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2 DIRECT EXAMINATION

3 BY MR. PASTOR:

4 Q. Ms. Golden, what is your occupation?

5 A. I am a forensic scientist with ReliaGene  
6 Technologies, which is a private DNA analysis firm  
7 here in New Orleans.

8 Q. And Ms. Golden, have you ever qualified as  
9 an expert in any court?

10 A. Yes, I --

11 MR. WOLFF:

12 Your Honor, we would stipulate to  
13 Ms. Golden's expertise.

14 MR. PASTOR:

15 In what field?

16 BY MR. PASTOR:

17 Q. What field are you qualified as an expert  
18 in?

19 A. DNA analysis and molecular biology.

20 Q. DNA analysis.

21 THE COURT:

22 Wait, wait.

23 BY MR. PASTOR:

24 Q. Ms. Golden, --

25 THE COURT:

26 Wait, Mr. Pastor. You interrupted  
27 her while she was --

28 MR. PASTOR:

29 Oh, I'm sorry. Did I?

30 THE COURT:

31 -- trying to give her qualifications.  
32 Would you please let the jury, give the

1 benefit, tell the jury about --  
2 MR. PASTOR:  
3 I thought they stipulated to them.  
4 THE COURT:  
5 Well, they stipulated, sure. They  
6 know, but the jury needs to know.  
7 MR. PASTOR:  
8 Okay. I'm sorry.  
9 THE COURT:  
10 All right.  
11 BY MR. PASTOR:  
12 Q. Please.  
13 A. I'm an expert in DNA analysis and molecular  
14 biology.  
15 Q. And have you ever failed to qualify as an  
16 expert?  
17 A. No, I haven't.  
18 Q. Okay. In this case, current case concerning  
19 the homicide on April the 5th, 1997, I believe,  
20 did you happen to be contacted by anyone to do any  
21 testing?  
22 A. Yes. Our laboratory was contacted by the  
23 Jefferson Parish Sheriff's Office to do DNA  
24 analysis on several items which they had delivered  
25 to us.  
26 Q. And who chose what items for you to examine?  
27 A. I'm not sure. The Sheriff's Office  
28 delivered them to us.  
29 Q. Your company did not decide which items to  
30 check?  
31 A. That's correct.  
32 Q. They gave you some items and said, "Test

1 this one and test this one"?

2 A. That's correct.

3 Q. What items did they send to you to be  
4 checked?

5 A. They delivered two reference blood samples  
6 to compare against two items of evidence.

7 Q. Okay. And what were those referenced  
8 samples, ma'am?

9 A. We received a reference blood sample of Ryan  
10 Matthews and a reference blood sample of Travis  
11 Hayes.

12 Q. Okay. And what were those samples?

13 A. What --

14 Q. What was it? Was it blood; was it hair?

15 A. Right. They were both blood samples.

16 Q. Both blood samples. And if you received  
17 blood samples, can you test that to get someone's  
18 DNA, what do they call it, molecular scheme?

19 A. Profile.

20 Q. Profile.

21 A. Right. You --

22 Q. Just like --

23 A. Right. DNA is present in the nucleus of  
24 every cell of your body, so you can -- the DNA  
25 that you obtain from blood can be compared against  
26 DNA that you have extracted from any other cell  
27 from a piece of evidence.

28 Q. And, once again, you didn't pick out which  
29 -- what did you compare their blood to?

30 A. We received a knit ski mask as well as a  
31 separately packaged piece of tissue that was  
32 labeled as coming from the ski mask.

1 Q. Okay. And do you know what that material  
2 was, that you received, besides the ski mask?  
3 A. The tissue?  
4 Q. Yeah.  
5 A. No, only that it -- only how it was labeled.  
6 Q. Okay. And did that material, not the ski  
7 mask, the material that you received separately,  
8 did that in fact contain human DNA?  
9 A. Yes, it did.  
10 Q. And did you test that and get its profile?  
11 A. Yes, I did.  
12 Q. And did you attempt to match that profile to  
13 the profiles of either Travis Hayes or Ryan  
14 Matthews?  
15 A. Yes, I compared it to both profiles.  
16 Q. And what was the result of that?  
17 A. Both Ryan Matthews and Travis Hayes were  
18 excluded as donors of the tissue that was received  
19 from Jefferson Parish Sheriff's Office.  
20 Q. And does that mean that they were not the  
21 ones who left that behind?  
22 A. That's correct.  
23 Q. And there's no -- and that's no doubt about  
24 that, is that correct?  
25 A. There -- yes, there is no doubt that neither  
26 of those two individuals could have donated the  
27 DNA profile that I found on that piece of  
28 evidence.  
29 Q. What's the percentage of error in your  
30 testing?  
31 A. To my knowledge, we have had zero errors.  
32 Q. And once you've tested an article like that,

1 is that the only one test done, or is there any  
2 kind of quality control?

3 A. We have several quality controls that are  
4 present throughout the testing process, among them  
5 is a negative control, which is a sample that is  
6 processed only with the solutions and the reagents  
7 and the plastics that we use. This sample should  
8 give no result, and that indicates that we have  
9 not, in the laboratory, or inadvertently  
10 contaminated the sample with some foreign DNA that  
11 should not be there. The negative controls gave  
12 all the expected results in this case.

13 In addition to that, we processed what's  
14 called a positive control, and that is a known  
15 sample that we've processed along with all the  
16 evidence and the reference samples. This positive  
17 should give a result that we expect, otherwise,  
18 it's an indication that the testing was not  
19 performed properly. And all of the controls, the  
20 negative and the positive, as well as other  
21 controls, gave all of the expected results.

22 Q. And when the tissue that they gave you  
23 didn't match, did you make any other attempt to  
24 see if any other part of that mask might contain  
25 DNA that would match either Travis Hayes or Ryan  
26 Matthews?

27 A. Well, at the same time that we were  
28 processing with tissue, we also examined the ski  
29 mask for any unusual stains. Did not find  
30 anything unusual, but took a cutting from the  
31 mouth area of the ski mask. Generally, when a  
32 person has worn something, clothes, shirts,

1 jackets, something like a ski mask even, they're  
2 going to leave either epithelial cells or cells  
3 from saliva, possibly blood, hair, anything like  
4 that, that contains DNA, behind. And we wanted to  
5 see if we could extract some DNA from the ski  
6 mask.

7 So, we took a cutting from the mouth area,  
8 proceeded with our testing and produced a genetic  
9 profile, which we also compared to the two  
10 reference samples.

11 Q. And that was human DNA that you found?

12 A. Yes, it was.

13 Q. In that sample you took?

14 A. Yes, it was.

15 Q. And so, you got a profile there as well?

16 A. Yes.

17 Q. The same way you got a profile on the first  
18 material you had, now you had a profile of DNA  
19 from the cutting from the mask, is that correct?

20 A. That's correct.

21 Q. And did that match either Ryan Matthews or  
22 Travis Hayes?

23 A. No, it did not. Both of the individuals  
24 were also excluded as donors of this profile.

25 Q. Tell me this: If I wear a mask for like one  
26 or two days, and perspire and it'll get saliva on  
27 it, and then someone else takes that same mask and  
28 wears it and gets saliva and perspiration on it,  
29 and you test a piece that has a combination of my  
30 perspiration and somebody else's perspiration, how  
31 does your test reflect that?

32 A. Our testing will indicate if a particular

1 profile is a mixture of more than one  
2 individual's. Each individual's DNA is  
3 contributed to by your father, as well as your  
4 mother, and each of these contributions is termed  
5 an allele. So, at all of the sites that we have  
6 looked at, one person should have at least one or  
7 two alleles, but not more.

8 So, when we generated a profile that has  
9 more than two alleles, that's an indication to us  
10 that we have a mixture of two different donors, at  
11 least two, possibly more, but at least two. So,  
12 the results that we obtained from the cutting of  
13 the mouth of the ski mask did show more than two  
14 alleles, and that indicates that it's at least two  
15 donors in that profile.

16 Q. Can you compare Mr. Travis Hayes' and Ryan  
17 Matthews' profile to both of those --

18 A. Yes.

19 Q. -- profiles?

20 A. Yes, you can.

21 Q. So, the fact that there is two different  
22 profiles does not preclude you from matching them  
23 to either one of those profiles, is that correct?

24 A. That's correct. You can still exclude  
25 someone from being any part of the mixture.

26 Q. Okay. And once you got your results, you  
27 communicated those results to the Jefferson Parish  
28 Sheriff's Office or the lab, whoever you talked  
29 to?

30 A. That's true. We issued a report containing  
31 all of our conclusions and the results.

32 Q. Did they ask you to examine any other part

1 of that mask?

2 A. No, not after our initial testing.

3 Q. Now, tell me this: If I'm wearing a flannel  
4 shirt on a hot April night, what has been  
5 described as a hot April night, where policemen  
6 are wearing summer uniforms, t-shirts, because  
7 it's so hot; if I'm wearing a flannel shirt such  
8 as this one (indicating), and I'm running for over  
9 a block in it, is there a good chance that there  
10 will be some kind of, I don't know what you would  
11 call it, material, samples, sweat, hair, whatever,  
12 that would be transferred to this shirt either to  
13 the collar, underarms, any part of it that might  
14 be tested, in order to see if it matches the  
15 donor?

16 A. It's very common to find the DNA profile of  
17 the owner of a particular item of clothing on that  
18 clothing, as a result of the sluffing off of skin  
19 cells. Your epithelial cells on your skin all  
20 have nuclei with DNA in it. All those areas that  
21 you described, the collars, the cuffs, those are  
22 areas where you're likely to find the profile of  
23 the wearer of a piece of clothing.

24 Q. Were you even aware that a shirt was  
25 recovered, that might have had that kind of  
26 information on it?

27 A. No, I was not aware of it.

28 Q. Did the Sheriff's Department or anybody from  
29 the State of Louisiana, the District Attorney's  
30 office, anybody ask you to check the shirt to see  
31 if perhaps you could find some kind of profile on  
32 here that might match Travis Hayes or Ryan

1 Matthews?  
2 A. No.  
3 Q. If they would have, would you have done  
4 that?  
5 A. Yes.  
6 Q. Okay. Now, let's say a glove, like this  
7 (indicating).  
8 MR. PASTOR:  
9 May I approach the Witness, Your  
10 Honor?  
11 THE COURT:  
12 You may.  
13 BY MR. PASTOR:  
14 Q. If someone was wearing this glove  
15 (indicating), would you be able to attempt to  
16 analyze that, any part of that, to get the DNA  
17 sample?  
18 A. Sure. We can analyze all different sorts of  
19 samples for a DNA profile.  
20 Q. And once again, just because more than one  
21 person may have worn that glove, would not  
22 preclude you from getting DNA samples to match  
23 against either Mr. Travis Hayes or Ryan Matthews,  
24 would it?  
25 A. That's correct. A mixture of DNA profiles  
26 does not interfere at all with the accuracy of the  
27 results.  
28 Q. And did anyone ask you to examine the glove?  
29 A. No.  
30 Q. When you perform tests, and you perform  
31 tests for the State of Louisiana a lot, don't you?  
32 A. Yes.

1 Q. And you perform tests for anyone who asks  
2 you to perform tests, --  
3 A. Yes.  
4 Q. -- if they paid your fee?  
5 A. Yes. As a private laboratory, we do work  
6 for the DA's office, the Sheriff's Office, for  
7 private individuals, defense counsel.  
8 Q. And when the DA matches a suspect, normally,  
9 the State asks you to come in and testify about  
10 those tests, don't they?  
11 A. Yes, that's true.  
12 Q. And if they don't match, do they bother to  
13 ask you to come in?  
14 A. Not usually. I can't speculate about their  
15 motives, but.  
16 Q. Okay. And in this case, who eventually  
17 subpoenaed you to come testify in Court today?  
18 A. You did, the Defense.  
19 Q. And did I ask you to come in here and slant  
20 your testimony toward Travis Hayes?  
21 A. No.  
22 Q. If I would have, would you have done that?  
23 A. No.  
24 Q. And you performed every test that you were  
25 asked to perform, ---  
26 A. Yes.  
27 Q. -- is that correct?  
28 A. That's correct.  
29 Q. And the Jefferson Parish Sheriff's Office,  
30 and as far as you know, the District Attorney's  
31 office, is aware of what tests you performed?  
32 A. Well, we issued our report to the Sheriff's

1 Office, and how they disseminated that  
2 information, I can't be sure.

3 Q. Okay. But they were satisfied with your  
4 results and didn't ask you to go any further, is  
5 that correct?

6 A. They didn't ask us to go any further.

7 Q. And once again, none of the samples from  
8 that mask or the matter that was handed to you  
9 ever came back to Travis Hayes, is that correct?

10 A. Neither of the evidence samples were  
11 consistent with the reference sample from Travis  
12 Hayes, that's true.

13 Q. And neither for Ryan Matthews, is that  
14 correct?

15 A. That's also correct.

16 Q. Is there any doubt in your mind that this  
17 separate sample that you were sent, whatever the  
18 matter it was that the JPSO said was found in the  
19 cap, did not belong to Travis Hayes?

20 A. I'm not sure what you're asking. There is  
21 no --

22 Q. You got --

23 A. There is no doubt in my mind that: Travis  
24 Hayes is clearly excluded from the piece of tissue  
25 that we received from Jefferson Parish Sheriff's  
26 Office.

27 Q. And how about Ryan Matthews?

28 A. Also Ryan Matthews.

29 Q. And was there any indication from any tests  
30 you performed that would have linked either Travis  
31 Hayes or Ryan Matthews to the mask or the tissue?

32 A. Not based on the tests we performed.

1 Q. Okay. Is there anything else the jury  
2 should know about -- I know very little about DNA,  
3 you know that. Is there anything else the jury  
4 should know about your tests or whatever functions  
5 you performed in conjunction with this case?

6 A. I don't believe so.

7 Q. I'd like to know can you recognize, can you  
8 identify this for me, please?

9 A. Yes, this is the report we issued to the  
10 Sheriff's Office regarding this case.

11 Q. In this case?

12 A. Yes.

13 Q. And did you review this?

14 A. Yes.

15 Q. And the results in this test are basically  
16 the same thing that you're telling this jury  
17 today, is that correct?

18 A. Yes, they are the same.

19 MR. PASTOR:

20 I want to mark this D-8, Judge. I'd  
21 like to introduce it into the record as  
22 well.

23 MR. KENNEDY:

24 That's fine.

25 THE COURT:

26 Any objection by the State?

27 MR. KENNEDY:

28 No, sir.

29 THE COURT:

30 D-8 is admitted.

31 BY MR. PASTOR:

32 Q. And if I'm correct, the report is the first

1 page, is that right, and these are the results?  
2 A. Right. The whole thing is the report, and  
3 that includes a list of the evidence we received  
4 and when, a table of the results, which are the  
5 actual allele results that I described, as well as  
6 a page of verbal conclusions describing the fact  
7 that the two individuals are excluded as donors.  
8 Q. And the back of this is just, and the last  
9 three pages are really your reference materials as  
10 to your expertise and your references and how you  
11 qualify as an expert and how your lab qualifies as  
12 an expert, is that correct?

13 A. That's correct.

14 MR. PASTOR:

15 I have no further questions. Thank  
16 you. Answer the DA's questions.

17 \* \* \* \* \*

18 CROSS-EXAMINATION

19 BY MR. WOLFF:

20 Q. Good evening, Ms. Golden.

21 A. Good evening.

22 Q. The report that Counsel just marked as a  
23 Defense exhibit, that is a report that is sent to  
24 Detective Ralph Sacks at the Homicide Division, is  
25 that correct, Jefferson Parish Sheriff's Office  
26 Homicide Division?

27 A. Yes, that's correct.

28 Q. Okay. Just so everybody's clear, are you  
29 aware of the fact that Mr. Pastor came into  
30 possession of that report through the District  
31 Attorney's office?

32 A. No. I'm not aware of what happens to the

1 report after we issue it to the agency that hires  
2 us.

3 Q. Okay. So, you send it back to Detective  
4 Sacks and from there, you really don't know what  
5 happens to it, is that correct?

6 A. That's correct.

7 Q. Are you aware of the fact that Detective  
8 Sacks, the lead homicide detective, has already  
9 testified that he made your report a part of his  
10 report, and he has already testified to your  
11 findings; are you aware of that?

12 A. No, I'm not aware of that.

13 Q. Okay. Obviously not the detail that you've  
14 testified to, but he has informed the jury that  
15 the samples obtained from the mask and the tissue  
16 excluded Travis Hayes and Ryan Matthews as donors  
17 of those samples. I just want you to be aware of  
18 that.

19 I believe you testified that there were two  
20 samples that were tested, is that correct?

21 A. There were actually four samples that were  
22 tested, two of which were evidence and two of  
23 which were known reference samples obtained from  
24 the two suspects.

25 Q. The known reference samples being the blood  
26 from the two suspects and the two reference  
27 samples, or --

28 A. The reference samples are the known samples  
29 from the two individuals and then the evidence  
30 samples are the unknown samples from the ski mask.

31 Q. Okay. And the tissue was one piece of  
32 evidence that you all analyzed, correct?

1 A. That's correct.

2 Q. And the tissue was -- you were able to  
3 obtain DNA or find DNA from the tissue sample,  
4 correct?

5 A. Yes.

6 Q. All right. And that was, how many donors  
7 was on that tissue sample?

8 A. The tissue sample was consistent with a  
9 single donor.

10 Q. Do you know where that tissue sample was  
11 retrieved from?

12 A. No.

13 Q. Do you know if it was retrieved from the  
14 outside of the mask or the inside of the mask?

15 A. No, I only know we received it separately  
16 packaged and labeled as having been obtained from  
17 the ski mask.

18 Q. Okay. How does DNA come to be on a sample  
19 such as a piece of evidence such as a mask?

20 A. Well, there's a variety of ways. As I said  
21 before, DNA is present in every nucleated cell of  
22 your body, which includes skin cells, blood cells,  
23 sperm. And so, at any time when there's any sort  
24 of a secretion on a substance, or sluffing off of  
25 cells, anything like that, you're going to  
26 possibly leave DNA.

27 Q. How do you store samples in the laboratory?

28 A. The laboratory is -- we have a freezer which  
29 is kept locked, that we store evidence in. This  
30 freezer is kept in a forensic laboratory with  
31 restricted access. This forensic laboratory is  
32 maintained within the entire facility, which is

1 monitored by 24 hour security.

2 Q. Ms. Golden, you testified, I believe, that  
3 there were two samples -- there was a sample taken  
4 from the mask and that there were two donors  
5 assigned to that?

6 A. Yes.

7 Q. So, what does that tell you?

8 A. It's an indication that two people may have  
9 possibly worn the mask.

10 Q. Okay.

11 A. That --

12 Q. Two people may have possibly worn the mask;  
13 does that mean that more than two people may have  
14 worn the mask?

15 A. It's possible that more than two people did.  
16 It's at least two people left DNA on the mask.

17 Q. Okay. How is it possible that if all you  
18 have are two donors that you found on the mask,  
19 that more than two people could have worn the  
20 mask?

21 A. In order to detect DNA, you need to have a  
22 certain minimum quantity present. And it's  
23 possible that if someone wore the mask and did not  
24 leave sufficient number of cells present, that we  
25 may not have detected it.

26 Q. Okay. And I believe you testified that it  
27 is common for a person who owns a piece of  
28 property, a ski mask, a flannel shirt, it would be  
29 common for that person's DNA to be found on that  
30 piece of clothing in some way, is that correct?

31 A. That's correct. Or when someone wears a  
32 piece of clothing, to find DNA from that

1 individual on that item.

2 Q. And Mr. Pastor asked you if he wore a mask  
3 for two or three days and sweated and coughed and  
4 sneezed and spit and things of that nature, you  
5 should find his DNA on a mask, is that correct?

6 A. Yeah, I would not be surprised to find that.

7 Q. What if Mr. Pastor wore a mask for a few  
8 days and coughed and sneezed and spit and did all  
9 sorts of nasty things that we people do, --

10 MR. PASTOR:

11 I object, Your Honor, to doing all of  
12 those things.

13 (Laughter)

14 THE COURT:

15 Overruled.

16 MR. WOLFF:

17 Everybody, except Mr. Pastor.

18 THE COURT:

19 Continue.

20 MR. WOLFF:

21 If I may --

22 THE COURT:

23 Thank you. You woke everyone up.

24 MR. WOLFF:

25 Thank you, Judge.

26 BY MR. WOLFF:

27 Q. And then, I wore the mask for a brief period  
28 of time, maybe a minute, then took the mask off  
29 and threw it, is my DNA necessarily going to be on  
30 the mask?

31 A. Not necessarily. In a situation where  
32 you're talking about wearing an item of clothing,

1 it's difficult to speculate whether or not you're  
2 going to find DNA from that person on there. It's  
3 very likely and it does not surprise me at all,  
4 because of what I've described. But, it's also  
5 not necessarily true that you will find the DNA  
6 there.

7 For example, if you wear the item for just a  
8 short period of time or you're particularly  
9 fastidiously clean, and you're not sluffing off a  
10 lot of hair or skin, it's not necessarily true  
11 that you'll find that profile.

12 Q. And when you mentioned hair or skin,  
13 Mr. Pastor made it a point that you didn't decide  
14 which pieces of evidence to test, Jefferson Parish  
15 Sheriff's Office made that decision, correct?

16 A. That's correct.

17 Q. But once this mask gets to you, who decides  
18 to take the sample out of that mouthpiece area?

19 A. The scientist doing the analysis.

20 Q. Okay. And commonly, when you receive a  
21 piece of evidence like a mask, what is the first  
22 thing that you're going to do, to determine if  
23 there's anything that should be tested?

24 A. Generally, we receive a piece of evidence  
25 like that, we're going to examine it for any  
26 unusual stains, maybe there's blood on it. If we  
27 find something unusual, then we're going to look  
28 specifically at those areas. On this particular  
29 mask, it was examined and no unusual stains were  
30 noted, however common sense will tell you that if  
31 someone's wearing the mask, there's likely to be  
32 some DNA near the mouth area, which is why we

1 chose that area to test.

2 Q. So, if they're going to leave DNA, then that  
3 would be a good place to look?

4 A. That would be a good place to look.

5 Q. But you didn't find, or whoever -- you  
6 didn't examine this, right, somebody else did?

7 A. That's correct.

8 Q. Okay. This scientist that examined it,  
9 obviously didn't find any suspect stains, nothing  
10 unusual?

11 A. That's correct.

12 Q. Didn't find any blood?

13 A. Didn't find any noticeable blood.

14 Q. Didn't find any hair?

15 A. That's correct.

16 Q. I mean, hair would have been easy, right?

17 A. It's possible that there was some  
18 microscopic hair that he missed, but there was no  
19 visible hair.

20 Q. Okay. So, no hair that would be easily  
21 noticed by a scientist, so a scientist would say,  
22 "Okay, here's a piece of trace sample, so I'm  
23 going to test this"?

24 A. That's correct.

25 Q. The scientist pretty much looked at it and  
26 said, "Well, I don't see anything unusual, I'm  
27 going to take a shot, I'm going to do the mouth,"  
28 correct?

29 A. Right. After some close examination, he  
30 made the determination to test the mouth area.

31 Q. Now, Ms. Golden, if there was DNA in the  
32 mouth area from at least two people, at least two

1 people wore the mask, right? This DNA in the  
2 mouth area that we did not see, that the  
3 scientists did not see, how do I know or how does  
4 the jury know that there isn't DNA on other areas  
5 of this mask that also the scientist can't see?

6 A. It's possible that there's DNA on other  
7 areas.

8 Q. So, it would be possible to check any number  
9 of places on this mask and find any number of DNA  
10 specimens from any number of donors; would that be  
11 correct?

12 A. It's possible to test many areas on the mask  
13 and what the results of that are, I can't  
14 speculate. But it's possible that there's DNA on  
15 the mask that we're not aware of.

16 Q. And, in fact, if somebody had just witnessed  
17 a shooting or robbery, a terrible scene, people  
18 running and firing shots and all, that person may  
19 become excited and they perspire, correct?

20 A. That's correct.

21 Q. And if that person who was perspiring picks  
22 up a mask, then DNA could be transferred from his  
23 perspiration to a mask, is that correct?

24 A. It's possible. Casual contact is less  
25 likely to transfer DNA than more routine wearing.

26 Q. Okay, so casual contact. So, again, if  
27 somebody did not own the mask, but wore it for a  
28 minute and then discarded it, never to come into  
29 contact with it again, it would be less likely  
30 that his DNA would be on there than, say, somebody  
31 who actually owned the mask, is that correct?

32 A. It would be less likely, that's correct.

1 Q. And again, you'd need a threshold of how  
2 many cells?  
3 A. It varies, but I would say about 50 cells is  
4 an adequate number to receive a good DNA profile.  
5 Q. And let me ask you, I guess the key question  
6 here, the most important question for this jury:  
7 Do your test results, do your analysis exclude  
8 Travis Hayes or Ryan Matthews as being somebody  
9 who could have handled or actually worn this mask?  
10 A. My test results exclude Ryan Matthews and  
11 Travis Hayes as contributing to the DNA in the  
12 areas that we tested. Any additional DNA samples,  
13 I can't say anything about.  
14 Q. So, you can't say that Ryan Matthews never  
15 wore this mask, can you?  
16 A. No, I cannot say that.  
17 Q. And you can't say that Ryan Matthews never  
18 handled this mask, can you?  
19 A. No.  
20 Q. You can't say that Travis Hayes never wore  
21 this mask, can you?  
22 A. That's correct.  
23 Q. You can't say that Travis Hayes never  
24 handled this mask, can you?  
25 A. That's correct.  
26 Q. If somebody is wearing a flannel shirt such  
27 as this one (indicating), I believe Mr. Pastor  
28 asked you about the collar, if you would have  
29 sweat or DNAs, or whatever, both, around the  
30 collar. What if a person was wearing a t-shirt  
31 underneath and the flannel shirt was worn over the  
32 t-shirt, but left open as some people do wear it;

1 would it be less likely that the DNA would go, I  
2 guess, through the t-shirt into the collar, than  
3 if somebody was just wearing the flannel shirt  
4 with no shirt underneath, if you follow what I'm  
5 saying?

6 A. I follow what you're saying. That's a  
7 difficult question to answer. It all boils down  
8 to how much contact the individual's cells, which  
9 of course contain the DNA, have with that item.  
10 And so, anything like a t-shirt or any sort of  
11 inhibition to leaving yourselves on this item, is  
12 going to decrease the likelihood of getting a DNA  
13 profile from it.

14 Q. And Ms. Golden, you can't tell me the age of  
15 the stain of the DNA that was located in the  
16 mouthpiece of this mask, can you?

17 A. That's correct. I cannot tell the age..

18 Q. You can't tell if that DNA was placed there  
19 on April 5th, 1997 or April 5th, 1990, can you?

20 A. No, I can't.

21 Q. I mean, you all use -- you did PCR DNA,  
22 right?

23 A. We did PCR analysis, that's correct.

24 Q. Well, I'm sorry, PCR analysis. And is that  
25 the same thing, the same type of analysis that's  
26 used on dinosaur bones and things like that, or am  
27 I off track?

28 A. Yes, they do some PCR on ancient samples as  
29 well.

30 Q. Okay.

31 MR. WOLFF:

32 Thank you very much, Ms. Golden.

1 MR. PASTOR:

2 I have a few more questions,  
3 Ms. Golden.

4 \* \* \* \* \*

5 REDIRECT EXAMINATION

6 BY MR. PASTOR:

7 Q. Mr. Wolff said if I put this mask on for a  
8 minute and took it off, there would be less of a  
9 chance of me putting DNA on it, is that correct?

10 A. That's -- if you put the mask on and take it  
11 off, there's --

12 Q. In a minute.

13 A. -- there's less likely that you're going to  
14 leave DNA than if you put the mask on and wear it  
15 around for a day.

16 Q. Okay. What if I put it on and go into -- I  
17 don't want to put it on, but if I put it on and  
18 came up to you and you and I had a violent  
19 argument, and I'm cursing and I'm enraged and I'm  
20 telling you, "Give it up. Give it up." And you  
21 don't give it up, and I tell you over and over  
22 again, you and I are into a violent argument; is  
23 there more of a chance that I'm going to have spit  
24 on there and sweat on there, than if I just put it  
25 on for a minute and take it off?

26 A. Are you asking me if there's more of a  
27 chance that there's going to be DNA there, --

28 Q. Yes.

29 A. -- as a result of the spitting and --

30 Q. Yeah, and the activity, and the  
31 hyperactivity?

32 A. Yeah, I would guess yes.

1 Q. Much more so than the minute that Mr. Wolff  
2 would have you believe that this mask was worn, is  
3 that correct?

4 A. Yes. If someone simply touches the mask,  
5 there's not as much of a chance of getting DNA as  
6 if someone is spitting or sweating or salivating  
7 on the mask.

8 Q. So, if there's a ten minute confrontation,  
9 there's a much better chance of DNA being  
10 transferred than the minute of putting the hat on,  
11 is that correct?

12 A. That's correct.

13 Q. If I'm wearing this glove, and I'm using it  
14 as a trigger, as a gun glove, and I'm using it for  
15 ten or fifteen minutes, there's a good chance I'm  
16 going to transfer cells, skin cells, in the inside  
17 of this glove, isn't it?

18 A. I can't speculate on how good of a chance,  
19 but any time you have prolonged contact with the  
20 item, there's more of a chance.

21 Q. Now, tell me this: When Jefferson Parish  
22 Sheriff's Office asked you to test this mask and  
23 whatever the tissue came from, because we were  
24 never given the benefit from anybody from JPSO --

25 MR. WOLFF:

26 Objection, Your Honor.

27 MR. PASTOR:

28 -- to tell us --

29 MR. WOLFF:

30 Objection.

31 \* \* \* \* \*

32 (Whereupon, the following colloquy was the

1 reported at the bench, outside of the hearing of  
2 the jury:)

3 \* \* \* \* \*

4 MR. WOLFF:

5 Judge, Mr. Pastor has been given  
6 everything that we have. He has had this  
7 report for months. To say, "We've never  
8 been given the benefit of what JPSO has,"  
9 that's --

10 MR. PASTOR:

11 I'm asking her if she was ever given  
12 it. I'm asking her if she was ever given  
13 the benefit, from the JPSO, to know where  
14 that tissue came from, and she was. She  
15 was just given a tissue and saying,  
16 "Examine this."

17 MR. WOLFF:

18 I believe the proper question would  
19 be to the Witness, "Do you know where the  
20 tissue came from?" He's saying "we"  
21 didn't know where the tissue came from.

22 MR. PASTOR:

23 I'll rephrase.

24 MR. WOLFF:

25 Meaning, Mr. Pastor --

26 MR. PASTOR:

27 I'll rephrase.

28 THE COURT:

29 Rephrase your question.

30 MR. WOLFF:

31 You could have asked Detective Sacks.

32 (Whereupon, the bench conference was then

1 concluded.)

2

\* \* \* \* \*

3 BY MR. PASTOR:

4 Q. Did Jefferson Parish Sheriff's Office ever  
5 tell you where that tissue sample came from?

6 A. The outside of the envelope that we received  
7 the tissue in is labeled --

8 Q. Uh-huh.

9 A. -- as removed from the blue side of ski  
10 mask.

11 Q. And does it say that it's from the inside or  
12 the outside?

13 A. No. It says, "Suspect's tissue removed from  
14 blue side of ski mask."

15 Q. Tell me this, hypothetically, okay? I'm  
16 trying to get you to match certain items to a  
17 certain person, okay. And so, I give you one or  
18 two samples first, and they come back negative to  
19 the person that I'm trying to identify it through,  
20 okay? Use that as my hypothesis, okay.

21 The more items I give you to test, that come  
22 up negative, let's say that I give you a shirt  
23 next and I ask you to check that and you find DNA  
24 in the collar or you find DNA in the underarms,  
25 from wearing a t-shirt, I stood like this and  
26 sweated in the underarms, or in the cuffs of the  
27 shift, right, because I think you were telling us  
28 that it could rub off there.

29 If you tested this, the collar and the  
30 underarms, and they also came back negative to the  
31 person that I was asking you to test to, then,  
32 there's more of a chance that that person wore

1 either the shirt or the mask, is that correct?  
2 A. I really couldn't speculate about that.  
3 Q. Well, --  
4 A. It --  
5 Q. You're an expert, that's what you're here  
6 for.  
7 A. I am not an expert in investigating the  
8 crime. I'm an expert in DNA analysis.  
9 Q. The more positive samples you find on  
10 clothing, the more chance it is that one person  
11 wore all that clothing?  
12 A. That's true.  
13 Q. Is that true?  
14 A. Yes.  
15 Q. All right. So, if you would have found DNA  
16 that matched Ryan Matthews or Travis Hayes on the  
17 mask and on the shirt and on the glove, then  
18 there's a real good chance that they had worn that  
19 at some time or another, right?  
20 A. That's correct.  
21 Q. So, if I started getting nervous that I'm  
22 going to get the bad results, the best thing for  
23 me to do is stop the testing?  
24 MR. WOLFF:  
25                   Objection, Your Honor. Speculation  
26                   on this Witness' part.  
27 MR. PASTOR:  
28                   That's what experts do.  
29 MR. WOLFF:  
30                   No. No, it's --  
31 THE COURT:  
32                   Sustained.

1 BY MR. PASTOR:

2 Q. And if you get something like a mask and you  
3 don't find any hairs or any stains, is it true  
4 that the next place most likely to find the sample  
5 would be around the mouth area?

6 A. That's what I would say, yes.

7 Q. Yeah. And they, once the Sheriff's Office  
8 found out that none of these samples matched Ryan  
9 Matthews or Travis Hayes, then they didn't ask you  
10 to do anything more, did they?

11 MR. WOLFF:

12 Objection, relevance.

13 MR. PASTOR:

14 It goes to lack of evidence, Your  
15 Honor.

16 \* \* \* \* \*

17 (Whereupon, the following colloquy was then  
18 reported at the bench, outside of the hearing of  
19 the jury:)

20 \* \* \* \* \*

21 MR. WOLFF:

22 My objection is to relevance, Your  
23 Honor, and also, it's outside the scope  
24 of cross-examination.

25 MR. PASTOR:

26 If there are -- okay, I know you're  
27 telling me to be quiet and --

28 MR. WOLFF:

29 I was just asking you to keep it down  
30 so the jury can't hear you.

31 MR. PASTOR:

32 Well, I didn't know I was yelling. I

1 said if there are, let's say, three  
2 glasses with fingerprints on them and  
3 only one is tested, and the other two are  
4 not tested, and there was, let's say,  
5 three people at a party, and the Sheriff  
6 only decides to test one glass, and has  
7 the ability to test the other two glasses  
8 and doesn't, okay, then that, to me,  
9 shows a lack of evidence, which gives  
10 rise to reasonable doubt.

11 They had more material they could  
12 have tested. They had more things to try  
13 to link these people to these physical  
14 exhibits that they knew came from the  
15 perpetrators. I think the jury  
16 instruction is going to include that lack  
17 of evidence can also lead to reasonable  
18 doubt.

19 I'm trying to show that there was  
20 other evidence that they could have  
21 obtained, they chose not to, and that's  
22 lack of evidence.

23 MR. WOLFF:

24 And Your Honor, all of that is proper  
25 and fine for Mr. Pastor's closing  
26 argument, but it's got no place for  
27 redirect of this expert witness. It's  
28 not relevant to her testimony. It's  
29 outside the scope of cross-examination,  
30 and it's improper.

31 THE COURT:

32 I'm going to sustain the objection.

1 It is improper redirect. Certainly, you  
2 will be allowed to argue that in cross-  
3 examination and certainly, this Court's  
4 jury charge will instruct the jury with  
5 regard to lack of evidence in their  
6 consideration of lack of evidence.

7 MR. PASTOR:

8 For the record, just note my  
9 objection, Your Honor.

10 We're getting late. I'm about to  
11 wrap to it up. Can we get the Sheriff to  
12 bring over Ryan Matthews just for the  
13 show up? I had wanted to -- I had  
14 subpoenaed him. I had put an instanter  
15 out for him and they said that they'll  
16 have him ready, that they could get him  
17 over here in a minute, once he was  
18 requested.

19 THE COURT:

20 And you're almost finished with this  
21 Witness?

22 MR. PASTOR:

23 Yes.

24 THE COURT:

25 And this will be your last witness?

26 MR. PASTOR:

27 Yes, other than that.

28 THE COURT:

29 Sure. I'll order my clerk to make  
30 the call.

31 MR. KENNEDY:

32 Judge, for the purpose, we'd like to