

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR PINELLAS COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

Case No.: 2023-02935-CF

TOMASZ KOSOWSKI,

Defendant.

_____/

VIRTUAL DEPOSITION OF DESIREE BECHER

DATE TAKEN: AUGUST 1, 2024

TIME: 9:35 a.m. - 10:33 a.m.

Examination of the witness taken virtually before:

Tammy Kelley

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APPEARANCES

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I N D E X

AUGUST 1, 2024

WITNESS

Called by the Defendant:

DESIREE BECHER

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ERRATA SHEET..... 44

CERTIFICATE OF OATH..... 45

CERTIFICATE OF REPORTER..... 46

SIGNATURE LETTER..... 47

1 THE COURT REPORTER: Would you raise your
2 right hand, please. Do you swear or affirm the
3 testimony you shall give in this cause shall be
4 the truth, the whole truth, and nothing but the
5 truth?

6 THE WITNESS: I do.

7 DESIREE BECHER, called as a witness by the
8 Defendant, having been virtually duly sworn,
9 testified as follows telephonically:

10 DIRECT EXAMINATION

11 BY MS. TUOMEY:

12 Q All right, good morning, Mr. Becher. We are
13 here on the State of Florida versus Tomasz Kosowski,
14 2023-CF-02935.

15 You have been listed as a witness in the
16 case. So this is my opportunity to ask you questions.
17 I'm sure you've been through depositions before. Yes?

18 A Yes.

19 Q So we can't talk over each other. If I ask
20 you a question, which I often do, that confuses you,
21 just let me know, hey, what are you talking about,
22 Ms. Tuomey --

23 A Okay.

24 Q -- or what have you. Because often I confuse
25 myself. So don't be shy. Just let me know.

1 Pretty much everything else is standard as
2 you know. Okay?

3 A Okay.

4 Q Fantastic. Where are you currently employed?

5 A I'm currently not employed.

6 Q All right. And where were you previously
7 employed?

8 A By the Pinellas County forensic laboratory.

9 Q And how long were you employed at the
10 forensic county laboratory?

11 A Approximately four years.

12 Q And prior to that, what was your employment?

13 A I was in college.

14 Q Okay. And did you receive a degree I'm
15 assuming?

16 A Yes, I did.

17 Q And what was your degree in?

18 A It's a bachelor's in science from the
19 University of Central Florida in forensics science,
20 specifically biochemistry and minors in chemistry and
21 biomedical sciences.

22 Q Okay. Is -- and correct me if I'm wrong is
23 the reason you're unemployed is because you are
24 currently either in school again and going to -- trying
25 to get into medical school or something different?

1 A Yes, that's correct.

2 Q Okay. What school are you currently
3 attending?

4 A I'm currently in the position of applying.

5 Q Where are you applying to?

6 A Oh, just a broad range of schools, multiple.

7 Q In the state of Florida?

8 A Yes, and outside of Florida.

9 Q All right. So just give me where are the
10 ones you're applying to in state of Florida.

11 A University of South Florida.

12 Q Okay. That's it? Or not to say that that's
13 it. That's a good school, but.

14 A There's more. Do you want me to list -- I
15 don't have, like, a complete list done yet. But so --

16 Q You're in the application process of
17 deciding --

18 A Yes.

19 Q -- which schools to apply to?

20 Very well. All right. So it's my
21 understanding that you -- and correct me if I'm wrong
22 but you --

23 MR. VONDERHEIDE: Ms. Tuomey.

24 MS. TUOMEY: Yes.

25 MR. VONDERHEIDE: Excuse me for interrupting

1 but we're not recording. I don't know if you --

2 MS. TUOMEY: Thank you, Nathan.

3 MR. VONDERHEIDE: I've become I'm mindful of
4 it. I'm sorry.

5 MS. TUOMEY: I don't have a --

6 Can we go off the record for one second.

7 (Pause in proceedings.)

8 Q So let's go kind of back in the recording.

9 We're here in State of Florida versus Tomasz Kosowski,
10 2023-02935. You introduced yourself. We went through
11 some of the rules for your deposition here today. You
12 had indicated that you are currently unemployed but
13 applying to various medical schools.

14 A Yes.

15 Q All right. Very well. The reports that I
16 have that you wrote and were you involved in would be
17 report number one, three, five, and six.

18 A Yes.

19 Q All right. Any other reports that you
20 anticipate will be forthcoming?

21 A No.

22 Q All right. Let me just direct you to the
23 first report which is dated March 29th. Or actually
24 the request date is March 29th, 2023. Your report is
25 also dated March 29th of 2023. And it appears you were

1 tasked with doing a serology report.

2 A Yes.

3 Q All right. And are -- it's my understanding
4 you worked in bodily fluids identification.

5 A Yes, that's correct.

6 Q And so were you directed solely to do a blood
7 presumptive on these items or something different?

8 A Just the blood.

9 Q Just the blood. And who would that directive
10 have come from?

11 A It would be -- so I was assigned the case by
12 the DNA supervisor. And then from the information that
13 I'm told of that it could possibly be blood but also
14 based on my assessment saying that, yes, these items
15 need to be tested for blood.

16 Q All right. And I see you looking at your
17 computer. I'm assuming you're looking --

18 A Yes. I'm looking at the report I have on my
19 computer.

20 Q That's completely fine if you need to refresh
21 your recollection and look at your report. I don't
22 have this memorized. I'm sure you do not have this
23 memorized.

24 A No.

25 Q Just let me know if you're looking at

1 something different. Okay?

2 A Okay.

3 Q Thank you. All right, so let's stick with
4 request number one. It looks like there were leave
5 submissions.

6 A Yes, eleven items for the submission, yes.

7 Q Eleven items. They were submitted by the
8 Largo Police Department?

9 A Yes.

10 Q Do you have an approximate time when those
11 items were submitted?

12 A Yes. One moment. I was given the chain of
13 custody as well. So it was brought in by the agency on
14 3/24/23 at about 4:20 p.m.

15 Q And were you given an idea, and this applies
16 to all the reports that you authored, an idea as to the
17 turnaround time that you were expected to conduct these
18 tests?

19 A For this test, my DNA supervisor assigned it
20 to me and that -- she normally doesn't do it that day
21 or that quickly. So she made it known to me then that
22 this was considered a priority case.

23 Q It was a rush I guess, if you will?

24 A Yeah.

25 Q And, just for the record, your DNA supervisor

1 would have been?

2 A Janel Borries at the time.

3 Q I'm sorry, can you spell that for the court
4 reporter, please.

5 A Janel J-a-n-e-l, Borries B-o-r-r-i-e-s.

6 Q All right. So looking -- I'm looking at
7 your -- that first report you have item number one
8 control swabs there was no analysis performed.

9 A Yes.

10 Q What are the control swabs?

11 A So from my understanding is control swabs are
12 swabs that are unused. And that's what the agency sent
13 in.

14 Q Okay. So the agency, agency just sends you
15 two swabs that, that are unused?

16 A Yes. I don't know the reasoning. We didn't
17 test it for that reason.

18 Q Okay. Did you have contact with them to find
19 out why those, those swabs --

20 A No. Sorry, I spoke over you. But, no, but I
21 was -- because I asked about this as well because it
22 was -- I never had control swabs, but apparently it's
23 something that has happened in the past. And the
24 laboratory personnel is aware of it so that's why I was
25 told to just have no analysis performed on this.

1 Q And then it looks like item number five which
2 is swab of the tailgate, Toyota tailgate, blood was
3 indicated is what the results were?

4 A Yes.

5 Q And then item six, another set of swabs from
6 the tailgate handle wherein the results for blood was
7 not indicated. Number six, item number six.

8 A Yes.

9 Q And I'm going to go down the line.

10 A Okay.

11 Q Item number seven, swab middle of garage
12 number two, blood was not indicated.

13 A Number one. Sorry, you misspoke.

14 Q Oh, I'm sorry, yes. Thank you. Number one
15 blood was not indicated?

16 A Correct.

17 Q And then eight, middle of garage number two,
18 blood was indicated?

19 A Yes.

20 Q And then item nine, swab north end of the
21 garage number one, blood was not indicated?

22 A Correct.

23 Q Item ten, north end garage number two, blood
24 was not indicated?

25 A Correct.

1 Q And then once again you have some more
2 control swabs. Which there was no analysis performed?

3 A Correct.

4 Q I think I jumped ahead of myself. I have.
5 Okay. So if you look at your results and
6 maybe you can -- you have the results, right, and then
7 on that next page, which would be two of two --

8 A Yes.

9 Q -- report number -- item number eleven, swab
10 north end number three. Do you see that?

11 A Yes.

12 Q What's the difference between the manner in
13 which you documented the results as opposed to the
14 analysis or analyses performed? Do you see where item
15 number eleven's not in the results section?

16 A Oh. So the reason that it's not, it's just a
17 continuation. There was no more room on that page. So
18 it is still considered in the results. It's just
19 continued on another page. Which is why it says page
20 one of two and then this page says two of two.

21 Q Okay. Would you agree with me there's a
22 clear delineation between results and then analyses
23 performed? That's what appears to me. So I'm just --

24 A So there's the results section which the item
25 eleven blood was not indicated states and then right

1 under that says analysis performed.

2 Q And your testimony is that's a continuation
3 of the first page?

4 A So the analyses performed, so the reason that
5 it's like that is due to the fact that there could be
6 multiple tests that are performed.

7 Normally this appears with testing for
8 semen. I will perform -- there's a possibility of
9 up to three tests, but the results would just state
10 one thing. Does that make sense?

11 Q It does. So specifically with this case,
12 what's the explanation for that, for that difference?

13 A So this is just telling you the tests that
14 were performed.

15 Q Right. And then the results. But item
16 number eleven is not on the results part. Does that
17 make sense?

18 A Yes. But it's a continuation on the page.
19 The page -- it's just how the page ends on page one.
20 But it's still continuation of results.

21 Q All right. And are you the -- you are
22 considered an analyst?

23 A No. I'm the serologist.

24 Q Serologist. Okay. I might slip up and call
25 you analyst because you're kind of, like, analyzing

1 things and --

2 A Yeah. In a way, yeah. But still serology is
3 my title.

4 Q Understand. How is a positive quality
5 contest -- quality control test performed for
6 phenolphthalein?

7 A So it's performed with a known controlled
8 blood sample that we have in the laboratory. So it's a
9 blood sample that we created in the lab and we will
10 then -- I personally take it to a different area and I
11 take a small cutting of that and I perform the tests
12 the same exact way as I would perform it on the item of
13 evidence. And I will perform a positive and negative
14 test. The negative test is just performing the test on
15 a clean napkin. And then I will record the results.

16 Q And when you say a known controlled blood
17 sample --

18 A Yes.

19 Q -- is it something that you obtain from
20 fellow colleagues in the lab or something different?

21 A I believe that that could be possible. I
22 know we also get some blood samples when requested from
23 the MEO. So they'll supply us as well. I'm not sure
24 where this item of positive control came from for this
25 case.

1 Q All right. And would that be documented in
2 the bench notes anywhere do you know?

3 A I have -- I took a note of the control, yes.

4 Q Okay. But where these known control blood
5 samples are from, is that documented?

6 A The laboratory should have documentation of
7 the known controls.

8 Q All right. What reagents are used in the
9 positive quality control? I'm talking about
10 phenolphthalein.

11 Are you there? Ms. Becher, I think you may
12 have froze.

13 Ms. Becher, can you hear me? Oh. Okay.

14 MS. TUOMEY: She'll probably log back on.

15 MR. VONDERHEIDE: There she is.

16 Q There you are.

17 A Sorry. I don't know what happened. It just
18 exited out.

19 Q You're fine. Do you recall my question?

20 A Yes. So the -- this was with regards to
21 positive control for the phenolphthalein?

22 Q Yes, ma'am.

23 A Okay. So the reagents that are used in this
24 are the same throughout. What the control is is
25 actually a cutting of the known blood sample and we are

1 test- -- and we are applying the reagents to that item
2 and waiting to see the reaction.

3 Q And what are the reagents that are used or
4 were used throughout?

5 A The first one is ethanol phenolphthalein and
6 then hydrogen peroxide.

7 Q Okay. And then how is a negative quality
8 control test --

9 THE COURT REPORTER: I'm sorry --

10 A So I --

11 THE COURT REPORTER: Can I interrupt. Where
12 you were saying negative quality control and then
13 it kind of garbled a little bit, your end of the
14 question. Can you repeat it.

15 Q How is a negative quality control test
16 performed?

17 A Okay. So this is performed -- I just perform
18 it on a clean napkin or paper towel, whatever you want
19 to call it, and I just add the reagents to that.

20 Q All right. So positive with some blood on it
21 reagents negative, napkin no blood on it. The napkins
22 that you use, where do you get those?

23 A Oh. We just buy it from a supplier.

24 Q What is it made of? Do you know?

25 A I don't -- no, I don't. I don't know. I

1 would just tell Pam who is the -- who orders everything
2 for us and she would order the paper towels for us.

3 Q Okay. So is it like a thick paper towel or
4 is it like a Bounty paper towel? Is it -- can you give
5 me --

6 A Yeah. So it's, like, trifold paper towel.
7 It's not the most durable. It's what you would
8 probably find in, like, stadiums if you go in there and
9 pull it out. It's very similar to that.

10 Q And the texture of these towels?

11 A Yes. It does have like a rough texture.
12 It's not, it's not smooth.

13 Q Okay. And then this question will be for all
14 of these reports. Did you perform both the positive
15 quality control tests and then the negative control
16 tests?

17 A Yes. I performed them all prior to
18 performing any test on the actual items of evidence.

19 Q Okay. And that, that same answer would be as
20 it relates to report number one, three, five, and six?

21 A Yes.

22 Q And I know some agencies use, like, a
23 phenolphthalein kit. But your, your lab kind of
24 creates or buys the reagents and performs that
25 analysis, if you will, at your lab. Is that correct?

1 A Yes. We will perform. Even though the
2 external agency says that they do it we don't know
3 their protocols or procedures, we just do our own
4 protocols and that's all we're testifying to.

5 Q So you don't have kits, like the field kits
6 or anything like that, you -- that it's something
7 different, completely different?

8 A I don't know what they have. We just have
9 the reagents like you say.

10 Q And are you familiar with the false positive
11 reactions for phenolphthalein?

12 A Yes.

13 Q Tell me what, what would cause a false
14 positive reaction when you're performing this
15 phenolphthalein test.

16 A So unfortunately phenolphthalein tests
17 positive for all types of blood and not just human
18 blood but also animal blood unfortunately, so that is
19 one false positive, as well as anything that oxidizes
20 as well.

21 Q So anything that oxidizes, like rust or iron
22 or things of that nature, right?

23 A That could, that could prove a false
24 positive, yes.

25 Q Magnesium, even some types of vegetables like

1 potatoes, right?

2 A Yes.

3 Q Okay. Anything else that you can think of?

4 A No, I can't.

5 Q Can you explain to me how this
6 phenolphthalein test works chemistry-wise.

7 A Oh, man. I remember learning it. I don't
8 remember the complete details off of the top of my
9 head. I would have to look back for that to be honest.

10 Q All right, fair enough. All right. And so
11 I'm going back to that first report --

12 A Okay.

13 Q -- where it has item five, you received one
14 sealed manilla envelope containing one swab sleeve
15 containing one swab from the Toyota tailgate and then
16 item six you received one swab sleeve containing two
17 swabs from the tailgate handle of the Toyota.

18 What do you attribute that difference?
19 There's -- seems like there's missing a swab between
20 item five and that number six or what have you.

21 A I don't, I don't quite understand your
22 question, no.

23 Q Okay. So if you look at item five and item
24 six.

25 A Yes.

1 Q There's only one swab of the tailgate, the
2 Toyota tailgate in item, excuse me, five. In item six
3 there's a sleeve containing two swabs.

4 Do you know why you would receive only one
5 swab as opposed to two swabs in a sleeve that has two
6 swabs?

7 A I don't know the reasoning, no.

8 Q Based upon your experience, these sleeves
9 contain two swabs, right?

10 A Normally, yes.

11 Q So let's briefly talk about the tailgate of
12 the Toyota. Do you know what material the tailgate is
13 made of?

14 A I don't know anything regards to the car.
15 But these samples came into the laboratory. I don't
16 know what type of Toyota it is. I don't know anything
17 with regards to the car.

18 Q Do you know if there was any rust on the
19 tailgate?

20 A I do not know any of those questions with
21 regards to the car.

22 Q So you don't know whether or not the tailgate
23 on the Toyota was corroded in any fashion?

24 A That's correct. I don't know that
25 information.

1 Q Let's go to the middle of the garage, number
2 two, where you had indicated blood was indicated. Kind
3 of same questions. I think I know your answers, but
4 I'm gonna ask you anyways.

5 Do you know what type of material the garage
6 is made of?

7 A No, I do not.

8 Q You don't know whether it's concrete or
9 something different?

10 A No, I do not.

11 Q You don't know if it had tile or if it had
12 been painted or anything of that nature, right?

13 A No, I do not. That's correct.

14 Q And you don't know whether the garage had any
15 drippage from the undercarriage of a vehicle having
16 been moved inside the garage prior to the swabs being
17 taken, right?

18 A That's correct. I don't know that
19 information.

20 Q And all of these swabs, obviously you don't
21 know how these swabs were collected and what their
22 procedure, meaning LPD's procedure, is regarding the
23 collection of these swabs?

24 A That's correct.

25 Q And you didn't inquire as to the surface of

1 the garage floor --

2 A No, I did not.

3 Q -- type of surface?

4 And do you know whether or not any cleaning
5 agents may have been on that garage floor?

6 A No, I do not.

7 Q Do you know whether any car cleaning agents
8 result in a positive phenolphthalein?

9 A Not that I know of, no.

10 Q Do you know of any agents, chemical agents,
11 that would degrade or interfere with a result for
12 phenolphthalein test?

13 A Not off the top of my head, no.

14 Q Do you know whether or not Luminol and
15 phenolphthalein cross-react so that one agent could
16 cause a positive result than other?

17 A I don't know about Luminol. What I do know
18 is that it could dilute the sample. That's the only
19 information I know. I don't know how it would
20 cross-react with phenolphthalein. I would have to look
21 that information up.

22 Q Does bleach cause a positive phenolphthalein
23 test?

24 A Sorry, can you repeat the question. The
25 first part was broken up.

1 Q Does bleach cause a positive phenolphthalein
2 test result?

3 A I would have to look that up. I don't
4 remember exactly.

5 Q All right. I think you've already asked --
6 or answered this, but I'm gonna ask it in a more
7 specific way. If a technician observes a positive
8 phenolphthalein test in the field and a -- and your lab
9 gets a negative result from that test, what in your
10 mind is the significance of that?

11 A Not much. Just because I don't know their
12 protocols and I can only testify to our laboratory's
13 protocol.

14 Q Let me give you this hypothetical. In the
15 field they say it's positive, it's positive for blood.
16 They come to you, you say, no, our testing says it's
17 negative. Do you run that sample through for full DNA
18 analysis or do you stop there?

19 A Personally I don't do DNA analysis. So I
20 would just transfer the item of evidence to the DNA
21 analyst and they would then decide themselves.

22 Q So it's possible that you could take a
23 positive result obtained in the field over a potential
24 lab result. That's what your answer kind of sounds
25 like. Does that make sense?

1 A I wouldn't say -- I could only say that this
2 was my result and then whatever occurs in the DNA
3 analysis does not have anything to do with me.

4 Q Right. But there's a positive test in the
5 field, you get a negative test, and you're telling me
6 that you pass it along to your DNA analyst to kind of
7 differentiate and do what they want in their analysis.

8 That says to me that you have two different
9 tests and you're going to just pass it on to the DNA
10 analyst to make that decision.

11 A I just take -- all I was instructed to do,
12 for all my cases, is to collect all the DNA samples and
13 then I will transfer them over.

14 Sometimes -- I particularly normally work
15 on sex kits. I cut them all. Sometimes there's a
16 large number and sometimes they don't take them all.
17 So it's very much the similar aspect. It doesn't
18 mean one thing over the other for me.

19 Q Okay. But in that instance you would forward
20 that to the DNA analyst to decide whether they wanted
21 to take it any further?

22 A Yes.

23 Q I think I asked you this. I don't know if I
24 specifically asked you whether rust causes a positive
25 phenolphthalein test. I think I did. But if you

1 could --

2 A Yeah. So it could possibly cause a positive
3 test, yes.

4 Q So let's go to your third request which is
5 April -- it's the request date of March 31st of 2023,
6 report date of April 4th of 2023. It appears there
7 were five submissions by LPD?

8 A Yes.

9 Q And please correct me if I'm wrong because
10 sometimes I don't -- add, add too many in there. So
11 that's item 13, 14, 15, 16, and 17.

12 A Yes, that's correct.

13 Q It appears that the only swabs that resulted
14 in a positive presumptive blood test were the swabs,
15 item 16 swabs, from the men's bathroom floor drain?

16 A Yes.

17 Q Do you know what type of material the men's
18 bathroom floor drain is composed of?

19 A I do not.

20 Q Do you know whether it was taken from the
21 drain itself or surrounding the drain?

22 A I do not know that information.

23 Q And you don't know what type of drain,
24 whether it was aluminium, plastic, or something,
25 something different, right?

1 A Yeah, I don't know anything about the drain.

2 Q And did you make any inquiry about where
3 these swabs were taken from --

4 A No, I didn't.

5 THE COURT REPORTER: Can you --

6 Q And you don't know if there's --

7 MS. TUOMEY: I'm sorry.

8 THE COURT REPORTER: If you -- are you going
9 to start --

10 MS. TUOMEY: Go ahead.

11 THE COURT REPORTER: I think I just lost
12 track of my thought. But you had asked a question
13 and then you said something else which didn't
14 really come out clear. So are you going to start
15 your question over?

16 MS. TUOMEY: I'll start my question over if
17 that helps you.

18 THE COURT REPORTER: Okay.

19 MS. TUOMEY: I don't know where I --

20 Q Do you know if there was any carbonation
21 around the drain, in or around the drain?

22 A No.

23 Q And then I see here that regardless of
24 whether blood was indicated or not for items 13, 14,
25 and 15 you performed a phenolphthalein test on 13, 14,

1 and 15?

2 A Yes, I did.

3 Q What were the results of those tests, items
4 13, 14, and 15?

5 A For those three items, they all resulted in
6 blood was not indicated.

7 Q Let's go to your, your request number five.
8 That appears to have been some swabs that you received.
9 I'll give you a moment if you need to scroll to that
10 report. It's dated April 25th of 2023, swabs from the
11 dumpster.

12 A Yes.

13 Q Is there anything of significance in that
14 report?

15 A No. It also just -- my results were also
16 blood was not indicated.

17 Q Well, then we'll move on to request number
18 six which is dated April 10th of 2023. Last date is
19 April 25th of 2023.

20 A Yes.

21 Q It appears that you received approximately 21
22 items?

23 A Are you also counting the individual napkins?

24 Q Probably so.

25 A Okay.

1 Q I think that you did a separate analysis on
2 each napkin. Right?

3 A For item 23 I believe I only tested one item,
4 but that was just due to them being packaged all in the
5 same package. So then I would just only take one
6 sample.

7 Q Item 28?

8 A Yes.

9 Q You said 23. All right, fair enough. So
10 let's talk about, we'll get to the napkins --

11 A Okay.

12 Q -- swabs from the toilet tank. Do you know
13 the location of the swabs that were taken?

14 A I do not, no.

15 Q You know nothing about this toilet I'm
16 assuming?

17 A Yes, that's correct. I don't know anything
18 about the location that any of these swabs where taken
19 or paper towels.

20 Q I saw some pictures in there. But it appears
21 like those may have been pictures that were taken by
22 yourself of various napkins. I didn't see any, and
23 correct me if I'm wrong, any photographs of any of
24 these items that were submitted for testing.

25 A That's correct. I took the items of the

1 napkins.

2 Q All right. So item 22. Two swabs from the
3 stain on the bottom left side of the toilet seat. You
4 don't know whether these swabs were taken when the
5 toilet seat was open or closed. Right?

6 A That's correct. I don't know that
7 information.

8 Q Don't know the surface of the toilet seat,
9 whether it was smooth or textured or otherwise or some
10 other material, right?

11 A Correct, I don't know that information.

12 Q All right. Item 23, the men's bathroom
13 floor, kind of along the same lines. You don't know
14 what kind of floor other than -- do you know if it was
15 tiled or something different?

16 A I don't know any of that information.

17 Q And you didn't receive any pictures. I think
18 you testified to that. And you --

19 A That's correct.

20 Q -- don't know if it was tiled whether or not
21 these swabs were taken from the grout in between the
22 tiles. Right?

23 A Correct, I don't know that information.

24 Q And you don't know if there was any
25 carbonation on the location where those swabs were

1 taken?

2 A Correct. I don't know that information.

3 Q And you don't know whether or not this is an
4 old bathroom floor, a refurbished bathroom, or
5 something else?

6 A Correct, I don't know that information.

7 Q And that also goes for 24 as well, 25 --

8 A That's correct.

9 Q And I'm saying item 24, item 25, and item 26?

10 A That's correct. I don't know any information
11 with regards to where those swabs were taken.

12 Q Okay. And then item 27 you received a paper
13 bag sealed with one paper towel.

14 A Correct.

15 Q And then you created swabs from that paper
16 towel?

17 A Yes.

18 Q You swabbed an area where you saw staining,
19 right?

20 A For this one I actually cut the stain out of
21 the paper towel.

22 Q And then you swabbed that, that area?

23 A And I just -- so I cut the stain out and I
24 put it into what's known as the LySep Column, which is
25 used in the DNA process.

1 Q Explain that to me.

2 A Explain the LySep Column?

3 Q Yes.

4 A Okay. So the LySep Column, it's, it's from a
5 kit that is used in the DNA process. So it's a
6 two-part component. One component is called a sample
7 tube, and it's the -- what the liquid will flow into,
8 and the top part is the filter part.

9 Q Okay. So you take a piece of the cutting and
10 put in a tube?

11 A Yes. And I would do the same if it was a
12 swab. I would put the swab or the cotton swab inside
13 that filter as well. It's the same process. It's just
14 I cut out the stain instead of the swabbing.

15 Q Right. So we're talking about the same
16 reagents as well? Or something different? Because
17 this is from a kit. So is there -- are there different
18 reagents? Do you know?

19 A No. So it would just go through the same DNA
20 process.

21 Q Okay. And then you swabbed an area on the
22 paper towel that did not appear to the naked eye to
23 have a stain. Right?

24 A That's correct.

25 Q All right, let's go to item 28, the paper bag

1 which had three napkins indicated to have been
2 collected from a bathroom trash can.

3 A Yes.

4 Q You had previously touched on that indicating
5 that those three napkins were together in one envelope,
6 right, or one paper bag?

7 A Yes.

8 Q They were not separated in any way?

9 A No, not in the paper bag.

10 Q Did that have any effect on how you did your
11 analysis?

12 A No. It just limited -- I just only -- I
13 could only just -- or I could have chosen more I guess.
14 But I didn't have to choose them all. I could just
15 choose one and work with that one. And in this case I
16 chose the napkin with the most stains.

17 Q Which would have been napkin number?

18 A Three, 28C.

19 Q 28C. Let's go back just for a second to item
20 seven, the paper towel. It indicates that you
21 conducted --

22 A Yes, sorry, I was just making sure.

23 Q Oh, you're fine. I'm kind of like moving
24 around. I don't mean to. I apologize.

25 On the paper towel it appears that you

1 performed two analyses on this paper towel?

2 A Yes, that's correct.

3 Q The TMB and then the phenolphthalein, right?

4 A Yes. But I performed the phenolphthalein
5 first and then I performed the TMB for this case.

6 Q And the TMB, that's something that is not
7 standard policy at your agency, right?

8 A We just readily have available the
9 phenolphthalein test.

10 Q Well, that method -- when's the last time
11 that you used that method or were basically allowed I
12 guess?

13 A I was trained in it. So that was the only
14 time. It's not used very often.

15 Q So what was the reason for using it on this
16 paper towel?

17 A Yes. So for this case it was due to the fact
18 that there was purple staining on the paper towel and
19 phenolphthalein gives a positive result that's pink.

20 So it interfered with the reading and I
21 wasn't able to determine what the results would be
22 based on that.

23 Q And do you have an opinion based upon your
24 experience what that purple staining could potentially
25 have been?

1 A From speaking to the other analyst, she is
2 a -- she teaches like an intro forensics course, she
3 believed it could be what's called Ninhydrin. I don't
4 know about the reagent. But that's what she believes
5 it is that was used by the agency.

6 Q Was that for fingerprints, lifting
7 fingerprints?

8 A I don't know anything about it. So I can't
9 tell you anything about it.

10 Q Do you know how that -- do you know how
11 Ninhydrin would interfere with conducting a
12 phenolphthalein test?

13 A Just besides the fact that it makes my
14 results inconclusive because I can't read it.

15 Q Okay. And were those your results for that
16 paper towel?

17 A Yes. For phenolphthalein I resulted that it
18 was inconclusive.

19 Q For item 27 it says blood was not indicated?

20 A Sorry, let me scroll up. It says blood was
21 indicated for item 27.

22 Q Blood was indicated.

23 A Yes.

24 Q So the reason why you did not note it as
25 inconclusive as opposed to, as opposed to blood being

1 indicated would have been what?

2 A So for this test, because I tested two, the
3 TMB, which is the other test that I performed, is also
4 another blood test. So I was -- that's how I was able
5 to say blood was indicated was by the TMB test.

6 Q Did you get -- first did you get permission
7 to deviate from your policy in using the TMB test?

8 A That's correct. I brought it to the DNA
9 analyst's attention, in this case it's Chad, and he
10 said that TMB should be performed.

11 Q Do you know whether or not TMB gives false
12 positive results just like a phenolphthalein test?

13 A Yes, that's correct. It also tests positive
14 for all bloods. So, like I said, we can't definitively
15 say that it's human blood.

16 Q Well, not only that, but other things such as
17 more along the lines of fruit and vegetables and those
18 type of things will cause a presumptive positive when
19 you use this TMB test?

20 A It could, yes.

21 Q It also gives a false positive for saliva as
22 well?

23 A I believe so, yes.

24 Q And along the same lines, also deviated from
25 policy on item 29 and 30. Item 29 being driver's side

1 front floorboard. Item 30 being swabs latent window
2 area two.

3 A Yes, that's correct. I used TMB for both
4 those items as well.

5 Q Do you know whether or not urine can give a
6 false positive or a positive phenolphthalein test?

7 A Not that I know of off the top of my head,
8 no.

9 Q I think you indicated earlier that you can't
10 tell whether this is human blood or animal blood?

11 A That's correct.

12 Q What does a weak phenolphthalein positive
13 result mean to you?

14 A That the result isn't a bright vibrant pink
15 right away, but it's still a faint pink.

16 Q And so what would that indicate based on your
17 training and experience in conducting these tests?

18 A I would still say that blood was indicated
19 for that sample.

20 Q How many times in your career, your four-year
21 career at this lab, have you used TMB?

22 A In a case, this would be the first time. But
23 in my training, I did use it to -- in my practicals as
24 well as my competency exam for blood.

25 Q So you were trained for it, but this was the

1 case that you used it?

2 A Yes.

3 Q And when you would have been trained for it
4 would have been when you were initially hired or
5 something, something else?

6 A No. It would have been during my training
7 period which would have started about -- I was given, I
8 was given a promotion to serologist in May 2021.

9 Q Okay.

10 A Or March 2021. And it would have been from
11 that -- somewhere in between that time period to when I
12 was signed on. I can't give you an exact date off the
13 top of my head.

14 Q That's fine.

15 A Okay.

16 Q Do you know why the TMB became a deviation
17 from the policy? Why wasn't it being used, why was
18 special permission needed in order to conduct that type
19 of analysis or test?

20 A It was based on the DNA analyst's discretion.
21 He stated that it should be done. That's about the
22 only reason.

23 Q So item 29, the driver's side floorboard,
24 which will be the driver's side front floorboard. Do
25 you know -- is there any indication in your notes, I

1 don't see it in your report, or any indication in your
2 bench notes as to what vehicle these swabs were taken
3 from?

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

5 Q And do you know what date the samples or the
6 swabs were collected?

7 A I do not, no.

8 Wait. Do you mean collected by me for the
9 DNA analyst or collected by the agency?

10 Q By the agency.

11 A No, I don't know that information. Sorry.

12 Q Unless you have it on your own. I don't
13 know.

14 A No.

15 Q But I was referring to -- but you also do not
16 have that information on your own?

17 A Correct. I don't have that information.

18 Q Is there a certain amount of blood or sample
19 that is presumed to be blood or thought to be blood
20 that you need in order to do a proper phenolphthalein
21 test?

22 A So for these items of evidence, some of
23 them -- for example, let's just go with item 26. With
24 how much -- I only noted that there was a faint red
25 brown spot at the tips and I felt that that was not

1 enough of a sample to perform serology as well as then
2 have the sample left over for DNA. So I decided at
3 that time to omit the serology in that case and just
4 collect their samples for DNA analysis.

5 Q And when you say faint brown staining, you
6 said staining, is there a certain -- like, how do you
7 differentiate? Because everybody looks at colors and
8 faintness and things. This is obviously all subjective
9 as to what you believe. Right?

10 A Somewhat, yes.

11 Q But that item was carried forward for DNA --
12 full DNA analysis?

13 A I don't have that information, so I can't
14 tell you. I'm not sure.

15 Q Did you send it forward for DNA analysis? I
16 think that's what you said.

17 A I sent -- sorry, I interrupted you. But I
18 sent all the items of evidence for -- I just
19 transferred all those items to the DNA analyst.

20 Q Give me a minute. I think we might be --
21 And just, just so I'm clear. You had nothing
22 to do with the actual DNA analysis, that would have
23 been Chad Summerfield, right?

24 A That's correct, yes.

25 Q You had no involvement whatsoever?

1 A That's correct.

2 Q Was there anyone assisting you in any of
3 these tests that you performed?

4 A In performing the tests do you mean?

5 Q Yes. Yes. What you did.

6 A No.

7 Q Assisting you, watching over you, in the room
8 with you. Not really in the room. You know, I'm sure
9 you're in a big room. But anybody assisting you,
10 helping you?

11 A Helping me perform the tests, no.

12 Q Is there something that someone did help you
13 with?

14 A They helped me in terms of -- so for item 28
15 they just assisted me in, like, terms of the napkins
16 telling me that I only needed to test one because they
17 were all packaged together. They helped me with those
18 regards of -- just minor things like that. Not
19 involved in my testing or the results of my testing.

20 Q And who helped you with the napkins that were
21 all in one envelope? Can you recall?

22 A I cannot recall, no.

23 Q But that was something you, you didn't -- you
24 wanted to either make sure or you didn't know what to
25 do with that item?

1 A Correct. I wanted to make sure that it was
2 the right thing -- it was okay to do.

3 Q And why, why is that?

4 A I've never had, I've never had multiple items
5 in one, one paper bag like that before. So it's not
6 common for me to have seen it.

7 Q Usually they would be -- if included in a
8 bag, they would be separated, right?

9 A Yeah. If they were all individual, then I
10 would test all of them. But because they were all in
11 one, then, yeah, it's just how it was packaged. It
12 wasn't familiar to me at that time.

13 Q And what are the concerns when three items of
14 evidence are packaged together? Cross-contamination,
15 contamination?

16 A Well, they would all be considered from the
17 same, from the same location essentially. And like you
18 said, they would all be touching each other. So they
19 should all be the same --

20 Q And they should --

21 A -- in a sense.

22 Q They should be separated, right?

23 A It's just, just how they decided to package
24 it. I don't know.

25 Q Okay. And you have no idea what their

1 policies say about how they package evidence, right?

2 A That's correct.

3 Q Do you provide these agencies with policies
4 as to how you want the items of evidence packaged
5 before they send them to your lab?

6 A I believe there is. I can't recall. But I
7 know there's documentation with regards to submitting
8 it to the -- like to our agency. I don't know how in
9 depth that goes though.

10 Q And that will be a policy or a manual I
11 guess, if you will, that assumably each agency would
12 have access to if they were sending items of
13 evidentiary value for forensic testing to your lab,
14 right?

15 A I would assume so, yes.

16 Q I think I asked you this before. But those
17 are the only reports that you were involved in, one,
18 three, five, and six?

19 A Yes.

20 Q And just the presumptive testing and that's
21 it?

22 A Sorry, can you repeat the last part. I
23 didn't hear it.

24 Q Just the presumptive testing and that's it?

25 A Yes.

1 MS. TUOMEY: Okay, those are all my questions
2 for you. I don't know if Mr. Vonderheide has any
3 questions or if any of the other attorneys that
4 are on have any questions for you. But I do
5 appreciate your time.

6 THE WITNESS: Okay. Thank you.

7 MR. VONDERHEIDE: I have no questions. Thank
8 you.

9 MS. TUOMEY: And then you'll have to decide
10 whether you want to read or waive if this gets
11 transcribed. And we just, obviously you know, we
12 need an answer now.

13 THE WITNESS: Okay. I'll read it then.

14 (The deposition was concluded at 10:33
15 a.m.)
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DO NOT WRITE ON TRANSCRIPT -- ENTER CHANGES HERE

DATE TAKEN: August 1, 2024

REPORTER: TAMMY KELLEY

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Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

DESIREE BECHER

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF POLK)

I, the undersigned authority, certify that
DESIREE BECHER, virtually appeared before me
and was duly sworn.

WITNESS my hand and official seal this 18th
day of December 2024.

TAMMY KELLEY
NOTARY PUBLIC - STATE OF FLORIDA
MY COMMISSION NO. HH 216644
EXPIRES: 02/07/26



REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA)

COUNTY OF POLK)

I, TAMMY KELLEY, certify that I was authorized to and did stenographically report the virtual deposition of DESIREE BECHER, that a view of the transcript was requested and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties, nor am I a relative of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 18th day of December 2024.



TAMMY KELLEY

December 18, 2024

Ms. Desiree Becher
desiree.becher@yahoo.com

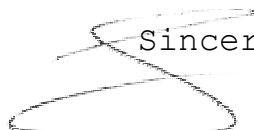
Dear Ms. Becher:

Your deposition taken in State of Florida versus Tomasz Kosowski on August 1, 2024, has been transcribed. Per your request to review the transcript, it is being held at our office at 728 South New York Avenue, Lakeland, Florida.

Please call (863)500-3603 to make arrangements to do this during our regular business hours of 8:30 a.m. to 5:00 p.m.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'Tammy Kelley', written over the word 'Sincerely,'.

Tammy Kelley