

1 THE COURT: Redirect?

2 MS. PETRONE: Nothing.

3 THE COURT: You can step down, sir, thank you.

4 Please raise your right hand to be sworn in.

5 (Witness sworn)

6 SANDRA LAMBATOS,
7 called herein as a witness on behalf of the People of
8 the State of Illinois, having been first duly sworn, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY

12 MS. PETRONE:

13 Q Can you please state your name and spell your
14 last name?

15 A Sandra L-a-m-b-a-t-o-s.

16 Q What is your current occupation?

17 A I am a stay-at-home mom.

18 Q How long have you been a stay-at-home mom?

19 A About a year.

20 Q What did you do previously?

21 A I worked at Independent Forensics of Illinois
22 as a paternity DNA analyst.

23 Q What were your duties in that capacity?

24 A To examine swabs for DNA profiles and to do

1 paternity tests.

2 Q How long did you do that work?

3 A About a year and a half.

4 Q Where did you work before that?

5 A At the Illinois state police crime
6 laboratory.

7 Q Is that the laboratory located in Chicago in
8 1941 West Roosevelt?

9 A Yes, it is.

10 Q How long did you work at the Illinois State
11 police crime lab in Chicago?

12 A About eight and a half years.

13 Q What was your position there?

14 A I was a forensic scientist 3.

15 Q Were you also an acting supervisor in the
16 biology section?

17 A Yes, I was.

18 Q What were your duties as a forensic scientist
19 3?

20 A My duties included examining evidence for the
21 presence of bodily fluids such as blood, semen, and
22 saliva and then I would conduct a DNA comparison on this
23 evidence as requested to do so.

24 Q What were your duties as an acting supervisor

1 in the biology section?

2 A To supervise the daily activities of the
3 biologist in that section and to perform supervisory
4 review on the lab work.

5 Q Can you tell us about your educational
6 background?

7 A I have a bachelor's science degree from
8 University of Illinois at Urbana Champaign.

9 Q What was your major?

10 A Biology.

11 Q Do you have any specialized training in your
12 field?

13 A Yes, I do from the Illinois state police
14 crime laboratory I received about three years of
15 training in the forensic biology and DNA field.

16 Q Can you describe the training you received in
17 the area of forensic biology?

18 A Yes. That training was about a year and a
19 half -- about a year and that included learning about
20 the identification of blood, semen, and saliva. We had
21 written, oral, and practical examinations as well as
22 supervised case work.

23 Q Can you tell us about the specialized
24 training you received in the area of DNA?

1 A Yes. That training lasted about two years
2 and that included learning about DNA in the form of
3 lectures, written materials, supervised case work,
4 written, oral, and practical laboratory exams.

5 Q Did you successfully complete these three
6 years of training?

7 A Yes, I did.

8 Q Have you attended any seminars from other
9 laboratories in the area of DNA analysis?

10 A Yes, I did. Seminars was presented by Bodi
11 technology and the Midwestern Association of Forensic
12 scientists.

13 Q Did you -- have you conducted lectures of
14 presentations in DNA technology?

15 A Yes, I did. I gave lectures at Kent Law
16 school at the Museum of Science and Industry, at the
17 Chicago police department new detective training, and
18 also for the Cook County State's attorney's office.

19 Q Was your work at the Illinois state police
20 crime lab subject to peer or supervisory review?

21 A Yes, it was.

22 Q Would that include your work in this case?

23 A Yes, it did.

24 Q Were you given proficiency tests in your

1 field at the Illinois state police crime lab?

2 A Yes.

3 Q Can you tell us about that?

4 A There were three proficiency tests in DNA;
5 two being external every 180 days and one being
6 internal.

7 Q Did you pass these tests?

8 A Yes, I did.

9 Q Did you belong to any professional
10 organization?

11 A I did. I belonged to the Midwestern
12 Association of Forensic Scientists.

13 Q Can you tell us the approximate number of
14 samples you analyzed for the presence of bodily fluids?

15 A Thousands.

16 Q Can you tell us the approximate number of
17 samples you performed DNA analysis on?

18 A Thousands.

19 Q Have you previously testified in a court of
20 law as an expert in forensic DNA analysis?

21 A Yes.

22 MS. PETRONE: At this time I would tender the
23 witness as an expert of both forensic biology and
24 forensic DNA analysis.

1 MR. WALSH: No questions.

2 THE COURT: Witness is an expert in forensic
3 biology and forensic DNA analysis.

4 MS. PETRONE: Q What do the letters PCR stand for?

5 A They stand for preliminary chain reaction.

6 Q Is that spelled P-O-L-Y-M-E-R-A-S-E?

7 A Yes, it is.

8 Q Is this the type of DNA testing that you did
9 at the Illinois state police crime lab?

10 A Yes, it is.

11 Q Is this type of testing generally accepted in
12 the scientific community?

13 A Yes, it is.

14 Q Is this one of the most modern types of DNA
15 testing available?

16 A Yes, it is.

17 Q Can you briefly explain how PCR DNA testing
18 is done?

19 A Briefly PCR takes the evidence samples which
20 typically comes in low amounts, and we need to multiply
21 it, make greater amounts so we can do our scientific
22 examination on that and through a series of different
23 cycles and temperature changes, we are able to make
24 millions and millions of areas of interest on the DNA

1 molecule.

2 Q After the DNA is amplified, what is done?

3 A After the DNA is amplified, then the specific
4 areas of interest are tagged with florescent markers and
5 examined through a genetic analyzer, and a DNA profile
6 is generated.

7 Q In this manner can male DNA profile be
8 identified from semen?

9 A Yes, it can.

10 Q Can this profile be compared to DNA from a
11 suspect's blood to determine if it is a match with or
12 consistent with having originated from that suspect?

13 A Yes, it can.

14 Q Can this testing be used to exclude as well
15 as include a person as being a contributor to a sample?

16 A Yes.

17 Q Is the statistical probability of a match
18 determined?

19 A Yes.

20 Q Is calculating statistical probability of a
21 match part of your DNA training?

22 A Yes, it is.

23 Q Is the method used by the Illinois State
24 police crime lab of determining the statistical

1 probability of a match generally accepted in the
2 scientific community?

3 A Yes, it is.

4 Q Can you briefly explain how this is done?

5 A The alleles are looked at and put into a
6 frequency data base to determine how common they are in
7 the general population.

8 Q Directing your attention to the years when
9 you were employed by the state crime lab 2000 and 2001,
10 was it the practice of the Illinois state police crime
11 lab in Chicago to send evidence samples from cases being
12 worked on to Celmark diagnostic laboratory in
13 Germantown, Maryland?

14 A Yes.

15 Q Was Celmark an accredited crime lab?

16 A Yes.

17 MR. WALSH: Objection.

18 THE COURT: Overruled.

19 MS. PETRONE: Q Why was this done?

20 A To expedite and reduce our backlog.

21 Q How was the evidence sent?

22 A It was sent in a sealed condition via Federal
23 Express.

24 Q Was shipping manifests or records kept as all

1 evidence sent by the Illinois state police crime lab to
2 Celmark diagnostic laboratory?

3 A Yes.

4 Q Were these records kept in the ordinary
5 course of business at the Illinois state police crime
6 lab?

7 A Yes, they were.

8 Q Were these records kept in a secured area of
9 the lab?

10 A Yes, they were.

11 Q Who has access to these records?

12 A Laboratory personnel.

13 Q Were these records ordinarily relied on by
14 analysts in performing their work?

15 A Yes, they were.

16 Q Were these records used to maintain a record
17 of the chain of custody of evidence?

18 A Yes.

19 Q How would the evidence be returned to the
20 Illinois state police crime lab from Celmark diagnostic
21 laboratory?

22 A In a sealed condition via Federal Express.

23 Q Is this manner of transporting evidence for
24 DNA analysis generally accepted in the scientific

1 community?

2 A Yes, it is.

3 Q Was it then and is it now a commonly accepted
4 practice in the scientific community for one DNA expert
5 to rely on the records of another DNA expert in order to
6 complete his or her work?

7 A Yes.

8 MR. WALSH: Objection to the form of question.

9 THE COURT: Overruled, she answered.

10 MS. PETRONE: Q Directing your attention
11 specifically to RD number F083574 Illinois state police
12 crime lab number C00007770 involving the victim named
13 Latonya Jackson. On the date of November 28th of 2000,
14 was evidence from this case sent to Celmark diagnostic
15 laboratory from the Illinois state police crime lab in
16 the manner in which you described?

17 MR. WALSH: Objection, hearsay.

18 THE COURT: Overruled.

19 MS. PETRONE: Q What was the evidence that was
20 sent?

21 A Vaginal swab and a blood standard from
22 Latonya Jackson.

23 Q Was this transportation of evidence
24 documented in shipping manifest records of the Illinois

1 state police crime lab?

2 A Yes, it was.

3 MS. PETRONE: May I approach?

4 THE COURT: Yes.

5 MS. PETRONE: Q Showing you People's Exhibit
6 Number 25 for identification and ask if you recognize
7 that?

8 A I do.

9 Q What is that?

10 A It's a shipping manifest.

11 Q Is that a manifest that's kept in the
12 ordinary course of business by the Illinois State police
13 crime lab?

14 A Yes, it is.

15 Q And does this manifest document evidence on
16 several cases, this case and cases that have nothing to
17 do with this that were sent on the same date from the
18 Illinois state police to Celmark diagnostic laboratory?

19 A Yes.

20 Q Referring to this case number C00007770, does
21 it document when this evidence was sent and the method
22 that was used to send this from the State police lab in
23 Chicago to Celmark diagnostic lab in Maryland?

24 A Yes, it does.

1 Q What was the date and what was the manner
2 noted in this manifest?

3 A The date was November 28th of 2000 and the
4 manner noted was via Federal Express.

5 Q And is there also a specific Federal Express
6 number noted on the document?

7 A Yes, there is.

8 Q And does this document also note the date
9 received by Celmark diagnostic laboratory?

10 A Yes, it does.

11 Q And what is that date?

12 A November 29, 2000.

13 Q Showing you what's been marked as People's
14 Exhibit Number 26 for identification. Do you recognize
15 that?

16 A I do.

17 Q What is that?

18 A The return shipping manifest.

19 Q Is that a return shipping manifest for other
20 cases that have nothing to do with this one plus this
21 case number C00007770?

22 A Yes, it is.

23 Q And does this indicate the date that the
24 evidence in that case number was sent back from Celmark

1 diagnostic laboratory in Maryland to the Illinois state
2 police crime lab in Chicago, Illinois?

3 A It does.

4 Q What is the date that this manifest notes?

5 A April 3rd of 2001.

6 Q And does it show the manner of shipment?

7 A Manner of shipment was by Federal Express and
8 there's a shipping number.

9 Q Is this manifest also People's Exhibit Number
10 26 kept in the ordinary course of the business at the
11 Illinois state police crime lab?

12 A Yes, it is.

13 Q Were these pieces of evidence People's Number
14 25 and 26 relied on by you when you did work on this
15 case?

16 A Yes, it was.

17 Q And these also keep track of the chain of
18 custody; is that correct?

19 A Correct.

20 Q Do they also note what evidence was sent?

21 A Yes, they do.

22 Q What evidence was sent?

23 A The vaginal swabs and the blood standards.

24 Q Were you assigned to work on this case at the

1 Illinois State police crime lab?

2 A Yes, I was.

3 Q Was there a computer match generated of the
4 male DNA profile found in semen from the vaginal swabs
5 of Latonya Jackson to a male DNA profile that had been
6 identified as having originated from Sandy Williams.

7 MR. WALSH: Objection, lack of foundation, Judge.
8 There's no evidence with regard to any testing that's
9 been done to generate a DNA profile by another lab to be
10 testified to by this witness.

11 THE COURT: As to who?

12 MR. WALSH: With regard to the swabs that she says
13 that testimony that were sent to another lab in
14 Maryland.

15 THE COURT: Right.

16 MS. PETRONE: I'm not getting at what another lab
17 did. I was referring to a computer data base without
18 saying any more about that but after she received that
19 information for the data base she did her own testing
20 based on that information.

21 THE COURT: Overruled.

22 MR. WALSH: It's still relying on testing that's
23 done by another lab.

24 THE COURT: We will see. If she says she didn't do

1 her own testing and she relied on a test of another lab
2 and she's testifying to that, we will see what she's
3 going to say. I don't know. Go ahead.

4 MS. PETRONE: Q Was there a computer match
5 generated of the male DNA profile found in semen from
6 the vaginal swabs of Latonya Jackson to a male DNA
7 profile that had been identified as having originated
8 from Sandy Williams?

9 A Yes, there was.

10 Q Did you compare the semen that had been
11 identified by Brian Hapack from the vaginal swabs of
12 Latonya Jackson to the male DNA profile that had been
13 identified by Karen Kooi from the blood of Sandy
14 Williams?

15 A Yes, I did.

16 MR. WALSH: Objection to the form of the question.

17 THE COURT: Overruled.

18 THE WITNESS: Yes, I did.

19 MS. PETRONE: Q Did you use the method of DNA
20 testing which you described earlier?

21 A Yes.

22 Q What was your conclusion?

23 A I concluded that Sandy Williams cannot be
24 excluded as a possible source of the semen identified in

1 the vaginal swabs.

2 Q In other words is the semen identified in the
3 vaginal swabs of Latonya Jackson consistent with having
4 originated from Sandy Williams?

5 A Yes.

6 Q What is the probability of this profile
7 occurring in the general population?

8 A Can I refer to my report?

9 THE COURT: Yes.

10 THE WITNESS: This profile would be expected to
11 occur in approximately 1 in 8.7 quadrillion black, 1 in
12 390 quadrillion white, or 1 in 109 quadrillion Hispanic
13 unrelated individuals.

14 Q Do you know the approximate population of the
15 world?

16 A Approximately 6 billion.

17 MR. WALSH: Objection.

18 THE COURT: Overruled.

19 MS. PETRONE: Q In your expert opinion, can you
20 call this a match to Sandy Williams?

21 A Yes.

22 MR. WALSH: Objection.

23 THE COURT: Overruled.

24 MS. PETRONE: No further questions.

1 CROSS-EXAMINATION

2 BY

3 MR. WALSH:

4 Q You prepared a report in this case?

5 A I did.

6 Q And that was dated April 19, 2001?

7 A Yes.

8 Q I'll show you what I'll mark as Defense
9 Exhibit Number 6 for identification. Can you take a
10 look at that report. Is that the report you made and
11 issued in this case?

12 A Yes.

13 Q Dated April 19, 2001?

14 A Yes.

15 Q Is that the only report you had in this case?

16 A Yes.

17 Q And that test -- strike that. That report
18 indicates that testing was performed by on the vaginal
19 swabs by Celmark diagnostic, correct?

20 A Correct.

21 Q You did not perform testing on those vaginal
22 swabs, correct?

23 A Correct.

24 Q You did not receive those vaginal swabs?

1 A Correct.

2 Q You never examined that evidence, correct?

3 A Correct.

4 Q And you based your testimony on testing that
5 was done by that other lab, correct?

6 A Correct.

7 Q You did not observe their testing or their
8 procedures, correct?

9 A Correct.

10 Q You did not know if they observed or checked
11 the calibration of their instruments, correct?

12 A Well, Celmark diagnostic is an accredited
13 laboratory so they would have to meet certain guidelines
14 to perform DNA analysis for the Illinois State police
15 and so all those calibrations and internal proficiencies
16 and controls would have had to have been in place for
17 them to perform the DNA analysis.

18 Q You'd hope they would be able to.

19 MS. PETRONE: Objection.

20 THE COURT: Sustained.

21 MR. WALSH: Q You don't know -- the question was
22 you did not observe calibration or the acts of
23 calibration of any instrumentation used by Celmark?

24 A I did not observe anything.

1 Q And you did not -- did you review their
2 procedures?

3 A No, I did not.

4 Q Are you aware that they have different
5 procedures?

6 A Yes, I am.

7 Q From the Illinois State police?

8 A Yes.

9 Q And are you aware that they have different
10 standards for the results?

11 A Yes.

12 Q You did not observe the preparation of or
13 running of any controls in that case?

14 A No, I did not observe.

15 Q Either positive controls or negative
16 controls, right?

17 A I did not observe them doing that.

18 Q Now, you received our report from Celmark,
19 right?

20 A Yes.

21 Q Dated February 15, 2001?

22 A Yes, Judge, may I look at my copy?

23 THE COURT: Yes.

24 THE WITNESS: What was the date on that?

1 MR. WALSH: Q February 15, 2001?

2 A Yes.

3 Q And that report included a allele chart,
4 correct?

5 A Yes.

6 Q And that would be the results of their
7 testing?

8 A Correct.

9 Q In that included data that you used to run
10 your data bank search?

11 A Correct.

12 Q You did not interpret the results by Celmark,
13 did you?

14 A Partially. I did review their data, and I
15 did make my own interpretations so I looked at what the
16 programs, what they sent to me and did make my own
17 determination, my own opinion.

18 Q That would be the electropherogram with
19 regard to the vaginal swab E2, right?

20 A What was the last part of your statement?

21 Q E2?

22 A Yes.

23 Q You did not receive electropherograms for the
24 E1?

1 A I believe all I have in my case file is E2,
2 correct.

3 Q And you did not receive electropherograms
4 form the standard of Latonya Jackson, did you?

5 A No, I do not.

6 Q Did you receive electropherograms for any
7 positive controls?

8 A No, I did not.

9 Q Did you receive electropherograms for any
10 negative controls?

11 A No, I did not.

12 Q And all of those are generated data which
13 would be part of accepted practice in generating DNA
14 analysis, correct?

15 A Correct.

16 Q And you did not do any biology testing
17 either, correct?

18 A Correct.

19 Q Now, with regard to shipping evidence to
20 Celmark, you did not prepare any of that packaging,
21 right?

22 A Correct.

23 Q And there were at least 20 other cases that
24 were batched together and sent out?

1 A I believe so as per the shipping manifest.

2 Q And you don't know what was done with that

3 box when it landed at Celmark, correct?

4 A Correct.

5 Q With regard to comparison, DNA profile has,

6 looks at 13 separate locations plus a gender location,

7 right?

8 A And it also looks at an additional 4.

9 Q Not --

10 A Did you say, I'm sorry?

11 Q I said 13?

12 A You're correct.

13 Q And each of those locations will report --

14 the results will report out two numbers; one inherited

15 from your mother, one inherited from your father,

16 correct?

17 A Correct.

18 Q Sometimes those can be the same number?

19 A Correct.

20 Q And then for a comparison if the numbers are

21 the same in one profile in an evidence sample compared

22 to a reference standard, that would be said to be a

23 match, right?

24 A What numbers are you referring?

1 Q If the two numbers at one location from an
2 evidence sample are the same as the two numbers from
3 that same location in a reference standard, it would be
4 said to be a match?

5 A You're referring to the Alleles.

6 Q Yes.

7 A Yes.

8 Q And from there you would go on to calculate a
9 frequency of that match or that inclusion of the
10 incurring?

11 A Correct, yes.

12 Q If one of those numbers is different, it's
13 not a match, right?

14 A Correct.

15 Q It's an exclusion, right?

16 A Correct.

17 Q And then the probability of that would be
18 zero, right?

19 A Well, it would be an exclusion so they
20 wouldn't do any statistics on it.

21 Q Now, you entered the what was labeled the
22 deduced male profile from the Celmark report for the
23 data bank search, right?

24 A Yes.

1 Q And a data bank search will only come up with
2 matches to those in the data bank?

3 A Yes.

4 Q If the contributor is not in the data bank,
5 you won't get a hit or result?

6 A It has to match to something in the data
7 base, correct.

8 Q You're aware of coincidental matches?

9 A And how would you define that?

10 Q False, positive.

11 A If there was a question of a match, then we
12 would investigate that further by looking at the
13 electropherograms from all the cases involved and do
14 some more comparisons on that.

15 Q You are aware of that profiles will match at
16 a certain number of locations?

17 MS. PETRONE: Objection to a certain number.

18 THE COURT: Sustained.

19 MR. WALSH: Q From anywhere between 1 and 13
20 locations?

21 A Yes. And I guess the best way to say that is
22 the data base is a tool that we use and then from that
23 tool, we go on to investigate and look further at the
24 data that we have to determine if it is a match.

1 Q And is it fair to say that the larger the
2 data bank the higher the chance of a coincidental match?

3 A It's fair to say because there is more
4 information in there.

5 Q Now, are you aware that the Arizona crime lab
6 had an instance of a coincidental match at nine
7 locations?

8 MS. PETRONE: Objection.

9 THE COURT: Sustained.

10 MR. WALSH: Q Now, the donor profile generated by
11 Celmark, you said you reviewed the electropherograms
12 that they sent?

13 A Yes.

14 Q Just on that one fraction?

15 A Correct.

16 Q And just to back up from for general testing
17 purposes, a vaginal swab DNA is extracted from that
18 swab, correct?

19 A Yes.

20 Q And there's what's called differential
21 extraction performed on that swab, right?

22 A Yes.

23 Q And that's to try to separate the female
24 scanner epithelial cells from any possible sperm cells,

1 correct?

2 A Yes.

3 Q Sometimes there will be separation in the
4 testing where you get one profile, a single donor
5 profile, correct?

6 A Correct.

7 MS. PETRONE: Objection to the form that question.

8 THE COURT: She seemed to understand it.

9 Overruled.

10 MR. WALSH: Q And sometimes you won't get
11 separation when you get a mixture, correct?

12 A Correct.

13 Q The results you received here indicated a
14 mixture, correct?

15 A Correct.

16 Q And you reviewed the electropherograms just
17 for that second fraction from the differential
18 extraction proceed, correct?

19 A Correct.

20 Q You did not receive the electropherograms for
21 that first fraction, that first part of the extraction?

22 A Correct.

23 Q Now, if the results were wrong from Celmark's
24 data and any matches you call would be wrong, correct?

1 MR. BUNTINAS: Objection.

2 THE WITNESS: Well --

3 THE COURT: Hold it. Overruled. Didn't she do her
4 own testing on this?

5 MS. PETRONE: Yes.

6 MR. BUNTINAS: She did.

7 THE COURT: She matched --

8 MR. WALSH: She matched up numbers. She did not
9 perform any testing.

10 MR. BUNTINAS: That's the testing that was
11 performed by this expert and she has an opinion based on
12 it.

13 THE COURT: Overruled. You can answer.

14 THE WITNESS: Well, some -- they sent the chart
15 which listed the profile that was in the F1 fraction E1.
16 Also, the profile that was in the E2 fraction and the
17 profile that was in Latonya Jackson's standard, and I
18 only had the electropherograms from the E2 fraction;
19 however, the chart gives me the profile that was in the
20 F1 fraction and it also gives me her standards so I do
21 have that information.

22 MR. WALSH: Q But you did not receive their data
23 or their electropherograms?

24 A No, I did not receive electropherograms for

1 those fractions.

2 Q You did not receive any computer data, the
3 electronic data?

4 A I, myself, did not receive that but that was
5 sent to the laboratory.

6 Q You never viewed that?

7 A Oh, no, I did not.

8 Q And so if the results in their E2 data were
9 wrong, would any matches be wrong?

10 MR. BUNTINAS: Objection, Judge.

11 THE COURT: Sustained. Speculation with no basis
12 of fact.

13 MR. WALSH: Q Now, you're aware that the donor
14 profile generated by Celmark -- strike that. With
15 regard to the donor profile generated by Celmark, all of
16 the Alleles there are not foreign to the victim,
17 correct? Strike that. In other words is it fair to say
18 that some of the alleles in the locations in the donor
19 profile are matched to the victim?

20 A Some of the alleles in the donor profile are
21 of match to the victim, is that your question?

22 Q Yes.

23 A Yes, some of them are consistent with the
24 victim.

1 Q For example D21, is a 29 and 30?
2 A Yes.
3 Q And that's the victim's profile, correct?
4 A Correct.
5 Q And in the T-POX location is an 8-11,
6 correct?
7 A Yes.
8 Q And that's Ms. Jackson's reported profile,
9 correct?
10 A It's consistent with her, yes.
11 Q And no other Alleles were reported there,
12 right?
13 A Correct.
14 Q Now, are you aware that there was a location
15 in the donor profile which reported three numbers, D5?
16 A Correct.
17 Q Where you would expect for a donor to have or
18 the -- or a contributor to have either one or two
19 numbers, correct?
20 A Not in this instance, no. This is a mixture
21 and so the interpretation of a mixture differs from the
22 interpretation of the fraction if there were not a
23 mixture so with regard to coming up with the information
24 to enter into the data base, we are entering just the

1 Alleles only; that is, we are not putting in a profile,
2 per say, it's just the alleles so that's why that
3 particular area there are three Alleles because of the
4 interpretation, you were not able to determine a profile
5 with only two because it is two people.

6 Q Sure. Well, because the deduced profile is
7 not purporting to be a single source profile, right?

8 A The deduced -- they have it written it's a
9 mixture, yes.

10 Q It could be -- a number of possibilities
11 could match that profile?

12 A That particular area?

13 Q Yes.

14 A We are talking than about the three Alleles?

15 Q Yes.

16 A There's a limited number of profiles that I
17 could match with that area.

18 Q Well, six different ones, right?

19 A Well, we are talking about only two people in
20 the mixture.

21 Q Well, from the combination of 3 and here in
22 the D5 the deduced male profile was a 10, 12 and a 13 so
23 the different combinations of the -- could include
24 10,10, right?

1 A Not in this instance, no.

2 Q A 10, 12?

3 A A D5?

4 Q Yes.

5 A No, not in this instance.

6 Q A 10, 13?

7 A That's a possibility.

8 Q A 12, 12?

9 A That is not a possibility.

10 Q A 12,13?

11 A That is a possibility.

12 Q Or a 13,13?

13 A That is a possibility.

14 Q And there could also be a tri-allele pattern,

15 correct, where the three Alleles could be the actual

16 donor the 10, 12, 13 pattern?

17 A That's -- in my opinion I would not agree

18 with that statement in this case.

19 Q You are aware that there are instances of

20 tri-alleleic patterns?

21 A There are instances, yes.

22 Q Now, you're aware that some offer these bulk

23 mailings of samples for testing?

24 A Yes, I am aware of that.

1 Q You don't know how they receive them?

2 A Well, we send them out in a sealed condition,
3 and they are sealed and then shipped to the Federal
4 Express with the tracking number so I know when they
5 leave our laboratory, they are sealed.

6 Q Do you know how they process them when they
7 receive them?

8 A No, I do not but again Celmark is an
9 accredited laboratory that must meet certain guidelines
10 to a receive accreditation.

11 Q Are you aware that Celmark cases are batched
12 processed by teams of technicians?

13 A I am aware of that, yes.

14 Q And not by the general practice of single
15 analysts done by Illinois state police?

16 A That's correct, yes, it differs.

17 Q So it's fair to say that some are multiple
18 people handing multiple samples?

19 A It's possible, yes.

20 Q And that's over the course of extraction, the
21 extraction step?

22 A Yes.

23 Q The amplification step, two separate
24 quantitation steps as well as the electrophoresis step,

1 the analysis?

2 A That's correct.

3 Q And you're aware that they use a separate
4 type of instrumentation? Are you aware that they use a
5 gel slab instrument as opposed to a capillary
6 instrument?

7 A No, I wasn't aware of that.

8 Q And that requires --

9 THE COURT: Actually, I'm not going to go entertain
10 that question. According to who? She's not -- the
11 phrasing of that question assumes a fact not in evidence
12 that are you aware that they used this and she said
13 she's not aware of it and what does that mean to me as a
14 fact finder that what you just said is true that they do
15 do that; that she's unaware of. Are you going to prove
16 that somehow?

17 MR. WALSH: It goes to evidence coming in of a
18 different lab testing practices.

19 THE COURT: I'm just talking about the last
20 question, that question, what does it mean to me. How
21 do I assess that last question.

22 MR. WALSH: Well, it does go --

23 THE COURT: As a fact finder.

24 MR. WALSH: It does go to her ability to interpret

1 the data she received with regard to --

2 THE COURT: Assuming what you're saying is true,
3 your hypothetical, how do I know if it is or if it
4 isn't?

5 MR. WALSH: Judge, it goes to her basis of
6 knowledge with regard to the testimony that the witness
7 is offering.

8 THE COURT: Her basis of knowledge of what she's
9 unaware of if what you say is true, which I don't know
10 if it is, doesn't help me one way or the other on this
11 one question. Rephrase the question or ask something
12 different.

13 MR. WALSH: Q You're aware that there are
14 different types of electrophoretic platforms for DNA
15 analysis, correct?

16 A Correct, but the medical field might use a
17 different form for what they are looking for versus what
18 the forensic field would use for what they are looking
19 for.

20 Q Well, the forensic field, forensic labs use
21 both gel slab, what's called gel slab technology. Are
22 you aware of that?

23 MR. BUNTINAS: Objection.

24 THE COURT: Overruled.

1 THE WITNESS: I believe that was for the old PCR
2 technique that used to be done many years ago that's not
3 done anymore. They called that dots and gels. I was
4 not even trained in that.

5 MR. WALSH: Q You can't determine what instrument
6 was used in the reviewing when you reviewed the
7 electropherograms? *

8 MS. PETRONE: Objection, asked and answered.

9 THE COURT: Sustained.

10 MR. WALSH: Q For the interpretation here on
11 differential extraction and generating a donor profile
12 is to look at that E2 profile, correct?

13 MS. PETRONE: Objection, asked and answered.

14 THE COURT: Overruled. Go ahead.

15 MR. WALSH: Q You look at the E2 fraction from the
16 vaginal swabs and compare that to the victim's profile,
17 correct?

18 A In my opinion that's what Celmark did.

19 Q And that's how you would do it in your case
20 work, right?

21 A We have slightly different guidelines so it
22 would be a little bit different.

23 Q Well, the goal here is to try to determine
24 the male donor?

1 A Correct.

2 Q And in the E2 fraction or the vaginal swab
3 assuming the victim's profile is present and subtract
4 that out?

5 A In my opinion that's how Celmark approached
6 it, yes.

7 Q At the D3 location -- strike that. And then
8 after you looked at this data, you compared that to the
9 profile that is purportedly came from Sandy Williams,
10 right?

11 A Well, after Celmark made their deduced male
12 donor profile, that was put into the data base and then
13 it was generated, the match was generated.

14 Q And you compared that profile, right?

15 A To?.

16 Q The profile that was purportedly came from
17 Sandy Williams?

18 A Correct.

19 Q To the vaginal E2?

20 A Correct, yes.

21 Q At the D3 location in the vaginal swab E2,
22 16, 17, 18 in brackets and a 19 were reported, correct?

23 A Correct.

24 Q The victim was a 16 and a 17?

1 A Yes.

2 Q The deduced profile was a 16 and a 19?

3 A Yes.

4 Q And Mr. Williams had a 16 and a 19, right?

5 A I need to refer to my records.

6 THE COURT: Go ahead.

7 THE WITNESS: Correct.

8 MR. WALSH: Q There was no accounting for that 18
9 there, right?

10 A In a deduced male donor profile, the 18 was
11 not included and Celmark interpreted -- Celmark's
12 interpretation guidelines differ from ours and when I
13 review the electropherograms that I have, it looks like
14 that 18 may or may not even be a real illegal. In my
15 opinion it looks like it's some background noise because
16 the other alleles presents are there in a very large
17 quantity. There's a larger amount of the alleles
18 present. Sometimes when you have so much DNA and the
19 instrumentation is only so sensitive sometimes you get
20 background noise and it looks to me in my opinion that
21 the 18 maybe just that background noise.

22 Q But Celmark reported that out, correct?

23 A They did not reports it in the deduced male
24 donor profile. They only reported it as an illegal that

1 was present in the E2 fraction.

2 Q At the D21 location, the vaginal swab E2
3 results reported by Celmark were 29, 30 and a 32
4 indicated that that 32 may be present?

5 A That is correct. That's how Celmark wrote
6 their key, yes.

7 Q And the victim had a 29, 30, and they
8 deduced, reported out was a 29, 30?

9 A Correct.

10 Q And they did not use that 32?

11 A No, they did not.

12 Q At the D5 location again that was where three
13 alleles were reported 10, 12 and 13 in the E2?

14 A That's correct.

15 Q And those three were reported in the deduced
16 profile, right?

17 A Yes, they were.

18 Q And that there are different possibilities
19 that would fit that profile at that location?

20 A Yes, sir.

21 Q At the T-POX location vaginal swab E2
22 reported by Celmark is 8,11,

23 A Yes, it is.

24 Q The reported profile of Ms. Jackson is also

1 8, 11?

2 A That's correct.

3 Q That was not subtracted out but that 8, 11
4 was still reported as the deduced profile, right?

5 A That's correct.

6 Q Now, you're not able to determine whether
7 alleles are carried over by the victim or by an
8 offender, correct, or male donor?

9 A Which area are you referring to?

10 Q At T-POX?

11 A In my opinion with this profile, it is a
12 mixture so when we have a mixture you are looking at the
13 profile as a whole and again your interpretation very
14 slightly and it's important to note that the alleles at
15 each locus on a DNA molecule that we look at are very
16 common. It is not uncommon for you and I to have the
17 same alleles at a locus or you and I to have the same
18 Alleles. The power of this DNA comes with looking at
19 all 13 areas of the DNA because it's that uniqueness
20 looking at all 13 that's going to give us the numbers.
21 And here like a T-POX and in the other two that you
22 mentioned, there are only two alleles and like I say in
23 my opinion there are only two people in this profile and
24 it just may so happen that they share an 8 and they

1 share an 11 or it may so happen that she is an 8 and 11
2 and he is just an 11, 11 or he is an 8, 11 and she is an
3 8, 8. There's only certain possibilities that can be
4 attributed at each locus.

5 Q If you have full data for that profile,
6 correct?

7 A What exactly does that mean?

8 Q Well, you could get a degraded evidence
9 sample?

10 MS. PETRONE: Objection, speculative.

11 THE COURT: Overruled.

12 THE WITNESS: Yes, it's possible to have a degraded
13 sample but if the sample was degraded, that would be
14 known by our earlier examination of the evidence. We
15 determine the quantity and the DNA that we have and the
16 quality of the DNA and also after we look at the
17 electropherograms, you can see the degradation, their
18 specific patterns, and the data looks a certain way when
19 it is degraded. The peaks aren't as defined. They
20 slope off missing here and there. Different things
21 happen with degradation, and I didn't see any evidence
22 of degradation in this particular fraction.

23 Q And you did not receive data for the
24 quantitation, correct?

1 A Correct.

2 Q And you only received electropherograms for
3 the E2, correct?

4 MS. PETRONE: Objection, asked and answered.

5 THE COURT: Sustained.

6 MR. WALSH: Q Now, the reports that you prepared
7 in this case and all reports in this case were prepared
8 for this criminal investigation, correct?

9 A Yes.

10 Q And for the purpose of the eventual
11 litigation here, correct?

12 A Yes.

13 Q Now, are you aware that the Celmark lab in
14 Germantown, Maryland, is subsequently closed?

15 MS. PETRONE: Objection.

16 THE COURT: Sustained.

17 MR. WALSH: Q Are you aware of any instances of
18 contamination or fraud by analysts at Celmark?

19 MS. PETRONE: Objection.

20 THE COURT: Sustained.

21 MR. WALSH: Q With regard to different
22 possibilities on the deduced male profile if that does
23 not match Sandy Williams at each of those locations, he
24 will be excluded, correct?

1 A Well, again it's a mixture so when we have
2 the different possibilities of profiles, there's
3 different possibilities of him matching.

4 Q And it just takes one exclusion of one number
5 to be excluded?

6 MS. PETRONE: Objection.

7 THE COURT: Overruled. Is that true?

8 THE WITNESS: It is -- two part answer. It is true
9 it takes one illegal to exclude; however, we are not
10 talking about a straight profile in this case. We are
11 talking about a mixture and because it is a mixture from
12 the F2 fraction of the victim and the male or the female
13 and the male fraction, when we do those deduced male
14 profiles an allele from the victim maybe included in one
15 of those possibilities so in that allele from the victim
16 may not match the suspect's but that would not be a
17 reason to include because there are two other
18 possibilities there that if it was a match, he would
19 match too so once he is included as a match in one of
20 those possibilities, it's an inclusion and you would --
21 and this is again how we look at the whole profile and
22 all the information that we are given we would see that
23 allele and determine, okay, that is from the victim, and
24 we are looking at all the other loicides. Is there

1 evidence a third person? No. Is there evidence of two
2 people? Yes. Does he fit one of these possibilities?
3 Yes, he does. What about this allele? Could it have
4 come from the victim? Yes, it could. And when we do
5 the statistics on that particular locus, we are putting
6 the Alleles in. We are not putting a profile so we will
7 put in three alleles so the stats will actually be more
8 common. The stats reflect the interpretation on that
9 locus. It is not as unique.

10 MR. WALSH: Q And if taking a mixed profile, if
11 you take out -- if you account for the victim's presence
12 there and if there are additional alleles or
13 combinations of alleles that do not match a suspect,
14 that person would be excluded.

15 MS. PETRONE: Objection.

16 THE COURT: Is that what's here?

17 THE WITNESS: In this particular locus, all
18 combinations are reported. That is the most
19 conservative way to do it and that's how it was done.
20 We would not pull out the -- let me refer to my
21 electropherograms. In this instance it's a three allele
22 pattern and there is evidence of alleles being shared so
23 I would not pull out the victim but each locus, like I
24 said, with a mixture, each locus is interpreted a little

1 bit differently, and we will always go the most
2 conservative route and do the alleles only and provide
3 all possibilities.

4 MR. WALSH: Q At D5 victim was a 10, 12?

5 MS. PETRONE: Objection, asked and answered.

6 THE COURT: Sustained.

7 MR. WALSH: Q If the male donor was a 10, 12 or
8 I'm sorry, if the male donor was a 13, 13, Sandy
9 Williams would have been excluded, correct?

10 MS. PETRONE: Objection.

11 THE COURT: Overruled.

12 THE WITNESS: In this instance with these three
13 alleles that the 12 is the largest of the two and the
14 assumption is the 12 how it's interpreted is, in fact,
15 being shared.

16 MR. WALSH: Q You did not do calculations for
17 that, did you?

18 A When we do the calculations, we are putting
19 in the alleles only so the possibility at that locus,
20 the possibilities were a 12, 13, a 10, 13 and a 13, 13.

21 Q You did not do any of the peacock (phonetic)
22 calculations?

23 A I beg your pardon?

24 Q You did not do any peacock calculations?

1 A Those are determined from the instrumentation
2 during electrophoresis process.

3 Q So you did not?

4 A They were already there, no. And that's just
5 something that comes off the instruments.

6 MR. WALSH: Nothing further.

7 THE COURT: Redirect?

8 MS. PETRONE: Could I have a moment?

9 THE COURT: Sure. I'm taking a ten minute recess.
10 Don't talk to anyone during the recess, and we will call
11 you back.

12 REDIRECT EXAMINATION

13 BY

14 MS. PETRONE:

15 Q Ms. Lambatos, the only two people in this
16 mixture are Sandy Williams and Latonya Jackson; isn't
17 that correct?

18 A That's correct.

19 Q In your expert opinion, were the methods used
20 by Celmark diagnostic laboratory here generally accepted
21 in the scientific community?

22 MR. WALSH: Objection.

23 THE COURT: Overruled.

24 THE WITNESS: Yes.

1 MS. PETRONE: Q You, yourself, helped develop line
2 proficiency tests to be administered to analysts at
3 Celmark; isn't that correct?

4 A Correct.

5 Q And you routinely, in the course of your work
6 in the Illinois state police crime lab, relied on
7 results from Celmark in performing your work; isn't that
8 correct?

9 MR. WALSH: Objection.

10 THE COURT: Overruled.

11 THE WITNESS: Correct.

12 MS. PETRONE: Q And in your work in this case, you
13 also relied on work from analysts Karen Kooi and Brian
14 hey pack; is that correct?

15 A Correct.

16 Q You received the results in this case from
17 Celmark, and you agreed with their analysis; is that
18 correct?

19 A Correct.

20 Q You reviewed the data and you made your own
21 determination; is that correct?

22 MR. WALSH: Objection.

23 THE COURT: Overruled.

24 THE WITNESS: Correct.

1 MS. PETRONE: Q Did you see any problem with
2 either the chain of custody or with contamination of
3 evidence?

4 MR. WALSH: Objection.

5 THE COURT: Overruled.

6 THE WITNESS: No, I do not.

7 MS. PETRONE: Q The fact that there was a mixture
8 of Sandy Williams and Latonya Jackson in this case does
9 not affect your conclusion that there was a match to
10 Sandy Williams of semen in the vaginal swabs of Latonya
11 Jackson; is that correct?

12 A Correct.

13 Q And the fact that there was a mixture of two
14 people, Sandy Williams and Latonya Jackson, does not
15 change your opinion that the match here is expected to
16 occur in 1 in 8.7 quadrillion blacks; is that correct?

17 MR. WALSH: Objection.

18 THE COURT: Sustained.

19 MS. PETRONE: Q In your expert opinion, the DNA
20 and the vaginal swabs of Latonya Jackson came from
21 Latonya Jackson and Sandy Williams; isn't that correct?

22 A Correct.

23 MS. PETRONE: Nothing further.

24 THE COURT: Re-cross?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

RECROSS-EXAMINATION

BY

MR. WALSH:

Q You only had electropherograms on the E2 of the vaginal swab, correct?

MS. PETRONE: Objection.

THE COURT: Overruled.

THE WITNESS: Correct.

MR. WALSH: Q You had no other electropherograms on any other evidence tested there, correct?

A Correct.

Q You had no other documentation with regard to any of the sample prep, correct?

MS. PETRONE: Objection, beyond the scope.

THE COURT: Sustained.

MR. WALSH: Q You had no other documentation other than a shipping manifest with regard to the chain of custody?

MS. PETRONE: Objection.

THE COURT: Sustained.

MR. WALSH: Q Well, you have no other documentation to examine chain of custody, correct?

MS. PETRONE: Objection.

THE COURT: Overruled.

1 THE WITNESS: Correct.

2 MR. WALSH: Nothing further.

3 THE COURT: Redirect.

4 MS. PETRONE: Nothing, Judge.

5 THE COURT: You can step down, ma'am, thank you.

6 MR. BUNTINAS: We have another witness.

7 MR. WALSH: I'd like to address the Court. I would
8 move to exclude that evidence with regards to testing
9 done by Celmark based on 6th amendment right to confront
10 witnesses and cite the United States Supreme Court case
11 of Coffee versus Washington. I also cite the Illinois
12 Supreme Court case of People versus Raney. There's no
13 evidence with regards to work, any work done by Celmark
14 analyst to justify testimony coming in into this case
15 with regard to their analysis, and I'd ask that that
16 testimony be stricken.

17 THE COURT: State?

18 MR. BUNTINAS: Judge, Crawford versus Washington
19 doesn't apply in this case. It's a complication clause
20 case where the witness' testimony of the defendant's --
21 the testimony of the defendant's wife at trial in
22 Washington State on a marriage privilege law. It
23 doesn't apply in this case, Judge. Judge, this type of
24 expert testimony is done routinely every day in this

1 courtroom, Judge, and since the Illinois state police
2 crime lab has been using Orkin, Celmark, and Bodi
3 technology group to outsource some of their analysis,
4 this is exactly the kind of testimony that you get from
5 the analysis, not the technical person who does the
6 actual analysis. We are not going to be putting on the
7 15 people who analyzed or processed this evidence at
8 Celmark. You call the analyst who reviewed the data,
9 formed the opinion, gathered everything, and did the
10 statistical analysis, and performed an opinion as an
11 expert, Judge.

12 Judge, you've got cases throughout the country
13 that apply the specific, the specific type of evidence
14 where you have Celmark, results from Celmark being
15 testified by experts in the case of Commonwealth versus
16 Sparks, 742 N.E.2d 133. It's a 2001 Massachusetts
17 Supreme court case again using this exact type of
18 evidence. Also in State versus Kennedy, 1077 S.W. 3d
19 58. It's a 1999 Tennessee case. Again, the defendant's
20 not deprived the right to cross examine. There is a
21 witness who analyzed the data, they have the opportunity
22 to cross examine them. If there is a genuine problem
23 with any of the results or any of the analysis, they
24 have the right to bring in their own witnesses to rebut

1 that or bring that issue up. Doesn't go to the
2 admissibility of the testimony. It goes to the weight
3 of the testimony that they chose to challenge it that
4 they can. There's not a jurisdiction in any -- there's
5 not a jurisdiction within the country that is rejected
6 this type of testimony that's been expert testimony at
7 all.

8 Judge, if the basis or the legal standard that
9 allows this type of testimony that was allowed in every
10 day the expert witness testimony comes with the adoption
11 of the federal rule of evidence 703 by the Illinois
12 Supreme Court in the case of People versus Nieves and
13 Wilson versus Clark; that the testimony by experts facts
14 are dated in a particular case upon which an expert
15 based on opinion or reference or inference maybe
16 perceived by or made known to the expert at or before
17 the hearing. And if they rely on that in forming their
18 opinion, it's allowed. Judge. It's similar to evidence
19 of a doctor reviewing X-rays or in the Nieves case, the
20 testimony of Dr. Donahue of reviewing an autopsy
21 performed by another doctor. Dr. Donahue never
22 performed the autopsy in the Nieves case, but just like
23 in this case he reviewed the data provided by another
24 doctor who did perform the autopsy, formed his opinion

1 that agreed with the previous opinion and that was
2 admissible, Judge.

3 Judge, in addition since the Illinois state
4 police crime lab has been sending cases to Orkin,
5 Celmark, and Bodi Technology, this kind of evidence has
6 been accepted in courts within this building, numerous
7 courts, numerous judges have reviewed this type of
8 evidence and it becomes standard practice for an expert
9 to come in and testified with regard to the results, the
10 mechanical results performed at a different lab and then
11 taken that raw data and analyzing and coming up with an
12 opinion and that's what's been done in this case and
13 that's what's been done in numerous courts within this
14 building. It's an accepted practice among the judges -
15 Judge Tuman, Judge Bouoy, and I believe Judge Fox has
16 accepted this among other judges as an acceptable use of
17 experts that they would analyze raw data and apply that
18 data, Judge, so, therefore, on that basis, Judge, we
19 believe that the evidence is admissible. We are asking
20 you deny counsel's motion to exclude.

21 THE COURT: Rebuttal?

22 MR. WALSH: Judge, the practice here deals with
23 analysis done by the state lab and comment and you heard
24 testimony from those analysts and that is the general

1 practice, to hear from the analyst who performs the
2 work. Defendant has a right under the 6th amendment and
3 the Illinois constitution the right to confront the
4 witnesses against him. Crawford versus Washington makes
5 that clear that that with regard to testimonial evidence
6 and submit that the evidence here with regards to the
7 analysis performed the lack of evidence presented with
8 regard to as far as chain of custody, the receipt of
9 evidence, how it's handled, processed, how equipment is
10 calibrated, how re-agents are prepared, how tests are
11 run, what procedures are followed, what people handled,
12 manipulate the evidence. None of that was presented
13 here. Defendant has a right to confront the testimonial
14 evidence against him with regard to those practices.
15 People versus Raney from the Illinois Supreme Court
16 stands for proposition that evidence must be presented
17 with regard to those factors of calibration of
18 equipment, accuracy and reliability of testing
19 procedures performed. The evidence you heard here does
20 not support that and is just based on speculation of
21 review of partial documentation and it's clear that the
22 witness here, Ms. Lambatos, just received partial
23 documentation, partial data from the lab and was not
24 able to answer questions with regard to the testing

1 practices. The State's assertion of our ability to call
2 witnesses improperly shifts the burden onto the defense
3 which violates defendant's constitutional right to a
4 fair trial and violates the burden of proof. The cases
5 cited all predate, I believe, Crawford versus
6 Washington, and I submit that the evidence of
7 Ms. Lambatos with regard to Celmark testing is
8 improperly admitted for the Court and should be
9 stricken.

10 THE COURT: I don't think Crawford applies in this
11 kind of case. I've read a lot of memorandums of law
12 about Crawford. The premier memorandum is written by
13 Appellate court justice Quinn. I've read his
14 memorandum, his updated memorandum which he updates
15 every year. I don't think this is a Crawford scenario,
16 and I agree with the State that the evidence is -- the
17 issue is, you know, what weight do you give the test,
18 not do you exclude it and accordingly your motion to
19 exclude or strike the testimony of the last witness or
20 opinions based on her own independent testing of the
21 data received from Celmark will be denied.

22 (Witness sworn)

23 DETECTIVE MCVICKER,
24 called herein as a witness on behalf of the People of