Exhibit B

D.B.H.

Gregonis.

THE CLERK: You do solemnly swear the testimony you are about to give in the matter now pending before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please be seated. State your first and last name and spell your last name for the record.

THE WITNESS: Daniel Gregonis, G-R-E-G-O-N-I-S.

THE COURT: Mr. McNulty.

DANIEL GREGONIS,

called as a witness by and on behalf of the People, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MCNULTY:

Q Thank you. Good morning, sir.

A Good morning.

Q During the course of my questioning, if I ask you a question that you don't understand, will you let me know so I can rephrase it?

A Certainly.

Q Also would you be kind enough to do the

that is because it's very difficult to work with these large molecules. Not only that is the differences between individuals are defined by the lengths of those fragments. So one person may have a fragment that is 10,000 letters long, the next person may have a fragment that is 6,000 letters long.

Q So you have the fragments. As you indicated those are cut up using some type of enzyme?

A Yes.

Q Are there specific types of enzymes that are used?

A Yes, there are. There are enzymes called restriction enzymes.

Q How many restriction enzymes are there there are commonly used for the RFLP process?

A In forensic work there's basically three different enzymes that are used.

Q Would you just give us the names of those three, please?

A One is called HIN F, is H-I-N-F. One is called PST. I believe that's also one. And the next one that we use is called HAE III, which is H-A-E Roman numeral III.

Q Why do you use or your laboratory use HAE III instead of the other two?

A There's actually two reasons. One, this is the protocol that was involved by the FBI, and it was developed because HAE III makes, is a very

Q Let me take item B. Did you do RFLP on item B?

A Yes, I did.

Q Use the procedures you previously described?

A Yes.

Q Did you create an autorad for that, that picture of what was on a membrane?

A Actually several autorads.

Q What probes did you use that emit that radiation stuff so you can get the photographs?

A Actually use four different probes. In sequence.

Q What four different probes did you use?

A They are called, the actual names of the probes are YNH24, TBQ 7, MS1, and pH 30.

Q Why do you use these four different probes?

A Number one, they are probes that are very variable between different individuals. In other words, there's a lot of differences in the populations in the length of the fragments for those probes.

The other one is that those are somewhat standard probes that are used by mostly government labs doing forensic RFLP work.

Q My question, next question was are those probes generally accepted in your scientific community?

previously identified by somebody? If who -- if so, whom?

You don't need to tell me that now, if you can tell me that later. I can't find a reference to 143. I do go to 142 and start in again at 144.

(Recess.)

THE COURT: All right. Mr. McNulty.

MR. MCNULTY: Thank you, your Honor.

BY MR. MCNULTY:

Q Before I show this, I'm going to hand you two autoradiographs, for short form the autorads. One is labeled 247 for identification and one is labeled 248 for identification. Do you recognize both of those autorads?

A Yes, I do.

Q Are those accurate copies of the originals that you produced for me?

A Yes, they are.

Q With respect to Number 247 appears to be an autorad using the YNH24 probe.

Now we learned something interesting. You pointing at the screen means nothing. You need to either point down here or if you would go to the TV screen and point. Whichever you prefer, use the Elmo or the TV screen.

THE COURT: Actually I would prefer he use the Elmo.

MR. MCNULTY: I was concerned about the jury.

I didn't mean to leave you out.

BY MR. MCNULTY:

Q Mr. Gregonis, if you would come down here for us.

A Certainly.

Q I'll just remind you, keep your voice up.

A Okay.

Q Do you want to have a seat or stand?

A I might as well sit.

Q Make yourself comfortable.

Looking at 247 for identification in front of you on the Elmo, we see a bunch of lanes, those columns you are talking about? How many columns do we have on that particular, particular picture?

A There's actually, separate this into two different parts. If you go from here to the right, this is a separate test strip so it's not really evidentiary samples that we're testing with this. It's more of a control strip for the actual test.

To the left there's actually 14 lanes that represent either the question samples or the known samples. The question samples being in the second lane, the fourth lane, the sixth and the eight lane and then the known reference samples being in the lanes on the right-hand side is the four lanes here.

Q If you would again point out what lane

would contain the reference sample A?

A Reference sample A identified as coming from Watley is in lane 10, right here.

Q If you just take your pen or pencil there and go vertically so we see where lane 10 actually is.

A Sure. Right here.

Q If you would show us lane for, C for Mr. Hogue?

A Mr. Hogue is, in his blood sample is in lane 11 and as I'm showing down here mainly the two bands here are his on the screen.

Q If you would show the lanes for Mr. Burris please for D?

A Mr. Burris is in lane 12 and as you come down here, lane 12 his band is the band from the YNH probe.

Q And lane for Miss Arnold or E?

A The lane for Miss Arnold is lane 13 as we come on the screen showing here. The two bands here are from the YNH probe.

Q And those other thick lanes appear to be five very thick lanes from bottom to top. What are those again for?

A The lanes with the multiple bands, there's actually 30 bands in each one of those lanes and lane 4 are or lane 1 -- excuse me -- lane 5, lane 9, and lane 14 is the molecular weight ladder on the

ruler we use to measure the size of the bands.

Q Why are the molecular weight bands, ladder, yardstick, ruler, whatever you want to call, bands positioned as they are?

A They are positioned first of all in four different places on the gel because you have slight differences in migration across the gel. In other words, we couldn't just put one in the middle and have as accurate a reading of a sample over on the left-hand side. So what we do is we bracket the samples, for instance, in lanes 2, 3, and 4 are bracketed by two ladder lanes. Six, 7 and 8 are also bracketed by two ladder lanes. Ten, 11, 12, and 13 are also bracketed by ladder lanes.

Q As you look at this autorad, this picture, is there anything that causes you concern about contamination or degradation?

A The only thing that I would say in interpretationwise, there's some interpretation is in lane 4 there is what we call a partial digest present in this lane.

Q What did you mean by a "partial digest?"

A It means if you remember the restriction enzyme, the little molecular scissors, they weren't as efficient as they should have been. In other words, they didn't cut all places that they did. So even though the main band for this is

actually down in this region here, we have some bands that are slightly larger because the molecular scissors cut outside of that fragment lane.

Q With respect to the partial digest, do you look at those and then have the computer measure them also?

A I do measure all of the bands usually. The only exception is, for instance, the bands in the standard reference samples that you see up here, those are actually caused by another phenomenon.

Q When we were looking at PCR, have you got a specific result, a genotype if you will, is dependent upon what you get from your mother as well as what you get from your father. Is that true also for RFLP?

A Yes, it is.

Q And when you get that type of result, do you expect to see certain types of banding, those little marks?

A If, for instance, I had a mother and a father and a child, I would expect to see certain types of banding in the child that can be attributed to the mother and the father.

Q You have shown us where the known samples are. Would you show us the lanes for say item B?

A Certainly. Item B is in lane 2 indicated vertically like this.

Q What about item M?

A Item M is in lane 4, once again indicated vertically like this.

Q How about item T-8?

A Item T-8 is in lane 6 indicated vertically.

Q And item T-11?

A Item T-11 is in lane 8 once again indicated vertically here.

Q Looking at item B, using the autoradiograph, does unknown sample B, a sample from the sidewalk, match any one of the four known samples?

A Yes, it does.

Q Who does it match?

A It matches the standard reference sample from Burris.

Q I'll put next to Burris in green ink RFLP.

Does the -- well, show us how it is you can tell it matches.

A Certainly. Visually what you take a look at, you look at where the bands and the ladder are. For instance, this is band Number 21 and 22 on the ladder and B basically lines up where Number 22, band Number 22 is. If you take a look across, you can see that although the blood from Mr. Watley has a band that is close to Number 22, it's slightly above it. Whereas the band, although it's very intense for

there.

Q We are talking about measuring base pairs and that percentage difference. We are not talking about terms of inches, are we, like 14 feet ten inches to 15 feet two inches. Talking about much smaller increment?

A Yes, we are.

Q Did the measurement, the base pair measurement, I mean visually looking you said it could be Watley just going across but it really matches better with Burris. Did the base pair match up with Burris?

A Yes, it does.

Q Did the base pair match up with Watley?

A No.

Q Looking at item M, who did that match?

A The band that I can attribute to the sample and not to the partial digest or another anomaly actually matches the standard sample from Watley.

Q Write RFLP next to Watley on the chart 242 that we discussed earlier. Again did the base pairs for M match Mr. Watley's known base pairs?

A Yes, it does.

Q Within the window?

A Yes, it does.

Q Now, what about the partial digest?

A The partial digest, first of all, is

something that is not totally uncommon in forensic work because you are dealing with a variety of samples that may prevent the molecular scissors from doing their job totally and I judge it to be a partial digest by my experience at looking at partial digest as well as for YNH24 there's actually a study done to see by Hal Deadman. He is at the FBI academy. At the time looking at if you have a band and you have a partial digest, how much larger each of these bands are going to be and they correlate with his study.

Q Did those partial digest base pairs when you measured them, did they match up with any of the people you tested in this case?

A Throughout all of the autorads, no, they did not.

Q What about T-8, who did it match?

A T-8 matches Watley.

Q And what about T-11?

A T-11 also matches Watley.

Q Would you take a look at 248 which I thought I handed you up at the witness stand. It was back at my podium.

Do you recognize 248?

A Yes, I do.

Q Again does that look like a autorad that you reproduced for me for court purposes?

A Yes, it does.

Q Again I see the same ladders or

A Yes.

Q Let's look at the next probe looking at 249 in your right hand for identification and 250 for identification in your left hand.

A Okay.

Q Do you recognize both those autorads?

A Yes, I do.

Q Are those copies of the original that you reproduced for me?

A Yes, they are.

Q Start with 249 if you would.

A Okay.

Q Again I see the ladder lanes as you commented earlier on the last autorad?

A Yes.

Q And then there's other nonladder lanes?

A That is correct, yes.

Q Would you show us the lanes in this particular case with the non or reference sample?

A Certainly. It's going to be in exactly the same order since it's on the same membrane as the previous autorad with item A from Watley being in lane 10, those two bands. Lane 11 contains the sample from Hogue with those two bands. Lane 12 --

THE COURT: Excuse me. Mr. Gregonis, when you say these two bands, I can't tell what you are saying.

THE WITNESS: I'm sorry, your Honor. These very intense bands. One approximately a third of the

D.B.H

way down the gel and the one approximately an eighth of the way up the gel.

THE COURT: Thank you.

MR. MCNULTY: That would be the bigger dots.

THE WITNESS: Actually these samples are very intense. If I -- asthetically I would like to see them a little bit lighter say like lane 3 for instance.

THE COURT: What accounts for the fact that some of the lanes appear to be tacked of beads, as it were, very discreet and finite whereas some of the lanes looked look somebody spilled a bottle of ink?

THE WITNESS: The real reason behind that is simply the quantity of DNA that was loaded into the lane itself. And in the lanes where you see a great deal of very intense fat bands, for instance, that is where a lot of DNA was loaded in. The ones where you see a very light but very fine band is where less DNA was loaded into.

THE COURT: Thank you.

BY MR. MCNULTY:

Q In this particular case, the area that looks like where ink was spilled is the area where we have our known samples?

A Yes.

Q And we have lots of known DNA from the sample?

A Yes.

D.B.H.

Q The other fainter areas is what was collected at various scenes?

A That is correct, yes.

Q Okay. Looking for this particular probe which is which probe?

A This is the probe called TBQ7.

Q Does this check within a different spot on the DNA molecule?

A Yes, it does. The previous probe looked at chromosome, spot on chromosome Number 2. This one looks at a spot on chromosome Number 10.

Q So we're actually looking at different chromosomes now too?

A That is correct, yes.

Q With respect to the unknown samples or the question samples, what lanes are those in now?

A First of all, same lanes as the previous autorad. Lane 2 contains a sample identified as item B. Lane 4 contains a sample identified as item M. Lane 6 contains a sample identified as item T-8. Lane 8 contains the sample identified as item T-11.

Q Looking at item B who does that match up with?

A That matches Burris.

Q Looking at item M who does that match up with?

A That matches Watley.

Q But that the lower bands were not close?

A Correct.

Q So that difference of the lower bands is what makes the differentiation?

A In this particular probe, yes.

Q Okay. Let's move on to the next two. 251 for identification in your right hand, 252 for identification in your left hand. Do you recognize both those items?

A Yes, I do.

Q Copies of autorads you prepared for me for court?

A Yes.

Q Go ahead and start with the one in your right hand, 251 for identification.

A Okay.

Q We have our ladder lanes in this particular autorad?

A Yes, we do.

Q We have that area, to use the Judge's terms, that looks like ink was spilled. Would that be the area of our known samples?

A Yes, it is.

Q And then we have other nonladder or ink spilled area. Would those be either our control or question sample areas?

A Yes.

Q If you would what probe is this?

A This is probe MS1 and this recognizes a place on DNA on chromosome Number 1.

Q Yet again a different chromosome than the first two probes?

A Yes.

Q If you would show us where our four known samples would be on this particular autorad?

A The four known samples once again are in lane 10 for Watley, lane 11 for Hogue, lane 12 for Burris, and lane 13 for Arnold.

Q Where would the unknown sample B be?

A Unknown sample B is in lane 2.

Q Unknown sample M?

A Is in lane 4.

Q T-8?

A Unknown sample lane T-8 is in lane 6.

Q And T-11?

A T-11 is in lane 8.

Q If you would show us using your pen or pencil there who item B matches to?

A As far as item B is concerned, there's a very very light band up in this region on the autorad. And it matches Burris.

Q Item M?

A Item M, there's actually two light bands once again towards the upper third to middle of the membrane. The lower one would be in this area.

INDIO, CALIFORNIA; THURSDAY, DECEMBER 14, 1995

DEPARTMENT 221

1:35 P.M.

THE COURT: Go back on the record in the matter of Davis, Brown, and Holland. All defendants are present, all lawyers are present, no jurors are present.

Mr. McNulty.

MR. MCNULTY: Your Honor, thank you. Good afternoon. Without any disrespect at all intended toward the Court, I appreciate the Court's questions. What concerns me is the preface that sometimes comes to the question such as I don't see the dots. Can you tell me where the dots are. I would prefer if the Court can instead of saying I don't see it, would the Court indicate, Mr. Gregonis, would you point to where the dots are please.

THE COURT: That's reasonable. Well, practical matter I try and not ask any of those kind of questions but sometimes I think if I am having a problem understanding or seeing something, that perhaps the jury is also. So I think the questions are in those instances not inappropriate but your point is well-taken and I will try to watch that.

MR. MCNULTY: I agree with the Court. I don't think your questions are inappropriate, just the preface that concerns me a little bit. And I

appreciate that. That having been said we're ready.

THE COURT: All right. We'll bring them in.

MR. RODRIGUEZ: Can I say that, your Honor, I don't see the dots? I want to say that.

(The jurors enter the courtroom.)

THE COURT: Good afternoon. We'll go back on the record in the matter of People versus Davis, Brown and Holland, ICR 22535. Each defendant is present, each attorney is present, each juror is present in their respective seats. Mr. Gregonis is again with us and at the alternative witness stand at the Elmo machine.

Mr. McNulty.

MR. MCNULTY: Thank you, your Honor. Good afternoon.

BY MR. MCNULTY:

Q I'm going to place Number 251 for identification in front of you again. We discussed this before lunch and its companion is Number 253 for identification that we also discussed. What would be the probe number for these particular autoradiographs?

A The probe for that is MS1.

Q. So far we've talked about the YNH24 the TBQ7 and MS1?

A That's correct, yes.

Q In a jokingly fashion we mentioned, used the phrase looks like spilled ink for those areas on Number 251 for identification purposes. That in

in this area a little bit less intense and the bottom band is right below it.

Q If we take a white piece of paper, hopefully that won't -- if you would use it as a ruler, show us how that matches across.

A Okay. Going at a slight angle, what I'm looking at, line it up with the ladder lanes. This band here and the ladder. This band here and the ladder. This band here and the ladder at the very bottom and this band here. You notice that the same exact size in each ladder. And as you take a look, you see that the two bands are present in the samples in approximately identical positions for each of the unknown samples in 29 B-1 A, 29 B-2 A and 29 B-2 B.

Q Thank you. I hand you what's been marked 253 for identification as well as 254 for identification. Do you recognize each of those autorads, sir?

A Yes, I do.

Q Are those copies of the originals that you provided for court?

A Yes, they are.

Q What probe was used for those autorads?

A This particular probe is called pH30.

Q The darker multiple strips would be what?

A Those are once again the ladder.

Q And do we have the known or reference

D.B.H.

samples in there?

A Yes, we do.

Q Would you show us where those are, please.

A The reference samples once again are in the same positions. We have item A with the two bands here from Watley in lane 10. We have item C with two bands -- they're run together, kind of, on the screen -- from Hogue. And then Burris in lane 12 has two bands. And then Arnold in lane 13 also has two bands.

Q If you would shows us the lane with item B would be located?

A Item B is located in number, Number 1 or -- Number 2, excuse me, with two bands approximately a third or a quarter of the way down the gel, very light bands in this area.

Q What about item M?

A Item M is located in lane 4 and we have two bands from item 4 approximately a quarter of the way down as well as about in the middle of the gel.

Q How about item T-8?

A T-8 is once again the bands it's in lane 6 and it is about a quarter of the way down and approximately in the middle of the gel the two bands.

Q What about T-11, please.

A T-11 is in lane 8 and the bands are the same positions as for M and T-8, about a quarter of