

1 questions.

2 THE COURT: Very well. Is there cross?

3 MR. KELLY: Nothing.

4 THE COURT: Can this witness be excused?

5 MR. KELLY: Yes, Your Honor.

6 MR. LAURANS: Yes, Your Honor.

7 THE COURT: Thank you very much. You may
8 step down.

9 (Witness excused.)

10 MR. LAURANS: Judge, my next witness will be
11 Charles Gay.

12 THE COURT: Yes, sir. Would you please step
13 up and raise your right hand to be sworn.

14 CHARLES GAY, being sworn by the Court, testified:

15 DIRECT EXAMINATION by MR. LAURANS:

16 Q Could you please tell us where -- your name and where
17 you're from?

18 A Charles Gay, born and raised in California.

19 Q And from where do you come today?

20 A North Winds Investigations.

21 Q And where is that?

22 A In Rogers, Arkansas.

23 Q Mr. Gay, can you give us a little bit of history of
24 your educational background?

25 A I will. I was in the police academy in August of '66

1 for the police department, 18 weeks of training for the
2 Long Beach Police Department in Los Angeles,
3 California. I attended several FBI schools for
4 training for crime scene development, intelligence,
5 counter intelligence courses. Attended several
6 management -- police municipal management institutes.

7 I currently sit on the board of directors,
8 certified financial investigator for the National
9 Association of Certified Financial Investigators out of
10 Colorado, Denver, Colorado. I have approximately 1,200
11 hours, I believe, when I retired from the police
12 department in 1982, of additional training within the
13 police department.

14 I have associate's degree in public
15 administration out of Orange County, California. I
16 obtained my teaching credentials for law enforcement in
17 junior college for a junior college instruction. I
18 believe that was in 1979. I attended an institute, FBI
19 institute, out of Hawaii for counter intelligence
20 programs. I think that was in 1985.

21 I was -- when I retired in 1982, I was in
22 charge, for the past eight years, of major crimes
23 detail in the Long Beach Police Department, in charge
24 of criminal investigations. In 1982, upon my
25 retirement, I went to work for the Department of

1 Defense. I was administrator of all the counter
2 intelligence programs in communist countries. In 1986
3 I left the Department of Defense and moved to Arkansas,
4 and shortly thereafter I started North Winds
5 Investigation.

6 Q You've been qualified to teach law enforcement
7 officers?

8 A Yes, I have.

9 Q And what subjects do you teach?

10 A Everything from crime scene investigations, patrol
11 procedures, evidence collection, anything that has to
12 do with -- in the law enforcement field.

13 Q And have you testified in court before?

14 A I have.

15 Q How many times?

16 A In Los Angeles County, both Superior Municipal Court I
17 testified over 2,000 times as an expert in the field of
18 narcotics. As far as in criminal cases, it just
19 enormous amount. I'm sure a couple thousand times.

20 Q Have you ever testified as an expert with respect to
21 evidence collection procedures and crime scene
22 preservation procedures?

23 A Not as an expert, no, just part of my job.

24 Q And you've taught that subject as well, correct?

25 A I have.

1 MR. LAURANS: Judge, I'd ask that Mr. Gay be
2 qualified as an expert on those topics.

3 MR. KELLY: I have no objection.

4 THE COURT: All right. As an expert in what
5 area?

6 MR. LAURANS: Crime scene preservation and
7 evidence collection.

8 THE COURT: All right. All right.

9 Q (By MR. LAURANS) Mr. Gay, can you tell us when you
10 first became involved in this case, this postconviction
11 proceeding?

12 A It was towards the end of 1993 when I received a call
13 from Mr. Middleton.

14 Q Is it fair to say that sometime in -- between '93 and
15 '95 Wilma Saltee was working for you?

16 A That's correct.

17 Q And did you send her down to the crime lab to look at
18 some documents, gunshot residue documents?

19 A Yes, I did.

20 Q Did she notify you of anything about those gunshot
21 residue documents?

22 A Yes, she did.

23 Q What did she notify you about?

24 A That the copies that she received at the police
25 department appeared to be altered, and I had requested

1 her to go to the crime lab to obtain the originals and
2 to see if they matched the copies that the police
3 department gave her.

4 Q And are we talking about Mr. Middleton's gunshot
5 residue documents or Mrs. Middleton's?

6 A Mrs. Middleton's.

7 Q Did you actually go in and look at those documents
8 yourself?

9 A I did at a later time.

10 Q After Ms. Sallee, correct?

11 A Yes.

12 Q Can you tell us what happened and what you observed?

13 A I compared her evidence sheet against the gunshot
14 residue sheets -- reports against Mr. Middleton's, and
15 noticed on the green evidence sheet that was used by --
16 at the medical examiner or at the crime lab, that it
17 was a green paper but had White Out in areas where it
18 showed the number of samples. And also on the line
19 where it said left and right test kits, hers said
20 "right." And there was a space where if you put the --
21 hers over the top of Mr. Middleton's, you could see
22 this part scrolled of the writing still underneath the
23 line that tied in exactly and had the word "left." You
24 could see where the word "left" went in. Underneath
25 the White Out you could also see the word "left," and

1 under the White Out where it said the number of test
2 kits, you could see the number 2.!
3 Q Did you hold that document, that green document, up to
4 the light?
5 A Did.
6 Q You were not permitted to take that document out of
7 that crime lab, though, correct?
8 A No, that's correct.
9 Q Can you tell me whether whiting out information on that
10 kind of a document is a proper or improper procedure?
11 A It would be an improper procedure.! The proper method
12 of collecting evidence and doing the reports, it all
13 has to be consistent. The integrity of the report, the
14 reports have to be reliable, as far as no alterations
15 on the reports. Merely the fact that at that point and
16 many years down the road it's going to be in front for
17 speculation or for people to examine evidence, such as
18 the prosecutors, defense, the judge, the jury, medical
19 examiner, coroners and other police investigators, so
20 it would be imperative that there's no alterations on
21 the particular forms.
22 Q Would it be fair to say if there's an altered document,
23 that procedure is to follow up with another report?
24 A It would be, yes.
25 Q Did you see another report in this case?

1 A There was not one.

2 Q I'd like to turn your attention to the gun in this

3 case. As part of your investigation, did you evaluate

4 the trial transcript?

5 A I did.

6 Q In reading the trial transcript, did you take note of

7 how this gun was tested?

8 A I did.

9 Q Was this gun tested properly or improperly?

10 A I thought it was tested improperly.

11 Q In what fashion?

12 A It had been taken apart and examined and replaced back

13 together. In doing that, you could alter the condition

14 of the gun, the actual condition the gun was in at the

15 time it was fired.

16 Q What is the proper procedure for testing a gun?

17 A Prior to taking the gun apart, you would conduct your

18 tests with the gun in its original state, the way it

19 was found.

20 Q And why is that manner preferred to the manner of

21 reassembling it and then testing it?

22 A Well, my experiences with guns, especially out at the

23 police range where we'd normally take our guns apart as

24 a normal routine, clean them, take them apart, inspect

25 the mechanisms and oiling them, many times you can put

1 the gun back improperly, which would give you an
2 improper misfire out in the field or it's not going to
3 function the same. There's been a lot of accidents
4 that I've seen in the field.

5 Q Conversely, if a gun is malfunctioning prior to
6 reassembly, is it possible to put it back in a way that
7 it doesn't malfunction?

8 A You could, yes.

9 MR. KELLY: And if I might, I'm sorry, sort
10 of an objection, but more of a -- I just want to make
11 sure we get this done right. I'm not sure that we laid
12 the foundation for his being an expert in ballistics.

13 THE COURT: I believe that's correct. The
14 objection's sustained.

15 MR. KELLY: And I know that it's there, but I
16 think we need to get it done.

17 THE COURT: I agree. The objection is
18 sustained, but you can lay further foundation.

19 Q (By MR. LAURANS) Do you have experience and training
20 in firearms?

21 A I do.

22 Q Can you inform the Court what that experience and
23 training consists of?

24 A Eighteen years of working around the police department
25 prior to my retirement, qualified as an expert in -- as

1 far as shooting at the target range at the police
2 academy, disassembling, putting together several
3 different firearms that we had, as far as we're able to
4 use at the police department, we carry it in police
5 cars, and pretty much everyday use of firearms, taking
6 them apart and keeping them in proper condition.

7 Q Have you been trained on how to assemble and
8 disassemble a weapon?

9 A I have.

10 Q Have you been trained on how to assemble and
11 disassemble the type of weapon at issue in this case?

12 A I have.

13 Q Have you been trained in how to assemble and
14 disassemble a weapon and test a weapon in relation to
15 evidence collection and crime scene preservation?

16 A No, that wasn't my duty as far as testing them.

17 Q But have you ever become familiar with the procedures?

18 A Well, sure, I've watched them.

19 Q Have you had any further training or experience in that
20 regard?

21 A All my experience is based on 18 years at the police
22 department, which we maintain our own guns and other
23 guns that part of the department used for our task
24 force.

25 MR. LAURANS: Judge, with that foundation,

1 I'd offer this man as qualified to speak on that topic
2 of ballistics.

3 MR. KELLY: If I might voir dire the witness,
4 Judge.

5 THE COURT: Uh-huh.

6 VOIR DIRE EXAMINATION by MR. KELLY:

7 Q Mr. Gay, I'm not trying to be difficult, I just wanted
8 to -- again, we're trying to get the record accurate.

9 A Sure.

10 Q Have you -- you testified that you have never been
11 trained vis-a-vis ballistics and its import to
12 evidence; is that correct?

13 A That's correct.

14 Q But you've certainly had training about firearms?

15 A That's correct.

16 Q You are familiar with ballistics training as far as the
17 procedures that are used to identify where -- where and
18 how a bullet comes from a weapon; is that correct?

19 A That's correct.

20 Q And you are certainly familiar then with how you can
21 identify whether a particular firearm has fired a
22 certain projectile; is that correct?

23 A That's correct.

24 Q And you're familiar with, you know, lands and grooves,
25 things like that?

1 A Yes.

2 Q Okay. And so when you give your opinion as to whether
3 or not breaking down a gun and then putting it back
4 together might affect that, is that based upon your
5 knowledge of the techniques they use to establish
6 ballistics evidence?

7 A That's based on my own experience as far as handling
8 guns for that many years.

9 Q Trying to help you here.

10 A Okay, go ahead.

11 Q You have been exposed, though, to how ballistics
12 testing and collection of evidence is done, correct?

13 A Yes, I have.

14 Q And so when you've offered your opinions, it's based
15 upon not only your personal experience but also your
16 background and understanding of how that is performed?

17 A That's correct.

18 MR. KELLY: That's all I have, Judge. We
19 have no objection.

20 THE COURT: Okay. Very well. You may
21 proceed.

22 DIRECT EXAMINATION (resumed) by MR. LAURANS:

23 Q Have you -- have you -- you didn't have an opportunity
24 to test the gun at issue in this case, correct?

25 A No, I did not.

1 Q But have you tested other guns of the same make and
2 model?

3 A I had a similar model first -- I had a similar model
4 gun that was my duty weapon. It was a Smith and Wesson
5 six-inch model. I think it was a model K. It was a
6 .38 or was it .357? Pretty much the same gun, shooting
7 different ammunition.

8 Q Is it possible to have a hair trigger on that model of
9 a gun?

10 A Most definitely. Mine had one.

11 Q Directing your attention back to the gunshot residue
12 test reports, you evaluated Exhibits 17, 18, 20, and
13 21, correct?

14 A I have.

15 Q What findings did you derive from your evaluation?

16 A I saw several reports indicating that both of her hands
17 were bagged for future tests for paraffin and for
18 stippling from the -- a gunshot, if she would have used
19 it. I saw the reports indicating that Ken Middleton,
20 both of his hands were tested with negative results.! I
21 recall several reports showing that his clothing was
22 tested with negative results.! I showed that her
23 clothes was not tested, and that in the final report,
24 as far as the test at the crime lab that appeared to be
25 altered, I saw reports indicating, or test -- that only

1 her right hand had been bagged and tested, which was
2 inconsistent with the other reports indicating both
3 hands were bagged at the time of the -- while she was
4 at the crime scene.

5 Q Have you drawn any conclusions from your findings?

6 A I formed some conclusions, yes.

7 Q What are the conclusions you formed?

8 A My conclusions was she was shot on the left side of the
9 head, which means -- which would tell me that she -- if
10 she had shot herself, she would have had to have a gun
11 in her left hand.

12 But the fact that the -- that hand wasn't
13 tested. If any hand would have been tested, if they
14 had a choice, for some reason they're only going to bag
15 one hand, it should have been the left hand.!

16 My conclusion was that both hands were
17 bagged. And if I could talk about belief, I believe
18 that the tests were probably made, and that means
19 there's no other evidence of Ken Middleton firing a
20 weapon, even on his clothes or his hands. I believe
21 that the evidence was altered.

22 Q You've read the trial transcript in this case?

23 A I have.

24 Q Do you have an opinion as to whether the gunshot
25 residue test and its altered fashion would have been

1 significant to this trial?

2 A Oh, I definitely think it would have been.

3 Q Significant as to guilt or innocence?

4 A Both. I mean if we could show that -- if the evidence
5 would have been tested, if there was the evidence shown
6 they tested the left hand, means there's no evidence
7 that Mr. Middleton fired a weapon or no evidence on
8 even his clothing that there was any indication he had
9 fired a weapon, or blood spattering, I think it would
10 have been significant evidence to show either she was
11 handling the gun at the time that the gun went off, or
12 it possibly could have accidentally gone off, it could
13 have been dropped.

14 Q And in your investigation, did you also have
15 opportunity to evaluate the Blue Springs Police
16 Department investigation?

17 A I have.

18 Q Can you tell me what your findings were?

19 A I felt that the entire investigation, from the time the
20 first patrolman arrived on the scene, was entirely
21 improper as far as crime scene preservation. One of
22 the things I did note, the patrolman -- that one of the
23 first patrolmen that were there at the scene, he kept
24 Mr. Middleton at the house. And proper procedure, I
25 think with any police department, at least of the

1 numerous cases I have been involved in, you remove the
2 people from the crime scene and try to preserve it.

3 And in his report, he picked up the gun,
4 examined it, opened up the cylinder, meaning he wasn't
5 holding the gun for any kind of fingerprints or
6 evidence. He at a later time picked up the gun and had
7 hid it behind the television, which again would have
8 destroyed any evidence of her hands being -- or
9 fingerprints being on the gun or even Mr. Middleton's
10 fingerprints being on the gun.

11 And then at some later point, I think it was
12 Detective Link asked him to replace the gun where he
13 thought it was when he found it. And he replaced it,
14 which is total altering the evidence, which should
15 never have been done. If anything, the photographs
16 should have been taken where the gun was behind the TV,
17 explaining why it got there and how it got there.

18 Q Did you have opportunity to examine the crime scene or
19 the photos of the reconstructed crime scene by
20 Detective Link?

21 A I have.

22 Q Were you able to compare those photos to the crime
23 scene diagram done on the day of the -- of the death of
24 Katherine Middleton?

25 A I have.

1 Q Were they consistent or inconsistent?

2 A Well, the original crime scene photograph showed --
3 depicted where the body was and depicted a plant and a
4 brass -- I believe it was a giraffe, just to one side
5 of where the boot print was apparently embedded into
6 the wall. Photographs, however, later on, were taken
7 and it was no evidence of either of those items being
8 placed on the carpet or being positioned against that
9 wall.

10 There was additional reports in the evidence
11 about issuance about a phone being on the wall, that
12 she possibly was going to use the phone. And there was
13 numerous parts of the testimonies, I think from
14 Detective Link, that there was no phone on that wall.

15 However, the -- when the photographs were
16 retaken at a later date, all the pictures taken of the
17 crime scene appeared to deliberately omit the phone on
18 the wall. In one picture, if I recall, that I saw,
19 there was a partial cord. It was like the camera was
20 taken just to the side of the phone so it wouldn't
21 show. And that means that was a -- I believe a crucial
22 part of the case. The phone should have been taken as
23 far as part of the evidence.

24 Q Why was it a crucial part of the case?

25 A There's some speculation that she was running for the

1 phone and picked up the gun. And I think Mr. Middleton
2 had in -- some part in that. In the case I had read it
3 indicated that he thought she was running for the phone
4 or going for the phone.

5 Also an indication he picked up the phone to
6 call 911. And it was a result of the testimony to
7 Detective Link and other information that was in
8 evidence. There was all -- they were all stating that
9 there was no phone on that wall, even though there was
10 an affidavit placed into evidence from the original
11 builder that he had installed a wall on that phone.

12 Q So bottom line is, without the phone it casts
13 Mr. Middleton in what light?

14 A That his story was untruthful.

15 Q With respect to those reconstructed crime scene photos,
16 were procedures followed proper or improper?

17 A Definitely improper.

18 Q With the omission of the telephone from the
19 photographs, is that proper or improper?

20 A Improper. !

21 Q Let's talk about the collection of evidence and
22 preservation of Katherine Middleton's body, the crime
23 scene. Can you speak to your findings in that regard?

24 A In the reports it indicated that they unclothed the
25 body to preserve the clothing and then wrapped the body

1 in a sheet to be taken to the medical examiner. In all
2 my years as a police investigator and conducting crime
3 scene searches, you would never disrobe the body.
4 You'd leave the body in its same condition that you
5 found it, have the medical examiner do all their tests.
6 And at some point, when the medical examiner's done
7 with their findings or reports, then we were allowed to
8 do whatever tests we wanted to do.

9 But we never tampered with the body or
10 positioned the clothing or how the clothing was on.
11 And taking the clothing off a deceased person in the
12 field, actually at the crime scene is -- is totally
13 improper. I don't know of any police department that
14 would have that in their procedure manual for crime
15 scene investigation.

16 Q In fact, in the trial transcript was there not a
17 mention of a button torn off the blouse?

18 A There was.

19 Q And to whom did the prosecutor ascribe the fault for
20 that button coming off the blouse?

21 A I believe the grabbing, of Mr. Middleton grabbing her
22 when he was pushing her up against the wall, I think --
23 I believe that's when he indicated that's probably when
24 the button came off.

25 Q Is it possible the button could have come off during

1 the disrobing of the victim at the crime scene?

2 A Oh, definitely. !

3 Q Is that one of the reasons why the procedure would call

4 for you not disrobing?

5 A That's correct.

6 Q Having reviewed the reports, police reports and other

7 materials in this case, and employing your

8 experience -- well, let me stop there. In reviewing

9 the case, can you tell us what the State's theory was

10 concerning the distance between the gun and

11 Ms. Middleton's head?

12 A I believe it was anywhere from four to eight inches

13 from her head, different various testimonies.

14 Q In your experience as a law enforcement officer and

15 handling weapons and as an investigator, is it possible

16 to shoot someone in the head four and a half to

17 eight inches away and not get blood or gunshot residue

18 on your clothing, skin, or hands?

19 A In my years of investigation, I have never found

20 someone without any type of residue on their clothes or

21 hands, blood or residue from the gun.

22 Q Did the Blue Springs police end up putting Katherine's

23 clothes in evidence?

24 A I believe they did, yes.

25 Q But taken from the house, correct?

1 A That's correct.

2 Q And is that a proper or improper procedure?

3 A That would -- in my opinion that's improper. With the
4 police departments that I have worked with or conducted
5 investigations with, it would have been very improper
6 to do anything with the clothing as far as disrobing at
7 that time. The medical examiner's the only place that
8 we would take custody of the clothes, after they've
9 taken -- done their medical examination.

10 Q Are you aware that this trial started on February 15,
11 1991?

12 A I am.

13 Q Were you available to testify at that time?

14 A I was.

15 Q Have you acquired any experience in the intervening 13
16 years that would have resulted in these opinions today
17 or could they have been formed prior to, say,
18 February 20, 1991?

19 A They would have been prior to 1991, my prior police
20 experience.

21 Q So nothing that's happened to you since February of
22 1991 could have bolstered these opinions today?

23 A No.

24 Q And so what I'm driving at is your opinions today would
25 have been the same as they would have been in 1991?

1 A That's correct.

2 Q You were armed with the same amount of education and
3 experience to draw these conclusions back in 1991?

4 A That's correct.

5 Q And available to testify?

6 A Yes, sir.

7 MR. LAURANS: No further questions.

8 CROSS-EXAMINATION by MR. KELLY:

9 Q Mr. Gay, you've previously testified that -- and I want
10 to make just clarification here -- that you had a
11 similar model to the firearm at issue in this case?

12 A That is correct.

13 Q And when you say similar, can you bring it down a
14 little bit more for me?

15 A Well, mine was a .28, Mr. Middleton's was a -- mine was
16 a six-inch Smith and Wesson model K38 revolver. His
17 was a six-inch Smith and Wesson .357 Magnum.

18 Q Are their mechanical actions the same?

19 A Yes.

20 Q You've read the trial transcript in this case?

21 A Yes, I have.

22 Q And you've gone over what I'll just term as the
23 ballistics evidence in the case?

24 A I have.

25 Q Okay. Are you familiar with the testimony in the

1 underlying case that suggested that this weapon,
2 Mr. Middleton's weapon, could not have misfired but for
3 a purposeful action on the trigger?

4 A I read that, yes.

5 Q Okay. Do you agree or disagree?

6 A I disagree.!

7 Q Okay. And why is that?

8 A Incident that happened to me when I was on the police
9 department with my weapon, which has the same safety
10 feature his has. In my police training I was told that
11 my weapon would not fire accidentally when dropped.
12 And not being a ballistics expert or gunsmith, I've
13 always believed that.

14 One day down in the locker room -- I'd been
15 on the police department about eight, nine years -- I
16 was at the gym. And I kept my gun on top of the shelf
17 in my locker. And I had gone back to my locker to get
18 something, and the gun started to slide off the shelf.
19 I had no fear or even thought of going after the gun.
20 I was basically trying to keep from hitting the ground
21 because it was engraved, it was a nice-looking gun.

22 And when it hit the ground, barrel was
23 pointing at me. And I still had no fear of it, and the
24 thing went off.! And it took me a few minutes, that I
25 really thought at that point I had been shot, because I

1 was so close to the barrel. And actually, it fired
2 right past my head up into the air conditioning duct,
3 which it's probably still there today.

4 But at that point I decided to get rid of the
5 .38 and went to an automatic. I had no confidence in
6 the gun at that point.

7 Q And what is it about both firearms, if you will, that
8 is purported to be fail-safe but for the trigger?

9 A Well, where the firing pin is, there's -- there is a
10 shield or piece of metal between the firing pin and the
11 primer. And when you cock the gun back, it drops down,
12 allowing the firing pin to be able to strike the primer
13 on the bullet. But when the gun is not cocked, there's
14 a safety between that to where if -- technically, it
15 was supposed to -- you can slam it. If it hits hard,
16 it's not going to get to the firing pin, it has no way
17 of firing.

18 I took my gun to the gunsmith and had them
19 look at my gun after the incident, because it had had
20 me pretty well upset and nervous about using the gun
21 after that. And he couldn't find anything. He did
22 some tests on my gun and I watched him. He dropped my
23 gun. And because at that point I told him I wasn't
24 going to use the gun after that anyway. And he tried
25 dropping it and doing several tests and never could get

1 it to go off. But the fact was, it did go off and I
2 was no longer confident of that gun.

3 Q Is it possible -- and I'm talking about the realm of
4 possibility -- that somehow that gun was cocked before
5 it fell off the -- from the top of the wherever it was?

6 A No.

7 Q Do you think it's possible that in dropping that
8 distance that it somehow did cock the gun, if you will,
9 or at least partially?

10 A I don't think -- because I didn't even get my hands on
11 it. I was trying like in vain to get that gun before
12 it hit the ground. I didn't even touch the gun. It --
13 there's no way it could have cocked as falling without
14 handling it. And it was actually in the holster. I
15 have a side holster and it was snapped when it was up
16 in the top shelf. And that snap wouldn't allow the gun
17 to be cocked. And it was still -- it was still snapped
18 shut when I retrieved the gun.

19 Q It was in the holster?

20 A It was in the holster. But it's got a holster where
21 the barrel still sticks out about that far beyond it,
22 so I'm still looking at the barrel when it hit the
23 ground. And there's no way it could have been cocked.
24 I had no explanation why it went off. The gunsmith
25 wasn't able to tell me why it went off, but at that

1 point after eight years being told I had a safe gun, I
2 realized that time that it was something different.

3 Q Can a load or ball, whatever the vernacular is, can it
4 be constructed in such a way that it is in itself sort
5 of a volatile load and any blunt force trauma could
6 cause it to discharge?

7 A If you just ask my opinion, because I'm not an expert
8 on ballistics, I'd have to say no. You have to be able
9 to center fire that firing pin, I mean the firing cap
10 on the bullet and -- in order to get it to explode, in
11 my opinion.

12 The gunsmith didn't come up with that theory.
13 I mean I would have gone for any kind of theory to tell
14 me why my gun wasn't safe or why it wouldn't be safe
15 after that or if there's something wrong. He took the
16 gun apart afterwards. He did test it before he took it
17 apart. And made all his tests, couldn't make it go
18 off. Then he did take it apart to see if there's
19 anything wrong with the way the gun had been put back
20 together one time when I was cleaning it and couldn't
21 find anything wrong. I still have that gun, but it's
22 not been fired since.

23 Q Okay. With respect to your testimony that it was a,
24 quote unquote, hair trigger --

25 A Yes.

1 Q -- I know that typically there are tests as to how much
2 pound feed of torque needs to be applied to a trigger
3 and there's a continuum. Can you ballpark or is that
4 just your own sense of whether it was a light trigger
5 or a heavy trigger?

6 A Well, on my gun, manufacturer stated, I believe,
7 anywhere from three and a half to five-pound trigger
8 pull. I had mine worked on down to a half-pound
9 trigger pull because I was also shooting competition
10 with my gun and I was a sharp shooter or expert.

11 Q So that was very, very light?

12 A It was very light.

13 Q Do you know, in fact, whether Mr. Middleton's gun had
14 been altered in that way?

15 A I have no idea.

16 Q And so you would expect then that it would come with
17 the normal trigger load, wouldn't you?

18 A It would normally come -- you can order them as a
19 target pistol and it will come with what I call a hair
20 trigger. And you can -- you can actually order them
21 with whatever pull you want --

22 Q Okay.

23 A -- if you're into competition. I wasn't in that
24 serious competition. I was just basically just the
25 competition of the police department. But you can

1 order them as a target pistol. And with that they come
2 with different sights. They come with the bigger shoe
3 and a bigger trigger, a fatter trigger.

4 Q And with respect to -- and I know yours was obviously
5 very hair trigger. Would you consider the normal
6 manufactured spec at three to five pounds, would you
7 consider that to be a hair trigger?

8 A I don't -- if it's three and a half to five pound, I
9 wouldn't -- I would not consider that a hair trigger,
10 in my opinion.

11 Q Okay.

12 A I think mine came that way, three and a half to five;
13 it wasn't light enough for me.

14 Q Okay. And just one other issue going on. With respect
15 to the gunshot residue on the left hand --

16 A Uh-huh.

17 Q -- in all of everything you've looked at, you have no
18 evidence nor reason to believe that in fact she had
19 gunshot residue on her left hand, do you?

20 A I do not.

21 Q Okay.

22 MR. KELLY: That's all I have, Judge.

23 THE COURT: Do you have redirect?

24 MR. LAURANS: No, I do not, Your Honor.

25 THE COURT: Can this witness be excused?