

UNCUFF the Innocent · Daniel Holtzclaw case records

Deposition of Campbell Ruddock, March 21, 2019: pages cited on this site

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1 as a review for us; or we can request a transcript,
2 review the transcript, and that also counts as a review.

3 Q And with the Elaine Taylor expert witness
4 testimony on Holtzclaw, did you do one or the other or
5 both of those?

6 A I was present for one of her days of testimony.
7 She testified two days and I was present for one of
8 them.

9 Q And after you heard her testimony did you write
10 up a written review of her testimony?

11 A No. I believe we just talked about it. That's
12 fairly -- so when I do those in-person reviews,
13 normally what I do is I'll come back, I'll talk to the
14 analyst, we will discuss the testimony. And that's how
15 the review was handled at that time.

16 Q And what was your assessment of her expert
17 witness testimony in the Holtzclaw case?

18 MR. SMITH: At which time?

19 MS. ZELLNER: Either time, any and all.

20 MR. SMITH: Okay. Well, I --

21 MS. ZELLNER: Her trial testimony.

22 MR. SMITH: Understood. But as I have
23 told you previously, we are not getting into his review
24 afterwards. That's a personnel --

25 MS. ZELLNER: All right. Right. Yeah,

1 explanation.

2 Q Okay. Did you talk to her -- so that was, you
3 know, your input to her about the statistical
4 information she gave the jury. Did you feel that she
5 understood stochastic levels, thresholds --

6 A I was --

7 Q -- from that testimony?

8 A I was concerned that it was something we should
9 probably clear up. I felt like it was -- it came across
10 as confused.

11 Q Okay.

12 A Just really in terms of how are you explaining
13 what stochastic threshold is and why do we have one in
14 place.

15 Q Did you take some remedial measures to get her
16 to better educate herself about stochastic levels? How
17 did you deal with that problem specifically?

18 A I believe we talked about it moving forward on
19 casework. I'm not sure -- I just can't recall if we
20 discussed any papers. I know we talked about it at
21 length with subsequent casework. You know, any time we
22 get profiles it's a good learning tool to kind of help
23 explain some of those concepts. So that was an ongoing
24 thing we'd talk about during case review.

25 Q Do you feel like she understood allelic

1 dropouts?

2 A I definitely feel like she didn't explain
3 allelic dropout well, or maybe we needed to work on some
4 of the nuances of stochastics and allelic dropout.

5 Q But when you sat there in the courtroom and you
6 listened to her testimony, which was, you know, making
7 certain conclusions about the evidence, you concurred
8 with the conclusions she had drawn even though her
9 testimony about the stochastic level and the allelic
10 dropouts was unclear, you agreed with the conclusions?

11 A As far as I can recall from that first time I
12 was present in the courtroom, as I stated, my focus was
13 mostly on how she was presenting the statistical things.
14 Um, I think it felt like some of it was a little
15 confusing. She maybe got to the point of explaining
16 what stochastic was, but it wasn't not clear how she got
17 there to me from what I can recall.

18 Q Do you think the jury would have been confused
19 hearing it?

20 A It's possible. I certainly felt --

21 Q And when a jury -- when a jury is confused
22 about scientific data you would agree with me there is
23 always the possibility that they are going to reach the
24 wrong conclusion, correct, in their verdict?

25 MR. SMITH: Object to form.

1 after her testimony in the Holtzclaw trial?

2 MR. SMITH: Object to form. And I'm not
3 instructing him not to answer. It's just object to
4 form. You can answer.

5 Q (By Ms. Zellner) Over the objection.

6 A If I recall correctly my personal belief on the
7 contact DNA is it's very important to kind of explain
8 both sides of the -- you know, if we don't know how it
9 got there it's equally as possible to say this could be
10 how it's deposited, this could not be how it's
11 deposited. We just don't know scientifically.

12 So I think we talked about the kind of nuances
13 of when you're explaining that information to make sure
14 it's kind of weighted clearly. You know, how something
15 got there as opposed to how it didn't get there is kind
16 of weighted equally. We just don't have data for that.

17 Q And what was it that Elaine Taylor said that
18 caused you to talk to her about explaining both sides of
19 how trace or transfer DNA might end up on an item of
20 evidence?

21 A Actually, I can't recall other than I believe
22 it was because I felt like there was some confusion as
23 to how it was presented.

24 Q What was your understanding of any DNA evidence
25 that was presented at Holtzclaw's trial that was

1 the victims, was it on the zipper of Holtzclaw's pants?

2 A I can't recall if it was a zipper or the zipper
3 fly portion, but it was from around the zipper area.

4 Q So when you talked to Elaine Taylor about
5 transfer DNA were your comments based upon her testimony
6 about the DNA profile found on Holtzclaw's pants?

7 A No. I think when I talked to her after her
8 testimony it was kind of a generalized concept of, you
9 know, when we have trace DNA make sure you weigh it
10 properly both sides. It's a complicated situation.

11 My own experience is contact DNA for us when we
12 testify is probably the most common question we get
13 asked about. It's one of the most challenging things
14 for all of us as analysts testifying to, so we're
15 definitely focused on continuing to educate ourselves on
16 it and make sure we're presenting it in an appropriate
17 fashion.

18 Q Was it after Taylor testified that you
19 recommended to the staff that they read a certain
20 article or become familiar with a certain article? I
21 think it's from Meakin and Jamieson.

22 A That particular article, actually before Elaine
23 testified I made a point of giving that article to all
24 the staff in the lab. I felt it was a very good, strong
25 paper to return to if you're asked any questions about

1 contact DNA in general. So I --

2 Q And did you find -- since Taylor had the
3 article before she testified, was her testimony
4 consistent with the findings in the article?

5 A I think the best way for me to describe that
6 would be I felt like it was a little confused.

7 Q So explain to me -- let's talk about transfer
8 DNA or contact DNA. Does finding someone's DNA profile
9 on, say, an officer's pants when the officer has stopped
10 the person in a traffic stop or whatever, does that
11 indicate there has been a crime committed?

12 A No. I mean, all that means is we recovered
13 this person's DNA from this item. And that's pretty
14 much what we're limited to say. Unless, of course, you
15 know, if it's blood and we can identify blood then we
16 can say the DNA profile, blood.

17 But just in general if we get a swab from --
18 that's perceived to be a contact swab all we can say is
19 we recovered DNA from this item.

20 Q And would you -- I mean, would you agree with
21 me there could be a totally innocent explanation for the
22 DNA in the Holtzclaw case being on Daniel Holtzclaw 's
23 pants?

24 MR. SMITH: Object to the form. You can
25 answer it if you understand it.

1 MS. ZELLNER: Over the --

2 A Yeah. I mean, I would certainly say that when
3 you're talking about a trace profile, there are multiple
4 explanations of how that could get there. We have no
5 scientific data to support any one of them. So, yeah,
6 certainly any explanation you can give, you have to
7 entertain it's possible.

8 Q At the time that the testing was done on
9 Holtzclaw's pants was there any test done in the
10 Oklahoma City crime lab for vaginal fluid?

11 A No, we have never tested for vaginal fluids.

12 Q And are you aware of any tests that were done
13 prior to the Holtzclaw trial for vaginal fluid in other
14 labs? I'm talking about the Dane stain test, lugols.
15 Were you aware of those tests?

16 A So I'm aware of them as tests, but it's my
17 understanding they are non-specific for vaginal fluid.
18 There's publications that exist that show -- although
19 they've been used to test for vaginal fluid, they can't
20 say that vaginal fluid is the only cellular material
21 that tests positive under those tests. So in that
22 regard it's more of a presumptive test as opposed to
23 conclusive.

24 Q So what you're saying is at the time of
25 Holtzclaw's trial there was no definitive test for

1 vaginal fluid anywhere in the country as far as you
2 know?

3 A I don't know about that. I know in our lab we
4 definitely didn't have any tests for it.

5 Q And did you agree with Elaine Taylor's
6 testimony that this DNA profile could have come from
7 vaginal fluid?

8 A It's one of many possibilities. It's
9 definitely not the only possibility, but it's possible.

10 Q Did she overstate that the vaginal fluid
11 created the DNA profile?

12 MR. SMITH: Object to the form. Limited
13 to your recollection of your talking to her after her
14 testimony.

15 A I remember Elaine stating vaginal fluids and
16 stating biological fluids. That was a part that, for
17 me, was confusing.

18 Q (By Ms. Zellner) When you say confusing, are
19 you using that word synonymously with incorrect?

20 A No. Because I feel like in stating it came
21 from a biological fluid, that's correct, it did come
22 from a biological fluid. In stating it's vaginal fluid,
23 personally I feel like that's an assumption. So
24 vaginal --

25 Q Explain that.

1 MR. SMITH: Can you let him --

2 MS. ZELLNER: Okay. Yeah. It was a lag
3 there. Go ahead.

4 MR. SMITH: Okay.

5 A Yeah. So I mean, personally I believe it's a
6 nuance. I mean, a biological fluid does describe
7 contact DNA appropriately. Vaginal fluid, yes, it's one
8 of the possibilities that biological fluid was deposited
9 there, but it's not the only possibility.

10 Q (By Ms. Zellner) But isn't it correct that you
11 can have transfer DNA from epithelial cells. It doesn't
12 have to come from a bodily fluid?

13 A Yeah. An epithelial cell to me is a bodily
14 fluid. Basically, any cell that contains DNA I make the
15 argument is a bodily fluid, a biological fluid. We just
16 can't state the cellular origin of that DNA profile.

17 Q Do you have any scientific support for that
18 statement you just made, that an epithelial cell is also
19 categorized as a bodily fluid?

20 A No. I mean, I guess -- I mean, if you're going
21 to be technical an epithelial cell is cellular material.
22 I mean, your body contains epithelial cells,
23 so that's -- is an epithelial cell a fluid? No, an
24 epithelial cell is not fluid. But as a component of a
25 body, yes.

1 Q So it's just part of your body, but it's not a
2 fluid.

3 A Yeah, I would stay that's definitely a more
4 correct statement.

5 Q Because name for me the bodily fluids
6 that can -- in 2015 that the Oklahoma City crime lab
7 could test for? I mean, obviously they can test semen;
8 right?

9 A Yeah. So, I mean, it's very basic. We could,
10 at that time, test for seminal fluids and blood. That
11 was the only serology testing we could do.

12 Q And you could not test for epithelial cells?

13 A That's correct.

14 Q What about saliva?

15 A At that time we -- we didn't have -- we run
16 competency tests that are have a protocol for saliva.
17 And that was taken off line.

18 Q How did that -- I mean, what was the rationale
19 for not being able to test for saliva at that point in
20 time in 2015?

21 A Well, the rationale is the only tests we had
22 for that was a amylase test.

23 Q Right.

24 A So you make the amylase plate. Again, amylase
25 isn't specific for saliva. So there is other -- other

1 A So usually when we send -- we have sent stuff
2 out to other labs. The two instances -- excuse me --
3 the two instances where that happened would be for YSDR
4 testing that we didn't have or for mitochondrial testing
5 for bones. That's really the only times we send
6 something out for additional tests.

7 Q Okay. So you were involved in the decision to
8 proceed ahead with trying to get the DNA profile; right,
9 on the Holtzclaw case?

10 A Honestly, I can't fully remember.

11 Q Well, within the lab hierarchy were -- were the
12 lab analysts such as Elaine Taylor, who was your
13 subordinate, were they required to consult with you
14 before they made decisions about consuming swabs or
15 doing testing or any of that or were they not?

16 A So everybody in the lab that's trained as a
17 forensic scientist is more than capable of making their
18 own decisions on what is best for testing. The only
19 time, really, I would be involved is if it's something
20 they think is complex they might want to run it by a
21 second set of ears. If you are talking about consuming
22 a swab, obviously, we try and retain what we can in
23 cases in a defensive testing.

24 Our approach for an item of evidence is if we
25 take one swab from that, the original item is still left

1 But I think that product is no longer being made. We
2 actually tried to buy that on a grant last year and I
3 was told it wasn't available.

4 Q Are you aware of non-destructive vaginal fluid
5 testing that's being done now in the United States?

6 A No.

7 Q Okay. And if that testing were peer reviewed
8 and found to be reliable you would certainly agree with
9 me that that testing ought to be attempted on the
10 remaining evidence, DNA evidence on the Holtzclaw case;
11 correct?

12 MR. SMITH: Object to the form. You can
13 answer it if you understand it.

14 A I mean, certainly if there is a peer-reviewed
15 agreed-upon test, and there is a desire to have that
16 item tested with that technology -- I mean, we can't do
17 it in our lab -- but, certainly, I think it should be
18 made available for that testing.

19 Q (By Ms. Zellner) So going back to Elaine
20 Taylor's testimony at the trial, she testified about the
21 lubrication abilities of a 17-year-old. Do you remember
22 that testimony?

23 A Vaguely.

24 Q Right. Do you think that a scientist
25 testifying about the biological capability of a

1 17-year-old to produce lubrication is within the realm
2 of that scientist's expertise?

3 A No. No, I don't. As a DNA analyst we're
4 really encapsulated within DNA, our ability to get a
5 profile from DNA. I would kind of look on that as more
6 anecdotal or medical related as opposed to a DNA
7 analyst.

8 Q And if that's anecdotal or medical would that
9 be beyond the purview of what a scientist should be
10 testifying about?

11 A It's definitely not something I would include
12 in the testimony.

13 Q And so when you heard that testimony did you
14 also discuss that with Elaine Taylor, that she was
15 outside of her purview as a scientist, as a DNA
16 scientist?

17 A Honestly, I can't recall.

18 Q So you don't recall, as you sit here today,
19 that you actually had a discussion with her about that
20 specific testimony on vaginal lubrication?

21 A No. I know we discussed, like I said earlier,
22 the kind of given weight to biological fluids, you know,
23 how they got there. You have to be careful in stating
24 that we can't really -- we don't really have the
25 capabilities to say this is how this fluid or this DNA

1 profile got here. I remember we did talk about that,
2 about you had to be careful how you present that.

3 Q Right. Because a jury, if they heard that the
4 scientist was testifying that this was vaginal fluid of
5 one of the victims would be pretty incriminating to
6 Mr. Holtzclaw. Don't you agree?

7 MR. SMITH: Object to the form.

8 MS. ZELLNER: Over the objection.

9 MR. SMITH: You can answer it.

10 A I mean, again, I think that's probably a
11 question for a jury. I could go back to saying I would
12 not present evidence in that fashion. I believe we
13 should be -- restrict ourselves to DNA unless we have
14 data to support that.

15 Q (By Ms. Zellner) So as you sit here today is it
16 your opinion that the DNA profile that was found on
17 Daniel Holtzclaw's pants was actually DNA that had a
18 completely innocent explanation?

19 MR. GLASS: Object to the form.

20 MS. ZELLNER: Over the objection.

21 A I have -- honestly have no idea. Because the
22 problem is vaginal fluids is a possibility. Innocent
23 transfer is a possibility. Item-to-item transfer is a
24 possibility. I mean, all these things -- we can't
25 substantiate either one of those with data, so you have

1 to entertain all of those are a possibility.

2 Q (By Ms. Zellner) Well, you -- you can't
3 substantiate that it was vaginal fluid; correct?

4 A Yeah.

5 Q Because you just told me there was absolutely
6 no test that could determine that, no scientific test;
7 right?

8 A Yeah. I would agree with you we can't
9 substantiate it's vaginal fluid, yes.

10 Q Right. So if you can't substantiate it's
11 vaginal fluid, and you know it's not blood and it's not
12 seminal fluid -- is that right? Am I right, those were
13 ruled out?

14 A Yeah. So really that --

15 Q And that leaves you with -- that leaves you
16 with transfer DNA; correct?

17 MR. SMITH: Object to the form.

18 MS. ZELLNER: Over the objection.

19 A So the transfer is a possibility. Vaginal
20 fluids is a possibility. Transfer and vaginal fluids is
21 a possibility. I mean, it's -- really, we just don't
22 know.

23 Q (By Ms. Zellner) But in terms of evidence
24 presented to the jury, vaginal fluid isn't a possibility
25 because there was no way to determine it; right?