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STATE OF TEXAS
COUNTY OF TRAVIS

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared, Donna M. Stanley, a person known to me, who after being first duly sworn, stated on her oath that she had personal knowledge of the facts contained in this affidavit, and stated as follows:

“My name is Donna M. Stanley. I am over the age of 18 years and am competent to make this affidavit. I am employed as a criminalist assigned to the Serology/DNA Section of the Texas Department of Public Safety Laboratory in Austin, Texas. I am a forensic serologist trained and experienced in DNA analysis. I have received training at the FBI Academy in Quantico, Virginia, in DNA analysis. That training included my successful completion of the “Laboratory Application of DNA Typing Methods School” and the “Forensic Application of DNA typing Methods School” both conducted in April-May 1991. Additionally, in March-May, 1992, I successfully completed the “Visiting Scientist Program” in DNA analysis at the FBI Academy. I have performed hundreds of DNA analyses. Also, I have qualified to testify as an expert in the field of DNA analysis in both state and federal courts in Texas.

I have reviewed a DNA report prepared by Lifecodes Corporation dated February 23, 1990 (hereinafter referred to as “DNA report”), and addressed to Thomas Hughes, Attorney, El Paso, Texas. I have also reviewed the application for writ of habeas corpus

made by Brandon Lee Moon in cause numbers 50015 and 50033 in the 327th District Court, El Paso County, Texas, dated March 26, 1995. I have also reviewed a summary of the evidence from applicant Moon's trial in cause numbers 50015 and 50033.

Additionally, I have personally talked to Dr. Michael Baird, Vice-President/Director of Laboratory Testing of Lifecodes Corporation. Dr. Baird told me that Lifecodes has been performing DNA analysis in sexual assault cases since 1987. Upon my request, Dr. Baird reviewed the DNA report and the analysis and notes from Lifecodes' lab analysis of the evidence submitted as shown on the first page vitae DNA report. After completing his review, Dr. Baird informed me that the DNA examined by Lifecodes from the peach bedspread could not be excluded as being the DNA from the victim because it was possible that the DNA examined by Lifecodes from the peach bedspread was female DNA only. Female DNA is that DNA which would be contributed by a female victim in a sexual assault. This statement by Dr. Baird comports with the statement on the Lifecodes report under the heading "Summary of Results," that states, "[S]ince a blood exemplar from the victim has not been provided for comparison, a definite conclusion can not be reached as to the source of the DNA recovered from the peach bedspread." Dr. Baird's statement is also consistent with the failure of the report (on page 2) to show evidence of the male Y chromosome in the DNA tested from the peach bedspread. Consequently, because it is possible that the DNA examined from the peach bedspread came from the victim, and because a known sample of the victim's blood

was not analyzed and compared to the DNA recovered from the peach bedspread by Lifecodes, the DNA report, while concluding that the DNA from Brandon Lee Moon and the DNA recovered from the peach bedspread do not match, cannot – and does not – exclude Brandon Lee Moon as a suspect in the sexual assault of the victim. At this time, in order to reach any reliable conclusions, the evidence would have to be retested against new samples of applicant's blood, the victim's blood, the victim's husband's blood, and the victim's son's blood.

I also asked Dr. Baird if he still had the evidence that he had received as shown on the first page of the DNA report. He stated that he did. As I have been instructed by the District Attorney's Office for the 34th Judicial District, I have requested Dr. Baird to ship to me all of the evidence. He stated that he would, and would also send the remaining extracted DNA retained by Lifecodes (as shown on page 3 of the DNA report), as well as duplicates of developed autoradiographs and any pertinent laboratory documentation. Upon receipt of this shipment from Lifecodes, I will determine if any of the evidence is still in a condition in which a new DNA test can be done. If so, to properly test the evidence, I will require a new blood sample from the victim, and from applicant, Brandon Lee Moon. Additionally, since the victim stated that she had sexual intercourse with her husband the night before the sexual assault occurred, I will need a blood sample from the victim's husband to insure that any male DNA that I may be able to recover and test from the evidence does not come from the victim's husband

as it is possible that the closeness in time between the sexual intercourse between the victim and her husband and the sexual intercourse between the victim and the perpetrator of the assault would yield the victim's husband's DNA on the victim's rape kit or even on the peach bedspread. Further, since the victim left the house wearing her son's bath robe, I need a blood sample from the son to exclude the possibility that any male DNA recovered from the bath robe did not originate from the victim's son. I will require new blood samples from the victim and applicant, Brandon Lee Moon, to perform a DNA test because I believe that any such blood samples received from Lifecodes will be degraded and therefore inappropriate to use for further testing.

The evidence, when received by me from Lifecodes, will remain in my custody at the Texas Department of Public Safety Lab in Austin, Texas.”

I HAVE READ THE FOREGOING AFFIDAVIT AND STATE THAT IT IS TRUE AND CORRECT.

/s/ Donna M. Stanley
DONNA M. STANLEY

SUBSCRIBED AND SWORN TO May 17, 1996.

/s/ Kay Melton
NOTARY PUBLIC
STATE OF TEXAS
[NOTARY STAMP]

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[LOGO] LIFECODES CORPORATION Division [illegible]
SAW MILL ROAD Quantum Chemical
VALHALLA, NEW YORK 10595 Corporation
(914) 784-2600

February 23, 1990

Thomas S. Hughes
Attorney
120 North Florence
El Paso, TX 79901

Re: Lifecodes Case #:FB20959

I. Evidence Receipt

The following evidence was received on May 16, 1989 from El Paso County Sheriff's Department, 600 E. Overland, El Paso, TX in a sealed container via Federal Express.

<u>Accession #</u>	<u>Sample</u>
FB20959	1 Red top blood vial Exb. A
FI20960	1 Royal blue bath robe Exb. #3
FI20961	1 Peach colored bedspread Exb. #4
FI20962	1 Box containing 2 rape kits (N.R.) Exbs. # 32,34,35,36,37,38 & 44)

II. Summary of Results:

The DNA recovered from the peach bedspread and the blood from Brandon Lee Moon can be excluded as having a common origin.

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However, since a blood exemplar from the victim has not been provided for comparison, a definite conclusion can not be reached as to the source of the DNA recovered from the peach bedspread.

II. Results:

	NOT PROCESSED	S PER M VISUAL I Z E D	I N S U F F I C I E N T D N A	H I G H M O L W E I G H T D N A	D E G R A D E D D N A	D N A P A R T I A L L Y D E G R A D E D	H U M A N D N A	Y C H R O M O S O M E D N A	D N A P R I N T M A T C H E S	D N A P R I N T N O N M A T C H E S	B A C T E R I A L D N A
SAMPLE #											
1	FB20959			X			X	X		3	
	FI20960	X	X								
3	FI20961	X				X	X			1	
4	FI20962	X									

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The DNA isolated from the peach bedspread (FI20961) did not match the pattern of the exemplar (FB20959) with four genetic systems: DXYS14, D17S79, D14S13 and D18S27.

The DNA isolated from the peach bedspread (FI20961) did not yield a DNA-PRINT™ with the genetic system D2S44.

A minimum of 5% of the undigested DNA recovered from all processed evidentiary samples has been retained.

III. Conclusion

A comparison of the DNA-PRINT™ pattern obtained from sample FI20961 excludes Brandon Lee Moon (FB20959) as the source of the DNA recovered from the evidence sample. No conclusions can be made without a victim exemplar for comparison.

IV. Disposition of Evidence

The evidence will be repackaged and returned under separate cover to Thomas S. Hughes via UPS as per your Evidence Return Confirmation sheet.

The DNA isolated in this case is retained on a nylon membrane(s) at Lifecodes and can be made available for additional analysis.

Joanne B. Sgueglia, B.A. /s/ Joanne B. Sgueglia
Forensic Scientist

cc: Steve Simmons, D.A.
34th Judicial District
3rd Floor
El Paso City – County Building
El Paso, TX 79901
Attn: Dan Kopra

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TEXAS DEPARTMENT
OF PUBLIC SAFETY

5805 N. LAMAR BLVD. -
BOX 4087 -
AUSTIN, TEXAS 78773-0001

[SEAL]	CRIME LABORATORY DIVISION	[SEAL]
DUDLEY M. THOMAS DIRECTOR	P.O. BOX 4143 AUSTIN, TEXAS 78766-4143	COMMISSION JAMES B. FRANCES JR., CHAIRMAN
THOMAS A. DAVIS, JR. ASST. DIRECTOR	512/424-2106	ROBERT S. HOLT RONALD D. KENT COMMISSIONERS

January 9, 1997

TO: John Davis
Assistant District Attorney
500 E. San Antonio, Room 201
El Paso, Texas 79901

SUBJECT: L-247973; Lubbock Crime Lab Case L5L-30910; Aggravated Sexual Assault; 04-27-87; El Paso County; [REDACTED]-victim; Brandon Moon-suspect; El Paso D.A. Office Trial Cause No. 50015/33

DATE RECEIVED: May 23 and May 24, 1996

METHOD OF SUBMISSION: On May 23, Federal Express pouch; On May 24, UPS; Both directly from LifeCodes;

EVIDENCE SUBMITTED:
On May 23, 1996: One set of eleven duplicate autorads and copies of LifeCodes case material documentation

On May 24, 1996:

1. Sexual Assault kit from [REDACTED] including: One red top blood tube; one tube with unknown liquid; two swabs without cotton tips; two vaginal slides
2. Collection kit from Brandon Moon including: One red top blood tube; one plastic container with semen; head, pubic and chest hair; saliva sample on cotton ball.
3. Item #3: Bath robe
4. Item #4: Orange comforter
5. In separate styrofoam box, one additional blood sample from Brandon Moon

REQUESTED ANALYSIS: Determine the presence of semen on the submitted items and perform DNA analysis.

RESULTS OF ANALYSIS:

The comforter and the bath robe were each viewed with an alternate light source as an aid in locating seminal fluid stains. These stains were further confirmed to be seminal stains by the detection of spermatozoa, a cellular constituent of seminal fluid

The semen stains located on the bath robe were detected on the inside, back panel (This is consistent with the buttock area of the bath robe). It was observed that approximately 15 inches up from the bottom of the bath robe hem, a large piece of fabric had been removed. With the aid of the LumaLite (alternate light source), I located four more individual stains which

were in the same location and very close to the missing fabric. The LumaLite also revealed that the edge of the missing fabric still indicated possible residual semen stain which had not been previously removed.

Further observation revealed approximately seven more individual stains on the inside left edge (edge approximately representing the seam between the back panel and the left front panel). I removed the edge of the missing fabric as one stain and tested one stain next to this, and finally tested three additional stains on the inside seam. A total of five stains were tested from this bath robe.

The comforter was observed to have one large piece of fabric removed from an area approximately in the middle of the comforter. The LumaLite indicated that all of this stain must have been previously removed. The edge did not indicate any residual semen. Further observation revealed two additional stains. Both of these stains were removed and tested. On the reverse side of the comforter two more stains were detected. One stain was removed and tested. A total of three stains were tested from the comforter.

The vaginal glass slides were microscopically observed to contain spermatozoa, the cellular component of seminal fluid. The semen on the vaginal glass slides was tested.

Two vaginal swabs were submitted in the sexual assault kit from [REDACTED]. I observed that all of the cotton tip of these swabs were missing. All that remained were the bare sticks and minute strands of the

previous cotton tip. I tested approximately 2.5 centimeters of the stick with the cotton fibers.

DNA was isolated from each of the mentioned samples or stains. A two step method for extraction of the DNA is used to first recover DNA from the non-sperm cells usually associated with the female's vaginal fluids (called epithelial cell fraction) and the second step recovers DNA from any sperm cells present in the stain (called sperm cell fraction). The isolated DNA from each stain is then tested with the Perkin-Elmer HLA-DQa AmpliType kit. The results are as follows:

DESCRIPTION OF ITEM		DQA ALLELES DETECTED
Vaginal swab	epithelial fraction	INC
	sperm fraction	2,3,1.2
Vaginal slide	epithelial fraction	4
	sperm fraction	2,3,4
Bath robe stain A	epithelial fraction	2,3,4,1.2
	sperm fraction	2,3
Bath robe stain B	epithelial fraction	INC
	sperm fraction	2,3,1.2
Bath robe stain C	epithelial fraction	2,3
	sperm fraction	2,3
Bath robe stain D	epithelial fraction	2,3,4,1.2
	sperm fraction	2,3
Bath robe stain E	epithelial fraction	2,3,4,1.2
	sperm fraction	2,3
Comforter stain A	epithelial fraction	2,4,1.2
	sperm fraction	2,4,1.2
Comforter stain B	epithelial fraction	2,4,1.2
	sperm fraction	2,4,1.2

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Comforter stain C	epithelial fraction	INC
	sperm fraction	1.2,2

KEY: INC = Inconclusive (can not interpret DQa alleles)

CONCLUSION: Without reference blood standards from the victim, her husband, son and the suspect, an interpretation of the results can not be attempted. However, from these results it can be concluded that the semen donor on the comforter is different from the semen donor on the robe and the vaginal specimens.

INVESTIGATIVE LEADS: It is possible to perform additional DNA analysis on the evidentiary samples. Please submit one purple top tube of blood from each individual for comparison.

DISPOSITION OF EVIDENCE: We will retain the evidence until we receive notice from you. We do not have the capacity to retain evidence for long periods of time. When you decide the disposition for this evidence, please notify us.

Sincerely,

/s/ Donna Stanley
Donna Stanley, Criminalist VI
DNA Section
