

1                   C L A U D    B E R R Y,

2           having first been duly sworn to tell the truth, the  
3           whole truth and nothing but the truth, was examined  
4           and testified as follows, to-wit:

5                   DIRECT EXAMINATION

6           BY MRS. SHEW:

7           Q           Would you give your name and occupation, please.

8           A           My name is Claud Berry, and I'm a criminologist  
9           with the Oklahoma State Bureau of Investigation.

10          Q           What kind of work do you do, Mr. Berry, as a  
11          criminologist?

12          A           As a criminologist I am a forensic chemist. I do  
13          chemistry and serology, hair identification, fiber  
14          identification, for the Bureau.

15          Q           Where is your office?

16          A           Tahlequah, Oklahoma.

17          Q           How long have you worked the OSBI?

18          A           Three years and nine months.

19          Q           Could you give your background?

20          A           Yes, I can. I have a bachelor's degree in chemistry,  
21          a bachelor of science degree from Northeastern State  
22          College in 1953. I have been a practicing chemist since  
23          that time, for twenty-two years with Haliburton Services,  
24          Duncan, Oklahoma, technical research and development  
25          center, and I have been with the Bureau here three years

1 and nine months, and that's what I have been doing at that  
2 time, and I have been to the FBI Academy for one month's  
3 special training on serology, hairs and fibers identifi-  
4 cation, plus three months at headquarters, Oklahoma City,  
5 OSBI Laboratory, under intense training when I first  
6 began to work for the OSBI in serology, hairs and fibers  
7 identification and trace evidence. I have been to several  
8 Southwest Association of Forensic Scientist seminars on  
9 serology and hair and fiber identification and have been  
10 to four of those, and also one special blood stain iden-  
11 tification evidence interpretation school in Oklahoma  
12 City for four days.

13 Q Mr. Berry, what portion of your work would you say  
14 is devoted to hair comparisons?

15 A Well, I will put it this way: approximately ninety  
16 percent of cases that come in to our laboratory have to  
17 do with hairs and fibers in this case, even homicides,  
18 rapes, burglaries, assaults, any of those will have hairs  
19 and fibers, approximately ninety percent of the time in  
20 the cases.

21 Q So in almost ninety percent of the cases you are  
22 called upon to review and identify hair samples?

23 A Yes.

24 Q Would you have any idea of the number of hair  
25 comparisons you might have made since you have been working

1 with the OSBI?

2 A No, several thousand.

3 Q Have you ever testified in court in any of those  
4 cases that you had examined hairs in?

5 A Yes, ma'am.

6 Q Were you qualified as an expert witness?

7 A Yes.

8 Q Do you have any idea how many times you have been  
9 called to testify?

10 A Ten, twenty; twenty, twenty-five, rather. Between  
11 twenty and twenty-five.

12 MRS. SHEW: Your Honor, at this time I would ask  
13 that Mr. Berry be allowed to testify as an expert witness.

14 THE COURT: Mr. Berry will so be allowed.

15 Q Mr. Berry, I know that when most of us look at a  
16 hair, we just see a hair, something tiny and thin. Are  
17 hairs actually made up of parts?

18 A Yes, they are.

19 Q About how many?

20 A We use fifteen, approximately fifteen identifying  
21 features of hairs to identify and compare hair.

22 Q Will every human hair be made up of those same  
23 fifteen or so characteristics?

24 A Yes, they will.

25 Q Does that mean that we would all have the same

1 characteristics but they would be put together in our  
2 hair a different way?

3 A Yes, and also the shape of the hair would be  
4 different. Well, that's part of the characteristics, yes.

5 Q Did you bring some charts with you today to help  
6 to explain to the jury those characteristics --

7 A Yes, I did.

8 Q -- that you look for? Could you show them to the  
9 jury and explain what a typical hair structure looks like?

10 A I would be glad to. First of all, defining the  
11 roots of the hair which is two different types, really. One  
12 is mature hair root which is this one here which has no  
13 tag on it, which falls off. I mean, everybody is sloughing  
14 hairs if you want to put it that way, or hairs are falling  
15 out when you are near people, or any place your hairs will  
16 be falling out. It doesn't make any difference what age  
17 you are, that has nothing to do with it.

18 When there are pulled hairs, the root has a  
19 different shape on it. It has a little tag on the end, just  
20 a round identifying feature of a hair that you can see.

21 Now, these are just drawings so that you might  
22 understand when somebody is talking to you about a hair  
23 or in my case when I identify points.

24 THE COURT: You know, it just occurred to me that  
25 you might be able to set those up on those blackboards on

1 your right and the Court could see that as well as the  
2 jury. If that's not possible, we'll go ahead and continue  
3 with --

4 MR. BERRY: Maybe they can see.

5 THE COURT: Can you all not see it there just as  
6 well.

7 A Now, the shaft of the hair is made up of these  
8 features. The cuticle, which is the outside part, and  
9 at times the cuticle either has a space in there, a little  
10 light space you can see under the microscope, that's what  
11 these are all identified, the only way you can identify  
12 hair. You can't just pull somebody's head hair out and  
13 look at it without looking at it under a microscope to  
14 determine identification or comparison.

15 The scales, every persons hair has scales, and  
16 it's like on fish, and they are round and they overlap  
17 just like fish scales, which may seem odd to some people,  
18 so when you are talking scaly, that would be one of the  
19 identifying features.

20 Now, the tip end is also a feature, this where  
21 it's cut off here, but I don't have it drawn. It can be  
22 either a damaged end, when we look at the end, the tip  
23 end, a cut end with a razor blade or scissors or using  
24 singeing for tips end or shaving, and it will show a  
25 different -- the end will be different, and if a person

1 is doing that all the time, if you find some of their hairs  
2 out and make a comparision, that can be one of the identi-  
3 fying features.

4 The cortex is the main body of the shaft of the  
5 hair, the main body.

6 The medulla is the center part of the hair. Now,  
7 in most hair -- not all -- most hair you will see a dark  
8 line. It can either be broken up into segments like  
9 this, and dark colored, which it looks darker under the  
10 microscope, but really it's an air space is what it is.  
11 And they are either one solid line, the width is different  
12 on some hairs, peoples hair, and like I say, broken down  
13 in different segments at times, but some people are solid.

14 Okay, the proximal end here is the root end which  
15 I just showed you here, so if I make it proximal, why,  
16 I mean root end, but I'll probably say root.

17 Pigment granules are small coloring of the hair.  
18 I mean, they are in granules, and they are -- can be all  
19 together, make it real solid, or in most cases the color-  
20 ation is in pigment and close together and they are not  
21 a real solid color under the microscope.

22 Okay. The cortical fusi are little spaces, small  
23 air spaces in a shaft of the hair.

24 The ovoid bodies are other black or dark areas.  
25 Some people have more, some have less. And it is an

1 identifying feature, and in the position the way they are.  
2 The way they are stationed, if you want to put it, all  
3 over the hair shaft.

4 There are several other -- there are other things  
5 which you look for, such as race. We can identify three  
6 race types which are caucasian, negroid and mongoloid.

7 THE COURT: Why don't you come on back down here  
8 and use the --

9 A Well, I'm through with it now. I'm just looking  
10 at this, I'm through with it. I just had these written  
11 down, which I had fifteen points, and on here I am only  
12 showing about eleven of the points as far as that, and  
13 these other were explainable. Let's see, race and then  
14 the color of the hair, which I didn't mention there, and  
15 there is a shape of the hair, whether it's oval, flat or  
16 round.

17 Then the size has something to do with it, not  
18 just the shape, the size of the hair varies on different  
19 parts of the body, different people's head hair or other  
20 parts of the body is a different size.

21 And the length and any damage done to the hair;  
22 sometimes it will be broken. A lot of people have the  
23 singed hair or the way it's cut is another part of an  
24 identifying feature, and that covers those points which  
25 may say something about the hair and what I look for. You

1 might understand it a little better.

2 Q Mr. Berry, then is what you are telling the jury,  
3 every person's hair is made up of eleven to fifteen items  
4 that you mentioned?

5 A Yes.

6 Q But this is just a drawing?

7 A That's just a drawing. This is just a -- that's  
8 right.

9 Q To show the parts. So on a given person, these  
10 dark spaces might be narrower or wider?

11 A That's right.

12 Q Or these scales might be differently aligned  
13 depending on the individual, is that correct?

14 A That's true.

15 Q Could you describe for the jury what procedure  
16 you go through to make a hair comparison.

17 A When we have the hair submitted unknown and known  
18 hairs, I mount them on a slide. It's about a two and a  
19 half inch by three-quarters of an inch slide, about that  
20 long, about so wide. We mount them in a mounting fluid  
21 we call Coverbond, if it means anything. It's a -- you  
22 use it for other kind of mounting medium. It's a mounting  
23 medium. Then we put a slide cover over it and let it set.  
24 It takes six to twelve hours to set before we look at the  
25 slide. Then we put it under a comparison microscope which



1 has two eye pieces, but two different areas for looking  
2 at two different objects and putting them together under  
3 the microscope. When you put them together, there is a  
4 dividing line you can just join up and look up and see  
5 if you can find a comparison. I am sure that maybe you  
6 have seen pictures of things being shown, maybe on  
7 television sometime. It's just like showing a side by  
8 side picture on television. You've seen it, I know, on  
9 football. Not playbacks, but they will be showing two  
10 different plays, a runner out here and a blocker maybe  
11 over here. But it's the say way, you've got a line right  
12 down the middle, and you can adjust those and you can  
13 adjust the hairs in the known sample, you can adjust it  
14 around where you are running through all your hair  
15 sample, and the same way with your unknown hairs for  
16 a comparison. Now, when I make a comparison, I may join  
17 these up under the slide and get a good comparision by  
18 just looking at the different views, but we go the whole  
19 length of the hair that we have. We don't do just a part  
20 of it, because sometimes you can find a part of someone's  
21 hair that might be a part, just like a part of another  
22 hair that you have, but you want to adjust the microscope  
23 and you want to adjust your eyes and you want to run  
24 the whole length of comparison on both the known and the  
25 unknown hair so that you will know that you are making a

1 correct comparison and a right comparison.

2 Q What magnification does your microscope enlarge?

3 A We run from about one sixty to about three hundred.  
4 Actually about a hundred to three hundred powers under the  
5 microscope.

6 Q Does that mean that a hair would be enlarged up to  
7 three hundred times?

8 A Yes, uh-huh.

9 Q The way we see it?

10 A And under both sides you use the same magnification  
11 because it would kind of defeat your purpose if you had  
12 one under here say at a hundred and you run another one  
13 up to three hundred, the difference, you have to have  
14 them both the same size, because you wouldn't be adjusting  
15 to the same size, you wouldn't have the same size hair, or  
16 if you say you had a smaller hair and actually the hair  
17 was larger in size on one of them and smaller on the other  
18 you could run one up to change the magnification of them  
19 so it would be almost the same size as the one you are  
20 looking at, but that's not the way it's done. You use the  
21 same power of microscope on both adjustments.

22 Q Do you compare the unknown hair with every known  
23 hair that you have received from a suspect?

24 A Yes, with every known -- say if we are running head  
25 hair comparisons, we will run the unknown hair with all the

1 hairs that have been submitted. We ask for twelve to  
2 fifteen hairs from over the head area and the pubic hair is  
3 the same way, so that we can have more comparison.

4 Q How many points or characteristics out of the  
5 fifteen that you have told about do you find before you  
6 determine that a hair is consistent?

7 A Well, I use the fifteen points. If they don't  
8 compare in the fifteen points, we can sometimes say they  
9 are similar, they could come from somebody, but it would  
10 not be a -- you could not say that they are consistent  
11 microscopically unless they have the fifteen points.

12 Q So before you say microscopically consistent, the  
13 unknown hair and the known hairs have to have the same --

14 A Yes.

15 Q -- fifteen characteristics?

16 A Yes.

17 Q Why are you usually asked to make a hair comparison?

18 A What was that?

19 Q Why are you usually asked to make a hair comparison?  
20 What's the purpose of it?

21 A Well, to identify people who have been in the area  
22 or possible suspects, possible victims of the crimes or  
23 what has happened.

24 Q Mr. Berry, I would like to call your attention to  
25 August 30th of 1982, and ask if the OSBI received some

1 evidence from this particular case?

2 A Yes, I did, at Oklahoma City.

3 Q And do you know where that evidence came from?

4 A Other than what was a submittal sheet that comes  
5 with every piece of evidence that we accept, it has to  
6 have the submitters name, the location, the type of  
7 offense and the date that it was -- that the offense  
8 happened and from the county it come from and the person  
9 submitting it, like I say.

10 Q Do your records show what officer from Ada submitted  
11 that evidence?

12 A Yes.

13 Q Who was that?

14 A Dennis Smith.

15 Q Did that evidence that you received on that partic-  
16 ular day include a sexual assault kit?

17 A Yes, it did.

18 Q What kind of items were in that, enclosed in  
19 that sexual assault kit?

20 A A glass vial containing whole blood. The assault  
21 kit was from the victim. The glass vial containing one  
22 vaginal swab. Another glass vial containing another  
23 vaginal swab. Another glass vial containing a saliva  
24 swab sample, and a glass vial containing a controlled  
25 swab for -- in other words, one that had not been used

1 that we use to make comparisons and make sure that there  
2 is not any interfering other chemicals or foreign matter.  
3 So we have a clean one, in other words. And number six  
4 is another one called an extra swab. It's another to be  
5 used for a control swab or in the case of the assault kit  
6 can be used by the medical examiner for some other reason.  
7 And a white envelope containing pubic combings. Another  
8 white envelope containing pulled pubic hair. Another  
9 white envelope containing pulled head hair. Another  
10 white envelope that contains saliva on a filter paper.  
11 We use this for possible analysis of blood type antigen  
12 secretion. Another white envelope for right and left hand  
13 fingernail clippings. A slide holder that contains  
14 vaginal smear slides, and in that, that's all that comes  
15 in the sexual assault kit.

16 Q Did you examine the items then in the sexual  
17 assault kit?

18 A Did I examine them? Yes, I did.

19 Q What did your examination reveal as to the vaginal  
20 swabs and the vaginal smears?

21 A The vaginal swab was an identified chemical. We  
22 tested it and we found acid phosphatase which is a prime  
23 constituent of semen. On the vaginal slides we found  
24 the spermatozoa on the slides.

25 Q Were you able to obtain any results from the saliva

1 sample or the blood or the fingernail scrapings?

2 A From the blood, yes. The blood sample was human  
3 blood type O from Mrs. [REDACTED]

4 Q Were you able to determine anything else of value  
5 to the case from the other items you have mentioned, other  
6 than the vaginal swabs, other than the hair.

7 A The public combings contained one hair which was  
8 dissimilar to [REDACTED] hair until we received some other  
9 evidence here to make comparison. It was dissimilar to  
10 hers. And it was identified under the microscope of a  
11 different race.

12 Q Were you able to tell immediately what race that  
13 hair was from?

14 A Yes.

15 Q And what was that?

16 A A negroid race.

17 Q Did you examine and receive also, Mr. Berry, the  
18 bedclothes in that group of evidence that you received that  
19 day?

20 A Yes. Yes, ma'am. Yes, I did.

21 Q Did you find anything in the bedclothes that was  
22 later examined?

23 A On one of the sheets submitted, which was a bottom  
24 sheet, we found one negroid hair that was dissimilar, of  
25 course, to the victim's hair.

1 Q I would like to call your attention to, now, later  
2 in January of 198-- or later on in early January 1983 and  
3 ask if you received some hair samples, more hair samples  
4 from the Ada Police Department?

5 A Yes, I did.

6 Q And do you know how you received those?

7 A They were received in January at the Oklahoma State  
8 Bureau laboratory in Oklahoma City on January 28th, and  
9 they contained hair samples and saliva samples of Calvin  
10 Scott.

11 Q Mr. Berry, did you make a comparison, then, between  
12 the unknown hair that was found in the pubic combing of  
13 [REDACTED] and the known pubic hairs of Calvin Scott?

14 A Yes, I did.

15 Q Could you tell the jury how you did that comparison?

16 A I did it the same way as I explained a while ago.  
17 Mounted the unknown hairs and the known hairs of Calvin  
18 Scott. The unknown hairs from the bedclothes and from  
19 the pubic combing, they were already mounted. And I  
20 mounted the known head hair and known pubic hair from  
21 Mr. Scott. These were compared to the unknown hairs  
22 I had identified as negroid, and identified that one from  
23 the pubic combing was consistent with the microscopic  
24 characteristics of pubic hairs of Mr. Scott. And the  
25 bottom sheet hair was a head hair which was microscopically

1 consistent to one head hair from Mr. Scott.

2 We had twenty-five head hairs submitted from Mr.  
3 Scott which were mounted and made the comparison with, and  
4 sixteen head hairs -- sixteen pubic hairs from Mr. Scott  
5 made the comparison with those, of the one unknown hair.

6 Q So then what was your final finding, your final  
7 determination?

8 A Well, it was that they were consistent. We found  
9 the pubic hair was consistent to Mr. Scott's pubic hair  
10 and that the unknown hair on the bed sheet was microscop-  
11 ically consistent to Mr. Scott's head hair.

12 Q Mr. Berry, how unique is hair to an individual?

13 A How do what?

14 Q How unique is hair to a particular individual?

15 A I didn't hear you too well.

16 Q How unique is hair to a particular individual?

17 A How unique? Well, there has been one man who has  
18 made --

19 Q Let me ask you this just in this way. Do you, in  
20 your experience, do you know if two people have ever  
21 been known to have hair alike?

22 A With comparison of other criminologists, we have not,  
23 which is not -- hairs are not like fingerprints. Hairs  
24 are not any way like fingerprints except for identifying  
25 features. The criminologists that I have known and talked to,



1 even some of Mr. Stone, Dr. Stone out of Ft. Worth, I. C.  
2 Stone, have never found a hair of two people the same.  
3 They are not saying that there would be, but there have  
4 not been any found that are.

5 Q And in your experience, then, have you ever come  
6 across two people with the same hair characteristics?

7 A No, I have not.

8 Q Do you know whether or not, Mr. Berry, there have  
9 ever been any studies done as to the probabilities of  
10 finding another person with hair like ours, or --

11 A Well, there is one gentleman out of Canada, his  
12 name is B. D. Goday, he made a study. He's the only one  
13 that has made a study that's been published, and he has  
14 found that head hair, one person in forty-five hundred  
15 would have a chance of -- in other words, identification  
16 of one hair to -- I mean, one person in forty-five hundred  
17 may have features of hair comparison in head hair. Now  
18 one in eight hundred in pubic hairs. That's his results.  
19 That's the only one I have been able to find who has ever  
20 come up with any results with figures. Others have made  
21 statements on theory, but they haven't made any practice,  
22 or made any study.

23 Q Would he have given, or would there be any number  
24 type odds to the probability of the hair found on [REDACTED]  
25 [REDACTED] bottom sheet and the hair, unknown hair found in

1 her pubic combings, both belonging to anyone other than  
2 the defendant, Calvin Scott?

3 A His hair, I would say this: his studies were made  
4 on caucasian hair, I believe. In this case having two  
5 hairs identified, two hairs of different kind, I mean,  
6 head hair from one person would be quite large, I would say,  
7 I would not give a figure. It would be quite large.

8 MRS. SHEW: I have no further questions.

9 THE COURT: Mr. Edwards.

10  
11 CROSS EXAMINATION

12 BY MR. EDWARDS:

13 Q The sexual assault kit that you received back in  
14 August of '82, it contained -- everything contained in  
15 there came from the crime scene or from -- excuse me,  
16 let me rephrase that. Everything you received either  
17 came from the sexual assault kit or from the crime scene,  
18 is that correct?

19 A Yes.

20 Q Okay. You received no other hair or anything  
21 then until January of '83, is that right?

22 A Yes, sir.

23 Q What did you receive in January of '83?

24 A Well, I didn't receive anything until in March --  
25 January, March, April -- April of '83, we picked up the

1 evidence from the Oklahoma City laboratory to do the --  
2 we picked up several cases. They were backlogged quite  
3 a bit, so we picked up several cases to work and that's when  
4 we picked up this case and it was transported to our  
5 laboratory.

6 Q What was contained in that?

7 A Okay. Hair samples and saliva samples from Calvin  
8 Scott.

9 Q Head and pubic hair samples?

10 A Yes.

11 Q From Calvin Scott, and saliva samples?

12 A Yes.

13 Q Later on, I believe in May or June, you received a  
14 blood sample from Calvin Scott, as well?

15 A Yes, that was directly mailed to us, directly.

16 Q Now, you testified that from the evidence submitted  
17 back in August, and the evidence you received in April,  
18 there was two hairs that were microscopically consistent  
19 with the defendant's, is that correct?

20 A Yes, sir.

21 Q Mrs. Shew asked you, that no two people, no hairs  
22 are identical, is that right?

23 A Now, wait a minute. What are you saying?

24 Q I believe she asked you that no two hairs are  
25 perfectly identical?

1 A No, I didn't say that. I don't believe I said  
2 that.

3 Q What did you say?

4 A No. She asked me about comparison of people's  
5 hair. I mean, separate people.

6 Q Okay, no two people's hair, then, are identical?

7 A That is right.

8 Q -- as far as you can determine. You can say that  
9 those hairs were microscopically consistent, is that right?

10 A Yes, sir.

11 Q You can't say they were the same, is that right?

12 A Well, I can't say that-- they are not like  
13 fingerprints is what I said earlier.

14 Q Okay, now, fingerprints, you could say, this is a  
15 fingerprint of this person?

16 A Yes.

17 Q But hair is not quite like that. You can only say  
18 it's consistent, is that correct?

19 A Microscopically consistent.

20 Q Based on those points you went over. Are the hair  
21 on any one person, take me for instance, is each of my  
22 head hairs the same? Are they going to be microscopically  
23 consistent?

24 A I would not say-- different areas would be different,  
25 that's why we ask for twelve different, to fifteen different

1 samples taken from at least three or four parts of the  
2 head.

3 Q All right. So in effect it would depend on where  
4 the hair came from?

5 A You would have -- most of the points would be  
6 there, would be microscopically -- the points would be  
7 there, but not all in the same way.

8 Q Okay.

9 A What I mean is, there may be a little shape of  
10 the hair might be a little different.

11 Q Do you have in your notes there the result of each  
12 point on the hair that you say are consistent?

13 A Well, the result is that they are consistent. It's  
14 just one hair was consistent.

15 Q You don't put in your report the result of each  
16 point on the hair? You just put the final result that  
17 they are consistent, is that correct?

18 A Yes.

19 Q Okay. The study done by Mr. Goday, that's the  
20 only study that's been published?

21 A That's all that have been published as far as  
22 figures and actual hair comparison.

23 Q When was it published?

24 A "Pubic Hair Probabilities," of his was published  
25 in the Journal of Forensic Science, Volume 21, Number 3,

1 July 1976.

2 Q Okay, and what about the other.

3 A "The Human Hair," was Volume 19, July 1974.

4 Q So these were published what, nine, eight --

5 A Yes, seven or eight years ago.

6 Q Since then there have been none published?

7 A No.

8 Q There were none prior to that, as far as you know?

9 A No, not that I know of.

10 Q How does a report get published in your journal?

11 A Sir?

12 Q How does a report get published in your journal?

13 A By submitting it and checking it from -- they check  
14 it, other doctor, PhD's in forensic science check it, from  
15 the Journal of Forensic Science.

16 Q Okay. But they don't -- whenever an article is  
17 submitted on certain tests, the Journal itself does not  
18 necessarily run those tests to make sure that everything  
19 is done right, is that correct?

20 A Other than the way it's explained that he does it,  
21 a person does the tests.

22 Q But as far as you know then, Goday is the only  
23 one that has done this report?

24 A Yes.

25 Q That's the only report.

1 A That's the only one I know of, yes, sir, that's  
2 given any probabilities.

3 Q In your report you also state that there was only  
4 one head hair and one pubic hair, is that correct?

5 A Yes.

6 Q That was consistent with the defendant's. That's  
7 all, right?

8 A That's all. That's the only two hairs I had.

9 Q Okay, that's the only two you had. The other items  
10 that you have -- forget for a moment about the hairs,  
11 other than the hairs -- was there anything in either one  
12 of these, in any of this evidence that connects this  
13 defendant to the victim, other than the two hairs?

14 A Not that I have.

15 Q Okay. One more time. You can only state, then, that  
16 these hairs are microscopically consistent?

17 A Yes, sir.

18 Q You can also state that it's not like fingerprints,  
19 you can't say, yes, this is fingerprints from him. You  
20 can only say they are consistent and that based on proba-  
21 bility, is that correct?

22 A Yes, sir.

23 MR. EDWARDS: That's all I have.

24 MRS. SHEW: I just have one more question.

25

REDIRECT EXAMINATION

1  
2 BY MRS. SHEW:

3 Q Mr. Berry, Mr. Edwards asked you about making a  
4 final report about each characteristic, and you said you  
5 just make the final determination. But is it accurate to  
6 say that as you are comparing these under your microscope,  
7 the unknown hair to the defendant's hair, you take each  
8 one of these and compare the size or the color or whatever,  
9 and make notes, and you do not call it microscopically  
10 consistent then unless each characteristic in the unknown is  
11 identical to each of the known?

12 A That's right, and collectively. And collectively,  
13 not just by itself.

14 MRS. SHEW: I have no other questions, Your Honor.

15 THE COURT: Thank you. You will be excused.

16 MRS. SHEW: Your Honor, we ask that Mr. Berry  
17 remain downstairs in the Victim Witness office just for  
18 a short while.

19 THE COURT: All right. The State's next witness.

20 MRS. SHEW: Your Honor, the State has no other  
21 witnesses. The State rests.

22 (Recess)

23 THE COURT: Let the record show that the parties  
24 are present and the jury is present in the courtroom after  
25 the recess. The defendant's witness.