

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,

v.

ID

Nos. 1310006496

1310018849

BRAAHEIM REED,
HAKEEM NESBITT

Defendants.

BEFORE: HON. WILLIAM C. CARPENTER, JR., J.

TRANSCRIPT OF OCME HEARING

JOHN P. DONNELLY, RPR
CHIEF COURT REPORTER
SUPERIOR COURT REPORTERS
500 N. KING STREET WILMINGTON, DELAWARE 19801
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1 August 21, 2014
2 Courtroom No. 8B
3 12:20 p.m.

4
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6 MORGAN T. ZURN, ESQUIRE
7 DEPARTMENT OF JUSTICE
8 Wilmington, Delaware 19801
9 for State of Delaware

10 BETH D. SAVITZ, ESQUIRE
11 NICOLE M. WALKER, ESQUIRE
12 GERARD SPADACCINI, ESQUIRE
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1 MS. WALKER: Defense calls Laura Nichols,
2 please.

3 LAURA NICHOLS,
4 having been first called by the Defense was sworn
5 on oath, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. WALKER:

8 Q. Good afternoon, Ms. Nichols. Thank you for
9 being patient. I really appreciate it. I know there
10 is not much entertainment out there.

11 Are you aware that there have been issues at
12 the Office of the Chief Medical Examiner?

13 A. Yes.

14 Q. Where are you currently employed?

15 A. Division of Forensic Science, Toxicology Unit.

16 Q. Was that part of the Office of the Chief
17 Medical Examiner at least during the time of --

18 When did you start working at the Office of
19 the Chief Medical Examiner?

20 A. 2010.

21 Q. What were you employed to do when you were
22 hired?

23 A. I was employed to work in the evidence room.

1 Q. What were your responsibilities?

2 A. They varied. I did a lot of filing. We
3 worked with Lotus Notes at the time. And all of our
4 files were paper, and so I did a lot of the filing. I
5 did typing of the reports.

6 Q. Just so it is clear, Lotus Notes, has that
7 been replaced by FLIMS?

8 A. Yes.

9 Q. That is just an older version of that, or
10 different?

11 A. It is a totally different version.

12 Q. It is supposed to accomplish the same purpose?

13 A. Yes.

14 Q. Did you ever handle any evidence that was
15 brought in by officers?

16 A. Yes.

17 Q. So you took it in, what did you do with it
18 when it was brought there to you?

19 A. I did not receive it. What I did was after it
20 was received and put on the shelf, I would make up a
21 list. When the chemists asked for evidence, I would
22 make up a list and send it over to them, and put it in
23 their locker. When they were finished with it, I would

1 get it back, make up another list and get it back. I
2 also made up the list, the return list that went to the
3 police officer once all the chemists were totally done.

4 Q. As part of your job, did you have access to
5 the evidence vault?

6 A. Yes.

7 Q. Was Caroline Honse ever your supervisor there?

8 A. Yes.

9 Q. What period of time?

10 A. I guess she started sometime in the summer. I
11 got hired in April. I think she started either in May
12 or June.

13 Q. What year was that?

14 A. 2010.

15 Q. Is she still working there?

16 A. No.

17 Q. Do you recall when it was she left, roughly?

18 A. Somewhere around October of 2013.

19 Q. Has she been replaced by someone?

20 A. Yes, Robyn Quinn.

21 Q. While Ms. Honse was working there, did you
22 ever see her go into the vault and pull evidence?

23 A. I have seen her go in the vault. I didn't

1 personally see her pull evidence.

2 Q. Well, do you recall giving a statement to, who
3 was it, Lieutenant Wallace and Lieutenant Laird?

4 A. Um-hmm.

5 Q. If I handed you a copy of a transcript from
6 that statement --

7 MS. WRIGHT: The State has no objection with
8 Mrs. Walker confronting the witness under 612, just
9 addressing it now, to save some time, Your Honor, to
10 confront the witness instead of going through the whole
11 transcript, the State has no objection.

12 THE COURT: She is not requiring her to
13 refresh your recollection. You can ask her about the
14 statement.

15 BY MS. WALKER:

16 Q. Okay. The statement, according to the
17 transcript, indicates that you stated that the officer
18 asked you whether Ms. Honse ever needed any evidence
19 and I believe your answer, if you -- I will bring it up
20 to you if you need it.

21 Bottom, "Oh, Yeah, she was in there --

22 THE COURT: Wait, wait. You can't move it.
23 Point so that she knows.

1 BY MS. WALKER:

2 Q. Yes, Your Honor.

3 THE COURT: Thank you.

4 BY MS. WALKER:

5 Q. "Oh, yeah. She was in there. I think she
6 pulled stuff for chemist testing for, like, practicals.
7 I think because we had, like, people coming who were
8 being hired and that kind of stuff, at least that is
9 what I was told she was doing, and there was a big
10 thing about K2 and bath salts." It goes on from there.
11 Do you recall saying that?

12 A. Yes, but the question you asked me was whether
13 I saw her do it. I didn't see her do it. That
14 statement did not say I saw her do it. That is what I
15 meant and said what I said.

16 Q. Good point.

17 So it was your understanding that she did
18 that?

19 A. Yes.

20 Q. Did you ever see any boxes in the vault with
21 her name on them?

22 A. Oh, Yeah.

23 Q. Can you explain the setup, labels?

1 A. Explaining Caroline Honse is interesting. She
2 had boxes sitting in there with evidence from as far
3 back as 2004, as far as I know. I looked at it once in
4 awhile just to see what it was. It was just evidence
5 envelopes that were very, very old. I was told at the
6 time I couldn't get rid of them. I asked her because
7 we were cleaning out the vault. She said no, I need
8 those. As far as I was guessing, and from what I heard
9 through the grape vine, she used them for practicals
10 and testing new chemists, that kind of thing.

11 She used old evidence in order to, you know,
12 test, have practice stuff for the chemists to use.

13 Q. When you say "old evidence," was this evidence
14 that had been tested and not returned to the agencies?

15 A. I don't know.

16 Q. Did you have a coworker named Aretha Bailey?

17 A. Yes.

18 Q. Do you know what her job title was, by any
19 chance?

20 A. She was an administrative assistant.

21 Q. And your job title was what?

22 A. Laboratory technician.

23 Q. And did Ms. Bailey ever, in her position

1 there, give you instructions on how to do things?

2 A. Yes, she was actually my main trainer.

3 Q. So Ms. Bailey, who was the administrative
4 assistant, was the one responsible for training you,
5 for the most part?

6 A. Yes.

7 Q. Did Ms. Honse seem to favor Mrs. Bailey?

8 A. Yes.

9 Q. Can you give some explanation as to how you
10 arrived at that conclusion?

11 A. Well, general knowledge around the lab said
12 that. But some more specific times were Aretha often
13 did not come to work, and when she was out for a couple
14 days, she would come in knowing that she had been out
15 for a couple days, and she would know that, you know,
16 people would be looking at her. So she would try to
17 create a, like I call it, a hullabaloo in there,
18 something like that, some kind of a disturbance,
19 something where people would be focussed on something
20 else rather than the fact she had been absent a couple
21 days.

22 She was a very good manipulator of that kind
23 of thing. And it wouldn't matter that I had done

1 something correctly, that didn't matter. What mattered
2 is that Aretha said I did something incorrectly, and
3 that was always the case. So several times I got
4 e-mails that said you are not allowed to do this
5 anymore, Aretha is going to do it now.

6 Q. Are you aware whether she, when she did come
7 to work during the week, whether she came in early in
8 the morning?

9 A. She was there before I got there. She would
10 tell me she had gotten in real early, like six.

11 Q. And were you aware whether she would come in
12 on the weekends?

13 A. She said she did.

14 Q. Do you know, did she indicate to you whether
15 or not, or did you know whether or not there was
16 anybody else in the lab with her, the actual controlled
17 substance -- when she would come in on weekends?

18 A. On the weekends, I have no direct knowledge,
19 but I would assume no one was there.

20 Q. Can you explain, you said Ms. Honse retired in
21 the Fall of last year?

22 A. Um-hmm.

23 Q. Can you explain what Aretha Bailey's demeanor

1 was like after that?

2 MS. WRIGHT: Objection, relevance.

3 THE COURT: I am not quite sure what the
4 relevance is, either, but since it's before the judge
5 and not a jury, I will let you go.

6 BY MS. WALKER:

7 Q. Thank you.

8 My question was what her demeanor was like
9 after Ms. Honse retired?

10 A. She was very actively looking for a job. She
11 knew that she was not being protected anymore.

12 Q. When you say "not being protected."

13 A. By Caroline Honse. She made a lot of mistakes
14 in what she did and people noticed Caroline always
15 covered for her.

16 Q. And that was a period of time when Ms. Quinn
17 was coming in, right?

18 A. I don't know the timeline, not sure when Robyn
19 was hired.

20 Q. When Ms. Quinn came in, did she start making
21 some changes in the lab?

22 A. Oh, yes.

23 Q. Was part of that changes that affected

1 security of the lab?

2 A. I am not sure what the sequence was, when she
3 came in was very soon, you know, when we started doing
4 the audit and the police started to shut us down, when
5 the case came up. So I'm not sure what the timeline
6 was, but yes, all that stuff started to change right
7 around when she came in.

8 Q. Did Ms. Bailey, was she kind of the person
9 that would hide things in the office?

10 A. She liked to put things away. I don't know if
11 you call it hiding. She liked to keep her own little
12 set of things that no one else could work on. She
13 would almost always have some work. She would not do
14 all of her work. She would put it in a box, put it
15 away so she could say I still have some work to do.

16 Q. When you are talking about work, is that
17 evidence she was working on?

18 A. Yes, evidence.

19 Q. She would have a box of evidence that she was
20 working on, doing what, logging it or what?

21 A. Could be anything, moving it to the chemist,
22 could be logging it in, could be moving it back from
23 the chemists. They went into boxes for lots of

1 different reasons. She would just put it way up on a
2 shelf where I couldn't get to it. Just say don't touch
3 that, I need to do that later.

4 Q. She would put it up high and say to you, at
5 least, don't touch that box?

6 A. Um-hmm.

7 Q. Did you think that was strange that she had
8 that?

9 A. Yes.

10 Q. Why is that, is that based on --

11 A. Well, it wasn't necessary. We get the job
12 done in the time we had. She was trying to, I think,
13 work other hours or something. I wasn't ever sure what
14 was going on.

15 Q. If you thought it was odd, why didn't you go
16 to the supervisor to ask him about it, or inquire?

17 A. Supervisor is Caroline Honse. You don't go to
18 Caroline if you want to keep your job.

19 Q. Was there ever a time while you were in the
20 vault -- in the lab where you saw blue police tape,
21 evidence tape laying around?

22 A. First couple of months I was up there I saw a
23 roll, and then it disappeared. It was only the first

1 couple months I was there. I didn't know anything
2 about evidence, or what color tape you were supposed to
3 have, nothing. I just remember seeing some blue tape
4 and remembering that. We had all kinds of colors; we
5 had blue, we had red, we had white, you know. I just
6 noticed it, never used it, just saw it there.

7 Q. Did there come a time where you didn't see the
8 blue tape anymore?

9 A. Yeah, it just after probably three or four
10 months I just remember thinking oh, there is no blue
11 tape anymore. That was it. That's all that went
12 through my mind.

13 Q. Where in the lab did you see that; do you
14 know?

15 A. It would have been in the receiving area, not
16 in the vault, but in the receiving area where we keep
17 all of our supplies.

18 Q. Blue tape was there, also?

19 A. Um-hmm.

20 Q. Was the tape -- when you say it was laying
21 around, was it in a spool?

22 A. No, it was just a roll sitting down somewhere.

23 Q. Were there ever times where you were supposed

1 to pull a piece of evidence or something for a chemist
2 where you couldn't -- you had a hard time finding it?

3 A. Every once in awhile.

4 Q. Would you ever ask, or did Ms. Bailey ever
5 assist you in trying to find --

6 A. Yes, she was very good at finding things. I
7 was never sure whether she actually hid them or not.
8 But, Yeah, I would look very thoroughly for something,
9 I would tell her, I just can't find this piece. She
10 would go back and just pull it out, bring it out. It
11 was odd.

12 Q. How thoroughly had you searched for that?

13 A. Very thoroughly.

14 Q. How quickly was she able to find it?

15 A. She usually could find it within two or three
16 minutes. I had been looking for 20, 25 minutes.

17 Q. Did you ever -- do you recall ever receiving
18 evidence back from a chemist that may have been poorly
19 taped?

20 A. Yes.

21 Q. When you say -- when I use the word poorly,
22 you seem to understand that. What does that mean in
23 your mind?

1 A. Well, the chemists have to open the envelopes,
2 then they are supposed to close them and tape them back
3 up securely. Sometimes cocaine is in plastic bags,
4 they don't tape up the plastic bag, and tape up the
5 brown envelope well enough. When you are moving the
6 evidence around, it is a brick, they take little bit
7 out, done their thing, whatever, and then it comes back
8 and one time this piece of evidence that I had, corner
9 wasn't taped up well enough, and some cocaine just went
10 (indicating).

11 Q. Disappeared?

12 A. Went into my eyes, really it went poof,
13 physically made a little poof. I was a little worried.

14 Q. Before Ms. Honse left, did you ever have a
15 duty with respect to being a liaison for the Department
16 of Justice at all?

17 A. No.

18 Q. Was there people that did have that
19 responsibility?

20 A. Aretha did that, most of the time until --
21 rules were always changing, but Aretha did it most of
22 the time. Then at some point it changed to the
23 chemists were supposed to talk to them directly. For a

1 while Aretha was the only one allowed to talk to them,
2 and then the policy changed. Then the chemists were
3 the ones supposed to be talking to them.

4 Q. Do you know what they were talking to them
5 about, by any chance?

6 A. Yes, I think -- well, what Aretha told me was
7 they were talking about due dates. Due dates were
8 always the big things, when was this case going to
9 court? When did it have to be done?

10 Q. So evidence would be there, had been brought
11 to you by the police, put into the vault to be tested,
12 and it would be probably put in line, you know, when
13 they get to it, first come, first served until they are
14 called to take it, or did it wait there specifically
15 until the Department of Justice calls and asks for it
16 to be tested?

17 A. That changed. At first it was first come,
18 first served, try to get as many of them done as
19 possible. If there was a rush case they got done, put
20 to the front of the line. Then after, you know, two or
21 three years the policy changed to only going to do
22 Department of Justice if they are going to court. They
23 would talk to the Department of Justice, what is going

1 to court? When? We will try to get it, set it all up
2 that way. The policy changed.

3 Q. Was there a significant amount of evidence
4 that wasn't pulled because it wasn't going to court?

5 A. There was a significant amount of evidence
6 that just sat on the shelf.

7 Q. So Ms. Bailey had done that function --

8 A. Yes.

9 Q. -- for the department of Justice.

10 Do you know if Ms. Honse did that, as well?

11 A. I think she did when Ms. Bailey wasn't around,
12 I think she did.

13 MS. WALKER: That all. Thank you very much.

14 CROSS EXAMINATION

15 BY MS. WRIGHT:

16 Q. Ms. Nichols, when Mrs. Walker asked you about
17 Robyn Quinn, and how things changed you responded "oh,
18 yeah" emphatically, correct?

19 A. Yes.

20 Q. So you would agree that things were a lot
21 better when Ms. Quinn took over?

22 A. Yes.

23 Q. And those changes that were made included

1 Bailey and Honse ultimately leaving FES, one retiring
2 and one's duties taken away?

3 A. Um-hmm.

4 Q. With regards to the random blue tape you saw
5 almost four years ago, correct?

6 A. Yes.

7 Q. You said three or four months later it is
8 gone?

9 A. Yes.

10 Q. That after that point, you never saw blue tape
11 again, correct?

12 A. No.

13 Q. You also mentioned in your prior interview
14 with the police that not only did things get better
15 when Ms. Quinn took over, but evidence was being logged
16 in quicker, correct?

17 A. Yes, the FLIMS system was much faster.

18 Q. Only one person who was taking evidence, that
19 was James Daneshgar?

20 A. Right.

21 MS. WRIGHT: No further questions.

22 REDIRECT EXAMINATION

23 BY MS. WALKER:

1 Q. Ms. Wright indicated that there was some
2 changes that involved Ms. Honse retiring and Ms. Bailey
3 receiving different functions. What was your
4 understanding of her functions being changed at that
5 time, were they limited at that point?

6 A. Ms. Bailey left just about at the same time as
7 Ms. Honse.

8 Q. So based on what you were saying earlier,
9 Ms. Honse retired, Ms. Bailey, from what you said
10 earlier, was quickly looking for a job?

11 A. She left very soon, like within two weeks.

12 Q. If I am understanding correctly, the boxes
13 that -- not boxes, but a box that Ms. Bailey may have
14 had that she is working on, did you know exactly what
15 was in those boxes all the time?

16 A. No, I would just know -- I would assume that
17 it would have been evidence, but that was it. That's
18 all I would know. I didn't look in the boxes.

19 MS. WALKER: Thank you.

20 MS. WRIGHT: Nothing further.

21 THE COURT: You can step down, ma'am. Thank
22 you. We are going to take a break. Why don't we
23 re-gather at 2:30, you can tell me at that point in

1 time whether we can go forward, we can only partly go
2 forward, however we are going to do the rest of the
3 day.

4 MS. WRIGHT: Thank you, Your Honor.

5 MS. SAVITZ: Thank you, Your Honor.

6 (A short recess was taken.)

7 MS. SAVITZ: When the defense team left for
8 the afternoon break, we, on the walk back, started
9 discussing whether or not to call Mr. Bono, whether or
10 not he was a necessary witness in this case. At, I am
11 going to say quarter to two, we called the State and
12 let the State know the defense believes that the State
13 has not met its burden. Since the State is the party
14 proffering the evidence, it has the burden of proving
15 that it is admissible and reliable. Therefore, we are
16 not going to be calling Mr. Bono in this case. So if
17 there are further hearings in the future in other
18 cases, obviously we would reserve the right in those
19 cases to call him, or any other expert we felt like
20 calling.

21 MS. WRIGHT: Your Honor, that is the case. I
22 know defense handed Your Honor a courtesy copy of
23 Mr. Bono's report. We would note that would not be an

1 Exhibit as part of this hearing. The State would not
2 have had an opportunity to cross examine him on that.

3 MS. SAVITZ: We do not disagree with that.
4 The defense does rest.

5 THE COURT: Okay, let's try to talk a little
6 turkey.

7 The purposes of these hearings was to try to
8 have a test case to determine how we are going to
9 proceed in the hundreds of cases that are still sitting
10 out there. What I am getting, and the message I am
11 getting from the two of you is that the only thing you
12 would like the Court to rule on at the moment is
13 whether or not the State has met its burden on one
14 case, a marijuana case.

15 I'm not sure, and unfortunately Mr. O'Neill is
16 not here, I'm not sure the decision is in the best
17 interest of the hundreds of other defendants that you
18 represent. I am not sure you all are giving me the
19 information I need to make a decision. It is your
20 call.

21 MS. WALKER: Your Honor, with all due respect,
22 we have to pick cases that are in the best interest of
23 each individual client. I understand there is a bigger

1 picture here. The State is the one, they are the one
2 that has decided to charge our clients. And as I said,
3 they have -- as Ms. Savitz said, they have not met
4 their burden. We believe that their charging decisions
5 and their knowledge of what this Court needs to do to
6 address all these cases, that's on them. We clearly
7 would like to have this resolved for all our clients.
8 That cannot be our overriding decision in each and
9 every case. I know the Court is aware, we have to look
10 at the best interest of each client.

11 THE COURT: I mean, as an example, the State
12 can go back today and say, okay, I wasn't real happy
13 about how it all fell out. We are nolle prosequing this
14 case. Now we are back to square one. I have nothing
15 to make a ruling on, and going back and forth, case by
16 case, is not helpful to the process. And, you know,
17 the State may say it is a marijuana case, yes, it's
18 enough that we would like to normally prosecute it, but
19 we don't think the evidence has come in perfectly, and
20 we nolle pros the case against him. Now we are back to
21 square one, which, you know, that, perhaps, when they
22 go back and look would be a reasonable decision on
23 their part, they are not happy with how everything

1 fell.

2 And, you know, the Court's perspective, I kind
3 of have -- they all are the same, to some degree. I
4 have the audit. I have the -- I know what happened in
5 the lab. The difficulty is what is the remedy? At the
6 moment, I don't have anyone saying that the remedy is
7 that what was -- the lab was in such condition it
8 should -- anything that comes out of the lab should not
9 be deemed reliable. No one has said that in this
10 hearing, forgetting the other hearing, but this
11 hearing.

12 Now I have simply has the State made its
13 chain. It is your call. You are the ones litigating
14 it. I am somewhat surprised, to be candid.

15 MS. WALKER: If I may respond to that. I
16 respectfully disagree. The State has failed to -- the
17 argument would be, that the Court could rule on, in a
18 written decision, that the State has failed to show
19 that stuff coming out of that lab was reliable. If the
20 Court determines, based on the evidence that it heard,
21 that there's no scientific standards for conducting the
22 audit, this is, for example, in Mr. Nesbitt's case
23 192 grams -- 196, I believe, grams of marijuana

1 missing. We can't -- it is on them, and we are not the
2 ones bringing charges against these people.

3 We accommodated the Court to try to bring some
4 cases. We have never conceded that we expect to bring
5 one test case. We have worked with the Court to try to
6 bring cases for the Court to make a decision.

7 And with all due respect to the Court, it is
8 the State's job. It is difficult for them to bring
9 case, after case, after case. That is not our problem.
10 We want to deal with each one of these cases, in the
11 best interest of each one of these clients. That's all
12 we can do. Thank you.

13 MS. WRIGHT: Briefly, Your Honor.

14 Based on the office conference that the
15 parties have had with Your Honor prior to this hearing,
16 the State pretty much took direction from Your Honor.
17 Your Honor specifically stated that the Court wanted to
18 hear a more full picture as to what happened in terms
19 of the systematic failures or oversight with the
20 controlled substance lab. That is why the State
21 brought in Robyn Quinn to provide that picture.

22 The State would submit that the fact pattern
23 of the cases overall are the same, have not been tested

1 by a chemist. The fact pattern of Nesbitt is extremely
2 different from the Nyala and Irwin, they never left the
3 vault, never went up to a storage locker with a
4 chemist. We are providing; one, not only was the
5 evidence in Nesbitt just stored in the lab, but it was
6 only received by James Daneshgar. That documentation
7 is in there, didn't go to anybody else. Not only that,
8 Robyn Quinn came in and made changes that defense in
9 both hearings have pointed out problems with Bailey,
10 Honse. They were gone by the time Nesbitt even came
11 into the picture.

12 I think the State did provide a variation,
13 probably not as helpful to Your Honor, but we have a
14 set of cases that were not tested, but moved around
15 within the controlled substance lab, and involved
16 people who were problematic that were there. We have
17 cases like Nesbitt, they were simply stored. No matter
18 how -- I will use the words messed up the FLIMS system
19 was, at the end of the day, FLIMS would only document
20 that James Daneshgar received that evidence
21 hand-to-hand.

22 We have the sign-in sheet that we presented,
23 as well. The State did present different facts,

1 balancing that with the Court's concerns about wanting
2 to hear more about the overall oversight of the
3 controlled substance lab at the time.

4 That was the direction the State took. If
5 there will be another hearing, and Your Honor is
6 seeking additional information, I'm not volunteering
7 myself to do it, the State will be more than happy to
8 follow the Court's direction. That was the intent of
9 the State in this hearing, to present Robyn Quinn so
10 the Court could hear more of a bigger picture as to
11 what was going on in the controlled substance lab.

12 THE COURT: Well, it is your call. It appears
13 that the one person who, perhaps, could highlight the
14 concern best to the Court, a decision has been made not
15 to call him. It is your call, not mine. And I think
16 you all are badly assessing the issues here, but I can
17 only rule on what I have.

18 This is all the evidence I get in regards to
19 this case, I will rule on this case, but the likelihood
20 of it being able to resolve any other cases, I have
21 great doubts about, but that's where I am.

22 MS. WRIGHT: If we could ask if there is going
23 to be an additional hearing, if the Court finds that

1 more cases are presented where Your Honor would like
2 more information, guidance as to what the Court is
3 seeking so we are not wasting the Court's time again.

4 THE COURT: It appears the parties have made a
5 decision you want every case tried. You want every
6 case, chain of custody having to be proven to the tenth
7 degree. If that is where you are, you all should stop
8 wasting the Court's time and just say schedule the
9 cases. I'm going put on every chain of custody person
10 and if the State's met their burden, they have met
11 their burden, or they haven't.

12 My understanding from the defense, this motion
13 was a lot bigger than that. You wanted the Court to,
14 in essence, say everything that went, for years, went
15 into the lab is so tainted it cannot be reliable. That
16 is not what you are asking the Court at the moment to
17 do. You are doing it case by case by case. If that is
18 what you want to do, that's your call, but that is what
19 is happening here, by what is occurring.

20 So I will make a decision based upon this
21 particular case, but it's ramifications to others, I
22 have some grave issues because it seems the parties
23 have made a decision, it may be a litigation strategy

1 decision, you are going to do it case by case.

2 And maybe it is me who is having difficulty
3 understanding the process here, but that does not seem
4 to be a good use of all of our resources. That is what
5 it is.

6 I can only rule on what I have in front of me.

7 I am not saying anymore because I don't want
8 to jeopardize my neutrality in regard to the matter. I
9 cannot give the State guidance. These are your calls,
10 your cases. This is your process. And the State's
11 decision not to go out and hire an expert who may be as
12 qualified as Mr. Bono, to give the Court opinions about
13 that is your decision. It has simply brought in the
14 person who is the lab person. I can't tell you what to
15 do. Those are your calls. I will rule from that
16 point.

17 It seems to me that the decision is simply
18 what happens in this particular case, has no
19 ramifications to others, but I will look at it and see
20 where we go. I will hand this back so we are -- with
21 regards to Mr. Bono's report that was handed to the
22 Court, I will mark it as a Court Exhibit, just so there
23 is no dispute as to what was initially provided to the

1 Court. In fairness to counsel, I did read it in
2 anticipation of his testimony this afternoon. Okay. I
3 guess we are done. Thank you all.

4 (Whereupon the proceedings were adjourned.)
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CERTIFICATE OF COURT REPORTER

I, John P. Donnelly, RPR, Chief Court Reporter of the Superior Court, State of Delaware, do hereby certify that the foregoing is an accurate transcript of the proceedings had, as reported by me, in the Superior Court of the State of Delaware, in and for New Castle County, in the case herein stated, as the same remains of record in the Office of the Prothonotary at Wilmington, Delaware. This certification shall be considered null and void if this transcript is disassembled in any manner by any party without authorization of the signatory below.

WITNESS my hand this 2nd day of SEPTEMBER, 2014.

Cert. # 161-PS

/s/ John P. Donnelly, RPR
Chief Court Reporter