00.

5 (Break taken.)

6 THE COURT: Mr. Secrest, you may proceed.

7 MR. SECREST: Thank you, Your Honor.

8 Q. (BY MR. SECREST) Mr. Quartaro, let's go through
9 the black and green backpack, which is going to be on
10 page 4 of Defense Exhibit 23, the amended Harris County
11 Institute of Forensic Sciences laboratory report. Are
12 we on the same page?

13 A. Yes, sir.

14 MR. SECREST: Now, for the record, that
15 item has been formally admitted into evidence in this
16 case, and this is State's Exhibit 667.

17 Q. (BY MR. SECREST) This is the backpack?

18 A. Okay.

19 Q. And it's your basic understanding that there
20 was an Xbox and some other jewelry found in that
21 backpack in the garage of the Melgar residence on
22 December the 26th?

23 A. Yes, sir.

24 Q. So let's look again at Item Number 1. What
25 were the results of DNA testing of that backpack?

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1 Can -- let me start initially with this: And I'm going
2 to do this with the items that are applicable, and it's
3 not applicable to each item. Was there any kind of
4 presumptive test for blood done on that backpack?

5 A. Yes, there was. The presumptive testing for
6 blood was negative on this.

7 Q. Were there possible hairs observed on it?

8 A. Yes, sir.

9 Q. What's the significance of the analyst noting
10 that when they examined the item, that they saw possible
11 hairs, what's the significance of that?

12 A. A good analyst would make note of the evidence.
13 However, it is just to sort of preserve those possible
14 hairs, if there needs to be any future testing done on
15 those.

16 Q. So if you look at -- and when you look at our
17 exhibit here, again, Defense Exhibit 23, on page 4 --
18 I'm not going to do this on every item. Let's just get
19 a sense of what this is about.

20 So when we look at Item 1, black and green
21 backpack, what does this mean right here: 1-A1, 1-B1,
22 1-C1, and 1-D1?

23 A. Those are four separate swabbings of that --
24 areas that were tested on the backpack.

25 Q. Okay. So 1-D1, no DNA results were obtained,

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1 right?

2 A. That's correct.

3 Q. 1-C1, insufficient information right?

4 A. Correct.

5 Q. What about 1-A1, what were the results?

6 A. It was a mixture of DNA from at least three
7 individuals. At least one of those individuals was
8 male. But because it wasn't a robust enough sample, I
9 guess, the quality of DNA profile wasn't sufficient.
10 There was no comparison that could be made to the
11 reference of DNA sample.

12 Q. So we've got a mixture of at least three
13 individuals, and at least one of the contributors was
14 male?

15 A. Correct.

16 Q. And says here: Due to the possibility of --
17 and is that allelic?

18 A. Yes, sir.

19 Q. I'm going to spell that for Gail.

20 MR. SECREST: A-L-L-E-L-I-C.

21 Q. (BY MR. SECREST) Saying the "possibility of
22 allelic dropout at some locations. No comparison could
23 be made."

24 What's allelic dropout?

25 A. Well, sometimes if there's not enough DNA, or

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1 it's of poor quality -- let me start off by saying,
2 earlier, I told you that you get half your DNA from your
3 mother and half your DNA from your father. And if your
4 mother gives you Type A, from one of these locations,
5 and your father gives you Type B. If you have a very
6 low quality or low quantity of sample, there's a
7 possibility that you could see that Type A present, but
8 not the Type B; or the Type B present, not the Type A.
9 So it gets to a certain threshold of intensity of the
10 DNA that you're able to amplify during this process.

11 If it doesn't cross this threshold, there
12 is a possibility that you won't see the sister alleles
13 present. You may only see the A, or you may only see
14 the B. That's why it gets into that gray area. You
15 can't really make a comparison to these reference
16 samples.

17 Q. Let's go to -- not going through all these
18 items. Pick out a few.

19 Let's look at Item 6, Gears of War case.
20 Is it your understanding that yet another item was found
21 in the backpack?

22 A. Yes, sir.

23 Q. With respect to the Gears of War case, what
24 information provided regarding the testing of blood?

25 A. The presumptive testing for blood was positive

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1 on this Gear of Wars case.

2 Q. Is there any other analysis to note? What says
3 6C-1?

4 A. A partial DNA profile obtained. I guess I
5 haven't really explained partial profile yet.

6 Q. Do that for us.

7 A. Sure. So basically what were calling the DNA
8 testing is we're looking at 15 different locations on a
9 person's DNA. So if we've got a complete profile, we
10 would have the DNA type at all 15 locations.

11 If we have a partial profile, we may have
12 14 or 13 or 10 or 5. However many of those locations we
13 have results out of, then we would call that a partial
14 profile.

15 Q. Going to Item Number 8, that Gears of War
16 booklet that goes with that CD or DVD, whatever it is.
17 Presumptive test for blood is negative?

18 A. Yes, sir. I didn't finish reading the DNA
19 results from that.

20 Q. And I shouldn't have jumped. Let's go back.

21 A. Sure.

22 Q. So sorry.

23 A. I started telling you what partial DNA profile
24 was.

25 So partial DNA profile was obtained from

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1 the sample. We weren't able to tell if it was from two
2 or more than two individuals from this sample. But,
3 again, because of the quality or the quantity of this
4 DNA, there was no comparison that could be done as a
5 reference sample.

6 Q. Thank you. Okay. Item 8, Gears of War
7 booklet, presumptive test for blood was what?

8 A. Negative.

9 Q. Page five, State's Exhibit 23, what were the
10 findings with respect to the DNA analysis requested in
11 Items 881, Gears of War booklet?

12 A. In 881, again, partial DNA profile. That was a
13 mixture of at two least individuals. Again, at least
14 one of them was male. And this one had a little better
15 quality or quantity of DNA to where they could at least
16 compare the reference samples and say, these are not the
17 people. So they looked at all the reference samples
18 that were submitted, and they excluded all these people
19 as being possible contributors to the DNA found on the
20 Gears of War booklet.

21 Q. And basically all these people are the folks
22 that they obtained buccal swabs from --

23 A. Yes, sir.

24 Q. -- several -- on the day of the investigation
25 of this case?

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1 A. Yes, sir.

2 Q. Okay. Let's go to Item Number 23.

3 MR. SECREST: And for the record page 6.

4 Q. (BY MR. SECREST) Item 23 is a piece of jewelry
5 found in the backpack described as an earring with
6 stone?

7 A. Yes, sir.

8 Q. What's the result of that analysis?

9 A. There was a partial DNA profile that was
10 obtained. But this one was just a single source, so
11 just one person's DNA was present. And it was
12 consistent with an unknown female individual, which the
13 lab called Unknown Female No. 1. And, again, they
14 compared this to all the other reference samples that
15 they had. And everyone who submitted a buccal swab were
16 excluded as possible contributors to this DNA profile.

17 Q. Okay. But was there enough DNA obtained in the
18 analysis of the swabbing of the earring with the stone
19 that those results could be compared against DNA swabs
20 taken from other evidence at another time?

21 A. Yes, sir.

22 Q. That's what I want to talk about.

23 So let's go to Item No. 70.

24 MR. SECREST: That's going to be, for the
25 record, page 13.

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1 Q. (BY MR. SECREST) The items that were swabbed
2 were going to be what?

3 A. Jewelry boxes.

4 Q. And then we go back to Mr. Carpenter's
5 inventory. Let me show you, again, Defense Exhibit 15.
6 Again, that's Carpenter's evidence log?

7 A. Yes, sir.

8 Q. And we go to Item No. SW28, right here. Zoom
9 that in. And SW28, the swab Mr. Carpenter performed on
10 jewelry boxes on the bathroom sink when he was out there
11 on December 23rd and 24th, right?

12 A. Correct.

13 Q. Right?

14 A. Yes.

15 Q. So we're clear on December 23rd and 24th, this
16 evidence is obtained from the scene, correct?

17 A. Yes.

18 Q. And then it's swabbed and then that is sent in
19 for analysis, correct?

20 A. Correct.

21 Q. So then on a separate date another individual
22 goes out to the house on December 26th, and in a
23 backpack that's in the garage they find various pieces
24 of evidence, including what we were just looking at, the
25 piece of jewelry?

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1 A. Correct.

2 Q. And if we look at analysis of Item 70, again,
3 this is Carpenter's swabbing of the jewelry boxes from
4 the master bathroom vanity. What do we find?

5 A. We had the DNA results were a mixture of two
6 individuals, or at least two individuals. There was a
7 major profile.

8 And what a major profile means is if two
9 people contribute DNA to a sample, and say I have a big
10 drop of blood, and someone just barely touches it and
11 barely leaves DNA behind. You see a lot of my DNA in a
12 small amount of that. So we would call that a major
13 profile.

14 So the major profile was consistent with
15 unknown Female No. 1, and there was at least one minor
16 contributor. The minor contributor was so minor that
17 there was no comparisons done to that particular part of
18 the mixture.

19 Q. Were there individuals who were excluded as
20 being a major contributor to the mixture?

21 A. Yes, sir. All the buccal swabs that were
22 submitted as reference samples were excluded as possible
23 contributors.

24 Q. Let's make sure I understand this: So the
25 bottom line is the buccal swab samples taken from

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1 everybody at the scene on December 23rd, all these
2 people are excluded, correct?

3 A. Yes, sir.

4 Q. And although we don't know who the unknown
5 Female No. 1 is, we don't know their identity, we know
6 that same person who had DNA on the piece of jewelry
7 found in the backpack is going to be the same person
8 that had DNA detected from the jewelry boxes in the
9 bathroom, right?

10 A. It appears so, yes.

11 Q. But we don't know who that person is, except we
12 know it's not Sandy or Jim or anybody that was out there
13 on the 23rd?

14 A. Correct.

15 Q. Let's look at Item No. 28.

16 MR. SECREST: And for the record, that's
17 going to be page 7.

18 Q. (BY MR. SECREST) I want to direct your
19 attention to the colored scarf piece?

20 A. Yes, sir.

21 Q. For the record that is State's Exhibit 570 that
22 is conveniently here on this table; do you see this?

23 A. Yes, sir.

24 Q. So with respect to that item, the multi-colored
25 scarf piece, was there any testing for blood -- the

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1 presumptive test for blood was negative?

2 A. Correct.

3 Q. But, again, possible hairs were observed?

4 A. Yes.

5 Q. And hairs that could be tested for some later
6 date in the future?

7 A. Possibly, yes.

8 Q. Possibly.

9 And so what was the DNA result with
10 respect to the analysis of the DNA from the
11 multi-colored scarf piece, Item 28?

12 A. Sure. So there was two separate samples taken
13 from the multi-colored scarf 28. And so the DNA results
14 were consistent with a mixture from at least three
15 individuals. At least one of those was a male. But,
16 again, due to the quantity or quality of DNA, no
17 comparisons could be made to reference samples that were
18 submitted.

19 Q. Okay. And staying with the same physical piece
20 of evidence, but going to another analysis entry, look
21 at page 8 of Defense Exhibit 23, Item No. 37.

22 A. Yes, sir. I stopped at 28-A1. There is 28-B1.

23 Q. No, just getting ahead of myself, and I
24 apologize.

25 A. Sure.

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1 Q. Let's do the whole enchilada. Continue where I
2 left off.

3 A. So again, there was a second sample taken from
4 the scene, Item 28-B1. Again, there's a partial DNA
5 profile. It was a mixture of at least three
6 individuals. And again, because of the quantity or
7 quality of DNA present, there was -- weren't able to
8 make any comparisons to the reference sample.

9 Q. Now, I went to prematurely on page 8, Item 37,
10 another entry with respect to the multi-colored scarf
11 piece?

12 A. Yes, sir.

13 Q. And what were the -- possible hairs were
14 observed, correct?

15 A. Yes, sir.

16 Q. And these hairs have not been analyzed,
17 correct?

18 A. Not to my knowledge, no, sir.

19 Q. So what were -- what is the results for DNA
20 testing of Item 37? Again, multi-colored scarf piece?

21 A. Again, we have this mixture of at least three
22 individuals present. But again, because of quality or
23 quantity, there was not enough there to make comparisons
24 to the reference samples.

25 Q. Okay. So let's go to -- I want you to look at

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1 items one at a time, but Items 32, 33, 35, and 36. And
2 those analysis deal with -- just so you're in the loop
3 and actually see it in the flesh, that deals with these
4 ties right here. Okay?

5 A. Okay.

6 MR. SECREST: And for the record, these
7 ties are State's Exhibit 571 and 572.

8 Q. (BY MR. SECREST) So when we look at the purple
9 cloth, again, let's start with the first task, Item 32,
10 what do we find out, if anything?

11 A. So Item 32, there were possible hairs observed.
12 There were two samples taken, A and B from this area.
13 There were partial DNA results that were obtained. We
14 could not determine if it came from one or more than one
15 individual, so no comparisons could be made to the
16 reference samples.

17 Q. All right. Continuing on the same page, Item
18 33?

19 A. Thirty-three, again, there were possible hairs
20 observed, but there was insufficient amount of
21 information to make any sort of comparisons.

22 Q. Thirty-five?

23 A. Thirty-five, again, possible hairs observed,
24 partial DNA results were obtained. Again, couldn't tell
25 if it was from one or more than one individuals, no

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1 comparisons could be made.

2 Q. Okay. We can finally wrap it up. The purple
3 cloth, Item 36, what were the findings?

4 A. Thirty-six, again, possible hairs were
5 observed. There were two samples taken. The first one
6 there was no DNA results obtained. The second,
7 insufficient amount of DNA found to make any
8 comparisons.

9 Q. Thank you.

10 Let's look at Item 38, which is on page 8
11 Defense Exhibit 23. That is a glove?

12 A. Yes, sir.

13 Q. Do you see that, sir?

14 A. Yes, sir.

15 Q. What was the result of the analysis on the
16 glove?

17 A. Presumptive testing was performed on the glove
18 for blood, and that was negative. Partial DNA results
19 were obtained. But again, couldn't determine whether it
20 came from one or more than one individual, so no
21 comparisons could be made to the reference samples.

22 Q. Okay. Let's look at Item No. 39. That is a
23 white blouse that was located in the Jacuzzi. What were
24 the results of DNA testing on the white blouse?

25 A. Possible hairs were observed on the white

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1 blouse. There was, I believe, four areas that were
2 tested from the white blouse. And there was either
3 insufficient information to make comparisons, or no DNA
4 results obtained from all of those.

5 Q. Is there any indication with respect to the
6 white blouse -- I'm going to take you back to -- is
7 there any indication whether there was any blood found
8 on the white blouse?

9 A. There was nothing reported, sir.

10 Q. Let's talk about the Item 43, the knife that
11 the jury has seen in this case. So Item 43, the knife
12 blade swabs, just so you can orient our jury, is it
13 typical in these kinds of investigations that separate
14 testing would be done on the blade itself as well as the
15 handle?

16 A. Sure, absolutely. What you're hoping to do is
17 separate out DNA from the end that someone was holding,
18 and from the DNA where you would be possibly stabbing
19 someone and getting blood. Blood has a lot of DNA in
20 it. So by separating the two swabs, there is a
21 possibility we would get whoever was holding the knife
22 on one end, and whoever was bleeding on the other end.

23 Q. Okay. So if we look at the analysis of the DNA
24 swabbing of the knife itself, the presumptive test for
25 blood was what?

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1 A. Positive.

2 Q. That's not much of a mystery is it? We would
3 expect that the murder weapon would have -- would test
4 positive for blood, correct?

5 A. Yeah, definitely not surprising.

6 Q. Okay. And then what were the results of the
7 swabbing of the blade itself?

8 A. The DNA profile was a single-source profile
9 that was consistent with Mr. Melgar.

10 Q. Okay. And Sandra Melgar and the rest of the
11 Melgars were excluded?

12 A. Correct.

13 Q. And let's look at Item No. 44. That is the
14 knife handle swab, was it not?

15 A. Yes, sir.

16 Q. And what was the results of that?

17 A. Again, presumptive testing was positive for
18 blood. There was a mixture from at least two
19 individuals on the handle. The major profile was
20 consistent with Mr. Melgar. There wasn't enough
21 information from that minor component to make any
22 comparisons to the rest of the sample.

23 Q. What about Sandy Melgar, Marissa Melgar, Monica
24 Melgar, Maria Melgar, and Herman Melgar, what were the
25 results relative to them?

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1 A. They were all excluded as a major contributor.

2 Q. Okay. Let's go to the sink and tub swabs. Was
3 it your understanding that both sinks in the master
4 bathroom, as well as the Jacuzzi, were swabbed for
5 possible DNA?

6 A. Yes, sir.

7 Q. Let's go to the initial Items 50 and 53.

8 MR. SECREST: That will be pages 11 to 12.

9 A. So Item 50 is a swabbing of the south sink
10 swabs.

11 Q. (BY MR. SECREST) Okay.

12 A. We've got a partial DNA profile results that
13 was from one individual.

14 Q. Okay.

15 A. And that was Sandra Melgar could not be
16 excluded as a possible contributor to that sample.

17 Q. Okay. What about the rest of the analysis?

18 A. Everyone else was excluded.

19 Q. So everyone else was excluded, including Jaime
20 Melgar, right?

21 A. Yes.

22 Q. So with respect to that sampling of the south
23 sink swab, Jaime Melgar's blood was not there?

24 A. There was no testing for blood, and his DNA is
25 not there.

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1 Q. DNA is not there. Okay.

2 A. Correct.

3 Q. Is his DNA -- is blood a rich source of DNA?

4 A. Yes, absolutely, yes.

5 Q. Okay. So bottom line is none of Jaime Melgar's
6 DNA is found?

7 MS. BARNETT: Asked and answered and
8 leading.

9 THE COURT: Sustained.

10 Q. (BY MR. SECREST) Let's go to Item 53, and that
11 is the south sink swab. In fact you had another swab of
12 the south sink?

13 A. Yes.

14 Q. Tell us, please, the results.

15 A. Again, single source DNA profile. Again,
16 Ms. Melgar could not be excluded as a contributor to
17 that sample. But everyone else that was tested were
18 excluded as a contributor to that sample.

19 Q. Okay. Now the fact that Ms. Melgar's -- Sandy
20 Melgar's DNA was found there, does that at all indicate
21 that it's necessarily blood?

22 A. No, there's no testing for blood. It just
23 means that her DNA was present there.

24 Q. Okay. So the DNA then would come from what
25 source, possible source?

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1 A. As we talked about earlier, items in your own
2 house that you handle regularly, it's not unusual to
3 have your own DNA there.

4 The south sink swabs, I'm not sure if it
5 was the handle, or the base, or where they were. By
6 using the sink faucets, wiping it out, brushing your
7 teeth, those things leave DNA behind. So to me there's
8 not that much significance about it. If it's her own
9 sink, her own DNA is present there.

10 Q. So if you came to my home and swabbed my sink,
11 what would you likely find?

12 A. Likely find your DNA. Depending upon the last
13 time when the house was cleaned.

14 Q. Okay. Let's talk about the testing for the
15 north sink, second sink in the master bathroom. If you
16 would look at Item 52 on the same page, page 12.

17 A. Yes, sir.

18 Q. What were the results of DNA analysis from the
19 swab taken from the north sink of the master bathroom?

20 A. Again, we have a partial DNA profile obtained.
21 Couldn't determine if it was from two or more than two
22 individuals. And again, no comparisons could be made to
23 any of the reference samples in this case.

24 Q. Let's look at swabs 51 and 54. We'll have to
25 regretfully go to the proceeding page. But look at 51

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1 and 54. And they deal with swabbing of the tub for DNA.
2 Do you see that there?

3 A. Yes, sir.

4 Q. So with respect to 51, what was the results?

5 A. We had a single source DNA profile, and Sandra
6 Melgar could not be excluded as a possible contributor.
7 Everyone else was excluded as a possible contributor.

8 Q. Does that mean that Jaime Melgar was never in
9 the hot tub?

10 A. No, sir. It only means that his DNA was not
11 found on the swab.

12 Q. Okay. And then we go to Item 54. This is
13 going to be a quick one for you. Looks like no DNA
14 results were obtained at all?

15 A. Correct.

16 Q. Let's look at Item No. 80 and 81. I'm asking
17 you specifically with reference to swabbing of Sandra
18 Melgar's hand?

19 A. Yes, sir.

20 Q. So let's look at Item No. 80. What were the
21 results with respect to swabbing of Sandra Melgar's left
22 hand, Item 80?

23 A. So there was partial DNA profile that was
24 obtained that came from at least two individuals. The
25 major contributor was a female. And Ms. Melgar could

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1 not be excluded as a major contributor. Everyone else
2 was excluded as a possible major contributor. There
3 wasn't enough data there as a minor component to make
4 any sort of comparisons of who could be the minor
5 component.

6 Q. So, again, if you swab my hand, you would
7 possibly find my DNA?

8 A. Yes, sir.

9 Q. Eighty-one, what were the results of the right
10 hand swab of Sandra Melgar?

11 A. For the right hand, presumptive testing for
12 blood was negative on the right hand. And again, very
13 similar mixture, at least two individuals. Ms. Melgar
14 cannot be excluded as a possible major contributor.
15 Everyone else was excluded as a possible major
16 contributor. And then there was not enough data present
17 in that minor component to make a comparison.

18 Q. And so going back to -- if you would, Item 44,
19 page 10. You there?

20 A. Yes, sir.

21 Q. Just refresh our recollection: The knife
22 handle swab, the actual swab of the knife handle,
23 presumptive test for blood was positive?

24 A. Yes, sir.

25 Q. Then Sandra Melgar's right hand, presumptive

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1 test for blood was negative?

2 A. Yes, sir.

3 Q. Looking at all the results of this case, was
4 Sandra Melgar's DNA ever found mixed in Jaime Melgar's
5 DNA?

6 A. Yeah. There was no sample here where they're
7 both included. So either it's one or the other.

8 Q. So was Sandra Melgar's DNA found on Jaime
9 Melgar's body, on anything tied around his body, or on
10 anything in the closet where he was found murdered?

11 A. No, sir.

12 Q. And looking at the results of DNA analysis,
13 Mr. Quartaro, in this case, did you find examples of
14 alleles that were foreign to Sandy and Jaime Melgar?

15 A. Yes, sir.

16 Q. And before we go there, what is an allele?

17 A. Again, we were talking about -- when we were
18 talking about alleles dropout, we had the mother giving
19 the A, and the dad giving the B. So when we're looking
20 at a mixture, and say we have a mixture of two people.
21 So we know our DNA types, we look at it, and we can look
22 at a sample at a crime scene and see if there's any
23 alleles that are foreign to us. Say I have Type A, and
24 he has Type B. On the evidence we see a Type A and Type
25 B and a Type C there. So that means there was someone

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1 there that contributed Type C. I couldn't contribute it
2 because I'm Type A, and you couldn't contribute it
3 because you're a Type B. So there may be a foreign
4 contributor to that particular location that we're
5 testing.

6 Q. So with respect to the examples of alleles that
7 were formed with Sandra and Jaime Melgar, did some of
8 those samples contain male DNA?

9 A. Yes, yes.

10 Q. And can you tell us or guide us towards what
11 specific items that were tested that were foreign to
12 Sandy and Jaime's DNA, but contained DNA from a male?

13 A. So the sample from the backpack, 1A1, again,
14 the conclusion was at least one contributor to the
15 mixture was male. There were four alleles present that
16 couldn't be contributed by Mr. and Mrs. Melgar.

17 The Item 6C1, the Gears of War case,
18 again, I can't tell if it was male or female, but there
19 was two alleles present that weren't consistent with
20 Mr. or Ms. Melgar. And on the Gears of War booklet, you
21 know, we talked about there being DNA. There's at least
22 one male present, but everyone was excluded. So there
23 were two alleles there that weren't consistent with
24 either one of them.

25 If we look at multi-colored scarf piece.

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1 So we look at sample 28A and 28B and 34A. They all
2 contain at least one allele that couldn't be contributed
3 by Mr. and Ms. Melgar, and 37 as well. Sorry. So four
4 samples from the multi-colored scarf piece.

5 And we didn't talk about this one already,
6 but there was closet doorknob swabs. And that's Item
7 59. Again, I don't know if it's a male or female, but
8 there are three DNA types that are present that are
9 foreign.

10 Item 60, the guest bathroom doorknob,
11 where there are two alleles that are foreign.

12 The left side nightstand swabs, there are
13 two alleles that are foreign.

14 Item 64, the open dresser drawer swabs,
15 there are six alleles that are foreign to Mr. and Ms.
16 Melgar present on that.

17 The office doorknob swabs, which is Item
18 65, there are four alleles that are present, and four
19 unknown alleles.

20 We talked about the jewelry box swabs
21 where there is unknown Female No. 1. And again, Item
22 70, jewelry boxes swabs, unknown Female No. 1, and
23 another, at least one unknown individual, and there was
24 a foreign alleles present there separate from Female No.
25 1. And that's it.

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1 Q. Thank you.

2 MR. SECREST: I pass the witness.

3 **CROSS-EXAMINATION**

4 **BY MS. BARNETT:**

5 Q. When there's some things that have left to be
6 tested {sic}, it's been your experience that the defense
7 attorney can get those things tested if he wants to,
8 right?

9 A. It's possible, yes.

10 Q. It's always possible for a defense attorney to
11 get things tested if the judge grants it, right?

12 A. As long as there's evidence remaining, yes.

13 Q. I mean, as far as you know, a defense attorney
14 would never be denied access with trying to find out
15 what evidentiary value there is in DNA, correct?

16 A. I don't know that for sure, but I would assume
17 so.

18 Q. Okay. So if there were things that remain to
19 be tested, they could have been tested in this case,
20 could they not have?

21 A. If there's evidence remaining, yes.

22 Q. So the things I want to talk about are the
23 things that you talked about. One of the first ones
24 that I want to address is unknown Female No. 1. Do you
25 know what I'm talking about?

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1 A. Yes, ma'am.

2 Q. Unknown female shows up on two specific
3 indicators, right?

4 A. Two different samples?

5 Q. Two different samples. Thank you for that.

6 A. Yes.

7 Q. One of them is jewelry boxes?

8 A. Yes.

9 Q. And what's the other one?

10 A. The other one was the earring with stone; I
11 believe it's Item 23.

12 Q. Item 23. You're right. So it's Item 23 and
13 it's Item 70. And I noticed that you didn't give an
14 analysis on that one. Do you not know who was the
15 contributor on that one?

16 A. I'm sorry.

17 Q. Do you not know who the contributor --

18 A. No. It was listed as unknown Female No. 1.

19 Q. Okay. You talked to us about, I think, you
20 said it a number of times: Half mom, half dad; is that
21 right?

22 A. Yes.

23 Q. And what exactly does that mean exactly?

24 A. Again, you get half of your DNA from your mom,
25 and half from your dad.

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1 MS. BARNETT: Your Honor, I would offer
2 into evidence State's Exhibit 733 and 734. May the
3 record reflect I'm tendering to opposing counsel.

4 MR. SECREST: No objection to State's
5 Exhibit 734. I have no objection to Exhibit 733 once
6 the writing by the prosecutor is removed from there.

7 MS. BARNETT: Of course.

8 THE COURT: Okay. So then you have no
9 objection to 733 and 734 with that redaction taken off?

10 MR. SECREST: Yes.

11 MS. BARNETT: And I would also offer 735,
12 which is a few pieces of information from 734.

13 MR. SECREST: No objection.

14 THE COURT: 735 will also be admitted.

15 Q. (BY MS. BARNETT) So when you're talking about
16 Mom and Dad, let's look at Sandy and Jaime. So what are
17 these different categories called?

18 A. Again, each one is called loci or location.

19 Q. And so what are we talking about when we see
20 that -- what did you call them again?

21 A. Alleles.

22 Q. Alleles for Sandy and Jaime, what do we see
23 here?

24 A. She has a 10, which means she got a tenth from
25 her mother, and a tenth from her mother {sic}. And he

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1 has a 12 and a 14, which means a 12 from one of them and
2 12 from another.

3 Q. So going down the list, why are there different
4 numbers on No. 2, what does that mean?

5 A. I'm sorry.

6 Q. There are different numbers on the second one
7 30, 29, and 30, right?

8 A. Yes, DNA, yes.

9 Q. So that goes through all of these, do they not?
10 Across the board from left to right, you get different
11 numbers from different areas?

12 A. Yes. Each DNA type is different in each
13 location.

14 Q. So when we're looking at the -- for example,
15 the chair-back swabs, we see that the chair-back swabs
16 from No. 1 matches Jaime; is that right?

17 A. Yes.

18 Q. The seat swabs match Jaime, the stool and stool
19 seat match Jaime, right?

20 A. Well, I mean, there's other -- I can't see the
21 stool seat. There's 12, 13, and 14. So there would be
22 another contributor. He couldn't have contributed that
23 13.

24 Q. I guess the point I'm trying to make is it's
25 very clear why Jaime wasn't excluded from the sample

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1 because -- and refer to your report if you need to -- I
2 think you have it in front of you. It's not your
3 report, the IFS report.

4 A. Sure. I didn't know what you were showing me.
5 What page is that from the report?

6 Q. Item 76, 78, and 79.

7 A. What page is that from the report?

8 Q. Of which particular part?

9 A. I'm trying to find the table that you were
10 using, page numbers.

11 Q. I see. The stool swabs, page 27. I'm sorry.

12 A. Sure.

13 Q. So there's no question based on these swabs in
14 this report that this information on the chair-back
15 swabs and stool swabs come from Jaime, based on your
16 report, right?

17 A. Yeah. And again, we look at more than just one
18 location. So when you're making that determination -- I
19 know you're simplifying -- I'm trying to explain to the
20 jury: When you're looking at the entire profile, you're
21 not relying on one location where you can say, okay,
22 it's him. We're looking at 15 different locis, and
23 there's a combination of all of those. Each particular
24 allele is really not that unique. There may be a
25 10 percent of the population that have a 12, or 14, or 5

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1 percent, or 15 percent. It's kind of like playing the
2 lottery. You can pick the No. 10. You get one number,
3 you don't really win. It's a combination of getting all
4 six or seven of those numbers that makes it a very rare
5 occurrence.

6 Q. Okay. Let's take a look at the earring with
7 the stone. Item 23-A1. Are you with me on that?

8 A. Yes.

9 Q. That's unknown Female No. 1; is that right?

10 A. That's what the lab called it, yes.

11 Q. So unknown -- so the earring with the stone has
12 a 10 and a 14, correct?

13 A. Sure.

14 Q. Sandy has a 10, and Jaime has a 14?

15 A. Correct.

16 Q. When you go on down the line, location number
17 2 -- excuse me, go to No. 5, says 17 and 18. Sandy has
18 an 18, and Jaime has 18?

19 A. That's correct. One is a 15, and one is a 14,
20 so, yes.

21 Q. And how many locations on this particular graph
22 show that the earring with the stone has the same
23 alleles as one or more -- both parents?

24 A. Having one allele in common with them?

25 Q. No, both?

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1 A. None of them have both.

2 Q. You're right. I'm sorry. One, that's right.

3 A. That's okay.

4 There are five.

5 Q. So do you assume that when the report talks
6 about unknown Family Member No. 1 on both locations --
7 I'm sorry, unknown Female No. 1, that they're talking
8 about the same person?

9 A. Yeah, it's typically how they're reported. One
10 unknown female is seen in multiple samples; there's
11 unknown Female No. 2. If there's a second unknown
12 female, that would be unknown Female No. 2. This is
13 just a way to orient yourself when you're looking at
14 data.

15 Q. Let's look at the jewelry box swabs, 70.1.
16 Let's see, that's going to be on page 27.

17 When you look at those numbers, how many
18 do we have in common with that?

19 A. I'm going to have to take my file apart here so
20 I can look at what both their profiles are. Give me a
21 second here.

22 Q. Let's go one by one. Is that all right with
23 you?

24 A. That's fine.

25 Q. So we're looking at the top is Sandy, and the

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1 second is Jaime, and the last is the jewelry box swab,
2 right?

3 A. Sure.

4 Q. So No. 1, is that a 10 and a 14? I'm sorry.
5 We a have a 10 and a 14?

6 A. We have a 10, 12, and 14, yes.

7 Q. Then we have 29 and a 30?

8 A. And a 31.2, yes.

9 Q. And they share a 30?

10 A. They do share a 30, yes.

11 Q. And then we have an 8 and a 11. We have an 8
12 and a 11?

13 A. Yeah, she has an 8, 10 and he's an 11.

14 Q. And they share an 11?

15 A. They do share an 11 and 12, yes.

16 Q. And we have a 15, 17, and 18; is that right?

17 A. Yes. There's a 14 there as well.

18 Q. And then we have a 7, 9, and a 3. We have a 7,
19 a 9, and a 3.

20 A. Actually, 9.3. She's a 7, he's a 69.3, the
21 jewelry box result of 79.3.

22 Q. Then we have an 11 and 12?

23 A. Yeah. She's 11, 12, and he's the 14, yes.

24 Q. And then we have a 10 and a 12?

25 A. Yes, she's a 10, and he's 11, 12.

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1 Q. 20, 23?

2 A. Correct.

3 Q. 12.2, 14; 12.2, 14; is that right?

4 A. Yes.

5 Q. And then we have 14 and a 16, and we have a 14
6 and 16?

7 A. Correct.

8 Q. And we have 8 and 11, then 8 and 11, and then 8
9 and 11. They share that?

10 A. Yes.

11 Q. 13 and 14, 13 and a 14?

12 A. Yes.

13 Q. 7.11 and 12 -- I am sorry, 7.12?

14 A. It's a 7, 11, and a 12, yes. That's what's in
15 the evidence sample; she's an 11 and 12, and he's a 7,
16 12.

17 Q. 21, 25, and 21 and 25?

18 A. Yes.

19 Q. Does that appear to be the daughter of the two,
20 or child of the two?

21 A. It could be. If there's other data there as
22 well. But it's not impossible, but I don't have her
23 reference.

24 Q. Of course. And that's why you don't say in the
25 DNA report that it's a match for DNA. The report

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1 terminology is that he is excluded, correct -- or he is
2 included?

3 A. I don't understand your question. Can you ask
4 that one again?

5 Q. Yes, I will. When you're talking about DNA,
6 you can't say that the blood on the seat-back chair
7 matches Jaime Melgar? You don't say that language, do
8 you? DNA reports don't say the bloody chair doesn't
9 match the blood of Jaime Melgar? They don't say that,
10 do they?

11 A. In the past, they did. Now it's it cannot be
12 excluded is a more appropriate term.

13 Q. Let's not talk about the past, let's talk about
14 our report and what we're doing today. They don't say,
15 the blood on the back of the chair matches Jaime Melgar,
16 right?

17 A. No.

18 Q. They say, Jaime Melgar cannot be excluded,
19 correct?

20 A. Yes.

21 Q. So it's not necessarily that you can say,
22 that's the daughter of the Melgars, but it's pretty
23 close, isn't it?

24 A. I don't have her profile. You're asking me to
25 make a comparison about someone I don't know what her

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1 profile is. So if you're asking me could these two
2 people possibly have a child with this profile, yes.
3 Can I say that this is their daughter, I don't know. I
4 don't have that profile.

5 Q. Of course, you don't. But it's certainly
6 possible that it really matches every single location
7 where the jewelry box is that it could be 50 percent the
8 mom, 50 percent the dad, and comes out to this profile
9 and could be the daughter, right?

10 A. It's possible, yeah. There's other data there
11 as well. A mixture, yes.

12 Q. And certainly with the daughter coming into
13 town and handling her mom's jewelry, that's certainly a
14 possibility, right?

15 A. If that happened, it's possible.

16 Q. And the pearl earring that we're talking about
17 that was found in the backpack, that could have been
18 handled by the daughter certainly, right?

19 A. Are you talking about Item 23 with the stone?

20 Q. Yes, I am.

21 A. I don't know if she could have handled it. I
22 have no idea.

23 Q. Certainly looks like it, doesn't it?

24 A. I don't know. Yes.

25 Q. When you're talking about the black and green

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1 backpack, looks like three people -- what we're saying
2 basically is we don't know who those three people are,
3 right?

4 A. We don't know. In which sample are you talking
5 about, specifically?

6 Q. Item No. 1?

7 A. Sure. And there were four samples taken from
8 it, so I'm asking which one you are asking me about?

9 Q. The one where we're talking about the DNA
10 results obtained?

11 A. Sure. There's 1-A1, 1-B1, and 1-C1, 1-D1.

12 Q. So 1-D1 has no DNA results, so I wouldn't be
13 talking about that one. And I wouldn't be talking about
14 C1 that says, "insufficient information"; I'm not
15 talking about that one.

16 A. Okay.

17 Q. I'm talking about the one that says, "the DNA
18 results are consistent with the mixture of DNA from
19 three people"; that's what I'm talking about.

20 A. Okay. There's also one that says more than
21 one, there's 1-D1, too. I want to make sure I'm
22 answering your questions correctly.

23 Q. All right. So what we're talking about on
24 these three people, that could be any of the family
25 members, or -- we don't know who they are. It's just

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1 not enough information?

2 A. Correct, that's exactly what it says.

3 Q. It could be the salesperson who sold him the
4 backpack?

5 A. I don't know. Could be.

6 Q. DNA doesn't expire after a week, does it?

7 A. No.

8 Q. The Gears of War booklet, Item A -- AA-1,
9 you've got many people that are excluded as contributors
10 of the mixture. Not you, I apologize for that; it's not
11 your report. But the report states that many people are
12 excluded. But we don't know if Elizabeth, the daughter
13 of the Melgars, and her husband could be the people that
14 are responsible for that partial mixture, correct?

15 A. I have no idea. All those compare with items
16 submitted.

17 Q. The question is: Is it possible?

18 A. I don't know. I haven't looked at the profiles
19 to see if that is possible.

20 Q. Is there a profile to look at?

21 A. On AA-1?

22 Q. Yes, sir.

23 A. There's a partial DNA profile. At least one
24 contributor to the mixture is a male.

25 Q. Okay. So actually that could have been tested

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1 by the Defense had they wanted that done?

2 A. Could have been tested by the prosecution as
3 well, anyone.

4 Q. Right. I guess my is point: We did our
5 testing. The Defense could have done additional testing
6 had they wanted to?

7 A. Sure.

8 Q. On Item 28, the multi-colored scarf piece,
9 28A-1, consistent with three individuals. One
10 contributor male, but no comparisons are made. And why
11 is that?

12 A. The possibility of allele dropouts.

13 Q. And what does that mean exactly?

14 A. Sure. It's what we talked about earlier; I
15 think I explained this. If your mother gives you an A,
16 and your father gives you a B, your type is -- if we
17 look up here, just look at that last column, FGA.
18 There's a 23, 25. If there's not a lot of DNA there,
19 there's a possibility that you could either see the 23
20 or the 25, and not see both of them. You could see both
21 of them, but there's a possibility that one of them
22 could drop out from the results.

23 Q. And it could have been the people that were
24 trying to untie her; is that right?

25 A. It's possible, yes.

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1 Q. And it could have been her, right?

2 A. Possible.

3 Q. The purple cloth that she had on her wrist, no
4 DNA results really were obtained from that, right?

5 A. The purple cloth?

6 Q. Item 32 through 36?

7 A. So there were partial DNA results contained
8 from 32A-1-1. But, again, it came from one or more
9 individual, and no comparisons could be made.

10 Q. Do you think that there's a better chance of
11 getting DNA results if you have, let's say, that around
12 your wrist for 14 hours versus 10 minutes?

13 A. It's possible.

14 Q. Certainly much more opportunity to leave DNA,
15 right?

16 A. Yeah. There's lots of factors, but time could
17 be one of them, yes.

18 Q. If something is around your wrist that is very
19 tight, and you're not able to get out of, would you
20 think if you're struggling against it, that could be
21 something that would leave your wrist -- leave some DNA
22 on it?

23 A. Possible, yes.

24 Q. That would be more of an idea of leaving
25 something on your wrist, or something that was just not

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1 on your wrist for a long time, or you didn't struggle
2 against, right? When you have something on your wrist
3 and it's tight, and you're struggling against it for a
4 long period of time, wouldn't that have a better chance
5 of leaving DNA than something that you only put on your
6 wrist for maybe 5 or 10 minutes?

7 A. Possibly, yes.

8 Q. And have a better chance of getting skin off of
9 you?

10 A. It could, yes.

11 Q. The knife handle swab is, I think you said on
12 Jaime Melgar can't be excluded. But there's a second
13 contributor that we don't know the identity of, correct,
14 441?

15 A. Yes, at least one minor contributor.

16 Q. We don't know who the minor contributor is?

17 A. Just like a lot of these, there was not enough
18 DNA present in that minor contributor to make any
19 conclusion.

20 Q. So Sandra Melgar could possibly be that
21 contributor, we just don't know?

22 A. There's not enough data there to make that
23 conclusion.

24 Q. So it's possible that Sandra Melgar could be
25 that minor contributor, we just don't know?

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1 A. Like I said, there was not enough data to make
2 any sort of conclusion.

3 Q. Well, you can make a conclusion about the tub,
4 can't you, that Jaime Melgar was excluded from that tub,
5 No. 51-1?

6 A. From the tub was a single source DNA profile,
7 yes.

8 Q. And on the other tub there were no DNA results,
9 as far as either one?

10 A. On Item 54? Yes, there was no DNA results on
11 Item 54.

12 Q. So on the tub -- and on the tub, there's no --
13 there's no DNA that shows or proves that Jaime Melgar
14 was ever in that tub, right?

15 A. His DNA is not on either of these two swabs.
16 Can I say that he was never in the tub? I cannot go
17 that far.

18 Q. That's not what my question was.

19 A. Okay.

20 Q. Based on the evidence of these swabs, there's
21 no evidence, just on these swabs, that he was ever in
22 the tub, right?

23 A. His profile wasn't on either one of the swabs,
24 correct.

25 Q. But there was evidence that she was in the tub,

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1 true?

2 A. Her DNA profile is on Item 51, yes.

3 Q. And her single -- she's also on the south sink
4 swab on both swabs, right?

5 A. Can you just make sure which item no. you're
6 talking about?

7 Q. Sure. 51 and 53-1

8 A. 51 is a tub swab.

9 Q. 50-1?

10 A. Item 50-1?

11 Q. Yes, sir.

12 A. Yes, there's a partial single source profile
13 that was consistent with Ms. Melgar.

14 Q. All right. And we don't see Jaime Melgar on
15 that one, do we?

16 A. No.

17 Q. And Item 53-1, she can't be excluded on the
18 south sink swabs, right?

19 A. Correct.

20 Q. And he's not there either?

21 A. Correct.

22 Q. The right hand of Sandra Melgar, that was
23 negative -- sorry, just a second. Item 81-1?

24 A. Yes.

25 Q. A presumptive test for blood was negative on

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1 her right hand. Certainly, if you know the facts of the
2 case, you know that she would have had an opportunity to
3 clean off blood, right?

4 A. I'm assuming there was some time from the
5 actual murder, and when she was bond, yes.

6 Q. So you are aware of the facts of the case?

7 A. Some of them, yes. I know there was a time
8 lapse there, yes.

9 Q. So she would have had ample opportunity to
10 clean off any blood she had on her body, and especially
11 her hands?

12 A. Possible, yes.

13 Q. Were you paid for your testimony?

14 A. Yes.

15 Q. How much were you paid, sir?

16 A. My average fee for testimony is \$2,000 per day.

17 Q. And so how much is your total bill so far?

18 A. Honestly, I don't know.

19 Q. More than \$2,000?

20 A. I get paid \$2,000 per day. But, yes, I
21 spent -- more than 1,500 pages of documents to go
22 through.

23 Q. And do you know how many days it took you to
24 review those documents?

25 A. Honestly, I don't know.

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1 Q. So 6,000, 8,000, 10,000?

2 A. Again, somewhere north of 2, probably less than
3 5. I honestly don't know.

4 MS. BARNETT: Pass the witness.

5 **REDIRECT EXAMINATION**

6 **BY MR. SECREST:**

7 MR. SECREST: May the record reflect, I'm
8 glad it's south of 5.

9 Q. (BY MR. SECREST) The prosecutor asked you
10 whether it's possible that Sandra Melgar could have
11 washed her hands to get rid of blood. Do you remember
12 that question?

13 A. Yes, sir.

14 Q. Were you aware that there was no evidence in
15 this case that she ever washed her hands at any time?

16 A. I'm not aware of that, no.

17 Q. I thought I asked you early -- let me circle
18 back. So I can get in my Jacuzzi, turn it on, have a
19 bubble bath and stay in there for some time and get out.
20 Are you saying by definition if my DNA is not obtained
21 from the swab, that means I wasn't in the tub?

22 A. No, sir. What happens is there are several
23 opportunities to obtain DNA for a profile. First of
24 all, I would have to leave some DNA behind. Say I touch
25 this microphone, this one little place at the very tip.

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1 Touch or heavy touch, doesn't really matter. Someone
2 comes along and says, I'm going to collect a swab from
3 the microphone. And they swab the shaft, or they swab
4 this portion. I still touched the microphone up here,
5 but the sample was taken from here; you wouldn't
6 necessarily see it.

7 So, one, DNA has to be left behind; two,
8 it has to be collected on the swab; and three, a DNA
9 profile is generated from that swab in the laboratory.

10 So if you're missing a piece of -- like,
11 if his DNA wasn't found in the Jacuzzi, that doesn't
12 mean he was never in the Jacuzzi. It just means that
13 swab that was collected doesn't have his DNA present on
14 it.

15 Q. Can you tell us in fact based upon principles
16 of scientific analysis that any of Sandra Melgar's DNA
17 was found present in the blood mixtures, in this case,
18 Jaime Melgar?

19 A. Again, there was no conclusion in any of these
20 reports that included or didn't exclude Ms. Melgar from
21 any of the samples from where Mr. Melgar's blood was.

22 Q. So what does that tell us?

23 A. Again, everywhere there was Mr. Melgar's DNA
24 profile, there was blood. And none of those samples
25 didn't state anywhere that Sandra Melgar could not be

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1 excluded.

2 Q. So you've got a double negative there. I want
3 to make sure that I didn't miss something. Walk through
4 it carefully so the jury hears whatever your answer is.

5 MS. BARNETT: I believe this was asked and
6 answered on direct.

7 THE COURT: Sustained.

8 Q. (BY MS. BARNETT) Ultimately, based upon your
9 experience, how many cases have you testified in in a
10 criminal court of law?

11 A. Again, I testified roughly 80 times.

12 Q. Criminal cases?

13 A. Yes, sir. Consulted on many more than that.

14 Q. So it's your understanding that when the dust
15 settles, and the jury gets the case ultimately, the
16 burden of proof is on the prosecution?

17 A. Yes, sir.

18 MR. SECREST: Pass the witness.

19 MS. BARNETT: I don't have any questions.

20 THE COURT: Is this witness excused, then?

21 MS. BARNETT: Yes.

22 MR. SECREST: Yes.

23 THE COURT: Thank you, sir. You're free
24 to go.

25 Call your next witness, please.