

1 THE COURT: His name is Elmo.

2 MS. COLSTON: He's got it right on here, e-l-m-o.

3 THE COURT: I know. I know. We're done now.

4 *****

5 FRANCIS JAY JARVIS

6 was called as a witness by and on behalf of the State, and
7 after being first duly sworn, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MS. COLSTON:

11 Q Mr. Jarvis, if you will please speak up so the jury
12 can hear you and tell us your name.

13 A Francis Jarvis.

14 Q And where are you employed at?

15 A I'm employed at the Northwestern Regional Crime
16 Laboratory in Summerville.

17 Q Now I called for the witness and the jurors took
18 their notes, I called for Jay Jarvis. You're the same
19 person; right?

20 A Yes, I am.

21 Q All right. Mr. Jarvis, what do you do with the
22 crime laboratory in Summerville, Georgia?

23 A I am currently the laboratory manager.

24 Q The laboratory manager? And so as a result do you
25 have the occasion to get things that come into the crime lab,

1 test them, look at evidence and different things such as
2 that?

3 A Yes, but that is concerning only the field of
4 firearms at this time.

5 Q Okay. Have you done other types of evidence in the
6 past as well?

7 A Over my career I have, yes.

8 Q And what all are you qualified to examine and look
9 at besides firearms?

10 A Well, currently that is the only discipline that I
11 am qualified to examine evidence in.

12 Q Okay. Those are the ones that you are looking at
13 now?

14 A That's correct.

15 Q Now was, in fact, -- did you receive evidence in
16 the case that we're here on today, the case where a young man
17 named Isaac Dawkins was shot and killed on -- well, shot on
18 January 11th, 2000?

19 A Yes, I did.

20 Q And what did you receive and from whom?

21 A I received several items, one of which was a lead
22 bullet core which was taken from the victim at autopsy. The
23 other items were a 9mm cartridge case and a third item
24 related to the homicide was a small fragment of a metal
25 bullet jacket.

1 Q Okay. Fragment of bullet jacket? Who did you
2 receive that from?

3 A The fragment of the bullet jacket was received from
4 the Rome Police Department.

5 Q All right. And the lead bullet core was that
6 received from -- you said that was from the autopsy and the
7 9mm cartridge case, that was received from whom?

8 A That was also submitted by the Rome Police
9 Department.

10 Q All right. What were you asked to do with these
11 items?

12 A The bullet fragment and cartridge case I was asked
13 to examine to see if I could determine what type of weapon
14 they may have been fired from.

15 Q All right. And were you able to determine what
16 type of weapon the bullet for -- that you received in autopsy
17 and the 9mm cartridge case and the case fragment were fired
18 from?

19 A The lead bullet core is -- what a bullet core is
20 it's the center mass portion of a metal jacketed bullet. It
21 does not bear any of the rifling marks that are placed on the
22 bullet as it passes down the barrel of a firearm. So it's
23 usually virtually impossible to know what type of a weapon
24 that was fired from. The metal jacket fragment was very
25 small. I cannot state with absolute certainty even what type

1 caliber that fragment -- what type of weapon it was fired
2 from. The cartridge case was a 9mm manufactured by Federal
3 and it was consistent with having been fired in a Ruger 9mm
4 pistol.

5 Q All right. The lead bullet core and the fragment
6 of the bullet jacket, were they consistent with the
7 ammunition found -- the Federal ammunition that you're
8 talking about that you -- I'm confused. Let me back up.

9 You were able to determine the 9mm cartridge case was
10 fired from a Ruger; correct?

11 A Most likely a Ruger 9mm pistol, yes.

12 Q Were you able to determine what type of ammunition
13 that was?

14 A Yes, the cartridge case was stamped with the
15 Federal logo on the bottom, so we know it was Federal
16 ammunition.

17 Q Was that cartridge case, did it look like it was
18 rusted or old or had been out in the weather for a while?

19 A No, it did not. It was in very good condition. It
20 was not -- it had no oxidation or corrosion.

21 Q Have you had experience in your career with the
22 bullet -- the bullet shell casings that do have the oxidation
23 and corrosion from being out in the weather?

24 A Yes, the longer they are exposed to the elements,
25 the more oxidation and corrosion that you would see.

1 Q Do you know how long it takes to start seeing signs
2 of that?

3 A It depends on the weather; whether we have a lot of
4 rain or the temperatures and extremes but based on the
5 condition of this cartridge case, I would say it was very
6 recent..

7 Q Very recent?

8 A Yes.

9 Q And so it was a Federal ammunition cartridge case.
10 Now the lead bullet core and the fragment of the bullet
11 jacket, was there anything consistent with those two items
12 that -- with the cartridge case?

13 A Yes, the metal jacket fragment on the inside
14 surface, which would be the surface that's actually in
15 contact with the lead core had a series of small ribs which
16 are consistent with Federal 9mm ammunition.

17 Q All right. So the core taken from the victim at
18 autopsy as well as the fragment of the bullet jacket were
19 consistent with the same 9mm Federal ammunition that you got
20 from the cartridge case that was received from somewhere
21 else?

22 A That's correct, yes.

23 Q And that was consistent with having been fired from
24 a Ruger?

25 A There was very little of the rifling

1 characteristics on the metal jacket to look at but the one
2 dimension of the groove impression on that fragment that was
3 also consistent with the dimension of a bullet that had been
4 fired from a Ruger pistol.

5 Q All right. Later on after you looked at those
6 things, did you also receive a gun that was brought to you, a
7 Keltec gun that was used in another shooting or maybe it was
8 very close in time but something I think around May? Did you
9 receive a gun from a shooting that was used out -- the same
10 night in another area of town?

11 A Yes, I was -- a Keltec pistol was submitted later
12 on. Yes, that's correct.

13 Q All right. What did you do with the Keltec pistol?

14 A I was asked to test fire it and compare it with the
15 cartridge case that had been submitted on the Dawkins'
16 homicide.

17 Q Did you, in fact, do that?

18 A Yes, I did.

19 Q And is that where your expertise lies, Mr. Jarvis,
20 is in looking at -- doing test firings like we see on
21 television and then comparing the two bullets from a gun and
22 a bullet that you have to see if it matches or not?

23 A That's correct, yes.

24 Q How often have you testified to your results in
25 those type of cases?

1 A Between 500 and 1,000 times.

2 Q All right. So how many tests would you guess that
3 you have performed in that time?

4 A Probably between five and ten thousand.

5 Q And so did you, in fact, do -- conduct a test with
6 the Keltec firearm that was submitted to you from the
7 shooting, the other shooting and the one that --

8 MR. ABERNATHY: Judge, I object. There's no
9 evidence that this firearm was used in another shooting
10 or --

11 MS. COLSTON: Well, there will but I took this
12 witness out of turn. I will connect it up.

13 THE COURT: I'll let her connect it up later.

14 MR. ABERNATHY: All right. Okay.

15 Q [By Ms. Colston] I wanted to get you back to
16 Summerville, Mr. Jarvis, and you not have to come tomorrow.
17 So the -- did you test the Keltec gun against the ammunition
18 and the fragments that were taken from Isaac Dawkins?

19 A Yes, I compared the -- primarily the cartridge case
20 was obviously in the best condition and I compared that with
21 the test cartridge cases that I fired in the Keltec pistol.

22 Q Okay. What was your conclusion?

23 A That the cartridge case taken from the scene where
24 Mr. Dawkins was shot was not fired from the Keltec pistol.

25 Q Thank you. Were you present also when Detective

1 Perry Maynard brought in some dog remains?

2 A Yes, I was.

3 Q And when he brought in these dog remains, did he
4 bring them to the Summerville Crime Lab?

5 A Yes, he did.

6 Q And were you present when the dog was taken out of
7 whatever it was it? What was it in?

8 A In a plastic trash bag.

9 Q Okay. And what did y'all do?

10 A We examined the carcass along with the pathologist
11 who was employed at the laboratory at that time and we were
12 asked to see if there was any bullets or anything found in
13 the remains.

14 Q The pathologist is no longer there. He's moved to
15 where?

16 A Pennsylvania.

17 Q Pennsylvania but he didn't prepare a report, did
18 he, on this? He just looked at the dog with y'all there; is
19 that right?

20 A That's correct. We took an x-ray of the remains.

21 Q Did you bring the x-ray?

22 A Yes, I did.

23 Q Now before we get to the x-ray, did you observe
24 anything with your own eyes about --

25 MR. ABERNATHY: Judge, I'm going to object at this

1 time. May we approach?

2 THE COURT: Come up.

3 [Inaudible colloquy between Court and counsel
4 outside the hearing of the jury.]

5 THE COURT: If you want on the record, come over
6 here.

7 MR. ABERNATHY: Judge, she's already testified and
8 told you but we don't have a report of this. I know
9 nothing about what she's talking about.

10 MS. COLSTON: I didn't have a report of it either.
11 I didn't even know that they carried the dog to the
12 crime lab until Mr. Dawkins' called me, which was
13 Friday. I called Jay just as soon as I could get him
14 and I found out they did have an x-ray and I told him
15 -- I told him about this testimony; that everything was
16 going to be done. I think I told you about the x-ray.

17 MR. ABERNATHY: I don't remember anything about no
18 x-ray.

19 MS. COLSTON: Well, you're welcome to look at it.

20 MR. ABERNATHY: It's scientific evidence, Judge.
21 We're entitled to 10 days on any scientific evidence to
22 look at.

23 THE COURT: You're entitled to 10 days on a report
24 generated.

25 MS. COLSTON: I told him it was carried to the

1 crime lab. That's for sure.

2 THE COURT: And you're entitled -- you are entitled
3 if she had this x-ray 10 days in advance, you would have
4 been entitled to see it. She's telling me she didn't
5 have it.

6 MS. COLSTON: I did not.

7 THE COURT: Didn't know about it. I don't know
8 what the purpose of the x-ray is.

9 MS. COLSTON: It shows the bullet but he can
10 testify to what he saw with his own eyes with the doctor
11 -- without any x-ray.

12 THE COURT: Well, he's not going to be allowed to
13 testify as --

14 MS. COLSTON: To get into medical conclusions, I
15 know that.

16 THE COURT: The conclusions about trajectories and
17 what --

18 MS. COLSTON: No, I'm not going to do it.

19 THE COURT: But he can say what he saw.

20 MR. ABERNATHY: What did he see? What kind of
21 bullet was it? I'm entitled to know, yeah.

22 MS. COLSTON: I don't know what kind of bullet it
23 is.

24 MR. ABERNATHY: Well, I mean, if you know.

25 MS. COLSTON: I don't have an expert testimony on

1 what kind of bullet it is.

2 MR. ABERNATHY: You haven't talked to him?

3 MS. COLSTON: Yeah.

4 MR. ABERNATHY: He's told you?

5 MS. COLSTON: Yes, I have.

6 MR. ABERNATHY: Then I'm entitled to know.

7 THE COURT: Wait a minute. Slow down. Talk to me.

8 MS. COLSTON: Thank you.

9 THE COURT: Was a bullet recovered?

10 MS. COLSTON: No, sir, they just x-rayed the dog.

11 They saw the hole between his eyes and they x-rayed the

12 dog and saw the bullet in there. He's got the x-ray.

13 THE COURT: Is there a bullet in --

14 MS. COLSTON: There's a bullet in the x-ray.

15 THE COURT: They didn't remove it?

16 MS. COLSTON: No, sir.

17 THE COURT: Didn't examine it beyond that?

18 MS. COLSTON: No, sir.

19 THE COURT: Just saw it and x-rayed with the

20 bullet?

21 MS. COLSTON: Correct.

22 MR. ABERNATHY: Well, he's a ballistic expert. I

23 don't know if he knows anything about any x-ray or not.

24 I object.

25 MR. O'DELL: Object on the point of the 10-day

1 rule, I understand -- I may be incorrect -- if the
2 district attorney's office does not have it in their
3 possession, if it is in the possession of the officers
4 for whom the district attorney has the availability of
5 it and I'm assuming that those documents were there more
6 than ten days ago, then it should have been disclosed to
7 us regardless of whether she has it in her file or not.

8 MS. COLSTON: I agree and if Mr. Dawkins had called
9 and told me this before -- he didn't want to bring it
10 up. He didn't want Francine to know about this. He
11 calls me at the last minute. I have done everything
12 that I can possibly do.

13 THE COURT: Why didn't Mr. Jarvis tell you about
14 --

15 MS. COLSTON: Because they didn't -- it wasn't
16 anything anybody wrote a report on. They just didn't.
17 Nobody told me. I don't know. I can't tell you why.
18 The pathologist is not there anymore, so I don't know.
19 I'll just ask him about what he observed about the dog
20 himself.

21 THE COURT: Yeah, I'm not going to let him testify
22 or --

23 MS. COLSTON: On the x-ray?

24 THE COURT: -- show the x-ray.

25 MS. COLSTON: Okay.

1 THE COURT: But he can testify about what he saw
2 himself and what he observed.

3 [End of colloquy.]

4 Q [By Ms. Colston] Mr. Jarvis, not getting into
5 anything that the pathologist did, okay? We're not going to
6 go there. But you yourself, what you physically observed
7 yourself, what did you see when you looked at that dog that
8 Perry Maynard brought up there, what did you see?

9 A I saw what appeared to be a gunshot hole in the top
10 of the head area of the dog's head.

11 Q Okay. You're pointing to the area between the
12 eyes?

13 A Just right above in this area, yes.

14 Q And you being with -- as you are with the crime lab
15 for how many years?

16 A Twenty-two years?

17 Q Have you seen those type of injuries before to
18 people as well as animals?

19 A Yes, I have.

20 Q All right. Did you recognize it as a gunshot hole?

21 A Yes, that's what it appeared to me to be, yes.

22 Q All right.

23 MS. COLSTON: Thank you very much. The Defense
24 will have some questions for you.

25 THE COURT: Mr. Abernathy.

CROSS-EXAMINATION

BY MR. ABERNATHY:

Q Good afternoon, Mr. Jarvis.

A Good afternoon.

Q It's good to see you again. Are you telling the ladies and gentlemen of the jury that -- well, first of all explain to them what was sent to you in relation to this case that you generated reports on? I believe you testified a cartridge shell?

A Cartridge case, yes, sir.

Q Cartridge casing. Now tell the ladies and gentlemen what a casing is.

A A cartridge case is that component of the ammunition which contains the primer and the gun powder charge and in a semiautomatic pistol after the bullet passes down in the barrel the cartridge case is ejected out of the chamber area of the weapon. It's usually left behind at the scene.

Q Now this casing, you say it was Federal ammunition?

A Yes, sir, it was.

Q And it was that of a 9mm?

A Yes, sir.

Q And you didn't receive a firearm that it would fit, did you -- that it would fit into?

1 A The only firearm we received was the Keltec and we
2 determined that that was not the weapon that had fired the
3 cartridge.

4 Q Now on this casing -- scratch the casing. The
5 bullet that you received that the police department sent to
6 you, tell the ladies and gentlemen with certainty what that
7 bullet came from or did you say you couldn't tell, you didn't
8 have enough of it?

9 A There wasn't enough there to be absolutely certain
10 as to what type of bullet, you know, what caliber it was.
11 But if you factor in the weight of the lead core and the lead
12 jacket, it would be consistent with a 9mm.

13 Q Could it be consistent with a .380?

14 A No, because there's too much -- it already -- the
15 combination of the fragment and the lead core weighs almost
16 the same weight as a .380. As much of the bullet that was
17 missing, in my opinion it wouldn't be a .380.

18 Q And this bullet you could not -- the bullet you're
19 describing, you could not match it up to the casing? Is that
20 what you said?

21 A The only thing I could say is that the bullet was
22 consistent with the same type of ammunition. The bullet
23 fragment is also Federal ammunition.

24 Q My question: you couldn't match it to the casing;
25 could you?

1 A No, that's not possible to do.

2 Q Well, it's possible to do in many cases; isn't it?

3 A Not to match it to the cartridge case, no, sir.

4 Q And you didn't do it in this case?

5 A I've never done it actually.

6 Q So the casing that was found and the bullet
7 fragment that you had, you don't know if they matched up or
8 not? You say you can't determine that?

9 A I just know that they're the same brand of
10 ammunition.

11 Q Same brand?

12 A Yes, sir.

13 Q And that's all you know?

14 A That's correct.

15 Q And it's Federal brand ammunition?

16 A Yes, sir.

17 THE COURT: Federal is just a brand name?

18 THE WITNESS: That's correct, Your Honor.

19 Q [By Mr. Abernathy] That's what you're telling the
20 jury that you know, just this brand name? You go into Wal-
21 Mart and buy a box, it'll have Federal on it?

22 A That's right.

23 Q Now in regards to this casing, you were talking
24 about oxidation. Now you performed those tests?

25 A No, sir, it was just an observation that I made --

1 Q Oh, okay.

2 A -- that the brass was still shiny and not oxidized.

3 Q Well, there are tests that can be performed?

4 A Not that I'm aware of, no, sir.

5 Q You don't do those type tests? Do you have someone
6 in your crime lab that does that?

7 A No, sir, we do not. We do not do tests like that.

8 Q Now would it matter as to this observation how long
9 it sat in the closet or a drawer or a carport or anywhere
10 else, how old the ammunition was?

11 A Well, like I said, the ammunition was not oxidized
12 at all. It looked like it would be as if you bought it at
13 the store.

14 Q Yeah, and it could stay in that state for how long?

15 A If it was maintained properly, for years and years.

16

17 Q And it could stay in that state how long lying on
18 the ground?

19 A Probably not very long.

20 Q Two weeks?

21 A Probably not that long, no, sir.

22 Q So do you have any knowledge, could it last that
23 long, a week?

24 A I think after a week there would be a noticeable
25 difference.

1 Q Okay. And do you know when this bullet was found
2 or this casing?

3 A I do not.

4 Q You have no idea; do you?

5 A No, sir.

6 Q Well, tell the ladies and gentlemen of the jury if
7 it was found in the next day or two could that have happened?

8 A Within a few days, yes, it may not have been a
9 significant change.

10 Q Well, when you say a few days, what about four or
11 five days?

12 A Again it's just my opinion. I believe the thing
13 -- the cartridge case was not out there very long.

14 Q All right. And that's based on -- you say that's
15 just an opinion. Is that based on your conversation, what
16 you know about this case in talking with your police officers
17 and everyone?

18 A No, sir, it's just based on the observations that
19 I've made over the years that if cartridge cases were left
20 outside, that they tend to oxidize and corrode over a period
21 of time.

22 Q Would it matter if it was a clear winter night with
23 no rain?

24 A The weather would have a factor but as to what
25 factor that would be, I really --

1 Q You don't know?

2 A No, sir.

3 Q Well, you said a few days. I asked you two. You
4 said, well, a few days. Would it be -- could it be four or
5 five days?

6 A Again depending on the weather condition, possibly
7 yes, sir.

8 Q So you don't know how long that bullet laid out
9 there; do you?

10 A The cartridge case, no, sir, I don't.

11 Q That cartridge case and you don't know where it was
12 found; do you?

13 A No, sir, I do not.

14 Q And all you know is it's the same brand of
15 ammunition as the bullet, Federal?

16 A Yes, sir, that is correct.

17 Q What is the most common name brand of bullets?

18 A That I see, probably Remington.

19 Q Remington?

20 A Yes, sir.

21 Q In 9mm?

22 A Yes, sir.

23 Q Then what?

24 A Probably Winchester.

25 Q And then?

1 A CCI.

2 Q And then?

3 A Maybe Federal.

4 Q Maybe Federal? Do you -- does it matter where you
5 buy your ammunition as to what they carry? Do sporting goods
6 stores carry different ammunition than say Walmart or K-Mart?

7 A Some stores only carry certain brands. Some only
8 carry the low-end brands, imports.

9 Q Is that Federal?

10 A No, that would be an American manufactured
11 cartridge.

12 Q But your testimony before this jury is this casing,
13 you don't know exactly how long it could lay out, depending
14 on the weather and other factors, how long it could lay out
15 before you find it in the state that it was in?

16 A No, sir, I think what I said is that it didn't
17 appear to have been laid out there very long because it was
18 not oxidized but as to how many days it would take for me to
19 see noticeable oxidation, I can't really tell you.

20 Q What causes the oxidation?

21 A The reaction of air with the metal.

22 Q Can it oxidize inside a room like this one?

23 A Well, usually it requires temperature extremes and,
24 you know, the addition of water.

25 Q So that's why the weather would matter, if it was

1 raining or whatever?

2 A Yes, sir, or if it was just damp out even.

3 Q And have you performed any other tests other than
4 this bullet and the casing? any other tests at all in regards
5 to this matter?

6 A No, I believe that's about it.

7 Q Now who is in your fingerprint section? You have
8 one of the greatest crime labs and I'll commend you on that.
9 You have a fingerprint section there; don't you?

10 A Not in our laboratory. We have one at the
11 headquarters laboratory in Atlanta.

12 Q Did you attempt or anyone attempt to get any
13 fingerprints off any of these items, not the bullet but say
14 the casing?

15 A I don't know of any attempt. There may have been
16 an attempt made before it came to our laboratory but I'm not
17 aware of any attempt.

18 Q And you don't know anything about anything other
19 than the bullet and the casing? that's pretty much it, what
20 you've testified to?

21 A That's pretty much the extent of my involvement,
22 yes, sir.

23 MR. ABERNATHY: I have nothing else, Mr. Jarvis.

24 THE COURT: Ms. Colston.

25 MS. COLSTON: No, sir, nothing further.

1 THE COURT: All right. Thank you, Mr. Jarvis,
2 you're free to leave.

3 THE WITNESS: Thank you, Your Honor.

4 MS. COLSTON: I call Perry Maynard

5 MR. ABERNATHY: Who did you call, Ms. Colston?

6 MS. COLSTON: Perry Maynard. It's just the chain.
7 If you want to stipulate, I'll tell him to go back.

8 *****

9 PERRY MAYNARD

10 was called as a witness by and on behalf of the State, and
11 after being first duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MS. COLSTON:

15 Q Perry, if you will, speak up so the jury can hear
16 you. You're not going to be here -- you ain't got a whole
17 lot but speak up and tell us your name.

18 A Perry Maynard.

19 Q Okay. Perry, tell us where you're employed.

20 A Floyd County Police Department.

21 Q How long have you been employed there?

22 A Twenty-eight years.

23 Q What do you do there?

24 A I'm a sergeant in the investigations' division.

25 Q All right. And are you also the evidence