1	Pascual - Cross/Aronowsky 619
2	you're excused. You may step down from the
3	witness stand.
4	(Witness excused.)
5	THE COURT: The People may call the next
6	witness.
7	MR. ALEXIS: Mary Shenouda.
8	MARY SHENOUDA, a witness called on behalf of
9	the People, after having been first duly sworn by the
10	Clerk of the Court, was examined and testified as follows:
12	THE CLERK: Try to slide up to the
12	microphone.
13	State your name, please.
14	THE WITNESS: Mary Shenouda,
15	S-H-E-N-O-U-D-A.
16	THE COURT: You may examine the witness, Mr.
17	Alexis.
18	MR. ALEXIS: Thank you.
19	DIRECT-EXAMINATION
20	BY MR. ALEXIS:
21	Q Good morning. Good afternoon, rather.
22	A Good afternoon.
23	Q Where do you work?
24	A Office of the Chief Medical Examiner.
25	Q What do you do at the Office of the Chief Medical

25

:	
2	Examiner?
3	A I am a forensic analyst.
4	Q What do you do as a forensic analyst in the
5	Office of the Chief Medical Examiner?
6	A I try to identify any body fluids in the physical
7	evidence, and analyze evidence in the homicide cases.
8	Q Now, I'd like to ask you about case, lab number
9	FB951349. Are you familiar with that lab number?
10	A Yes, sir.
11	O And who performed the Lests with respect to this
12	lab number?
13	A I did.
14	Q Now, I'm gonna ask you about those tests, but
15	before I do I'd like to ask you a few questions about
16	yourself.
1.7	Can you describe where you went to school and what you
18	studied in school?
19	A I have Bachelor Degree in pharmacy and chemistry
20	from University of Cairo, Egypt. And I am the director
21	and supervisor of the forensic biology lab in the Medical
22	Examiner's Office.
23	Q And how long have you worked for the Medical
24	Examiner's Office?

A Eleven years.

### Shenouda - Direct 1 2 And can you tell us some of the things that Q you've done in the Medical Examiner's Office over the 11 3 years that you've worked there? 4 Excuse me? 5 Α What have you done for those 11 years in the 6 M.E.'s Office? 7 I working doing forensic analyses. 8 Α Have you ever testified in a court before? 9 Yes, sir. 10 Α 1 1. Have you ever been qualified as an expert when 12 you testified in court? 13 Α Yes, sir. What courts have you testified? 14 15 The five part. Brooklyn, Queen, Manhattan, Bronx, Staten Island, and Connecticut. 16 17 Q What have you been qualified to testify to? 18 Α Forensic expert. MR. ALEXIS: I'd like to move that Miss 19 20 Shenouda be qualified as an expert in forensic 21 biology and forensic analysis. 22 THE COURT: Any objection? 23 MR. CHAIKIN: No, your Honor. 24 MR. BIRKETT: No, your Honor. 25 MR. GREEN: No, your Honor.

1	Shenouda - Direct
2	MR. ARONOWSKY: No.
3	MR. COHEN: No.
4	THE COURT: I rule this witness is in an
5	expert in forensic analyses and what was the
6	other?
7	MR. ALEXIS: Forensic biology.
8	THE COURT: So she'll be permitted to answer
9	questions in this field.
10	You may proceed.
1. [	Q Now, regarding this case, can you tell us what
12	you did?
13	A In general?
14	Q Yes.
1.5	A I first of all, I tried to examine, I received
16	too many vouchers. And I tried to examine each voucher
17	separately. And I open each voucher and I examine each
18	item separately.
19	Q Now, first let's talk about voucher GG189186.
20	Did you examine any items under this voucher number?
21	A Yes, sir.
22	Q Now, I'd like to show you what we'll deem
23	People's 17 for identification, and I'd like to ask you
24	whether or not you recognize People's 17?
25	Ma'am, you could just open that had

1	Shenouda - Direct 62	3
2	THE COURT: The officer's getting the	ĺ
3	scissors.	
4	Q I'm sorry, I didn't realize the officer was	
5	getting the scissors.	
6	A First of all this bag, I seal it by myself.	
7	There's my reference, and I put this tag by myself. And	
8	this label too, with the case number.	
9	MR. ARONOWSKY: I'm sorry, I didn't hear	
10	that.	
i d	(Whereupon the reporter read back the lost	:
12	answer.)	
13	A Here in this bag, when I started to examine it I	
14	put the case number, my initial, the date when I examine .	
15	it, and I wrote this bag number two. I give each bag	
16	number.	
17	Q Let's check inside. And do you recognize all of	
18	these things as being your handwriting?	
19	A Yes.	
20	You wanted me to take item by item?	
21	Q You don't have to; you could just look through	
22	the bag if you don't have to take them item by item.	
23	Perhaps to be thorough we will do item by item.	
24	A This is a boot. I have one pair of boots. I put	
25	this tag in it with my initial, the case number, the date	

1 # Z G 4 D	
ç	
BAYOZZE	
4	
0 7 0 0 2	
F O R ≫	
F E D	

,	
2	when I examine it and I give each boot number. I give
3	each number; this one I have 6B and this one I put 6A.
4	This means item number 6 from this voucher.
5	THE COURT: The question is, what is this
6	that you are looking at? What are these items?
7	Q Are these clothes that you performed tests on?
8	Did you perform tests on the items that are in this bag?
9	A Yes.
10	Q And you recognize these clothes as being the
: 1	clothes that you performed tests on?
12	A Yes.
13	Q Who are these clothes attributed to?
14	MR. ARONOWSKY: Objection.
15	THE COURT: Where did these clothes come
16	from? Where did you get them from?
17	THE WITNESS: I got them from the police
18	officer. In our lab.
19	MR. ALEXIS: I offer them as People's 17.
20	MR. ARONOWSKY: Could I have some questions
21	on voir dire?
22	THE COURT: Certainly.
23	VOIR DIRE EXAMINATION
24	BY MR. ARONOWSKY:

Q You received these clothes from where?

24

25

625

So, mark this People's 17.

any, you want to give this evidence.

merely ruling that you may decide what weight, if

23

24

25

A

Α

2	(Whereupon People's Exhibit 17 was received
3	in evidence.)
4	Q Now, can you tell us what tests you performed on
5	these items of clothing?
6	A First of all, you know, I look at each item
7	separately and by visual eyes.
8	THE COURT: You have to speak in the mike.
9	A I look for each item separately by visual eyes.
10	If I see any stain resembling the blood, I tried to
1. 1.	examine this stain. Them what I did is I have color
12	solution, like water, and I swab this stain from, for
13	example, from the shoes. I can't cut it, so I will swab
14	and take some of the stain off, then I put this stain in .
15	this solution. If the color change from colors to pinkish
16	in color, this mean blood was present in this item.
17	After that I want to know if this blood is human blood
18	or not human blood. So we run another test, I make Agrose
19	gel and I punch two hole in the agrose gel. I put in one
20	of the hole extraction from the stain I have it from this
21	item. In the other hole I have solution only, see if it's
22	human blood present, and I run electrical current through.

Sorry, you run current?

Yeah, electrical current.

Let me just interrupt you, I'm sorry.

25

ļ.			
2	You said gel. What type of gel did you use?		
3	A Agrose. If it was positive, I found in the half		
4	moon shape in between these two hole. This mean human		
5	blood.		
6	Q And was human blood found on that item?		
7	A Yes, sir.		
8	Q Did you do any additional tests after you		
9	realized that human blood was found on that item?		
10	A This depend in how much of the stain I have and		
	lule quality and the quantity of the stain. If I have big		
12	stain, I go more further analysis and I go for something		
13	called genetic marker.		
14	Genetic marker is inherited marker found in each one		
15	of us and we take it from our parent. So we use this test		
16	to differentiate between two source of blood. And this		
17	genetic marker include enzymes like PGM and ACP or ABO		
18	from blood.		
19	Q Did you do the genetic marker tests on these		
20	items?		
21	A Yes, sir.		
22	Q What were the results of the tests that you did?		
23	A In the jeans pants from this item I found the		
24	stain is not consisting with the victim type. In the		

white Starter shirt I found.

## 1 2 3 5 6 7 8 9 10 1.3 12 13 14 15 16 17 18 19 20 21 22 23 24 25

### Shenouda - Direct

- O White Starter shirt?
- A Yes. I found stain number 4A-1 is consistent with the victim's type. And brown jacket is not consistent with the victim type.
- Q Would it be fair to say this item has the blood from at least two people on it?
  - A Exactly.
  - Q Now, you said that --
  - A Or more.
  - Q Or more?
  - A Yes.
- Q Now, you said that you were able to determine that there was blood on the Starter shirt that was consistent with the victim. How did you know what the victim's genetic marker indicators were?
- A We received blood from the autopsy, liquid blood in tube, and we make it stain in piece of paper and we keep it in our lab. When we we receive any physical evidence connecting with this victim, we cut pieces and we run it for genetic marker, and from that we know what type this victim is.
- Q What were the results of the genetic marker tests that you ran on the blood that you got from the autopsy?
  - A PGM type 1+, ACP type B.

1	Shenouda - Direct
2	Q What is PGM?
3	A This is enzyme, help to break the sugar in our
4	blood from glucose 1 phosphate to glucose 6 phosphate.
5	Q What is ACP?
6	A This is another type of enzyme help to break the
7	phosphate in our blood.
8	Q Now, how many groupings are there under PGM? How
9	many different variations are there of PGM types?
10	A Ten types.
1 [	Q And ACP, how many variations of types are there
12	of ACP?
13	A Six.
14	Q Six?
15	Now, other than what you've reported to us, did you
16	find anything else on the item under voucher 189816?
17	A No, sir.
18	Q I'm sorry?
19	A No.
20	Q Let's go to voucher number 189822, which I
21	believe is People's 14 in evidence.
22	THE COURT: Perhaps it would help if you'd
23	enlighten the jurors as to what voucher number
24	pertains to who?
25	Q We just talked about Christian Pacheco, yes?

<b>-</b>		Shehouda - Direct
2	A	In 22.
3		MR. ARONOWSKY: I will stipulate to that.
4		THE COURT: So there's no confusion, there
5		was testimony from the police officer that this
6		was clothing that was vouchered from Mr. Pacheco.
7	Q	Voucher 189822, from Hector Perez.
8	A	Yes.
9	Q	I believe that's People's
10		THE COURT: 14.
	] 	14.
12	:	MR. ALEXIS: Do we have that available,
13		please?
14	Q	Do you recognize that?
15	A	Yes, sir.
16	Q	And is that another item that you vouchered with
17	respect t	to this case? I mean not vouchered, I'm sorry;
18	examined	with respect to this case?
19	A	Yes, sir.
20	Q	Did you perform any tests on this item?
21	A	Yes, sir.
22	Q	And are the tests that you performed on this item
23	the same	as the tests that you just described to us for
24	the cloth	nes of Christian Pacheco?
25	A	Yes, sir.

1	Shenouda - Direct 6
2	Q And what were the results of the tests you did on
3	this item?
4	A I have one stain from this jeans pants consistent
5	with the victim' type. And two stain is not consisting
6	with the victim' type.
7	Q So would it be fair to say that there are blood
8	from at least two people on this, on this item?
9	A Yes.
LO	Q One consistent with the victim and one not?
i i i	A Yes.
12	Q Thanks.
13	Let's go to voucher number 189823. Hector Gonzalez.
1.4	THE COURT: Number 15.
L5	Q Do you recognize it?
16	A Yes.
17	Q Did you examine it?
18	A Yes.
19	Q Did you do the same tests on this item as you did
20	on the two items that you've just testified about?
21	A Yes.
22	Q What were the results of that?
23	A Most of the stain in the jeans pants consistent
24	with the victim' type.
25	Q Where on the pants were the stains?

1		Shenouda - Direct
2		blood?
3		THE WITNESS: It's consistent with the
4		victim.
5		THE COURT: All of them, some of them?
6		THE WITNESS: Some of them.
7	Q	How many were consistent with the victim?
8	A	Five.
9	Q	How many were not consistent with the victim?
10	A	One.
1	Ó	Let's go to Hector Perez. How many of the
12	stains or	Hector Perez's clothes were consistent with
13	the vict:	im?
14	A	What voucher number?
15	Q	I'm sorry, 189822?
16	A	One consistent with the victim.
17	Q	How many not consistent with the victim?
18	A	Two.
19	Q	Let's go off to, I'm sorry, Christian
20	Pacheco.	Voucher number 189816.
21	A	Yes.
22	Q	How many stains were consistent with the
23	victim?	
24	A	One.
25	Q	How many stains were not consistent with the

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

25

_ !	Different Differ
2	victim?
3	A Three.
4	Q Now let's go to voucher number G189821, the
5	items vouchered from Billy Gerena. We don't have that
6	out here. Did you perform any tests on that?
7	A Yes.
8	Q Any blood on that found that was consistent
9	with the victim?
.0	A No.
1	Q Let's go to voucher number 189825, the
2	clothes for Suriel Esteban. I believe that's People's
.3	16. I'd like you to take a look at these, ma'am.
.4	A Do you want me to take the items out?
.5	Q No, just tell me if you recognize them?
.6	A Yes, this is the jeans pants. I cut stains,
.7	I put the date, the case number, my initial.
.8	THE COURT: Tell us what you're findings
.9	were with regard to the clothing and this
0	voucher.
1	A In shoes number 1B I have stain consistent
2	with the victim. In the black jeans, two stain is not
3	consistent with the victim. In the black leather
4	jacket most of the stains, when I examine it, 3B and

3C and 3F is not consistent with the victim.

## ۳ ٦ باد ...

	Q	Wou	ıld i	t be	e fair	to s	аy	that	with	resp	ect	to
Mr.	Estek	oan'	s cl	oth:	ing the	re's	on	ie sta	ain th	nat's		
cons	sister	nt w	vith	the	victim	ı, an	d o	ther	stair	ns wh	ich	are
not?	?											

Shenouda - Direct

MR. BIRKETT: Objection.

THE COURT: Overruled.

A Yes.

MR. ALEXIS: No other questions.

THE COURT: Then let's take a break.

Don't discuss the case. Stretch for a couple of minutes, clear your heads. Do some cart wheels, whatever you wanted to do.

(Whereupon the jury exited.)

(Whereupon a recess was taken.)

(Whereupon Scott Harris relieved Alvin Nerlino as the Official Court Reporter.)

### Proceedings

(The defendants entered courtroom. ) THE COURT: Let's go on the record.

Before we resume with the testimony of this witness, I received information that the second alternate juror has a funeral that she wants to go to tomorrow morning. I asked the court officer to inquire.

Apparently, it's her uncle who passed away. She would like to go to both the funeral and to the cometery afterward to be with her family.

She indicated to the officer she would be willing, if I wanted her, to just go to the funeral and come to the court afterwards and not go to the cemetery. And she said that she thought she could be here between 11 and 11:30 in the morning, if that's what we wanted.

She did tell the officer she would prefer if she could go to the cemetery, as well.

MS. RODRIGUEZ: My only problem, our last witness is Dr. Seijo. I have to get her done by the morning.

THE COURT: We all are aware that we are trying to move this along to finish the witness that we have. I think the sticking point is, she's

1

2

3

4

5

7

8

9

10

1 7

12

13

14

15

16

17

18

19

20

21

2.2

23 24

25

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

### Proceedings

the second alternate. All the other jurors involved in this case are still intact. can happen. We do not like to give up jurors unnecessarily.

Under the circumstances, what I would propose is to bring the jury tomorrow, the jurors to come in at 10 o'clock tomorrow morning. Let this juror go to her funeral, then see if we have everyone If there's no problems tomorrow, then we'll discharge that alternate juror temorrow. That way, we finish the prosecution's case with the jury. And we still have two alternates, which is normally what we have on a case.

MR. BIRKETT: Which one is alternate number 2?

The last one. THE COURT:

Is that Cammarari? MS. RODRIGUEZ:

MR. ALEXIS: The school teacher.

The Court can reserve decision on THE COHEN: this until tomorrow morning.

THE COURT: What I am saying is, if everything runs smoothly, in other words, everyone shows up tomorrow who is supposed to show up, then at that point I will discharge her and we go forward with

1. 1.

### Proceedings

the trial so that we know at that point there's no problem tomorrow. And the odds that we'll get to the second alternate become very remote.

If there is a problem in the morning where someone doesn't show up or some problem in the case, she'll be directed to call in. And we will tell her when to come in. We don't want to do anything without her.

Anyone have a problem about that?

MR. COHER: No.

THE COURT: No problem. D.A. doesn't have any problem.

MR. BIRKETT: Your Honor, I have no problem with that. Let's see how we are in the morning.

THE COURT: I'll tell the jurors to come in and then tell her to come in after the funeral is over. Let her take care of her personal business.

My other thought is, obviously, after going to a funeral for your uncle with your family, I don't know what frame of mind she's going to be in as far as the case is concerned.

It's asking a lot of a human being to go to a funeral for a relative and come to court and concentrate on a case.

### Sheunouda/Cross/Chaikin 1 Let's bring the jury out and go forward. 2 Ready for the jury. 3 COURT OFFICER: Jury entering. 4 (The jury entered the courtroom.) 5 COURT CLERK: Both sides waive reading of the б roll call? 7 MR. ALEXIS: Yes. 8 9 MR. CHAIKIN: Yes. 10 MR. COHEN: Yes. 1.1 MR. ARUNOWSKY: Yes. 12 MR. GREEN: Yes. 13 MR. BIRKETT: Yes. THE COURT: Mr. Chaikin, you may 14 15 cross-examine. MR. CHAIKIN: Thank you, your Honor. 16 17 CROSS-EXAMINATION 18 BY MR. CHAIKIN: Miss Shenouda, would you tell the jury, 19 0. professionally speaking now, what the word consistent means? 20 Could come from this person. 21 Α. 22 Could come from this person. ο. 23 Α. Exactly. And, correct me if I am mistaken, that that assumes 24 Q. that it also could not come from this person. It might not 25

25

deceased.

### 1 Sheunouda/Cross/Chaikin come from this person; isn't that correct? 2 Α. Could be. 3 Could be that it doesn't come from this person. Ο. Could be that it does come from this person. 5 correct? 6 Α. Exactly. 7 Would you tell me, with respect to the 8 Q. possibilities, does the word consistent, as you have used it 9 during the direct examination by the prosecutor, mean more 10 : 1 likely than not? MR. ALEXIS: Objection. 12 THE COURT: Overruled. You may answer. 13 14 Α. I can't understand the question. Does the word consistent, at any time as you used 15 the -- you agree with me, you used the word consistent 16 during your direct examination. You said that certain of 17 the blood samples that you examined were consistent with the 18 sample provided from the deceased; is that correct? 19 20 Α. Exactly. Yes. 21 You used the word consistent. Would you tell me 0. if, as you used that word, it meant more likely than not 22 23 from the deceased?

I can't say more likely it's not from the

But this is the only blood I have to compare with

### Sheunouda/Cross/Chaikin

the stain what I have. So, I said could be came from the victim or could not come from the victim, of the same person have the same type of the person.

- Q. But that's what you meant when you said consistent; is that correct?
  - A. Exactly. Yes.
- Q. Let me speak to you for a moment about the samples under the voucher that ended in the numbers 822 and relating to Hector Perez.

it's true, is it not, that you described for the jury a moment ago two general classifications of tests that you did, one for glucose or for blood factors. One for like PGM and one for typing ABO; is that correct?

- A. We didn't do ABO on the dry blood stain in our lab.
  - Q. You didn't do it in your lab?
  - A. No.
    - Q. But you reported those results; is that correct?
- A. No, I didn't say anything about ABO. I said about the enzyme first for glucose. I didn't say anything about ABO. I said about PGM and ACP. Both of them is enzyme.
  - Q. I may be misunderstanding you.
  - A. Yes.

1

2

Q.

3	the case, is it not the case that the deceased in this case
4	had B-type blood?
5	A. For ACP. Not ABO type. ACP type is B. And PGM
6	type is 1 plus. It's completely two different things.
7	Q. Okay. Now, with respect to the voucher ending in
8	822, Mr. Perez' clothing, what item of clothing did you
9	examine under that voucher?
10	A. We receive only one item. Blue jeans, pants.
11	MR. CHAIRIN: May we see that exhibit? Is
12	that in evidence?
13	MR. ALEXIS: Yes, it is.
14	MR. CHAIKIN: I believe it's 14.
15	THE COURT: What is it you want?
16	MR. CHAIKIN: The pants.
17	THE COURT: Of Mr. Perez?
18	MR. CHAIKIN: Yes.
19	THE COURT: 14 in evidence.
20	MR. CHAIKIN: I would like to see them.
21	COURT OFFICER: (Handed.)
22	Q. Is this what you examined under 822?
23	A. I received this pants. First of all, this pocket
24	from the left leg is missing. Whatever, I sign here. And I
25	put initial for the stain. This is the stain I got.

Sheunouda/Cross/Chaikin

Did you not say on direct, or tell me if this is

4

5

6

7

8

9

10

1 1

12

14

15

16

17

18

19

20

21

22

23

24

### Sheunouda/Cross/Chaikin

Whatever is missing from the pant, this is the way I receive it.

- Q. Let me just be very clear about this. This is for the record. There is an area of the pants where these pants end, as I'm showing them to you, on the left leg.
  - A. Yes.
- Q. Right? This is how you got them, without any of the pants below them?
  - A. Yes.
  - Q. And how many samples did you get from these pants?
  - A. How many stains you mean?
- 13 | Q. Yes.
  - A. I can count it here. Ten stains. And some of the stains I have control area. This mean no blood in this area was found.
    - Q. They were just stains, dirt, whatever?
  - A. Yes. But each stain I have to have control area, you know, like unstained area.
    - Q. Right. Correct me if I am mistaken. Does that mean that of those stains that you did not find -- control A you said?
      - A. Control area.
        - Q. Control area.
- 25 A. Yes.

Ą

1.1

### Sheunouda/Cross/Chaikin

Q.	Okay	Does	that	mean	that	you	can	make	nc
determina	tion	about	those	areas	s? .				

- A. No. I make determinations. If the stain is enough to type it for genetic marker, I have the conclusion here.

  If the stain is not enough for genetic marker, only item of mine, if it's human blood present or not human blood present.
- Q. Showing you the pants again, did you have enough of a sample, enough of a stain to get what you needed to report
  - A. Three stains.
- Q. Of those stains, the one to the right, that is only one of them you reported as could be the same type as the deceased; is that correct?
  - A. Exactly.
  - Q. I'll give this to you via the court officer.

    COURT OFFICER: (Handed.)
- Q. Would you take a look at those and point out, if you would, for the jury, which stain it is that could be?
  - A. Stain number 1B-1.
- Q. Was that stain -- would you hold that up? That's in the back of the pants?
  - A. No. This is the front.
  - Q. I am sorry. It's in the front of the pants on the

25

Sheunouda/Cross/Chaikin
right leg.
A. Yes.
Q. When you cut out the stain, did you cut out only
the area with the stain on it?
A. Yes.
Q. You can put those down. Did you receive for
testing a blood sample of any sort from that that
originated, to your information, from Hector Perez?
A. No.
" Q. So that is it fair to say that without knowing what
Mr. Perez is, without any analysis on Mr. Perez' blood, in
fact, the blood stain 1B-1 was it?
A. 1B-1.
Q. That could have been from Mr. Perez; is that
correct?
A. That's why we use consistent with the victim type.
This is the only type we receive to compare the unknown
stain with the physical evidence.
Q. You just don't know, is it true, whether or not it
might also be consistent with Mr. Perez' blood? Is that
true?
A. Could be.
Q. Are you familiar with the figures that would

indicate the percentages of the population represented by

25

Α.

### Sheunouda/Cross/Chaikin 1 the types of blood as determined in your tests? 2 Yes, sir. Α. 3 Okay. With respect to the -- withdrawn. ο. ask you one more thing before that. 5 With respect to 1B-1 --6 Stain number 1B-1. 7 Α. 8 ο. Yes. 9 Yes. Α. Just with respect to that. Can you tell me or as 10 Q. thest you can explain to me the results of your PGM test with 11 12 respect to 1B-1 under voucher 822? PGM type, inconclusive result. I'm not successful 13 Α. to get the PGM type. But I have the other enzyme type. 14 is consistent with the victim type, which is B type. 15 And that second figure, the ACP enzyme, with 16 0. respect to any of these results, is that in any way related 17 to the blood type of a person, as we commonly know it? 18 19 it in any way related to it? I cannot understand the question. 20 Α. That figure, when you come up with, say, AB --21 ο. 22 Yes. Α. Under the ACP type, is that in any way related to 23 Q.

what lay people generally think of as blood typing?

It's different than ABO.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

### Sheunouda/Cross/Chaikin

- I'm asking if it's in any way related to ABO. Q.
- We did not do ABO. Α.

THE COURT: It's not related then to blood type?

THE WITNESS: Yes. We did not do any test with respect to ABO in our lab.

- To your knowledge, no blood typing, the ABO typing, Q. was done on the materials that you received here.
  - Α. Yes.
- Can you tell me the percentage of the population Q. and tell me the figure that we are talking about, the population of the world, the United States, whatever, that would be consistent with the results, which, as I understand it, are only the ACP results which come up as B1 for 1B-1?
- You need only the percentage of the population for Α. ACP type B.
  - That would be consistent? ο.
  - Yes. 54 percent. Α.
  - 54 percent of the population of the world? Q.
- For New York City. We have data base in our Α. lab. We do it. And according to no race, you know, and we figure out how much as percentage for the group of this type and how much the percentage for the group of this type.
  - Which group are we talking about for which the 0.

21 22

23

24

25

### Sheunouda/Cross/Chaikin 1 percentage is 54 percent? 2 Α. ACP type B. 3 54 percent of what? 0. 4 New York City. Α. 5 Of New York City? Q. 6 Exactly. 7 Α. Are you familiar with the population of New York Q. 8 9 City? 10 Α. No. MR. ALEXIS: Objection. 11 THE COURT: Sustained. 12 MR. CHAIKIN: May I just have one moment? 13 THE COURT: Certainly. 14 (A pause in the proceedings.) 15 MR. CHAIKIN: I have no more questions. Thank 16 17 you very much. THE COURT: Mr. Birkett. 18 MR. BIRKETT: Yes, your Honor. Very briefly. 19 20 CROSS-EXAMINATION BY MR. BIRKETT: 21 With respect to voucher number 189825, can you put 22 those items in front of you, please? 23 MR. BIRKETT: If they can be handed to the 24 witness, please. 25

### Shenouda/Cross/Birkett 1 THE COURT: That's People's 16. 2 Q. It's relating to Suriel Esteban. 3 COURT OFFICER: (Handed.) 4 THE COURT: You want her to take out the 5 Is that it? 6 clothes? MR. BIRKETT: Please. 7 THE COURT: Okay. She's got the bag. 8 We'll start with a pair of black jeans. 9 0. show the jury, please, where you took the two stains that 10 you tested? And it's correct, is it not, that neither of 1 those stains is consistent with the blood of the victim in 1.2 this case? Correct? 13 One minute. I will refer to my notes. 14 Α. 15 Ο. Of course. (A pause in the proceedings.) 16 1.7 From the jeans? Α. 18 Q. From the jeans. While she's doing that, she 19 THE COURT: indicated stains on the front part of the jeans. 20 I find two stains from the jeans. Both the 21 Α. stains is not consistent with the victim type. 22 23 Right. Can you take out the jacket now, please? Q. The black leather jacket. If you can show the jury where 24

you took the stains from the jacket, please.

PENGAD
ç
BAYOZZE
H
0 7 0 0 2
F 0 3 M
1 15

	1	
2	Α.	(Indicating.)
3	Q.	Is it fair to say that on all the items of
4	clothing	, at least with respect to this voucher, there's a
5	label wi	th your initials and other information on it next to
6	each of	the stains you tested?
7	Α.	Yes.
8	Q.	Thank you. As to the stains on that black leather
9	jacket,	is it correct none of those is consistent with the
10	blood of	the victim in this case?
**************************************	۸.	Ness.
12	Q.	Now, lastly, I believe you tested stains from
13	shoes; i	s that correct?
14	Α.	Yes.
15		MR. BIRKETT: Can those be handed to the
16		witness, please?
17		COURT OFFICER: (Handed.)
18	Q.	Which shoe has stain 1A?
19	Α.	Shoes number 1A.
20		THE COURT: That's the left boot.
21	Q.	As to that stain, that also is not consistent with
22	the vict	im's blood, correct?
23	Α.	Yes.
24	Q.	Therefore, only the stain from the other shoe is
25	consiste	nt with the victim's blood in this case, correct?

Shenouda/Cross/Birkett

1	Shenouda/Cross/Green
2	A. Yes.
3	Q. That's the only stain of all of those we just
4	looked at that's consistent with the victim's blood.
5	A. Yes.
6	MR. BIRKETT: Can I have just a second?
7	THE COURT: You have to ask for a minute.
8	MR. BIRKETT: May I have a minute?
9	THE COURT: Yes.
10	(A pause in the proceedings.)
1.1	HR. BIRKETT: That's all I have, your Hosec.
12	Thank you.
13	THE COURT: Mr. Green.
14	CROSS-EXAMINATION
15	BY MR. GREEN:
16	Q. When you say not consistent, it means you have come
17	to a scientific conclusion that the blood is definitely not
18	from the victim; is that correct?
19	A. Yes.
20	Q. And with regard to Billy Gerena, voucher ending in
21	821, you have reached that determination, is that correct,
22	that the blood did not come from the victim?
23	A. Yes. Only I find one stain. Stain number 11.
24	Q. That is the only thing that was there?
25	A. Yes. Not there. This is only stain I typed for

Shenouda.	/Cross	/Coher
anenouua.	/ CTOSS	/ Conei

examination, that whether the blood is consistent with the victim means that the blood could have come from two or more people; is that correct?

- A. If it's not consistent with the victim?
- Q. If it is consistent with the victim.
- A. No. If it's consistent with the victim, this means have the victim type. If not consistent with the victim, this mean have different type than the victim.
- Q. Exactly. Now, are there other tests that could be performed that would narrow it down and lead you to conclude to a scientific certainty whether or not a particular sample came from the victim?
  - A. Can you repeat again, please, the question?

    THE COURT: Is there another test that could be done to narrow down even further whether or not the blood matched the victim's blood?
- A. Always we use consistent with or not consistent with in our lab.
  - Q. That's what your lab does; is that right?
  - A. Yes.
  - Q. Are you familiar with DNA analysis?
- 23 | A. Yes.
  - MR. ALEXIS: Objection.
  - A. I heard about. I am not expert in DNA analysis

1	Shenouda/Cross/Cohen
2	testifying.
3	THE COURT: The objection is overruled. You
4	are familiar with it?
5	THE WITNESS: Yes.
6	THE COURT: Do you do it in your laboratory?
7	THE WITNESS: Yes.
8	THE COURT: Go ahead. Next question.
9	Q. Did you do it in this case?
10	A. If requested.
1 1	g. You wear that the assigned detective in this case
12	never asked that you perform DNA analysis on these items?
13	MR. ALEXIS: Objection.
14	THE COURT: Overruled. You may answer.
15	A. No. According to my knowledge here for this case,
16	they not request to do DNA.
17	Q. What is involved with DNA analysis that you are
18	aware of?
19	A. Excuse me?
20	Q. What is involved with DNA? First, what is DNA?
21	A. Deoxyribonucleic acid. But I am not expert to
22	testify anymore further for DNA. I didn't do any analysis
23	for DNA. Just this my knowledge.
24	Q. You have, however, been qualified as an expert to
25	testify in this case on the issue of blood analysis.
	II

I said I'm not expert for DNA. I don't know how to

25

Α.

2

3

4.

5

6

8

9

10

1, 1,

12

13

14

15

16

17

18

19

20

21

### Shenouda/Cross/Cohen

answer	this	question
--------	------	----------

When you analyzed the samples in this case, you 0. couldn't determine the manner in which the blood came to be on those particular items that you examined; is that right?

MR. ALEXIS: Objection.

THE COURT: Overruled. You may answer.

You do not know how the blood got there?

- I can't understand what you want. Α.
- You do not know how the blood got on the particular Items that you examined; is that right?
  - Α. No.
- You do not know when the blood got on the 0. particular items that you examined; is that right?
  - Α. No.
- You do not know who put the blood on the particular 0. items that you examined; is that right?
  - Α. Yes.
- So, you can't say, as you sit here today, whether or not it was more likely than not that the blood samples that tested consistent came from the victim, can you?

MR. ALEXIS: Objection.

Sustained as to the form of the THE COURT: question.

Your testimony is, is it possible it came from

22

23

24

### Shenouda/Cross/Aronowsky 1 2 the victim? You can't rule it out? THE WITNESS: That's right. 3 THE COURT: You can't say it's more likely 4 than not, right? 5 THE WITNESS: Yes. 6 Does that mean that it's equally as possible that 7 Q. those blood samples came from a source other than the 8 9 victim? MR. ALEXIS: Objection. 10 THE COURT: I'll sustain the objection. ) ( MR. COHEN: I have no further questions. 12 13 Thank you. 14 THE COURT: Mr. Aronowsky? 15 CROSS-EXAMINATION 16 BY MR. ARONOWSKY: Referring to the very first voucher that you dealt 17 Q. with ending in 816, you found one stain, which you have 18 labeled consistent, correct? 19 20 Α. Yes. 21 0. Or could have. 22 Yes. Α. That's the stain labeled 4A-1, correct? 23 Q. Α. 24 Yes. That was found on what type of clothing? 25 Q.

## Shenouda/Cross/Aronowsky

- A. White Starter shirt.
- Q. And with respect to that one stain, what test comes first. PGM first or ACP test?
  - A. I can't understand.
- Q. Which test do you do on a particular stain first, the PGM or the ACP?
- A. No. I run both tests in the same time because two different plate running two different machine.
- Q. With respect to that particular stain, you received no results, if my reading of this is correct, with cospect.
- to the PGM, correct?
  - A. For white Starter shirt.
- Q. Right.
  - A. Yes. Inconclusive result for PGM.
  - Q. Inconclusive for the PGM. And you had what you consider positive results on the ACP.
    - A. Yes.
  - Q. Now, if my memory is correct -- this is Mr. Chaikin. If you do not know that, that's Mr. Chaikin.

When Mr. Chaikin questioned you about this particular area, I think it was your answer that put him within a group, that there was a 54 percent chance of being within that blood category within that enzyme?

A. For ACP type B, yes.

#### With regard to voucher 189816, you had one test 2 Q. which you said could be consistent, correct? 3 Α. Yes, one stain. Which we just talked about. How many other stains 5 did you deal with with regard to that particular voucher? 6 7 THE COURT: That is the clothing from Mr. Pacheco? 8 MR. ARONOWSKY: Right. 189816. 9 I had jeans pants. 10 Α. Can you give me a total number? How many stains 1.1 ٠, 12 total? 13 Α. For the whole voucher, sir? 14 ο. For all of 189816. Fifteen stains. 15 Α. You have stains which you have categorized in 16 Q. various groups. You have the stains which are listed under 17 a group, could have originated, correct? 18 Could come from the victim. 19 Α. With regard to this particular voucher, you have 20 Q. one stain in that column, correct? 21 Α. 22 Yes. Then you have a grouping which could have 23 originated from foreign source number 1, correct? 24 Α. Yes. 25

PHZGKD

1

2

3

5

6

7

8

9

10

11

12

13

14

15

16

1.7

18

19

20

21

22

2.3

24

25

## Shenouda/Cross/Aronowsky

- Q. With respect to this particular voucher, am I accurate when I say there are one, two, three, four, five, six, seven, eight, nine, ten, eleven stains that could have originated from foreign source number 1?
  - A. One minute.

(A pause in the proceedings.)

- A. Exactly. Yes.
- Q. You also have a grouping called foreign source number 3; is that correct?
  - A. Yes.
- Q. And there are stains within this particular voucher that also could possibly have come from foreign source number 3, correct?
  - A. Yes.
- Q. If my counting is correct, that's one, two, three, four, five, six, seven, eight, nine additional stains that might be from foreign source number 3?
  - A. Yes.
- Q. And then you have another grouping where you say something, nothing can be said of the origin of the following blood stains. And you have two additional stains listed at 189816; is that correct?
  - A. Yes.
  - O. What does the term foreign source mean?

- A. This mean it not consistent with the victim. I have different type than the victim types.
- Q. When you say foreign source number 1, foreign source number 2, foreign source number 3, within that particular group there's a certain consistency, correct?
  - A. Consistency with what?
  - Q. With each other.
- A. No. If I put it in three different groups, this means three different type.
- you have the following stains, could have originated from foreign source number 1, is how one paragraph starts, correct?
  - A. Yes.
- Q. Then there is a grouping of stains relating to almost all the vouchers, correct?
  - A. Yes.
- Q. Everything within that particular group you believe is consistent with a particular source, which is not the victim, correct?
- A. Yes, except one stain. Except the stain number 4, A1, from the white Starter shirt. It's consistent with the victim.
  - Q. I'm talking now about -- do you have the document?

1

<u> </u>		
PENGAO		
S		
PENGAD DD MAYDYNE 7:		
ų į		
)		

2	A. Yes.
3	Q. The type document which I think is signed by you?
4	A. Yes.
5	Q. I'm looking at what I believe is page 3 of the
6	document. And it reads, the
7	THE COURT: Let's not go into reading a
8	document that is not in evidence.
9	MR. ARONOWSKY: Because she said there's one
10	stain that's consistent. And that was not
1 1	responsive to the question.
12	THE COURT: What is the question? Ask the
13	question.
14	Q. The paragraph starts, the following stains could
15	have originated from foreign source number 1. And then you
16	have an entire column of
17	THE COURT: Again, I'm going to stop you. I
18	don't want to go over what is in this document
19	here. It's not in evidence.
20	What is your question? Ask the question
21	without referring to the document.
22	Q. Everything that is within that bracket that you
23	called foreign source number 1 relates to a particular
24	source which is not the victim, correct?
25	A. Yes.

P
Ē
N
G

ž	
Ŋ	
)	
?	
-	
)	
÷	
Á	

4
_

5

6

7

8

9

10

1 |

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## 2

Α. 0.

Yes.

- Α. Yes.
  - I'm looking at what I believe is page 3 of the document. And it reads, the --

THE COURT: Let's not go into reading a document that is not in evidence.

Shenouda/Cross/Aronowsky

The type document which I think is signed by you?

MR. ARONOWSKY: Because she said there's one stain that's consistent. And that was not cesponsive to the acception.

THE COURT: What is the question? Ask the question.

The paragraph starts, the following stains could have originated from foreign source number 1. And then you have an entire column of --

> THE COURT: Again, I'm going to stop you. I don't want to go over what is in this document It's not in evidence.

What is your question? Ask the question without referring to the document.

- Everything that is within that bracket that you ο. called foreign source number 1 relates to a particular source which is not the victim, correct?
  - Α. Yes.

## 2

## 3

## 5

## 6

## 7

## 8

## 9

### 10

## 1. 1.

## 12

## 13

## 14

### 15

## 16

#### 17

### 18

## 19

## 20 21

## 22

## 23

24

25

- Then you have another foreign source. When you say 0. number 2, it's not the victim. It's not source number 1 and it's source number 2?
  - Α. Yes.
  - 0. Or 3, wherever we are up to.
  - Α. Yes.
  - Then you have an additional, correct? 0.
  - Α. Yes.
- What do you mean when you say nothing can be said 0. about the origin of the following blood stains? What does that phrase mean?
- This mean I can't give any conclusion. Either came from the victim or came from the other three different sources I have.
- How many possible sources were you advised of with 0. respect to this analysis as you conducted it?
  - Can you repeat it again, please? Α.
- Were you given any information prior to your doing 0. this analysis with respect to the underlying event?
- Either consistent with the victim or not consistent Α. with the victim. This is the knowledge I have.
- Were you told prior to your analysis or during your doing the analysis that there were a multitude or more than one people who might have been bleeding pursuant to this

### Shenouda/Cross/Aronowsky 1 particular occurrence? 2 3 MR. ALEXIS: Objection. THE COURT: Sustained. 5 Q. Were you given any information at all that 6 Christian Pacheco was injured and bleeding as a result of this particular occurrence? And Christian Pacheco is the 7 individual who would correspond to 189816? 8 MR. ALEXIS: Objection. 9 THE COURT: Sustained. 10 I would ask you, you have the material for a 1 1 voucher 189816 there, correct? 12 13 Α. Yes. The actual property, correct? 0. 1415 Α. Yes. Not the writeups. The property itself. 16 Q. Yes. 17 Α. MR. ARONOWSKY: With the Court's permission, 18 if the witness could open that particular bag one 19 20 more time. All right. THE COURT: 21 I believe there is a coat within that bag, correct? 22 0. It's a brown leather jacket. 23 Α. Yes. Could you please take the coat out of the 24 ο. bag? Now, in terms of your analysis of that particular 25

## Shenouda/Cross/Aronowsky 1 coat, you found various stains on that coat, correct? 2 It's not consistent with the victim. Α. Yes. 3 And none of the stains were consistent with the 0. victim, correct? 5 Α. 6 Yes. Part of your analysis of the coat was to analyze 0. the physical condition of the coat, correct? 8 Α. Excuse me? 9 You noted the physical condition of the coat 10 itself. correct? 1 What you mean by physical condition? The way I 12 receive it? 13 When you received the coat, you made notes and made 14 an examination physically of the coat itself, correct? 15 16 Α. Yes. Did you make any notes or did you notice with 17 respect to the back of the coat any damage to the coat? 18 I see here some cut here in the back. I wrote it 19 in my notes. I can't remember. If you want me to go 20 to --21 On the reverse side of Christian Pacheco's coat, 22 Q. did you note during your examination a hole that could have 23 24 been caused by a sharp object? Yes. I wrote in my description for the coat this Α.

1		Shenouda/Cross/Aronowsky
2	area.	
3	Q.	So, your answer is, to my understanding, on the
4	reverse	side of Christian
5	Α.	I said could be.
6	Q.	Could be you found a hole. And you explained it
7	could ha	ave been caused by a sharp object, correct?
8	Α.	Yes.
9	Q.	You can put that away. Thank you very much.
10		THE COURT: You may sit down.
1.1	i de la companya de l	THE WITNESS: Thank you.
12	Q.	Blood obviously comes from the body, correct? As
13	an origi	nating source, correct, blood would come from the
14	body? (	Correct?
15	Α.	Yes.
16	Q.	Like my blood would originate in my body, right?
17	Α.	Yes.
18	Q.	And if I bled onto someone, my blood would be on
19	that som	meone, correct?
20	Α.	Yes.
21	Q.	If that someone who I bled on, all right, touched a
22	third pe	erson, would my blood change, go over to that third
23	person?	
24	Α.	If your blood touched?
25	Q.	Make believe I cut my hand and it's making a mess.

## Shenouda/Cross/Aronowsky And for whatever reason, I touch Mr. Chaikin, or whatever, 2 and Mr. Chaikin ends up with my blood on him. That will be 3 my blood, correct? Yes. Α. 5 If Mr. Chaikin then, for whatever reason, bumps 6 7 into someone --MR. ALEXIS: Your Honor, I object to this 8 question. 9 THE COURT: I'll allow it. You may answer the 10 question. 1.1 Can blood be transferred from one person to 12 13 another and again to another person? THE WITNESS: If they touch each other? 14 THE COURT: Yes. 15 THE WITNESS: If it's wet. 16 THE COURT: If it's wet and they touch each 17 other? 18 THE WITNESS: Yes. 19 20 MR. ARONOWSKY: Can I just have one second, please? A minute? A minute? 21 THE COURT: You got it. 22 (There was a pause in the proceedings.) 23 MR. ARONOWSKY: Nothing further. 24 THE COURT: Any redirect? 25

### 1 Shenouda/Redirect/People/Alexis MR. ALEXIS: Yes, your Honor. Very briefly. 2 REDIRECT EXAMINATION 3 BY MR. ALEXIS: 4 Would it be fair to say that in addition to blood 5 that was consistent with the victim, you found blood from 6 three other people, three other sources? 7 Α. Yes. 8 Now, I'd like to ask you very specifically about 9 0. voucher number G189823. Those are the clothes belonging to 10 Hector Gonzales. I believe that's People's 15. 11 MR. COHEN: Objection. Beyond the scope. 12 THE COURT: I don't know what the question 13 You are ahead of the game. He is just 14 directing her to that clothing. Let me hear what 15 the question is. 16 I'd like to direct you to stain 1J-1 and 1K-1. 17 Ο. Yes. 18 Α. Were you able to make a PGM determination for that 19 Q. stain? 20 21 MR. COHEN: Objection. Overruled. You may answer. 22 THE COURT: 23 Α. Yes. And were you able to make an ACP determination for 24 Q.

that stain?

## Shenouda/Redirect/People/Alexis

2 Α. Yes.

1

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

- Let's go to stain -- for both of those stains I Q. asked you about, stains 1J-1 and 1K-1.
  - Α. Yes.
  - Were both of those determinations consistent with Q. Lenny Cruz?

Objection. Beyond the scope. MR. COHEN:

THE COURT: Overruled. You may answer.

- Α. Yes.
- Defere, you said that if you only could determine that one -- if ACP was consistent with Lenny Cruz, it's 54 percent. What is the percentage in PGM? What is the percentage if the PGM and ACP are consistent with Lenny Cruz?
  - 20 percent. Α.
- 20 percent. Now I'd like to ask you about voucher Ο. That is the voucher for Suriel Esteban, People's G189825. 16. I'd like you to direct your attention to stain 1B-2.
  - Α. Yes.
- Were you able to make a PGM determination for this Q. stain?
  - Α. Yes.
- 24 1B-2. Q.
- 25 Α. Yes.

## Shenouda/Recross/Chaikin 1 2 Q. Were you able to make an ACP determination for that stain? 3 Yes. Α. Was that determination consistent with the victim? Q. 5 6 Α. Yes. What is the percentage for that stain? Q. 20 percent. Α. 8 MR. ALEXIS: No other questions. 9 THE COURT: Recross, Mr. Chaikin? 10 MR. CHAIKIN: If I may, your Monor. 1 12 THE COURT: Certainly. RECROSS EXAMINATION 13 14 BY MR. CHAIKIN: At the beginning of that redirect, the prosecutor 15 just asked you a question. I just want to be sure of the 16 language here. He asked you if the three foreign sources, 17 if that meant it was from three other people. Do you 18 remember that question? 19 20 Α. Yes. Do you know whether these sources came from items 21 or people or floors or ceilings or walls? 22 23 MR. ALEXIS: Objection. I object.

Q. Or glasses or walls. Originally, of course, they came from people, right?

25

1	Shenouda/Recross/Cohen
2	A. Yes.
3	Q. Do you know whether those came off clothing or
4	other items? You have no knowledge of that at all, do you?
5	A. No knowledge for what now?
6	Q. Knowledge of where the foreign sources came from,
7	what type of items they came from?
8	A. No.
9	MR. CHAIKIN: Thank you.
10	THE COURT: Mr. Birkett?
Printer	AR. BIRKETT: Nothing.
12	THE COURT: Mr. Green?
13	MR. GREEN: No.
14	THE COURT: Mr. Cohen?
15	RECROSS EXAMINATION
16	BY MR. COHEN:
17	Q. Despite your response to the District Attorney's
18	question just a moment ago, can you still say now that it's
19	more likely than not that any of that blood came from the
20	deceased?
21	MR. ALEXIS: Objection.
22	A. In general or particular voucher or what?
23	Q. In general.

THE COURT: In other words, where it matches
20 percent of the population. Where you have tests

2

3

5

6

7

8

9

10

1.7

12

13

14

15

16

17

18

# Shenouda/Recross/Cohen

that lead to a result consistent with 20 percent, someone in the 20 percent category.

- A. What is consistent with the victim, this is a 20 percent of the population. And conclusion, still it's same, is that it's possible the blood came from him, yes.
- Q. You can't say nothing more that it's possible also the blood came from a foreign source; is that right?
  - A. Could be. It depends on the type to compare with.
- Q. That's right. If you had fifteen people sitting hore, 20 percent would be three people would have that blood type or that match?
  - A. Could have been.

MR. COHEN: Thank you. No further questions.

THE COURT: Mr. Aronowsky?

MR. ARONOWSKY: Nothing further.

THE COURT: Thank you very much, Miss

Shenouda. You are excused. You may step down.

THE WITNESS: Thank you.

THE COURT: I think I can say with a hundred percent we are finished for today. We are going to recess until tomorrow. I am going to ask you, the jury, to return tomorrow at 10 a.m. I understand one juror has a funeral to go to.

So, the court officer will give you

23

24