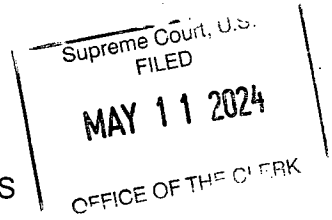


23-7556 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Nathan Beal — PETITIONER
(Your Name)

vs.

Washington State — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Nathan Beal
(Your Name)
Challum Bay Correctional Facility
1830 Eagle Crest Way
(Address)

Challum Bay, WA 98362
(City, State, Zip Code)

none
(Phone Number)

QUESTION(S) PRESENTED

Should Washington State use the Daubert standard for criminal trials, or is the Frye standard sufficient?

Should Washington State have a more direct interpretation of Federal Evidence Rule 702, with its own Evidence Rule 702?

Is an expert allowed to give testimony about physical evidence that defense counsel does not have access to?

Can an expert make unqualified subjective opinions for a criminal trial?

Is a conclusion of a firearm ballistic match, at the exclusion of all other firearms, still generally accepted in the scientific community?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- [] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Abrugh v State of Maryland 296 A.3d 961, 968 (Md. 2023)	4, 5
Daubert v Merrell Dow Pharmaceuticals, Inc. 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993)	4, 5
Frye v United States 293 P. 1013, 34 A.L.R. 145 (D.C. Cir 1923)	4, 5

STATUTES AND RULES

Federal Evidence Rule 702	4, 5
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APPENDIX B *Decision of State Superior Court, Unavailable legal paper was confiscated*

APPENDIX C *Decision of State Supreme Court Denying Review*

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the State Superior Court court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A-_____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 3-6-24. A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A-_____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

STATEMENT OF THE CASE

On August 8, 2020 Mary Schaffer was found dead in a parked car with a single bullet wound to the head. She was situated as though stepping out of the car with her foot in the door jam. The car door was closed. She was parked across the street from Nathan Beal, the defendant's apartment for a scheduled pickup of their two children they shared parenting of. Stippling indicates the shot was from less than 30 inches away. None of Mr. Beal's DNA was recovered from the closed car door.

The next door neighbor to Mr. Beal, Sandra Young, described hearing a gunshot between 12:00 and 12:40 pm. While standing in the apartment parking lot, she looked down the street and "saw one gentleman with brown curly hair" running from a parked car. She noted the curly hair looked like a wig. Sandra Young spoke to at least four different police officers that day. On the day of the crime she never mentioned seeing Mr. Beal whose appearance she knew quite well. A year and a half later she changed her story during trial to say Mr. Beal was also standing by the car.

Ms. Young also described the man as wearing a long sleeve grey sweatshirt. Surveillance video shows a man wearing a face mask and long sleeve grey sweatshirt close to where the crime occurred. A long sleeve grey sweatshirt was found in a dumpster with blood on it one block from the crime scene. DNA tests showed four different peoples DNA on the shirt. None of the DNA was Mr. Beal's.

Hailey Beal, Mr. Beal and Ms. Schaffer's daughter, received a text from Ms. Schaffer saying, "I'm here", at 12:36 pm. Hailey claimed Mr. Beal told her he was going out to get mochas about 20 minutes before she received the text. A receipt from a coffee shop was recovered for 3 mochas with a time stamp of 12:30 pm. Coffee cups and a carrying tray from the coffee shop were found in the apartment. No one described seeing a man running with a gun and a tray of coffees.

A 9mm bullet casing was found outside the car. When Mr. Beal was arrested a 9mm pistol was found in his apartment. No other evidence was implicating Mr. Beal.

Mr. Breman-Martin, the ballistics expert for this case, received a summary from detectives of what they think happened before he did his test. After which he claimed the bullet and casing from the car matched test fires from the gun in Mr. Beal's apartment. No test fire comparisons were allowed in court. No test fire pictures were provided to the defense counsel. Mr. Breman-Martin admitted his testimony was subjective. He gave his opinion without any qualifier of physical evidence.

Nathan Beal was found guilty at trial

REASONS FOR GRANTING THE PETITION

The decision is erroneous. Nathan Beal did not shoot Mary Schaffer. The gun in his apartment did not shoot Mary Schaffer.

Washington State refuses to follow Daubert or Federal Evidence Rule 702. It currently uses the Frye Standard.

Ballistics identification methodology (toolmark analysis) is generally admissible evidence and meets a Frye and Daubert Standard without a hearing. Mr. Beal argues Mr. Bromberg-Martin's particular testimony is inadmissible under the Frye Standard which requires known error rates. Mr. Bromberg-Martin testified there are no "qualitative sureness" percentages or confidence intervals for the types of testing he conducts. It is further inadmissible under Federal Evidence Rule 702 and Daubert that he gave subjective opinion with no qualifier. No physical evidence was provided to confirm his conclusion.

Interstate this case is in conflict with *Abrugh v State of Maryland* 296 A, 3d 961, 968 (Md. 2023). This ruling in Maryland seriously calls into question the admissibility of the type of ballistics toolmark analysis used in this case. As recognized in *Abrugh* a firearms examiner may no longer conclusively testify that a bullet was fired from a specific gun. The *Abrugh* court concluded the toolmark analyst should not have been allowed to testify to an unqualified opinion that the bullets fired came from a specific gun. The court noted while reports, studies, and testimony support the method of toolmark analysis as a means for presenting evidence as to whether bullets are consistent or inconsistent with being fired from a particular firearm, those same sources do not demonstrate the method can be the basis for an unqualified conclusion. *Id* at 648.

Mr. Bromberg-Martin testified that in his opinion the bullet from the scene was fired from the gun found in Mr. Beal's apartment. This kind of unqualified testimony would not be

allowed in Maryland courts. *Abrugh*, 483 Md. at 648. It should not have been allowed in the present case, either. The expert in this case based his opinion on subjective analysis, without presenting any pictures at trial to demonstrate comparisons between samples. A Frye hearing, at a minimum, should have occurred. Moreover, the *Abrugh* opinion demonstrates the unqualified opinion of a toolmark analyst may no longer be generally accepted in the scientific community.

The Daubert Standard and Federal Evidence Rule 702 should apply to determine admissibility of expert testimony, not the Frye Standard. This case should be reversed.

Put bluntly, this case may prevent expert testimony without physical evidence, to ensure convictions. This has massive state and national significance.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Nathan Beal *Nathan Beal*

Date: 5-10-24