

Testimony of Joni McClain

11 DIRECT EXAMINATION

12

13 BY MR. GREG DAVIS:

14 Q. Would you please tell us your full
15 name.

16 A. Joni McClain.

17 Q. Are you a medical doctor?

18 A. Yes.

19 Q. How are you employed?

20 A. I'm a Medical Examiner with Dallas
21 County.

22 Q. How long have you been a Medical
23 Examiner with Dallas County?

24 A. Since June of 1992.

25 Q. Can you tell us a little bit about your
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1 educational and professional background?

2 A. I graduated from the University of

3 Oklahoma School of Medicine in 1983 with a doctor of
4 medicine degree. After that, I did a four-year residency
5 in anatomic and clinical pathology at the Oklahoma
6 teaching hospital.

7 After that, I spent a fellowship year

8 at Indiana University in forensic pathology. And then

9 after that, I was in the Military for four years at the

10 office of the Armed Forces Medical Examiner in Washington

11 D.C. Then I joined the office in Dallas.

12 Q. Okay. You had mentioned forensic
13 pathology. Can you tell us what that is?

14 A. Well, forensic pathology is involved

15 with determining the cause of death, why someone died, as

16 well as the manner of death. And we do that, in instances

17 where people die under unusual, unknown, or violent

18 circumstances. In order to come to the cause and manner
19 of death, we perform autopsies.

20 Q. Approximately how many autopsies have

21 you performed personally?

22 A. Over 1,500.

23 Q. Let me ask you if you had an occasion

24 to perform an autopsy on an individual that was identified

25 to you as Devon Routier?

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1 A. Yes.
2 Q. And when an autopsy is performed, Dr.
3 McClain, it comes there to the Dallas County M.E.'s
4 office, is it assigned a case number?
5 A. Yes, it is.
6 Q. Okay. Is that a case number that will
7 be for that individual only?
8 A. Yes.
9 Q. Now, do you also prepare an autopsy
10 report, a written report of your findings?
11 A. Yes.
12 Q. As a part of the process, are
13 photographs also taken, either at or near the time of the
14 autopsy?
15 A. Yes, they are.
16 Q. Okay.
17
18 (Whereupon, the
19 exhibits were
20 marked for
21 Identification
22 only, as State's
23 Exhibit No. 1
24 and State's
25 Exhibit A.)
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1
2 MR. GREG DAVIS: May I approach the
3 witness, your Honor?
4 THE COURT: You may.
5
6 BY MR. GREG DAVIS:
7 Q. Doctor McClain, let me show you what's
8 been marked as State's Exhibit No. 1, and ask you to
9 review that document. And tell me, whether or not it is a
10 true and correct copy of the autopsy report that you
11 prepared in this case concerning Devon Routier?
12 A. Yes, it is.
13 Q. Okay. And, Dr. McClain, if you will,
14 if you'll take a look at State's Exhibit No. A and tell me
15 whether or not that is a photograph that was taken at or
16 near the time that you performed the autopsy on Devon
17 Routier?
18 A. Yes, it is.
19 Q. And does it also contain and show the
20 same case number of 1811-96, as it appears on your autopsy
21 report?
22 A. Yes.

23

24 MR. GREG DAVIS: Your Honor, at this
25 time, we'll offer State's Exhibit No. 1, the autopsy.
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1 We'll offer State's Exhibit A for record purposes only.
2 MR. DOUGLAS MULDER: No objection.
3 THE COURT: State's Exhibit 1 is
4 admitted for all purposes. State's Exhibit A is admitted
5 for record purposes only, not to be shown to the jury.

6

7 (Whereupon, the items
8 Heretofore mentioned
9 Were received in evidence
10 As State's Exhibit No. 1
11 For all purposes, but
12 State's Exhibit A for
13 Record purposes only,
14 After which time, the
15 Proceedings were resumed
16 As follows:)

17

18 BY MR. GREG DAVIS:

19 Q. And, Doctor, you have another copy of
20 your autopsy report; is that correct?

21 A. Yes, I have the original.

22 Q. Can you tell us briefly how you
23 performed this autopsy on Devon Routier?

24 A. Okay. Well, first, the body is brought
25 in and we take photographs of the body as we receive it.
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1 Then we remove any clothing. We save that for trace
2 evidence. After any trace evidence is collected, we will
3 clean the body and then take additional photographs, of
4 any injuries or diseases that we might find on the body.
5 So, after we document the outer portion
6 of the body, then we will look at the inside of the body
7 for any injuries or any disease processes. We document
8 the injuries. We also remove fluids at that time for
9 toxicology.

10 Q. Okay. Now, when this child came to
11 you, what kind of clothing was he wearing?

12 A. He was received in a body bag, on a
13 white sheet. He was wearing one Power Ranger pair of
14 shorts. Also a Power Ranger pillow case and pillow were
15 submitted with the body, as well as one black and white
16 bed cover.

17 Q. Can you tell us how much this child
18 weighed?

19 A. He weighed 46 pounds.

20 Q. And how tall was Devon?

21 A. He was 46 inches.

22 Q. So he's a little under four feet tall;

23 is that right?

24 A. Yes.

25 Q. And did he appear to be the stated age
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1 of six years?

2 A. Yes.

3 Q. Now, as a part of your autopsy, are you
4 looking for external injuries and also, further in the
5 process, for internal injuries?

6 A. Yes.

7 Q. Okay. And, can you tell the members of
8 the jury, the types of injuries that were noted during
9 your autopsy of Devon?

10 A. Yes. I noted on his body four,
11 separate, sharp, force injuries. And when I describe
12 these, I'm just going to start in with number 1. That
13 doesn't mean that that was the first one inflicted. I am
14 just using the numbers for record purposes for the report.

15 So, I'm going to start off with stab
16 wound number 1. There was a stab wound of the left upper
17 chest, that went into the left upper chest, between the
18 fourth and fifth ribs. This stab wound went through the
19 left upper lobe of the lung, the pulmonary artery, the
20 right lower lobe of the lung and then penetrated into the
21 right posterior chest, about one-sixteenth of an inch.
22 Where it penetrated into the chest, was between the
23 posterior ribs 7 and 8.

24 The stab wounds went front to back,
25 left to right, and really no up or down deviation. And I
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1 estimated the depth of penetration as five inches.

2 Also noted on this stab wound, there
3 were a sharp and a blunt angle. In addition, there was
4 blood in both the chest cavities.

5 Q. Okay. Now, you had indicated, that on
6 one of the stab wounds you noted a blunt and then a sharp
7 edge; is that correct?

8 A. That's correct.

9 Q. And, would that be consistent with this
10 child having been stabbed with a single-edged knife, as

11 opposed to a knife that has two sharp edges?

12 A. Yes.

13 Q. Okay. Now, you had indicated that you
14 took -- or photographs were taken during this autopsy, or
15 near the time of the autopsy; is that correct?

16 A. That's correct.

17 Q. Okay.

18

19 MR. GREG DAVIS: May I approach again,
20 your Honor?

21 THE COURT: You may.

22

23 (Whereupon, the following
24 mentioned items were
25 marked for

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1 identification only

2 as State's Exhibits

3 Numbers 1-A through 1-F,

4 after which time the

5 proceedings were

6 resumed on the record

7 in open court, as

8 follows:)

9

10 BY MR. GREG DAVIS:

11 Q. Dr. McClain, if we could look at the
12 photographs that have been marked as State's Exhibits 1-A
13 through 1-F. Are these, in fact, true and accurate
14 photographs of the body of Devon Routier that were taken
15 there, at or near the time of the autopsy?

16 A. Yes.

17 Q. Do they truly and accurately depict the
18 injuries that you noted during your autopsy?

19 A. Yes, they do.

20 Q. Okay. Do you believe they would be of
21 an assistance to this jury, in understanding your
22 testimony about these injuries?

23 A. Yes, I do.

24

25 MR. GREG DAVIS: Your Honor, at this
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1 time we'll offer State's Exhibit 1-A, 1-B, 1-C, 1-D, 1-E
2 and 1-F.

3 MR. DOUGLAS MULDER: No objection.

4 MR. RICHARD MOSTY: Those are the

5 individual photo numbers?

6 MR. GREG DAVIS: Yes.

7 THE COURT: State's Exhibits 1-A, B, C,
8 D, E and F are admitted. They may be published to the
9 jury.

10

11 (Whereupon, the items
12 Heretofore mentioned were
13 Received in evidence as
14 State's Exhibits Numbers 1-A
15 through 1-F for all purposes,
16 After which time, the
17 Proceedings were resumed
18 As follows:)

19

20 MR. GREG DAVIS: Okay. We'll try to
21 position this.

22 THE COURT: Well, if any one of the
23 defense attorneys wishes to come and view this, feel free
24 to do so.

25 Can all of the members of the jury see
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1 this pretty well?

2 THE JURORS: Yes.

3 THE COURT: Okay. Thank you.

4 Can you gentlemen at the end see this
5 okay?

6 THE JURORS: Yes.

7

8 BY MR. GREG DAVIS:

9 Q. Now, Doctor, if we could, if we could
10 start with just the overall -- and you have a numbering
11 system for the stab wounds; is that correct?

12 A. That's correct.

13 Q. And State's Exhibit A here, do we show
14 stab wound 1 here?

15 A. Yes.

16 Q. And then stab wound two, lower to the
17 chest; is that correct?

18 A. That is correct.

19 Q. Now, stab wounds -- we also -- well,
20 let's start here with the stab wounds first. We have stab
21 wound number 1. Can you tell us, is State's Exhibit 1-D,
22 is that a closeup of that stab wound?

23 A. Yes, it is.

24 Q. This stab wound again, was how -- how
25 deep was that wound, number 1?

1 A. The depth of penetration was five
2 inches.

3 Q. Stab wound number 2 here, to the lower
4 portion of the chest, is that shown in State's Exhibit
5 1-C?

6 A. Yes.

7 Q. And the depth of that wound, please.

8 A. That was two and one-half inches.

9 Q. Now, we see here, in State's Exhibit

10 Number 1-E, an injury to the child's left forearm area.

11 What type of injury is that?

12 A. That's an incised wound. An incised
13 wound is longer on the skin's surface than it is deep.

14 It's still a sharp-force injury.

15 Q. More of a cutting motion, as opposed to
16 a stab motion?

17 A. Yes.

18 Q. And finally, we're looking at a number

19 4 wound here, on the back portion of the child's left leg.

20 Is that shown in State's Exhibit 1-F?

21 A. Yes.

22 Q. What type of wound does State's Exhibit
23 1-F show?

24 A. That's a stab wound.

25 Q. Approximately how deep was that stab

1 wound shown in 1-F?

2 A. It was three-fourths of an inch.

3

4 (Whereupon, the

5 exhibit was

6 marked for

7 Identification

8 only, as State's

9 Exhibit No. 2.)

10

11 BY MR. GREG DAVIS:

12 Q. Okay. Thank you. Doctor, have we --

13 let me just ask you, Doctor. Have we -- do we have a

14 video tape that shows the injuries sustained by Devon

15 Routier?

16 A. Yes.

17 Q. Okay. And, have you had an opportunity

18 to view that video tape?

19 A. Yes, I have.

20 Q. Let me show you what has been marked as
21 State's Exhibit 2. It shows to be a video tape of Devon
22 Routier. Is this, in fact, the video tape that you viewed
23 yesterday?

24 A. Yes.

25 Q. And, Doctor, let me first ask you, does
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1 it truly and accurately depict the injuries sustained by
2 Devon Routier, the stab wounds number 1 and 2 shown here
3 on the photographs?

4 A. Yes.

5 Q. Do you believe that this video tape
6 would assist you in your testimony for this jury
7 concerning these injuries?

8 A. Yes.

9 Q. Do you also believe it would assist the
10 jury, in understanding the nature, and the direction and
11 the depth of these wounds also?

12 A. Yes.

13 Q. Okay.

14

15 MR. GREG DAVIS: Your Honor, at this
16 time we'll offer State's Exhibit No. 2.

17 THE COURT: Any objection?

18 MR. DOUGLAS MULDER: It just applies to
19 this particular one?

20 MR. GREG DAVIS: Right. Just to Devon.
21 That is it.

22 MR. RICHARD C. MOSTY: It doesn't have
23 anything else on it?

24 MR. GREG DAVIS: No, this is just to
25 Devon.

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1 THE COURT: All right.

2 MR. DOUGLAS MULDER: No objection.

3 THE COURT: All right. State's Exhibit
4 No. 2 is admitted.

5

6 (Whereupon, the item

7 Heretofore mentioned

8 Was received in evidence

9 As State's Exhibit No. 2

10 For all purposes,

11 After which time, the

12 Proceedings were resumed

13 As follows:)

14

15 THE COURT: All right. You may
16 proceed.

17

18 BY MR. GREG DAVIS:

19 Q. Doctor, in this -- while we're waiting,
20 this video has no sound attached to it; is that right?

21 A. That's correct.

22 Q. So, as we go through here, this will
23 show stab wound number 1 first; is that right?

24 A. Yes.

25 Q. And then it will show us stab wound
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1 number 2; is that right?

2 A. That's correct.

3 Q. So, if you would, if you need to, if
4 you'll just comment on each one of them, as we're looking
5 at this, since there's no audio attached to it. Okay?

6 A. Okay.

7

8 (Whereupon, State's

9 Exhibit No. 2, a

10 video tape, was played

11 for the jury, after

12 which time proceedings

13 were resumed on the

14 record as follows:)

15

16 BY MR. GREG DAVIS:

17 Q. All right. Let me see if it will work
18 for us here.

19 A. Okay. This is a photograph showing
20 stab wounds 1 and 2.

21 And this shows the wound track of stab
22 wound number 1 through the body. Then a cross section of
23 the body, you will see the track of the wounds.

24 Q. Okay.

25 A. You can see that the track is 5 inches
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1 in depth. It goes through the lungs, pulmonary artery,
2 lung, and into the posterior portion of the back.

3 And then, this demonstrates stab wounds
4 number 2, as well as incised wound number 3 to the arm.

5 Q. So, it would have been -- it would have
6 shown that the injury to the left arm could have been
7 caused as a portion of stab wound number 2; is that right?

8 A. Yes.
9 Q. Okay.
10 A. And here you can see the stab wound
11 going two and one half inches into the liver.
12 Q. Let me ask you what actually would have
13 caused the death of Devon Routier -- stab wounds caused
14 the death. Correct?
15 A. Yes, multiple, sharp, force injuries.
16 Q. Can you tell us how those stab wounds
17 would have actually caused this child's death?
18 A. Well, the mechanism of death would be
19 that the child bled to death, bled out.
20 Q. All right. Is this a situation where
21 he would have died instantly?
22 A. No. It's fairly rapid, probably within
23 a few minutes.
24 Q. Okay. So we're talking, perhaps five
25 minutes to actually lose enough blood to actually die --
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1
2 MR. DOUGLAS MULDER: Object to leading.
3 THE COURT: Sustained. Rephrase the
4 question.
5
6 BY MR. GREG DAVIS:
7 Q. All right. Do you have any idea, an
8 approximation of how much time would have been necessary
9 for this child to die?
10 A. I would say probably, again, a few
11 minutes. I can't give an actual number, but the low end
12 of a few minutes.
13 Q. Okay. Do you have an opinion as to
14 whether or not this child would have been able to make a
15 noise, after receiving both of these stab wounds?
16 A. It's possible, yes.
17 Q. Okay. And why do you believe it's
18 possible that he could have?
19 A. Because there's nothing that would have
20 precluded that medically, you know, on why a child
21 couldn't have made a noise. The stab wound itself would
22 not have precluded that.
23 Q. Okay. Now, as part of the -- as part
24 of the autopsy, did you take hair samples and blood
25 samples from this child?
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1 A. Yes.
2 Q. Okay. And, did you keep those, or did
3 you deliver them to someone?
4 A. I submitted them to the criminal
5 investigation laboratory at SWIFS.
6 Q. Okay. You, yourself, did you do any
7 sort of blood analysis or hair analysis in this case
8 concerning Devon Routier?
9 A. No.
10 Q. Let me ask you also, did either one of
11 these stab wounds actually penetrate through any ribs?
12 A. Yes.
13 Q. All right. Are a child's ribs
14 different than an adult's ribs, such as mine?
15 A. Yes. There's still a lot of cartilage.
16 And in this case, the stab wound went through cartilage.
17 Q. All right. Is cartilage going to be as
18 hard as bone?
19 A. No.
20 Q. Concerning the amount of strength
21 necessary to penetrate through the cartilage here in Devon
22 Routier, what's your opinion about that?
23 A. Well, it's certainly, you know, less
24 than bone.
25
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1 (Whereupon, the following
2 mentioned items were
3 marked for
4 identification only
5 after which time the
6 proceedings were
7 resumed on the record
8 in open court, as
9 follows:)

10
11 BY MR. GREG DAVIS:
12 Q. Okay. Doctor, just looking at State's
13 Exhibit No. 31-A here. We've looked at this yesterday,
14 have we not?
15 A. Yes.
16 Q. Okay. There are two stab wounds
17 depicted concerning Devon Routier. Are these essentially
18 still images that were shown on the video that the jury
19 just saw?
20 A. Yes, they are.
21 Q. And do they truly and accurately depict
22 the wounds sustained by Devon Routier?

23 A. Yes.
24 Q. And again, do you believe it would
25 assist the jury, in understanding the nature of those
Sandra M. Halsey, CSR, Official Court Reporter
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1 wounds?
2 A. Yes.

3
4 MR. GREG DAVIS: Pass the witness.

5
6 CROSS EXAMINATION
7

8 BY MR. DOUGLAS MULDER:
9 Q. Now, Doctor, just a thing or two. You
10 took very precise measurements of these wounds, did you?

11 A. Yes, I measured them.
12 Q. Okay. And, were you able to tell from
13 your examination -- you said it was a single-edged knife
14 in your opinion; is that right?

15 A. One of the wounds there was a blunt and
16 a sharp angle, so that would be consistent with a
17 single-edged knife.

18 Q. Are you telling us that perhaps one of
19 the wounds was with a double-edged knife?

20 A. I can't rule that out, because I'm
21 calling one an indeterminate angle, so it could be either
22 sharp or blunt. I couldn't tell for sure because of the
23 drying.

24 Q. Well, I noticed from the movie that you
25 vouch for, that the knife was depicted in a certain way;
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1 is that right?

2 A. That's correct.

3 Q. In the wound that you've identified as
4 number 1, and this is just your way of numbering them, is
5 it not?

6 A. That's correct.

7 Q. There's no way you can determine any
8 order is there?

9 A. No.

10 Q. Okay. And as a matter of fact, the
11 fourth one could be the second one, and the first one
12 could be the third, and the second one could be the first.
13 There's just absolutely no way to determine the order, is
14 there?

15 A. No, there's not.

16 Q. Now, the one that you designated as

17 number 1, were you able to determine where the sharp edge
18 was, and where the blunt edge was?

19 A. Yes. The sharp edge pointed towards
20 the center of the chest, and the blunt was towards the
21 arm.

22 Q. Okay. So, if I'm indicating with my
23 finger the -- I've indicated on wound 1 the sharp edge?

24 A. Yes.

25 Q. Okay. And the blunt edge you say is up
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1 here?

2 A. That's correct.

3 Q. And that would be indicative of a
4 single-edged weapon, or knife; is that right?

5 A. Yes.

6 Q. Okay. Now, can you tell the width of
7 this knife?

8 A. Not accurately, no.

9 Q. Okay. Can you tell the length of the
10 knife blade?

11 A. I can just say how far it went into the
12 body. I can't say how long the actual knife was.

13 Q. Why is that?

14 A. Well, a knife could be a lot longer
15 than, you know, what you see in the body. I can just say
16 that the knife went in five inches.

17 Q. Okay. And, of course, you can take a
18 knife and if you were to stick me say, for example, in the
19 stomach with a knife, you could make a penetration of say
20 four inches, for example, with a knife, with a blade no
21 more than a three inches in length; is that not correct?

22 A. Yes, that's correct.

23 Q. Because the body would give some, would
24 it not?

25 A. That's correct.

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1 Q. Okay. But you know, that if you find
2 a -- so, you can tell us, that you can't determine the
3 exact length of the knife blade; is that right?

4 A. That's correct.

5 Q. Okay. Now, the wound that you've
6 marked, or designated in your report as number 2, did you
7 examine that to see if you found a sharp edge and a blunt
8 edge?

9 A. Yes, I did.

10 Q. Okay. And were you able to distinguish

11 a sharp edge and a blunt edge?
12 A. I found a sharp edge down lower. I
13 could distinguish a sharp edge on number 2.
14 Q. A sharp edge was here?
15 A. No, it's there.
16 Q. Okay.
17 A. The portion of the wound above it, the
18 opposite of where you were pointing, I call that
19 indeterminate, because I couldn't say if it was sharp or
20 blunt. So we use the term indeterminate if you can't tell
21 specifically.
22 Q. Okay. Can you make any determination
23 with respect to the wound that you've designated as 3?
24 A. No.
25 Q. Okay. How about with respect to the
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1 wound that you've designated as 4?
2 A. No.
3 Q. Okay. Can you even tell the jury with
4 certainty that these wounds were made by the same
5 instrument?
6 A. I can't say with certainty. It's
7 possible they were, it's possible they weren't.
8 Q. Okay. So it's an "iffy" type of
9 situation?
10 A. Well, I just can't say.
11 Q. Okay. Now, did you -- when you
12 examined these wounds, did you notice anything unusual
13 about the entrance wound?
14 A. I don't know what you're -- they looked
15 like stab wounds.
16 Q. Did you take a cross section of these
17 wounds?
18 A. I saved the chest plate.
19
20 MR. TOBY SHOOK: Turn the thing so they
21 can see it.
22 MR. DOUGLAS MULDER: Y'all can't see
23 this?
24 THE COURT: If the jury ever can't see
25 anything, please raise your hand and state so, please.
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1 MR. DOUGLAS MULDER: Can you see what
2 they're talking about?
3 THE JURY: Yes.
4

5 BY MR. DOUGLAS MULDER:

6 Q. Sharp edge here?

7 A. Yes.

8 Q. Sharp edge here?

9 A. Yes.

10 Q. Indeterminate here?

11 A. Yes.

12 Q. And blunt here?

13 A. Yes.

14 Q. Okay. Have you been shown any knife or

15 instrument that purportedly caused these injuries?

16 A. Yes, I have.

17 Q. Okay. Did you bring it with you?

18 A. No.

19 Q. Okay. And, how long ago did you see

20 that?

21 A. I looked at it yesterday.

22 Q. Is that the first time that you've seen

23 it?

24 A. Yes.

25 Q. Okay. You're telling me that you did

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1 the autopsy some seven months ago --

2 A. Yes.

3 Q. -- and the first time they showed you a

4 weapon that they are contending caused these injuries was

5 yesterday?

6 A. Yes.

7 Q. Okay. Do you know -- when you say the

8 chest plate, I assume that you're talking about this area

9 right here?

10 A. Yes.

11 Q. And you preserved that?

12 A. Yes, I did.

13 Q. Okay. And what was done with that?

14 A. At the time of autopsy I saved the

15 chest plate. I put it in a bag with formalin which is a

16 preservative.

17 Q. Okay. Did you notice any markings or

18 toolings or any irregularities that you noted, around

19 either wounds 1 or 2?

20 A. I did not examine that closely to look

21 for the toolmarks. We have other individuals in the

22 laboratory that do those sort of analyses.

23 Q. Do you know whether or not there were

24 any tool markings around those entrance wounds?

25 A. I believe there is a report, but I

1 I don't know all of the details. I would have to look at
2 the report on what they did find. I don't do that
3 examination.

4 Q. Okay. How many stabbings have you seen
5 in the course of your -- I think you said 1,500 autopsies?

6 A. I'd say hundreds. I don't know
7 specifically.

8 Q. Okay. Can you give the jury an
9 educated guess as to what might cause the tool markings
10 around those entrance wounds?

11 A. Well, just various characteristics of a
12 knife itself. You know, a knife is a tool, so if there's
13 something on the knife that makes a mark, it can do that
14 into the cartilage. The actual knife can make a mark.

15 Q. Into what?

16 A. Cartilage.

17 Q. Okay. Is -- was it the cartilage that
18 was marked, or was it the outside of the chest plate that
19 was marked?

20 A. The cartilage is what they look at, to
21 look for the marks.

22 Q. Okay. Whereabouts on the cartilage
23 would they look?

24 A. They look at the cartilage. And you
25 really need to talk to the person that does that, because
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1 I don't do that analysis.

2 Q. Okay. But you can't tell us what might
3 cause those tool markings?

4 A. Something from the knife.

5 Q. Okay. The knife is going to be
6 relatively smooth on both sides, is it not?

7 A. Well, we're talking about the cutting
8 side of the knife. That's what we're talking about.

9 Q. You're talking about the sharp edge?

10 A. Yes.

11 Q. On wound 1?

12 A. No, we're talking about wound 2 that
13 went through the cartilage.

14 Q. Okay. Wound 2, it is the one that
15 penetrated some two and a half inches; is that right?

16 A. Yes.

17 Q. Okay. Now, are you talking about the
18 blade that went into the cartilage, --

19 A. Yes.

20 Q. The tip of the blade?

21 A. Well, the sharp edge of the blade.

22 Q. Well, the blade is generally, when a

23 knife is sharpened all the way to the tip, or most of the

24 way to the tip, is it not?

25 A. Yes.

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1 Q. Okay. And is that what you're talking

2 about -- what part are you talking about that might have

3 marked the cartilage?

4 A. The sharp edge of the knife, or any

5 portion of the knife.

6 Q. Well, of course, if --

7 A. The blade itself is what I'm trying to

8 say.

9 Q. Pardon?

10 A. The blade portion of the knife can make

11 marks.

12 Q. Okay. This wound was only two and a

13 half inches deep, was it not?

14 A. That's correct.

15 Q. Okay. So that we know that -- that

16 that blade could not have penetrated that body more than

17 two and a half inches, could it?

18 A. Well, that's as far as it went, yes.

19 It went two and a half inches.

20 Q. Okay. Doctor, can you give us any

21 range as to how long that child would have lived once the

22 damage to his chest area, that you have testified to,

23 occurred?

24 A. Again, I feel like, I can't say a

25 specific minute, but minutes is what I believe.

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1 Q. Well, I know you can't say a minute and

2 24 seconds.

3 A. Right.

4 Q. But can you give us a range like, you

5 know, not more than three minutes, or not more than five

6 minutes, or not more than --

7 A. Well, again, it would just be a rough

8 guess. Probably not more than five minutes. But again,

9 that is a guess, because I don't know specifically.

10 Q. All right. I understand. Now, could

11 you tell whether or not there had been any attempts to

12 resuscitate this child?

13 A. I didn't see anything, but sometimes

14 you don't see anything on resuscitation.
15 Q. I mean, what would you look for if you
16 were to see if someone had given him mouth to mouth
17 resuscitation, or whether someone had performed CPR on
18 him?
19 A. Occasionally with CPR you might see
20 some bruises on the chest, sometimes you don't.
21 Q. Okay. So that, again, that kind of
22 depends on the situation?
23 A. Yes.
24 Q. The fact that you don't see them -- or
25 did you see them?
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1 A. I didn't see anything, no.
2 Q. Well, the fact that you didn't see them
3 doesn't mean that CPR wasn't attempted, does it?
4 A. No, it doesn't.
5 Q. All right. Now, what would happen,
6 Doctor, if you were to attempt mouth to mouth
7 resuscitation with this child's open wounds? If you blew
8 into that child's open wounds, I take it the lungs, at
9 least the lung in the first wound was penetrated?
10 A. Yes.
11 Q. What would you expect -- the child
12 didn't have a shirt on?
13 A. No.
14 Q. Okay. What would happen if you blew
15 into that child's mouth? What would happen with respect
16 to those injuries?
17 A. I don't know what would have happened
18 to the injuries.
19 Q. Would anything have come out of those
20 injuries?
21 A. Well, I don't know if it would,
22 possibly. I don't know. Maybe some blood, maybe not. I
23 don't know.
24 Q. Okay. But blood could have come out,
25 could it not?
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1 A. It's possible.
2 Q. Okay. There will be a hemorrhage
3 associated with those -- you said cut the pulmonary
4 artery, didn't you?
5 A. Yes.
6 Q. Well, isn't that one of the two main
7 arteries in the body?

8 A. Yes, it is.

9 Q. I mean, it's one of the largest
10 arteries that we have, isn't it?

11 A. Yes.

12 Q. So you would expect, you said the child
13 bled out. He, in effect, bled to death, did he not?

14 A. Yes.

15 Q. So you would expect a lot of blood
16 associated with that initial intrusion, would you not?

17 A. Yes. I found in each chest cavity
18 itself about 450 milliliters of blood.

19 Q. Well, then you can say with certainty,
20 Doctor, that if you blew into that child's mouth, blood is
21 going to come out these holes, isn't it?

22 A. I don't know if blowing into it would
23 do anything.

24 Q. Oh, you don't?

25 A. No.

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1 Q. Would you just say it's a possibility?

2 A. I guess it's possible, blowing or
3 moving the body.

4 Q. All right. Doctor, was there any other
5 clothing associated with the body, other than the Power
6 Ranger shorts?

7 A. Well, what I received were the Power
8 Ranger shorts. And then there was a Power Ranger pillow
9 case and pillow that was submitted with the body. Also a
10 black and white bed cover. So that's what I received with
11 that body.

12 Q. Doctor, if you blew into the child's
13 mouth, in a mouth-to-mouth resuscitation effort, would air
14 come out those invasions? You don't know about that
15 either?

16 A. I don't know. I've never done that, so
17 I don't know.

18 Q. You just deal with the dead bodies,
19 don't you? You don't deal with the live ones?

20 A. That's correct.

21

22 MR. DOUGLAS MULDER: I believe that's
23 all. Thanks.

24

25

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1 REDIRECT EXAMINATION

2

3 BY MR. GREG DAVIS:

4 Q. Dr. McClain, would you expect blood to
5 be gushing out of stab wound number one as that wound was
6 being inflicted on this child?

7 A. It could come out, or it might just all
8 be in the body too.

9 Q. Okay. What do you mean it might all
10 just be in the body?

11 A. That the blood seeping out of the lungs
12 is collecting in a chest cavity. And I have 450
13 milliliters of blood in each chest cavity. So it doesn't
14 have to go out of the body, it could stay in the body.

15 Q. How about stab wound number 2. Would
16 you expect blood to spurt out of that wound as that wound
17 was being inflicted on the child?

18 A. No, not necessarily, because it can
19 just all be in the body. So I've got, you know, again,
20 450 milliliters of blood in the chest, both sides of the
21 chest.

22 Q. Would you say that that is a
23 substantial amount of blood in the cavity?

24 A. Yes.

25 Q. How much blood would this child have
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1 had in all?

2 A. Probably about -- I can give an
3 estimate around 1,400 milliliters, and I got --

4 Q. So we're talking about a third of the
5 blood then?

6 A. And I've got about 900 altogether in
7 the body. Because I had 450 in each chest, and then there
8 was about 30 in the pericardial sac. So I collected 930
9 milliliters within the body.

10 Q. Okay. Mr. Mulder asked you about
11 breast plates and impressions that you took. Do you know
12 a person by the name of Robert Poole?

13 A. Yes.

14 Q. Who is Robert Poole?

15 A. He's a firearm and tool mark examiner
16 at the Southwestern Institute of Forensic Sciences.

17 Q. Okay. And did I understand you to say
18 you don't do tool mark analysis, do you?

19 A. No.

20 Q. Would that be something Mr. Poole would
21 do?

22 A. Yes.

23 Q. Okay.

24

25 MR. GREG DAVIS: May I approach, your
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1 Honor?

2 THE COURT: You may.

3

4 BY MR. GREG DAVIS:

5 Q. Doctor, let me show you what's been

6 marked as State's Exhibit 67. Do you recognize that?

7 A. Yes, I do.

8 Q. Okay. Is this the knife that you

9 looked at yesterday?

10 A. Yes.

11 Q. Okay. Doctor, just looking at State's

12 Exhibit 67, is this a single, or is this a double-edged

13 knife?

14 A. That's a single-edged knife.

15 Q. All right. Do you know approximately

16 how long the blade is on this knife?

17 A. I didn't measure exactly that. It's

18 either 8 or 10 inch.

19 Q. Okay. Now, on the cutting edge of this

20 knife, on the single edge that's sharp, are there certain

21 marks?

22 A. Yes.

23 Q. Okay. What type of marks are on this

24 knife?

25 A. Very small serrations.

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1 Q. Okay. Just small parallel lines that

2 run pretty much the length of the cutting edge; is that

3 correct?

4 A. That's correct.

5 Q. Doctor, looking at State's Exhibit 67,

6 can you tell us whether or not stab wound number 1 to

7 Devon Routier could have been produced by State's Exhibit

8 67?

9 A. Yes.

10 Q. Anything at all that would have

11 excluded State's Exhibit 67 as having produced stab wound

12 number 1?

13 A. No.

14 Q. Can you tell us whether or not State's

15 Exhibit 67 could have produced stab wound number 2?

16 A. Yes, it could have.

17 Q. Is there anything at all that would
18 have excluded State's Exhibit No. 67 as having produced
19 stab wound number 2?

20 A. No.

21 Q. Now, on stab wound number 2, did I
22 understand you to say the sharp edge is downward; is that
23 correct?

24 A. Yes.

25 Q. If you would, I would like for you to
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1 assume that this child, at the time that he received stab
2 wound number 2, had his left arm covering a portion of his
3 lower chest. Okay.

4 Would it have been possible for this
5 knife, with the sharp edge down, to have caused both stab
6 wound number 2 and the incised wound that we see here on
7 State's Exhibit 1-E?

8 A. Yes.

9 Q. Okay. Looking finally at wound number
10 4. Is it possible that State's Exhibit No. 67 could have
11 produced stab wound number 4?

12 A. Yes.

13 Q. Is there anything at all that would
14 have excluded State's Exhibit 67, as having produced that
15 stab wound?

16 A. No.

17 Q. Okay.

18

19 MR. GREG DAVIS: I'll pass the witness,
20 your Honor.

21

22 RECROSS EXAMINATION

23

24 BY MR. DOUGLAS MULDER:

25 Q. Now, Doctor, can you give the -- first
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1 of all, you aren't saying that that's the weapon that
2 caused those stab wounds, are you?

3 A. No. I'm saying it's consistent with.

4 Q. Could be is what you're saying?

5 A. Yes.

6 Q. No question about that, is there?

7 A. No, there's no question it could be.

8 Q. And you're not identifying that knife
9 as the instrument that caused those injuries, are you?

10 A. No.

11 Q. No question about that, is there?

12 A. No, I can't say.

13 Q. Can you give us the maximum width of

14 the knife that could have caused those injuries? And when

15 I say width, I'm talking about this portion.

16 (Demonstrating on knife.)

17 A. You really can't because there is a

18 sharp edge, you could have a very long length on the body

19 just by pulling a knife through, so --

20 Q. In effect, what you're saying is that

21 you could -- you could take a relatively narrow knife and

22 by pulling it down, of course, this isn't cutting even,

23 but you could make a wide gash -- (Demonstrating with

24 knife on paper.)

25 A. A longer.

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1 Q. A long gash with a relatively narrow --

2 with a knife less than half this width. Right?

3 A. Yes.

4 Q. Okay. Can you tell us the -- so you

5 can't tell us the width of the knife; is that right?

6 A. No, you can't say how long that is.

7 Because just like you pointed out, you could pull it down.

8 Q. Can you tell us how long the blade

9 would be?

10 A. I can just tell you how deep it is in

11 the body. Again, five inches on one, two and one half on

12 the other. So, I can't tell you how long the knife would

13 have to be.

14 Q. Okay.

15 A. Or how long it is.

16 Q. Okay. And there isn't any way that you

17 know of, of estimating that, I guess?

18 A. No.

19 Q. Okay. Can you tell us whether or not

20 the -- assuming that it was a knife. And we're going to

21 have to assume that it was a knife. It could be other

22 sharp instruments that could have caused this. Right?

23 A. I feel like it is a knife.

24 Q. Okay. Could you tell whether or not

25 the knife had a serrated blade or a plain blade?

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1 A. I cannot tell.

2 Q. You can't tell?

3 A. No.

4 Q. You've said that this knife, in fact,

5 has a serrated blade?
6 A. That's correct.
7 Q. Okay. Now, did you x-ray the body?
8 A. Yes.
9 Q. Okay. And did you find -- this was a
10 very healthy young man, was he not?
11 A. Yes.
12 Q. Good hygiene?
13 A. Yes.
14 Q. I mean, a well taken care of young man,
15 wasn't he?
16 A. Yes.
17 Q. Okay. Teeth were good?
18 A. Yes.
19 Q. Good dental hygiene?
20 A. Yes.
21 Q. You examined those, didn't you?
22 A. Yes.
23 Q. Matter of fact, you looked to see if
24 there was any evidence of child abuse, didn't you?
25 A. Yes.
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1 Q. Any bones that perhaps were broken and
2 had healed? You looked for that, didn't you?
3 A. That's correct. There were none.
4 Q. Were none. So this child was in a very
5 fit condition, was he not?
6 A. Yes.
7 Q. Well nourished?
8 A. Yes.
9 Q. Apparently well taken care of, didn't
10 he?
11 A. Yes.
12 Q. And no evidence of any child abuse in
13 his history?
14 A. No.
15 Q. Okay. Thanks.
16
17 THE COURT: That's it? Are you
18 through, Mr. Mulder?
19 MR. DOUGLAS MULDER: I am for right
20 now, Judge.
21 THE COURT: All right. Can I see both
22 sides a minute?
23 MR. DOUGLAS MULDER: Yes.
24 THE COURT: You have no more questions
25 for this witness?

1 MR. DOUGLAS MULDER: No, I pass the
2 witness, Judge.

3

4 (Whereupon, a short
5 discussion was held off
6 the record, at the side
7 of the bench, and
8 outside the hearing of
9 the jury, after which
10 time the proceedings
11 were resumed on the
12 record as follows:)

13

14 THE COURT: Okay. Ladies and gentlemen
15 of the jury --

16 You may step down, ma'am. Thank you
17 very much for coming.

18 This is our first day, and we are
19 running a little late. But nonetheless, I'm going to
20 recess you for lunch now until 1:30. We have some matters
21 to take up here. And since I am new to Kerrville, I think
22 that will give you enough time to eat. Don't want to
23 upset anybody here. I think you can get in before the
24 lunch crowds occur.

25 So, just the following instructions:

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1 Don't talk about this case to anybody. If somebody tries
2 to talk to you about the case, tell the bailiff who
3 happens to be with you at the time.

4 You can make casual comments to the
5 people you see in the courtroom, but we're very
6 sociable -- nobody is going to talk to you about this case
7 until it's all over. When the case is over, you may talk
8 or not talk as you see fit. But don't discuss it with
9 anybody.

10 Now, don't discuss it among yourselves
11 when you get back in the jury room there, because it's not
12 over yet.

13 And finally, don't do any
14 investigations on your own. I know this is on a change of
15 venue, so Rowlett's quite a ways away. I don't think
16 anybody will be flying up there or driving up there over
17 the weekend to see it.

18 Do no investigation on your own. Don't
19 read any law books, or anything like that. You have

20 received a copy of the juror instructions, basically
21 that's what it is.
22 So, we'll see everybody back here at
23 1:30. Come straight back to the jury room, please. And
24 that will be fine. We'll see everybody here at 1:30.
25 Wear that juror badge at all times. Thank you very much.
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1
2 (Whereupon, a short
3 Recess was taken,
4 After which time,
5 The proceedings were
6 Resumed on the record,
7 In the presence and
8 Hearing of the defendant
9 And the jury, as follows:)
10
11 THE COURT: All right. Is everybody
12 ready to bring the jury back in?
13 MR. GREG DAVIS: The State is ready,
14 Judge.
15 MR. DOUGLAS MULDER: Yes, sir, the
16 defense is ready.
17 THE COURT: All right. Bring the jury
18 in, please.
19
20 (Whereupon, the jury
21 Was returned to the
22 Courtroom, and the
23 Proceedings were
24 Resumed on the record,
25 In open court, in the
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1 Presence and hearing
2 Of the defendant,
3 As follows:)
4
5 THE COURT: All right. Please come to
6 order. Let the record reflect that we're resuming the
7 Darlie Routier matter.
8 Let the record reflect that all parties
9 of the trial are present and the jury is seated.
10 Ladies and gentlemen of the jury, for
11 your planning, due to the inclement weather, we'll be
12 breaking today around 4:30, plus or minus a few minutes
13 each way.

14 All right. Your next witness -- this
15 witness has already been sworn.
16 Go ahead, Mr. Davis.
17 MR. GREG DAVIS: Thank you.