

1 A Considering the amount of hair on her head and
2 the fact that there are areas of shorter hair and longer
3 hair, I would have been surprised if I had noticed it.

4 Q Okay.

5 MR. MCDERMITT: I have no further
6 questions.

7 MR. O'CONNELL: Nothing further, Judge.

8 THE COURT: All right. Thank you, Dr.
9 Rohr.

10 Call your next witness.

11 MR. CLAYTON: At this time, Your Honor,
12 the State would call Charley Linch.

13 THE COURT: All right. Mr. Linch, you've
14 previously been sworn. You remain under oath.

15 CHARLES LINCH,
16 called as a witness on behalf of the State of Texas,
17 having been previously duly sworn to testify the truth,
18 the whole truth, and nothing but the truth, testified on
19 his oath as follows:

20 DIRECT EXAMINATION

21 BY MR. CLAYTON:

22 Q Would you please state your name again for the
23 jury?

24 A Charles Linch, L-i-n-c-h.

25 Q And, Mr. Linch, you are one and the same

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1 Charles Linch who testified earlier in this cause; is
2 that correct?

3 A That's correct.

4 Q Mr. Linch, I just have a few questions I want
5 to go back over with you real quickly. First of all,
6 you've heard and testified before this jury extensively
7 about a stuffed bunny rabbit that was taken from
8 Defendant Michael Blair's car. Do you recall that bunny
9 rabbit?

10 A Yes, sir. I do.

11 Q Were you present the date that it was taken
12 from this car in the salliport of the Plano Police
13 Department the 10th day of September, 1993?

14 A Yes, sir. I was.

15 Q Did you have occasion, in fact, on that very
16 same date to take possession of that bunny rabbit and
17 take it to your laboratory?

18 A Yes, sir. I did.

19 Q Was that particular bunny rabbit wet or dry at
20 the time that you took possession of it?

21 A The rabbit was dry, as well as a cow or pig
22 doll that we recovered. They were both dry.

23 Q Okay. Now, you had occasion, did you not,
24 during the course of some of your initial observations
25 in this case to speak with Det. Presley; is that

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1 strictly a Caucasian hair?

2 A No, sir.

3 Q All right. Incidentally, can you tell the sex
4 of an individual by simply looking at -- well, I'll
5 rephrase that. Could you tell the sex of the individual
6 by looking at these two hair fragments?

7 A By looking at the microscopic features of the
8 shaft itself, you cannot tell sex. You can, however, if
9 sufficient root tissue is present, attempt to do a
10 chemical method where you look for the X and Y
11 chromosomes within the root tissue cells. That method,
12 however, is not completely agreed upon by members of the
13 forensic science community.

14 Q All right. Then if Det. Presley had put down
15 it was a male hair that was found, would that have been
16 some error on his part?

17 A Yes, sir.

18 Q Okay. That was a telephone conversation, was
19 it not?

20 A That's right.

21 Q With regard to showing the difference or some
22 of the character traits of the Caucasian hair
23 pigmentation versus that from a Mongoloid and the
24 cuticle aspect, I'd like to show you an exhibit.

25 MR. CLAYTON: May I enter my closet,

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correct?

1 A That's right.

2 Q And do you recall on one occasion speaking with
3 Det. Presley over the telephone about a head hair or
4 possible head hair recovered from Ashley's panties and
5 also an axillary or body hair recovered from a transport
6 sheet from the morgue?

7 A Yes, sir. During the initial stages of the
8 investigation there was a very, very short, less than a
9 quarter-inch, straight hair piece, and a hair with
10 secondary sexual characteristics that came in with the
11 body.

12 Q All right. And on that occasion that you
13 discussed these with Det. Presley, did you give him a
14 rundown, if you will, of what observations you could
15 make? Recognizing, of course, we don't make matches or
16 associations based on fragments that short, but did you
17 give him a rundown of what you had observed regarding
18 possible racial characteristics?

19 A My opinion to Det. Presley was that these hairs
20 were, indeed, human in origin and that they had origin
21 from a person who was a heavily pigmented Caucasian or
22 possibly a Mongoloid. That includes Hispanics and
23 persons of Asian descent.

24 Q All right. Did you ever tell him that this was
25

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1 Judge?

2 THE COURT: You may.

3 Q (By Mr. Clayton) Mr. Linch, do you remember our
4 completely-unrelated-to-this-case Dallas County sexual
5 assault blowup, State's Exhibit No. 93?

6 A (By the witness) That's what I recall. States
7 93.

8 Q All right. Mr. Linch, with regard to State's
9 Exhibit 93, can you tell me whether or not this
10 particular exhibit from this completely unrelated Dallas
11 County case is a blowup you designed in order to show
12 Caucasian pigmentation characteristics of hair?

13 A Yes, sir. States's 93 is an example of an
14 instance where the victim is Caucasian and a suspect is
15 Caucasian and the hairs from each individual were
16 compared.

17 Q All right, sir. Before we display this to the
18 jury, I've got another photograph for you to look at.
19 All right. Mr. Linch, I'm going to show you once again
20 what's been previously identified as State's Exhibit 94.
21 I'm going to take just a minute to try to find us
22 something to prop this up on.

23 I tell you what, Mr. Linch, as it appears our
24 tripod has been pilfered, why don't you step on around
25 here and I'll try to hold them up for you. Previously

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1 you testified about State's Exhibit 94 here on the left.
2 Just for the jury's review, is this the particular
3 exhibit you prepared regarding some hair from Michael
4 Blair, known hair, as well as the head hair you found on
5 the panties, the fragment?

6 A This is State's 94?

7 Q Yes, sir.

8 A State's 94 contains five photomicrographs that
9 I took through the comparison microscope, and they are a
10 comparison of the hair with secondary sexual
11 characteristics from the body transport sheet compared
12 to pubic and head hairs of Michael Blair. On the left
13 side of State's 94 are two photographs below and above
14 of a hair fragment recovered from the panties, inside
15 the panties, of Ashley Estell. On the right side of
16 each of these photographs is also a head hair of Michael
17 Blair compared to the hair from the panties.

18 Q All right. Now, in talking about those racial
19 characteristics -- I guess we can put the big one on the
20 tripod for a moment. Move it up just a little bit. All
21 right. Can you point out for the jury once again a
22 little bit about the factors that led you to see what
23 you related as being some Caucasian-type pigmentation in
24 the head hair fragment from the panties?

25 A An identifying characteristic of

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1 Mongoloid-type hairs is what we call clump and dense
2 pigmentation, along with the clear, discernible cuticle.
3 You can't see it from where you're sitting, but there's
4 a very clear margin between the cortex of the hair and
5 the cuticle itself. This is clump, dense pigmentation
6 with kind of auburn cast that is characteristic of a
7 Mongoloid hair. Caucasians very, very infrequently have
8 this degree of clump pigmentation. I've seen one
9 Caucasian with heavily clumped pigmentation before. All
10 right.

11 Q All right. Now, that you've distinguished, if
12 you would, or you have distinguished then the
13 pigmentation and the cuticle aspect of Michael Blair's
14 hair in comparison to the fragment that you recovered
15 from the panties, is the same true for the fragment that
16 you recovered from the body transport sheet?

17 A My first discussion was about the hair from the
18 body transport sheet.

19 Q Okay.

20 A With regard to the hair fragment from the
21 panties, you also see a rather dense clump pigmentation
22 with a clearly discernible cuticle that is a little bit
23 thicker than you would see in a Caucasian. In this
24 instance this is a photograph of a hair from the
25 panties. The pigmentation, as you go along the shaft of

2174

1 this hair microscopically, turns into what we term a
2 more Caucasian-type pigmentation, a finer grain
3 pigmentation, and this is an area of Michael Blair's
4 head hair that also has these mixed characteristics.
5 There's a thick, very discernible cuticle, and the
6 pigmentation in this instance also goes to a fine grain
7 type pigmentation. The only clumping you see in this
8 part of Mr. Blair's hair is toward the cuticle.

9 Q And then with regard to State's Exhibit 93,
10 then, if you could, show the jury a little bit just
11 about the more classic Caucasian-appearance of the hairs
12 portrayed there.

13 A State's 93 consists of six photomicrographs of
14 the comparison of Caucasian pubic hair. On the left of
15 State's 94, this is a microscope picture of the known
16 victim's pubic hair. On the right side is a
17 photomicrograph of the hair recovered from the panties
18 of the victim. They're both classically Caucasian, fine
19 grained pigmentation. The one on the right has a
20 continuous medulla. The one on the left has a
21 fragmentary medulla. Again, the same representation in
22 the photograph below. The second photograph below on
23 the left is just a higher magnification and the
24 photograph at the bottom is just a representation of the
25 medullary structures.

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1 On the right side of State's 94 is a comparison
2 of the hair found in the victim's panties compared to
3 the suspect. You can see that the suspect more closely
4 resembles the found hair than does the victim. We make
5 -- when we see this kind of difference in the hair from
6 the panties compared to the victim, then we know this is
7 what we term a foreign hair or hair that has not had
8 origin from the victim. So when a suspect is developed,
9 the hairs are retained and comparison is done. You can
10 see that there is very good microscopic agreement
11 between medullary structure, fine grain pigmentation.

12 The photograph at the bottom is just an example
13 of a root end microscopically. Again, both of these are
14 Caucasian hairs from two different individuals. They
15 show a very fine grain pigmentation as opposed to the
16 clumped pigmentation that we see in the hair from the
17 body transport sheet and the hair fragment from Ashley
18 Estell's panties.

19 Q All right. Thank you.

20 Based, then, on what you have just discussed
21 with the jury, is it still, then, your opinion that the
22 head hair fragment from Ashley Estell's panties, as well
23 as the body hair from the transport sheet, possess, in
24 your opinion, primarily Mongoloid characteristics?

25 A There are predominant Mongoloid characteristics

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1 in those hairs.

2 Q Mr. Lynch, I'm going to -- and just for the
3 record, Mr. Blair has Mongoloid hair; is that correct?

4 A Mr. Blair has predominant Mongoloid racial
5 characteristics in his head hair and pubic hair.

6 Q Okay. Now, I'm going to move to a little bit
7 different area for just a minute. Mr. Lynch, are you
8 aware -- well, I'm going to ask you a question having to
9 do with transfer of hair, head hair. Are you aware of
10 the location where Ashley Estell's body was located?

11 A Yes, sir. I visited there about a month ago.

12 Q All right. Tell the jury what kind of road way
13 that is. Is it a white rock road?

14 A It's a very soft, sandy type road. A dusty
15 road.

16 Q It does kick up dust?

17 A Yes, sir.

18 Q All right. And at that location that Ashley's
19 body was found, does that -- is that consistent, that
20 location as well, dusty, white-looking, sandy type road?

21 A Yes, sir.

22 Q All right. Now, if we had an individual whose
23 body was found at that location, the body had been
24 removed for five days. Let's assume for a moment then
25 that someone wearing hard-soled shoes, boots, comes back

2177

1 to that location some five days later, after the body
2 has been removed. Let's assume for a moment that that
3 person never leaves the roadway, never gets closer than,
4 what's variously been described, eight to eleven feet to
5 where the body actually lay. And let's say that person
6 had got into a vehicle belonging to Michael Blair,
7 suspect, would you believe in your opinion and your
8 experiences that there would be any likelihood of a
9 transfer of a head hair or any type of hair from the
10 location where the body used to be into the suspect's
11 vehicle? Especially if we also throw in the fact that
12 the person standing on the roadside made at least two,
13 and maybe three, stops and walked around a while before
14 getting into the suspect's vehicle?

15 A Given that scenario, the tracking of a hair or
16 hair fragment into the vehicle is not a valid concern.
17 A valid concern would be sitting in the seat and
18 attaching material and getting up and taking material
19 out of the car.

20 Q All right. Back when this was all breaking on
21 September 10, 1993, was there, at least at one point,
22 some questions asked of you or maybe some other folks
23 there at the police station about Mr. Rhode's having
24 briefly entered Mr. Blair's vehicle?

25 A Yes, sir.

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1 Q All right. And is your assessment of that
2 situation such that you have no question about the
3 integrity of the floor mat hair being recovered?

4 A I was asked about that the day that -- either
5 the day that we recovered the rabbit from the car, maybe
6 the day later, and my response was that's silly.

7 Q Okay. Okay. Mr. Linch, as far as the head
8 hair and the fiber that was examined by you in the
9 course of this particular investigation, those have been
10 brought to court and introduced into evidence after the
11 conclusion of your initial testimony; is that correct?

12 A That's right.

13 Q Okay. Prior to that time, specifically I'm
14 looking back to the month of March of 1993, did you have
15 occasion to turn those slides that you prepared with
16 regard to this case over to Defense Counsel? I believe
17 also in my presence possibly.

18 A Yes, sir. Mr. McDermitt visited the Southwest
19 Institute of Forensic Sciences. At that time he took
20 possession and control of the glass microscope slides
21 and some other evidence.

22 MR. MCDERMITT: May we approach, Your
23 Honor?

24 THE COURT: All right.

25 (Proceedings out of hearing)

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of the jury.)

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2 MR. MCDERMITT: Your Honor, my assumption,
3 I'm assuming the only reason he's asking this question
4 is to determine whether or not we turned it over to our
5 expert and to imply that our experts -- since they're --
6 our expert didn't come to testify -- found the same or
7 similar conclusions. All right? One, that's not
8 rebuttal. Two, it is -- it's an improper question as
9 regards it's -- it's a comment on the Defense' ability
10 to present its case in that it forces or shifts the
11 burden of proof to us. We'd object to any testimony as
12 to these items being turned over to us for examination
13 by our expert and the fact that our expert didn't come
14 and testify. There's no relevance to it, Your Honor.

15 MR. CLAYTON: That'd be nice if that's the
16 question I was going to ask. That's not the question
17 I'm going to ask.

18 MR. MCDERMITT: That's my assumption as to
19 why he's doing it. If I'm wrong, I apologize.

20 (Proceedings in the
21 hearing of the jury.)

22 Q (By Mr. Clayton) Mr. Linch, you were present,
23 or I should say, we were both present when the hair and
24 fiber that you looked at with regard to this case was
25 turned over to the Defense Counsel, Mr. McDermitt and

2180

1 Mr. Miers, back in March of this past year; is that
2 correct?

3 A (By the witness) Yes, sir.

4 Q Okay. Now, you have worked at the Medical
5 Examiner's office in Dallas for approximately seven
6 years; am I correct?

7 A Been employed there off and on for the last
8 fifteen years.

9 Q Okay. You also worked with medical examiners
10 in, I believe, it was Galveston, Texas?

11 A Galveston County, Harris County, Houston.

12 Q During that tenure in both of these medical
13 examiners's offices have you had occasion to meet and
14 work with a lot of medical examiners?

15 A Yes, sir. I have.

16 Q All right. How many medical examiners have you
17 come across in the time that you've been working with
18 who are people who are qualified hair examiners?

19 A I've never met a medical examiner pathologist
20 who knew much or understood much about the forensic
21 comparison of hairs and textile fibers. It is not
22 within the realm of forensic pathology.

23 Q All right. Finally, Mr. Linch -- I'm going to
24 hold that question.

25 MR. CLAYTON: I'll pass the witness.

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CROSS-EXAMINATION

1
2 BY MR. MCDERMITT:

3 Q Mr. Linch, you previously testified that
4 comparing hairs or samples based on these photographs
5 that you've just done to the jury would be
6 irresponsible; is that correct?

7 A My entire testimony was that hair examiners
8 compare head hairs to head hairs and pubic hairs to
9 pubic hairs. So I did not report a comparison of what I
10 ultimately determined to be armpit or axillary hair to
11 Mr. Blair's pubic hair and I did not report a comparison
12 of the hair fragment from the panties to Mr. Blair's
13 head hair. I'm not convinced that the hair fragment
14 from the panties is even a head hair fragment. It is
15 very possibly a limb-type hair, arm or leg.

16 Q You wouldn't make a determination based on
17 looking at those photos as regards that the hair came
18 from the same individual, would you?

19 A It would be my opinion that Mr. Blair cannot be
20 excluded as being the source of those hairs.

21 Q Is my statement, though, correct that you
22 wouldn't render an opinion based on those photographs,
23 other than what you just said?

24 A Well, my opinion is that most any person of
25 predominant Mongoloid racial characteristics could not

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1 be excluded as being the source of those hairs.

2 Q Now, you talked about -- Mr. Clayton also asked
3 you about a secondary transfer?

4 A Yes, sir.

5 Q Locord transfer, I believe, is what you called
6 it in your prior testimony?

7 A Locord stage principle, yes.

8 Q He recited to you a hypothetical or, I guess, a
9 fact situation as concerns possibility of a transfer of
10 some hair and what your -- based on that, those facts
11 that he told you, that the individual had never got into
12 the crime scene, anything else, you thought that would
13 be highly unlikely; is that correct?

14 A I think the scenario that he described to me
15 was with the individual entering the crime scene, then
16 walking down the road, and then getting into his car,
17 traveling, and then getting into the suspect vehicle.

18 Q Wasn't just standing on the side of the road.
19 I'm sorry. You said that in your opinion that's not the
20 way -- it couldn't be transferred by someone just
21 walking through a crime scene. Is that what you're
22 telling me?

23 A Not given the complexity of the mechanics of
24 walking into a heavily leafed foliage area where a body
25 may have been, coming back and walking up to the roadway

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1 with very soft dirt, sandy material, entering their
2 vehicle, driving, using the accelerator and the brakes.
3 Then parking that vehicle, getting out and walking on
4 pavement over to the suspect vehicle. I don't know how
5 that happens unless the hair is glued on to the person's
6 shoe.

7 Q Uh-huh. You also said that -- or did you say
8 that it's more likely that there might be something from
9 the clothes, as opposed to the shoes, when someone has
10 been in a crime scene such as was described to you by
11 Mr. Clayton?

12 A That's right.

13 Q So that if possibly an individual that was in
14 the crime scene where the body was found, then
15 subsequently got into a car, for example, the
16 defendant's car, then you're saying it might be more
17 likely that something would -- there might be this
18 Locord transfer, might be more -- might be a greater
19 possibility of it that way as opposed to the shoes. Is
20 that a fair statement?

21 A The variable here is time. Time from contact
22 to next surface contact.

23 Q Well, if the times are the same or roughly the
24 same?

25 A From immediately getting into an environment,

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Q Thank you.

MR. MCDERMITT: Pass the witness.

REDIRECT EXAMINATION

BY MR. CLAYTON:

Q Of course, Mr. Linch, with regard to all the materials that were submitted to you from Josh Crowley's hotel room and his Dodge Dakota vehicle, did you ever find any head hair or any type of hair from any of those samples that matched Ashley Estell?

A No, sir.

Q Or any fibers that matched anything from Ashley Estell or her environment?

A No, sir.

Q With regard to the head hair that you found in the front seat passenger side of Michael Blair's vehicle, in your opinion did that particular head hair have all the fine microscopic characteristics of Ashley Estell's hair?

A Yes, sir. It did.

Q All right. Is that hair either Ashley Estell's or someone with hair exactly like hers?

A Yes, sir.

Q That's true, too, of the two hairs on the blanket in the back as well; is that correct?

A Yes, sir.

1 then out?

2 Q Well, using Mr. Clayton's example, getting into
3 the crime scene where the body was dumped, getting back
4 in the car, then subsequently getting into the
5 defendant's car.

6 A With regard to Mr. Clayton's scenario, you not
7 only -- within that frame of time he described, you have
8 that contact surface coming in contact with many more
9 surfaces, but if you have something like the buttocks of
10 pants going in contact with something, it getting up off
11 that something, and then releasing, then that's more
12 likely for something to fall out on to the pavement than
13 it is to remain on that pants. Is that your question?

14 Q Basically yes.

15 A Okay.

16 Q Mr. Linch, did you ever get any known head hair
17 samples from Josh Crowley?

18 A No, sir. I did not.

19 Q So if they were taken at a police station or
20 anything, you never received those or those were never
21 forwarded to you and marked or set out as being known
22 samples of Josh Crowley?

23 A No, sir.

24 Q Or Josh Foster or someone else?

25 A No, sir.

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1 Q With regard to the Jack Carter hair, that
2 particular hair, I believe you testified earlier it had
3 twenty or twenty-some-odd strands of hair in it that you
4 examined; is that correct?

5 A Twenty Caucasian hairs. Yes, sir.

6 Q You matched those in all fine microscopic
7 characteristics as being Ashley Estell's hair or someone
8 whose hair was exactly like hers microscopically.

9 A They had the same fine microscopic
10 characteristics as Ashley Estell's head hair.

11 Q Okay. There were two hairs that you found in
12 that clump that had, did they not, the same fine
13 microscopic characteristics as that of the Defendant,
14 Michael Blair; is that correct?

15 A Yes, sir. They did.

16 Q It's either Michael Blair's hair or someone
17 with those exact same characteristics?

18 A That's right.

19 MR. CLAYTON: Pass the witness.

20 RE-CROSS-EXAMINATION

21 BY MR. MCDERMITT:

22 Q Mr. Linch, I believe you previously testified
23 that the hair that you saw that was represented to you
24 as being found at Jack Carter Park, as concerns your
25 comparison of that with known samples of Ms. Estell,

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1 those were very good for your purposes; is that correct?
2 As far as examination and comparison?

3 A They were not complete hairs. They were the
4 distal portions of the hair. The strand itself, if you
5 flatten it down, is about one inch by six inches of the
6 predominant Caucasian hairs. That would be a suitable,
7 certainly a suitable, length of a hair shaft to compare
8 microscopically. Yes, sir.

9 Q All right. You had a number of those to
10 compare?

11 A Yes, sir. I did.

12 Q And I believe I've asked you this once, but if
13 it was determined that that hair was not from Ashley
14 Estell, that hair being the hair that was submitted to
15 you from Jack Carter Park, that wouldn't change your
16 evaluation at all?

17 A No, sir. It would not.

18 Q Because microscopically similar characteristic
19 is microscopically similar characteristic.

20 A That's correct.

21 Q Thank you.

22 REDIRECT EXAMINATION

23 BY MR. CLAYTON:

24 Q Mr. Linch, are you familiar with what a tennis
25 ball looks like?

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A Yes, sir

Q Are you familiar with the term diameter as being the distance across a circular object?

A Yes, sir.

Q Okay. What would you estimate the diameter of a tennis ball to be?

A Maybe two and a half, three inches.

Q Okay. If we have a girl with hair that's six, seven, eight inches long, can you roll that hair up into a ball of that diameter pretty easily as it lies flat on the ground?

A Lying flat in virtually one plane?

Q Yes, sir.

A Yes, sir.

Q When we talk about Mister -- remember Mr. Szolosi, or I don't know if you ever talked to him, the gentleman that actually found the hair before the police came and collected it in Jack Carter Park. Is that name familiar to you?

A No, sir. I never talked to him.

Q If he described that clump of hair in its original condition as having the diameter of a tennis ball, does that mean to you that it is a big, round three-dimensional object like a tennis ball or, based on what you've seen, the hairdo, being a flat clump of hair

1 of simply that circular dimension on the ground?

2 A I can't speak to his spatial recognition
3 skills, but I know that the hair strand that I received,
4 when you flatten it out, is about one inch across and
5 six inches long.

6 Q Okay. That would be like the measurement you
7 did here in State's Exhibit No. 86 whereupon we see your
8 actual ruler here up against it; is that correct?

9 A That's correct.

10 Q And that exhibit was prepared by you; is that
11 correct?

12 A Yes, sir. It was.

13 Q Okay. Do you think if you sat a tennis ball
14 down in the middle of that clump that would pretty well
15 cover its diameter or distance across?

16 A You could make it into a pingpong ball, golf
17 ball, or tennis ball if you wanted to, depending on how
18 much volume you wanted to occupy.

19 Q How dense you wanted to --

20 A Depending on the amount of material.

21 MR. CLAYTON: That's all I have, Judge.
22 I'll pass the witness.

23 MR. MCDERMITT: Nothing further, Your
24 Honor.

25 MR. CLAYTON: That's all, Judge.

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Thank you, Mr. Linch.

THE WITNESS: May I be excused?

THE COURT: You are excused.

THE WITNESS: Thank you, sir.

THE COURT: Mr. Clayton, who is your next witness? It's about break time, but do you have a brief witness or where do we stand?

MR. CLAYTON: Let me think about that a moment. Your Honor, the State would call Bill Ziesler. Pretty short.

THE COURT: All right. Mr. Ziesler, you've previously been sworn. You remain under oath.

All right.

WILLIAM RAYMOND ZIESLER,
called as a witness on behalf of the State of Texas,
having been previously duly sworn to testify the truth,
the whole truth, and nothing but the truth, testified on
his oath as follows:

DIRECT EXAMINATION

BY MR. CLAYTON:

Q Would you please state your name for the jury?

A William Raymond Ziesler.

Q Mr. Ziesler, are you the same William Ziesler that testified earlier in this trial?

A Yes, sir.