

EXHIBIT "A"

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR 2001-007211

07/26/2022

HONORABLE DAVID W. GARBARINO

CLERK OF THE COURT
S. Allen
Deputy

STATE OF ARIZONA

FAITH CHEREE KLEPPER

v.

KEITH MICHAEL CONNOLE (A)

MICHAEL P DENEAL

COURT ADMIN-CRIMINAL-PCR
JUDGE GARBARINO

PCR - UNDER ADVISEMENT RULING

The Court received and reviewed Defendant Keith Michael Connole's Request for Post Conviction Deoxyribonucleic Acid Testing ("DNA") Pursuant to Rule 32.17, Ariz. R. Crim. P. (2020) (the "Motion"), the State's Response to the Motion, and the Reply to the Response. The Court held oral argument on June 17, 2022. This is the Court's decision.

The Motion requests the Court to order the Phoenix Police Department to search the CODIS database and disclose a DNA report of a Jerry Wayne Spillers, Jr. for comparative DNA testing. Mr. Connole believes that the search may reveal that Mr. Spillers' DNA was at the scene of one of the crimes for which Mr. Connole was convicted. According to Mr. Connole, Mr. Spillers has since been convicted of a "similar offense against a similar victim, in another state." For the reasons stated below, the Court denies the Motion.

No reasonable probability exists that the requested testing would render results that would (1) have resulted in a more favorable verdict or sentence had the information been available at trial or (2) produce exculpatory evidence. The DNA sample collected at the scene of the Mr. Connole's crime was collected and tested prior to his trial. Mr. Connole was not a match to the DNA collected. The jury was made aware that Mr. Connole was not a match to the DNA collected. Prior to the crime, Mr. Spillers lived in the room from which DNA was collected, and it would be expected to find Mr. Spillers' DNA in that room. Mr. Spillers' crime and conviction

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occurred years later and related to events that occurred years after Mr. Connole's crimes. Even if the jury had received evidence that the DNA was Mr. Spillers' DNA, that fact would not be material to the jury's conclusion, i.e., the jury already knew the DNA was from someone other than Mr. Connole. The additional information that the DNA matched Mr. Spillers, who lived in the room for a period of time prior to Mr. Connole's crime, would not have impacted the jury's verdict. Accordingly,

IT IS ORDERED denying the Motion.

/s/ David W. Garbarino
Judge David W. Garbarino
Arizona Superior Court, Maricopa County

EXHIBIT "B"



Supreme Court

STATE OF ARIZONA

ROBERT BRUTINEL
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
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TRACIE K. LINDEMAN
Clerk of the Court

April 25, 2023

RE: KEITH CONNOLE v HON. GARBARINO/STATE

Arizona Supreme Court No. CR-22-0305-PR

Court of Appeals, Division One No. 1 CA-SA 22-0207

Maricopa County Superior Court No. CR2001-007211-A

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on April 24, 2023, in regard to the above-referenced cause:

ORDERED: Petition for Review of a Special Action Decision of the Court of Appeals (Accepting Jurisdiction, Denying Relief) = DENIED.

A panel composed of Chief Justice Brutinel, Justice Bolick, Justice Beene and Justice King participated in the determination of this matter.

Tracie K. Lindeman, Clerk

TO:

Alice Jones

Michael P Denea

Faith Cheree Klepper

Hon David W Garbarino

Amy M Wood

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IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

DIVISION ONE
FILED: 11/22/2022
AMY M. WOOD,
CLERK
BY: KLE

KEITH MICHAEL CONNOLE,) Court of Appeals
) Division One
Petitioner,) No. 1 CA-SA 22-0207
)
v.) Maricopa County
) Superior Court
THE HONORABLE DAVID W. GARBARINO,) No. CR2001-007211-A
Judge of the SUPERIOR COURT OF)
THE STATE OF ARIZONA, in and for)
the County of Maricopa,)
)
Respondent Judge,)
)
STATE OF ARIZONA and RACHEL)
MITCHELL, Maricopa County)
Attorney,)
)
Real Parties in Interest.)
_____)

ORDER ACCEPTING JURISDICTION, DENYING RELIEF

The court, Presiding Judge David D. Weinzweig, Judge Randall M. Howe and Judge D. Steven Williams, has considered the petition for special action and the response. After consideration,

IT IS ORDERED in the exercise of its discretion, the court accepts jurisdiction of the special action.

IT IS FURTHER ORDERED the court denies the relief requested.

IT IS FURTHER ORDERED vacating this court's previous order requiring the filing and service of a reply and vacating the conference scheduled for November 30, 2022.

/s/
David D. Weinzweig, Presiding Judge