

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

JULIUS JARREAU MOORE,

Petitioner,

v.

STATE OF ARIZONA,

Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

**PETITIONER'S SUPPLEMENTAL APPENDIX
(Volume 2)**

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Counsel of Record

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Counsel for Petitioner

**APPENDIX
(Volume 1)**

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Appendix F

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Petitioner's Exhibit #40
Affidavit of former Maricopa County
Medical Examiner Dr. Archilaus Mosley

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 Az. Bar #014756 PCC #64767
 Attorney for Capital Defendant Julius Jarreau Moore

**IN THE SUPERIOR COURT OF ARIZONA
 IN AND FOR THE COUNTY OF PIMA**

	)	CASE NO.: CR1999-016742-001DT
STATE OF ARIZONA,)	
	)	AFFIDAVIT SUPPORTING
Respondent/Plaintiff.	)	DNA TESTING IN
and	)	CAPITAL RULE 32 CASE &
	)	POST CONVICTION RELIEF
JULIUS JARREAU MOORE.	)	(Assigned to:
	)	THE HONORABLE
Petitioner/Defendant.	)	JOSEPH WELTY)
_____)	

STATE OF ARIZONA)
) ss.
 County of ^{Mohave} ~~Maricopa~~)
 m.

Archiaus L. Mosley, M.D., being sworn upon his oath, does hereby depose and state that the following statements are true and within his own personal knowledge, information and belief:

1. That affiant is a former Medical Examiner for Maricopa County (1999-2008), and currently works for both Coconino (2008-present) and Mohave County (2010-present) as a Medical Examiner;
2. That affiant received his medical degree from the University of California at San Diego in 1993, and did his residency at Georgetown University Medical Center (1993-98);
3. That following residency, affiant received additional training and education in forensic pathology by completing

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- fellowship training (1998-99) at the Office of the Chief Medical Examiner for the State of Maryland in Baltimore;
4. That affiant is the Medical Examiner related to the present case who conducted the autopsies of the victims Sergio Mata. Guadalupe Ramos and Delia Maria Ramos following the Crackhouse related shooting that is the subject of this case that occurred on 11/16/99 at 1808 E. Yale, Phoenix, Arizona;
 5. That affiant gave testimony at both guilt and penalty phase trials related to injuries sustained by the victims in this case;
 6. That affiant has been retained by the Rule 32 defense team to review both medical and crime scene evidence concerning particular issues related to possible post conviction claims for relief;
 7. That specifically affiant has been asked to consider the relevance of a knife found near the foot of victim Sergio Mata (Item #22) and its possible relevance to the present post conviction appeal (see attached Exhibit #1; Crime Scene photos from Superior Court Exhibits 109 & 110 in CR 1999-016742);
 8. That after reviewing the autopsy report related to victim Sergio Mata, affiant has first determined to a reasonable degree of medical probability that Mr. Mata did not have any sharp force injuries that would account for the staining on the end of the knife that appears to be consistent with blood (See attached Exhibit #2; Autopsy Report of Sergio Mata);
 9. That affiant further opines based upon his education and experience in considering the crime scene photos and autopsy report of Sergio Mata, that given the contact gunshot wound to victim Mata's head which was the cause of his death (Id.), as well as the apparent blood on the end of the knife found immediately adjacent to his body at the crime scene (see attached Exhibit #1; Crime Scene photos from Superior Court Exhibits 109 & 110 in CR 1999-016742), that the person who shot Sergio Mata may have been stabbed or cut by the victim prior to the perpetrator inflicting the fatal gunshot wound; and

10 The undersigned certifies that all medical records
of the deceased, [Name], [Address], [City], [State], [Zip],
which are in the possession, custody or control of the undersigned,
have been reviewed and are true and correct to the best of the
undersigned's knowledge.

16th Apr 2014
DATED this 16th day of April, 2014.

~~_____~~
ARCHAUS T. MOSLEY, M.D.

SUBSCRIBED AND SWORN to before me on this 16th day of April, 2014.

16th Apr 2014
~~_____~~
Notary Public

NOTARY PUBLIC FOR THE STATE OF MISSISSIPPI

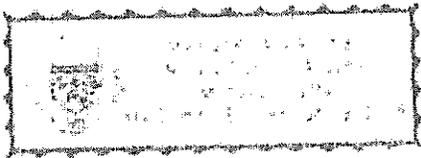


Exhibit #1

Crime Scene Photos

(MCSCT Exhibit #109 + 110)

Reviewed by Dr. A. Mosley

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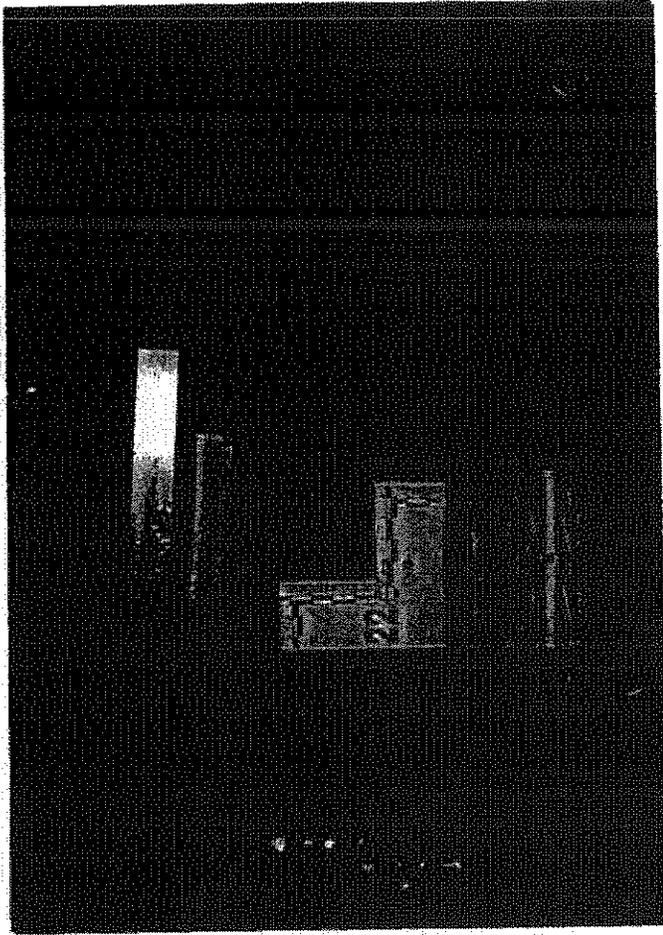


Exhibit No. 10

Case No. CR07-177

To Identification

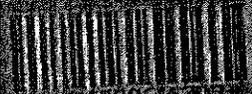
PLAINTIFF

07/10/07

In Evidence

Clerk of Superior Court

By L. ROBALCABA
Deputy Clerk



CR-07-0164 AB

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22
22

273 a



Exhibit No. : 109

Case No. : CR99-16742

For Identification:

PLAINTIFF

04/13/07

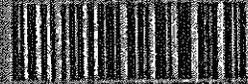
In Evidence: *PTJ*

5-2-07

Clerk of Superior Court

By: L. RUBALCABA

(Deputy Clerk)



1000515738

CR-07-0164-AP

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Exhibit #2

Autopsy Report by
Dr. A. Mostey Re:
Victim Sergio Mata

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MARICOPA COUNTY
OFFICE OF THE MEDICAL EXAMINER
120 S. 6th Avenue
Phoenix, Arizona 85003

REPORT OF AUTOPSY

DECEDENT: Sergio Mendoza Mata

CASE: 99-03328

DATE: November 17, 1999

TIME: 0710 Hours

PATHOLOGIC DIAGNOSES

- I. Contact gunshot wound to the right side of the head.
 - A. Entrance on the right preauricular area with evidence of soot on the surrounding skin, but no evidence of gunpowder stippling.
 - B. Injury to skin, subcutaneous tissue, muscle, skull, brain and brainstem.
 - C. Exit on the left side of the head.
 - D. Direction: Right to left, front to back and downward.

- II. Additional injuries:
 - A. Contusions of left shoulder and left arm.
 - B. Cutaneous abrasions of chest, abdomen and back.

CAUSE OF DEATH: Gunshot wound of head
MANNER: Homicide


ARCHIBIUS L. MOSLEY, JR., M.D.
MEDICAL EXAMINER

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DO NOT DUPLICATE

CIRCUMSTANCES OF DEATH

Reportedly, the decedent was found on his back outside of a home with a gunshot wound to the head. This case is associated with Case #99-3333 and #99-3334.

CLOTHING

The body is received at the Maricopa County Office of the Medical Examiner in a sealed plastic pouch with the seal #0884854. When first viewed, the head is wrapped in a white sheet and a white towel. There is a towel overlying the legs. The body is clad in a red baseball cap, black thermal underwear long-sleeved shirt, blue jeans, brown boots, white socks and gray shorts. The hands are bagged. There is plant debris on the front of the shirt. The name "Sergio" is written on the posterior, lateral aspect of the left boot.

EXTERNAL EXAMINATION

The body is that of a well-developed, well-nourished Hispanic-Caucasian male whose appearance is compatible with the stated age of 25 years. The unclad body weighs 146 pounds and is 69 inches in length. The body is cool. Rigor mortis is present to an equal degree in all extremities. Lividity is present and fixed on the posterior surface of the body, except in areas exposed to pressure. The scalp hair is approximately 2 inches in length, black in color, and straight. Facial hair consists of a moustache and goatee. The irides are brown. The corneas are translucent. The pupils measure 5 mm bilaterally. The conjunctivae are unremarkable. There is blood in the right ear. The left earlobe is pierced. The nose and lips are unremarkable. The teeth are natural and in poor condition. The neck is unremarkable. The chest shows evidence of injury that will be described further below. No injury of the ribs or sternum is evident externally. The abdomen is flat. No surgical scars are noted on the torso. The external genitalia are those of a normal adult male. There is a 1/4 x 1/4 inch scar over the back of the right fourth metacarpophalangeal joint. There is a 4 x 3/4-inch longitudinal scar on the lateral aspect of the left elbow. There is a 2 x 3/8-inch transverse scar on the lateral aspect of the left thigh. There is a 1-1/4 x 1/4-inch scabbed area on the left shin. The skin of the toes is scaly. There is a 3/4 x 3/4 inch scar on the upper medial aspect on the left leg. On the lateral aspect of the right leg is a 1-1/2 x 1/2 inch scar. On the right shin is a 1/2 x 1/2 inch scar. The extremities are without evidence of fractures, lacerations or deformities. The fingernails are intact. On the posterior portion of the web space between the first and second metacarpal bones of the left hand are two tattoos that measure 3/4 x 1/4 inch and 1 x 3/4 inch. There is an irregular squiggly tattoo on the front of the right thigh that measures 3-3/4 x 2-1/2 inch. Needle tracks are not observed. The posterior torso shows evidence of injury that will be described further below.

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EVIDENCE OF THERAPY

None.

EVIDENCE OF INJURY

I. CONTACT GUNSHOT WOUND TO THE RIGHT SIDE OF THE HEAD: There is a gunshot entrance wound on the right preauricular area situated 5-1/4 inches below the top of the head, 3 inches to the right of the anterior midline and 3/8 inch anterosuperior to the right external auditory canal. The wound is a 1/4-inch oval defect with a concentric marginal abrasion collar that is 1/16 inch in width. There are radiating marginal lacerations that are up to 1/8 inch in length along the posterior portion of the entrance wound. There is a band of soot surrounding the central defect that is between 1/4 inch and 3/8 inch in width. There is no evidence of gunpowder stippling on the surrounding skin. The bullet perforates skin, subcutaneous tissue, muscle and fractures the petrous portion of the right temporal skull as well as the right occipital skull without entering the cranial vault. The bullet exits the head on the left side of the jaw via a 3/8 inch lacerated defect situated 6-1/4 inches below the top of the head and 2-3/4 inches to the left of the anterior midline. No bullet or bullet fragments are recovered. The wound path is from right to left, front to back and downward. Associated with the wound path is hemorrhage around the circle of Willis, subarachnoid hemorrhage involving the inferior portion of the left frontal lobe, the inferomedial portion of the left temporal lobe, and the left side of the midbrain and pons. There is also bilateral subarachnoid hemorrhage over the cerebellum. There is a contusion of the left cerebellar tonsil. Sectioning of the brainstem reveals hemorrhage in the anterior portion of the pons.

II. ADDITIONAL INJURIES:

1. There is a 1 x 1/2-inch, purple-red contusion on the front of the left shoulder and a 1-1/4 x 3/4-inch, red-purple contusion on the anterior aspect of the proximal portion of the left arm.
2. There is a 3/4 x 5/8-inch, dark purple contused abrasion on the left side of the lower back.
3. There is an oblique 3/8 x 1/32 inch abrasion on the back proximal portion of the left thumb.
4. There is a 2 x 1-1/2 inch area of red-purple contusion on the left shin.
5. There is a 1 x 1/2 inch abrasion on the left upper quadrant of the abdomen.
6. There is an oblique, longitudinal 2 x 1/16 inch abrasion on the lower left side of the chest.

These injuries, having been once described, will not be repeated.

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INTERNAL EXAMINATION**BODY CAVITIES**

The body is opened by the usual Y-shaped thoracoabdominal incision and the chest plate removed. The subcutaneous fat layer of the abdominal wall is 3/4 inch thick. The thoracic and abdominal organs are in their normal anatomic positions. The body cavities contain no adhesions or abnormal collections of fluid.

HEAD (CENTRAL NERVOUS SYSTEM)

See "Evidence of Injury" above. The brain weighs 1360 grams. The dura mater and falx cerebri are intact. The leptomeninges are thin and delicate. The cerebral hemispheres are symmetrical. There is disruption of the blood vessels at the base of the brain. Sections through the cerebral hemispheres reveal no nontraumatic abnormalities. The cerebral ventricles are normal caliber. Sections through the brainstem and cerebellum reveal no nontraumatic abnormalities.

NECK

Examination of the soft tissues of the neck, including strap muscles and large vessels, reveals no abnormalities. The hyoid bone and larynx are intact. The tongue is normal.

CARDIOVASCULAR SYSTEM

The heart weighs 290 grams. The pericardial surfaces are smooth, glistening and unremarkable. The pericardial sac is free of significant fluid or adhesions. The coronary arteries arise normally, follow the usual distribution and are widely patent. The chambers and valves bear the usual size/position relationship and are unremarkable. The myocardium is dark red-brown, firm and unremarkable. The atrial and ventricular septa are intact. The aorta and its major branches arise normally, follow the usual course and show no evidence of significant atherosclerosis. The vena cava and its major tributaries return to the heart in the usual distribution and are unremarkable.

RESPIRATORY SYSTEM

The right and left lungs weigh 460 and 370 grams, respectively. The upper and lower airways are clear of debris and foreign material. There is a thin amount of blood in the larynx. The mucosal surfaces are smooth, yellow-tan, and unremarkable. The pleural surfaces are smooth, glistening and unremarkable. The pulmonary parenchyma is dark red-purple to pink and exudes slight amounts of blood and frothy fluid; no focal lesions are noted. The pulmonary arteries are normally developed and patent.

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HEPATOBIILIARY SYSTEM

The liver weighs 1240 grams. The liver is covered by a smooth, glistening capsule. The parenchyma is dark red-brown and moderately congested. The gallbladder contains yellow-green bile and no calculi. The extrahepatic biliary ducts are unremarkable.

DIGESTIVE SYSTEM

The esophageal mucosa is gray, smooth, and unremarkable. The stomach contains approximately 10 cc of beige-green fluid. There are no tablets or capsules. The gastric mucosa has normal rugal folds, and there are no ulcers. The small and large intestines are unremarkable. The appendix is present. The pancreas is unremarkable externally and on sectioning.

GENITOURINARY SYSTEM

The kidneys weigh 110 grams each. The capsules of both kidneys are removed with ease revealing smooth, red-brown, firm, slightly lobulated subcapsular surfaces. The cortices are sharply delineated from the medullary pyramids. The calyces, pelves, and ureters are unremarkable. The urinary bladder contains approximately 260 cc of clear yellow urine. The mucosa is gray, smooth, and unremarkable. The prostate gland is unremarkable.

ENDOCRINE SYSTEM

The thyroid and adrenal glands are unremarkable externally and upon sectioning.

RETICULOENDOTHELIAL SYSTEM

The spleen weighs 110 grams. The spleen is covered by a smooth, blue-gray, intact capsule. The parenchyma is dark red and firm. The lymphoid follicles are unremarkable. The regional lymph nodes are unremarkable.

MUSCULOSKELETAL SYSTEM

Muscle development is normal. No nontraumatic bone or joint abnormalities are noted.

TOXICOLOGY

Samples of blood, urine, bile, gastric content, and vitreous humor are harvested for toxicologic analysis.

PHOTOGRAPHS

Photographs are obtained by the Phoenix Police Department.

X-RAYS

X-rays are taken.

EVIDENTIARY MATERIALS

The clothing and a test tube of blood are inventoried and given to a representative of the Phoenix Police Department.

FINAL SUMMARY/OPINION

Based on the autopsy findings and investigative history, as available to me, it is my opinion that Sergio Mendoza Mata, a 25-year-old Hispanic-Caucasian male, died as a result of a single (1) contact gunshot wound of the head.

The manner of death is homicide.

ALM:rs
D:11/19/99
T:11/19/99

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Appendix G

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Petitioner's Exhibit #52
Affidavit of Criminalist R. Watkins

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to his retirement in 1997 (please see attached Curriculum Vitae that is incorporated herein by reference);

3. That as part of his duties as a Criminalist working for the PPD Crime Lab, affiant worked as both a firearms expert and a tire track/shoe print expert;
4. That with regard to his duties as a Supervisor of the PPD Crime Lab, it was actually affiant's responsibility to supervise the forensic testing related activities of a number of scientists employed by said Crime Lab from the various forensic scientific disciplines;
5. That since affiant's retirement from the PPD Crime Lab in 1997, he has worked in the private sector as a forensic scientist analyzing firearm and tire track/shoe print related evidence, as well as a consulting criminalist in various criminal cases, being retained by attorneys in various capacities;
6. That affiant is also currently listed as a sub-contractor working for the Maricopa County Office of Public Defense Services;
7. That in the present case, affiant has been retained by Petitioner Moore's Rule 32 defense team to review firearm and tire track/shoeprint related evidence, as well as other types of forensic evidence within the purview of affiant's expertise as it pertains to Mr. Moore's case;
8. That affiant has reviewed both firearm and tire track/shoeprint evidence related to Petitioner Moore's case, and has rendered the attached reports pertaining to both a specific question posed by the Rule 32 defense related to a cartridge casing found at the crime scene within a tire track (Exhibit A), as well as the comprehensive results of affiant's Court ordered analysis of both the firearm and tire track/shoeprint related evidence (Exhibit B);

9. That in preparation for his firearm and tire track/shoeprint related analyses affiant has reviewed the State disclosed police reports, supplements and pictorial evidence related to the present case, and involving the collection of said evidence;
10. That as to affiant's limited written report concerning the cartridge casing found at the crime scene within a tire track, or Exhibit A, affiant reviewed the attached photograph (Exhibit C depicting Item 45 and entered into evidence in Petitioner's case as Exhibit #107) from the subject Yale Crackhouse homicide crime scene in order to ultimately render his opinion that the cartridge or shell casing depicted was on the ground immediately after the shooting and was subsequently run over by a vehicle tire;
11. That it is noteworthy that affiant has also reviewed the attached pictures from the Yale Crackhouse crime scene [Exhibit D depicting tire track(s) and entered into evidence in Petitioner's case as Exhibits 4-5, 7-10, 12-13] which definitely evidence tire tracks suggesting that a vehicle may have been present at the time of the shooting in issue that subsequently ran over the shell casing or Item 45 depicted in attached Exhibit C, as the vehicle pulled forward in the fenced yard area in front of the Yale Crackhouse in order to turn around;
12. That as to affiant's comprehensive Court ordered report, or Exhibit B, concerning the analysis of both firearm and tire track/shoeprint related evidence from the present case, and which describes a very important evidentiary anomaly discovered by affiant during his review of said evidence involving a picture affiant reviewed showing a plastic bag containing a cartridge casing and a projectile [Exhibit #E, depicting Items 26 (plastic ziplock bag), 26A (cartridge casing) and 26B (projectile) and entered into evidence at Petitioner's trial as Exhibit #53] purported to have been found in Petitioner Moore's bed at his house located at 1833 E. Coronado on 11/20/99, the cartridge casing

displayed in the photograph, or Exhibit E, has a plainly visible dent that is evident on the cartridge casing itself, yet which is definitely not present upon visual inspection by affiant of the purportedly very same item of evidence as shown in attached Exhibit F which are actually pictures of Item 26A that is supposed to be the shell casing depicted in attached Exhibit E;

13. That affiant further respectfully makes the specific assertion that the cartridge casing he has physically inspected related to the Yale Crackhouse shooting alleged to have been found in Petitioner's bed as described herein, Item 26A or 266723.0026A, is actually a totally different cartridge casing than that photographed in Exhibit E;
14. That since the time of the discovery of this very important anomaly which affiant considers to be of critical evidentiary value for the purposes of Petitioner Moore's case, affiant has reviewed the other eight (8) cartridge casings related to this case that were purported to have been gathered at the Yale Crackhouse crime scene an additional time to determine whether it is possible that the "dented" cartridge casing originally photographed on top of Petitioner's bed at his house at the time it was searched may have been "misplaced" or mixed-up with the other eight (8) cartridge casings purported to have been gathered from the Yale Crackhouse crime scene [See attached Exhibit G depicting the eight (8) cartridge casings inspected by affiant];
15. That after reviewing the other eight (8) cartridge casings purported to have been collected from the Yale Crackhouse homicide crime scene or those depicted in attached Exhibit G, affiant has determined that none of them is "dented" as is the cartridge casing photographed in attached Exhibit #E plainly is;
16. That the fact there is no longer a "dented" cartridge casing among the cartridge casings specifically related to

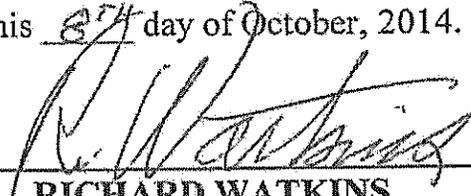
Petitioner Moore's case, and that there is not one (1) cartridge casing presently missing in the case [ie. there were nine (9) cartridge casings purportedly gathered in evidence related to the present case, eight (8) cartridge casings at the Yale Crackhouse crime scene and one (1) cartridge casing purportedly found in Petitioner Moore's bed at his house located at 1808 E. Coronado) leads affiant to believe that the original cartridge casing photographed in Exhibit D was obviously removed from the case;

17. That affiant has also additionally reviewed the attached chain of custody documents (Exhibit H) and photographs (Exhibit I) related to Item #22 (knife w/ black handle) collected at the Yale Crackhouse crime scene found near the foot of one of the homicide victims, as well as a copy of the affidavit of Ms. Michelle Donohue of Bode Technology (Exhibit J) which has specifically attached to it pictures of the knife or Item #22 that were taken at the time it was received by Bode Technology for DNA testing;
18. That upon review of Exhibits H, I and J, affiant has determined that although there was apparently a substance on the end of Item #22 or on the end of the knife blade that may have actually been human blood, that a Detective assigned to Petitioner Moore's case actually withdrew his request that the substance on the tip of the knife be preserved for DNA testing which apparently resulted in its destruction before any DNA testing could be done as evidenced by the condition of the knife upon receipt by Bode Technology showing a very shiny or buffed out surface where the substance or blood stain had been as depicted in the pictures attached to Exhibit J or the affidavit of Michelle Donohue of Bode Technology;
19. That in affiant's 44 years of forensic science experience, it is his opinion as a forensic scientist, that the resulting loss or destruction of the evidence or stain on the tip of Item #22 for DNA testing, especially for the purposes of the present

capital case, is scientifically unacceptable and is unprecedented; and

20. That affiant has reviewed the 2001 and 2007 trial testimony of the State's firearms expert Randy Leister in which Mr. Leister suggests after being questioned by the prosecution that Items 26 (ziplock bag) and/or 26B (bullet or projectile) showed trace biological evidence, however affiant has found no bench note descriptions of the purported biological material, documentation regarding its disposition/preservation, or pictorial evidence, especially as shown in Exhibit E referenced above, supporting that any such trace biological evidence was present.

DATED this 8th day of October, 2014.



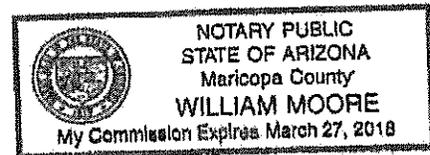
RICHARD WATKINS

SUBSCRIBED AND SWORN to before me this 8 day of October, 2014.



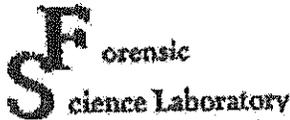
Notary Public

My Commission Expires: 3-27-18



Curriculum Vitae of
Criminalist Richard Watkins

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- Criminalistics
- Toxicology
- Firearms Examination
- Forensic Chemistry

Richard L. Watkins, Criminalist

3034 West Keisler Way
 Phoenix, Arizona
 85027-4912
 Tel/FAX (602) 582-2063 New Area Code (623)
 rlxlab@qnet.net

CURRICULUM VITAE
 of
 Richard L. Watkins

PROFESSIONAL EXPERIENCE

Current responsibility - Director, Forensic Science Laboratory
 Criminalist and Assistant Director, Phoenix Crime Laboratory, 1970 -1997

Areas of specialization:

- | | |
|--------------------|------------------------------|
| Alcohol and Drugs: | |
| Measurement - | Field and Laboratory |
| Effects - | Toxicology |
| | Pharmacology |
| | Driving Skills |
| | Combination with other drugs |
| Reconstruction - | Absorption |
| | Elimination |
| Drum shop - | Evaluation |
| | Observable effects |
| | Alcohol service |

- Drug Analysis
- DUI Drugs
- Blood Typing and Biological Analysis
- Firearms Examination
- Crime scene reconstruction
- Blood stain pattern analysis
- Automobile Accident Evidence Analysis
- Comparative Analysis:
 - Trace analysis
 - Physical Matches
 - Tool Marks
 - Document Examination
 - Footwear Comparison

Qualified as an expert witness in the above specialties in criminal and civil cases in :

- Federal Court
- Superior Courts
- Justice Courts
- Municipal Courts

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SEMINARS & PRESENTATIONS

<u>Topic</u>	<u>Group</u>	<u>Date</u>
The Use of Preattest Breath Testing in DUIs	Phoenix City Prosecutor's Office	1989
Instrumentation Used In Breath Testing and Breath Capture	ASU College of Law	1990
Preparation of the Expert	Arizona's Fifth Vehicular Homicide/ DUI Conference	1990
Alcohol Expert Testimony	Governor's Office of Highway Safety	1990
Alcohol and Aquatic Injury Criminalistics	Aquatic Injury Safety American Chemical Society	1991 1992
DUI Fallacies	Arizona's Seventh Vehicular Homicide/ DUI Conference	1992
Personal Injury Litigation Arising From a DUI	Maricopa County Bar Association	1994
Preattest Breath Testing	ASU College of Law	1994
Alcohol Pharmacology and Testing	A.P.A.A.C.	1995
Pharmacology of Alcohol	Governor's Office of Community and Highway Safety	1995
Alcohol Toxicology Workshop	SWAFS	1996
Alcohol Toxicology	A.P.A.A.C.	1996
Computer Modeling of Alcohol Absorption Elimination Curves	ASU College of Law	1997
Alcohol Toxicology	Maricopa County Bar Association	1997
Ballistics and Evidence Collection	Arizona College of Osteopathic Medicine	1997
Pharmacology of Alcohol	City of Phoenix Public Defender's Office	1998
Comparison of Alcohol Impairment to the effects of sleep deprivation	Dateline NBC	2000
Trace Evidence Collection	Arizona Firearms Examiners	2006

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Forensic Science Laboratory

- Criminalistics
- Toxicology
- Firearms Examination
- Forensic Chemistry

3024 West Kinnel Way
 Phoenix, Arizona
 85027-4912
 Tel/FAX (623) 582-2063
 e-mail fnslab@gomco.com

Richard L. Watkins, Criminalist

FAX COVER SHEET

DATE: Sept 1
~~July 31, 2014~~ TIME: 12:00 Noon
~~6:50 am~~

FAX NO. 520-579-0331

PERSON TO RECEIVE FACSIMILE: Patrick Coppen

NAME OF FIRM OR COMPANY: _____

PAGES TO BE TRANSMITTED, INCLUDING COVER SHEET: 4

DESCRIPTION OF TRANSMISSION: C.V. Report Re: Moore

ADDITIONAL COMMENTS: _____

IF YOU DO NOT RECEIVE ENTIRE TRANSMISSION CALL R. WATKINS AT:

623-582-2063

294a

Exhibit A

Limited written report of Criminalist Richard Watkins
(concerning cartridge casing found at the crime scene
within a tire track)

295a

Exhibit No.: 107

Case No.: CR99-16742

or Identification:

PLAINTIFF

04/13/2007

Evidence: *part.*

5-2-07

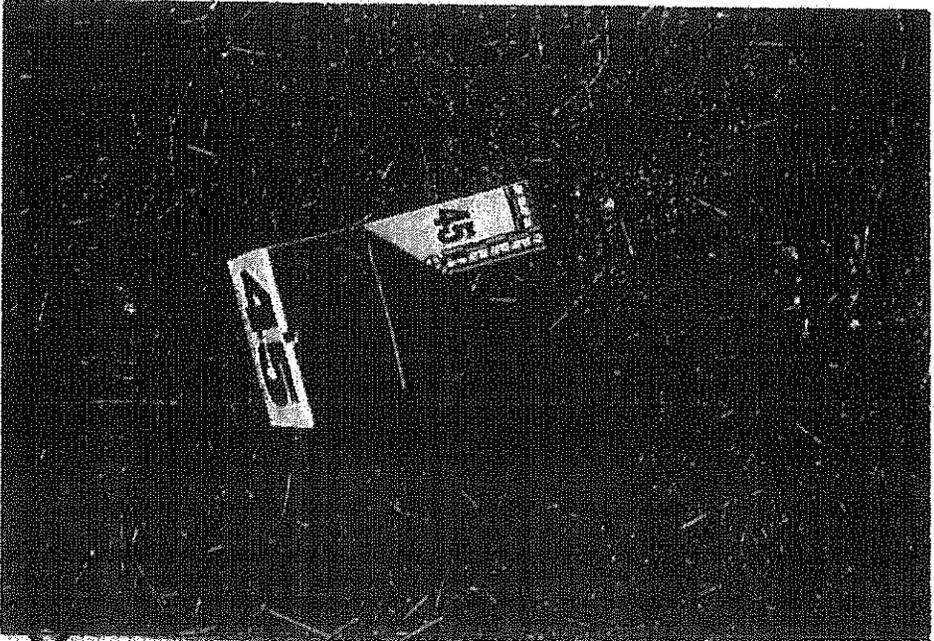
Clerk of Superior Court

L. RUBALCABA

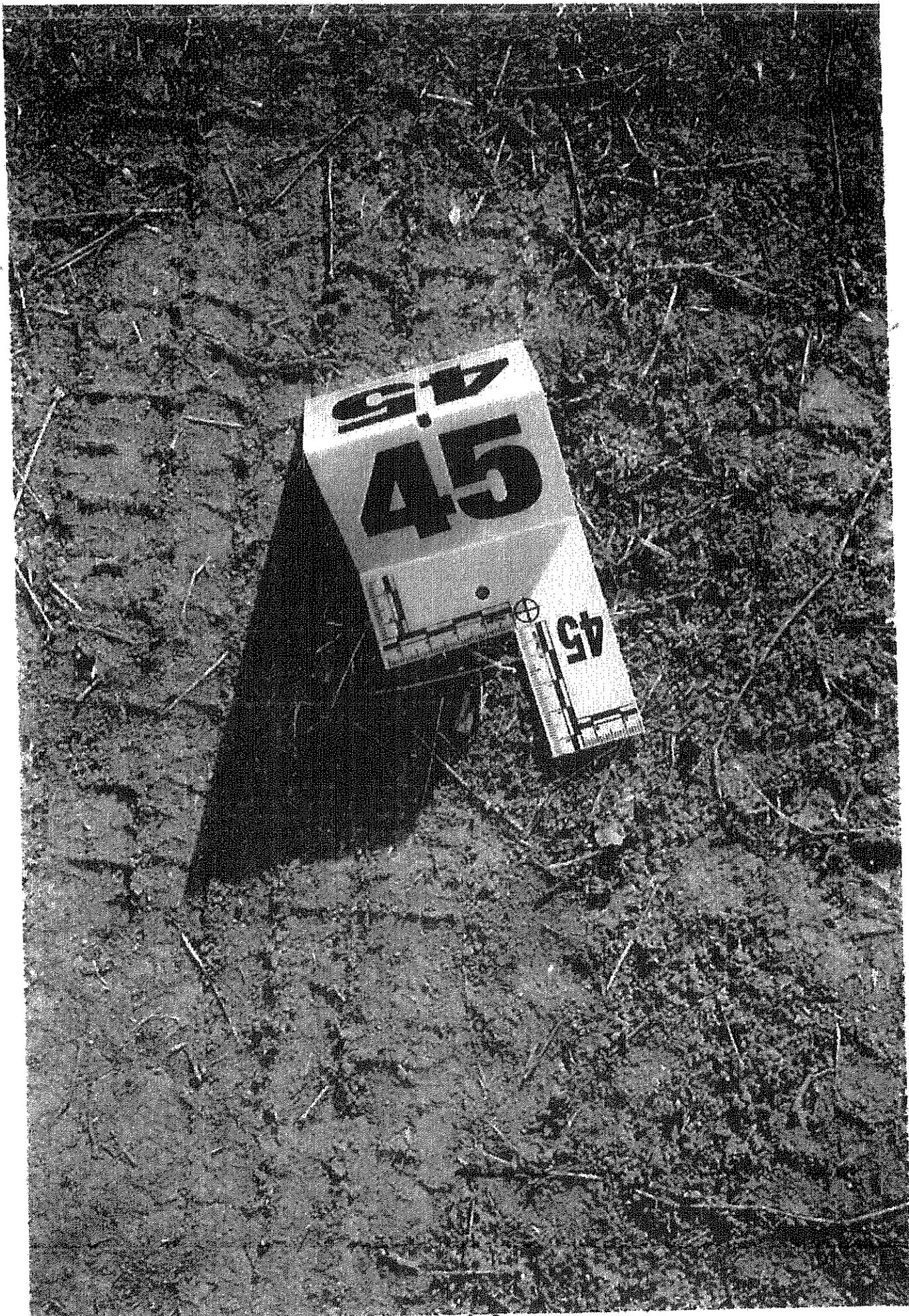
(Deputy Clerk)



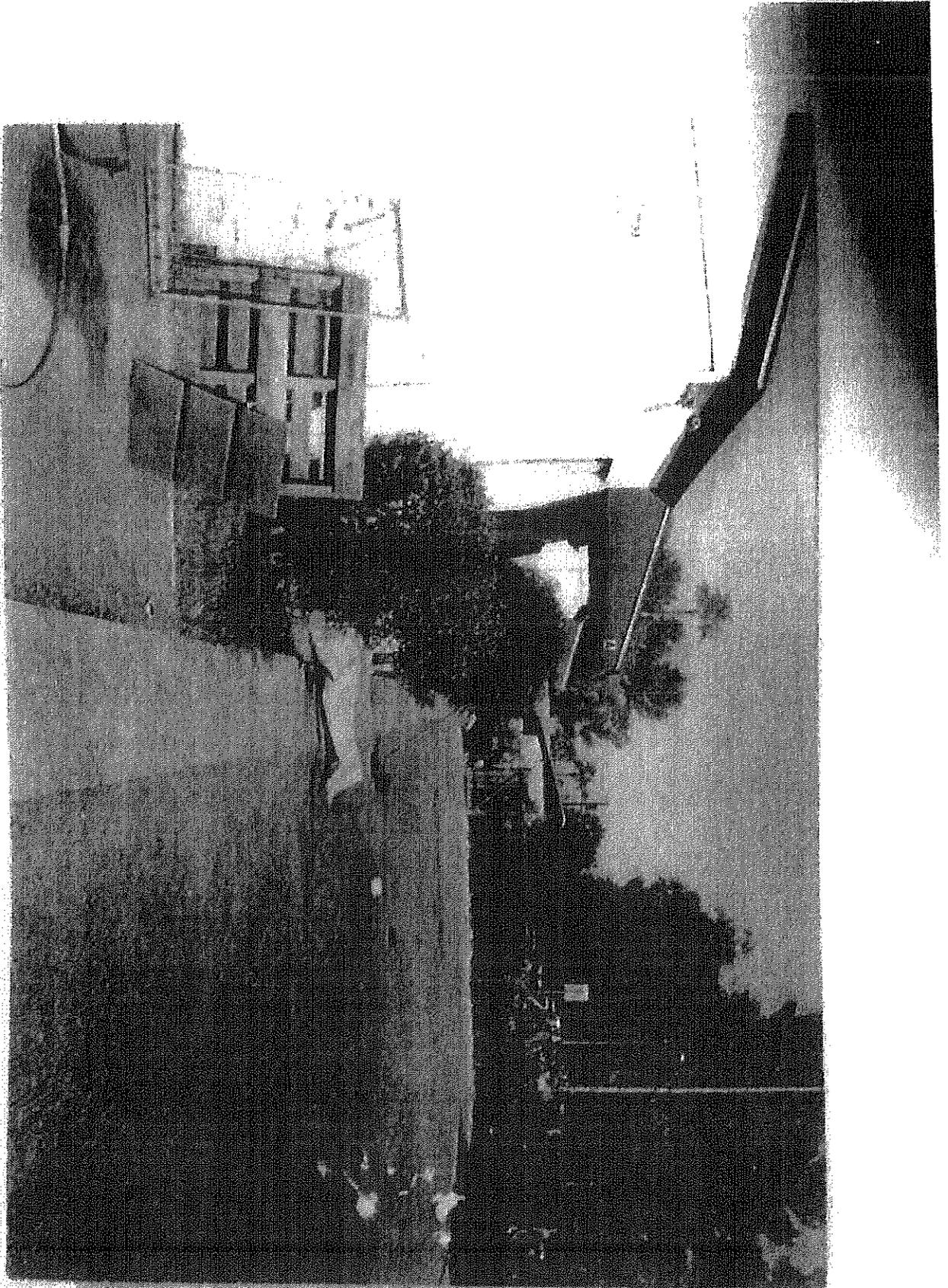
8-07-01 64-AP



296 a



297
a



5

7980

Exhibit No.: 7

Case No.: CR99-16142

For Identification:

PLAINTIFF
04/09/2007

In Evidence: *POH*

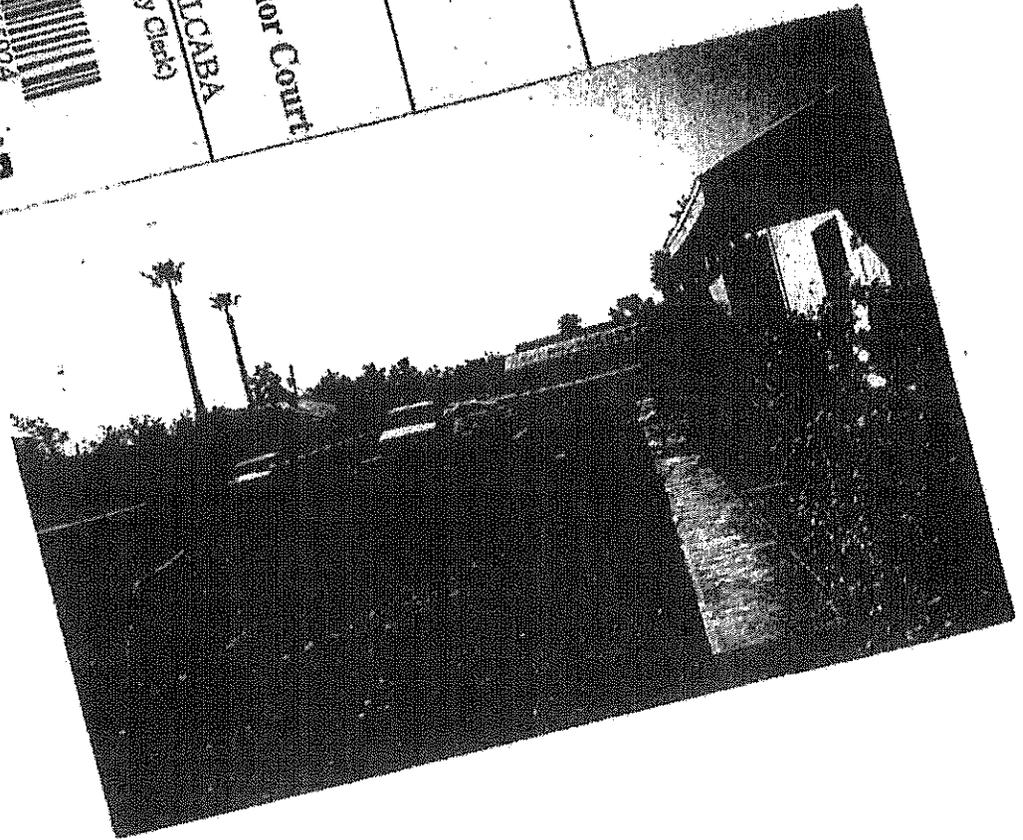
5-1-07

Clerk of Superior Court

By:
L. RUBALCABA
(Deputy Clerk)



07-0164-AP





L

300a



Exhibit No.: 8

Case No.: CR99-16742

For Identification:

PLAINTIFF
04/09/2007

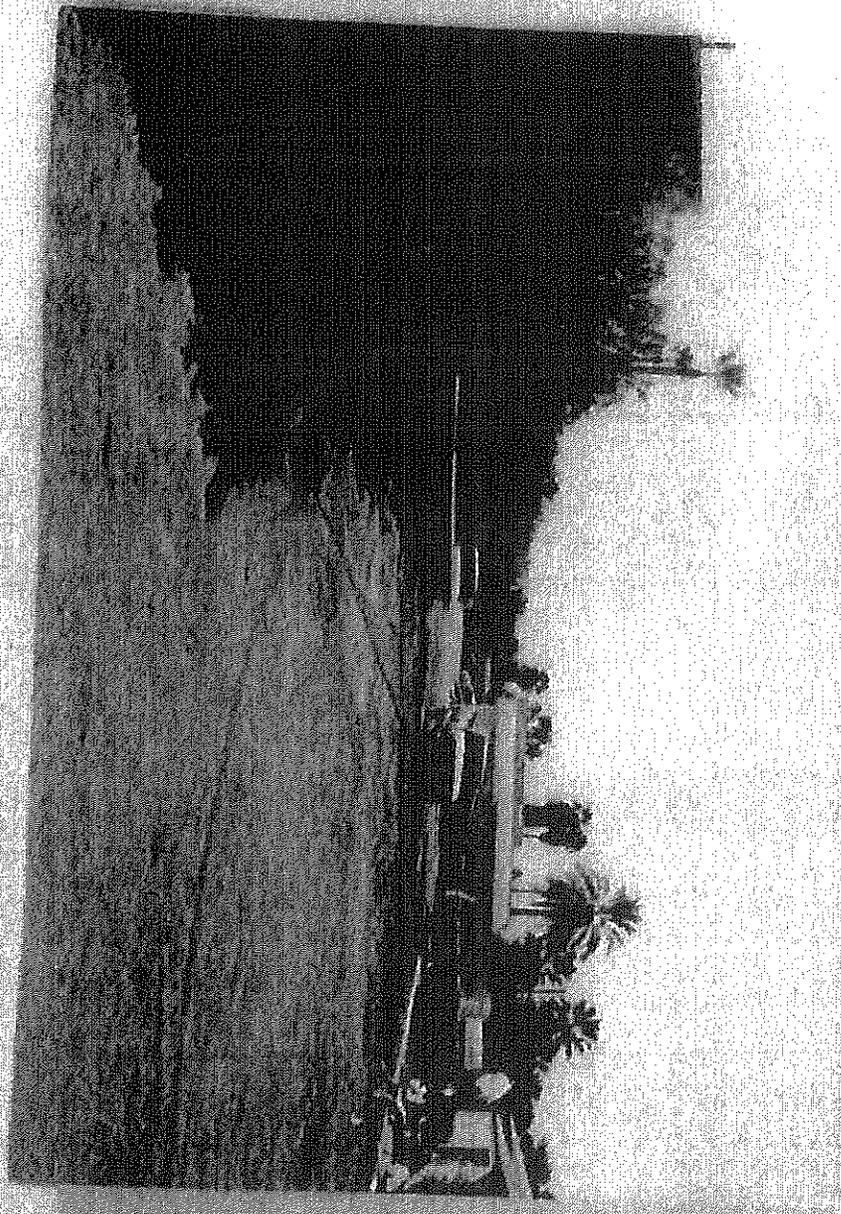
In Evidence: *part.*

5-1-07

Clerk of Superior Court

By: L. RUBATCABA
(Deputy Clerk)





8

3172 a

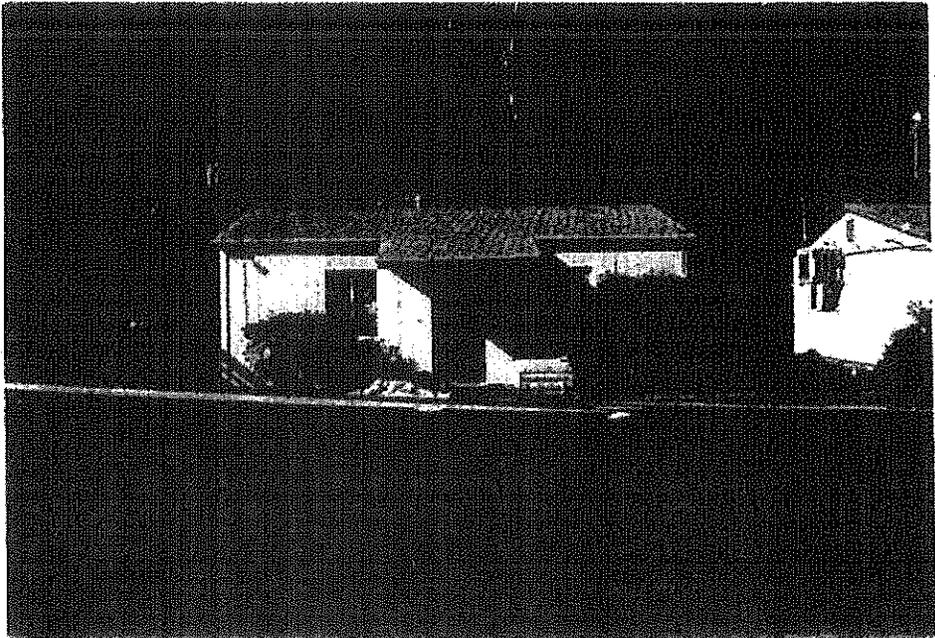


Exhibit No.: 9

Case No.: CR99-16742

Identification:

PLAINTIFF

04/09/2007

Evidence:

Y007

5-1-07

Clerk of Superior Court

I. RUBALCABA

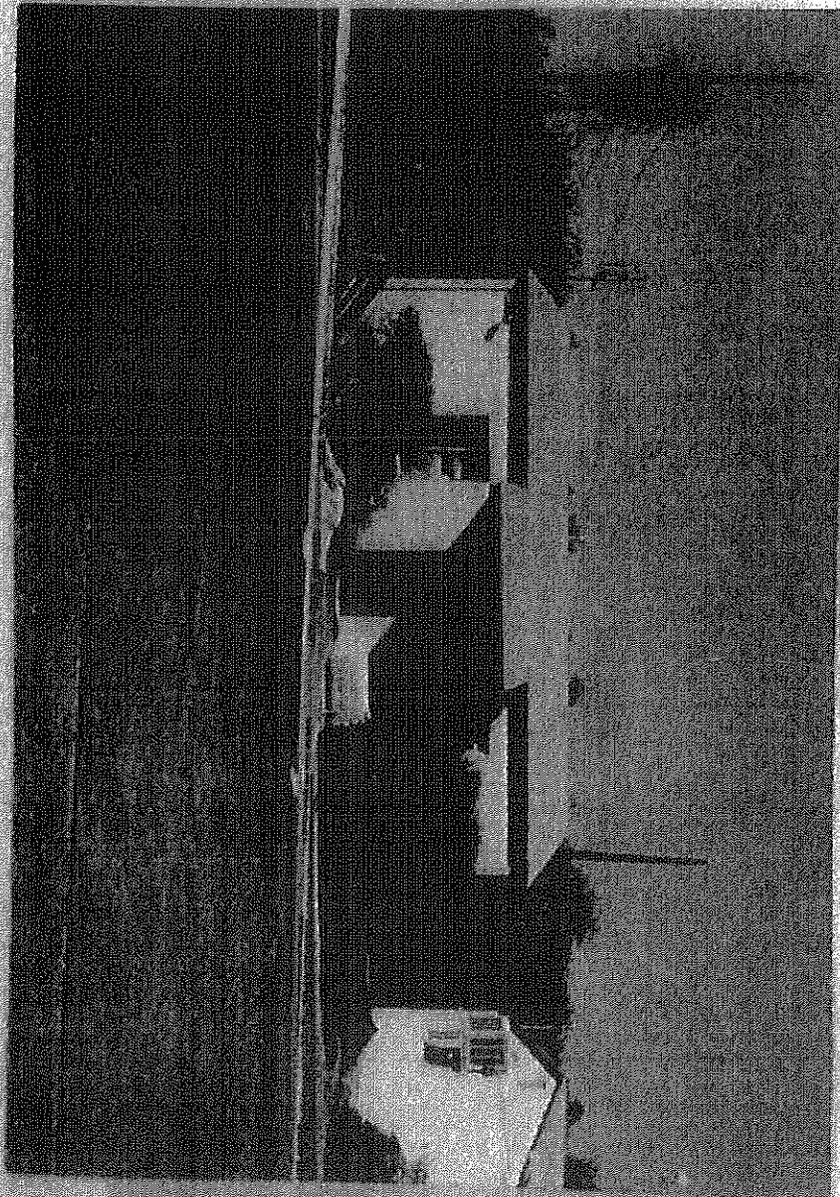
(Deputy Clerk)



1000515922

3-07-0164-AP

303a



b

304a

Exhibit No.: 10

Case No.: CR99-16742

For Identification:

PLAINTIFF

04/09/2007

In Evidence:

part.

S-1-07

Clerk of Superior Court

By:

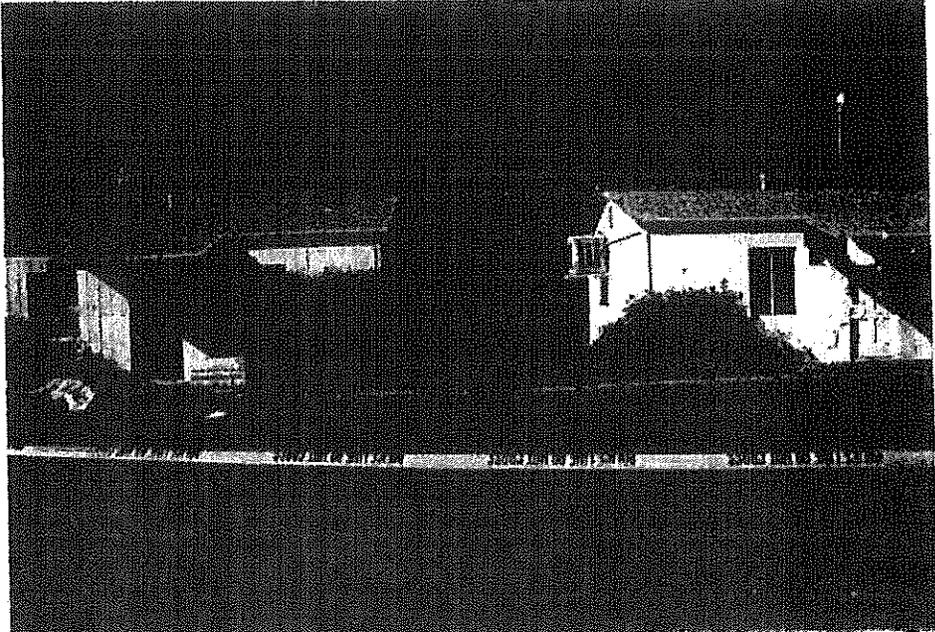
L. RUBAICABA

(Deputy Clerk)

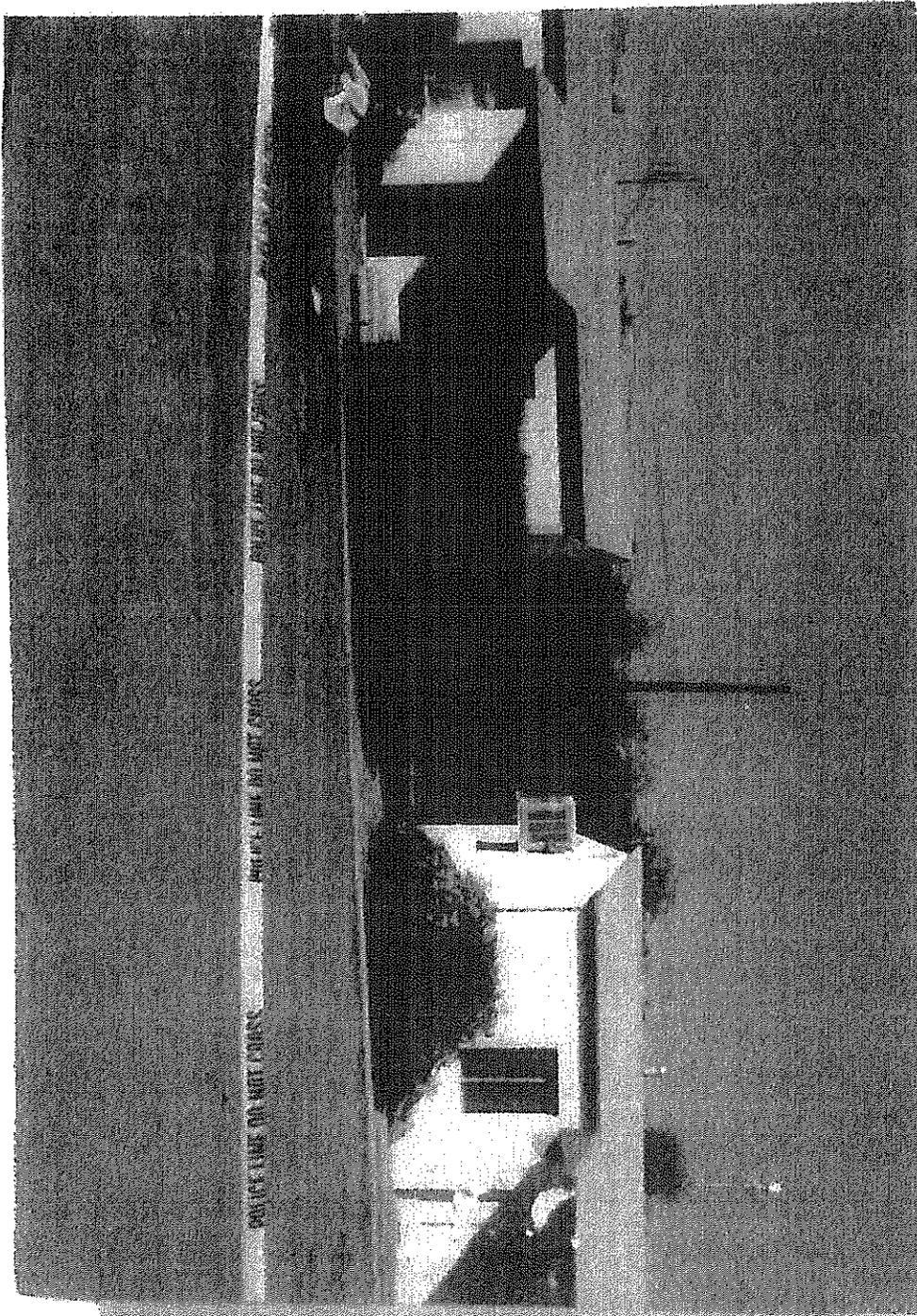


1000515921

207-0164-AP



305a



306a

01

Exhibit No.: 12

No.: CR99-16742

Identification:

PLAINTIFF

04/09/2007

Evidence:

phot.

5-1-07

Clerk of Superior Court

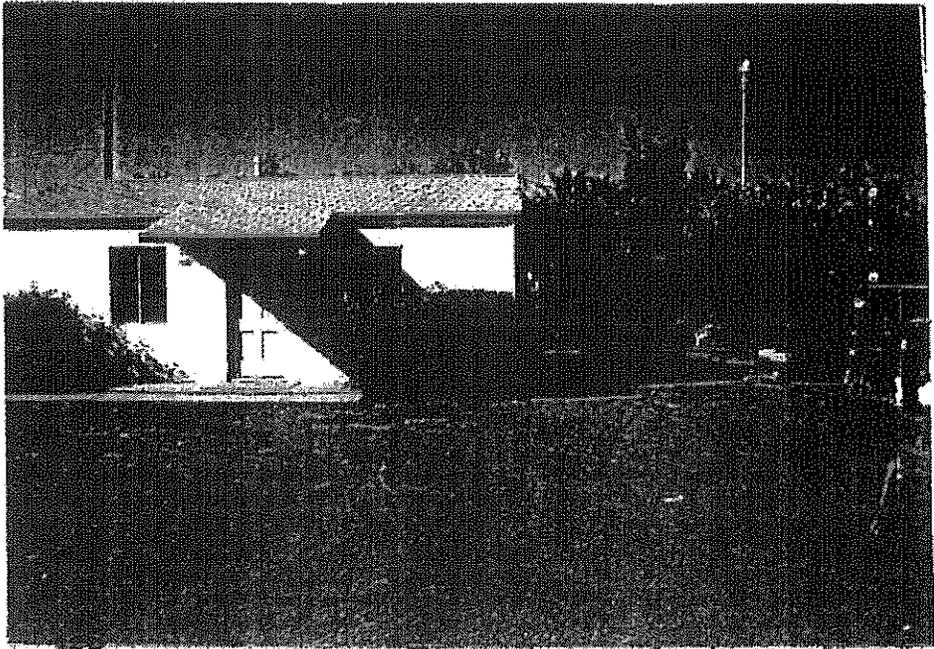
L. RUBALCABA

(Deputy Clerk)

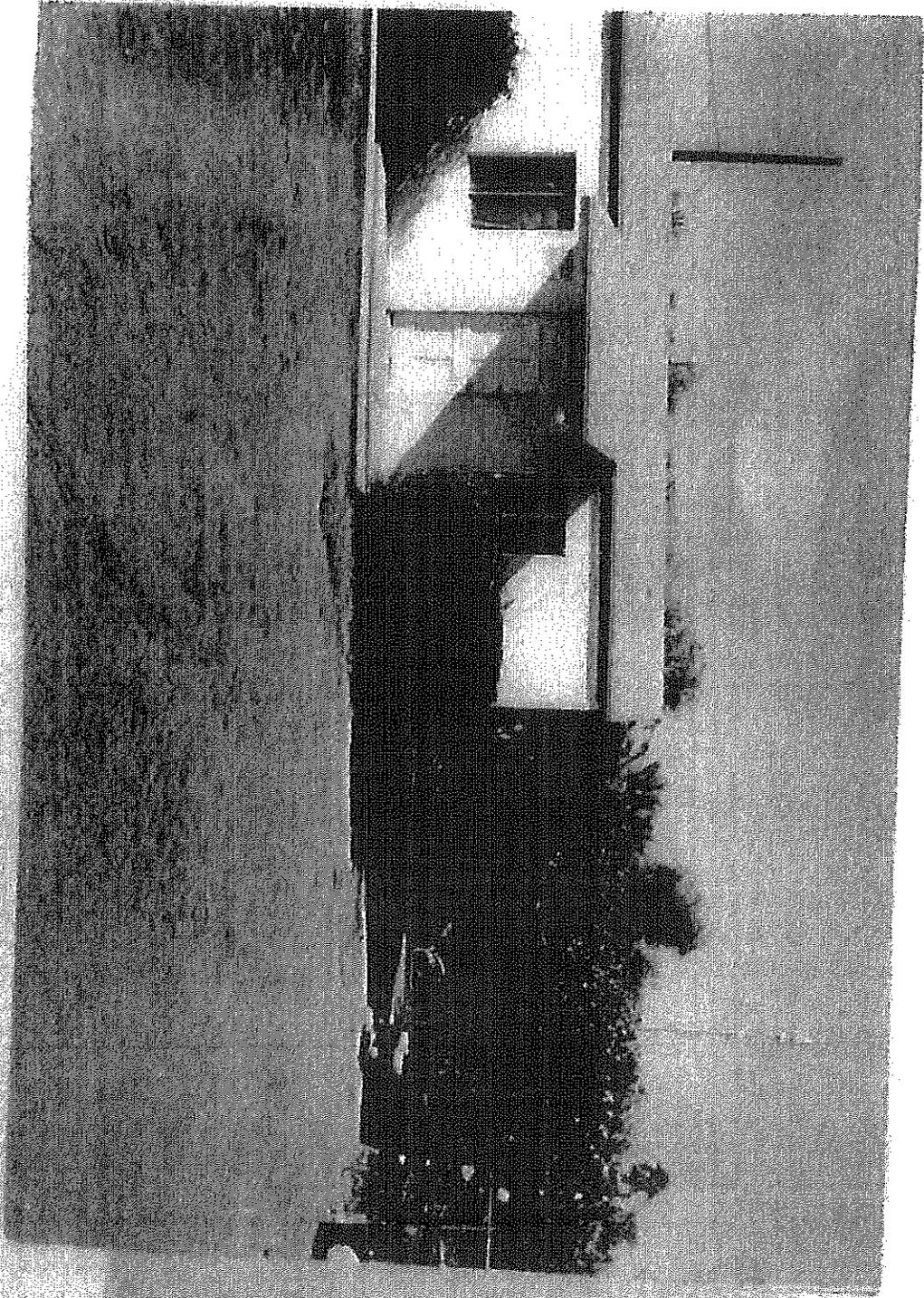


1000515919

07-0164-AP



307a



12
2080

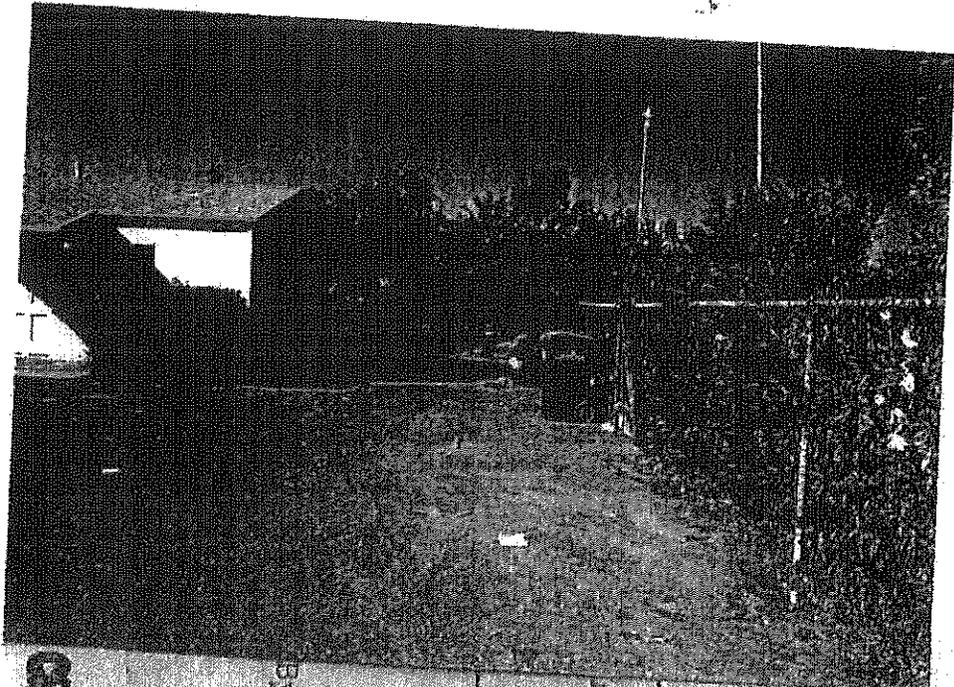


Exhibit No.: 13

Case No.: CR99-16742

For Identification:

PLAINTIFF

04/09/2007

In Evidence:

Yoff

5-1-07

Clerk of Superior Court

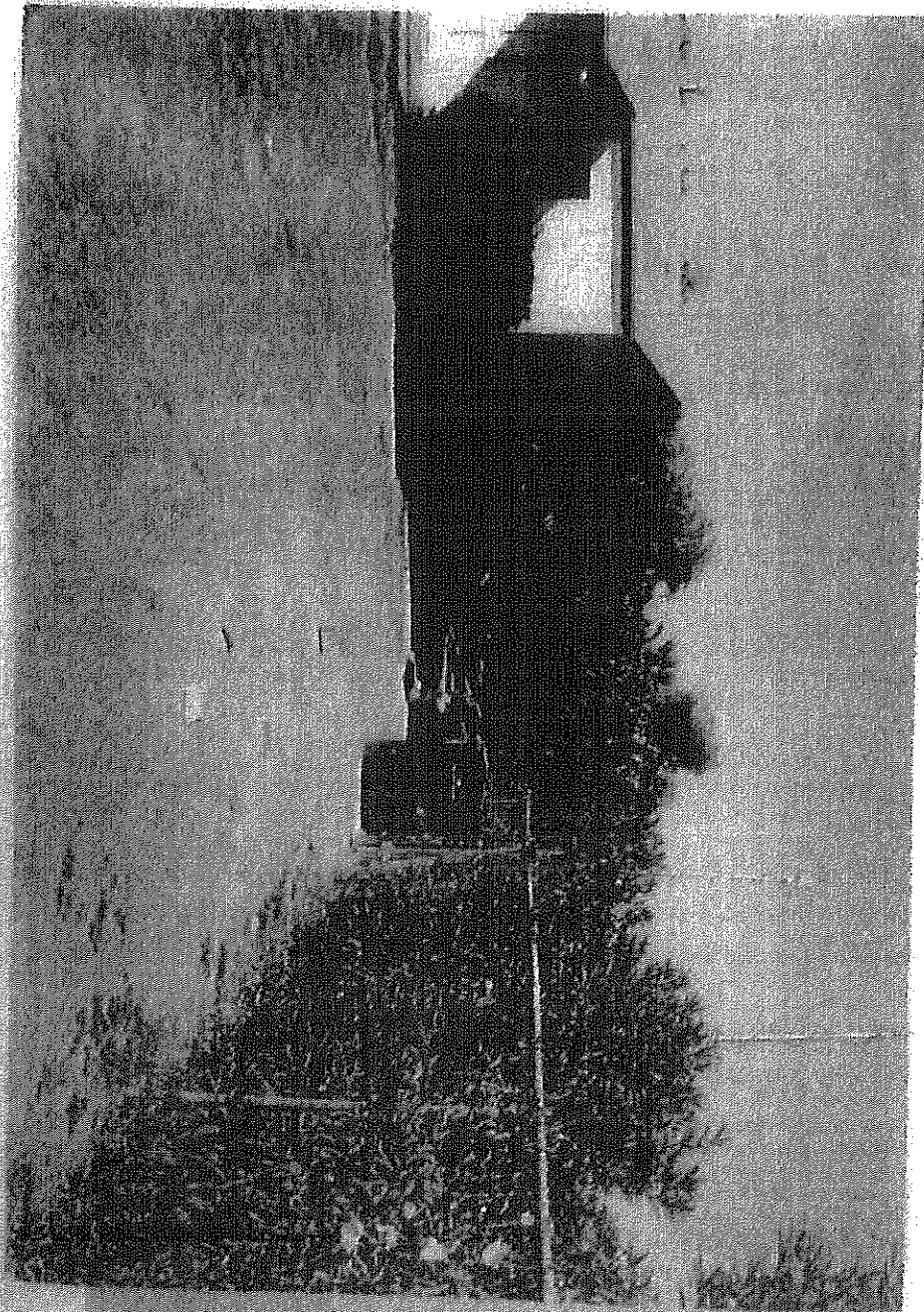
BY: L. RUBALCABA

(Deputy Clerk)



1000515918

CR-07-0164-AP



13
2102a

Exhibit #E

Picture depicting Items 26 (plastic ziplock bag), 26A (cartridge casing) and 26B (projectile) and entered into evidence at Petitioner's trial as Exhibit #53

Exhibit No.: 53

Case No.: CR99-16742

For Identification:

PLAINTIFF
04/09/2007

In Evidence: *Yoff.*

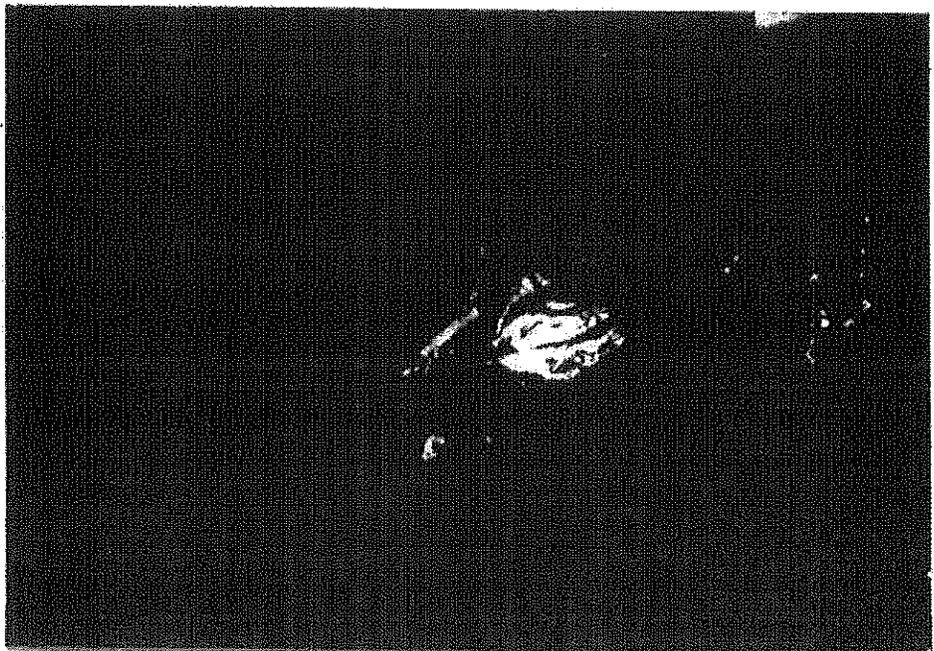
5-a-07

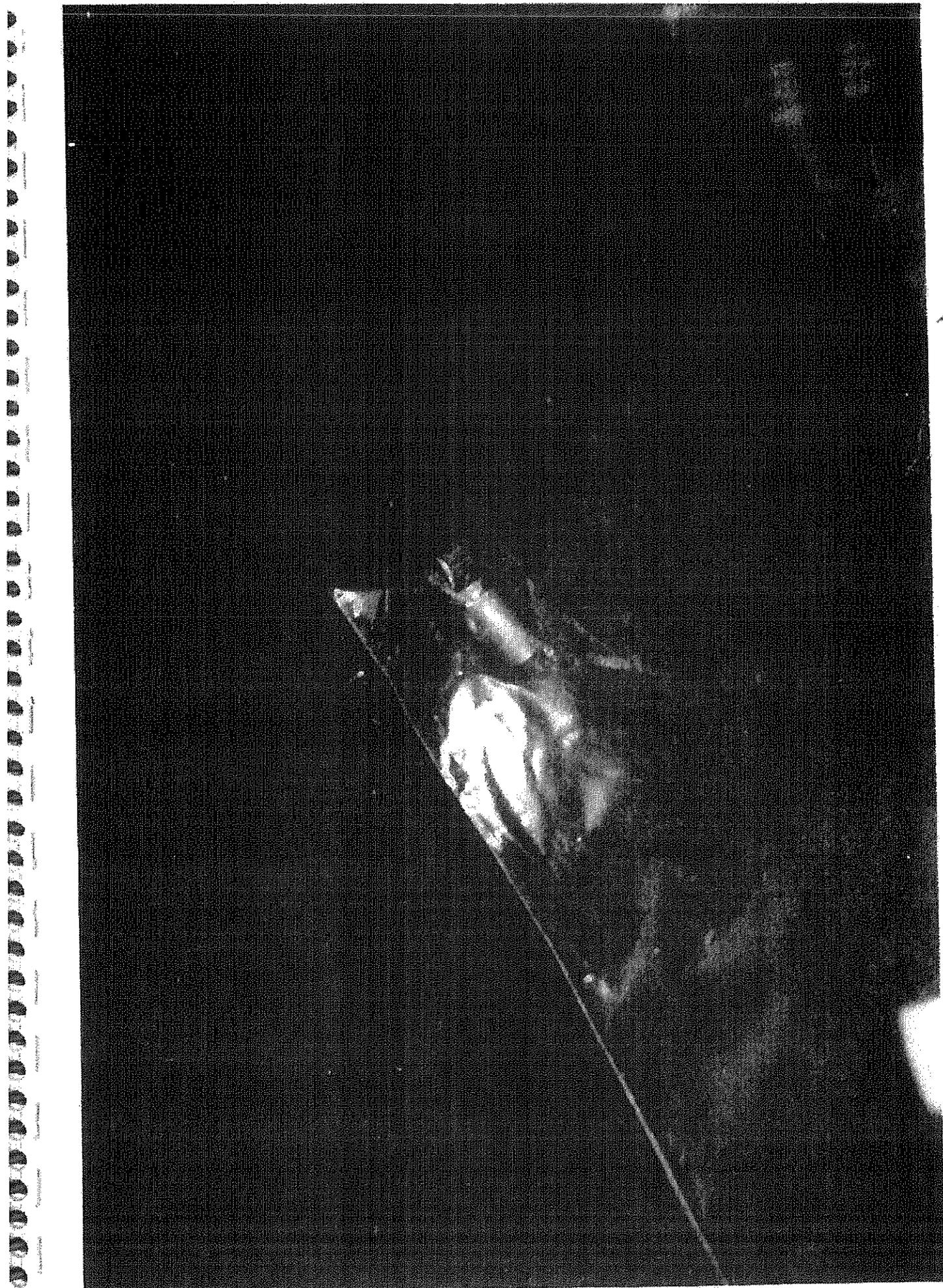
Clerk of Superior Court

BY
L. RUBALCABA
(Deputy Clerk)



CR-07-0164-AP





313
a

Exhibit No. 73

Case No. CR99-10742

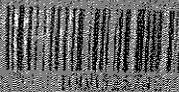
For Identification

PLAINTIFF
04/11/2001

In Evidence *PT*

Clerk of Superior Court

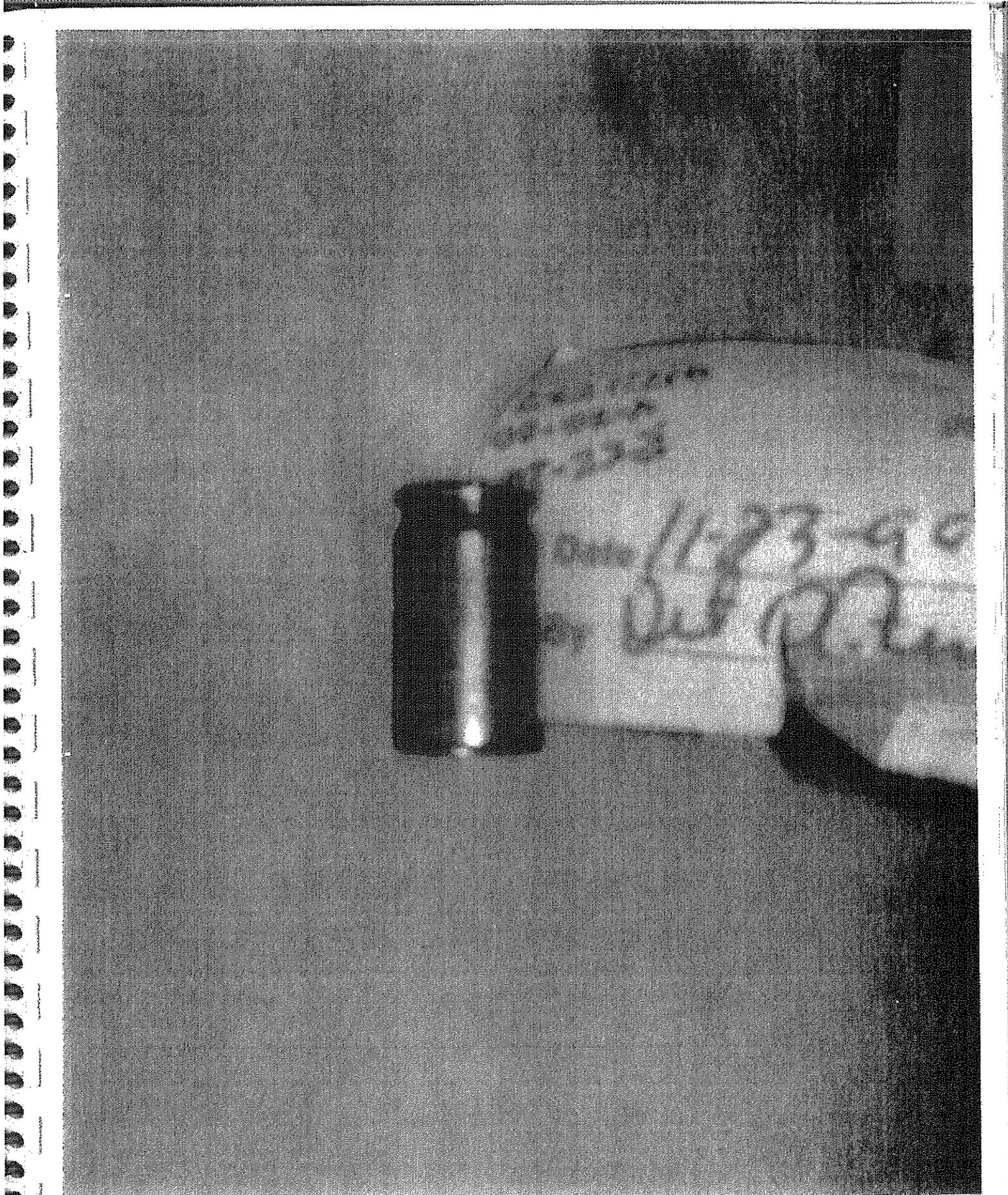
by *J. R. ...*
Deputy Clerk



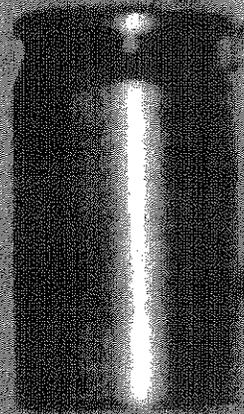
19991911277 43
2667233 0026 A
ONE EXPANDED SHELL CRISPS, FLAVO 1
INSIDE ITEM NBS

3476

314 a



315a



Handwritten text on a piece of paper, including the number "11-23-90" and a signature.

316a

Exhibit G

Pictures depicting the eight (8) cartridge casings inspected
by affiant Criminalist R. Watkins



319a

Exhibit H

Scientific Analysis Request and
Chain of Custody documents related
to Item #22 from Yale Crackhouse
Shooting Crime Scene

320a

JOHNIS ... E ... REPORT

11/19/99

SUPPLEMENT

PAGE NO. 1

DP NO.: 1999 91911277

36

REPORT DATE: 19991119 TIME: 1237

OFFENSE: 451

TYPE OF REPORT: HOMICIDE

BEAT: 0521 GRID: BEE3

LOCATION: 001808 E YALE ST A

2979 UNIT: 131

REPORTING OFFICER(S): DENNIS OLSON

OCCUPIED:

PREMISES: APARTMENT

*** REQUEST FOR SCIENTIFIC ANALYSIS ***

CURRENT DR IS: 1999 91911277 036 BIOLOGICAL EVID (BLOOD, SEMEN, TISSUE): Y

OFF: HOMICIDE

NAME: UNK

JAILED: N

NAME:

LOCATION: 001808 E YALE

ST

OFFICER REQ OF ANALYSIS: OLSON, DENNIS

(LAST, FIRST, MIDDLE) FIRM NAME USE BUS.

VIC: UNK

BUS:

DATE OCC: 111799 TIME: 0000
DATE REQ: 111999 TIME: 1100
DUI RELATED: N

MARIJUANA: DRUGS: BLOOD ALCOHOL: BREATH ALCOHOL: OTHER: Y PER INVOICE: N

INVOICE	ITEM #	SFX	TYPE	INVOICE	ITEM #	SFX	TYPE
0002665456	0022		HKNIFE	0002665456	0023		*MISC
0002665456	0037		PCLOTHE	0002665456	0038		YDRUGS
0002665456	0064		YDRUGS	0002665456	0074		PCLOTHE
0002665456	0076		HKNIFE				

BLOOD DRAWN BY:
LOC OF DRAWING:

1. DATE/TIME DRAW: 000000 /
2. DATE/TIME DRAW: 000000 / 00

*** NARRATIVE ***

SERIAL NUMBER: 2779

CHECK ITEM #22 FOR WOOD AND PRESERVE FOR DNA TESTING

CHECK ITEM #23 FOR DRUGS

CHECK ITEM #27 AND PRESERVE BLOOD FOR DNA TESTING

CHECK ITEM #38 FOR DRUGS AND PRESERVE FOR DNA TESTING

CHECK ITEM #64 FOR DRUGS AND PRESERVE FOR DNA TESTING

1999 91911277

36

321a

RESULTS OF SCIENTIFIC ANALYSIS WORKSHEET

FOR DR# 1099-91911277

31, 32, 33

FOR NAME _____

OFFENSE _____

RECEIVED ON THE 19 DAY OF NOVEMBER, 1999 FROM printer LBS AT 1130

OTHER _____

PER PROPERTY INVOICE <Y/N> Y
INV. DESCRIPTION:

INVOICE # 2665456

RESULTS BY: A3676

CONCLUSION ON THE 15 DAY OF Dec, 1999 RELEASED TO PROP. X
RELEASED TO _____

RESULTS OF ANALYSIS.

Request for preservation of DNA evidence withdrawn by Detective Olson, 2979, on December 15, 1999.

This supplement is in response to supplements 31, 32, 33 and 36.

322a

PHOENIX POLICE DEPARTMENT REPORT

11/11/99 ✓
KMK

DR NO.: 1999 91911277

31

SUPPLEMENT

PAGE NO. 1

REPORT DATE: 19991119 TIME: 1219

OFFENSE: 451

TYPE OF REPORT: HOMICIDE

BEAT: 0521 GRID: HE31

LOCATION: COLSOB E YALE ST A

2078 UNIT: 131

REPORTING OFFICER(S): DENNIS OLSON

OCCUPIED:

PREMISES: PARTIALLY

*** REQUEST FOR SCIENTIFIC ANALYSIS ***

CURRENT DR IS: 1999 91911277 031 BIOLOGICAL EVID (BLOOD, SEMEN, TISSUE): Y

NAME: UNK

OFF: HOMICIDE

NAME:

ST

JAILED

LOCATION: 001908 E YALE
OFFICER REQ OF ANALYSIS: OLSON, DENNIS
(LAST, FIRST, MIDDLE) FIRM NAME USE BUS.

DATE OCC: 111799 TIME:
DATE REQ: 111999 TIME: 11
DUI RELATED: N

VIC: UNK
BUS:

MARIJUANA: DRUGS: BLOOD ALCOH: BREATH ALCO: OTHER: Y PER INVOICE: N

INVOICE	ITEM #	SFX	TYPE	INVOICE	ITEM #	SFX	TYPE
0002665456	0001		PSPECIM	0002665456	0007		PSPEL
0002665456	0008		PSPECIM	0002665456	0009		PSPECIM
0002665456	0010		PSPECIM	0002665456	0011		PSPECIM
0002665456	0012		PSPECIM	0002665456	0013		PSPECIM
0002665456	0014		PSPECIM	0002665456	0015		PSPEL
0002665456	0016		PSPECIM	0002665456	0017		PSPEL
0002665456	0018		PSPECIM	0002665456	0019		PSPECIM
0002665456	0020		PSPECIM	0002665456	0021		PSPECIM
0002665456	0024		PSPECIM	0002665456	0026		PSPECIM
0002665456	0028		PSPECIM	0002665456	0029		PSPEL
0002665456	0030		PSPECIM	0002665456	0033		PSPECIM

BLOOD DRAWN BY:
LOC OF DRAWING:

1. DATE/TIME DRAW: 000000 / 1
2. DATE/TIME DRAW: 000000 / 1

Continued

1999 91911277

31

323a

AGENCY HR 11 DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 2

OR NO. 137 91911277

31

LET AND RESERVE FOR CIA

RECEIVED RIGHTS INFORMATION NO

STATE IN SUPPLEMENTS

NO 11

NO 11

OR NO 137 91911277

324a

PHOENIX POLICE DEPARTMENT REPORT

019117 ✓

DR NO.: 1999 91911277

32

SUPPLEMENT

PAGE NO. 1

1999 11 17

OFFENSE: 491

LOCATION: 001808 E YALE ST 4

BEAT: 9501 GRID: BCL

2979 UNIT: 031

REPORTING OFFICER(S): DENNIS OLSON

OCCUPIED:

*** REQUEST FOR SCIENTIFIC ANALYSIS ***

CURRENT DR IS: 1999 91911277 032 BIOLOGICAL EVID (BLOOD, SEMEN, TISSUE): 1

NAME: UNK

OFF: HOMICIDE

NAME:

JAILED: N

LOCATION: 001808 E YALE

DATE OCC: 11/17/99 TIME: 000

OFFICER REP OF ANALYSIS: OLSON, DENNIS

DATE REC: 11/19/99 TIME:

(LAST, FIRST, MIDDLE) FROM NAME USE BUS.

DUI RELATED: N

VIC: UNK

BUS:

MAP LOANA: DRUGS: BLOOD, ALC: BREATH ALC: OTHER: Y PER INVOICE: N

INVOICE	ITEM #	SFX	TYPE	INVOICE	ITEM #	SFX	TYPE
0002665456	0031		PSPECIM	0002665456	0041		PSPECIM
0002665456	0040		PSPECIM	0002665456	0042		PSPF
0002665456	0043		PSPECIM	0002665456	0044		PSPECIM
0002665456	0060		PSPECIM	0002665456	0061		PSPECIM

1. DATE/TIME DRAW: 000000 / 000
2. DATE/TIME DRAW: 000000 / 000

BLOOD DRAWN BY:
LOC OF DRAWING:

*** NARRATIVE ***

SERIAL NUMBER: 2979

CHECK AND PRESERVE FOR DNA

COMPARE TO VICTIMS BLOOD

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

DATE:

TIME:

1999 11 17 277

32

325a

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NUMBER: 1

DR NUMBER: 1999 91911277 1 90

REPORT DATE: 20000323 TIME: 0905

TYPE OF REPORT: HOMICIDE

OFFENSE: 451

LOCATION: 001808 E YALE STREET

BEAT: 0725 GRID: BE31

REPORTING OFFICER[S]: JAMES CYNOWA

A3806 UNIT: LAB

OFFENSE INVOLVED: BIAS -

*** RESULTS FOR LATENT PRINT OR EVIDENCE EXAMINATION ***

CURRENT DR IS: 1999 91911277 1 090 INVOICE: 0002665456
FOR DR #: 1999 91911277 035 FOR LOCATION: 001808 E YALE
RECIEVED FROM: CARPENA, HECTOR ON: 121799
TO: WESTBROOKS, CARL ON: 121799
TO: CYNOWA, JAMES ON: 022400

ST

ITEM #	SFX	TYPE	METHOD USED	LATENT
0022		HKNIFE	POWDER CHEMICAL INSTRUMENTAL	Y
0038		YDRUGS	POWDER CHEMICAL INSTRUMENTAL	N
0050		*MISC	POWDER CHEMICAL INSTRUMENTAL	N
0064		YDRUGS	POWDER CHEMICAL INSTRUMENTAL	N
0076		HKNIFE	POWDER CHEMICAL INSTRUMENTAL	N

AFIS CHECKED: N LATENT PALM PRINT ON FILE: Y
COMPLETED DATE: 032300 AT: 0920 BY EXAMINER: CYNOWA, JAMES
EVIDENCE TURNED OVER FROM: CYNOWA, JAMES ON: 030100
TO: LPS

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

DR ENTERED BY : A3806 DR FINALIZED BY : A3806

END OF REPORT

DR NO: 1999 91911277 1 090

326a

LATENT PRINT SECTION EVIDENCE WORKSHEET
LABORATORY SERVICES BUREAU

1999

DR# 91911277

TECHNICIAN J. Cynowka A# 3806 SEC# 33188 INVOICE# 2665456

OFFENSE Homicide ADDRESS 1808 E. Yale St. #A

REQ. SUPP # 35 RESULT SUPP # _____

REC'D FROM: A3258 ON 12-17-99

LOCKER# 33

BY: A3865 AT 1330

TIME SPENT 13.75

START DATE: 2-24-00 FINISHED DATE: 05-4-00 TOT: LP 99W1 DATE: 3-1-00

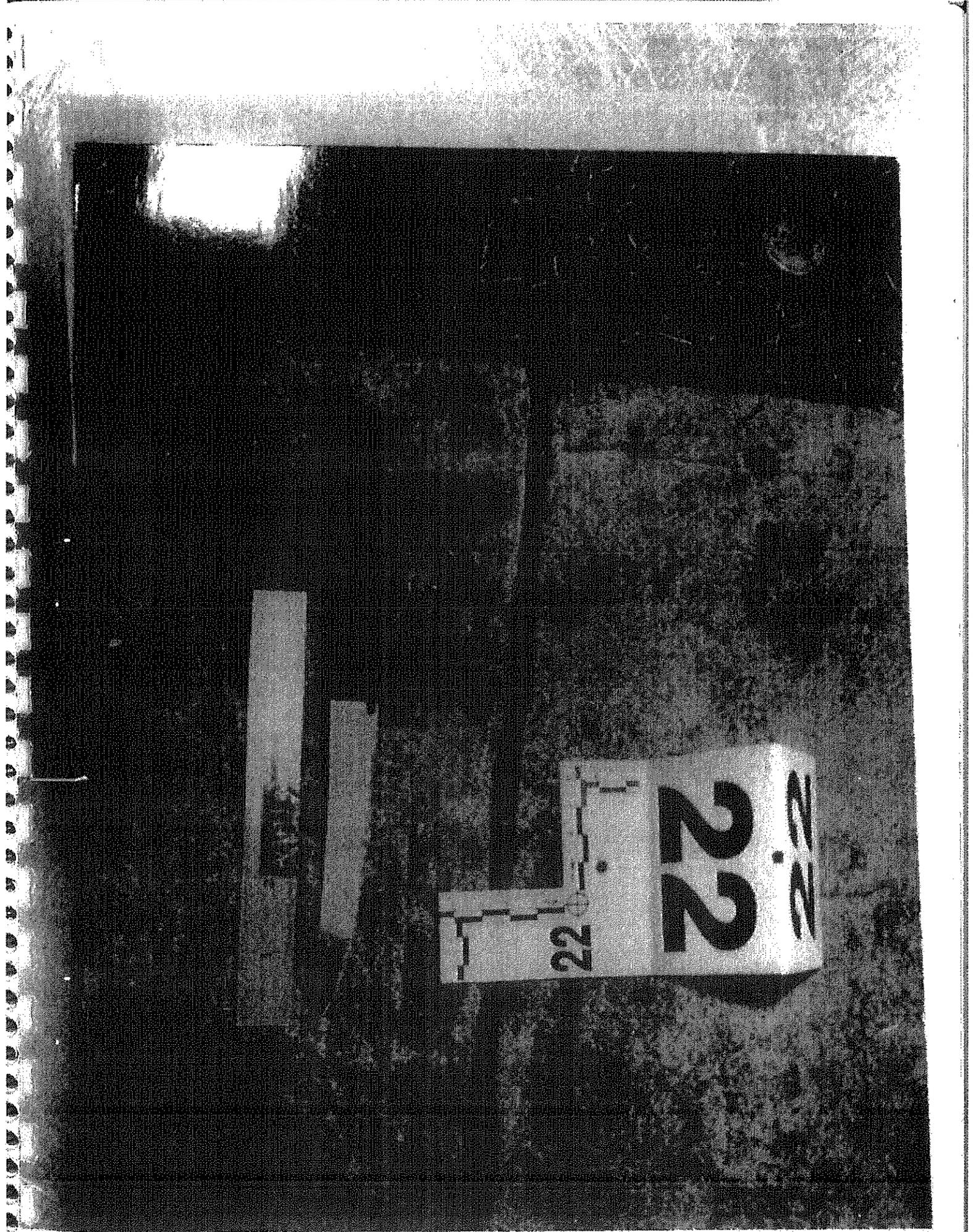
7 Processes
5 Items

LATENTS: N AFIS: Y N PALMS: N REVIEWED BY _____

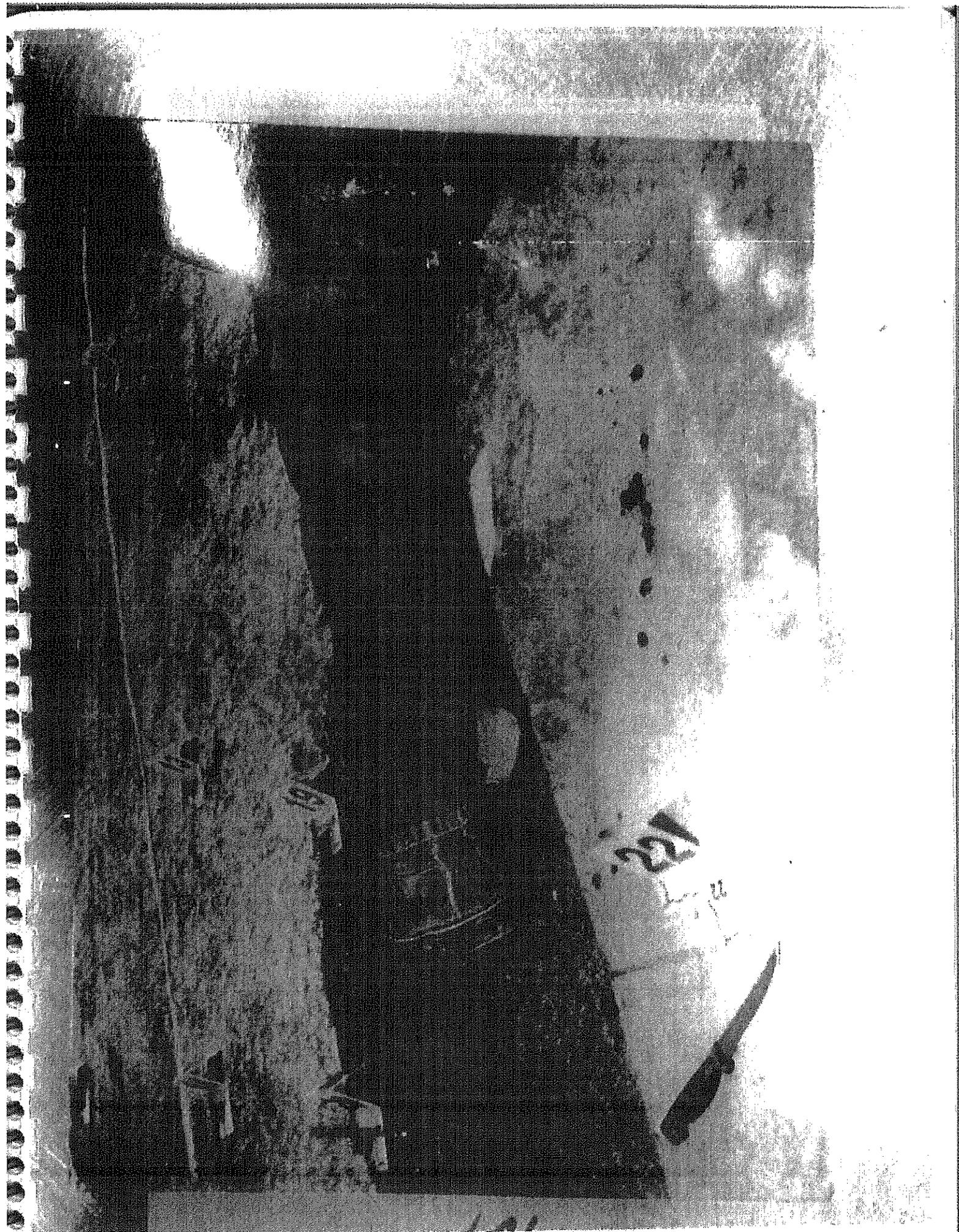
ITEM	INVENTORY / OBSERVATIONS / DESCRIPTION	PROCESSES	LATENT
33	on 2-24-00 @ 0600 removed from evidence locker 33 a brown cardboard box sealed with brown package tape signed by Sallie Dillian 4689 containing med. size evidence envelope closed with clear tape sealed with initials SD 4689 containing knife with black plastic handle and serrated blade approx 4 1/2" long visually examined and photographed ridge detail on blade	P, V, VC	
76	on 2-24-00 @ 0600 removed from evidence locker 33 one med. size evidence envelope sealed containing a chef knife with serrated edge approx 8" long and 1 1/2" wide with black plastic handle visually examined photographed ridge detail observed	P, V, VC	
38	on 2-24-00 @ 0600 removed from evidence locker 33 small evidence sealed with blue crime lab tape with initial KF dated 12-27-99 containing marijuana pipe red plastic with silver metal ends, visually examined processed in vacuum CA chamber Processed above items in vacuum CA chamber	V, CA, VC	

Exhibit I

Photographs related to Item #22 (knife w/ black handle)
collected at the Yale Crackhouse crime scene found near
the foot of one of the homicide victims



2200



2210

ARIZONA

STATE OF ARIZONA
Plaintiff

Case No. CR1999-016742-001DT

v.

JULIUS J. MOORE
Defendant

AFFIDAVIT OF MICHELLE DONOHUE

I, Michelle Donohue, under oath, swear or affirm that:

1. I am a Senior Forensic DNA Analyst at The Bode Technology Group, Inc. (Bode) in Lorton, Virginia. I earned my Bachelors of Science degree in Psychobiology- Molecular Track from Binghamton University (Binghamton, NY). I earned my Master's Degree in Forensic Science with a concentration in Molecular Biology from The George Washington University (Washington, DC). I have worked at Bode since 2002 and currently hold the title Senior DNA Analyst 1. I process forensic DNA cases using molecular biology techniques in the laboratory and generate reports based on my findings. I participate in proficiency testing, perform technical and administrative review of case files and provide expert witness testimony. Please see my attached Curriculum Vitae for a list of expert witness testimony and additional work experience. To date I have processed over 3,000 forensic DNA cases using PCR (polymerase chain reaction) technology.
2. Testing performed in this case is in compliance with accredited procedures under the laboratory's ISO/IEC 17025 accreditation issued by ASCLD/LAB and ANSI-ASQ National Accreditation Board/FQS. Refer to attached certificates and scopes of accreditation for certificate numbers ALI-231-T and AT-1672, respectively.
3. Bode Technology was contacted by Attorney Patrick C. Coppen, Esq. to perform DNA testing in case CR1999-016742-001DT (State v Julius J Moore). Senior DNA Analyst 1 Sarah Shields was assigned the case and processed the evidence using procedures that have been validated according to the standards established in the FBI's Quality Assurance Standards for Forensic DNA Testing Laboratories. Court orders were followed throughout Bode's involvement with the case.
4. Evidence was first received by Bode on August 13, 2013. Bode received:

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-R28	Not Listed	Julius Moore [blood reference]
CCL1204-0189-R30	Not Listed	Delia Ramos [blood reference]
CCL1204-0189-R31	Not Listed	Guadalupe Ramos [blood reference]
CCL1204-0189-R32	Not Listed	Sergio Mata [blood reference]

Additional evidence was received by Bode on October 16, 2013. Bode received:

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-R29	Not Listed	Tony Brown [swab reference]

In addition, on October 16, 2013 Bode received the DNA profile previously generated by the Phoenix Police Department of Tony Brown (#3909348-1.1).

Additional evidence was received by Bode on December 9, 2013. Bode received:

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-E01	Item 84	Piece of wallboard [south bedroom wall]
CCL1204-0189-E02	Item 85	Piece of wallboard [west bedroom wall]
CCL1204-0189-E03	Exhibit 72	One (1) ziploc bag
CCL1204-0189-E04	Exhibit #136	One (1) meth pipe (mouthpiece)
CCL1204-0189-E05	Exhibit #130	One (1) knife [handle]
CCL1204-0189-E06	Exhibit #130	One (1) knife [blade]

5. The following evidence items were sampled (i.e. swabbed) by Bode Technology-Chromosomal Labs (Phoenix, AZ) employee Maricella Villanueva on January 8, 2014 at the Maricopa County Superior Court Criminal Exhibits Department, Maricopa County Superior Courthouse. On the same day, Ms. Villanueva sent the evidence (i.e. swabs) to the Lorton, VA Bode Laboratory via FedEx Overnight. The evidence was received at the Bode Laboratory on January 9, 2014.

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-E07	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [handle/grip, safety, slide release, magazine release, trigger/trigger guard]
CCL1204-0189-E08	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [slide/slide serration]
CCL1204-0189-E09	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine]
CCL1204-0189-E10	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [leather holster]
CCL1204-0189-E11	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine in holster]
CCL1204-0189-E12	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#6]
CCL1204-0189-E13	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#7]
CCL1204-0189-E14	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#8]
CCL1204-0189-E15	Exhibit #73	Shell Casing [#26A]
CCL1204-0189-E16	Exhibit #74	Projectile [#26B]
CCL1204-0189-E17	Exhibit #57	8 Plastic Vials Containing Shell Casings [#45]
CCL1204-0189-E18	Exhibit #57	8 Plastic Vials Containing Shell Casings [#46]
CCL1204-0189-E19	Exhibit #57	8 Plastic Vials Containing Shell Casings [#54]
CCL1204-0189-E20	Exhibit #58	Plastic vial containing Item 55 (projectile)
CCL1204-0189-E21	Exhibit #57	8 Plastic Vials Containing Shell Casings [#56]
CCL1204-0189-E22	Exhibit #57	8 Plastic Vials Containing Shell Casings [#66]
CCL1204-0189-E23	Exhibit #57	8 Plastic Vials Containing Shell Casings [#70]
CCL1204-0189-E24	Exhibit #58	Plastic vial containing Item 73 (projectile)
CCL1204-0189-E25	Exhibit #57	8 Plastic Vials Containing Shell Casings [#77]
CCL1204-0189-E26	Exhibit #57	8 Plastic Vials Containing Shell Casings [#79]

6. Additional evidence was received on January 15, 2014. Bode received:

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-R27	Not Listed	Julius Moore [buccal collector reference, "state sample"]
CCL1204-0189-R33	Not Listed	Julius Moore [buccal collector reference]

333a

7. All submissions of evidence arrived in good condition showing no signs of tampering. All submissions were photo documented per court order.
8. The unknown samples and reference samples from the known individuals were processed for DNA typing by analysis of the 13 CODIS Short Tandem Repeat loci, the D2S1338 locus, the D19S433 locus, and the Amelogenin locus using the Applied Biosystems AmpFLSTR® Identifiler® Plus kit. Appropriate positive and negative controls were used concurrently throughout the analysis.
9. Most labwork procedures were performed by Senior DNA Analyst 1 Sarah Shields. Forensic Casework Supervisor Andrea Borchardt-Gardner functioned in a Technician capacity to perform a quantitation of sample CCL1204-0189-R31b1 (Guadalupe Ramos). DNA Analyst 3 Emily Herren functioned in a Technician capacity to perform an amplification and capillary electrophoresis setup of sample CCL1204-0189-R33a1 (Julius Moore). Sarah Shields reviewed the data generated by all the procedures and prepared the attached DNA report dated February 22, 2014. Andrea Borchardt-Gardner and Senior DNA Analyst 1 Brian Adams performed a Technical Review of the Case File. I performed an Administrative Review of the Case File.
10. The same DNA profile was obtained from known reference samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), and CCL1204-0189-R33 (Julius Moore).
11. DNA profiles were obtained from known reference samples CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata).
12. A DNA profile was obtained from known reference sample CCL1204-0189-R29 (Tony Brown). The DNA profile previously generated by the Phoenix Police Department of Tony Brown (3909348-1.1) matches the DNA profile obtained from sample CCL1204-0189-R29 (Tony Brown).
13. No DNA profiles were obtained from the following samples:

<u>Code</u>	<u>Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-E01		Item 84	Piece of wallboard [south bedroom wall]
CCL1204-0189-E02		Item 85	Piece of wallboard [west bedroom wall]
CCL1204-0189-E05		Exhibit #130	One (1) knife [handle]
CCL1204-0189-E06		Exhibit #130	One (1) knife [blade]
CCL1204-0189-E09		Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine]
CCL1204-0189-E12		Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#6]
CCL1204-0189-E14		Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#8]
CCL1204-0189-E15		Exhibit #73	Shell Casing [#26A]
CCL1204-0189-E16		Exhibit #74	Projectile [#26B]
CCL1204-0189-E17		Exhibit #57	8 Plastic Vials Containing Shell Casings [#45]
CCL1204-0189-E18		Exhibit #57	8 Plastic Vials Containing Shell Casings [#46]
CCL1204-0189-E19		Exhibit #57	8 Plastic Vials Containing Shell Casings [#54]
CCL1204-0189-E20		Exhibit #58	Plastic vial containing Item 55 (projectile)
CCL1204-0189-E21		Exhibit #57	8 Plastic Vials Containing Shell Casings [#56]
CCL1204-0189-E22		Exhibit #57	8 Plastic Vials Containing Shell Casings [#66]
CCL1204-0189-E23		Exhibit #57	8 Plastic Vials Containing Shell Casings [#70]
CCL1204-0189-E24		Exhibit #58	Plastic vial containing Item 73 (projectile)
CCL1204-0189-E25		Exhibit #57	8 Plastic Vials Containing Shell Casings [#77]
CCL1204-0189-E26		Exhibit #57	8 Plastic Vials Containing Shell Casings [#79]

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Since no DNA profiles were obtained from the above samples, it is not possible to make any comparisons to any known reference DNA profiles.

14. Please see the attached photo documentation of Exhibit #130 (One (1) knife). These six (6) photos show the condition the evidence was received in, before sampling (swabbing) occurred. There were several areas of gray staining present on blade. No foreign material, flakes or red/brown staining was observed on knife, plastic container or plastic bag containing the knife. If this is the original evidence packaging, it is possible to sample the inside of the plastic container or bag to attempt to recover biological material, including DNA, which may have detached from the knife over time.
15. The partial DNA profile obtained from sample CCL1204-0189-E03 (Exhibit 72; One (1) ziploc bag) is consistent with a mixture of at least two individuals including at least one male contributor. Due to the possibility of allelic drop out, no conclusions can be made on the alleles present in sample CCL1204-0189-E03.

A mixture DNA profile is obtained when more than one individual contributes DNA to a sample. For sample CCL1204-0189-E03 (Exhibit 72; One (1) ziploc bag), even though it is apparent that there is at least one male contributor to the DNA mixture, there is not enough DNA present to make a comparison to any known reference DNA profiles. Observing that a male contributor is present is not enough information alone to make a conclusion of inclusion or exclusion to any one male (including Julius Moore, Tony Brown, Sergio Mata or Guadalupe Ramos) as approximately half the population is male. It is statistically insignificant.

16. The DNA profile obtained from sample CCL1204-0189-E04 (Exhibit #136; One (1) meth pipe (mouthpiece)) is consistent with a mixture of three or more individuals.

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors to the mixture DNA profile obtained from sample CCL1204-0189-E04.

Due to the possibility of allelic drop out, the individuals associated with samples CCL1204-0189-R30 (Delia Ramos) and CCL1204-0189-R31 (Guadalupe Ramos) cannot be included or excluded as possible contributors to the mixture DNA profile obtained from sample CCL1204-0189-E04.

Even though enough DNA was present in sample CCL1204-0189-E04 (Exhibit #136; One (1) meth pipe (mouthpiece)) to exclude some known individuals, a conclusion was not able to be made to others. It would be possible to compare additional known reference DNA profiles to this profile and make a statement regarding inclusion or exclusion.

17. The partial DNA profile obtained from sample CCL1204-0189-E07 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [handle/grip, safety, slide release, magazine release, trigger/trigger guard]) is consistent with a mixture of at least two individuals including at least one male contributor. Due to the possibility of allelic drop out, no conclusions can be made on the alleles present in sample CCL1204-0189-E07.

Even though it is apparent that there is at least one male contributor to the DNA mixture, there is not enough DNA present to make a comparison to any known reference DNA profile. Observing that a male contributor is present is not enough information alone to make a conclusion of inclusion or exclusion to any one male (including Julius Moore, Tony Brown, Sergio Mata or Guadalupe Ramos) as approximately half the population is male. It is statistically insignificant.

18. The DNA profile obtained from sample CCL1204-0189-E08 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [slide/slide serration]) is consistent with a mixture of at least two individuals including a major female contributor (Female 1) and at least one male contributor.

A major component DNA profile occurs in a mixture DNA profile when one contributor's DNA is present in a larger amount than the other contributors.

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors of the major component DNA profile obtained from sample CCL1204-0189-E08.

Due to the possibility of allelic drop out, no conclusions can be made on the minor alleles present in sample CCL1204-0189-E08. Even though it is apparent that there is at least one male contributor to the minor alleles, there is not enough DNA present to make a comparison to any known reference DNA profile. Observing that a male contributor is present is not enough information alone to make a conclusion of inclusion or exclusion to any one male (including Julius Moore, Tony Brown, Sergio Mata or Guadalupe Ramos) as approximately half the population is male. It is statistically insignificant.

19. Alleles were obtained from sample CCL1204-0189-E10 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [leather holster]) at the D19S433 and Amelogenin loci. Due to the limited data obtained, no conclusions can be made on the alleles present in sample CCL1204-0189-E10.

"Loci" are locations on DNA. For sample CCL1204-0189-E10, results were obtained at only two DNA locations and there is not enough DNA present to make a comparison to any known reference DNA profile.

20. The partial DNA profile obtained from sample CCL1204-0189-E11 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [magazine in holster]) is consistent with a mixture of at least two individuals including a major female contributor (Female 1).

The major female contributor observed in sample CCL1204-0189-E11 is the same as the major female contributor observed in sample CCL1204-0189-E08 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [slide/slide serration]).

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors of the major component DNA profile obtained from sample CCL1204-0189-E11.

Due to the possibility of allelic drop out, no conclusions can be made on the minor alleles present in sample CCL1204-0189-E11. There is not enough DNA present to make a comparison between the minor alleles and any known reference DNA profile.

21. Alleles were obtained from sample CCL1204-0189-E13 (Exhibit #61; Projectiles (D. Ramos & G. Ramos) [#7]) at the D3S1358 and Amelogenin loci.

For sample CCL1204-0189-E13, results were obtained at only two DNA locations and there is not enough DNA present to make a comparison to any known reference DNA profile.

22. The defendant Julius Moore was not included as a contributor to any of the DNA profiles obtained (of those DNA profiles that were suitable for comparison).

23. If DNA testing on the samples discussed herein occurred in 1999, it is *possible* that additional results may have been obtained. All biological matter, including DNA, degrades over time. In 1999 the samples *may have* been less degraded than they are presently. However, the technology that exists today is superior to the technology that existed in 1999. Today's technology looks at more locations on the DNA and is more sensitive (can generate a DNA profile from less template DNA).

Michelle Donohue
Michelle Donohue

Subscribed and sworn to before me
this 22nd day of July, 2014.

Karen Hope Bennett
NOTARY PUBLIC, STATE OF Virginia County of Fairfax
My commission expires may 31, 2015

Karen Hope Bennett
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 7512687
My Commission Expires May 31, 2015

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Michelle Donohue (Eckardt)

EDUCATION

- 2002-2004 George Washington University, Washington, DC
Master of Forensic Science, concentration in Molecular Biology
- 1996-2000 State University of New York at Binghamton, Binghamton, NY
Bachelor of Science in Psychobiology, Molecular Track

PROFESSIONAL EXPERIENCE

- 3.12 – Current Senior DNA Analyst I/ Technical Services Manager, Bode Technology
Responsibilities include: processing STR and Y-STR forensic cases; proficiency testing; technical and administrative review of case files; expert witness testimony; manage all technical inquiries for services; generate quotes for DNA services
- 07.10 – 2.12 Senior DNA Analyst I, Bode Technology
Responsibilities include: oversee the technical operations of two Government sponsored overseas laboratories to include data review, final resolution of technical issues, analyst training, quality assurance, kinship analysis, protocol and validation initiation and review; proficiency testing; expert witness testimony
- 04.08 – 06.10 Senior DNA Analyst I, Bode Technology
Responsibilities included: high-throughput production of STR and Y-STR forensic cases that include mixed samples including semen, bloodstains, hair, saliva and touch/LCN samples; technical and administrative review of case files and associated core forms and controls; mixture, single source and paternity statistics; expert witness testimony; analyst training; assisted in validation study using BioRobot EZ1; proficiency testing
- 10.06 – 04.08 Forensic Casework Analyst III, Bode Technology
Responsibilities included: leading multiple client projects from accessioning of evidence to shipment of final results; high-throughput production of ~700 STR and Y-STR forensic cases that include mixed samples including semen, bloodstains, hair, saliva and touch/LCN samples; mixture, single source and paternity statistics; expert witness testimony; analyst training; Y-STR testing of bones recovered from Hurricane Katrina; proficiency testing
- 10.04 – 10.06 Forensic Casework Analyst II, Bode Technology
Responsibilities included: leading multiple client projects from accessioning of evidence to shipment of final results; high-throughput production of ~1000 STR and Y-STR forensic cases that include mixed samples including semen, bloodstains, hair, saliva and touch/LCN samples; mixture and single source statistics; expert witness testimony; serological testing; analyst training; proficiency testing
- 10.03 – 10.04 Forensic Casework Analyst I, Bode Technology
Responsibilities included: high-throughput production of ~400 STR forensic cases that include mixed samples including semen, bloodstains, hair, saliva and touch/LCN samples; mixture and single source statistics; serological testing; proficiency testing

Michelle Donohue (Eckardt)

PROFESSIONAL EXPERIENCE (CONTINUED)

- Fall 2003 Research & Validation Project- Comparison of DNAIQ (using the Biomek 2000) versus Organic extraction on non-differential sample types
- 09.02 – 10.03 High Throughput Laboratory Technician, Bode Technology
Responsibilities included: high-throughput production of reference blood, saliva and buccal samples for forensic STR cases; receipt and accessioning of evidence; preparation and QC of reagents; equipment maintenance; proficiency testing
- 04.02 – 9.02 DNA Databanking Technician, Bode Technology
Responsibilities included: utilizing the BSD system to prepare blood and saliva offender samples for extraction, operation and maintenance of FMBIO II System, assisted in extraction of bones recovered from the World Trade Center disaster

PROFESSIONAL AFFILIATIONS

- 2005 – Current American Academy of Forensic Science

CONTINUING EDUCATION

- MAY 10-13 2004 Third Annual Advanced DNA Technology Workshop – East
Duck Key, FL
- FEB 22-25 2005 American Academy of Forensic Science 57th Annual Meeting
New Orleans, LA
- APR 18-21 2006 Third annual Advanced DNA Technology Workshop – West
San Diego, CA
- OCT 1-4 2007 18th International Symposium on Human Identification
Hollywood, CA
- MAY 18-22 2008 Seventh Annual Advanced DNA Technology Workshop – East
Captiva Island, FL
- MAY 18-19 2008 DNA Auditor Training presented by FBI Laboratory
Captiva Island, FL
- OCT 12-15 2009 20th International Symposium on Human Identification
Las Vegas, NV
- MAY 24-26 2010 9th Annual Advanced DNA Technical Workshop – East
Amelia Island, FL

Michelle Donohue (Eckardt)

CONTINUING EDUCATION (CONTINUED)

- FEB 22-25 2011 American Academy of Forensic Science 63rd Annual Meeting
Chicago, IL
- MAY 20-24 2012 Eleventh Annual Advanced DNA Technology Workshop – East
Orlando, Florida
- OCT 28 2013 A DNA Revolution- Next Generation Technologies
Webcast from University of North Texas
- MAY 20-21 2014 Thirteenth Annual Advanced DNA Technology Workshop – East
Lake Buena Vista, Florida

TESTIMONY EXPERIENCE

- 01.05.06 Unites States of America v. David England
United States District Court – Northern District of Illinois, Western Division
- 08.31.06 State of Michigan v. Kyle Adam Scott
13th Judicial Circuit Court (Grand Traverse County)
- 03.09.07 State of Maryland v. Anthony Miller
Circuit Court for Baltimore City
- 05.17.07 State of Illinois v. Darnen Toy
Circuit Court for Cook County (Chicago)
- 08.01.07 City of Baltimore v. Darrion Hudson
Circuit Court for Baltimore City
- 12.13.07 State of Michigan v. Terry Grant Jones
16th Judicial Circuit Court (Macomb County)
- 03.31.08 State of Maryland v. Tavon Berson Tyner and Donte Lamont Tyner
Circuit Court for Baltimore City
- 08.15.08 State of Florida v. Tracy D. Thomas
5th Judicial Circuit Court (Marion County)
- 08.20.08 State of Michigan v. Patrick Smith
3rd Judicial Circuit Court (Wayne County)
- 11.05.08 State of Florida v. Sascha Weber
6th Judicial Circuit Court (Pinellas County)

Michelle Donohue (Eckardt)

TESTIMONY EXPERIENCE (CONTINUED)

- 04.09.09 State of Illinois v. Tony Jackson
Circuit Court for Cook County (Chicago)
- 06.10.09 State of Maryland v. Glenn Joseph Raynor
Circuit Court for Harford County
- 07.29.09 State of Florida v. Norman Alphonso White
20th Judicial Circuit Court (Lee County)
- 10.08.09 State of Florida v. Ray Valdez
12th Judicial Circuit Court (Sarasota County)
- 12.17.09 State of Maryland v. Alan Ralph Stanford
Circuit Court for Wicomico County
- 03.25.10 State of Florida v. Anthony Lee Ruise
4th Judicial Circuit Court (Duval County)
- 05.05.10 State of Maryland v. Carroll Daniel Gibson
Circuit Court for Queen Anne's County
- 02.02.11 State of Maryland v. Dale Vernon Bigham
Circuit Court for Carroll County
- 07.28.11 People of Michigan v. Davontral Joseph Coleman
10th Circuit Court (Saginaw County)
- 02.16.12 State of Maryland v. Darrol Sands
Circuit Court for Washington County
- 05.24.12 State of Maryland v. Donald Edward Browne Jr.
Circuit Court for Queen Charles County
- 07.10.13 State of Maryland v. Dominick Pearson
Circuit Court for Baltimore County
- 05.13.14 State of Maryland v. Kerlin Esau Esquivel-Fuentes
Circuit Court for Anne Arundel County
- 05.15.14 State of Maryland v. Dominick Pearson
Circuit Court for Baltimore County



CERTIFICATE OF ACCREDITATION

ANSI-ASQ National Accreditation Board/FQS
5300 W. Cypress Street, Suite 180, Tampa, FL 33607, 813-443-0517

This is to certify that

Bode Technology
10430 Furnace Road
Lorton, VA 22079

has been assessed by FQS
and meets the requirements of international standard

ISO/IEC 17025:2005 and the FBI QAS

while demonstrating technical competence in the field(s) of

FORENSIC TESTING

Refer to the accompanying Scope(s) of Accreditation for information regarding the types of tests to which this accreditation applies.

AT-1672

Certificate Number

FQS Approval

Certificate Valid: 02/06/2013-02/06/2017
Version No. 002 Issued: 02/06/2013



This laboratory is accredited in accordance with the recognized International Standard ISO/IEC 17025:2005. This accreditation demonstrates technical competence for a defined scope and the operation of a laboratory quality management system (refer to joint ISO-ILAC-IAF Communiqué dated January 2009).

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ANSI/ISO National Accreditation Board/FQS

SCOPE OF ACCREDITATION TO ISO/IEC 17025:2005 and the FBI QAS

Bode Technology – Virginia Laboratory

10430 Furnace Road, Suite 107, Lorton, VA 22079
CONTACT: Amanda Thomas Phone: 703-646-9862

FORENSIC TESTING

Valid to: February 07, 2017

Certificate Number: AT-1672

Materials Examined

Category	Sub Category	Analytical Technique (See 2.0)
1.1 Biology	1.4.1 Biological screening	2.1.1, 2.1.2, 2.4.1, and 2.5
	1.4.2 DNA-Forensic Casework	2.2.1.1, 2.2.1.2, 2.2.1.3, 2.2.2, 2.3.1 and 2.5
	1.4.3 DNA-Databasing	2.2.1.1, 2.2.1.2, 2.2.2, 2.3.1 and 2.5
	1.4.4 Forensic Paternity Testing	2.2.1.1, 2.2.1.2, 2.2.1.3, 2.2.2, 2.3.1 and 2.5

Analytical Technique/Test Method

2.1 Chemical Screening Tests
2.1.1 Immunoassay
2.1.2 Color Tests
2.2 Genetic Analysis
2.2.1 DNA-PCR
2.2.1.1 Autosomal STR
2.2.1.2 Y-STR
2.2.1.3 Mitochondrial
2.2.2 Data Analysis
2.3 Electrophoresis
2.3.1 Capillary electrophoresis
2.4 Microscopy
2.4.1 Optical
2.5 General Laboratory Procedures

Vice President



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American Society of Crime Laboratory Directors Laboratory Accreditation Board

*declares to all Advocates of Truth, Justice and the Law that the
management and technical operations of the*

The Bode Technology Group, Inc. Bode Technology - Virginia Laboratory

1045 Furnace Road, Suite 107
Lorton, Virginia 22070

*have been found through assessment to meet the requirements of
ISO/IEC 17025:2005*

*"General Requirements for the Competence of Testing and Calibration Laboratories"
the ASCLD/LAB-International Supplemental Requirements for Testing Laboratories: 2011
and all other requirements of the*

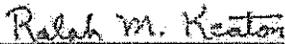
ASCLD/LAB-International
program, and is granted this

Certificate of Accreditation

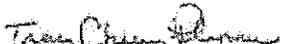
in the field of
Forensic Science Testing
*for the categories of testing listed on the corresponding
Scope of Accreditation*



Pamela Barber, ASCLD/AB-Int'l



Ralph M. Keaton, Executive Director



Tracy Cheaney-Klimmer, Accreditation Program Manager



John K. Neumaier, Accreditation Program Manager

Certificate Number

A11-231-T

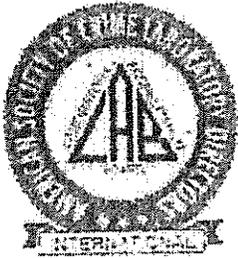
issued on

20th day of July, 2012

valid until the

25th day of July, 2017

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American Society of Crime Laboratory Directors / Laboratory Accreditation Board

ASCLD/LAB-International Program

Corresponds to
Certificate Number

SCOPE of ACCREDITATION

ALI-231-T

Name and Address of Accredited Laboratory:

Laboratory Contact Information

The Bode Technology Group, Inc.
Bode Technology - Virginia Laboratory
10430 Furnace Road, Suite 107
Lorton, Virginia 22079

Amy Jeanguenat, Laboratory Director
Phone: (703) 646-9745
Fax: (703) 646-9741
E-Mail: Amy.Jeanguenat@bodetech.com

The management and technical operations of this laboratory were assessed and found to conform with ISO/IEC 17025:2005, the ASCLD/LAB-International Supplemental Requirements for Testing Laboratories (2011), and all other requirements of the ASCLD/LAB-International program. The laboratory was found to be competent and was accredited in the following area(s):

Field of Accreditation

Categories of Testing:

Forensic Science Testing

3.1 DNA - Nuclear

3.2 DNA - Mitochondrial

Discipline (s)

3.3 Body Fluid Identification

3.4 Individual Characteristic Database

1.0 Biology

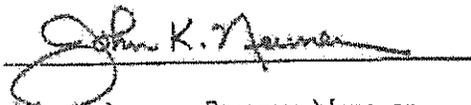
Customers Served: The Bode Technology Group, Inc., Virginia Laboratory, is a private laboratory that provides services and assistance to law enforcement agencies and other customers. There are no geographic boundaries to the service area of the laboratory.

Accreditation Dates

Date Issued: July 26, 2012

Date Expires: July 25, 2017

Date Last Updated: No Updates


John K. Neuner, Program Manager
ASCLD LAB-International

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10430 Furnace Road, Suite 107
 Lorton, VA 22079
 Phone: 703-646-9740

Forensic Case Report
February 22, 2014

To:
 Patrick Coppen, Esq.
 Counsel for Petitioner Julius Moore
 7229 N. Thornydale Rd., #155
 Tucson, AZ 85741

Bode Case #: CCL1204-0189
Agency Case #: CR1999-016742

Gregory Hazard
 Assistant Attorney General
 Office of the Arizona Attorney General
 1275 West Washington
 Phoenix, AZ 85007

List of evidence received on January 15, 2014 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-R27	Not Listed	Julius Moore [buccal collector reference, "state sample"]
CCL1204-0189-R33	Not Listed	Julius Moore [buccal collector reference]

List of evidence received on January 9, 2014 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-E07	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [handle/grip, safety, slide release, magazine release, trigger/trigger guard]
CCL1204-0189-E08	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [slide/slide serration]
CCL1204-0189-E09	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine]
CCL1204-0189-E10	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [leather holster]
CCL1204-0189-E11	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine in holster]
CCL1204-0189-E12	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#6]
CCL1204-0189-E13	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#7]
CCL1204-0189-E14	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#8]
CCL1204-0189-E15	Exhibit #73	Shell Casings [#26A]
CCL1204-0189-E16	Exhibit #74	Projectile [#26B]
CCL1204-0189-E17	Exhibit #57	8 Plastic Vials Containing Shell Casings [#45]
CCL1204-0189-E18	Exhibit #57	8 Plastic Vials Containing Shell Casings [#46]
CCL1204-0189-E19	Exhibit #57	8 Plastic Vials Containing Shell Casings [#54]
CCL1204-0189-E20	Exhibit #58	Plastic vial containing Item 55 (projectile)
CCL1204-0189-E21	Exhibit #57	8 Plastic Vials Containing Shell Casings [#56]
CCL1204-0189-E22	Exhibit #57	8 Plastic Vials Containing Shell Casings [#66]
CCL1204-0189-E23	Exhibit #57	8 Plastic Vials Containing Shell Casings [#70]
CCL1204-0189-E24	Exhibit #58	Plastic vial containing Item 73 (projectile)
CCL1204-0189-E25	Exhibit #57	8 Plastic Vials Containing Shell Casings [#77]
CCL1204-0189-E26	Exhibit #57	8 Plastic Vials Containing Shell Casings [#79]

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Bode Case #: CCL1204-0189
Agency Case #: CR1999-016742

Date: February 22, 2014

List of evidence received on December 9, 2013 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-E01	Item 84	Piece of wallboard [south bedroom wall]
CCL1204-0189-E02	Item 85	Piece of wallboard [west bedroom wall]
CCL1204-0189-E03	Exhibit 72	One (1) ziploc bag
CCL1204-0189-E04	Exhibit #136	One (1) meth pipe (mouthpiece)
CCL1204-0189-E05	Exhibit #130	One (1) knife [handle]
CCL1204-0189-E06	Exhibit #130	One (1) knife [blade]

List of evidence received on October 16, 2013 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-R29	Not Listed	Tony Brown [swab reference]

List of evidence received on August 13, 2013 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-R28	Not Listed	Julius Moore [blood reference]
CCL1204-0189-R30	Not Listed	Delia Ramos [blood reference]
CCL1204-0189-R31	Not Listed	Guadalupe Ramos [blood reference]
CCL1204-0189-R32	Not Listed	Sergio Mata [blood reference]

DNA profile received on October 16, 2013 for comparison purposes:

<u>Agency Sample ID</u>	<u>Agency Description</u>
3909348-1.1	Tony Brown

Evidence received and evaluated, but not isolated for possible DNA analysis, is listed in the case inventory.

DNA Processing, Results, and Conclusions:

The evidence was processed for DNA typing by analysis of the 13 CODIS Short Tandem Repeat loci, the D2S1338 locus, the D19S433 locus, and the Amelogenin locus using the Applied Biosystems AmpFLSTR® Identifiler® Plus kit.

1. The same DNA profile was obtained from samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), and CCL1204-0189-R33 (Julius Moore).
2. DNA profiles were obtained from samples CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata).
3. A DNA profile was submitted for Item 3909348-1.1 (Tony Brown).

The DNA profile submitted for Item 3909348-1.1 (Tony Brown) matches the DNA profile obtained from sample CCL1204-0189-R29 (Tony Brown). Statistical calculations may be performed upon request.

4. No DNA profiles were obtained from samples CCL1204-0189-E01, E02, E05, E06, E09, E12, E14, E15, E16, E17, E18, E19, E20, E21, E22, E23, E24, E25, and E26.
5. The partial DNA profile obtained from sample CCL1204-0189-E03 is consistent with a mixture of at least two individuals including at least one male contributor.

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DNA Processing, Results, and Conclusions: (continued)

Due to the possibility of allelic drop out, no conclusions can be made on the alleles present in sample CCL1204-0189-E03.

6. The DNA profile obtained from sample CCL1204-0189-E04 is consistent with a mixture of three or more individuals.

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors to the mixture DNA profile obtained from sample CCL1204-0189-E04.

Due to the possibility of allelic drop out, the individuals associated with samples CCL1204-0189-R30 (Delia Ramos) and CCL1204-0189-R31 (Guadalupe Ramos) cannot be included or excluded as possible contributors to the mixture DNA profile obtained from sample CCL1204-0189-E04.

7. The partial DNA profile obtained from sample CCL1204-0189-E07 is consistent with a mixture of at least two individuals including at least one male contributor.

Due to the possibility of allelic drop out, no conclusions can be made on the alleles present in sample CCL1204-0189-E07.

8. The DNA profile obtained from sample CCL1204-0189-E08 is consistent with a mixture of at least two individuals including a major female contributor (Female 1) and at least one male contributor.

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors of the major component DNA profile obtained from sample CCL1204-0189-E08.

Due to the possibility of allelic drop out, no conclusions can be made on the minor alleles present in sample CCL1204-0189-E08.

9. Alleles were obtained from sample CCL1204-0189-E10 at the D19S433 and Amelogenin loci.

Due to the limited data obtained, no conclusions can be made on the alleles present in sample CCL1204-0189-E10.

10. The partial DNA profile obtained from sample CCL1204-0189-E11 is consistent with a mixture of at least two individuals including a major female contributor (Female 1).

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors of the major component DNA profile obtained from sample CCL1204-0189-E11.

Due to the possibility of allelic drop out, no conclusions can be made on the minor alleles present in sample CCL1204-0189-E11.

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DNA Processing, Results, and Conclusions: (continued)

11. Alleles were obtained from sample CCL1204-0189-E13 at the D3S1358 and Amelogenin loci.

Due to the limited data obtained, no conclusions can be made on the alleles present in sample CCL1204-0189-E13.

See Table 1 for summary of alleles reported for each sample.

Notes:

1. Testing performed for this case is in compliance with accredited procedures under the laboratory's ISO/IEC 17025 accreditation issued by ASCLD/LAB and ANSI-ASQ National Accreditation Board/FQS. Refer to certificates and scopes of accreditation for certificate numbers ALI-231-T and AT-1672, respectively.
2. The DNA profiles reported in this case were determined by procedures that have been validated according to the standards established in the FBI's Quality Assurance Standards for Forensic DNA Testing Laboratories.
3. Any reference to body fluids in evidence descriptions are based on the written descriptions of the samples by the submitting agency.
4. The DNA extracts and submitted evidence will be returned to the Maricopa County Superior Court and the Phoenix Police Department.
5. Sample CCL1204-0189-R31 was extracted two times (R31a1/R31b1). Data from the first extraction (R31a1) were reported.

Report submitted by,



Sarah Shields, MSFS
Senior DNA Analyst I

Table 1: Analysis of Short Tandem Repeat Loci

Locus	CCL1204-0189-E01a1	CCL1204-0189-E02a1	CCL1204-0189-E03a1	CCL1204-0189-E04a1
D8S1179	No Results	No Results	(10), (12), 13, 14	11, 12, 13, (14), (15)
D21S11	No Results	No Results	28, 29	(29), (30), 31, (32.2), 33.2
D7S820	No Results	No Results	9, --	10, 11
CSF1PO	No Results	No Results	No Results	(10), 12
D3S1358	No Results	No Results	15, (16)	15, 16, 17
TH01	No Results	No Results	(6); 9.3	8, 7, (8)
D13S317	No Results	No Results	11, --	(8), 9, 10, 11, (12)
D16S539	No Results	No Results	11, --	(9), 10, 12
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	No Results	13, (14)	13, 13.2, 14, (14.2), (15.2)
vWA	No Results	No Results	14, 15, (16)	16, 17, 18, (19)
TPOX	No Results	No Results	8, 11	8, (9), (11), (12)
D18S51	No Results	No Results	No Results	15, 16
Amelogenin	No Results	No Results	X, (Y)	X, X
D5S818	No Results	No Results	(10), (11), 12	(9), (10), 11, (12)
FGA	No Results	No Results	25, --	23, 24, (25)

() = Minor Allele -- = Possible Additional Alleles

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189-E05a1	CCL1204-0189-E06a1	CCL1204-0189-E07a1	CCL1204-0189-E08a1
D8S1179	No Results	No Results	(10), 13, (14)	(12), 13, 14
D21S11	No Results	No Results	29, --	28, 29
D7S820	No Results	No Results	10, --	9, 12
CSF1PO	No Results	No Results	No Results	12, 12
D3S1358	No Results	No Results	(14), 15, 16	15, (16)
TH01	No Results	No Results	6, 7	9.3, 9.3
D13S317	No Results	No Results	11, 12	11, 11
D16S539	No Results	No Results	12, --	(9), 11
D2S1338	No Results	No Results	No Results	16, 18
D19S433	No Results	No Results	(12), 13, (14)	(12), 13, (14)
vWA	No Results	No Results	14, 17, 18	14, 15
TPOX	No Results	No Results	8, 9, 11	8, 11
D18S51	No Results	No Results	15, --	15, 16
Amelogenin	No Results	No Results	X, (Y)	X, (Y)
D5S818	No Results	No Results	11, (12)	10, (11), 12
FGA	No Results	No Results	No Results	24, 25

() = Minor Allele -- = Possible Additional Alleles

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E09a1	CCL1204-0189- E10a1	CCL1204-0189- E11a1	CCL1204-0189- E12a1
D8S1179	No Results	No Results	13, 14	No Results
D21S11	No Results	No Results	28, 29	No Results
D7S820	No Results	No Results	No Results	No Results
CSF1PO	No Results	No Results	No Results	No Results
D3S1358	No Results	No Results	15, (16)	No Results
TH01	No Results	No Results	9,3, --	No Results
D13S317	No Results	No Results	11, --	No Results
D16S539	No Results	No Results	9, --	No Results
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	13, 14	(12,2), 13	No Results
vWA	No Results	No Results	14, 15	No Results
TPOX	No Results	No Results	No Results	No Results
D18S51	No Results	No Results	No Results	No Results
Amelogenin	No Results	X, --	X, (Y)	No Results
D5S818	No Results	No Results	10, (11), 12	No Results
FGA	No Results	No Results	24, 25	No Results

() = Minor Allele -- = Possible Additional Alleles

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E13a1	CCL1204-0189- E14a1	CCL1204-0189- E15a1	CCL1204-0189- E16a1
D8S1179	No Results	No Results	No Results	No Results
D21S11	No Results	No Results	No Results	No Results
D7S820	No Results	No Results	No Results	No Results
CSF1PO	No Results	No Results	No Results	No Results
D3S1358	16, --	No Results	No Results	No Results
TH01	No Results	No Results	No Results	No Results
D13S317	No Results	No Results	No Results	No Results
D16S539	No Results	No Results	No Results	No Results
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	No Results	No Results	No Results
vWA	No Results	No Results	No Results	No Results
TPOX	No Results	No Results	No Results	No Results
D18S51	No Results	No Results	No Results	No Results
Amelogenin	X, --	No Results	No Results	No Results
D5S818	No Results	No Results	No Results	No Results
FGA	No Results	No Results	No Results	No Results

-- = Possible Additional Alleles

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E17a1	CCL1204-0189- E18a1	CCL1204-0189- E19a1	CCL1204-0189- E20a1
D8S1179	No Results	No Results	No Results	No Results
D21S11	No Results	No Results	No Results	No Results
D7S820	No Results	No Results	No Results	No Results
CSF1PO	No Results	No Results	No Results	No Results
D3S1358	No Results	No Results	No Results	No Results
TH01	No Results	No Results	No Results	No Results
D13S317	No Results	No Results	No Results	No Results
D16S539	No Results	No Results	No Results	No Results
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	No Results	No Results	No Results
vWA	No Results	No Results	No Results	No Results
TPOX	No Results	No Results	No Results	No Results
D18S51	No Results	No Results	No Results	No Results
Amelogenin	No Results	No Results	No Results	No Results
D5S818	No Results	No Results	No Results	No Results
FGA	No Results	No Results	No Results	No Results

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E21a1	CCL1204-0189- E22a1	CCL1204-0189- E23a1	CCL1204-0189- E24a1
D8S1179	No Results	No Results	No Results	No Results
D21S11	No Results	No Results	No Results	No Results
D7S820	No Results	No Results	No Results	No Results
CSF1PO	No Results	No Results	No Results	No Results
D3S1358	No Results	No Results	No Results	No Results
TH01	No Results	No Results	No Results	No Results
D13S317	No Results	No Results	No Results	No Results
D16S539	No Results	No Results	No Results	No Results
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	No Results	No Results	No Results
vWA	No Results	No Results	No Results	No Results
TPOX	No Results	No Results	No Results	No Results
D18S51	No Results	No Results	No Results	No Results
Amelogenin	No Results	No Results	No Results	No Results
D5S818	No Results	No Results	No Results	No Results
FGA	No Results	No Results	No Results	No Results

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Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E25a1	CCL1204-0189- E26a1	CCL1204-0189- R27a1 [Julius Moore]	CCL1204-0189- R28a1 [Julius Moore]
D8S1179	No Results	No Results	12, 13	12, 13
D21S11	No Results	No Results	28, 30	28, 30
D7S820	No Results	No Results	10, 10	10, 10
CSF1PO	No Results	No Results	10, 12	10, 12
D3S1358	No Results	No Results	15, 16	15, 16
TH01	No Results	No Results	7, 9	7, 9
D13S317	No Results	No Results	11, 12	11, 12
D16S539	No Results	No Results	12, 12	12, 12
D2S1338	No Results	No Results	17, 19	17, 19
D19S433	No Results	No Results	12, 14	12, 14
vWA	No Results	No Results	16, 18	16, 18
TPOX	No Results	No Results	8, 11	8, 11
D18S51	No Results	No Results	13, 18	13, 18
Amelogenin	No Results	No Results	X,Y	X,Y
D5S818	No Results	No Results	11, 13	11, 13
FGA	No Results	No Results	19, 24	19, 24

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- R29a1 [Tony Brown]	CCL1204-0189- R30a1 [Delia Ramos]	CCL1204-0189- R31a1 [Guadalupe Ramos]	CCL1204-0189- R32a1 [Sergio Mata]
D8S1179	15, 16	13, 14	13, 13	14, 14
D21S11	28, 30	29, 30	29, 30	30, 31, 2
D7S820	10, 11	10, 11	11, 13	8, 13
CSF1PO	7, 10	10, 12	10, 12	10, 12
D3S1358	16, 16	15, 17	15, 17	15, 18
TH01	8, 8	6, 7	6, 7	9, 9, 3
D13S317	11, 12	8, 12	9, 9	10, 11
D16S539	11, 12	9, 12	9, 12	10, 13
D2S1338	20, 25	19, 23	23, 23	20, 23
D19S433	13, 14	14, 2, 15, 2	13, 14, 2	14, 15
vWA	17, 19	16, 16	16, 18	16, 16
TPOX	8, 11	9, 12	9, 12	8, 11
D18S51	13, 19	15, 18	15, 18	14, 17
Amelogenin	X, Y	X, X	X, Y	X, Y
D5S818	11, 12	9, 12	9, 12	10, 13
FGA	19, 22	23, 25	20, 23	22, 22

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Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189-R33a1 [Julius Moore]	3909348-1.1* [Tony Brown]
D8S1179	12, 13	15, 16
D21S11	28, 30	28, 30
D7S820	10, 10	10, 11
CSF1PO	10, 12	7, 10
D3S1358	15, 16	16, 16
TH01	7, 9	8, 8
D13S317	11, 12	11, 12
D16S530	12, 12	11, 12
D2S1338	17, 19	20, 25
D19S433	12, 14	13, 14
vWA	16, 18	17, 19
TPOX	8, 11	8, 11
D18S51	13, 18	13, 19
Amelogenin	X, Y	X, Y
D5S818	11, 13	11, 12
FGA	19, 24	19, 22

*DNA profile submitted from the Phoenix Police Department for comparison purposes

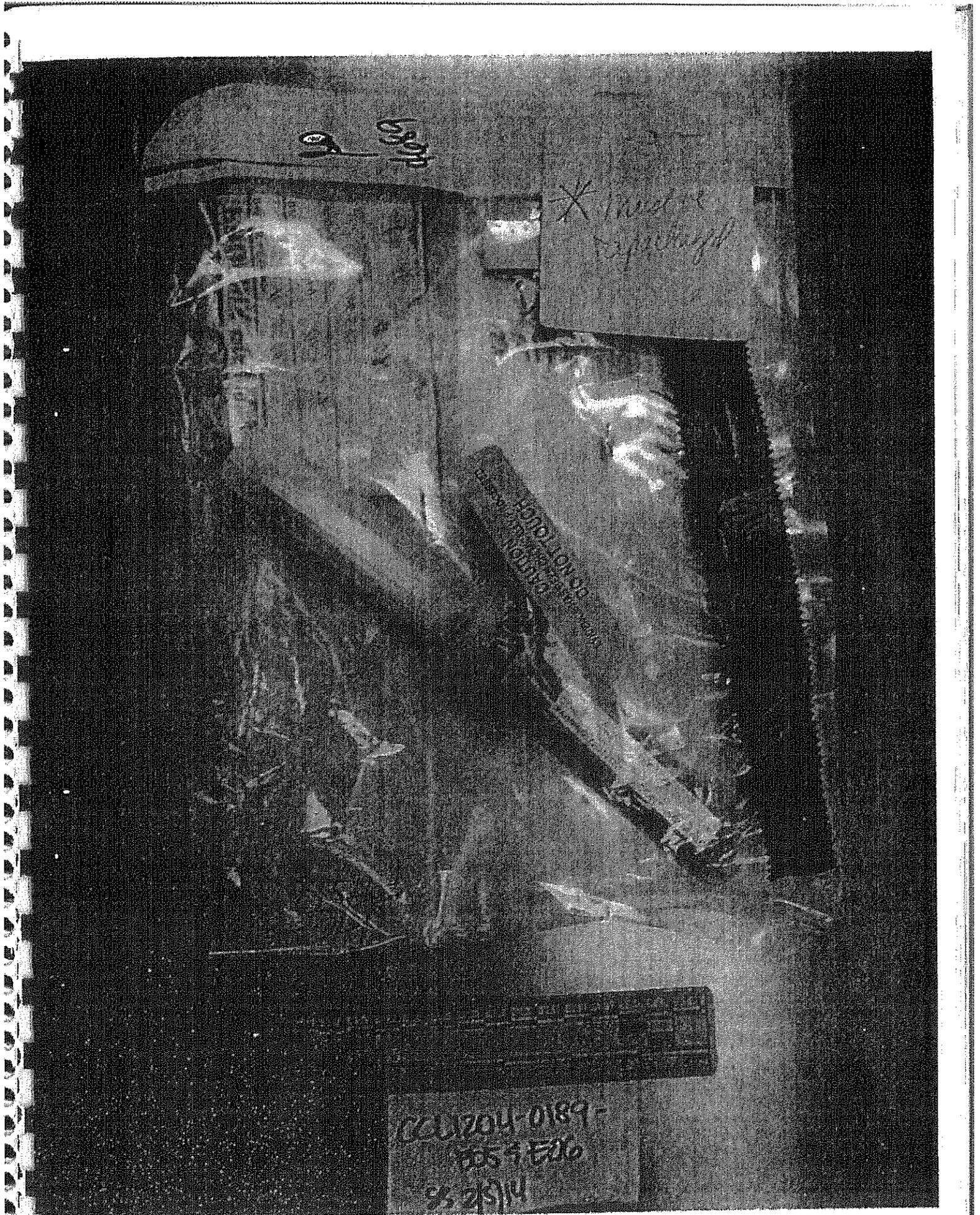
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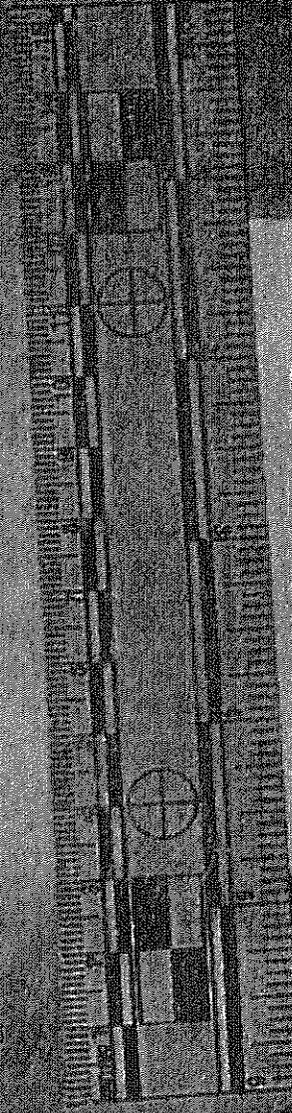
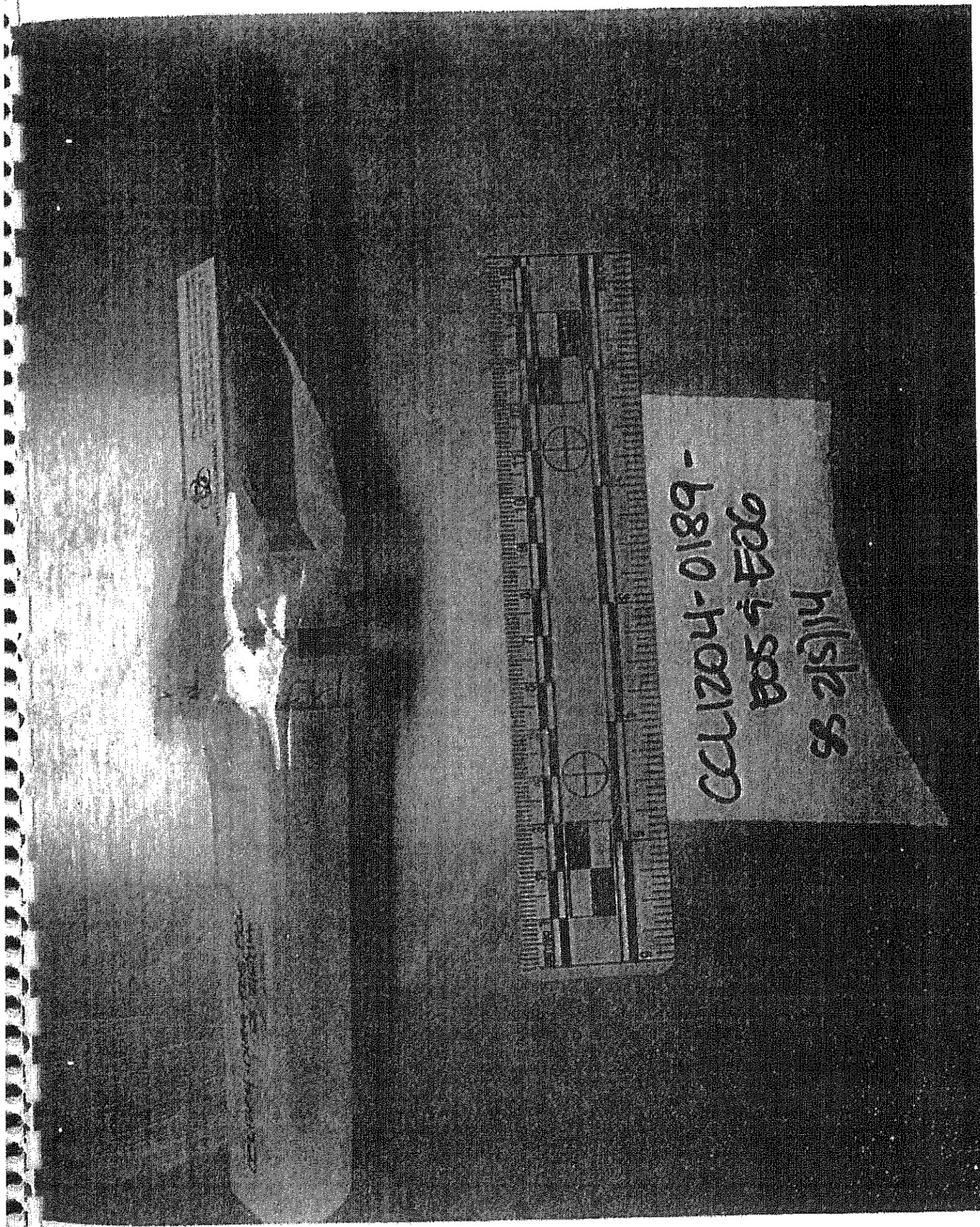


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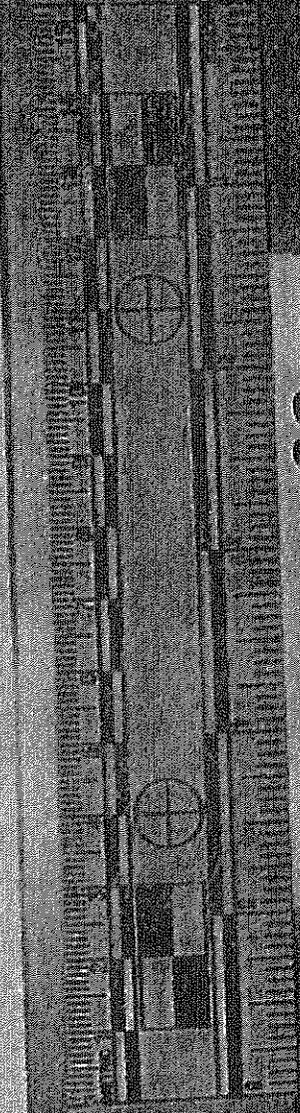
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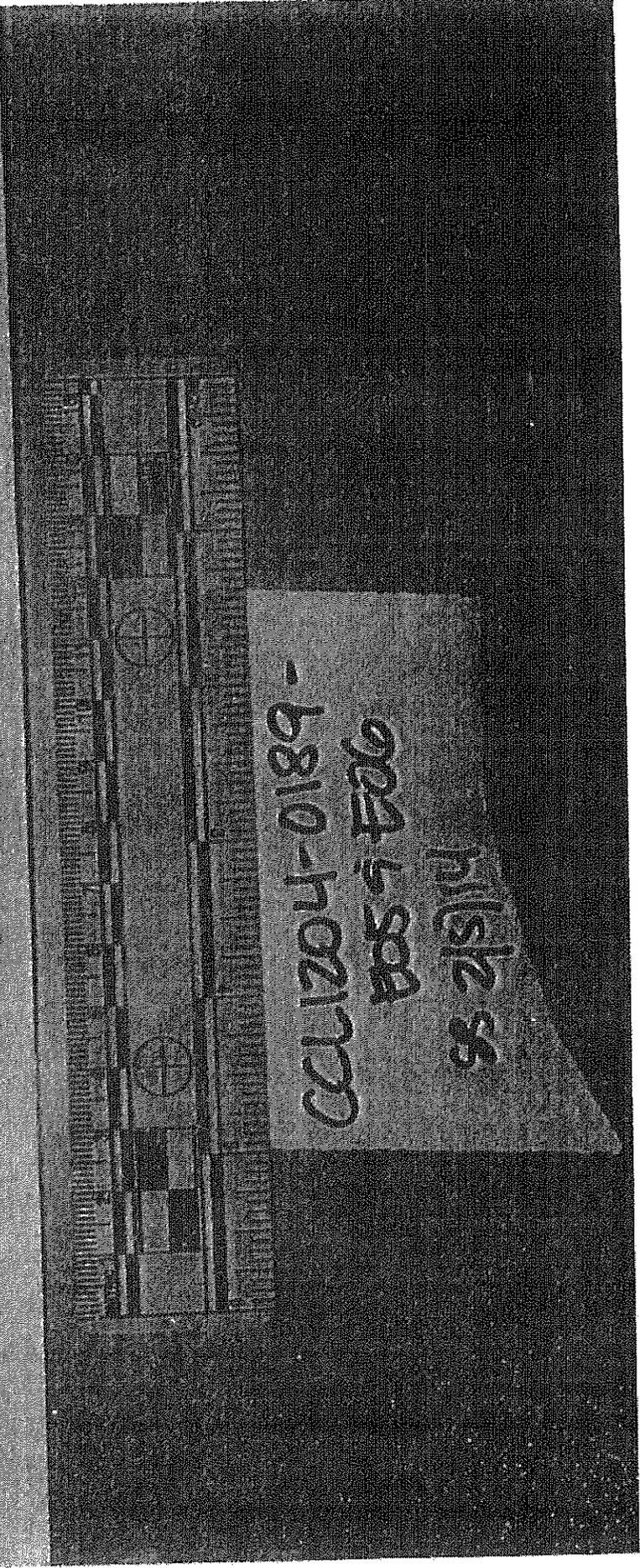
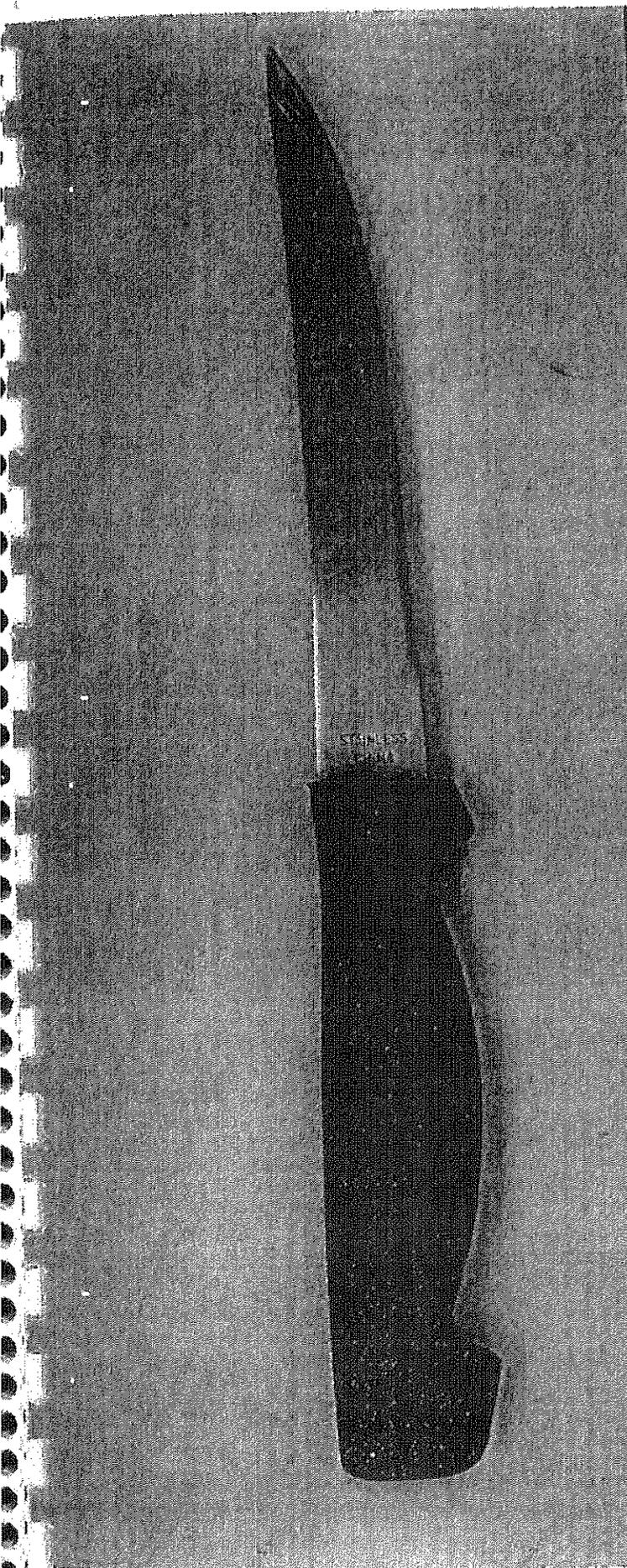


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Appendix H

Petitioner's Exhibit #53
Affidavit of Crimescene &
Fingerprint Expert F. Rogers

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 Attorney for Capital Defendant Julius Jarreau Moore

14 OCT 20 PM 6:59

**IN THE SUPERIOR COURT OF ARIZONA
 IN AND FOR THE COUNTY OF PIMA**

STATE OF ARIZONA,	)	CASE NO.: CR1999-016742-001DT
)	
Respondent/Plaintiff,	)	AFFIDAVIT SUPPORTING
and	)	DNA TESTING IN
	)	CAPITAL RULE 32 CASE &
JULIUS JARREAU MOORE,	)	POST CONVICTION RELIEF
	)	(Assigned to:
Petitioner/Defendant.	)	THE HONORABLE
_____ )	)	JOSEPH WELTY)

STATE OF ARIZONA)
) ss.
 County of Maricopa)

Frank J. Rodgers, being sworn upon his oath, does hereby depose and state that the following statements are true and within his own personal knowledge, information and belief:

1. That affiant worked as Crime Scene Technician for the Phoenix Police Dept. (PPD) from 1966-1985, subsequently worked as a Latent Fingerprint Examiner for the PPD Crime Lab from 1985-2001, and retired as Asst. Director of the PPD Crime Lab, serving in that capacity from 1998-2001;
2. That it is noteworthy that while working for the PPD Crime Lab from 1985-2001, that affiant was Supervisor and Section Supervisor prior to becoming Asst. Director of the PPD Crime Lab;

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3. That in affiant's capacity as a Section Supervisor he was responsible for developing written protocols for the collection, preservation and Courtroom presentation of physical evidence which were subsequently mandated for use by PPD Crime Lab personnel;
4. That during this time affiant also assisted with the development of AFIS (the Automated Fingerprint Identification System), now referred to as the Arizona Automated Fingerprint Identification System, from approximately 1987-2001;
5. That affiant has Bachelor of Science Degree in Applied Science, attended the FBI Academy and is a Certified Latent Print Examiner;
6. That affiant has been retained as both the Crime Scene Expert and Latent Fingerprint Analyst by the Rule 32 defense team in the present case, and a copy of affiant's Curriculum Vitae is attached as Exhibit #A;
7. That the attached reports dated were rendered by affiant related to both Court ordered fingerprint analysis (Exhibit #B) as well as serious concerns related to important evidence gathered at the Crime Scene in the present case which may have been lost or destroyed after its collection and while in custody of the State (Exhibit # C);
8. That specifically, affiant reviewed Exhibits #109 and #110 from Petitioner Moore's 2007 penalty phase trial which were pictures taken at the Crime Scene depicting a knife referenced as Item #22 (see attached photocopies w/ digital color photographs taken by affiant at Maricopa County Superior Court Criminal Exhibits room while viewing Exhibits #109 and 110 which were themselves, color photographs), which knife was originally designated as Exhibit #164 at Mr. Moore's 2004 penalty phase trial, and later designated as Exhibit #130 in the Superior Court record of Petitioner Moore's 2007 penalty phase trial;

9. That affiant specifically noted that in the color photographs marked as Exhibits #109 and #110 (hereto attached as Exhibits D and E, respectively) that the knife or Item #22 showed what appeared to be a 1 to 1 and 1/2 inch reddish purple stain on the end of the knife consistent with what affiant has previously recognized from other crime scenes as blood;
10. That affiant also reviewed the attached affidavit of Bode Technology DNA Scientist Michelle Donohue (Exhibit #F) referencing and containing photo-documents from Bode Technology DNA Lab of said knife or Exhibit 130/Item #22 at the time said evidence was received by Bode Technology that showed the total absence of said stain and actually a polished surface;
11. That affiant subsequently reviewed the available PPD disclosure and PPD Crime Lab related documents concerning the forensic testing of Exhibit #130/Item #22 and discovered as follows:
 - a. That forensic testing of the knife was requested on November 19, 1999 related to both blood and DNA;
 - b. That the requested preservation of the "blood" or what appears as blood for DNA testing was subsequently withdrawn on 12/15/99 by PPD Detective Dennis Olson (#2979) which resulted in the evidence no longer being safeguarded or preserved for future forensic or DNA testing whereby any evidence gathered from the knife blade (except single latent fingerprint found on knife blade) was destroyed;
 - c. That on 12/17/99 Exhibit #130/Item #22 was checked out by Evidence Technician Carl Westbrook and was not returned (ie. over 60 days in which evidence was not accounted for), and was subsequently forwarded on 2/24/00 to Latent Print Examiner James Cynowa for related testing;

- d. That Mr. Cynowa did photographically record latent images that appeared on the knife and proceeded to black powder process same, and finally chemically treated this item to secure fingerprints from the knife in issue; and
 - e. That the single latent print that was found on the blade of the knife which did not match Petitioner Julius Jarreau Moore, was never uploaded into AFIS to check to see if it matched anyone else.
12. That further, affiant hereby opines that such latents, have, in his 35+ years of forensic experience, been also used to obtain biological material for DNA testing;
13. That given the proximity of Exhibit #130/Item #22 that appears in the photos to be immediately next to the foot of a homicide victim (Sergio Mata), such further testing (including both AFIS upload and possibly DNA testing of the latent print itself) is vital to identify or eliminate potential suspects in this case;
14. That affiant has reviewed both the attached photograph showing a ziplock bag containing a shell casing and a projectile or Exhibit G (hereto attached) and has verified based upon affiant's training and experience as a Police Identification Technician/Crime Scene Expert as well as the attached Exhibit H (PPD Supplemental Report) that said picture depicts Item #26 (plastic ziplock bag), 26 A (cartridge or shell casing), & 26 B (projectile) which were purported to have been found underneath the bedspread of Petitioner Moore's bed during the course of the search of his bedroom at his Mother's house located at 1833 E. Coronado St., Phoenix, AZ;
15. That with regard to the collection of Item #26 (or Exhibit G depicting plastic ziplock baggy with projectile and shell casing), it is noteworthy that proper evidence collection/photographing protocols were not followed

because Item #26 should have not only been photographed in place (ie. lifting up bedspread and photographing Item where purportedly found), yet should have been designated with an appropriate crime scene placard;

16. That in reviewing Exhibit G depicting Item #26 [including Items 26 (A) and 26 (B) contained within ziplock bag], affiant specifically notes that there is a plainly visible dent in the side of the cartridge or shell casing contained therein;
17. That affiant has also examined the attached photographs taken by Rule 32 criminalist/firearms expert Richard Watkins depicting the "present" Item #26 (A) or cartridge casing purportedly taken from Petitioner's bed (or attached Exhibit #I) and specifically notes that after reviewing said photographs depicting this particular item of evidence 360 degrees that the dent is no longer visible;
18. That based upon affiant's review of the foregoing evidence related to Items 26, 26 A and 26B, and given the fact that affiant was a Crime Scene Technician who photographed 1000's of crime scenes for the Phoenix Police Department during his tenure and who further reviewed hundreds of 1000's of crime scene photographs during that time, it is affiant's opinion that present Item 26 B depicted in Mr. Watkin's photographs (Exhibit I) is not the same item of evidence purported to have been recovered from Petitioner Moore's bedroom at 1833 E. Coronado, undermining the evidentiary validity of said evidence;
19. That affiant has also reviewed 1999 crime scene photographs submitted in evidence in the present case at Petitioner Moore's 2007 trial as Exhibits 4-5, 7-10, 12-13 depicting or containing readily observable tire tracks, coupled with attached Exhibit J (picture depicting a shell casing from the present homicide case compressed in dirt within a tire track or Item #45) presented at Petitioner Moore's 2007 trial as Exhibit #107, and has concluded that such evidence definitely supports that a vehicle may have been present *at*

the time of the shooting in issue and subsequently ran over the shell casing or Item #45 as it was leaving the area or turning around; and

20. That affiant is concerned with the handling of multiple items of physical evidence related to present capital murder case that apparently have been destroyed and/or altered/ replaced and the impact on the integrity of the State's case.

DATED this 20 day of October, 2014.


FRANK J. RODGERS
RETAINED CRIME SCENE/
LATENT FINGERPRINT EXPERT

SUBSCRIBED AND SWORN to before me this 20th day of October, 2014.


Notary Public

My Commission Expires: 03/17/2018

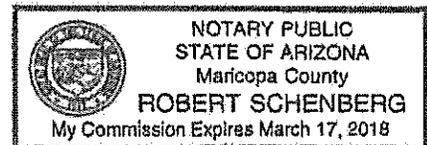


Exhibit A
Curriculum Vitae of
Fingerprint/Crime Scene Expert Frank Rodgers

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CURRICULUM VITAE OF FRANK J. RODGERS, III

Professional Experience

Retired - Assistant Administrator - Laboratory Services Bureau
Phoenix Police Department
35 Years of Service

Latent Print Specialist - Phoenix Police Department - 1966 to 2001

Identification Technician - FBI - Washington, D.C. - 1964-65

Comparative Analysis

- Latent Print
- Inked Prints
- Automated Fingerprint Identification Systems
- Image Enhancement
- Laser/Forensic Light System

Crime Scene

- Reconstruction
- Investigation
- Photography

Qualified as an expert witness in the above specialties in criminal and civil cases in:

Municipal Courts
Justice Courts
Superior Courts
Federal Court

Responsible for the Quality Assurance Program of the collection, preservation, comparison and courtroom presentation of physical evidence.

Arizona Department of Public Safety AzAFIS site manager.

Education

Bachelor of Science - Northern Arizona University
Associate of Arts - Phoenix College

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Attended FBI Academy
Attended Arizona State University

Professional Memberships

Life Member - International Association for Identification (Member of Latent Print Certification Committee; Membership Committee; Policies and Procedures Committee)
Fellow - Fingerprint Society (International Vice-President)
Life Member - Canadian Identification Society
Member - California Identification Association
Member - Arizona Identification Council (Past Sgt.-of-Arms and Vice-President)
Member - Southwest Association of Forensic Scientists

Academic Activities

Phoenix College - Instructor Evidence Technology - 3 years
Regional Police Academy - Instructor - 15 years
International Association for Identification 79th Annual Education Seminar - Speaker
Arizona Identification Educational Seminar 1992 - Speaker

Certification

- Certified Latent Print Examiner - International Association for Identification
- Certified Arizona Dept. of Public Safety AzAFIS Instructor
- Certified Firearms Instructor - National Rifle Association
- Member AzAFIS Certification Committee

Automated Fingerprint Identification System Evaluation and Benchmark Research

- Developed benchmark test and evaluation matrix for Phoenix Police Department AFIS procurement
- Administered Arizona AFIS site benchmark test
- AFIS Procurement Consultant for Poland, United Kingdom, Greece, Israel, Guam, San Antonio, El Paso, New Mexico

Seminars (1990 - Present)

<u>Topic</u>	<u>Group</u>	<u>Date</u>
Advanced Crime Scene Reconstruction	Arizona Identification Council	1991

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Automated Fingerprint Users Conference	North American Morpho	1991
Annual Educational Workshop Seminars 1990 - Present (cont.)	Arizona Identification Council	1992
<u>Topic</u>	<u>Group</u>	<u>Date</u>
Automated Fingerprint Users Conference	North American Morpho	1992
Annual Educational Workshop	Arizona Identification Council	1993
Automated Fingerprint Users Conference	North American Morpho	1993
International Symposium on the Forensic Aspects of Latent Prints	Federal Bureau of Investigation Washington, D.C.	1993
Annual Educational Workshop	International Association for Identification Phoenix, AZ	1994
Automated Fingerprint Users Conference	North American Morpho	1994
Annual Educational Workshop	International Association for Identification Costa Mesa, CA	1995
Dimensional Leadership	Phoenix Regional Police Academy	1995
Arizona AFIS User's Conference	Arizona Dept. of Public Safety	1995
Electronic Images	International Association Chiefs of Police Phoenix, AZ	1996
Annual Educational Workshop	International Association of Identification Greensboro, NC	1996
Arizona AFIS User's Conference	Arizona Department of Public Safety Phoenix, AZ	1996

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Annual Educational Workshop	International Association of Identification Danvers, MA	1997
Annual Educational Workshop	International Association of Identification Little Rock, AR	1998
<u>Topic</u>	<u>Group</u>	<u>Date</u>
Education Conference	Fingerprint Society Liverpool UK	1999
Laboratory Auditing	National Forensic Science Training Center. Phoenix, AZ	2000
Annual Educational Workshop	International Association of Identification. Charleston, WVA	2000
Centennial Conference on Identification	Fingerprint Society London, England	2001

Articles Published

"Development of Integrated Criminal Justice Expert System Applications"
Journal of Forensic Identification, 1989

"Let Your Fingers Do the Talking"
AIXtra, 1994

Latent Print Workshop, IAI AFIS Committee, 1994

AFIS Principles, AzAFIS User Conference, 1995

Exhibit B

Court Ordered Report of Fingerprint/Palmprint

Analysis in *State v. Moore*

(Dated 9/11/13 & 7/7/14)

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FINGERPRINT INVESTIGATIONS



Frank J. Rodgers ♦ 7004 W. Fullam St. ♦ Glendale, Az. 85308 ♦ USA

Phone 602.439.3669 ♦ Email frankjroddgers@yahoo.com

September 11, 2013

Patrick C. Coppen Esq.
Law Office of Patrick Coppen P.C.
63 E. Pennington Suite 112
Tucson, Arizona 85701

INVESTIGATIVE REPORT

Re: State v Moore, Julius
CR1999-016742A

REQUEST

Compare known prints of Mr. Tony Brown, State ID # Az1245896 to the latent prints from PPD Report 1999-91911277 (invoices #2705064 and #2816045).

RESULTS

The latent prints from PPD Report 1999-91911277 were not identified to the known print card bearing the name Julius Moore, State ID #Az1245896.

Major case prints are required to complete comparison on latents # 3,4,13,24,27.


Frank J. Rodgers CLPE

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2. Transparent adhesive tape was used to transfer the fingerprint to 3X5 glossy card. The latent fingerprint, blood and epithelial cells could be present on the adhesive side of tape attached to the glossy card.
3. Due to the fact that the visible trace evidence on knife was destroyed while processing for latent prints, the latent lift card is the best chance to obtain DNA.
4. Prior to DNA testing the latent lift card can be photographed to record any latent prints on the card.
5. This latent print was not entered into AFIS (Automated Fingerprint identification System).

Frank J. Rodgers CLPE

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Exhibit D

Picture from Yale Crackhouse Crime Scene admitted
as Exhibit#109 depicting knife found by victim S. Mata

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Exhibit No.: 109

Case No.: CR99-16742

For Identification:

PLAINTIFF

04/13/2007

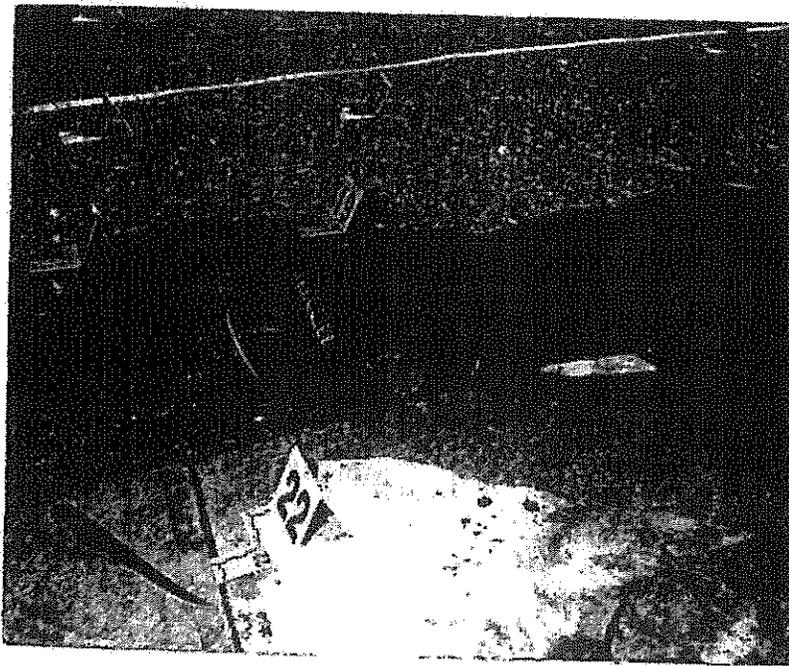
In Evidence:

PLTFF

5-2-07

Clerk of Superior Court

By: L. RUBALCABA
(Deputy Clerk)



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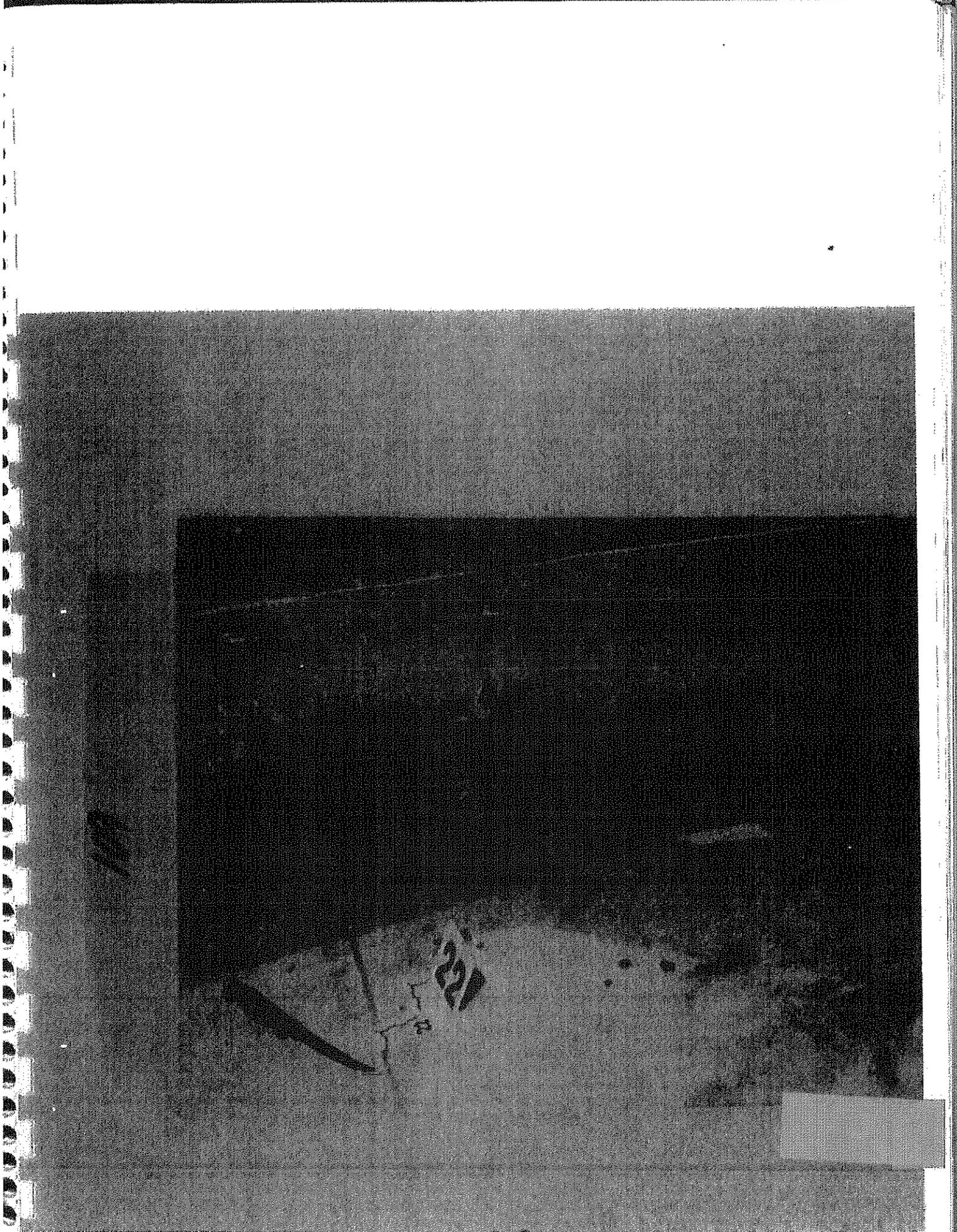
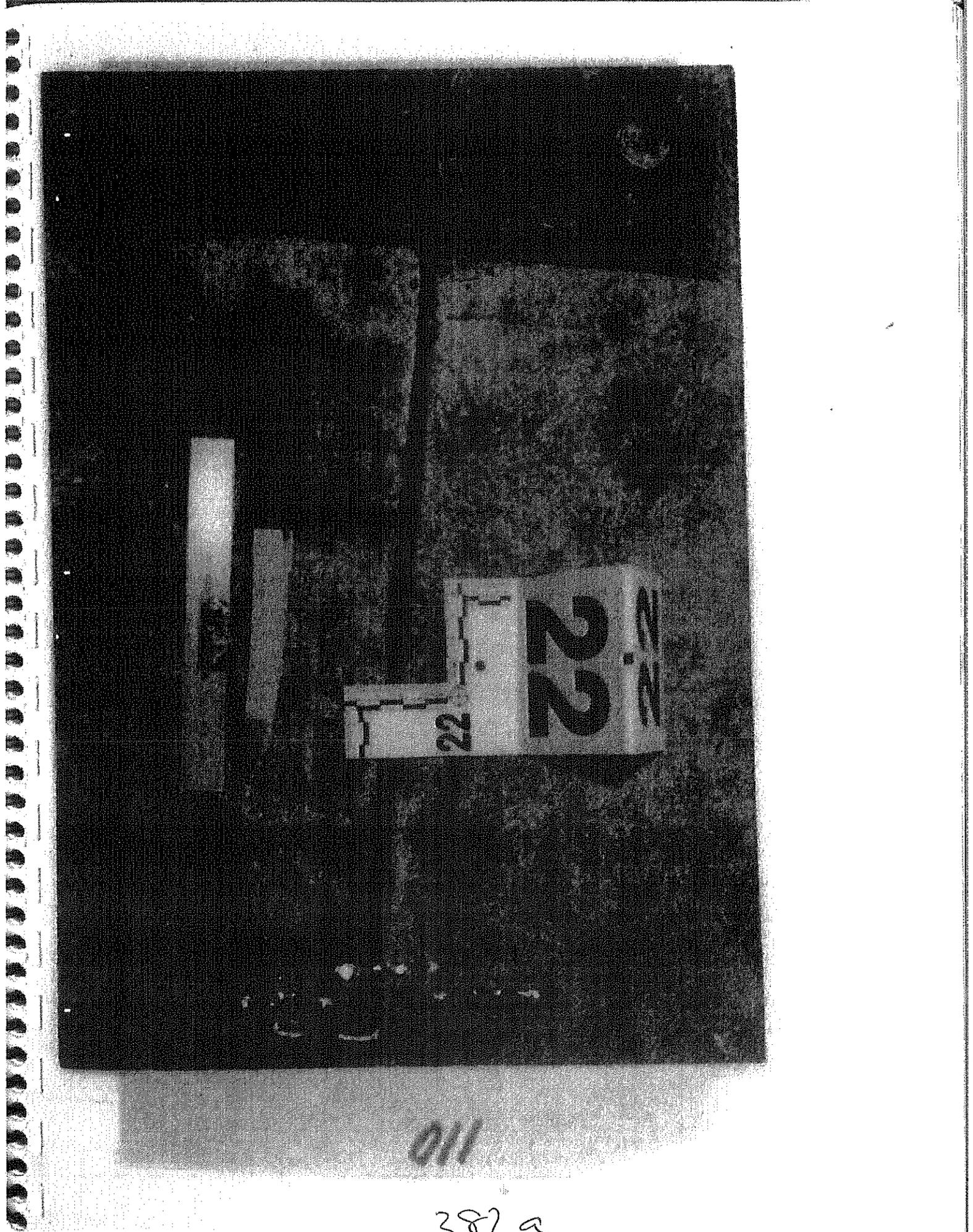


Exhibit E

Picture from Yale Crackhouse Crime Scene admitted
as Exhibit #110 depicting close-up of knife found by
Victim S. Mata evidencing blood stain on knife



22
2

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Exhibit F

Affidavit of Bode Technology DNA Lab

Scientist Michelle Donohue w/ attached photo-documents
of Exhibit 130/Item #22 at the time said evidence
received for Court Ordered DNA Testing

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ARIZONA

STATE OF ARIZONA
Plaintiff

Case No. CR1999-016742-001DT

v.

JULIUS J. MOORE
Defendant

AFFIDAVIT OF MICHELLE DONOHUE

I, Michelle Donohue, under oath, swear or affirm that:

1. I am a Senior Forensic DNA Analyst at The Bode Technology Group, Inc. (Bode) in Lorton, Virginia. I earned my Bachelors of Science degree in Psychobiology- Molecular Track from Binghamton University (Binghamton, NY). I earned my Master's Degree in Forensic Science with a concentration in Molecular Biology from The George Washington University (Washington, DC). I have worked at Bode since 2002 and currently hold the title Senior DNA Analyst 1. I process forensic DNA cases using molecular biology techniques in the laboratory and generate reports based on my findings. I participate in proficiency testing, perform technical and administrative review of case files and provide expert witness testimony. Please see my attached Curriculum Vitae for a list of expert witness testimony and additional work experience. To date I have processed over 3,000 forensic DNA cases using PCR (polymerase chain reaction) technology.
2. Testing performed in this case is in compliance with accredited procedures under the laboratory's ISO/IEC 17025 accreditation issued by ASCLD/LAB and ANSI-ASQ National Accreditation Board/FQS. Refer to attached certificates and scopes of accreditation for certificate numbers ALL-231-T and AT-1672, respectively.
3. Bode Technology was contacted by Attorney Patrick C. Coppen, Esq. to perform DNA testing in case CR1999-016742-001DT (State v Julius J Moore). Senior DNA Analyst 1 Sarah Shields was assigned the case and processed the evidence using procedures that have been validated according to the standards established in the FBI's Quality Assurance Standards for Forensic DNA Testing Laboratories. Court orders were followed throughout Bode's involvement with the case.
4. Evidence was first received by Bode on August 13, 2013. Bode received:

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-R28	Not Listed	Julius Moore [blood reference]
CCL1204-0189-R30	Not Listed	Delia Ramos [blood reference]
CCL1204-0189-R31	Not Listed	Guadalupe Ramos [blood reference]
CCL1204-0189-R32	Not Listed	Sergio Mata [blood reference]

Additional evidence was received by Bode on October 16, 2013. Bode received:

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-R29	Not Listed	Tony Brown [swab reference]

In addition, on October 16, 2013 Bode received the DNA profile previously generated by the Phoenix Police Department of Tony Brown (#3909348-1.1).

Additional evidence was received by Bode on December 9, 2013. Bode received:

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-E01	Item 84	Piece of wallboard [south bedroom wall]
CCL1204-0189-E02	Item 85	Piece of wallboard [west bedroom wall]
CCL1204-0189-E03	Exhibit 72	One (1) ziploc bag
CCL1204-0189-E04	Exhibit #136	One (1) meth pipe (mouthpiece)
CCL1204-0189-E05	Exhibit #130	One (1) knife [handle]
CCL1204-0189-E06	Exhibit #130	One (1) knife [blade]

5. The following evidence items were sampled (i.e. swabbed) by Bode Technology-Chromosomal Labs (Phoenix, AZ) employee Maricella Villanueva on January 8, 2014 at the Maricopa County Superior Court Criminal Exhibits Department, Maricopa County Superior Courthouse. On the same day, Ms. Villanueva sent the evidence (i.e. swabs) to the Lorton, VA Bode Laboratory via FedEx Overnight. The evidence was received at the Bode Laboratory on January 9, 2014.

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-E07	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [handle/grip, safety, slide release, magazine release, trigger/trigger guard]
CCL1204-0189-E08	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [slide/slide serration]
CCL1204-0189-E09	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine]
CCL1204-0189-E10	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [leather holster]
CCL1204-0189-E11	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine in holster]
CCL1204-0189-E12	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#6]
CCL1204-0189-E13	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#7]
CCL1204-0189-E14	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#8]
CCL1204-0189-E15	Exhibit #73	Shell Casing [#26A]
CCL1204-0189-E16	Exhibit #74	Projectile [#26B]
CCL1204-0189-E17	Exhibit #57	8 Plastic Vials Containing Shell Casings [#45]
CCL1204-0189-E18	Exhibit #57	8 Plastic Vials Containing Shell Casings [#46]
CCL1204-0189-E19	Exhibit #57	8 Plastic Vials Containing Shell Casings [#54]
CCL1204-0189-E20	Exhibit #58	Plastic vial containing Item 55 (projectile)
CCL1204-0189-E21	Exhibit #57	8 Plastic Vials Containing Shell Casings [#56]
CCL1204-0189-E22	Exhibit #57	8 Plastic Vials Containing Shell Casings [#66]
CCL1204-0189-E23	Exhibit #57	8 Plastic Vials Containing Shell Casings [#70]
CCL1204-0189-E24	Exhibit #58	Plastic vial containing Item 73 (projectile)
CCL1204-0189-E25	Exhibit #57	8 Plastic Vials Containing Shell Casings [#77]
CCL1204-0189-E26	Exhibit #57	8 Plastic Vials Containing Shell Casings [#79]

6. Additional evidence was received on January 15, 2014. Bode received:

<u>Bode Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-R27	Not Listed	Julius Moore [buccal collector reference, "state sample"]
CCL1204-0189-R33	Not Listed	Julius Moore [buccal collector reference]

7. All submissions of evidence arrived in good condition showing no signs of tampering. All submissions were photo documented per court order.
8. The unknown samples and reference samples from the known individuals were processed for DNA typing by analysis of the 13 CODIS Short Tandem Repeat loci, the D2S1338 locus, the D19S433 locus, and the Amelogenin locus using the Applied Biosystems AmpFLSTR® Identifiler® Plus kit. Appropriate positive and negative controls were used concurrently throughout the analysis.
9. Most labwork procedures were performed by Senior DNA Analyst 1 Sarah Shields. Forensic Casework Supervisor Andrea Borchardt-Gardner functioned in a Technician capacity to perform a quantitation of sample CCL1204-0189-R31b1 (Guadalupe Ramos). DNA Analyst 3 Emily Herren functioned in a Technician capacity to perform an amplification and capillary electrophoresis setup of sample CCL1204-0189-R33a1 (Julius Moore). Sarah Shields reviewed the data generated by all the procedures and prepared the attached DNA report dated February 22, 2014. Andrea Borchardt-Gardner and Senior DNA Analyst 1 Brian Adams performed a Technical Review of the Case File. I performed an Administrative Review of the Case File.
10. The same DNA profile was obtained from known reference samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), and CCL1204-0189-R33 (Julius Moore).
11. DNA profiles were obtained from known reference samples CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata).
12. A DNA profile was obtained from known reference sample CCL1204-0189-R29 (Tony Brown). The DNA profile previously generated by the Phoenix Police Department of Tony Brown (3909348-1.1) matches the DNA profile obtained from sample CCL1204-0189-R29 (Tony Brown).
13. No DNA profiles were obtained from the following samples:

<u>Code</u>	<u>Sample Name</u>	<u>Agency ID</u>	<u>Agency Description</u>
CCL1204-0189-E01		Item 84	Piece of wallboard [south bedroom wall]
CCL1204-0189-E02		Item 85	Piece of wallboard [west bedroom wall]
CCL1204-0189-E05		Exhibit #130	One (1) knife [handle]
CCL1204-0189-E06		Exhibit #130	One (1) knife [blade]
CCL1204-0189-E09		Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine]
CCL1204-0189-E12		Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#6]
CCL1204-0189-E14		Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#8]
CCL1204-0189-E15		Exhibit #73	Shell Casings [#26A]
CCL1204-0189-E16		Exhibit #74	Projectile [#26B]
CCL1204-0189-E17		Exhibit #57	8 Plastic Vials Containing Shell Casings [#45]
CCL1204-0189-E18		Exhibit #57	8 Plastic Vials Containing Shell Casings [#46]
CCL1204-0189-E19		Exhibit #57	8 Plastic Vials Containing Shell Casings [#54]
CCL1204-0189-E20		Exhibit #58	Plastic vial containing Item 55 (projectile)
CCL1204-0189-E21		Exhibit #57	8 Plastic Vials Containing Shell Casings [#56]
CCL1204-0189-E22		Exhibit #57	8 Plastic Vials Containing Shell Casings [#66]
CCL1204-0189-E23		Exhibit #57	8 Plastic Vials Containing Shell Casings [#70]
CCL1204-0189-E24		Exhibit #58	Plastic vial containing Item 73 (projectile)
CCL1204-0189-E25		Exhibit #57	8 Plastic Vials Containing Shell Casings [#77]
CCL1204-0189-E26		Exhibit #57	8 Plastic Vials Containing Shell Casings [#79]

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Since no DNA profiles were obtained from the above samples, it is not possible to make any comparisons to any known reference DNA profiles.

14. Please see the attached photo documentation of Exhibit #130 (One (1) knife). These six (6) photos show the condition the evidence was received in, before sampling (swabbing) occurred. There were several areas of gray staining present on blade. No foreign material, flakes or red/brown staining was observed on knife, plastic container or plastic bag containing the knife. If this is the original evidence packaging, it is possible to sample the inside of the plastic container or bag to attempt to recover biological material, including DNA, which may have detached from the knife over time.
15. The partial DNA profile obtained from sample CCL1204-0189-E03 (Exhibit 72; One (1) ziploc bag) is consistent with a mixture of at least two individuals including at least one male contributor. Due to the possibility of allelic drop out, no conclusions can be made on the alleles present in sample CCL1204-0189-E03.

A mixture DNA profile is obtained when more than one individual contributes DNA to a sample. For sample CCL1204-0189-E03 (Exhibit 72; One (1) ziploc bag), even though it is apparent that there is at least one male contributor to the DNA mixture, there is not enough DNA present to make a comparison to any known reference DNA profiles. Observing that a male contributor is present is not enough information alone to make a conclusion of inclusion or exclusion to any one male (including Julius Moore, Tony Brown, Sergio Mata or Guadalupe Ramos) as approximately half the population is male. It is statistically insignificant.

16. The DNA profile obtained from sample CCL1204-0189-E04 (Exhibit #136; One (1) meth pipe (mouthpiece)) is consistent with a mixture of three or more individuals.

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors to the mixture DNA profile obtained from sample CCL1204-0189-E04.

Due to the possibility of allelic drop out, the individuals associated with samples CCL1204-0189-R30 (Delia Ramos) and CCL1204-0189-R31 (Guadalupe Ramos) cannot be included or excluded as possible contributors to the mixture DNA profile obtained from sample CCL1204-0189-E04.

Even though enough DNA was present in sample CCL1204-0189-E04 (Exhibit #136; One (1) meth pipe (mouthpiece)) to exclude some known individuals, a conclusion was not able to be made to others. It would be possible to compare additional known reference DNA profiles to this profile and make a statement regarding inclusion or exclusion.

17. The partial DNA profile obtained from sample CCL1204-0189-E07 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [handle/grip, safety, slide release, magazine release, trigger/trigger guard]) is consistent with a mixture of at least two individuals including at least one male contributor. Due to the possibility of allelic drop out, no conclusions can be made on the alleles present in sample CCL1204-0189-E07.

Even though it is apparent that there is at least one male contributor to the DNA mixture, there is not enough DNA present to make a comparison to any known reference DNA profile. Observing that a male contributor is present is not enough information alone to make a conclusion of inclusion or exclusion to any one male (including Julius Moore, Tony Brown, Sergio Mata or Guadalupe Ramos) as approximately half the population is male. It is statistically insignificant.

18. The DNA profile obtained from sample CCL1204-0189-E08 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [slide/slide serration]) is consistent with a mixture of at least two individuals including a major female contributor (Female 1) and at least one male contributor.

A major component DNA profile occurs in a mixture DNA profile when one contributor's DNA is present in a larger amount than the other contributors.

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors of the major component DNA profile obtained from sample CCL1204-0189-E08.

Due to the possibility of allelic drop out, no conclusions can be made on the minor alleles present in sample CCL1204-0189-E08. Even though it is apparent that there is at least one male contributor to the minor alleles, there is not enough DNA present to make a comparison to any known reference DNA profile. Observing that a male contributor is present is not enough information alone to make a conclusion of inclusion or exclusion to any one male (including Julius Moore, Tony Brown, Sergio Mata or Guadalupe Ramos) as approximately half the population is male. It is statistically insignificant.

19. Alleles were obtained from sample CCL1204-0189-E10 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [leather holster]) at the D19S433 and Amelogenin loci. Due to the limited data obtained, no conclusions can be made on the alleles present in sample CCL1204-0189-E10.

"Loci" are locations on DNA. For sample CCL1204-0189-E10, results were obtained at only two DNA locations and there is not enough DNA present to make a comparison to any known reference DNA profile.

20. The partial DNA profile obtained from sample CCL1204-0189-E11 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [magazine in holster]) is consistent with a mixture of at least two individuals including a major female contributor (Female 1).

The major female contributor observed in sample CCL1204-0189-E11 is the same as the major female contributor observed in sample CCL1204-0189-E08 (Exhibit #78; Gun w/ holster/clip (Makarov 9mm) [slide/slide serration]).

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors of the major component DNA profile obtained from sample CCL1204-0189-E11.

Due to the possibility of allelic drop out, no conclusions can be made on the minor alleles present in sample CCL1204-0189-E11. There is not enough DNA present to make a comparison between the minor alleles and any known reference DNA profile.

21. Alleles were obtained from sample CCL1204-0189-E13 (Exhibit #61; Projectiles (D. Ramos & G. Ramos) [#7]) at the D3S1358 and Amelogenin loci.

For sample CCL1204-0189-E13, results were obtained at only two DNA locations and there is not enough DNA present to make a comparison to any known reference DNA profile.

22. The defendant Julius Moore was not included as a contributor to any of the DNA profiles obtained (of those DNA profiles that were suitable for comparison).

23. If DNA testing on the samples discussed herein occurred in 1999, it is *possible* that additional results may have been obtained. All biological matter, including DNA, degrades over time. In 1999 the samples *may have* been less degraded than they are presently. However, the technology that exists today is superior to the technology that existed in 1999. Today's technology looks at more locations on the DNA and is more sensitive (can generate a DNA profile from less template DNA).

Michelle Donohue
Michelle Donohue

Subscribed and sworn to before me
this 22nd day of July, 2014.

Karen Hope Bennett
NOTARY PUBLIC, STATE OF Virginia County of Fairfax
My commission expires may 31, 2015

Karen Hope Bennett
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 7512637
My Commission Expires May 31, 2015

Michelle Donohue (Eckardt)

EDUCATION

- 2002-2004 George Washington University, Washington, DC
Master of Forensic Science, concentration in Molecular Biology
- 1996-2000 State University of New York at Binghamton, Binghamton, NY
Bachelor of Science in Psychobiology, Molecular Track

PROFESSIONAL EXPERIENCE

- 3.12 – Current Senior DNA Analyst I/ Technical Services Manager, Bode Technology
Responsibilities include: processing STR and Y-STR forensic cases; proficiency testing; technical and administrative review of case files; expert witness testimony; manage all technical inquiries for services; generate quotes for DNA services
- 07.10 – 2.12 Senior DNA Analyst I, Bode Technology
Responsibilities include: oversee the technical operations of two Government sponsored overseas laboratories to include data review, final resolution of technical issues, analyst training, quality assurance, kinship analysis, protocol and validation initiation and review; proficiency testing; expert witness testimony
- 04.08 – 06.10 Senior DNA Analyst I, Bode Technology
Responsibilities included: high-throughput production of STR and Y-STR forensic cases that include mixed samples including semen, bloodstains, hair, saliva and touch/LCN samples; technical and administrative review of case files and associated core forms and controls; mixture, single source and paternity statistics; expert witness testimony; analyst training; assisted in validation study using BioRobot EZ1; proficiency testing
- 10.06 – 04.08 Forensic Casework Analyst III, Bode Technology
Responsibilities included: leading multiple client projects from accessioning of evidence to shipment of final results; high-throughput production of ~700 STR and Y-STR forensic cases that include mixed samples including semen, bloodstains, hair, saliva and touch/LCN samples; mixture, single source and paternity statistics; expert witness testimony; analyst training; Y-STR testing of bones recovered from Hurricane Katrina; proficiency testing
- 10.04 – 10.06 Forensic Casework Analyst II, Bode Technology
Responsibilities included: leading multiple client projects from accessioning of evidence to shipment of final results; high-throughput production of ~1000 STR and Y-STR forensic cases that include mixed samples including semen, bloodstains, hair, saliva and touch/LCN samples; mixture and single source statistics; expert witness testimony; serological testing; analyst training; proficiency testing
- 10.03 – 10.04 Forensic Casework Analyst I, Bode Technology
Responsibilities included: high-throughput production of ~400 STR forensic cases that include mixed samples including semen, bloodstains, hair, saliva and touch/LCN samples; mixture and single source statistics; serological testing; proficiency testing

Michelle Donohue (Eckardt)

PROFESSIONAL EXPERIENCE (CONTINUED)

- Fall 2003 Research & Validation Project- Comparison of DNAIQ (using the Biomek 2000) versus Organic extraction on non-differential sample types
- 09.02 – 10.03 High Throughput Laboratory Technician, Bode Technology
Responsibilities included: high-throughput production of reference blood, saliva and buccal samples for forensic STR cases; receipt and accessioning of evidence; preparation and QC of reagents; equipment maintenance; proficiency testing
- 04.02 – 9.02 DNA Databanking Technician, Bode Technology
Responsibilities included: utilizing the BSD system to prepare blood and saliva offender samples for extraction, operation and maintenance of FMBIO II System, assisted in extraction of bones recovered from the World Trade Center disaster

PROFESSIONAL AFFILIATIONS

- 2005 – Current American Academy of Forensic Science

CONTINUING EDUCATION

- MAY 10-13 2004 Third Annual Advanced DNA Technology Workshop – East Duck Key, FL
- FEB 22-25 2005 American Academy of Forensic Science 57th Annual Meeting New Orleans, LA
- APR 18-21 2006 Third annual Advanced DNA Technology Workshop – West San Diego, CA
- OCT 1-4 2007 18th International Symposium on Human Identification Hollywood, CA
- MAY 18-22 2008 Seventh Annual Advanced DNA Technology Workshop – East Captiva Island, FL
- MAY 18-19 2008 DNA Auditor Training presented by FBI Laboratory Captiva Island, FL
- OCT 12-15 2009 20th International Symposium on Human Identification Las Vegas, NV
- MAY 24-26 2010 9th Annual Advanced DNA Technical Workshop – East Amelia Island, FL

Michelle Donohue (Eckardt)

CONTINUING EDUCATION (CONTINUED)

- FEB 22-25 2011 American Academy of Forensic Science 63rd Annual Meeting
Chicago, IL
- MAY 20-24 2012 Eleventh Annual Advanced DNA Technology Workshop – East
Orlando, Florida
- OCT 28 2013 A DNA Revolution- Next Generation Technologies
Webcast from University of North Texas
- MAY 20-21 2014 Thirteenth Annual Advanced DNA Technology Workshop – East
Lake Buena Vista, Florida

TESTIMONY EXPERIENCE

- 01.05.06 Unites States of America v. David England
United States District Court – Northern District of Illinois, Western Division
- 08.31.06 State of Michigan v. Kyle Adam Scott
13th Judicial Circuit Court (Grand Traverse County)
- 03.09.07 State of Maryland v. Anthony Miller
Circuit Court for Baltimore City
- 05.17.07 State of Illinois v. Darnen Toy
Circuit Court for Cook County (Chicago)
- 08.01.07 City of Baltimore v. Darnion Hudson
Circuit Court for Baltimore City
- 12.13.07 State of Michigan v. Terry Grant Jones
16th Judicial Circuit Court (Macomb County)
- 03.31.08 State of Maryland v. Tavon Berson Tyner and Donte Lamont Tyner
Circuit Court for Baltimore City
- 08.15.08 State of Florida v. Tracy D. Thomas
5th Judicial Circuit Court (Marion County)
- 08.20.08 State of Michigan v. Patrick Smith
3rd Judicial Circuit Court (Wayne County)
- 11.05.08 State of Florida v. Sascha Weber
6th Judicial Circuit Court (Pinellas County)

Michelle Donohue (Eckardt)

TESTIMONY EXPERIENCE (CONTINUED)

- 04.09.09 State of Illinois v. Tony Jackson
Circuit Court for Cook County (Chicago)
- 06.10.09 State of Maryland v. Glenn Joseph Raynor
Circuit Court for Harford County
- 07.29.09 State of Florida v. Norman Alphonso White
20th Judicial Circuit Court (Lee County)
- 10.08.09 State of Florida v. Ray Valdez
12th Judicial Circuit Court (Sarasota County)
- 12.17.09 State of Maryland v. Alan Ralph Stanford
Circuit Court for Wicomico County
- 03.25.10 State of Florida v. Anthony Lee Ruise
4th Judicial Circuit Court (Duval County)
- 05.05.10 State of Maryland v. Carroll Daniel Gibson
Circuit Court for Queen Anne's County
- 02.02.11 State of Maryland v. Dale Vernon Bigham
Circuit Court for Carroll County
- 07.28.11 People of Michigan v. Davontral Joseph Coleman
10th Circuit Court (Saginaw County)
- 02.16.12 State of Maryland v. Darrol Sands
Circuit Court for Washington County
- 05.24.12 State of Maryland v. Donald Edward Browne Jr.
Circuit Court for Queen Charles County
- 07.10.13 State of Maryland v. Dominick Pearson
Circuit Court for Baltimore County
- 05.13.14 State of Maryland v. Kerlin Esau Esquivel-Fuentes
Circuit Court for Anne Arundel County
- 05.15.14 State of Maryland v. Dominick Pearson
Circuit Court for Baltimore County



CERTIFICATE OF ACCREDITATION

ANSI-ASQ National Accreditation Board/FQS
5300 W. Cypress Street, Suite 180, Tampa, FL 33607, 813-443-0517

This is to certify that

Bode Technology
10430 Furnace Road
Lorton, VA 22079

has been assessed by FQS
and meets the requirements of international standard

ISO/IEC 17025:2005 and the FBI QAS

while demonstrating technical competence in the field(s) of

FORENSIC TESTING

Refer to the accompanying Scope(s) of Accreditation for information regarding the types of tests to which this accreditation applies.

AT-1672

Certificate Number

FQS Approval

Certificate Valid: 02/06/2013-02/06/2017
Version No. 002 Issued: 02/06/2013



This laboratory is accredited in accordance with the recognized International Standard ISO/IEC 17025:2005. This accreditation demonstrates technical competence for a defined scope and the operation of a laboratory quality management system (refer to joint ISO-ILAC-IAF Communiqué dated January 2009).

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ANSI-A30 National Accreditation Board/FQS

SCOPE OF ACCREDITATION TO ISO/IEC 17025:2005 and the FBI QAS

Bode Technology – Virginia Laboratory

10430 Furnace Road, Suite 107, Lorton, VA 22079
CONTACT: Amanda Thomas Phone: 703-646-9862

FORENSIC TESTING

Valid to: February 07, 2017

Certificate Number: AT-1672

Materials Examined

Category	Sub Category	Analytical Technique (See 2.0)
1.1 Biology	1.4.1 Biological screening	2.1.1, 2.1.2, 2.4.1, and 2.5
	1.4.2 DNA-Forensic Casework	2.2.1.1, 2.2.1.2, 2.2.1.3, 2.2.2, 2.3.1 and 2.5
	1.4.3 DNA-Databasing	2.2.1.1, 2.2.1.2, 2.2.2, 2.3.1 and 2.5
	1.4.4 Forensic Paternity Testing	2.2.1.1, 2.2.1.2, 2.2.1.3, 2.2.2, 2.3.1 and 2.5

Analytical Technique/Test Method

2.1 Chemical Screening Tests
2.1.1 Immunoassay
2.1.2 Color Tests
2.2 Genetic Analysis
2.2.1 DNA-PCR
2.2.1.1 Autosomal STR
2.2.1.2 Y-STR
2.2.1.3 Mitochondrial
2.2.2 Data Analysis
2.3 Electrophoresis
2.3.1 Capillary electrophoresis
2.4 Microscopy
2.4.1 Optical
2.5 General Laboratory Procedures

[Signature]
Vice President



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American Society of Crime Laboratory Directors Laboratory Accreditation Board

*declares to all Advocates of Truth, Justice and the Law that the
management and technical operations of the*

The Bode Technology Group, Inc. Bode Technology - Virginia Laboratory

10430 Furnace Road, Suite 117
Lorton, Virginia 22077

*have been found through assessment to meet the requirements of
ISO/IEC 17025:2005*

*"General Requirements for the Competence of Testing and Calibration Laboratories"
the ASCLD/LAB-International Supplemental Requirements for Testing Laboratories, 2011
and all other requirements of the*

ASCLD/LAB-International

program, and is granted this

Certificate of Accreditation

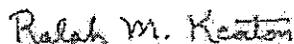
in the field of

Forensic Science Testing

*for the categories of testing listed on the corresponding
Scope of Accreditation*



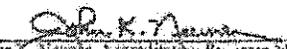
Pamela Borner, ASCLD/ABTL Chair



Ralph M. Keaton, Executive Director



Tracy Cheney-Blinnier, Accreditation Program Manager



John K. Neuman, Accreditation Program Manager

Certificate Number

ALL-231-T

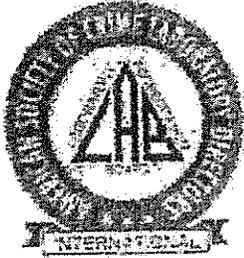
granted this

26th day of July, 2012

which expires on the

25th day of July, 2017

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American Society of Crime Laboratory Directors / Laboratory Accreditation Board

ASCLD/LAB-International Program

SCOPE of ACCREDITATION

Corresponds to
Certificate Number

ALI-231-T

Name and Address of Accredited Laboratory	Laboratory Contact Information
The Bode Technology Group, Inc. Bode Technology - Virginia Laboratory 10430 Furnace Road, Suite 107 Lorton, Virginia 22079	Amy Jeanguenat, Laboratory Director Phone: (703) 646-9745 Fax: (703) 646-9741 E-Mail: Amy.Jeanguenat@bodetech.com

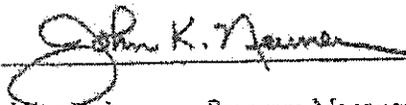
The management and technical operations of this laboratory were assessed and found to conform with ISO/IEC 17025:2005, the ASCLD/LAB-International Supplemental Requirements for Testing Laboratories (2011), and all other requirements of the ASCLD/LAB-International program. The laboratory was found to be competent and was accredited in the following area (s):

Field of Accreditation	Categories of Testing:
Forensic Science Testing	3.1 DNA - Nuclear
	3.2 DNA - Mitochondrial
Discipline (s)	3.3 Body Fluid Identification
	3.4 Individual Characteristic Database
3.0 Biology	

Customers Served: The Bode Technology Group, Inc., Virginia Laboratory, is a private laboratory that provides services and assistance to law enforcement agencies and other customers. There are no geographic boundaries to the service area of the laboratory.

Accreditation Dates

Date Issued: July 26, 2012
Date Expires: July 25, 2017
Date Last Updated: No Updates


John K. Neuner, Program Manager
ASCLD/LAB-International

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10430 Furnace Road, Suite 107
 Lorton, VA 22079
 Phone: 703-646-9740

**Forensic Case Report
 February 22, 2014**

To:
 Patrick Coppen, Esq.
 Counsel for Petitioner Julius Moore
 7229 N. Thornydale Rd., #155
 Tucson, AZ 85741

Bode Case #: CCL1204-0189
 Agency Case #: CR1999-016742

Gregory Hazard
 Assistant Attorney General
 Office of the Arizona Attorney General
 1275 West Washington
 Phoenix, AZ 85007

List of evidence received on January 15, 2014 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-R27	Not Listed	Julius Moore [buccal collector reference, "state sample"]
CCL1204-0189-R33	Not Listed	Julius Moore [buccal collector reference]

List of evidence received on January 9, 2014 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-E07	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [handle/grip, safety, slide release, magazine release, trigger/trigger guard]
CCL1204-0189-E08	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [slide/slide serration]
CCL1204-0189-E09	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine]
CCL1204-0189-E10	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [leather holster]
CCL1204-0189-E11	Exhibit #78	Gun w/ holster/clip (Makarov 9mm) [magazine in holster]
CCL1204-0189-E12	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#6]
CCL1204-0189-E13	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#7]
CCL1204-0189-E14	Exhibit #61	Projectiles (D. Ramos & G. Ramos) [#8]
CCL1204-0189-E15	Exhibit #73	Shell Casing [#26A]
CCL1204-0189-E16	Exhibit #74	Projectile [#26B]
CCL1204-0189-E17	Exhibit #57	8 Plastic Vials Containing Shell Casings [#45]
CCL1204-0189-E18	Exhibit #57	8 Plastic Vials Containing Shell Casings [#46]
CCL1204-0189-E19	Exhibit #57	8 Plastic Vials Containing Shell Casings [#54]
CCL1204-0189-E20	Exhibit #58	Plastic vial containing item 55 (projectile)
CCL1204-0189-E21	Exhibit #57	8 Plastic Vials Containing Shell Casings [#56]
CCL1204-0189-E22	Exhibit #57	8 Plastic Vials Containing Shell Casings [#66]
CCL1204-0189-E23	Exhibit #57	8 Plastic Vials Containing Shell Casings [#70]
CCL1204-0189-E24	Exhibit #58	Plastic vial containing item 73 (projectile)
CCL1204-0189-E25	Exhibit #57	8 Plastic Vials Containing Shell Casings [#77]
CCL1204-0189-E26	Exhibit #57	8 Plastic Vials Containing Shell Casings [#79]

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Bode Case #: CCL1204-0189
Agency Case #: CR1999-016742

Date: February 22, 2014

List of evidence received on December 9, 2013 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-E01	Item 84	Piece of wallboard [south bedroom wall]
CCL1204-0189-E02	Item 85	Piece of wallboard [west bedroom wall]
CCL1204-0189-E03	Exhibit 72	One (1) ziploc bag
CCL1204-0189-E04	Exhibit #136	One (1) meth pipe (mouthpiece)
CCL1204-0189-E05	Exhibit #130	One (1) knife [handle]
CCL1204-0189-E06	Exhibit #130	One (1) knife [blade]

List of evidence received on October 16, 2013 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-R29	Not Listed	Tony Brown [swab reference]

List of evidence received on August 13, 2013 for possible DNA analysis:

<u>Bode Sample Name</u>	<u>Agency Sample ID</u>	<u>Agency Description</u>
CCL1204-0189-R28	Not Listed	Julius Moore [blood reference]
CCL1204-0189-R30	Not Listed	Delia Ramos [blood reference]
CCL1204-0189-R31	Not Listed	Guadalupe Ramos [blood reference]
CCL1204-0189-R32	Not Listed	Sergio Mata [blood reference]

DNA profile received on October 16, 2013 for comparison purposes:

<u>Agency Sample ID</u>	<u>Agency Description</u>
3909348-1.1	Tony Brown

Evidence received and evaluated, but not isolated for possible DNA analysis, is listed in the case inventory.

DNA Processing, Results, and Conclusions:

The evidence was processed for DNA typing by analysis of the 13 CODIS Short Tandem Repeat loci, the D2S1338 locus, the D19S433 locus, and the Amelogenin locus using the Applied Biosystems AmpFLSTR® Identifier® Plus kit.

1. The same DNA profile was obtained from samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), and CCL1204-0189-R33 (Julius Moore).
2. DNA profiles were obtained from samples CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata).
3. A DNA profile was submitted for Item 3909348-1.1 (Tony Brown).
The DNA profile submitted for Item 3909348-1.1 (Tony Brown) matches the DNA profile obtained from sample CCL1204-0189-R29 (Tony Brown). Statistical calculations may be performed upon request.
4. No DNA profiles were obtained from samples CCL1204-0189-E01, E02, E05, E06, E09, E12, E14, E15, E16, E17, E18, E19, E20, E21, E22, E23, E24, E25, and E26.
5. The partial DNA profile obtained from sample CCL1204-0189-E03 is consistent with a mixture of at least two individuals including at least one male contributor.

Bode Case #: CCL1204-0189
Agency Case #: CR1999-016742

Date: February 22, 2014

DNA Processing, Results, and Conclusions: (continued)

Due to the possibility of allelic drop out, no conclusions can be made on the alleles present in sample CCL1204-0189-E03.

6. The DNA profile obtained from sample CCL1204-0189-E04 is consistent with a mixture of three or more individuals.

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors to the mixture DNA profile obtained from sample CCL1204-0189-E04.

Due to the possibility of allelic drop out, the individuals associated with samples CCL1204-0189-R30 (Delia Ramos) and CCL1204-0189-R31 (Guadalupe Ramos) cannot be included or excluded as possible contributors to the mixture DNA profile obtained from sample CCL1204-0189-E04.

7. The partial DNA profile obtained from sample CCL1204-0189-E07 is consistent with a mixture of at least two individuals including at least one male contributor.

Due to the possibility of allelic drop out, no conclusions can be made on the alleles present in sample CCL1204-0189-E07.

8. The DNA profile obtained from sample CCL1204-0189-E08 is consistent with a mixture of at least two individuals including a major female contributor (Female 1) and at least one male contributor.

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors of the major component DNA profile obtained from sample CCL1204-0189-E08.

Due to the possibility of allelic drop out, no conclusions can be made on the minor alleles present in sample CCL1204-0189-E08.

9. Alleles were obtained from sample CCL1204-0189-E10 at the D19S433 and Amelogenin loci.

Due to the limited data obtained, no conclusions can be made on the alleles present in sample CCL1204-0189-E10.

10. The partial DNA profile obtained from sample CCL1204-0189-E11 is consistent with a mixture of at least two individuals including a major female contributor (Female 1).

The individuals associated with samples CCL1204-0189-R27 (Julius Moore), CCL1204-0189-R28 (Julius Moore), CCL1204-0189-R33 (Julius Moore), CCL1204-0189-R29 (Tony Brown), CCL1204-0189-R30 (Delia Ramos), CCL1204-0189-R31 (Guadalupe Ramos), and CCL1204-0189-R32 (Sergio Mata) are excluded as possible contributors of the major component DNA profile obtained from sample CCL1204-0189-E11.

Due to the possibility of allelic drop out, no conclusions can be made on the minor alleles present in sample CCL1204-0189-E11.

Body Case #: CCL1204-0189
Agency Case #: CR1999-016742

Date: February 22, 2014

DNA Processing, Results, and Conclusions: (continued)

11. Alleles were obtained from sample CCL1204-0189-E13 at the D3S1358 and Amelogenin loci.

Due to the limited data obtained, no conclusions can be made on the alleles present in sample CCL1204-0189-E13.

See Table 1 for summary of alleles reported for each sample.

Notes:

1. Testing performed for this case is in compliance with accredited procedures under the laboratory's ISO/IEC 17025 accreditation issued by ASCLD/LAB and ANSI-ASQ National Accreditation Board/FQS. Refer to certificates and scopes of accreditation for certificate numbers ALI-231-T and AT-1672, respectively.
2. The DNA profiles reported in this case were determined by procedures that have been validated according to the standards established in the FBI's Quality Assurance Standards for Forensic DNA Testing Laboratories.
3. Any reference to body fluids in evidence descriptions are based on the written descriptions of the samples by the submitting agency.
4. The DNA extracts and submitted evidence will be returned to the Maricopa County Superior Court and the Phoenix Police Department.
5. Sample CCL1204-0189-R31 was extracted two times (R31a1/R31b1). Data from the first extraction (R31a1) were reported.

Report submitted by,



Sarah Shields, MSFS
Senior DNA Analyst I

Bode Case #: CCL1204-0189
 Agency Case #: CR1999-016742

Date: February 22, 2014

Table 1: Analysis of Short Tandem Repeat Loci

Locus	CCL1204-0189-E01a1	CCL1204-0189-E02a1	CCL1204-0189-E03a1	CCL1204-0189-E04a1
D8S1179	No Results	No Results	(10), (12), 13, 14	11, 12, 13, (14), (15)
D21S11	No Results	No Results	28, 29	(29), (30), 31, (32.2), 33.2
D7S820	No Results	No Results	9, --	10, 11
CSF1PO	No Results	No Results	No Results	(10), 12
D3S1358	No Results	No Results	15, (16)	15, 16, 17
TH01	No Results	No Results	(6), 9.3	6, 7, (8)
D13S317	No Results	No Results	11, --	(8), 9, 10, 11, (12)
D16S539	No Results	No Results	11, --	(9), 10, 12
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	No Results	13, (14)	13, 13.2, 14, (14.2), (15.2)
vWA	No Results	No Results	14, 15, (16)	16, 17, 18, (19)
TPOX	No Results	No Results	8, 11	8, (9), (11), (12)
D18S51	No Results	No Results	No Results	15, 16
Amelogenin	No Results	No Results	X, (Y)	X, X
D5S818	No Results	No Results	(10), (11), 12	(9), (10), 11, (12)
FGA	No Results	No Results	25, --	23, 24, (25)

() = Minor Allele -- = Possible Additional Alleles

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189-E05a1	CCL1204-0189-E06a1	CCL1204-0189-E07a1	CCL1204-0189-E08a1
D8S1179	No Results	No Results	(10), 13, (14)	(12), 13, 14
D21S11	No Results	No Results	29, --	28, 29
D7S820	No Results	No Results	10, --	9, 12
CSF1PO	No Results	No Results	No Results	12, 12
D3S1358	No Results	No Results	(14), 15, 16	15, (16)
TH01	No Results	No Results	6, 7	9.3, 9.3
D13S317	No Results	No Results	11, 12	11, 11
D16S539	No Results	No Results	12, --	(9), 11
D2S1338	No Results	No Results	No Results	16, 18
D19S433	No Results	No Results	(12), 13, (14)	(12), 13, (14)
vWA	No Results	No Results	14, 17, 18	14, 15
TPOX	No Results	No Results	8, 9, 11	8, 11
D18S51	No Results	No Results	15, --	15, 16
Amelogenin	No Results	No Results	X, (Y)	X, (Y)
D5S818	No Results	No Results	11, (12)	10, (11), 12
FGA	No Results	No Results	No Results	24, 25

() = Minor Allele -- = Possible Additional Alleles

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Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E09a1	CCL1204-0189- E10a1	CCL1204-0189- E11a1	CCL1204-0189- E12a1
D8S1179	No Results	No Results	13, 14	No Results
D21S11	No Results	No Results	28, 29	No Results
D7S820	No Results	No Results	No Results	No Results
CSF1PO	No Results	No Results	No Results	No Results
D3S1358	No Results	No Results	15, (16)	No Results
TH01	No Results	No Results	9, 3, —	No Results
D13S317	No Results	No Results	11, —	No Results
D16S539	No Results	No Results	9, —	No Results
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	13, 14	(12, 2), 13	No Results
vWA	No Results	No Results	14, 15	No Results
TPOX	No Results	No Results	No Results	No Results
D18S51	No Results	No Results	No Results	No Results
Amelogenin	No Results	X, —	X, (Y)	No Results
D5S818	No Results	No Results	10, (11), 12	No Results
FGA	No Results	No Results	24, 25	No Results

() = Minor Allele -- = Possible Additional Alleles

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E13a1	CCL1204-0189- E14a1	CCL1204-0189- E15a1	CCL1204-0189- E16a1
D8S1179	No Results	No Results	No Results	No Results
D21S11	No Results	No Results	No Results	No Results
D7S820	No Results	No Results	No Results	No Results
CSF1PO	No Results	No Results	No Results	No Results
D3S1358	16, —	No Results	No Results	No Results
TH01	No Results	No Results	No Results	No Results
D13S317	No Results	No Results	No Results	No Results
D16S539	No Results	No Results	No Results	No Results
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	No Results	No Results	No Results
vWA	No Results	No Results	No Results	No Results
TPOX	No Results	No Results	No Results	No Results
D18S51	No Results	No Results	No Results	No Results
Amelogenin	X, —	No Results	No Results	No Results
D5S818	No Results	No Results	No Results	No Results
FGA	No Results	No Results	No Results	No Results

-- = Possible Additional Alleles

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E17a1	CCL1204-0189- E18a1	CCL1204-0189- E19a1	CCL1204-0189- E20a1
D8S1179	No Results	No Results	No Results	No Results
D21S11	No Results	No Results	No Results	No Results
D7S820	No Results	No Results	No Results	No Results
CSF1PO	No Results	No Results	No Results	No Results
D3S1358	No Results	No Results	No Results	No Results
TH01	No Results	No Results	No Results	No Results
D13S317	No Results	No Results	No Results	No Results
D16S539	No Results	No Results	No Results	No Results
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	No Results	No Results	No Results
vWA	No Results	No Results	No Results	No Results
TPOX	No Results	No Results	No Results	No Results
D18S51	No Results	No Results	No Results	No Results
Amelogenin	No Results	No Results	No Results	No Results
D5S818	No Results	No Results	No Results	No Results
FGA	No Results	No Results	No Results	No Results

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E21a1	CCL1204-0189- E22a1	CCL1204-0189- E23a1	CCL1204-0189- E24a1
D8S1179	No Results	No Results	No Results	No Results
D21S11	No Results	No Results	No Results	No Results
D7S820	No Results	No Results	No Results	No Results
CSF1PO	No Results	No Results	No Results	No Results
D3S1358	No Results	No Results	No Results	No Results
TH01	No Results	No Results	No Results	No Results
D13S317	No Results	No Results	No Results	No Results
D16S539	No Results	No Results	No Results	No Results
D2S1338	No Results	No Results	No Results	No Results
D19S433	No Results	No Results	No Results	No Results
vWA	No Results	No Results	No Results	No Results
TPOX	No Results	No Results	No Results	No Results
D18S51	No Results	No Results	No Results	No Results
Amelogenin	No Results	No Results	No Results	No Results
D5S818	No Results	No Results	No Results	No Results
FGA	No Results	No Results	No Results	No Results

Bode Case #: CCL1204-0189
 Agency Case #: CR1999-016742

Date: February 22, 2014

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- E25a1	CCL1204-0189- E26a1	CCL1204-0189- R27a1 [Julius Moore]	CCL1204-0189- R28a1 [Julius Moore]
D8S1179	No Results	No Results	12, 13	12, 13
D21S11	No Results	No Results	28, 30	28, 30
D7S820	No Results	No Results	10, 10	10, 10
CSF1PO	No Results	No Results	10, 12	10, 12
D3S1358	No Results	No Results	15, 16	15, 16
TH01	No Results	No Results	7, 9	7, 9
D13S317	No Results	No Results	11, 12	11, 12
D16S539	No Results	No Results	12, 12	12, 12
D2S1338	No Results	No Results	17, 19	17, 19
D19S433	No Results	No Results	12, 14	12, 14
vWA	No Results	No Results	16, 18	16, 18
TPOX	No Results	No Results	8, 11	8, 11
D18S51	No Results	No Results	13, 18	13, 18
Amelogenin	No Results	No Results	X, Y	X, Y
D5S818	No Results	No Results	11, 13	11, 13
FGA	No Results	No Results	19, 24	19, 24

Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189- R29a1 [Tony Brown]	CCL1204-0189- R30a1 [Delia Ramos]	CCL1204-0189- R31a1 [Guadalupe Ramos]	CCL1204-0189- R32a1 [Sergio Mata]
D8S1179	15, 16	13, 14	13, 13	14, 14
D21S11	28, 30	29, 30	29, 30	30, 31
D7S820	10, 11	10, 11	11, 13	8, 13
CSF1PO	7, 10	10, 12	10, 12	10, 12
D3S1358	16, 16	15, 17	15, 17	15, 18
TH01	8, 8	6, 7	6, 7	9, 9, 9
D13S317	11, 12	8, 12	9, 9	10, 11
D16S539	11, 12	9, 12	9, 12	10, 13
D2S1338	20, 25	19, 23	23, 23	20, 23
D19S433	13, 14	14, 15, 2	13, 14, 2	14, 15
vWA	17, 19	16, 16	16, 18	16, 16
TPOX	8, 11	9, 12	9, 12	8, 11
D18S51	13, 19	15, 18	15, 18	14, 17
Amelogenin	X, Y	X, X	X, Y	X, Y
D5S818	11, 12	9, 12	9, 12	10, 13
FGA	19, 22	23, 25	20, 23	22, 22

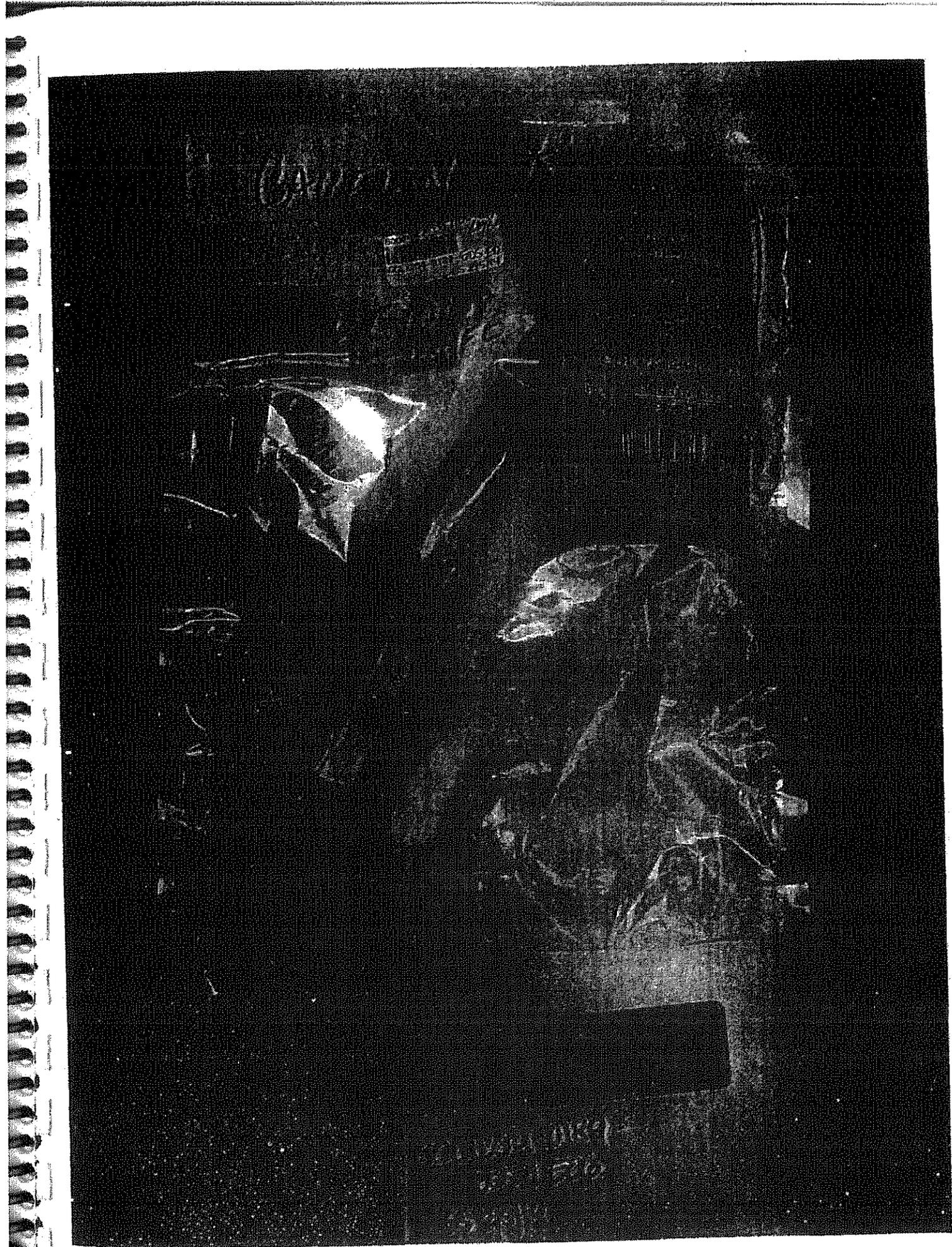
Bode Case #: CCL1204-0189
 Agency Case #: CR1999-016742

Date: February 22, 2014

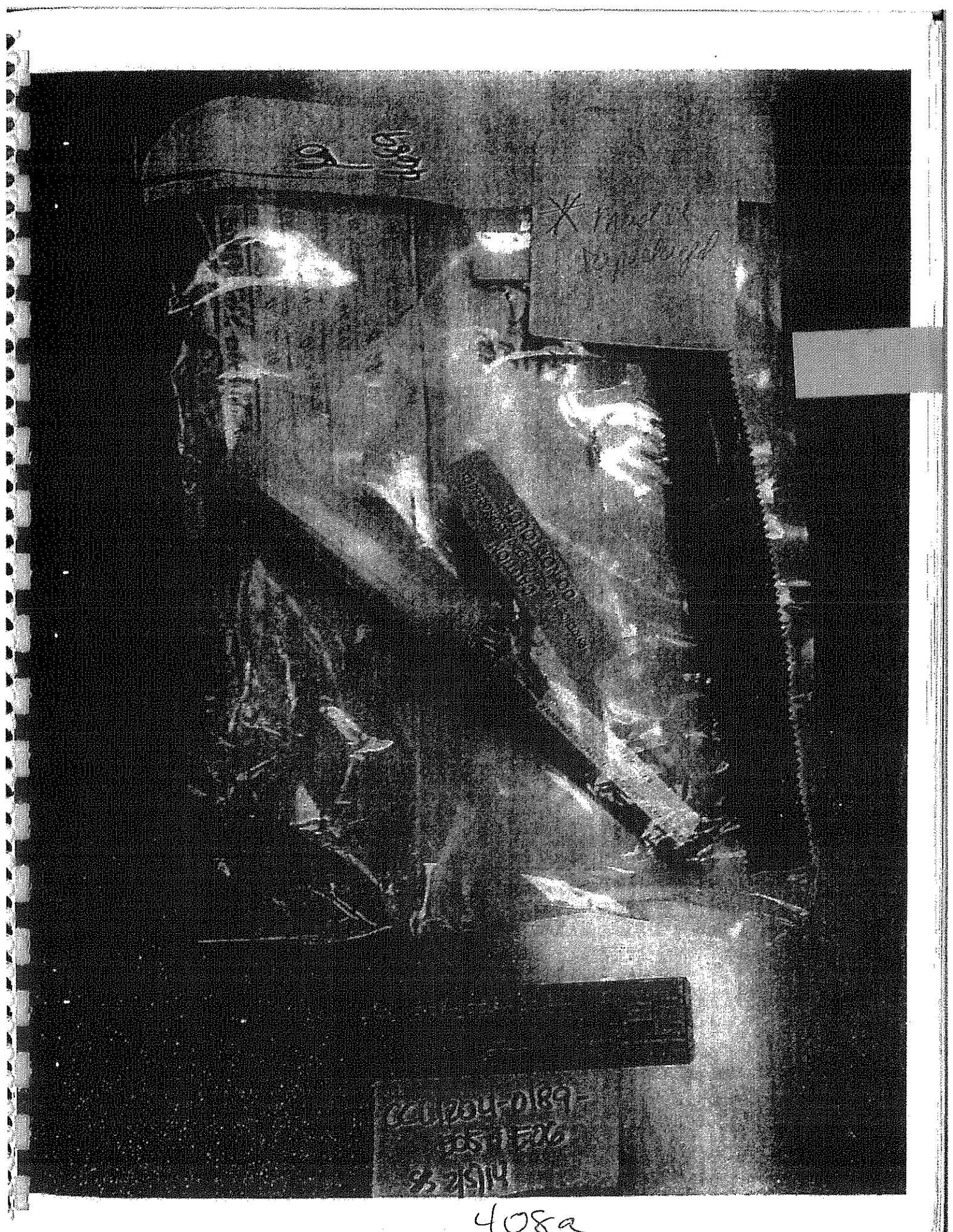
Table 1: Analysis of Short Tandem Repeat Loci (continued)

Locus	CCL1204-0189-R33a1 [Julius Moore]	3909348-1.1* [Tony Brown]
D8S1179	12, 13	15, 16
D21S11	28, 30	28, 30
D7S820	10, 10	10, 11
CSF1PO	10, 12	7, 10
D3S1358	15, 16	16, 16
TH01	7, 9	8, 8
D13S317	11, 12	11, 12
D16S539	12, 12	11, 12
D2S1338	17, 19	20, 25
D19S433	12, 14	13, 14
vWA	16, 18	17, 19
TPOX	8, 11	8, 10
D18S51	13, 18	13, 19
Amelogenin	X, Y	X, Y
D5S818	11, 13	11, 12
FGA	19, 24	19, 23

*DNA profile submitted from the Phoenix Police Department for comparison purposes



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23

X 101110
101110

101110
101110
101110

101110-0189
105-1126
83-2514

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CCL1204-0189-

0024 & 500A
BOS # 500

SS 219114

DATE: / / ID/CASE#
OTHER: _____
WARNING: CONTENTS CONTAMINATED

CC11204-0189-

805-9-506

hills
SS 2/19/14

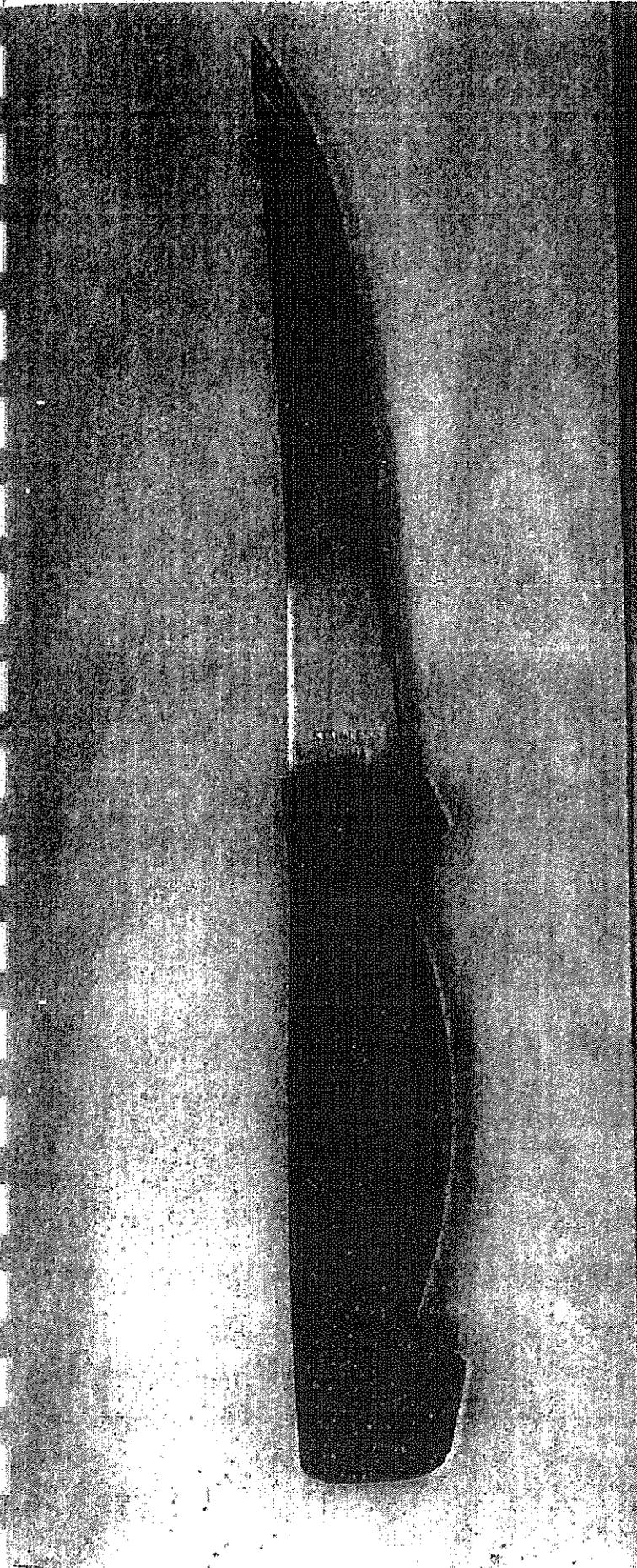


CELL 1204-0189-

9024 & 9024

SS 219114

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100



CELL 1204-0189-
002450A
BOS 51506
Mistress

Exhibit G

Picture taken at time of search of Petitioner's residence depicting Item #26 (plastic ziplock bag), 26 A (cartridge or shell casing), & 26 B (projectile) which were purported to have been found underneath the bedspread of
Petitioner Moore's bed

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Exhibit H

PPD Supplemental Report regarding Search of
Petitioner's residence referencing Item #26 (plastic
ziplock bag), 26 A (cartridge or shell casing), & 26 B
(projectile) which were purported to have been found
underneath the bedspread of Petitioner Moore's bed

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 1999 91911277

49

REPORT DATE: 19991123 TIME: 0634

TYPE OF REPORT: HOMICIDE

OFFENSE: 401

LOCATION: 001808 E YALE ST A

BEAT: 0521 GRID: B231

REPORTING OFFICER(S): ALEJANDRO FEMENIA

3476 UNIT: 15

PREMISES: SINGLE FAMILY HOUSE

OCCUPIED:

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 001833 E CORDONANDO ST

DATE: 1/20/99

SEARCH WARRANT INVOLVED: YES

0001 PKG 002 CODE:EI SPO1
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: EMPLOYMENT APPLICATION FOR JESSICA BORGHETTI
 FOUND ON RIGHT ARM REST OF COUCH LOCATED AGAINST SOUTH WALL OF SOUTHWEST
 BEDROOM.

0002 PKG 002 CODE:EI SPO1
 ITEM: YBOOK BRAND: MODEL: COLOR:
 DESCRIPTION: TWO COMBAT GUN BOOKS.
 FOUND ON COUCH SEAT PILLOWS LOCATED AGAINST SOUTH WALL OF SOUTHWEST
 BEDROOM.

0003 PKG 002 CODE:EI SPO1
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: PAYROLL EARNINGS STATEMENT FOR JESSICA BORGHETTI
 FOUND ON SEAT PILLOWS OF COUCH LOCATED AGAINST SOUTH WALL OF SOUTHWEST
 BEDROOM.

0004 PKG 002 CODE:EI SPO1
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: PLASTIC BAGGY CONTAINING SEVERAL LETTERS
 ADDRESSED TO JULIUS MOORE WHILE HE WAS IN JAIL.
 FOUND ON THE TOP SHELF OF SOUTHWEST CLOSET IN SOUTHWEST BEDROOM.

0005 PKG 002 CODE:EI SPO1
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: MISCEL. PAPERS AND LETTERS BELONGING TO JESSICA
 BORGHETTI. FOUND INSIDE CARDBOARD BOX ON TOP SHELF OF SOUTHWEST CLOSET
 IN SOUTHWEST BEDROOM.

0006 PKG 002 CODE:EI SPO1
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: HANDWRITTEN LETTERS AND DRAWINGS. FOUND INSIDE
 A BROWN ENVELOPE ON THE FLOOR OF THE SOUTHWEST CLOSET IN THE SOUTHWEST
 BEDROOM. (N/W SIDE)

000095

Continued.

1999 91911277

49

416 a

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 4

DR. NO.: 1999 91911277

47

X

026 PKG 000 CODE:EI SP01
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: ONE PASTIC ZIP LOCK BAGGY WHICH CONTAINED
 ITEMS #26A AND #26B. FOUND ON TOP OF THE CENTER OF THE BED UNDER THE
 COMFORTER LOCATED AGAINST THE NORTH WALL OF THE SOUTHWEST BEDROOM.

0026A PKG 000 CODE:EI SP01
 ITEM: YAMMUNI BRAND: MODEL: COLOR:
 DESCRIPTION: ONE EXPENDED SHELL CASING. FOUND INSIDE ITEM #26
 WITH ITEM #26B.

0026B PKG 000 CODE:EI SP01
 ITEM: YAMMUNI BRAND: MODEL: COLOR:
 DESCRIPTION: ONE EXPENDED BULLET PROJECTILE FOUND INSIDE
 ITEM #26 WITH ITEM #26A.

0027 PKG 002 CODE:EI SP01
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: EMPLOYMENT NOTEBOOK FOR JESSICA BORGHETTI.
 FOUND ON THE FLOOR OF THE SOUTHWEST BEDROOM-ON THE WEST SIDE OF THE BED.
 BED LOCATED AGAINST THE NORTH WALL.

0028 PKG 002 CODE:EI SP01
 ITEM: IPHOTO BRAND: MODEL: COLOR:
 DESCRIPTION: PHOTO BOOK CONTAINING SEVERAL PHOTOGRAPHS OF
 OBJECTS. FOUND ON THE BOOK SHELF AGAINST THE WEST WALL OF THE SOUTHWEST
 BEDROOM.

0029 PKG 002 CODE:EI SP01
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: TWO GUN POSTERS SHOWING VARIOUS MODELS OF GUNS.
 FOUND ATTACHED TO THE WEST WALL OF THE SOUTHWEST BEDROOM.

0030 PKG 002 CODE:EI SP01
 ITEM: IPHOTO BRAND: MODEL: COLOR:
 DESCRIPTION: PHOTOGRAPHS OF JESSICA BORGHETTI. FOUND INSIDE
 CARDBOARD BOX ON TOP OF SHELF OF THE SOUTHWEST CLOSET OF THE SOUTHWEST
 BEDROOM.

0031 PKG 002 CODE:EI SP01
 ITEM: *MISC BRAND: MODEL: COLOR:
 DESCRIPTION: HANDWRITTEN LETTER TO MOORE FROM GANG MEMBERS.
 FOUND ON THE BOOKSHELF LOCATED AGAINST THE WEST WALL OF THE SOUTHWEST
 BEDROOM.

0032 PKG 002 CODE:EI SP01
 ITEM: IPHOTO BRAND: MODEL: COLOR:
 DESCRIPTION: MISCEL. PHOTOGRAPHS. FOUND ON THE BOOK SHELF
 LOCATED AGAINST THE WEST WALL OF THE SOUTHWEST BEDROOM.

0033 PKG 002 CODE:EI SP01

1999 91911277 47

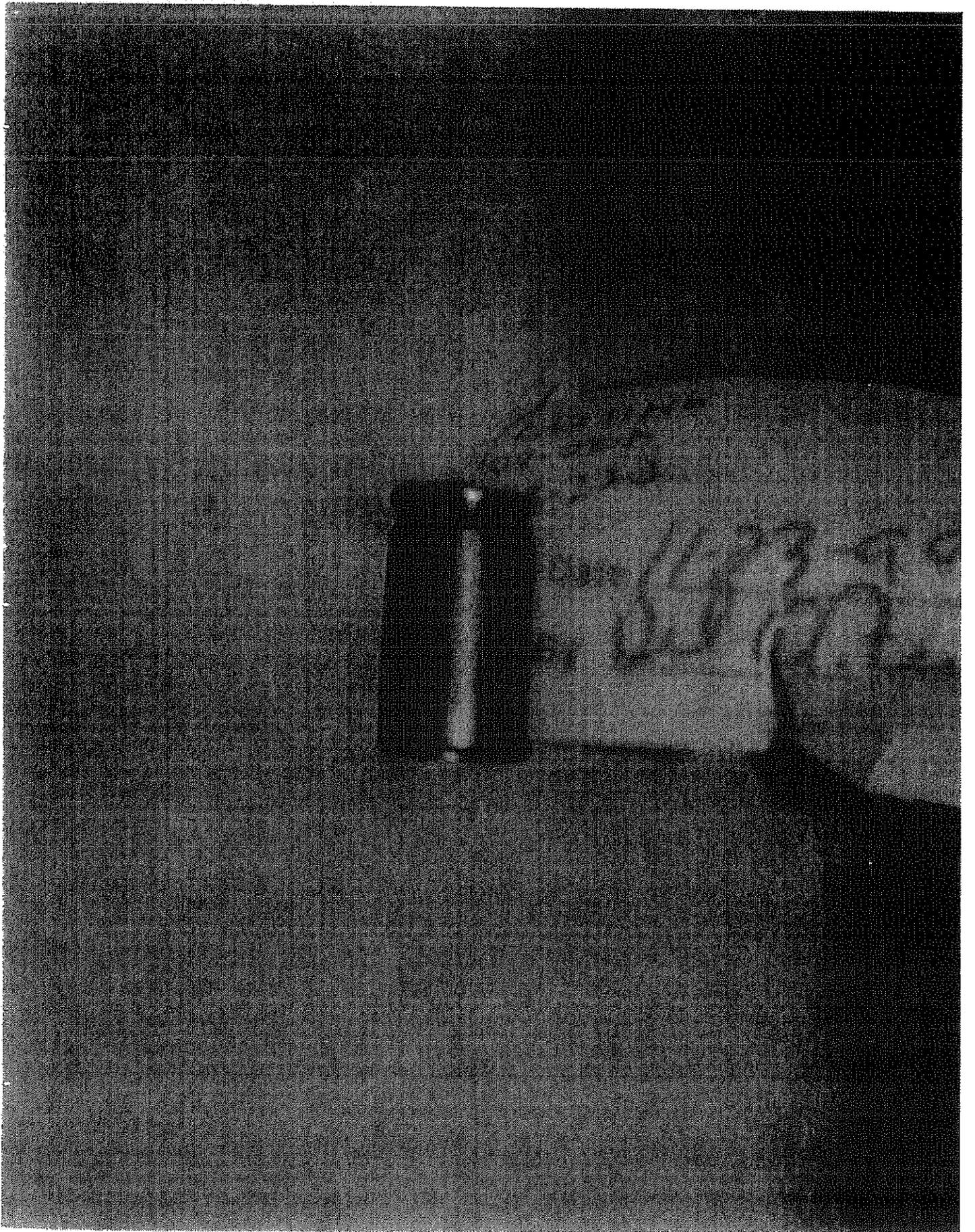
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417a

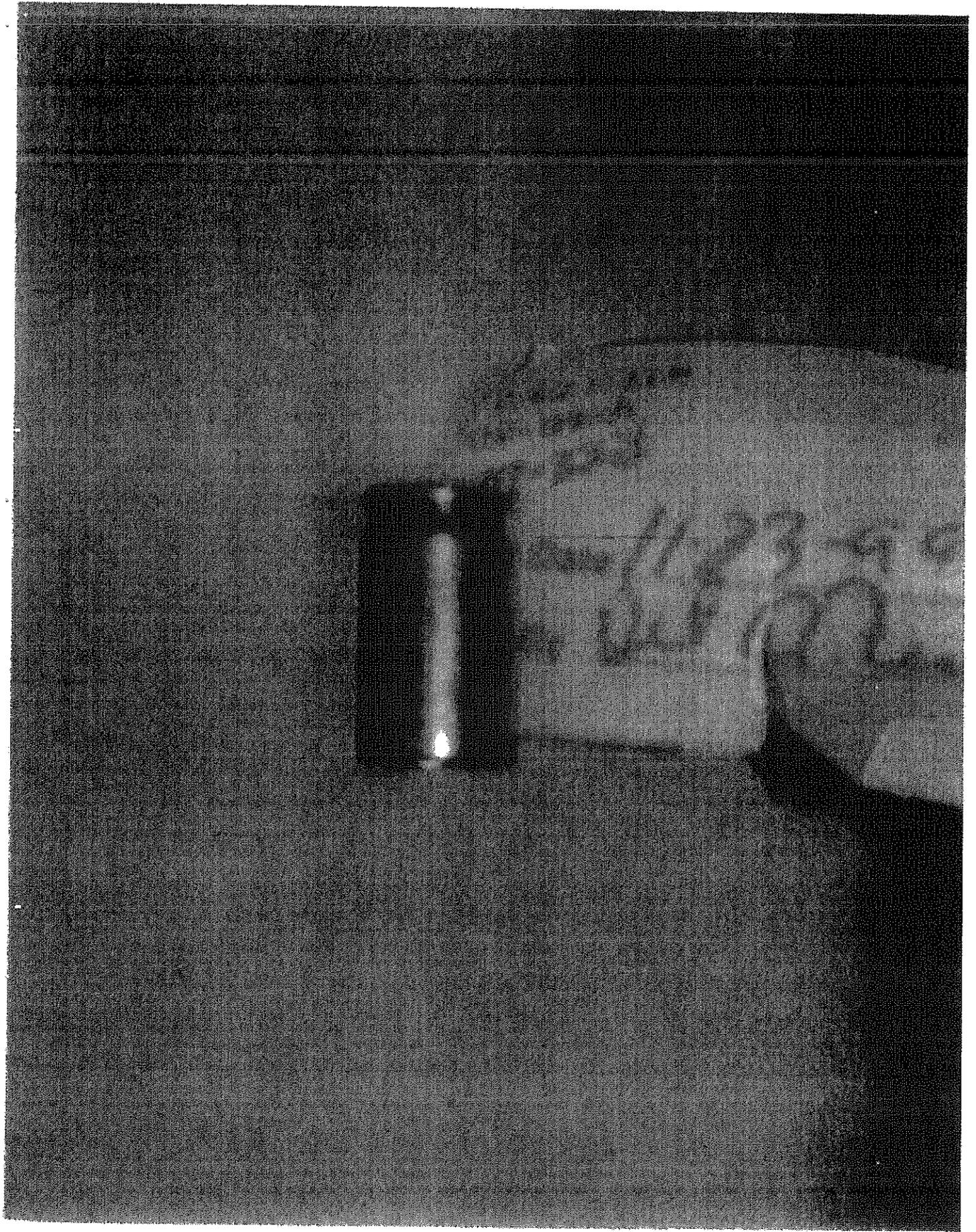
Exhibit I

Photographs taken by Rule 32 criminalist/firearms expert
Richard Watkins depicting the "present" Item #26 (A)

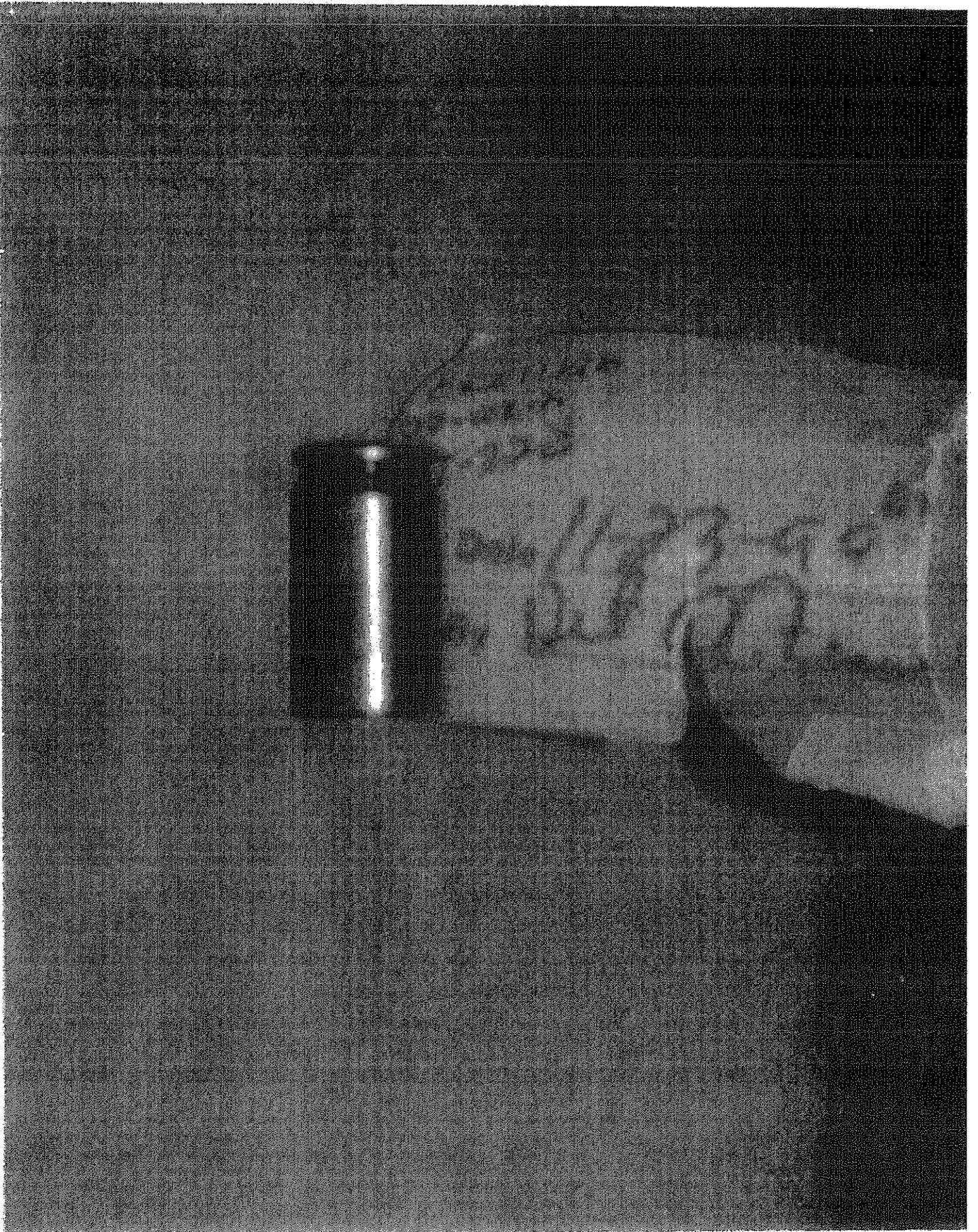
418a



419a



420 a



421 a

Exhibit J

Picture from Yale Crackhouse Crime Scene in CR1999-016742 depicting a shell casing compressed in dirt within a tire track or Item #45/Exhibit #107

422 a

Exhibit No.: 107

Case No.: CR99-16742

or Identification:

PLAINTIFF

04/13/2007

Evidence:

pett.

5-2-07

Clerk of Superior Court

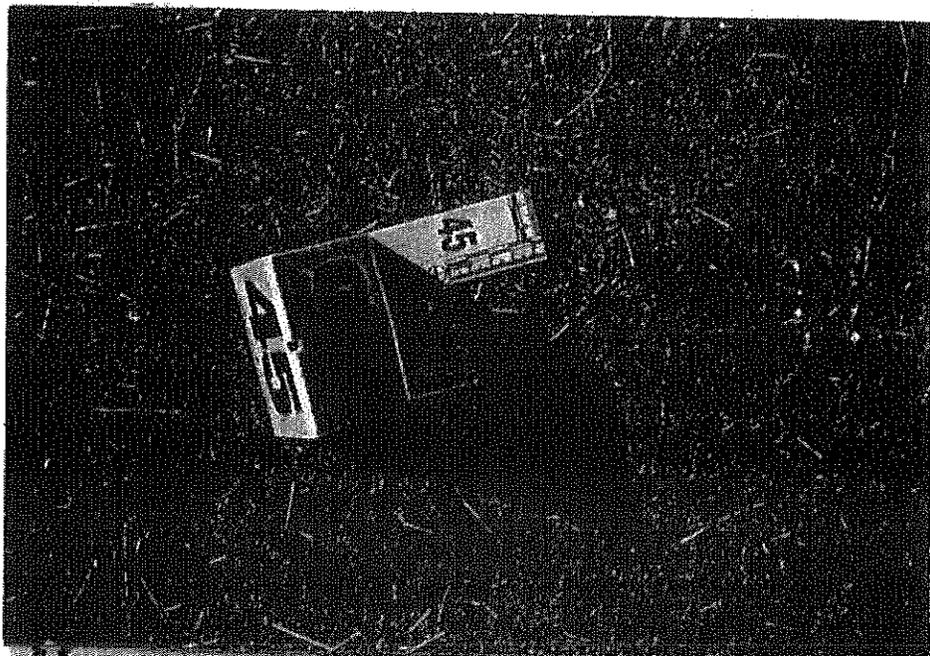
L. RUBALCABA

(Deputy Clerk)

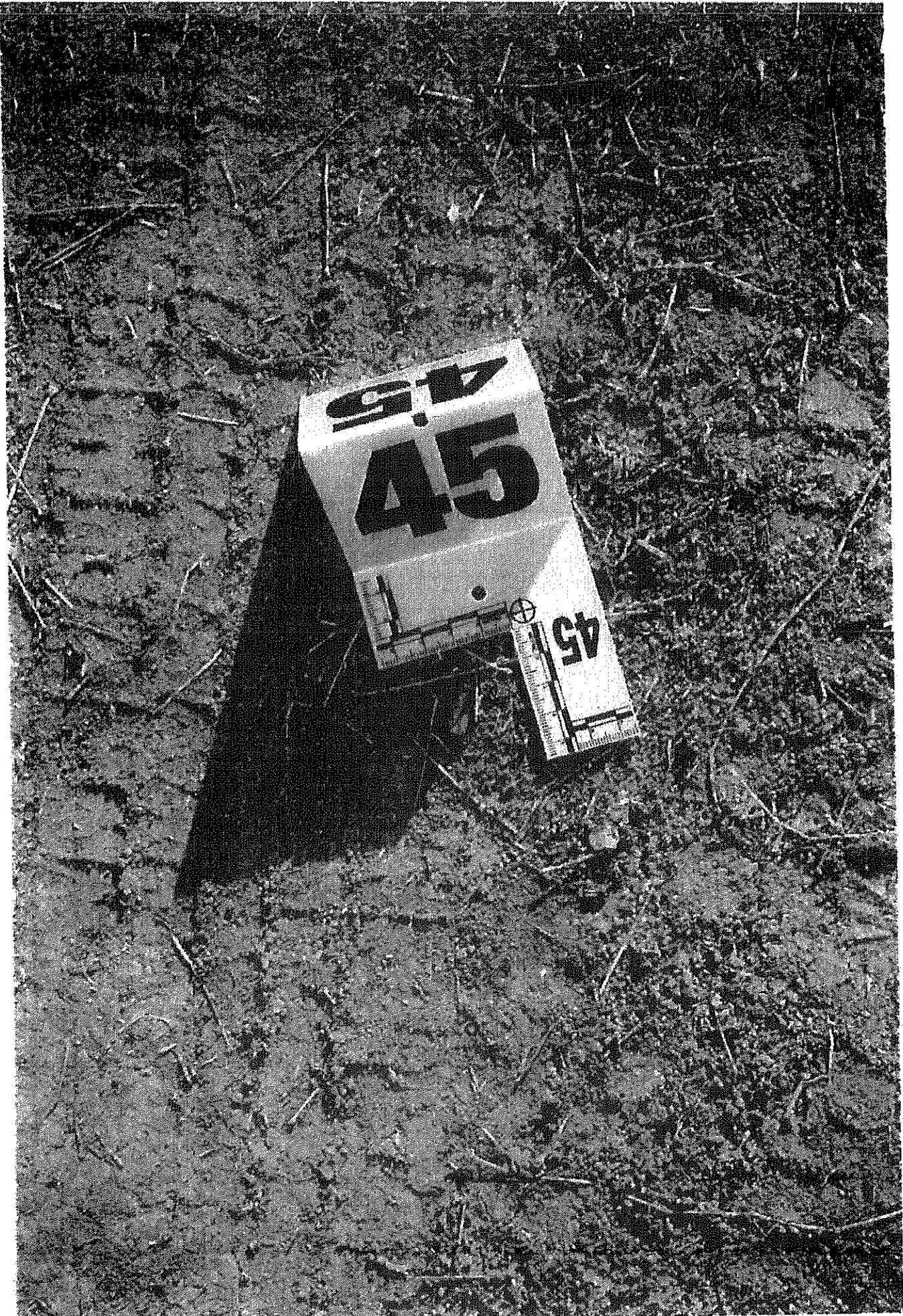


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R-07-0164-AP



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Appendix I

425a

Petitioner's Exhibit #83

Declaration and Sworn Interview Transcript of Ray Krone

426 a

copy

DECLARATION OF RAY MILTON KRONE

I, Ray Milton Krone, declare as follows:

1. In 2002 Declarant became the 100th Exoneree of those having faced the death penalty in the United States after/having originally been improperly arrested, convicted and sentenced to death in 1992 in Arizona (Maricopa County Superior Court) for a homicide declarant did not commit, which was actually committed by Kenneth Phillips, who was later identified as the actual perpetrator of the homicide based upon DNA testing.

2. Declarant spent approximately two and one half (2½) years on death row in the Arizona Dept. of Corrections, and was subsequently sentenced to a life sentence following a second trial in 1996 after his conviction and sentence were reversed by the Arizona Supreme Court based upon the State's failure to timely disclose evidence (which later would be proven false) until the eve of his first trial, spending an additional eight (8) years wrongly incarcerated in prison until being ultimately released following being proven totally innocent or exonerated as the result of DNA testing and CODIS submission of the DNA testing results.

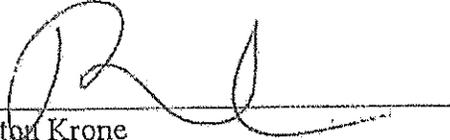
3. Declarant was personally interviewed in depth on or about 11/3/17 by Capital Petitioner Julius Jarreau Moore's attorney Patrick C. Coppen at Declarant's out-of state home resulting in a 90 minute taped interview related to Declarant's exoneration, as well as in regards to Phoenix Police Department Detective (Dennis Olson) who apparently is common to both Declarant's case, as well as to Mr. Moore's case.

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4. Declarant has previously received a CD copy of the 90 minute interview that was apparently transposed from the cassette tape recording of the interview, as well as a copy of the actual transcript from the 90 minute taped interview (per Declarant's request), both of which are hereto attached.

5. Declarant has reviewed both the referenced and attached CD, as well as the attached transcript of his 90 minute interview, and does hereby swear to and affirm their authenticity and correctness, as well the truth of the statements made by Declarant therein, to the best of Declarant's knowledge, information and belief.

Subscribed and Sworn to on this 27th day of January, 2018.



Ray Milton Krone

copy

REPORTER'S TRANSCRIPTION OF
RECORDED INTERVIEW OF RAY MILTON KRONE

In re State versus Julius Jarreau Moore

CR1999-016742

Postconviction Relief

PREPARED FOR:
PATRICK COPPEN, ESQ.

Prepared By:
Kimberly Portik, RMR, CRR
Certified Reporter
Certificate No. 50149
CANYON STATE REPORTING
RRF Number R1031
2415 East Camelback Road
Suite 700
Phoenix, Arizona 85016

(Copy)

602.277.8882

Canyon State Reporting Services, LLC
general@canyonstatereporting.com

429a

1 MR. COPPEN: My name, for the record, is
2 Patrick Coppen. It's nice to be -- nice to be with you,
3 Mr. Krone.

4 This is an interview of Ray Krone for State
5 versus Julius Jarreau Moore, CR1999-016742. It's a
6 capital postconviction relief case, and Mr. Krone has
7 agreed to do an interview related to the case.

8 And the first part here we are just going to
9 make sure that I'm being recorded and then stop it and
10 then start the recording after we make sure that this is
11 picking up both of our voices okay.

12 Q. BY MR. COPPEN: And just for the record,
13 Mr. Krone, can you -- can you please state your full name
14 just for the recorded record.

15 A. My name is Ray Milton Krone.

16 Q. Okay. And I'm going to just pause it like this
17 just to make sure that we've got everything.

18 Okay. Mr. Krone, we're going to get
19 started. The recording sounded okay to you?

20 A. Yeah.

21 Q. Okay. Here we go.

22 And the first question is just the person
23 we're interviewing again is Ray Milton Krone. And your
24 date of birth?

25 A. 1/19/57.

1 Q. And what happened to you in 1992?

2 A. It was actually late December of 1991. I was
3 accused of murdering a barmaid in the CBS Lounge in
4 Phoenix, Arizona, on December 20, at night. The body had
5 been found on that Sunday morning. I was questioned. I
6 was -- I was accused of being a boyfriend. I wasn't.
7 They noticed I had crooked teeth. Two days later I was
8 arrested based on the detective saying I lied about being
9 a boyfriend and a medical examiner there saying that marks
10 on the body matched my teeth.

11 Was subsequently given a court-appointed
12 attorney, and in just seven months time I was on trial for
13 murder, sexual assault, and kidnapping. In a short
14 three-day trial I was found guilty of murder and
15 kidnapping. Four months later I was sentenced to death.

16 I was asked during the mitigation period to
17 show remorse. I had no remorse for something I didn't do.
18 I was promptly called a no-remorseful killer, a monster,
19 and received the death sentence. I spent the next three
20 years on death row.

21 My conviction was overturned. The
22 prosecution introduced a videotape just days before trial
23 that my attorney was not aware of, a videotape made by the
24 bite-mark expert, Mr. Ray Rawson. My attorney objected.
25 The judge overruled it, said he was going to allow the

1 evidence in. Then my attorney asked for a continuance so
2 that he could review this evidence that he just now found
3 out about. The Judge Hotham also denied that. And
4 that -- during my appeal, the Arizona Supreme Court ruled
5 that that was violation of rules of discovery, that the
6 judge was wrong in admitting that in, that he should have
7 granted my lawyer the continuance, and I was given a new
8 trial based on that admission of that videotape.

9 I had a second trial in February of 1996, at
10 which point my family hired an attorney. That trial
11 subsequently was over seven weeks long, 500 exhibits.
12 Three bite-mark experts testified on my behalf. I was
13 called the Snaggletooth Killer in the papers. This was
14 clearly all about the bite-mark evidence.

15 During that trial, evidence came out that
16 DNA that had been taken -- a swab had been taken from the
17 victim's breast where the bite mark was located. That DNA
18 excluded me. That footprints and fingerprints found
19 around the body and in that area, hair did not match me.

20 I was again found guilty. This time the
21 judge said he had lingering residual doubt of my guilt.
22 At the mitigation period, he sentenced me to life, 25 to
23 life for murder, adding on 21 more for kidnapping.

24 Finally, in 2001 Arizona state legislatures
25 passed through legislation allowing postconviction DNA

1 testing of previously tested materials that were properly
2 maintained and could have direct bearing on guilt or
3 innocence.

4 We were able to find out that clothing of
5 the victim, Kim Ancona, had been saved by the police
6 department. We found sign of staining both on the inside
7 of her jeans and on her underwear. That judge granted
8 that motion to do DNA testing.

9 And finally in April 8th of 2002 I was
10 released based on the fact that not only did DNA from that
11 pants and underwear excluded me and the victim but it
12 identified a man, Mr. Kenneth Phillips, who had been in
13 the database, had previous charges of assault. And he was
14 subsequently convicted of that murder, and I was released
15 after ten -- released after ten years, three months, and
16 eight days.

17 Q. Now, when your attorney and -- apparently when
18 you were found guilty the second time, and I guess an
19 attorney had been appointed for you under Rule 32, I
20 believe that they initially said they couldn't find any
21 issues with the second trial. You had to write a letter
22 to the Court and ask for an attorney is my understanding.
23 At that point I believe they appointed a gentleman from
24 the Phoenix area, that he is the one that requested the
25 DNA be obtained. Who was that?

1 But he subsequently took up a postconviction
2 relief under the new law from -- that the legislatures had
3 passed because of the possibility of DNA being on the
4 victim's clothing or her body may not have been tested
5 before. And that's actually how it came about to have a
6 private attorney that my family requested and got and
7 through Alan Simpson's generosity and kindness wanted to
8 take the case, no payment, and subsequently filed under
9 that new law postconviction relief DNA and got the DNA
10 that not only excluded me, but thanks to the -- the
11 databank actually did identify the true perpetrator.

12 Q. Now, and I'm getting a little bit ahead, but I
13 just want to make sure that we cover the important
14 question in the case.

15 Now, from the beginning of the case, all the
16 way through I guess when Ken Phillips was identified,
17 there's a specific detective who was on the -- collected
18 the evidence at the time at the -- at the bar, and then he
19 ended up being the case detective at the second trial.
20 He's the one that went out and talked to Ken Phillips
21 after the DNA exonerated you and apparently tried to get
22 him to say you were involved with him to keep the case
23 (indiscernible).

24 Do you know the name of that particular
25 detective?

1 A. There was a man Dennis Olson that was heavily
2 involved in all of those instances.

3 Q. Okay. And you know that because of just sitting
4 in the case and seeing him there and also from information
5 related to your case that was conveyed (indiscernible)?

6 A. Absolutely. I know firsthand from not only the
7 trial and testimony but also court documents where his
8 name was involved in the police reports and different
9 things that I reviewed personally.

10 Q. And is it fair to say that -- when your attorney,
11 Mr. Simpson, first requested the DNA evidence, did they
12 automatically just give that to you?

13 A. In my -- in my second trial, when Mr. Flourd
14 represented me, they actually denied there was ever any
15 DNA had been taken. We subsequently found out that that
16 was absolute lies. They then stated that it had been used
17 up. We found out that that was also a lie because we
18 tracked it down to a DNA lab where there was still some
19 minute quality -- quantities left, a small enough amount
20 that it was sent to Dr. Blake, out in California, who used
21 his (indiscernible) PCR, replicated that small amount, was
22 able to get it to the point -- this was -- that -- one of
23 the things was saliva from the -- from the breast and the
24 bite mark that I was supposed to have made. Was able to
25 actually do DNA testing and completely exclude me from

1 that sample of DNA that was found on a different location
2 on the body, DNA that they originally denied they ever had
3 taken and had.

4 Q. And that's what you found out in post conviction,
5 that actually there was DNA out at a private lab. And you
6 were able to test that; is that fair?

7 A. The DNA at the private lab was actually brought
8 out during my second trial. Mr. Plourd tracked that down
9 through the police records and had actually tracked those
10 samples that they had taken back at the crime scene and
11 had sent out before my first trial, where we actually
12 finally located it in 1996 at the crime lab, at a -- at a
13 DNA lab that -- and Chris Plourd actually used some of
14 those samples during that trial. Not the ones that
15 subsequently exonerated me --

16 Q. Right.

17 A. -- but there was some evidence at my second
18 trial, DNA evidence. One was the saliva from the bite
19 mark on the breast that they had denied ever even taking.

20 Q. So apparently at one -- at one point there was
21 resistance to and there was actually, I guess,
22 representations made to the Court that there was no longer
23 any DNA to test and that it had been exhausted. And
24 that's what had -- I guess the police, whoever, had
25 ultimately found out that that was not true, and you were

1 able to test it?

2 A. That's absolutely correct. And that was actually
3 brought out at my second trial and would be in the
4 transcripts.

5 Q. Great. And where were you prosecuted and by what
6 agency?

7 A. I was in Maricopa County. By the Maricopa County
8 DA office, and the prosecutor was a man named Noel Levy.

9 Q. And what was the law enforcement agency that was
10 involved in the investigation?

11 A. Mine was solely the Phoenix Police Department.

12 Q. And why do you believe -- why were you falsely
13 accused? Or -- and let me -- why were you the subject of
14 the police investigation, and why ultimately did -- were
15 you -- why do you believe that that, you know, which
16 actually was false, went on?

17 A. Well, the initial question just by the detectives
18 that came to my house within hours of finding the body was
19 that I was a boyfriend. They believed that before they
20 ever got to my house. It wasn't true; I told them that.

21 Later on, during the course of an interview
22 that day, they noticed my crooked teeth. And come to find
23 out they got the medical examiner to examine the body
24 where there was a bite mark. He compared my teeth to that
25 and said it was a match, and in just two days I was

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1 was a rush to judgment, would that -- would that
2 accurately describe what happened?

3 A. Me and all my family believe that.

4 Q. (Indiscernible). Now, you understand that why
5 I'm here today has to do with another case, and I said at
6 the beginning of the tape was State versus Julius Jarreau
7 Moore.

8 And you understand that that case was from
9 1999? You understand?

10 A. I understand.

11 Q. And you also understand that that case also
12 involved one of the same detectives, Detective Dennis
13 Olson, is that -- is that fair that you understood that?

14 A. I understand that.

15 Q. Okay. Today we are just talking about your case.

16 A. Right.

17 Q. Do you know who your first trial attorney was?

18 A. (Indiscernible).

19 Q. Well, but as a result of that trial you were
20 found guilty, and it was just a three-day trial. And it
21 was just -- obviously it was not just -- I mean, that
22 would be part of the rush to judgment.

23 You have a cousin, Mr. Rix?

24 A. Jim Rix, yes.

25 Q. And was he part of the effort to prove that you

1 money. I believe they gave him some more money.

2 He ended up talking with somebody that did
3 dentures or something related to them or a friend of the
4 family or something or other who said they don't know, it
5 was maybe, maybe not, it was inconclusive.

6 So there was never any expert testimony
7 offered by the defense on bite-mark evidence during the
8 first trial. He just cross-examined their bite-mark
9 expert.

10 Q. He didn't really know about their evidence until
11 right before trial?

12 A. Yeah. The videotape that was introduced was
13 within days of the trial. He hadn't seen it before. And
14 the bite-mark expert had made about a -- I believe it was
15 somewhere in the range of a 40-minute-long VCR tape of his
16 latest development techniques, including MRI imaging and
17 everything else that he had done and had completely
18 without a doubt said matched my teeth.

19 Q. And it's fair to say, from what I understand, it
20 came out later that he had actually manipulated the
21 evidence to make it look like it matched your teeth when
22 in fact it did not?

23 A. Well, there was serious question. And, again, at
24 the first trial, when evidence was not presented it wasn't
25 disputed really what the prosecution was alleging.

1 At the second trial we were able to receive
2 other photographs, other stuff that (indiscernible) had
3 never turned over to the defense in the first trial.
4 There was pictures in there of actually taking a cast.
5 They had made a complete cast of my teeth. There was
6 actually a picture of them at the -- with the victim's
7 breast with my teeth clamped on, with those teeth
8 impressions clamped down on the breast enough to leave
9 marks.

10 Which actually came up during the second
11 trial that one of the marks that they alleged matched one
12 of my teeth was actually not even in the original crime
13 scene. That mark was not even on the victim's body when
14 she was found, and later on was argued that it was -- you
15 know, that it just hadn't appeared yet during the trial,
16 when in reality it looked like what they called a relic or
17 something that occurred after the body was autopsied and
18 reviewed and checked out by the police and everything.
19 And then it was a mark that was never there on the body to
20 begin with at the time of her death.

21 Q. And that was one of the marks that they used to
22 say that it matched your teeth; right?

23 A. It matched one of my teeth I had. And if I
24 recall, it was, like, tooth number 14 or something. Our
25 teeth is numbered. And the testimony was heavy about this

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1 tooth number matched that, blah. But, yeah, this mark was
2 clearly -- on the original crime scene photo, that mark
3 was not present on her body, on her breast.

4 Q. And, once again, this first -- the first trial
5 was held in Maricopa County?

6 A. Yes.

7 Q. The attorney never asked for a change of venue or
8 anything like that?

9 A. No.

10 Q. And is it -- is it fair to say that what we just
11 talked about, that the jury convicted you based on
12 evidence that was not disclosed and it -- is that -- is
13 that correct, that you said that it wasn't -- it was only
14 disclosed a few days before the trial and then also that
15 this evidence was -- was not really true evidence, it was
16 something that was ridiculous?

17 A. Well, in honesty, I mean, I can't -- I can't
18 determine or have no knowledge of why the jury convicted
19 me. I was arrested. Maybe they just thought I was guilty
20 because I was arrested.

21 Q. Right.

22 A. But I know what evidence was presented, and
23 clearly that evidence was -- was in some cases -- well,
24 almost all cases inaccurate or misrepresented.

25 Q. False?

1 A. False to the point of some of the testimony or
2 allegations that were made against me or my statements
3 were definitely not true, yes. And some of them were
4 later proven not to be true. And some things we later
5 found out also that was withheld, that was never known to
6 the defense during my first trial.

7 Q. Now, in representations related to the case, and
8 this is in -- the first trial was in 1992-93?

9 A. '92 all solely.

10 Q. Okay. And then with regard to -- is it fair to
11 say that these false representations were made throughout
12 the course of your trial? And I'm going to get to more
13 specifics, but in -- is it fair to say that -- that there
14 was not a point in time when the police said, oops, you
15 know, we -- and I guess ultimately at the end there was an
16 apology made by Mr. Romley. But was there ever --

17 What I'm trying to get at is in 2000, was
18 there further misrepresentations made with regard to your
19 case? And I guess it was a television show called Arrest
20 and Trial. And in that show, Detective, I think his name
21 was Olson alleged that they found DNA evidence that Kim
22 Ancona was a victim of homicide at your trial?

23 A. There was all kind of misrepresentations again in
24 that -- in that segment of Arrest and Trial, everything
25 from stating that I was seen running down the road from

1 the police to a bloody sheet that was found in my car to
2 beads being found in my car, all kind of misrepresentations
3 and outright lies.

4 Q. And that was Dennis Olson?

5 A. Dennis Olson was in that -- in that segment for
6 sure.

7 Q. And I -- and I add that simply because it's fair
8 to say that the course of the misrepresentations went on
9 almost up to the time that you were exonerated; is that
10 fair?

11 A. The Phoenix Police Department did everything they
12 could to resist any attempts by me, my family to prove my
13 innocence or identify the true murderer right up to the
14 very end.

15 Q. And with regard to Dennis Olson, after the DNA
16 was tested and identified Ken Phillips, is -- from what
17 you understand, did he go out and confront Ken Phillips
18 and say you dirty son of a gun, we got you, we got the
19 wrong guy, or did he try to tie you in to -- still into
20 the crime at that point if you know?

21 A. Dennis -- according to my investigator, Dennis
22 Olson did at least one interview with Mr. Phillips during
23 the period of fighting for my release, at which point
24 Kenneth Phillips had denied any involvement, was not at
25 the bar. And the interview subsequently ended at a very

1 short time. My investigator was actually able to see the
2 time log that showed it, when Olson was there.

3 My investigator subsequently questioned
4 Mr. Phillips, at which point was recorded, and he actually
5 finally admitted that he was in the bar and he woke up in
6 a -- and he had a blackout -- he had a history of alcohol,
7 drug abuse -- and that he woke up blood-covered in the
8 morning.

9 Q. And that investigator was Detective -- or he was
10 a -- I guess he's a doctor. It says Doctor. Would that
11 be Thomas Streed; is that fair?

12 A. Thomas Streed, yes. He was an ex-homicide
13 detective for somewhere in southern California. I mean,
14 close to 30 years was a detective for --

15 Q. And is it fair to say that his investigation or
16 information you received later was that they actually
17 tried to -- even if they had that DNA evidence that they
18 were trying to say that you were still involved in the
19 murder?

20 A. Information was relayed to us that they were
21 trying to make a deal with Kenneth Phillips to avoid the
22 death penalty to say I was there with him. That was
23 subsequently denied, but the source was -- I -- the source
24 was clearly somebody that I don't care to divulge.

25 Q. No. That -- no. That's fine. That's fine.

1 and California, and all those experts had said it wasn't a
2 match, they -- that they disputed and showed why Ray
3 Rawson's testimony as a bite-mark expert was actually
4 wrong.

5 Q. Okay. So the second trial, was the original --
6 did the first case agent with -- you said his name was --
7 was it --

8 A. Charles Gregory.

9 Q. Yes. Did he retire in there somewhere?

10 A. There was something that happened with his career
11 choices, yeah, that had changed during those -- well, by
12 '96, that was almost four years.

13 Q. So the officer that was the case officer at the
14 second trial was Dennis Olson? Is that fair?

15 A. Yes. I'm pretty sure Dennis Olson was the -- was
16 now the detective that sat near the table with the
17 prosecutor during the trial and testified at the trial.

18 Q. Do you remember that?

19 A. I remember that second trial. Was a while back.
20 There's a lot of stuff I don't want to remember about it.
21 But --

22 Q. Right.

23 A. I remember being there, I remember being excited
24 when the DNA was released that said I was excluded from
25 the bite mark. I also remember the prosecutor telling the

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1 jury to disregard and ignore that DNA, that they know who
2 did it, they had the right person, it was me, Ray Krone.

3 Q. Right.

4 A. So I remember that trial.

5 Q. So Dennis Olson was there at the -- at the
6 counsel table with the State?

7 A. Yes.

8 Q. Now, with regard to the second trial, was there
9 some evidence that you found out that had been hidden
10 related to footprints that were in the kitchen at the --
11 at the (indiscernible)?

12 A. There was -- there was numerous examples of
13 evidence that we found out that was never disclosed at the
14 first trial. But my attorney, an experienced attorney,
15 Christopher Plourd, had found out it was -- a lot of it
16 was (indiscernible) been released, i.e. another person
17 that had -- that applied -- a person leaving that bar
18 area, that they had -- I forget his name now, but he was
19 cleaning the sidewalks. He had given a description. He
20 had testified -- or he told us that he was actually
21 questioned about it and that the time was absolutely
22 wrong.

23 There was information that --

24 Q. So he --

25 A. -- they had actually went out and bought a shoe

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1 to match the exact print that they found both in the
2 kitchen, where the murder weapon had been taken from --

3 Q. Right.

4 A. -- and around Kim's body in the bathroom. Both
5 were similar tiled floor. They had actually got a perfect
6 print and went that -- and went and bought the exact shoe,
7 a size 9-and-a-half Converse. Later find out after my
8 arrest that my smallest shoe in my inventory altogether
9 was a size 10 and a half. I wear a size 11.

10 Q. Okay. And so let's take one thing at a time. So
11 one of the things that was hidden in the first trial was
12 evidence related to this gentleman that cleaned the
13 street, that you did not have evidence that he had said
14 that there was somebody else?

15 A. Yes, that he corroborated a written note that had
16 been left next to the crime scene from a person who said
17 he seen -- gave a description of the individual around the
18 back side of the bar that evening. The end of the note
19 stated he couldn't come forward because he had an arrest
20 warrant out, didn't want to be arrested. But he gave a
21 description.

22 The man that was later -- we found out about
23 that had been questioned also that was cleaning the
24 sidewalks had almost an exact same description of the
25 person he seen on the front side of the building.

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1 Q. And it's fair to say that the police reports,
2 when they were disclosed, that they -- and I believe we
3 mentioned this previously before, that the time that they
4 said he saw this person was not the time that he had
5 actually told the police?

6 A. Yes. That time had been changed according --
7 according to witnesses.

8 Q. So that another item of evidence that you didn't
9 have at your first trial, that was a photograph or
10 apparently a photograph of the kitchen that showed the
11 same footprints, size 9-and-a-half Converse --

12 A. Uh-huh.

13 Q. -- with a C on the bottom?

14 A. Yes, Cons.

15 Q. If that were -- that were the same footprints
16 that were in the bathroom where the murder victim was; is
17 that fair?

18 A. Well, as I remember, originally they claimed they
19 found footprints, but it was in the kitchen. And,
20 again -- because that's where the murder weapon came from.
21 But they claimed that they eliminated them because the
22 person that had cleaned the kitchen -- that had no bearing
23 on the case. They downplayed the importance of that
24 footprint in the first trial.

25 Later on in my second trial, now my attorney

1 found out that not only had they done those footprints
2 with that dust -- and then you could see the pictures of
3 how they got the footprints --

4 Q. Right.

5 A. -- in the kitchen. But subsequently now in my
6 second trial my attorney found out when they released --
7 they gave over other pictures that there was the same
8 pictures, the same footprints, the same powder had been
9 used in the men's bathroom around Kim's body which was
10 exact same footprints back in the kitchen.

11 We never knew that they had a picture of the
12 footprints around Kim's body in the bathroom. So clearly
13 it had to tie into the murder and not be diminished or
14 denied that it had any involvement in the crime just
15 because it was only in the kitchen.

16 Q. Right.

17 A. They knew it was also in the bathroom and never
18 let us know about it.

19 Q. So basically they tried to keep information that
20 was exculpatory related to a different -- a set of
21 footprints that were size 9 and a half. They couldn't
22 have been yours because you wear a size --

23 A. 11.

24 Q. -- 11. And they tried to keep that information
25 from you, and that came out at the second trial?

1 A. Yes.

2 And as a result of that, because my attorney
3 now had their own pictures from them, then they had
4 presented a police report that now had changed the
5 original size of the -- of the alleged shoe that they had
6 found at that scene. The shoe that they had found, a size
7 9 and a half, now they put it in the range of somewhere
8 between a size 10 and 11 to include me then in that size
9 and completely ignored the fact that they went and bought
10 the exact shoe to match the original prints.

11 Q. So it's fair to say that -- so this is a second
12 trial, and the case officer is Dennis Olson; correct?

13 A. Yes.

14 Q. And after they had to disclose these new pictures
15 that showed it was the same person in the kitchen and in
16 the bathroom, size 9-and-a-half Converse, didn't match
17 yours, then the police came up with a new report that said
18 that these shoes were not just a size 9 and a half but
19 they actually now were a range up to size 11, would
20 include you?

21 A. Yes. That should be in the transcripts of that
22 trial actually.

23 Q. Yes, sir. And so when --

24 A. There was -- by the way, there was additional
25 stuff that we found out by the second trial that was never

1 that -- or the police claimed to have --

2 A. Yeah.

3 Q. -- found some kind of --

4 A. Yeah.

5 Q. -- beads?

6 A. They alleged they found beads. As I said, in the
7 newspaper is what was labeled as beads. But these were
8 actually binding parts that was used as a lubricant, the
9 powder that's put on a shuffleboard. It was some found in
10 my -- in my vehicle. The shuffleboard was right next to
11 the dart board in the bar where the murder had happened.

12 However, later on under -- under my
13 attorney's investigation, people looked at it, and it was
14 not the same -- under microscope it was not the same
15 structure so it couldn't have been a match anyway. That
16 was --

17 Q. (Indiscernible)?

18 A. Yes, that was found out.

19 We also found out that the local medical
20 examiner, who was not a trained expert in forensic
21 odontology as far as bite-mark comparison goes, had taken
22 that bite-mark evidence of mine and the victim's wound,
23 had taken that to an expert in southern Florida who had
24 reviewed the evidence and sent back and said it wasn't a
25 match. They had covered that up and went shopping for

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1 A. -- contacted.

2 Q. Okay.

3 A. Because he was the mentor of the medical
4 examiner, Dr. Piakis, who worked at the medical examiner's
5 office who initially identified the bite mark and
6 initially made the comparison and said that it was a
7 match, and which I'm sure resulted in the arrest warrant.

8 Q. So maybe that I had misunderstood about the guy
9 from Florida.

10 So with regard to the pictures that were
11 taken at the crime scene that were never disclosed, who
12 had those pictures?

13 A. The Phoenix Police Department. I know my
14 attorney had to go through the judge to order them and
15 say, your Honor, you know, there's only a small handful of
16 pictures here, I know more have been taken. The judge
17 looked at the prosecutor, you know, the police department,
18 and then we eventually -- my trial had been delayed, my
19 (indiscernible) of my second, but eventually they did turn
20 over almost a shoebox full of photos of things that I was
21 never aware of. There were a number of things there that
22 again was never used at my first trial and again
23 contradicted some of the stuff that they testified to at
24 my first trial.

25 Q. And why do you believe that those pictures were

1 not disclosed?

2 A. Oh, I think it would've been a very difficult
3 time for them to back up from where their initial
4 statements and beliefs of my guilt to now show that, well,
5 no, clearly it -- you know, that doesn't fit. This
6 evidence does not fit prior to scene -- or this evidence
7 was from the crime scene, did not fit me as the
8 perpetrator.

9 Q. Didn't fit you?

10 A. Yes.

11 Q. And so it was exculpatory?

12 A. Yes, absolutely. It would have been for the
13 defense --

14 Q. And if you --

15 A. -- if we had it.

16 Q. And the shoe prints, they matched Ken Phillips,
17 who apparently had Converse shoes or had that size?

18 A. Later on, again, because of the quality of the
19 people that worked with my team eventually to -- that led
20 to my release were able to go back and look at things.
21 And it's my understanding that Kenneth Phillips, when he
22 was booked into the County jail for one of the other
23 charges, that he was actually serving time at the time we
24 identified him as the murderer for -- he was -- had
25 assaulted a child and was in ten years. He was about to

1 bigger after they had to disclose the pictures themselves?

2 In other words, in terms of time, did Mr. --
3 did your attorney find out about the pictures, they were
4 disclosed, and then later at the trial they introduced
5 this new evidence that said that actually the size of the
6 shoe was a bigger range that now included you?

7 A. The police report had a supplement to it that now
8 had changed the size, and it did not correspond to the
9 shoe that they initially bought within hours of the crime
10 or so, within the first two days. Before my arrest, I
11 believe they actually went and bought the shoe, and the
12 print matched the footprint they had found. There was a
13 subsequent police report then that changed the size
14 (indiscernible) fit that supposed pattern.

15 Q. And was that police report, if you know, was
16 that -- did the police claim that came from the time of
17 your arrest, or was that something that was later -- a
18 supplement that was made prior to your second trial?

19 A. It was prior to the second trial. Because they
20 had no concern the first trial because it wasn't an issue.
21 They dismissed the footprints as belonging to the worker
22 in the kitchen --

23 Q. Right.

24 A. -- that had no bearing and never really
25 questioned or defended by my attorney, my defense

1 attorney. It never was an issue in the first trial.

2 By the second trial when we now had a
3 picture and exactly of the shoe and exactly those
4 footprints around the victim's body, knowing for sure --

5 Q. Right.

6 A. -- this was the perpetrator, they had to do
7 something, and that's when supplements or whatever that
8 showed that now there was a different size reported. You
9 wouldn't go buy a size 9-and-a-half shoe if it could've
10 been anywhere from a size 10 to 11.

11 Q. Right. And that supplement -- basically, the
12 State's purpose tied you, still tied you?

13 A. Now it fit the shoes that they originally, you
14 know, had taken at my original arrest, trying to place one
15 of those shoes at the scene of the crime.

16 Q. And they had actually come to your house at some
17 point and checked to see if you had any Converse, size 9
18 and a half?

19 A. After my arrest.

20 Q. Right.

21 A. Again, this was only two days after the body was
22 found I was arrested. They had -- they had a search
23 warrant at my house and came -- they took a green jacket
24 that didn't even correspond. Apparently, you know, there
25 was a Army fatigue jacket that the two witnesses had

1 identified, and they took a green parka that I had, a ski
2 jacket. They confiscated my Corvette, which was the only
3 thing close to a small foreign car. I don't think they
4 would recognize a Corvette compared to a foreign car. And
5 then they also took pieces of clothing and my shoes.

6 Q. And you found out about this new report, this
7 false report about the shoe size, at the time of your
8 second trial?

9 A. Yes.

10 Q. Okay. And -- and I believe that you previously
11 said this, but where did this report come from?

12 A. It was from the Phoenix Police Department.

13 Q. And why -- why -- why do you believe the police
14 would fabricate this evidence against you?

15 A. Well, they had -- well, they had to now because,
16 I mean, originally when they were saying I was there, I
17 killed her, gave all the description of it, and here was
18 footprints that led right up to where the butcher knife in
19 the kitchen had taken from. The murder weapon was taken
20 right there. The footprints leading to it, same
21 footprints that actually -- she was laid -- kind of
22 leaning up against a wall with her legs kind of spread
23 eagle. Same footprints around her body. Clearly, you
24 know, the -- it had -- it was the perpetrator. And now we
25 had pictures to show that you went and bought a size

1 9-and-a-half shoe, that those are size 9-and-a-half
2 prints. If you asked -- Mr. Krone has a size 11 foot.
3 They had to do something.

4 Q. And that would've gone along with the reports
5 that they had from these other people that said that there
6 was other -- there was a man there?

7 A. Yes. And, again, I mean, not that foot size, to
8 be completely fair. It's the height. But --

9 Q. Right.

10 A. -- you know, I'm 6 foot 1, but their original
11 description was 5-8 to 5-10, yes.

12 Q. And how did the defense deal with this so-called
13 evidence from the State?

14 A. At the second trial?

15 Q. Yes.

16 A. Well, clearly by showing their own pictures,
17 their own original statements that we were fortunately
18 able to get through the judge's orders that showed what
19 their initial on-scene investigation got this size
20 9-and-a-half shoe --

21 Q. Right.

22 A. -- that was -- that surrounded both -- that was
23 involved in both the area of the -- of the murder weapon
24 and the victim's body.

25 Q. And is it fair to say that the case officer that

1 was still working the case at the time that this new --
2 this (indiscernible) supplement was presented was Dennis
3 Olson?

4 A. Dennis Olson was definite -- and, again, I don't
5 know how -- how many people they have working on my case.
6 I know that his name was associated with -- now, with
7 Detective Gregory had re- -- I know Dennis Olson was a
8 name that was predominant in most of the police reports
9 and testimony.

10 Q. And had to do with the evidence collected at the
11 scene?

12 A. That's my understanding, is he signed off on it.

13 Q. Right.

14 A. Again, that's, you know, beyond my absolute
15 proof. But I know what the testimony -- I know what was
16 introduced and I know the evidence and -- that was
17 collected and the reports were all suddenly not exactly in
18 line anymore because they obv- -- my -- I had a defense
19 attorney that had looked at all the evidence and was going
20 to bring this up at trial. They had to do something to
21 correct their mistakes.

22 Q. And it's fair to say that from what you had
23 reviewed that at the time of the homicide that along with
24 Detective Gregory that he was the one that had collected
25 the evidence and now he is the second -- he was the case

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1 officer at the second trial so he is still with the case?

2 A. That's my understanding.

3 And, again, my first trial with this
4 court-appointed attorney that lasted I think right at
5 three days, short days, but I had really no involvement.
6 I mean, I don't know how the system worked. I sat there
7 and was quiet and just let this -- what do I know about
8 the justice? I was naive.

9 Q. Right.

10 A. By my second trial, my attorney, now experienced
11 trial attorney, I sat there and looked at the books, at
12 the evidence, the stuff that was written. I was there, I
13 was active in selecting the jury. My second trial
14 attorney was active in the defense. My first trial
15 attorney didn't do nothing. So --

16 Q. So you had -- you reviewed all this evidence with
17 regard to (indiscernible) --

18 A. My second trial.

19 Q. -- with regard to the officers that were
20 involved, with regard to the officer collecting the
21 evidence, those testifying at trial.

22 And it's fair to say that Detective Olson
23 also testified at the second trial --

24 A. Yes.

25 Q. -- that was related to the evidence in the case?

1 something might have showed up somewhere in the clothing.
2 And there was something down in -- both inside of her blue
3 jeans and her --

4 Q. Right.

5 A. -- underwear, is my understanding where the DNA
6 came from.

7 Q. Now, we're getting closer to the end, and I
8 actually have to catch a flight back to Phoenix.

9 But Mr. Simpson -- after you were exonerated
10 and you were released, the charges were dismissed against
11 you; right?

12 A. It was dropped with prejudice.

13 Q. Okay. And Mr. Romley ended up apologizing in
14 some fashion, said we are going to try to do better?

15 A. That was -- that actually was apparently done on
16 camera. I was not present at the time, so I don't
17 consider it an apology if you can't look the person in the
18 face.

19 Q. And this was in 2002?

20 A. Late in 2002.

21 Q. And then with regard to Dennis Olson, just to
22 recap, Dennis Olson did that show in 2000, Arrest and
23 Trial, where he alleges that the -- or does this -- I
24 guess alleges that the -- that the blood found in your
25 trunk was Kim Ancona's? And that was after the trial

1 I guess that would also -- was the city --
2 was Phoenix Police Department also sued?

3 A. It was the City of Phoenix and the County --
4 Maricopa County. Can -- we didn't elaborate the specific
5 city nor the prosecutor. That's purely -- they were
6 included in it, and basically it was the City failed to
7 train and supervise their employees, i.e. the Phoenix
8 Police Department.

9 Q. And was Dennis Olson -- individual officers were
10 also served, though, as part of the suit?

11 A. They had -- they had to be. I mean, you have to
12 cover all bases, my understanding. I'm -- again, I'm not
13 a civil lawsuit attorney, but I know the people that I had
14 were very experienced and, you know, had somebody slipped
15 away or --

16 Q. Right.

17 A. And clearly that's -- was the main people
18 involved, that started off the investigation, the police
19 officers who collected, identified, and testified and
20 withheld or manipulated the evidence. Those -- clearly
21 that's where it started.

22 Q. Right. And with regard to our conversation
23 today, if there's other information out there from either,
24 say, Thomas Streed or Judge Plourd or Mr. Simpson, is
25 that -- well, No. 1, is it fair to say you -- I have asked

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I hereby certify that the foregoing pages are a true and correct transcription of the recorded interview, as digitally preserved, transcribed to the best of my skill and ability.

Kimberly Portik, RMR, CRR
January 3, 2018

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I hereby certify that the foregoing paper
is a true and correct transcript of the
interview, as dictated by me, and that the
same will be filed.

Kimberley Little

Kimberley Little, PMS, III
February 1, 1968

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Appendix J

465 a

Petitioner's Exhibit #84
2nd Suppl. Declaration of Larry A. Hammond

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IN THE MARICOPA COUNTY SUPERIOR COURT
STATE OF ARIZONA

STATE OF ARIZONA, Respondent/Plaintiff, v. JULIUS JARREAU MOORE, Petitioner/Defendant.	CASE NO. CR 1999-016742-0001 DT SECOND SUPPLEMENTAL DECLARATION OF LARRY A. HAMMOND Dated June 15, 2018 (Assigned to the Hon. Sam Myers)
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I, Larry A. Hammond, declare as follows:

1. My name is Larry A. Hammond. I am Member of the Arizona Bar (1975), and the California Bar (1971; inactive).
2. This Declaration supplements my original Declaration dated August 14, 2014, and First Supplemental Declaration of March 30, 2016.
3. In my original Declaration, I detailed my experience and professional qualifications. I am writing this additional Declaration to expand on conclusions reached in my prior Declarations, and to address an additional topic: law enforcement misconduct and its relevance to the criminal defense function.
4. In my First Supplemental Declaration I addressed in general terms the duty of capital defense counsel to conduct a thorough fact investigation. As I explained in that Declaration, the fact investigation is one of the essential undertakings of death penalty defense lawyers.

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1 in which actual innocence was addressed. The first of those cases in my personal
2 experience was *Knapp v. Arizona*. My representation of John Henry Knapp began in
3 1981 when Mr. Knapp was on Arizona's Death Row. His conviction and death
4 sentence were set aside in 1987. His case was re-tried, resulting in a hung jury after
5 one of the longest jury trials in Arizona criminal law history. Mr. Knapp then entered
6 a no-contest plea, and while continuing to assert his actual innocence he was released.
7 The story of that case is chronicled in *Triple Jeopardy*, by Roger Parloff. I mention
8 this case because it involved extensive evidence of law enforcement and prosecutorial
9 misconduct.

10 10. Shortly after the conclusion of that trial, I also became involved in
11 assisting the defense lawyers representing Ray Krone in his second trial and in his
12 civil rights suit following his exoneration. Mr. Krone had been convicted and
13 sentenced to death based on flawed forensic bite-mark expert testimony. After being
14 granted a retrial, Mr. Krone was again convicted based in part on the misconduct of
15 law enforcement personnel. I mention this case in particular because it occurred in
16 this jurisdiction and involved the same police agency and the same prosecutor's
17 office.

18 11. In my capacity as President of the Arizona Justice Project, I
19 participated in the development of a detailed evaluation of Mr. Krone's case. I helped
20 supervise the creation of a PowerPoint presentation, which reviewed the details of Mr.
21 Krone's case, his wrongful conviction, and the law enforcement misconduct that
22 contributed to it. A copy of that PowerPoint has been used in connection with
23 continuing legal education programs and events, and is available for inspection.

24 12. The study of the causes of wrongful convictions has been materially
25 aided by DNA. Advancements of DNA technology (justly called the "Gold Standard"
26 of forensic science) have made the identification of flawed convictions much more
27 reliable. There are now more than 315 recorded DNA exonerations. The total
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1 changes frequently. The current count is available on the Innocence Project website:
2 www.innocenceproject.org. Those cases have provided a foundation for examining
3 the primary causes of wrongful convictions. One of the top three causes of wrongful
4 convictions identified in those cases has been police and prosecutorial misconduct.

5 13. A similar but much larger compilation of exonerations is now also
6 maintained by the Newkirk Center for Science and Society at the University of
7 California Irvine. That resource, known as the National Registry of Exonerations,
8 records that at present there are 2,183 recorded and confirmed exonerations. See
9 www.law.unich.edu/special/exoneration/Pages/about.aspx. That Registry also
10 contains data with respect to the causes of these wrongful convictions. As with the
11 DNA exonerations, law enforcement and prosecutorial misconduct constitute one of
12 the major causes.

13 14. In 2017 alone the National Registry recorded 171 exonerations. *Id.* The
14 number one cause of those wrongful convictions was what the Registry refers to as
15 "Official Misconduct." Eighty-four (84) exonerations are catalogued—all of them
16 involving law enforcement and/or prosecutorial misconduct. *Id.* at 2.

17 15. The Registry also identifies the organizations that have specialized in
18 securing these exonerations, and not surprisingly innocence projects have accounted
19 for over 50 of them. These reports underscore the importance of the assistance of
20 individuals and organizations that have specialized training and expertise in the study
21 of wrongful convictions. The Registry refers to them as "professional exonerators"
22 and includes prosecutors' conviction integrity units (CIUs) in that group as well.

23 16. These findings by the Registry are consistent with my personal
24 experience. In addition to my direct involvement in post-conviction cases involving
25 actual innocence, I have regularly taught and spoken at conferences on issues
26 surrounding claims of actual innocence arising after conviction. Among the topics on
27 which I have taught and addressed at conferences is the topic of the causes of
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1 wrongful convictions in actual innocence cases. Principal among those causes has
2 been police and prosecutorial misconduct.

3 17. In 2003 and 2004, I team taught a year-long seminar on post-conviction
4 case investigation at the Sandra Day O'Connor Arizona State University College of
5 Law. Many of our cases involved issues of police or prosecutorial misconduct.

6 18. In 2008, I taught a course entitled "Failures of the Criminal Justice
7 System" at the Elon University School of Law in Greensboro, North Carolina.
8 During that semester, I focused extensively on the relationships between law
9 enforcement misconduct and ineffective defense counsel. In the Fall of 2014--at
10 about the same time I was asked to consult on Mr. Moore's case--I team taught the
11 Wrongful Convictions Course at Arizona Summit Law School. My contributions to
12 the class focused primarily on police and prosecutorial misconduct.

13 19. In addition, within the last 4 years I helped establish post-conviction
14 clinics at both the Sandra Day O'Connor Arizona State University College of Law
15 and at the William Rogers College of Law at the University of Arizona. I regularly
16 participate in case reviews and in instructional activities in connection with these law
17 school clinics.

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19 RELEVANT PRINCIPLES

20 20. Several principles have emerged from my research generally on law
21 enforcement-created wrongful convictions, and particularly from my involvement in
22 Arizona cases. The principles may be briefly stated. First, while rare, cases involving
23 law enforcement misconduct do certainly occur, and those cases too often involve the
24 fabrication or destruction of physical evidence. Second, in most cases the motive of
25 law enforcement is not to convict an innocent person, but to provide evidence to
26 successfully prosecute a person who law enforcement think or assume must be guilty.
27 This is particularly true in cases involving the planting of evidence to connect an
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1 accused person to a serious crime. Third, once misconduct has occurred, it is almost
2 inevitable that further steps by law enforcement will become necessary to avoid
3 detection. Having once fabricated evidence, there often seems to be no way for law
4 enforcement to retreat. In this way, it often becomes true that "the cover-up becomes
5 worse than the crime" as law enforcement and sometimes prosecutors seek to avoid
6 detection.

7 21. In many cases the wrongdoing of one or two detectives is overlooked by
8 the remaining members of the prosecutorial team who accept uncritically the false
9 evidence. Instead, false evidence becomes a part of the prosecution's case.

10 22. Unfortunately, these phenomena seem often to be more prevalent in
11 death penalty cases where the desire of law enforcement to secure arrests, convictions
12 and sentences are at their zenith.

13 23. From the defense perspective, the discovery of the existence of evidence
14 of law enforcement wrongdoing presents materially difficult challenges. Rarely is
15 misconduct limited to a single act. Instead, one act of wrongdoing seems often to
16 involve other acts. It is with this experience in mind that many competent defense
17 investigators teach that once a fraud on the criminal justice system has been revealed
18 there are likely to be other acts as well. For this reason, investigators are urged to
19 assume that further detailed investigation is warranted and that there seem always to
20 be other acts of misconduct. The Jarreau Moore case is a clear example.

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OPINIONS

23 24. I have read each of the Declarations prepared by Frank J. Rodgers and
24 by Richard Watkins. I am acquainted with both experts. Both have long histories as
25 members of the Arizona law enforcement and criminal investigation community.
26 Between them, as their resumes confirm, they have nearly 100 years of law
27 enforcement and criminal investigation experience, almost all of it on the
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1 prosecutorial side in Maricopa County. They are intimately familiar with the details
2 of crime scene investigation and crime laboratory protocols and management. Each
3 enjoys an unimpeachable reputation for competence and integrity.

4 25. I have studied their research and conclusions. I have met with them on
5 several occasions. I have reviewed the painstaking high-resolution photographic
6 analysis they have undertaken, and I have examined each of the steps they have taken
7 to confirm their findings.

8 26. Their conclusions are, in my opinion, unassailable. Clearly, the Phoenix
9 Police Department detectives planted evidence designed to incriminate Mr. Moore by
10 connecting him to the triple homicide. This conclusion is possible because of the
11 extraordinary and painstaking investigation of Mr. Rodgers and Mr. Watkins and their
12 specialized knowledge of crime scene management and evidence processing and
13 retention. We now know the following:

- 14 a. A shell casing was taken by a Phoenix Police Department detective
15 from the crime scene at 1808 Yale Street.
- 16 b. That shell casing was placed in a plastic bag and transported to Mr.
17 Moore's residence where it was placed on his bed and photographed to
18 appear to have been freshly "discovered" by the PPD detectives. Ex. 26,
19 26A. To further connect Mr. Moore to the homicides, a projectile was
20 also placed into the baggie. Ex. 26B. That projectile appears to have
21 struck one of the victims—a finding that connected "tissue" from the
22 crime scene to Mr. Moore's bed.
- 23 c. It became necessary for the detectives to replace the shell casings. The
24 shell casings ultimately used extensively at trial were not the same shell
25 casings, including Ex. 26A photographed in Mr. Moore's bed. No one
26 other than law enforcement had access to the facility or this evidence or
27 any other evidence collected from the crime scene.

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- d. The replacement of this shell casing necessitated the substitution and replacement of other shell casings. These steps were apparently taken in an effort by the detectives to cover up the original misconduct. This completely compromised the crime scene evidence collection process.
- e. Among the most particularly important shell casings was Ex. 45, a shell casing discovered by PPD Sally Dillion who testified at trial that this shell casing had been run over after the homicides, compressed and crushed. Tr., 9/12/01, at 9. Ex. 26A, photographed in Mr. Moore's bed has a distinctive dent at the base on the shell casing. Ex. 66--the shell casing found at the scene--has a dent in the same location. It is the same size and orientation as the item "found" in Jarreau Moore's bed. Clearly, as the forensic experts have now determined, that shell casing, too, has disappeared. It has been replaced by a shell casing not matching that description.
- f. Indeed, as Mr. Rodgers and Mr. Watkins have discovered, the original planting of a shell casing taken from the crime scene made it necessary for law enforcement to switch out all of the shell casings that had been taken into evidence from the crime scene. As noted above (Para. 20), in other cases that have involved planted evidence, the steps necessary to cover up the wrongdoing become increasingly more convoluted. This appears to be one of those cases.
- g. The evidence in this case contains other indications of misconduct, most notably compromising the evidentiary value of a knife found at the crime scene (Ex 22). Blood is visibly apparent on the tip portion of the knife when found at the scene near the foot of one of the victims. Contrary to the rules of crime scene management and processing in 1999, the blade was apparently never tested. Had it been tested, DNA

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test results readily available at that time could have helped identify the presence of a third-party, probably the perpetrator.

- h. Initially, the knife was selected for DNA testing. Three weeks later, however, PPD withdrew the request for testing. Even more troublingly, hours after withdrawing the request for testing PPD asked that the evidence not be preserved. Neither Mr. Rodgers nor Mr. Watkins with all of their collective in-house experience could conceive of a legitimate reason not to test or at least preserve for possible later testing.
- i. Later examination during these post-conviction proceedings confirmed that all trace DNA evidence has been removed. A single latent fingerprint was recovered from the knife. It did not belong to Mr. Moore.

27. It is important to underscore that all of this physical evidence was in the exclusive control of the PPD.

28. The records reveal that the PPD Detective who withdrew the request to have the knife tested is Detective Dennis Olson. It was Detective Olson who also asked that the evidence from the knife not be preserved. Detective Olson is the same detective who served as case agent in Ray Krone's case when it was returned to the trial court for his retrial. The detective's willingness to manipulate evidence in each case in an apparent effort to secure or sustain a conviction is extremely disturbing.

29. I have listened to the interview of Mr. Krone and have reviewed the transcript made of that interview. I have also seen his declaration. I applaud the efforts of Mr. Moore's post-conviction counsel for pursuing the story of Ray Krone's wrongful conviction and exoneration. In each case a Phoenix Police Department detective chose to alter or eliminate exculpatory evidence.

30. Given the extent of obvious wrongdoing here, post-conviction counsel's efforts were more than warranted. The instruction by Detective Olson not to preserve

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1 whatever physical evidence might have been on the knife would not have been
2 discovered without the painstaking file review. Dr. Mosely, the Medical Examiner,
3 was correct to conclude that the knife was likely to have been used in self-defense and
4 to conclude that any evidence found on the knife could be useful in identifying the
5 assailant. Doubtless, the training of every police detective emphasizes the importance
6 of searching for evidence of the attacker in the defensive wounds inflicted by the
7 victim on the attacker.

8 31. Against this background, the placement of the baggie, shell casing and
9 projectile in Mr. Moore's bed also takes on heightened importance. The PPD
10 detective who claimed to "find" these items—Detective Faminia—is another member
11 of the Police Department whose career and other acts of investigative impropriety
12 deserve close attention. The evidence here quite clearly was (1) taken from a crime
13 scene by law enforcement, who (2) placed it in a location intended to incriminate Mr.
14 Moore. Those two fundamentally improper acts then led to a third false step--the
15 need to replace the shell casings from the crime scene. Like a chain of falling
16 dominoes, the removal of the shell casing required the removal and replacement of *all*
17 of the shell casings and their replacement. As a result, there is now no integrity
18 whatsoever in the very evidence used repeatedly at trial to secure a conviction and a
19 sentence of death.

20 32. This last point deserves repetition. Whatever the intent of the detectives
21 who planted and then switched or replaced the shell casing and projectile, that false
22 evidence became central to the indictment, trial, conviction and sentencing of Jarreau
23 Moore. The County Attorney presented its case to the grand jury two weeks after the
24 homicides. Within a few minutes of commencing its presentation, PPD Detective
25 Cooning was called to summarize the evidence. Without being prompted, the
26 detective informed the grand jurors that "[o]ne of the things we found inside Mr.
27 Moore's bedroom was a cartridge casing, which was identical to the cartridge casings
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1 we had found at the scene of the homicide." GJ Tr. 11/30/99, at 19. The detective
2 went on to opine: "So we felt like that evidence was, in fact, tied to Mr. Moore." Id.
3 The remainder of the record demonstrates the extent to which the planted and
4 contaminated evidence was central to the County Attorney's case from beginning to
5 end.

- 6 a. The shell casing and the projectile found in Jarreau Moore's bed became
7 a featured highlight of the State's opening statement. The "match" of
8 the shell casing and the projectile with other shells and projectiles at the
9 scene served as a key link to the defendant. Tr., 9/11/01, at 33, 38-39,
10 43. The significance of this evidence was heightened by the discovery
11 of a 9mm handgun which law enforcement claimed had been the
12 weapon that fired these shells.
- 13 b. Similarly, in his closing argument, the prosecutor directed jurors to
14 focus on the shell casing (Ex. 26A). The State emphasized the
15 incriminating nature of this discovery. A shell casing that "matched"
16 the shell casings found at the scene of the homicides was found right in
17 the defendant's bed. Tr. 9/25/01, at 45, 53-54.
- 18 c. Clearly, there were two suspects—Tony Brown and Jarreau Moore—but
19 only one of them had "taken" a shell casing from the crime scene to his
20 home. Tr., 9/25/01, at 30.
- 21 d. When defense counsel challenged the State's case on the ground that
22 there was no physical evidence that Jarreau Moore had been at the crime
23 scene (Tr. 9/25/01, at 77, 82), the prosecutor replied by refocusing the
24 jurors on the shell casing found at the defendant's home, and most
25 pointedly on the evidence that a projectile was also found in his bed
26 (Ex. 26B). Tr. 9/25/01, at 100. Possibly the most disturbing comment,
27 however, is the prosecution's reminder to the jury that the projectile was
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found to have "tissue" on it. *Id.* This was a reminder to the jurors to look back at the trial testimony of the Phoenix Crime Laboratory's analyst, Randy Leister, who in fact had testified that he had observed traces of tissue on the projectile. Tr., 9/20/01, at 93.

- e. Like the knife, however, by the time of trial there was no residue of tissue or blood to test. The inference was apparent at that point: if tested, the "tissue" would surely have connected Mr. Moore to the homicides.
- f. The sentencing phase of Mr. Moore's trial occurred in 2007, almost 6 years after his trial. Pursuant to *Ring v. Arizona* a jury was empaneled to hear aggravating and mitigating evidence. From opening statements in the aggravation stage, the prosecution sought to emphasize and rely on the false and fabricated evidence. Jurors were urged to look at the importance of the shell casings and how all of those shell casings came from one .09 millimeter gun. Tr., 5/1/07, at 34-35.
- g. The State once again directed jurors to look at the "shell casing and projectile" found in Mr. Moore's bedroom—and these were described as "the same as what was found at the crime scene." *Id.* at 35. In the prosecution's closing of the aggravation phase, again the State chose to emphasize the shell casing and projectile found at Mr. Moore's home. Tr. 5/07/07, at 37-38.

33. The discovery of these acts of police misconduct necessarily requires inquiry into why these acts might have occurred. Without the benefit of sworn testimony at this post-conviction stage, it has not yet been possible to obtain the explanations of the detectives involved in this case. It is important to observe several potentially relevant considerations. For instance, the planted shell casing (Ex. 26A) and the projectile (Ex. 26B) were "discovered" on the evening of November 20,

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1 1999, several hours after the only surviving eyewitness to the homicides, Deborah
2 Ford, was unable to identify Mr. Moore as the perpetrator. As of that evening, there
3 was no physical evidence connecting Mr. Moore to the crime scene and other
4 evidence placed him far from the scene.

5 34. The cleansing of the knife is also particularly disturbing. See Para.
6 26(g) & (h). Standard crime scene investigation includes searches for the possibility
7 that victims inflicted some injury on the perpetrator. The knife could well have
8 contained physical evidence of a wound inflicted on the perpetrator. And, in this case
9 there is contemporaneous evidence that the perpetrator may have been hiding in the
10 oleanders very near where one of the victims and the knife were found.

11 35. These acts of serious misconduct cast a disturbing light on the way in
12 which the prosecution appeared to try to shape the testimony of the only eyewitness,
13 Deborah Ford. We now know that she was unable to identify Jarreau Moore when
14 she saw him in the courtroom. She remembered the perpetrator as a black man with
15 darker skin color. The prosecution suggested to her that the reason she could not
16 identify Mr. Moore was because "black people lighten up in jail." Having planted the
17 evidence connecting Mr. Moore to the shell casings, possibly one should not be
18 surprised to see the favorable eyewitness testimony might be achieved by planting an
19 explanation for what would have been unfavorable testimony to the State.

20 36. The trial team assigned to Mr. Moore's case represented him for what
21 turned out to be eight years. During that time, at Mr. Moore's personal insistence,
22 they helped assure that a polygraph could be administered. The polygraph was
23 conducted by Tom Ezell, a polygraph examiner widely respected both by law
24 enforcement and by defense attorneys. The results confirmed Mr. Moore's statement
25 of his innocence. It appears from the record that the defense team never realized that
26 the shell casings had been switched. They also appeared to fail to notice that evidence
27 from the crime scene had been removed and replaced.

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1 40. It is difficult to look at what we now know about this triple homicide
2 without concluding that Mr. Moore was a victim here. He was certainly wrongfully
3 convicted based on planted and altered evidence coupled with the destruction of
4 exculpatory evidence. In my opinion, this is a case of manifest injustice, and given
5 the evidence that has been developed at this post-conviction stage there is certainly a
6 "reasonable likelihood" that Jarreau Moore is actually innocent of the crimes that
7 have placed him on Death Row. The prosecution contaminated and compromised the
8 only physical evidence in the case. The testimony of the only surviving eyewitness,
9 Deborah Ford, was also contaminated. Numerous other witnesses' statements and
10 their testimony was manipulated in order to support the State's theory and to deflect
11 attention from the alternate suspect, Tony Brown. At the end of the analysis, there is
12 virtually no credible, uncontaminated proof of guilt.

13 Declared under penalty of perjury this 15th day of June, 2018

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16 By: Larry A. Hammond
17 Larry A. Hammond

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Appendix K

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Petitioner's Exhibit #85

6th Supplemental Declaration of Ballistics/Firearms Expert Richard Watkins

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previously submitted in affiant's five (5) earlier affidavits which actually memorialized ongoing evidentiary discoveries as they were being made, as well as affiant's opinions related to said discoveries;

2. That as previously submitted, affiant worked as a Criminalist for the Phoenix Police Department (PPD) Crime Lab for approximately twenty-seven (27) years, and ultimately was not only a Supervisor, yet an Assistant Director at the PPD Crime Lab itself prior to his retirement in 1997 (If necessary, please see Affiant's Curriculum Vitae attached to his original affidavit as Exhibit A);
3. That as previously described in his earlier affidavits, part of affiant's duties as a Criminalist working for the PPD Crime Lab involved affiant working as both a firearms/ballistics expert and a tire track/shoe print expert;
4. That as previously described in his earlier affidavits, with regard to affiant's duties as both a Supervisor and later as Assistant Director of the PPD Crime Lab, it was actually affiant's responsibility to supervise the forensic testing related activities of a number of scientists employed by said Crime Lab from the various forensic scientific disciplines;
5. That during affiant's term as Assistant Director of the PPD Crime Lab, he also oversaw or was part of the creation of the DNA Testing Unit of said Crime Lab;
6. That since affiant's retirement from the PPD Crime Lab in 1997, he has worked in the private sector for nearly twenty-one (21) years as a forensic scientist analyzing firearm (or ballistics) and tire track/shoe print related evidence, as well as by being a consulting criminalist in various criminal cases, being retained by attorneys in various capacities;
7. That affiant is still currently listed as a sub-contractor working as a Criminalist for the Maricopa County Office of Public Defense Services;

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8. That in the present case, affiant was retained by Petitioner Moore's Rule 32 defense team to review both firearm/ballistics and tire track/shoeprint related evidence, as well as other types of forensic evidence within the purview of affiant's expertise as a criminalist as pertaining to Mr. Moore's case or the 11/16/99 Yale Crackhouse shooting;
9. That affiant hereby incorporates by reference his earlier affidavits in the present case and confirms the opinions he expressed therein;
10. That affiant was recently asked by Rule 32 counsel if affiant may be able to summarize his opinions in the present case in order to assist retained legal expert Larry Hammond, who was working on a Supplemental Declaration related to both Petitioner's Actual Innocence and Police and Prosecutorial Misconduct claims;
11. That in response to Rule 32 counsel's request, affiant expressed for the first time that based on his earlier review of evidence as thoroughly discussed in his prior affidavits, that it was now affiant's firm opinion that, more likely than not, police had actually planted evidence in Petitioner's bed on 11/20/99 in order to apparently tie him to the Yale Crackhouse homicides, and that the evidence planted included Items 26, 26A and 26B, which essentially was a large plastic ziplock bag (Item 26) containing both a cartridge casing (Item 26A) and projectile (Item 26B);
12. That affiant ultimately came to this opinion as the result of his consideration of a number of facts, including the following:
 - a. That original Item 26A, which had a definite and substantial dent in its side at the time of its collection on 11/20/99 as depicted in the related search warrant photo (Maricopa County Superior Court Exhibit #35/53 in CR1999-016742), is now *no longer the same item of evidence* as that originally collected because present day Item 26A (Maricopa County Superior Court Exhibit #73/83A in CR1999-016742) has no dent in its side whatsoever, and

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- that the only entity which could have switched out said evidence was the police because Item 26A was in the exclusive possession, custody and control of the police until its admission at trial in the present case;
- b. That both Crimescene Expert Frank Rodgers as well as affiant have concluded that Item #66, a cartridge casing collected at Yale Crackhouse Crimescene on 11/16/99 actually had a highly similar dent in its side in the very same location at the time of its photographed collection, yet neither present day Item 26A, nor present day Item 66 have any dents whatsoever;
 - c. That both affiant, as well as Crimescene Expert Frank Rodgers, have found that multiple cartridge casings in the present case have been switched out or destroyed for the purposes of the present case, including Item #45, a cartridge casing that had been run over by a vehicle at the time of the Yale Crackhouse Homicides which was specifically described in trial testimony by former PPD Detective Sally Dillian as being compressed and/or crushed and having other damage, when, in fact present day Item #45 no longer has any damage whatsoever, leading affiant to believe that it is highly likely that all of the cartridge casings in the case at bar were actually switched out by police, and basically destroyed for the purposes of this case;
 - d. That the only logical explanation for such an occurrence would be that police had to switch out all of the cartridge casings in the case at bar after having to replace Item #66 due to the fact that it was planted in Petitioner's bed on 11/20/99, because any replacement cartridge casing would not have matched the other cartridge casings, especially given the fact that no firearm was ever recovered related the present case until three (3) days later on 11/23/99;
 - e. That other highly material evidence bearing on Petitioner's innocence claim was also destroyed, including apparent blood the on tip of Item #22 (a knife found by the foot of victim Sergio Mata), which was never tested, yet which police not only withdrew their request to test for DNA on the morning of 12/15/99 (within 30 days of the Yale Crackhouse homicides), yet within four (4) hours after withdrawing the testing request called back to specifically

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- ask that the evidence not be preserved, with it later being discovered during Court ordered post conviction DNA testing that the evidence had, in fact, been destroyed while in the exclusive possession, custody and control by police;
- f. That Crimescene Expert Frank Rodgers also previously found that evidence related protocols were not followed with regard to Item #26A (ie. Police claimed to have found Items 26, 26A and 26B *under* bed spread, yet the evidence was purportedly "moved" from that purported location to the top of the bedspread where it was photographed;
 - g. That affiant has reviewed both the taped interview of the State's only eyewitness D. Ford which occurred at 4:00pm on 11/20/99 in which Ms. Ford was unable to identify Petitioner Moore in a six-pack line-up, just a few hours before the search of Mr. Moore's residence/bedroom when Items 26, 26A and 26B were purportedly discovered and there was no other physical evidence tying Mr. Moore to the homicides in issue; and
 - h. That affiant was present with both Crimescene Expert Frank Rodgers and Rule 32 counsel in the home of former PPD Detective David Barnes at which former Det. Barnes described a similar planting of evidence by PPD Det. A. Ferneria (the PPD Detective who allegedly located and collected Items 26, 26A and 26B in the Yale Crackhouse homicides) in a later homicide case.
13. That the pattern of police conduct in this case leads affiant to believe that there is zero (0) credibility as to any of the physical evidence collected and/or purportedly collected by the police in the case at bar, and further confirms that Item 26A could not have been planted by any other entity, nor possibly discovered by police in Mr. Moore's bed;
14. That it is affiant's opinion that there is a definite pattern of police conduct in this case involving the planting, switching out/fabrication and destruction of evidence strongly suggesting an intentional effort to hide the truth which includes that police planted evidence in Petitioner's bed in an apparent effort to tie him to the crime, the switching out of cartridge casings by police to cover up that fact, and the

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destruction of apparent biological evidence that may have exonerated Petitioner Moore and/or used in his defense; and

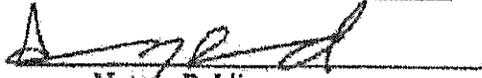
- 15. That affiant shall be available in the future to share the findings herein discussed, either to testify in open Court, to share them with the assigned State's attorney or even with former PPD Det. Sally Dillian, who previously testified in this case as to the condition of Item #45 at the time of its collection, which is now totally adverse to the condition of present day Item #45, which evidence is material to affiant's opinions herein expressed.

DATED this 21st day of May, 2018.



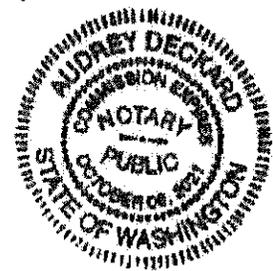
 RICHARD WATKINS

SUBSCRIBED AND SWORN to before me this 21st day of May, 2018.



 Notary Public

My Commission Expires: 10/6/2021



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Appendix L

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Petitioner's Exhibit #86

6th Supplemental Declaration of Crimescene Expert Frank Rodgers

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copy

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Attorney for Capital Defendant Julius Jarreau Moore

IN THE SUPERIOR COURT OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,) CASE NO.: CR1999-016742-001DT
Respondent/Plaintiff,) 6th SUPPLEMENTAL AFFIDAVIT
and) SUPPORTING POST CONVICTION
JULIUS JARREAU MOORE,) RELIEF IN CAPITAL PCR CASE
Petitioner/Defendant.)
(Assigned to:
*THE HONORABLE
SAM MYERS*)

STATE OF NORTH CAROLINA)
) ss.
County of Wake)

Frank J. Rodgers, being sworn upon his oath, does hereby depose and state that the following statements are true and within his own personal knowledge, information and belief, and are based upon affiant's training, education and 35+ years experience as a Crimscene Expert and Supervisor, as well as a former Asst. Director of the Phoenix Police Department Crime Lab and concern his additional work and consideration of both recent developments and the overall evidence in the present case:

1. That affiant was a resident of Maricopa County for 50 year who moved recently to North Carolina, and is an individual with

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additional particular knowledge and information regarding the present case, over and above that previously submitted in affiant's five (5) earlier affidavits which actually memorialized ongoing evidentiary discoveries as they were being made, as well as affiant's opinions related to said discoveries;

2. That as previously submitted, affiant worked as a Crimescene Technician and Supervisor for the Phoenix Police Department (PPD), as a Latent Print Examiner for the Phoenix Police Department Crime Lab for a total of thirty-five (35) years altogether, and ultimately was not only a Supervisor, yet an Assistant Director at the PPD Crime Lab itself prior to his retirement in 2001;
3. That as previously described in his earlier affidavits, part of affiant's duties as a Crimescene Supervisor working for the Phoenix Police Department involved affiant supervising the collection of physical evidence in homicide cases;
4. That as previously described in his earlier affidavits, with regard to affiant's duties as both a Supervisor and later as Assistant Director of the PPD Crime Lab, it was actually affiant's responsibility to supervise the forensic testing related activities of a number of scientists employed by said Crime Lab from the various forensic scientific disciplines;
5. That since affiant's retirement from the PPD Crime Lab in 2001, he has worked in the private sector for nearly twenty-seventeen (17) years, being retained by public and private attorneys in affiant's various professional capacities, testifying when necessary as an expert witness;
6. That affiant is still currently listed as a sub-contractor working as a Forensic Consultant for the Maricopa County Office of Public Defense Services;
7. That in the present case, affiant was retained by Petitioner Moore's Rule 32 defense team to review any and all

physical evidence related to the Yale Crackhouse triple homicide crime scene that occurred at 1808 E. Yale in Phoenix, Arizona on or about 11/16/99;

8. That affiant hereby incorporates by reference his earlier affidavits in the present case and confirms the opinions he expressed therein;
9. That affiant was recently asked by Rule 32 counsel if affiant may be able to summarize his opinions in the present case in order to assist retained legal expert Larry Hammond, who was working on a Supplemental Declaration related to both Petitioner's Actual Innocence and Police and Prosecutorial Misconduct claims;
10. That in response to Rule 32 counsel's request, affiant expressed for the first time that based on his earlier review of evidence as thoroughly discussed in his prior affidavits, that it was now affiant's firm opinion that police had actually *planted* evidence in Petitioner's bed on 11/20/99 in order to apparently tie him to the Yale Crackhouse homicides, and that the evidence planted included Items 26, 26A and 26B, which essentially was a large plastic ziplock bag (Item 26) containing both a cartridge casing (Item 26A) and projectile (Item 26B);
11. That affiant ultimately came to this opinion as the result of his consideration of a number of facts, including the following:
 - a. That original Item 26A, which had a definite and substantial dent in its side at the time of its collection on 11/20/99 as depicted in the related search warrant photo (Maricopa County Superior Court Exhibit #35/53 in CR1999-016742), is now *no longer the same item of evidence* as that originally collected because present day Item 26A (Maricopa County Superior Court Exhibit #73/83A in CR1999-016742) has no dent in its side whatsoever, and that the only entity which could have switched out said evidence was the police because Item

- 26A was in the exclusive possession, custody and control of the police until its admission at trial in the present case;
- b. That both Criminalist Richard Watkins as well as affiant have concluded that Item #66, a shell casing collected at Yale Crackhouse Crimescene on 11/16/99 actually had a highly similar dent in its side in the very same location at the time of its photographed collection, yet neither present day Item 26A, nor present day Item 66 have any dents whatsoever;
 - c. That both affiant, as well as Criminalist Richard Watkins, have found that multiple shell casings in the present case have been switched out or destroyed for the purposes of the present case, including Item #45, a shell casing that had been run over by a vehicle at the time of the Yale Crackhouse Homicides which was specifically described in trial testimony by former PPD Detective Sally Dillian as being compressed and/or crushed and having other damage, when, in fact present day Item #45 no longer has any damage whatsoever, leading affiant to believe that it is highly likely that all of the shell casings in the case at bar were actually switched out by police, and basically destroyed for the purposes of this case;
 - d. That the only logical explanation for such an occurrence would be that police had to switch out all of the shell casings in the case at bar after having to replace Item #66 due to the fact that it was planted in Petitioner's bed on 11/20/99, because any replacement shell casing would not have matched the other shell casings, especially given the fact that no firearm was ever recovered related the present case until three (3) days later on 11/23/99;
 - e. That other highly material evidence bearing on Petitioner's innocence claim was also destroyed, including apparent blood the on tip of Item #22 (a knife found by the foot of victim Sergio Mata), which was never tested, yet which police not only withdrew their request to test for DNA on the morning of 12/15/99 (within 30 days of the Yale Crackhouse homicides), yet within four (4) hours after withdrawing the testing request called back to specifically ask that the evidence not be preserved, with it later being

discovered during Court ordered post conviction DNA testing that the evidence had, in fact, been destroyed while in the exclusive possession, custody and control by police;

- f. That affiant also previously found that evidence related protocols were not followed with regard to Item #26A (ie. Police claimed to have found Items 26, 26A and 26B *under* bed spread, yet the evidence was purportedly "moved" from that purported location to the top of the bedspread where it was photographed;
 - g. That affiant has reviewed both the taped interview of the State's only eyewitness D. Ford which occurred at 4:00pm on 11/20/99 in which Ms. Ford was unable to identify Petitioner Moore in a six-pack line-up, just a few hours before the search of Mr. Moore's residence/bedroom when Items 26, 26A and 26B were purportedly discovered and there was no other physical evidence tying Mr. Moore to the homicides in issue; and
 - h. That affiant was present with both Criminalist Richard Watkins and Rule 32 counsel in the home of former PPD Detective David Barnes at which former Det. Barnes described a similar planting of evidence by PPD Det. A. Femenia (the PPD Detective who allegedly located and collected Items 26, 26A and 26B in the Yale Crackhouse homicides) in a later homicide case.
12. That the pattern of police conduct in this case leads affiant to believe that there is zero (0) credibility as to any of the physical evidence in the case at bar, and further confirms that Item 26A could not have been planted by any other entity;
 13. That it is affiant's opinion that there is a definite pattern related to the evidence in this case concerning the planting, fabrication/switching out and destruction of physical evidence; and
 14. That affiant shall be available in the future to share the findings herein discussed, either to testify in open Court, to share

Item #45, which evidence is material to affiant's opinions herein expressed.

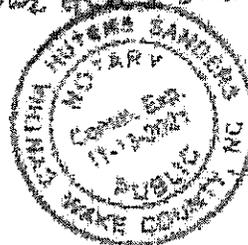
DATED this 14 day of May, 2018.


FRANK J. RODGERS ASST. DIRECTOR
OF PHOENIX POLICE DEPT. (RETIRED)

SUBSCRIBED AND SWORN to before me this 14 day of May, 2018.


Notary Public *Capitola H. ...*

My Commission Expires: 11-13-21



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Appendix M

498a

Petitioner's Exhibit #32
Affidavit of J. Canby, Esq.

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 Az. Bar #014756 PCC #64767
 Attorney for Capital Defendant Julius Jarreau Moore

**IN THE SUPERIOR COURT OF ARIZONA
 IN AND FOR THE COUNTY OF PIMA**

	)	CASE NO.: CR1999-016742-001DT
STATE OF ARIZONA,)	
	)	AFFIDAVIT SUPPORTING
Respondent/Plaintiff,	)	POST CONVICTION RELIEF
and	)	CAPITAL RULE 32 CASE
)	
JULIUS JARREAU MOORE,	)	(Assigned to:
	)	THE HONORABLE
Petitioner/Defendant.	)	JOSEPH WELTY)
_____)	

STATE OF ARIZONA)
) ss.
 County of Maricopa)

Mr. John Canby, Esq., being sworn upon his oath, does hereby depose and state that the following statements are true and within his own personal knowledge, information and belief:

1. That affiant was the Court appointed lead counsel for Petitioner Julius Jarreau Moore in the above referenced case, and served in such capacity from approximately late November, 1999 through both Petitioner's guilt phase trial in 2001, as well as his aggravation/penalty phase trials in 2004 and 2007;
2. That at the time affiant was appointed in such capacity, he was actually *not* qualified to represent Petitioner under applicable ABA Guidelines because affiant had never served as even 2nd chair defense counsel in a capital trial

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previously; serving only as 2nd chair defense counsel in one capital case that was dismissed before trial, and as 2nd chair defense counsel in a second capital case that pled out before trial;

3. That although affiant questioned his appointment as lead counsel with his then supervisor at the Maricopa County Legal Defender's Office, Bob Briney, Esq., he was assured that although affiant was lead counsel for Petitioner's case, that an experienced capital attorney would be appointed to serve as second chair counsel;
4. That although affiant was named lead counsel, he usually deferred to the judgment of 2nd chair counsel, even if such judgment was not sound;
5. That at the time affiant served as lead counsel in Petitioner's case, he was actually assigned 40 other felony cases for which he was "putting out fires" on a daily basis, leaving him little time to work on Petitioner's case;
6. That the foregoing case load did not change throughout Petitioner's case, and only subsequently changed after Petitioner's 2007 penalty phase, when affiant approached his supervisor as the result of the outcome of Petitioner's case about lessening his case load;
7. That as the direct result of the foregoing, affiant failed to properly investigate the present case as required by applicable law in *Strickland v. Washington*, and did not even conduct the required initial investigation to determine whether further investigation was warranted;
8. That as the result of the foregoing, and being ill advised by 2nd chair counsel, affiant actually improperly asked the State's only eyewitness in this case (ie. Deborah Ford) an improper question during deposition regarding her inability to identify Petitioner as the assailant, when said eye witness

had been unable to previously identify Petitioner as the assailant in multiple line-ups;

9. That at the time of the referenced deposition, as the result of affiant improperly opening the door for said eye witness identification, it is affiant's belief that the prosecutor assigned to the case (Bill Clayton) improperly questioned Ms. Ford, conducting an overly suggestive identification process or procedure at the deposition itself, to enable the witness to identify Petitioner as the assailant;
10. That it is noteworthy that former prosecutor Clayton was not only known during the pendency of Petitioner's case to have become overly or unusually close to Ms. Ford's family (including her half brother and children), yet that he carried a *personal* vendetta against affiant regarding affiant's suggestion during *Dessureault* proceedings that the former prosecutor's conduct at Ms. Ford's deposition amounted to witness tampering;
11. That as the result of affiant's failure to properly investigate, the former defense team subsequently failed to put on a proper defense at Petitioner Moore's 2001 guilt phase trial, *effectively pleading Petitioner guilty* to the charges without Mr. Moore giving a knowing, intelligent and voluntary consent, putting on *no* defense witnesses and merely cross examining the State's witnesses in order to frontload mitigation related to the former counsels' drug induced rage theory;
12. That following Petitioner's guilt phase trial at which he was found guilty of all charges, affiant recalls that he spoke to Petitioner about being able to obtain a life sentence related plea prior to sentencing, with Petitioner merely having to admit his responsibility in this case, yet Petitioner, who was generally very easy going, became very upset, and refused to do so, insisting that he was actually innocent of the crimes alleged and for which affiant and the defense team allowed Petitioner to be convicted;

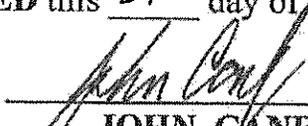
13. That on a second occasion prior to the commencement of Petitioner's 2004 aggravation and penalty phases of trial, affiant spoke to Petitioner again about admitting his guilt and showing remorse for the homicides (and related charges) in order for Petitioner to have (in affiant's mind) an opportunity to obtain life sentences, yet Petitioner once again refused to do so, insisting that he was innocent, and requested that he be given a polygraph examination to prove it;
14. That the defense team subsequently engaged former Phoenix Police Department Officer/Detective and certified Polygraph Examiner Tom Ezell to conduct such an examination believing that Petitioner would fail the polygraph and be forced to admit responsibility and show remorse, yet Petitioner actually *passed* the polygraph which included tough questions about his innocence as to the homicides and previously conveyed alibi;
15. That although the 2004 penalty phase of trial proceeded with Petitioner being found guilty of only one aggravator as to multiple homicides (with the jury hanging as to the murder of victim Delia Ramos being excessively cruel, heinous or depraved), a mistrial was requested by 2nd chair counsel Dennis Jones with affiant's consent, even though it definitely appeared to affiant that the 2004 penalty phase jury was favorable to a life sentence;
16. That subsequent to the mistrial, the former defense team actually gathered the affidavits of the 2004 penalty jury which confirmed that at the time of the mistrial, several jurors favored showing Petitioner leniency and giving him a life sentence;
17. That the juror affidavits were gathered by the former defense team in an attempt to convince the State to drop the death penalty from the case for the subsequent penalty phase retrial;

18. That applicable Arizona law at the time of Petitioner's case actually provided that two (2) hung juries as to the penalty to be imposed precluded giving a capital defendant a death sentence;
19. That although co-counsel Dennis Jones, Esq., handled the presentation of mitigation evidence in Petitioner's case, affiant, as lead counsel, had primary responsibility over Petitioner's case at the 2007 penalty phase trial;
20. That despite the fact that the training and experience that affiant has had to date strongly requires that capital defense counsel *change* the presentation of the defense case in chief at a subsequent penalty phase trial, the 2007 penalty phase evidence was the same as that presented in the 2004 penalty phase.
21. That affiant has reviewed materials provided by Rule 32 counsel substantially showing that Petitioner may have been actually innocent;
22. That although affiant acknowledges that competent capital defense counsel should always be aware of and looking for any and all evidence in a particular capital case suggesting a third party culpability defense, that in the present case, *no adequate investigation was ever actually conducted* to find the readily available evidence supporting a third party culpability theory as to the original suspect, Tony Lamont Brown;
23. That had affiant discovered the evidence now in the possession of the Rule 32 defense team concerning the culpability of original suspect Brown, that affiant would have put on a third party culpability defense at the time of Petitioner's 2001 guilt phase trial;
24. That as the result of affiant not properly investigating and presenting the referenced third party culpability defense,

Petitioner's case was further compromised because affiant unable to properly put on a misidentification and alibi defense at his guilt phase trial, nor an *Enmund/Tison* related defense at the penalty phase regarding the original suspect Tony Brown being the actual perpetrator of the homicides;

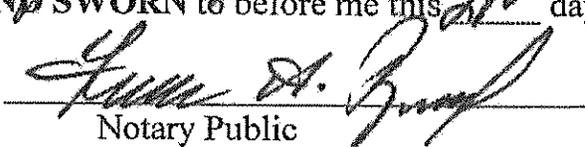
25. That also as the result of affiant not properly investigating and presenting the referenced third party culpability defense, Petitioner was unable to offer in evidence at the penalty phases of trial the results of Petitioner's polygraph examination which were admissible under both ARS Sec. 13-752 (G) as well as applicable 9th Circuit authority;
26. That it is noteworthy that affiant has been further advised of a number of character witnesses the Rule 32 defense team has also discovered who would have testified in Petitioner's defense regarding his good character and non-violent nature; and
27. That had affiant properly investigated and found said character witnesses during the pendency of Petitioner's capital case, they could have been used in support of not only his third party culpability defense at his guilt phase trial, yet could have been presented at Petitioner's 2004 and 2007 penalty phase trials in keeping with the United States Supreme Court's holding in *North Carolina v. Woodson* allowing evidence of a capital defendant's character.

DATED this 21st day of November, 2013.



JOHN CANBY, ESQ.

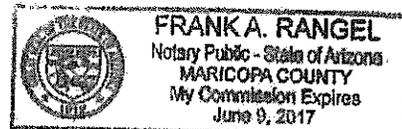
SUBSCRIBED AND SWORN to before me this 21st day of November, 2013.



Notary Public

My Commission Expires:

JUNE 19, 2017



Appendix N

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Petitioner's Exhibit #44
Affidavit of Capital Representation
Legal Expert Larry Hammond

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DECLARATION OF LARRY A. HAMMOND

I, Larry A. Hammond, declare as follows:

1. I have been asked to review materials in connection with the capital post-conviction proceeding in *Arizona v. Julius Jarreau Moore*, Case No. CR-1999-016742-001DT, and to provide this Declaration. At the request of post-conviction relief counsel, I have undertaken to serve as a consultant and as an expert on issues relating to the effective assistance of trial and appellate counsel in Mr. Moore's case.

2. I am being compensated at the rate of \$300.00 per hour. My current hourly rate for criminal defense-related work is \$650 per hour. My background is briefly summarized below. A copy of my CV is attached.

3. I am a member of the law firm of Osborn Maledon, P.A. I am a member of the Bars of the States of Arizona (1975) and California (1971; inactive). I am a graduate of the University of Texas School of Law (1970).

4. After graduation, I served as a law clerk to the Honorable Carl McGowan on the United States Court of Appeals for the D.C. Circuit in 1970-71. For the next two years I served as a law clerk at the United States Supreme Court, first, as the last clerk for Justice Hugo L. Black and then as the first law clerk for his successor on that Court, Justice Lewis F. Powell. In 1973 and 1974, I served as an Assistant Watergate Special Prosecutor. In 1974, I began practicing in Arizona with the law firm now known as Osborn Maledon.

5. During the Administration of President Jimmy Carter, I served as First Deputy Assistant Attorney General in the Office of Legal Counsel (OLC) at the Department of Justice (1977-1980). Both as a Supreme Court law clerk and as a Deputy at OLC, I undertook responsibilities with respect to death penalty-related matters.

6. In 1981, I rejoined my Arizona law firm. From 1981 to the present, I have practiced criminal defense law. Although the law firm's practice focuses primarily on civil litigation and commercial law, I and other lawyers in the firm have engaged in death penalty work, including direct representation and policy-related work in that field. I have spent at least some portion of my time every year on capital cases. I have been involved in capital litigation at every stage, including trial, sentencing, direct appeal, post-conviction review, federal habeas corpus, and clemency. I have been personally involved in every capital case in which lawyers in this firm have been engaged.

7. I have tried to verdict two Arizona capital cases and recently concluded a six-month involvement in a case in Yavapai County, Arizona, that began as a capital case but in which the prosecution elected to remove the death penalty as a possible penalty at the end of a one-month jury selection *voir dire*.

8. I have also served as trial counsel in eight federal death penalty cases, two in New Mexico, one in Nevada, four in the District of Arizona, and one in the District of Southern California. In these cases, I was appointed as lead counsel pursuant to 18 U.S.C. § 3005's requirement that each defendant be assigned two attorneys, one of whom is deemed to be "learned in the law applicable to capital cases." These cases occurred

between 1995 and 2007, and all were resolved short of trial, either by way of plea or by dismissal. One case resulted in trial on charges that were not death eligible.

9. Within the last 19 years, I and other lawyers at Osborn Maledon have consulted frequently with indigent defense offices in Arizona on death penalty-related matters. As may be relevant to this particular post-conviction proceeding, in the mid-1990s, I served as co-counsel in connection with two capital cases assigned to the Office of the Maricopa County Legal Defender (OLD), *State v. Pape* and *State v. Pilipow*. Both cases required extensive development of mitigation and mental condition information, and both resulted in pleas to non-death penalty charges. In both cases, we worked extensively with lawyers and fact and mitigation investigators in that Office.

10. Since 1998, I have served as lead counsel in the federal capital habeas corpus proceeding arising from an Arizona capital conviction (*Atwood v. Ryan*, Case No. CIV96-116 TUC JCC).

11. In approximately 1989, I participated in the founding of the Arizona Capital Representation Project, and I have served as a Board member and/or officer of that organization since its inception. The Project has been involved, at one stage or another, in assisting virtually every member of Arizona's death row population. Congress defunded all capital resource centers in 1996, but since that time the Project's activities have continued and the Project remains a resource in all phases of capital litigation. The Project is and was a repository of information and assistance available to death penalty defense lawyers in all of the years relevant to Mr. Moore's trial, sentencings and appeal.

12. In approximately 1994, I was asked to serve as the Chair of the Arizona State Bar's Indigent Defense Task Force (IDTF), and I have continued in that position since that time. The IDTF has been engaged in the development of rules promulgated by the Arizona Supreme Court dealing with capital defense funding and indigent defense funding generally. The IDTF has also been involved in developing and testifying in support of, or in opposition to, legislative proposals dealing with the funding of capital defense in Arizona. The Task Force participated in the development of legislation creating the standards for the appointment of counsel and for the funding of representation at the state post-conviction stage in capital cases. Among the most important undertakings of this Task Force has been the successful effort to secure an amendment to Rule 6.8 of the Arizona Rules of Criminal Procedure to require lawyers in capital cases to be guided by the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases.

13. For several years, I also served on the Arizona Supreme Court's Committee for the Appointment of Counsel to represent death row inmates at the State post-conviction relief stage. I participated in the drafting, review and ultimate establishment of the rules governing the appointment of death penalty counsel under A.R.S. §13-4041.

14. I have co-authored several articles that have appeared in the *Arizona Attorney Magazine* relating to the funding of capital defense, and I have spoken and participated in numerous seminars and programs on this subject. As an adjunct member of the ASU College of Law faculty, I team-taught the Death Penalty course in the spring

of 2002. During the 2003-04 and 2006-07 school years, I team-taught a 4-hour credit seminar at ASU on the causes of wrongful convictions in Arizona and nationally. Included in the curriculum was the study of ineffective assistance of defense counsel. In the fall of 2008, I taught a course entitled "Criminal Justice Failures and Reforms" at Elen University School of Law in Greensboro, North Carolina. A significant element of this course was the history of the law and practical realities of systems of indigent defense in capital cases.

15. For the last 16 years, I have served as the Chair of The Justice Project of Arizona Attorneys for Criminal Justice, and in that capacity I have been involved in the evaluation of hundreds of cases alleging ineffective assistance of counsel at trial and sentencing in non-capital cases. The U.S. Supreme Court recently ruled in favor of one of the Justice Project's federal habeas corpus cases, *Martinez v. Ryan*, 132 S.Ct. 1309 (2012), in which the Court held that the ineffective assistance of counsel at the post-conviction stage could constitute good cause to excuse a procedural default.

16. I also served on the team of Osborn Maledon lawyers who litigated *Ring v. Arizona*, 536 U.S. 584 (2002). Both before and after the *Ring* decision, I have consulted often with defense counsel on issues relating to the effective assistance of counsel in connection with the penalty phase of capital cases.

17. I testified in October 2002, as an expert witness on ineffective assistance of counsel in a post-conviction relief proceeding in *Lacy v. Arizona*, Case No. CR 1995-000713. In that case, the Maricopa County Superior Court reversed a homicide and

assault conviction based in part on ineffective assistance of defense counsel. I have also testified and served as an expert in the capital post-conviction proceedings in *Arizona v. Kayer*, CR 94-0694, in the Superior Court of Yavapai County, and as an expert in the post-conviction proceeding in *Arizona v. Murdaugh*, Case No. CR 1995-006472, in the Superior Court of Maricopa County. In the last year, I have testified in *Arizona v. Hampton*, Case No. CR 2001-008991, and *Arizona v. Andriano*, Case No. CR 2000-096032-A. In December 2010, I testified as an expert witness in a post-conviction proceeding in Connecticut State Court, in *State v. Wargo*, 53 Conn.App. 747, 731 A.2d 768 (1999).

18. I have testified as a standard of care expert in the federal death penalty case of *United States v. Brandon Basham*, No. 02-cr-992-JFA (D.S.C.), and have also provided a declaration in *United States v. Carlos Caro*, Case No. 06-cr-0001-JPJ (W.D.V.A.).

19. At present, I am serving as a death penalty defense standard of care expert in five post-conviction cases, four in Arizona and one in Colorado. In June of this year, I was appointed as Associate Counsel qualified under Rule 6.8 to participate in the representation of Stephen Parker. *Arizona v. Parker*, Case No. CR2006-12786-001 DT.

20. I have summarized my experience in death penalty work in some detail because I believe that experience to be relevant to my opinions with respect to the constitutional effectiveness of counsel afforded Julius Jarreau Moore in this case. In some respects, my observations and conclusions in Mr. Moore's cases are significantly

informed by my experience as a practitioner, as a teacher of death penalty courses, and as a member of organizations committed to indigent defense over the last more than 25 years.

21. My opinions discussed below fall into three areas. First, it is my opinion that Mr. Moore did not have constitutionally effective representation in connection with the guilt/innocence phase of his trial. In large measure, defense counsel and the team appointed to assist in Mr. Moore's representation failed adequately to conduct a constitutionally appropriate investigation of the facts and circumstances relevant to the guilt/innocence phase of this case. Second, the defense team did not provide constitutionally effective assistance in connect with the penalty/mitigation phase of Mr. Moore's case. Third, counsel on direct appeal was constitutionally ineffective in failing to challenge the trial court's jury instruction on reasonable doubt.

22. Thorough investigation of both the offense and the alleged offender has been the primary touchstone of criminal representation long before death penalty-specific Guidelines came into existence. The American Bar Association's (ABA) Standards for Criminal Justice (2d Edition 1980) described the central prevailing norm: "It is the duty of the lawyer to conduct a prompt investigation of the circumstances of the case and to explore all avenues leading to facts relevant to the merits of the case and the penalty in the event of conviction." Standard 4.4-1 of the Defense Function. That duty has been seen as foundational to noncapital as well as to capital cases. In each of the revisions of the ABA Guidelines addressing death penalty representation specifically, that dual duty

has been the central starting point for describing the function of defense counsel. Investigation of the offense and the offender became the unquestioned starting point for defense counsel when the 1989 Guidelines were published. Those Guidelines and significant supplemental materials were available to counsel at the time of Mr. Moore's indictment in 1999. The fundamental importance of investigation of the offense and the alleged offender continued to be repeatedly emphasized at virtually every training seminar and in virtually all of the published literature on death penalty defense. From the original founding of the Arizona Capital Representation Project in 1989 the importance of thorough investigation has been emphasized.

23. This point cannot be overstated. The 2003 ABA Guidelines, which reflected norms in place well before 2003, were drafted to emphasize performance standards for defense counsel. Any lawyer or capital defense team member undertaking death penalty litigation could not help but become familiar with these Guidelines. The duty to undertake a thorough fact and mitigation investigation was well known long before 1999 when Mr. Moore was charged. Guideline 10.7, which summarizes the then existing performance obligations of death penalty defense counsel, outlines in the clearest of terms the signal and foundational importance of thorough investigation. Much of the content of that Guideline is a repetition of duties clearly spelled out in Paragraph 11.4.1 of the earlier 1989 Guidelines.

24. Long before Mr. Moore's 2001 trial and the penalty phase proceedings in 2004 and 2007 the duty fully to investigate all mitigation-related information, including

undertaking a complete social and family history as well as gaining a complete understanding of the accused's mental health history was also well understood. These Guidelines have been cited and relied on by the Supreme Court and by courts in every Circuit in now well over 100 reported decisions.

25. Mr. Moore was an 18-year old indigent male. His case was assigned to the Office of the Legal Defender (OLD) after it became known that the principal Public Defender's Office was unavailable for conflict reasons. Messrs. John Canby and Dennis Jones were appointed by OLD to represent Mr. Moore. That Office had available to it at that time fact and mitigation investigation resources. A thorough fact and mitigation investigation should have begun immediately. We now know from the record in this case and from the Affidavits of lead counsel, John Canby, and Mitigation Specialist, Lisa Bolinger, that it did not.

26. I will address first my concerns with respect to the constitutional adequacy of the guilt/innocence representation the Office afforded to Mr. Moore. These concerns fall into four general categories:

- (1) failure to investigate and present at trial evidence of third-party culpability;
- (2) failure to properly challenge the State's reliance on patently flawed eyewitness testimony;
- (3) failure to investigate and present an alibi defense; and
- (4) failure to investigate and present evidence of Mr. Moore's good character.

27. I have reviewed the affidavit of Mr. Moore's lead defense counsel, Mr. John Canby. I have known Mr. Canby for many years. I have a high regard for his integrity and for his skill as a criminal defense lawyer. I was surprised when first contacted about this case, however, to learn that Mr. Canby had been assigned as lead counsel in Mr. Moore's case in 1999. While he is highly experienced today, I doubted whether he was qualified by experience and training to serve as lead counsel in a death penalty case at that time. His affidavit confirms my concern.

28. I also knew from my association with that Office and from the work of the Arizona Capital Representation Project and the State Bar's Indigent Defense Task Force that members of this Office were burdened with heavy workloads that could impede the ability of death penalty lawyers to devote the time and resources necessary to a thorough investigation. Workload demands have too often impeded proper representation in capital cases. The ABA Guidelines speak directly to this issue: caseloads must be limited to levels that will assure that each client receives "high quality legal representation." Guideline 10.3. This Guideline addresses a foundational principle that has long been central to death penalty representation. See, e.g., 1989 ABA Guideline 6.1.

29. I have now seen Mr. Canby's felony case list from the relevant time periods. It is evident to me that one reason that should help explain the inadequacy of the defense investigation is the burdensome caseload of lead counsel. Not only was he not qualified by training and experience in 1999, 2001 and 2004 to serve as lead counsel, he lacked the time necessary to do even a minimally competent job.

30. This is a case that called out for a thorough investigation of the facts. As noted above, every criminal case—and certainly every death penalty case—should be carefully investigated. Because there were multiple homicides and multiple victims in this case, it was evident from the outset that the prosecution would seek the death penalty. It must also have been clear from the beginning that the State's case would be complicated by the fact that the principal eyewitness was herself badly injured and had a limited opportunity to observe and had failed to identify Mr. Moore.

31. I have seen no reason that would have warranted a failure of the defense team to conduct a thorough investigation. There are cases in which the defendant himself makes clear to his attorneys that fact investigation might be fruitless, but this was certainly not one of those cases. Hypothetically, even if there had been some expressed desire by the accused that a thorough investigation not be conducted, that request could not have justified a failure to investigate. Again, the Guidelines have long made clear that even in cases in which a client does not wish to have counsel conduct a thorough investigation, the defense team must proceed to investigate. Whether defense counsel and members of their team in any capital case may think or feel that the accused had committed the acts charged, a thorough investigation is necessary. E.g., Guideline 10.7(A).

32. Several specific areas of investigation appear to have been ignored. The defense team's first concern should have been to attempt to identify and communicate

with relevant witnesses. There is little evidence that this was done here, and Mr. Canby now concedes as much.

33. Third-party culpability is certainly an obvious area of necessary investigation. From the outset, it appears that there was a second male whose appearance was in many ways similar to Mr. Moore's and who would have had a motive to testify falsely about the events surrounding the crime. Tony Brown was certainly present at or near the crime scene. He wore a distinctive Dallas Cowboys cap or beanie mentioned by more than one of the critically important witnesses. As explained in post-conviction counsel's Memorandum, that cap was a prominent part of the identifications in this case. Post-conviction investigation has now underscored that Mr. Brown was seen as a suspect by law enforcement at the beginning of the case, and it is also clear now that Mr. Brown had motives that would make him a very likely culpable third party.

34. Third-party culpability is a particularly important aspect of fact investigation for a reason sometimes overlooked by defense counsel. The law with respect to the admissibility of evidence of third-party responsibility has developed in recent years in ways that are quite important to the accused's defense. Courts in recent years have come to recognize the importance of the due process constitutional right of the accused to present a defense. Barriers imposed by state rules of evidence that oftentimes preclude the presentation of evidence have been relaxed in recent years in recognition of the importance of allowing a jury to hear information that may have a reasonable

foundation and could be exculpatory. Evidence and testimony that might otherwise be excluded as hearsay may very well be admissible in support of third-party culpability.

35. A second key ingredient to a thorough fact investigation is the pursuit of physical evidence. In this case, it should have been apparent from the outset that physical evidence would be critical. The doubtfulness of the eyewitness evidence, the absence of any admission of guilt, and the fact that there were multiple victims, were all evident from the beginning of the defense's handling of the case. By 1999, DNA technology had become well known. While the methods of DNA testing would evolve in future years, this method of comparison was generally regarded as reliable. The RFLP technology had already been deemed admissible in Arizona courts. Exonerations arising from DNA evidence had become known and were widely publicized. There is no reason why the collection, preservation and testing of all items of physical evidence should not have been deemed paramount.

36. I have reviewed the report of the forensic analyst from Bode Technology group, Michelle Donohue. The exclusion of Mr. Moore as a contributor to DNA on the weapon and the holster would have been important information for the jury. While no other conclusive inclusions or exclusions could be made using the STR technology available in 2013 and 2014, there may now be no way to know whether samples that might have been obtained and properly tested in 1999 could have yielded reliable evidence. The possibility that samples could have degraded over the last 14 years, or that

the items of evidence may have been handled in ways that might have masked or complicated the analysis, certainly exists.

37. In this connection, the knife discussed in Petitioner's Memorandum is particularly troubling. There is now little doubt that the tip of the knife at one time contained a discolored end consistent with blood. Today the knife is clean and DNA has not been obtainable. This simply would not have been possible had defense counsel conducted a proper investigation and undertaken the examination and testing of physical evidence in 1999 and 2000. I have reviewed the affidavit of former medical examiner, Dr. Archislaus Mosley. It is reasonable to conclude that the blood on the knife could have led directly to the assailant. If there was a defensive wound inflicted by this knife, we might know today the identity of the attacker. There is no tactical or strategic reason why the defense would have failed to want to examine that knife and to test it for fingerprints and biological material.

38. A third area of concern involves the lack of investigation of Mr. Moore's exact whereabouts at the time of the homicides. I can see no reason why the defense would not, at the least, have thoroughly investigated the question whether an alibi defense was available. There are at least two components of the alibi issue in this case that seem obvious. The first question requires some careful consideration of the time of the shootings. Establishing a reliable indication of the time of death of the victims, and the time of the shooting of Debra Ford, would have been important to laying the proper foundation for Mr. Moore's whereabouts. Defense counsel should routinely undertake to

confirm the likely time of death. The State and the defense seem to have assumed that the shootings occurred at around 4:00 a.m. Given what PCR counsel and his investigators have determined about the absence of Mr. Moore from the area of the shootings and the likely presence of Tony Brown, the relevance of reconfirming the timeline is apparent. I can see no strategic or tactical reason for the defense not to have investigated these circumstances as PCR counsel has done today.

39. As noted above, we also now know that Mr. Moore had long maintained that he was not present at the time of the shooting and could account for his presence elsewhere. When a polygraph was administered to Mr. Moore after the verdict and before the penalty phase, he confirmed again that he was not present at 1808 Yale Avenue at the time the shootings occurred. At least two witnesses could have confirmed he was at an apartment on Thomas and 52nd Street at the time of the shooting. As detailed in the Petition, other witnesses could also have confirmed these facts. There is little doubt that a reasonably thorough investigation would have revealed these witnesses and their relevant testimony. There could hardly be a better example to explain why the Commentary following ABA Guideline 10.7 so heavily emphasizes the duty to investigate. Finders of fact—whether jurors or the Court—want to know where the defendant was if he claims not to have been at the scene of the crime. The importance of this evidence should have been abundantly apparent to members of Mr. Moore's defense team.

40. All of this information becomes most obviously important when one considers the frailty of the eyewitness identification in this case. It was certainly apparent to Mr. Moore's defense team that Debra Ford - - the shooting victim who survived the shooting - - would be the central witness in the State's case. Ms. Ford was badly injured and certainly traumatized. Her opportunity to observe the assailant was compromised. To its credit, the defense team did attempt to challenge the admissibility of her identification of Mr. Moore. Given the crucial importance of this testimony, it is my opinion that defense counsel should have done more to educate the court and the jury about the high likelihood of misidentification in this case.

41. I have read the declaration of Dr. Deborah Davis. Her testimony—or the testimony of other experts in the field of eyewitness misidentification—would have been extremely important in this case. By 1999, it had become increasingly apparent that the number one cause of wrongful convictions was faulty eyewitness identification. Questions of memory, opportunity to observe, and the distorting effects of suggestive identification procedures were of obvious relevance here. A jury properly informed by an expert witness on these topics could hardly have retained confidence in Ms. Ford's in-court identification.

42. A fourth area of concern involves the investigation and presentation of good character evidence. Good character evidence must always be approached with caution. It is commonplace that the presentation of good character evidence "opens the door" to competing evidence of poor character. Competent counsel would necessarily

want to identify, develop and weigh the value of good character evidence against negative evidence—especially when the negative evidence might involve a seemingly extensive history of criminal activity. The key starting point inescapably is investigation. How good is the good? How bad is the bad?

43. Here we now know that neither defense counsel nor his investigators undertook any such investigation. Had they done so, they would have found much information to support the presentation of a good character defense. Possibly, the defense team was deterred from even beginning an investigation by the list of the client's prior arrests or by the very fact that the crimes occurred in a crack cocaine environment and by the client's admitted use of illegal substances as a juvenile. Jurors might be put off by these facts, but as became more than evident at the trial in 2001, the general environmental and neighborhood circumstances were going to become abundantly clear in any event. Jurors might have been surprised and pleased to learn that Julius Moore had virtually no violent criminal history. There is certainly a great deal of difference between substance abuse and multiple homicides.

44. All of this information about Julius Moore's family, acquaintances, and school history should have been foundational to the mitigation investigation in any event. All of that investigation should have been undertaken well before the trial. Stated differently, whatever any member of the defense team might have thought or assumed, a thorough family and social history should have been undertaken.

45. It is appropriate to address in the context the argument sometimes made in Arizona that in the years before the *Ring* decision defense teams did not begin to look at mitigation until after the verdict. To whatever extent this claim might be made, it should be understood that postponing the investigation of mitigating evidence was not the standard of care in the years before 2002. It may have been the habit or practice of some defense lawyers in this State, but I am unaware of any authority that would support the argument that it was within the standard of care to wait until verdict to begin understanding the client's life history. To the contrary, all of the available training and consulting available in the 1990s was to the contrary.

46. The affidavit of Mitigation Specialist, Lisa Bolinger, is particularly relevant and disturbing. It appears that in 1999 some in the Office of legal Defender may have operated on the flawed assumption that no life history or character investigation need be, or should be, undertaken until after the verdict. This notion, as noted above, is sometimes attributed to the fact that prior to the *Ring* decision in 2002 members of some defense teams may have thought that there was no need to commence mitigation investigation until after the jury finds the client guilty. There may be no better example than Mr. Moore's case to show why this approach is inconsistent with effective representation. Even a superficial appreciation of this young man's family and educational background would have revealed facts relevant both to the guilt/innocence and mitigation sides of the case.

47. Trial of any capital case must be approached with the entire case in mind. Mitigation themes must always be assessed at the same time that trial defense themes are evaluated. Especially in a case where, as has been suggested here, defense counsel had no confidence in a finding of not guilty, the "frontloading" of mitigation should have seemed entirely appropriate and necessary. I can identify no reason why that was not done in this case.

48. I believe that this topic is critical to an understanding of Mr. Moore's ineffective defense. A thorough investigation of the accused's personal history and his mental health is essential in death penalty litigation. It bears repeating that the investigation of the offense and the alleged offender has been a critical starting point for death penalty defense for several decades now. Long before charges were first filed against Mr. Moore, the norms of competent defense called for a reasonably complete and thorough investigation of the accused's background. As noted above, the first death penalty specific Guidelines were published by the American Bar Association in 1989. Those Guidelines reflected norms and basic standards for capital defense that had long called for a prompt investigation of penalty-related issues. Indeed, even the non-capital more general Standards for Criminal Justice published in 1980 firmly emphasized the central importance of investigation of circumstances personal to the accused that might lessen or explain the conduct charged.

49. One of the principal goals of the Arizona Capital Representation Project from its establishment in 1989 has been to attempt to assist lawyers handling capital cases

to understand the importance of developing mitigation evidence. The availability of the services of the Project and its staff attorneys was widely known in the Arizona capital defense community. In this State and throughout the United States in jurisdictions that had enacted death penalty laws, conferences were routinely held and materials developed to assist death penalty trial and post-conviction lawyers to conduct effective investigations of mitigating circumstances.

50. By the time of Mr. Moore's sentencing in 2004 and again in 2007, Arizona's public defense agencies, as well as those undertaking cases on a contract or court-appointed basis, had workshops, consultations and trainings available to aid them in approaching sentencing issues, including most prominently the importance of assessing the mental health of clients charged with death eligible offenses.

51. Apart from the issues related to the defense at trial in Mr. Moore's case, it is evident that the mitigation investigation and presentation fell well below the standard of care.

52. Part of the problem in this case, and most death penalty cases, is that defense counsel often lack the skill and experience necessary to develop appropriate relationships with the client, the client's family, acquaintances, and others. Lacking expertise, the employment of trained professionals to assist in establishing the necessary relationships and working to gain the trust of the client becomes all the more important. It is for this reason among others that the ABA Guidelines emphasize the importance of assembling a defense team possessing specialized expertise in mental health issues.

Building a relationship of trust between the client and members of the defense team is often a process that occurs over time.

53. For all of these reasons, the penalty phase aspects of Mr. Moore's case are particularly—possibly uniquely—problematic. As I have noted above, there is no acceptable reason for the failure to conduct a thorough mitigation investigation prior to Mr. Moore's 2001 trial. Whatever one may argue about the investigation conducted before the trial, however, there can be no explanation for the apparent failure to undertake any further investigation prior to either the 2004 post-*Ring* sentencing or the re-sentencing in 2007. Apart from efforts by defense counsel to persuade Mr. Moore to concede guilt, there appears to have been no additional work on Mr. Moore's case. The defense appears to have settled on the "drug-induced rage" rationale to explain the homicides. No investigator or mitigation specialist contacted family members, school teachers, neighbors or acquaintances. Even the most minimal investigation would have revealed an individual far different from the one portrayed by the prosecution in this case.

54. The results of the defense-administered polygraph in this case also raise important issues. I understand that the defense team may have agreed to administer the test in order to help convince their client that he had no actual innocence or alibi defense. Whatever the reasoning for doing the testing, the results must have been disturbing. The polygraph was administered by a polygrapher here in Arizona with significant experience and the highest reputation. I had worked with Mr. Tom Ezell and his firm on several occasions in the last decade or so of his practice before his death. It was widely known at

that time that Mr. Ewing's firm was most often used by law enforcement, that he provided training for law enforcement, that he was employing the latest and most carefully tested methods for avoiding inaccurate results, and that his reputation and qualifications as an expert were unquestioned.

55. Given these considerations, there is good reason to believe that the favorable polygraph results might have been deemed admissible had the testing been done prior to trial. Competent criminal defense counsel were aware that questions of admissibility of polygraphs were frequently debated and litigated. In neighboring New Mexico for example, polygraph results are admissible by statute under limited circumstances. Research at the University of Utah and elsewhere was showing that some forms of polygraph results were highly reliable—especially in cases showing negative responses to questions of guilt. Whether these results would have been admitted is a legal question for courts to answer, but at the least these polygraph findings should have sparked the defense team to want to reconsider its mitigation strategy. They may not have been admitted to support a residual doubt mitigation defense, but they certainly should have told the defense team that the drug-induced rage theme should have been abandoned and that a serious mitigation investigation should have been undertaken. There appears to be no evidence here that any further defense investigation occurred.

56. The absence of an understanding of Mr. Moore as a person may also help explain the failure of Mr. Moore's defense team fully to appreciate that Mr. Moore was suffering from Type I diabetes. I have reviewed the affidavit of Dr. Stephen Williams. It

appears that no one associated with the defense team had consulted a trained physician or health care professional about the triggers of diabetic reactions or their manifestations. There is now good reason to believe that at the time of Mr. Moore's 2001 trial he was incompetent to assist in his own defense, yet counsel may have been inattentive to that circumstance. He had been diagnosed many months before the homicides in 1999, so there is little possibility that the defense could have been ignorant of the problem. Nor is there any serious possibility that informed defense counsel could have believed that Mr. Moore was somehow "cured" of diabetes before the trial.

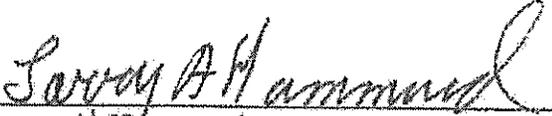
57. The recent memoir authored by Supreme Court Justice Sonia Sotomayor, entitled *My Beloved World*, provides poignant reminders of the lifelong risks of Type I diabetes. As her life story reveals, even though diagnosed as a child with this disease, even the most well educated people can have insulin reactions if appropriate diet is not observed. For Maricopa County pretrial detainees, who in those days required to be transferred to holding cells in the early morning and to go without appropriate diet during trial days, the risks are more than apparent. Dr. Williams' assessment of these facts leads me to conclude that Mr. Moore's defense counsel were constitutionally ineffective in failing to anticipate or recognize that their client was often not competent to assist in own defense and to appreciate events occurring in the course of the trial.

58. My last observation relates to the direct appeal in Mr. Moore's case. I have reviewed the Declaration of direct appeal counsel, Mr. David Goldberg. I concur fully in

his conclusion that the failure on appeal to challenge the reasonable doubt instruction given at the guilt/innocence trial in 2001 was error.

59. Arizona courts, along with courts across America, have struggled to develop appropriate instructions on the meaning of guilt beyond a reasonable doubt. Appellate counsel recognized and addressed this issue with respect to the aggravation phase of the case. There is no strategic or tactical reason that would justify his failure to challenge the same inadequate instruction given at the guilt/innocence phase of this case.

Declared under penalty of perjury this 14th day of August, 2014.

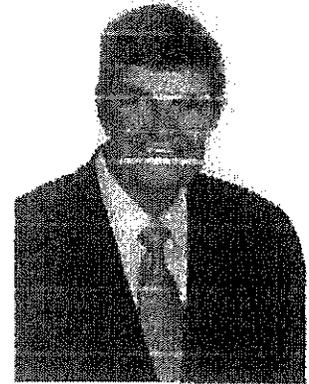

Larry A. Hammond



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Larry has spent over 30 years practicing in the private sector but regards his two tours with the Department of Justice as among his most satisfying professional experiences. He served as an Assistant Watergate Special Prosecutor in 1973-1974 and then returned to justice during the Carter Administration where he worked in the Office of Legal Counsel as the First Deputy Assistant Attorney General under both Attorneys General Griffin Bell and Ben Civiletti.



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Education

- J.D., University of Texas, 1970 *Texas Law Review*, Editor-in-Chief 1969-1970 Order of the Coif
- B.A., University of Texas, 1967

Bar Admissions

- Arizona, 1975
- California, 1971

U.S. Courts

- U.S. Court of Appeals, Tenth Circuit, 2004
- U.S. Court of Appeals, Ninth Circuit, 1984
- U.S. Court of Appeals, Sixth Circuit, 1984
- U.S. Supreme Court, 1977
- Arizona Supreme Court, 1975
- California Supreme Court, 1971

Clerkships

- U.S. Supreme Court Justice Lewis F. Powell, Jr., 1971 - 1973
- U.S. Supreme Court Justice Hugo L. Black, 1971
- U.S. Court of Appeals, District of Columbia Circuit Judge Carl McGowan, 1970 - 1971

Practice Areas

- Commercial Litigation
- Criminal Defense
- Internal and Governmental Investigations

Notable Publications

- *State ex rel. Nebelitano v. Gravano*, 204 Ariz. 108, 80 P.3d 243 (App. 2002)

Awards & Recognition

- Osborn Maledon Attorneys Named in Chambers Guide
Twelve attorneys in the Phoenix law firm Osborn Maledon, P.A. were selected as "Leaders in Their Field" for Chambers USA 2014 by Chambers and Partners, an international firm that ranks U.S. attorneys.
- Osborn Maledon Practice Groups and Attorneys Ranked as Tops in Chambers Guide
Three practice areas in the Phoenix law firm Osborn Maledon, P.A. received the highest possible ranking among Arizona law firms for the ninth year in a row in the 2013 ranking by the prestigious legal resource guide, Chambers USA.

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- Four Osborn Maledon Partners Named Lawyer of the Year
Best Lawyers, the oldest and most respected peer-review publication in the legal profession, has named four Osborn Maledon P.A. partners as 2013 Lawyers of the Year. Tom Curzon was recognized as "Phoenix Corporate Law Lawyer of the Year," Brett Dunkelmann was honored as "Phoenix Litigation-Patent Lawyer of the Year," Larry Hammond was selected "Phoenix Criminal Defense White-Collar Lawyer of the Year" and Bill Maledon was named "Phoenix Litigation-Trust Lawyer of the Year."
- 23 Osborn Maledon, P.A. Lawyers Named Best in National Publication
Twenty-three of the 51 attorneys in the Phoenix law firm of Osborn Maledon, P.A. have been singled out for national recognition in the new 2012 edition of Best Lawyers®, the oldest peer-review publication in the legal profession.
- Osborn Maledon, P.A. Attorneys Named to Super Lawyers List
Fourteen of the 49 attorneys at Osborn Maledon, P.A., a Phoenix law firm, have been named to the Southwest Super Lawyers 2014 list.
- Osborn Maledon, P.A. Practice Groups and Attorneys Ranked as Tops in Chambers Guide
Three practice areas in the Phoenix law firm of Osborn Maledon, P.A. received the highest possible ranking among Arizona law firms for the seventh year in a row in the 2011 ranking by the prestigious legal resource guide, Chambers USA.

Phoenix Best Lawyers®, Criminal Defense White-Collar Lawyer of the Year, 2013

Order of the Sarmatian for Public Service and Criminal Justice, University of Alabama School of Law, March 2011

The International Affic's Affic of Business Crime Defense Lawyers, 2011

Morris Dees Justice Award, 2010

Larry Hammond Endowed Criminal Law Scholarship at the James R. Rogers College of Law at the University of Arizona, established in 2006

Justice Award, The American Judicature Society, 2008

John Flynn Award, Arizona Attorneys for Criminal Justice, 2008

Maricopa County Hall of Fame, 2008

Distinguished Honorary Alumnus Award, University of Arizona Law School, May 2004

Judge Learned Hand Award for Community Service, Arizona Chapter of American Jewish Committee, March 2003

Arizona State Bar Foundation Walter E. Craig Award for Career Service, 2001

President's Commendation, Arizona Attorneys for Criminal Justice, January 1997 and 1999

Civil Libertarian of the Year, Arizona Civil Liberties Union, 1993-2000

Pro Bono Service Award, State Bar of Arizona, 1991

Exceptional Service Award, U.S. Justice Department, 1980

Federal Younger Lawyer of the Year, 1980

Chambers USA, America's Leading Lawyers for Business, Litigation White-Collar Crime & Government Investigations, 2004-2014

The Best Lawyers in America®, Appellate Law, Bet-the-Company Litigation, Commercial Litigation, White-Collar Criminal Defense, editions 1995-2014

Best of the Bar, Business Journal, Pro Bono, 2005

Southwest Super Lawyers, Top 50 Arizona Attorneys, 2007-2010, 2014

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Southwest Super Lawyers Criminal Defense White Collar 2007-2014

Arizona's Finest Lawyers

2007-2009

American College of Trial Lawyers Fellow 2011

American Judicature Society, President and member of Executive Committee 2003-2005 Board of Directors 1995-2007, Criminal Justice Reform Committee, Chair 1992-present

Arizona Attorneys for Criminal Justice Justice Project Chair 1996-present

American Bar Association Biological Evidence Task Force 2003-2005

American Bar Association Task Force on War Crimes in the Former Yugoslavia 1993-1995

Arizona Capital Representation Project of Directors 1966-present Vice President 1988-present

Arizona State Bar Association Indigent Defense Task Force 1995-present

Human Rights First Lawyer Steering Committee (formerly known as the Lawyers' Committee for Human Rights)

Elon University College of Law (Visiting Professor Advanced Criminal Procedure) 2008

Sandra Day O'Connor College of Law at Arizona State University (Adjunct Professor of Law Advanced Criminal Procedure Death Penalty Presidential Powers Advanced Civil Discovery and Ethics)

University of Arizona College of Law (Adjunct Professor of Law Presidential Powers) 1996

Arizona State University Undergraduate School (Guest Faculty Member Death Penalty Practicum re The Justice Project)

Birmingham City University, School of Law United Kingdom (Visiting Professor Center for American Legal Studies)

St. John's College Santa Fe New Mexico (Tutor Seventeenth Century Literature - 1983)

University of New Mexico School of Law (Trial Practice - 1983)

Publications

- Sentence Must be Fair Death-Penalty Defendants Need Competent Attorneys
The Arizona Republic May 12 2012
- Capital Case Crisis in Maricopa County Arizona A response from the Defense
Judicature March/April 2012
- Innocent Until Interrogated
Law Journal for Social Justice May 2 2011
- John Sears John L. Flynn Lifetime Achievement Award 2011
The Defender April 21 2011
- Why Should You Oppose the Death Penalty?
The Arizona Republic April 16 2011
- Opinion What Did Jeffrey Landman's Execution Teach Us About Respect?
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- Protecting Moscow from the Soviets - Book Review
Experience 2009

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• Napolitano will Defend State Death Penalty Law before Supreme Court
The Arizona Republic, April 21 2002

Opinion *Ariz. case to test rights of convicted in Supreme Court* The Arizona Republic October 4 2011

Viewpoint *The failure of forensic science reform in Arizona* Judicature May-June 2010

Scottmeyer's Newest Face in a Long Line of Heroes The Arizona Republic August 10 2009 (author)

Editorial for Judicature *Setting Forensic Science on a New Path* March-April 2009 (unsigned editorial co-authored with Dr. Barry Fisher of the Los Angeles County Crime Laboratory)

Counsel for The Indigent Accused in Death Penalty Cases The Defender (Winter 2006) co-author

Presentation. Speech to the Pima County Bar *The Landscape of Criminal Justice: Texas and Beyond* May 21 2004

Justice Project Editorial *Why Gideon Matterred to Hugo Black* The Champion January-February 2003 (reprinted in The Defender April 2003)

Editorial *Justice Project: 5 Year Report* The Defender January 2003

Editorial *Restoring Confidence in the Criminal Justice System* Judicature 2002 (unsigned)

Justice Project: Status Report and Update The Defender July 2002

Scrutiny a Must in Criminal Cases The Arizona Republic January 2002 (Co-author)

Capital Punishment in Arizona and The "New" Death Penalty Debate The Defender June 2001 (Co-author)

Popular Culture and The Death Penalty The Defender July 2000 (Co-author)

Aiding the Incarcerated Litigation Magazine, Winter 2000 (Co-author)

Aryan Brother's Legacy is safer prison system The Arizona Republic February 6 2000 (Co-author)

The Justice Project: Y2 OK! The Defender January 2000 (Co-author)

Worldwide Concern: We Should Offer Global Support to Those Fighting for Human Rights Anywhere Arizona Journal August 9, 1999 (Co-author)

Editorial on Felony Murder *Bad Law Needs Raising in for Sake of Fairness* Arizona Republic May 14 1999

May God Have Mercy. A True Story of Crime and Punishment Judicature November-December 1996

U.S. Has Everything to Gain From an International Criminal Court Nov. 9, 1998 Arizona Journal (reprinted in the Colorado Journal, Nevada Journal and Washington Journal)

Prisons Lack Commitment to Safety Arizona Republic April 12 1998 (Co-author)

Arizona's Ours in Indigent Capital Representation Arizona Attorney March 1996 (Co-author)

Observations on the Mock Impeachment Trial of Abraham Lincoln 40 Ariz. L. Rev. 351 (1998)

Editorial on Capital Execution *Jose Ceja Didn't Deserve to Die* Arizona Republic January 26 1996

New Rules, on Indigent Representations Arizona Attorney February 1997 (Co-author)

Appendix O

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Petitioner's Exhibit #48
Affidavit of Dr. Stephen Williams

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Az. Bar #014756 PCC #64767
Attorney for Capital Defendant Julius Jarreau Moore

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF PIMA

STATE OF ARIZONA,) CASE NO.: CR1999-016742-001DT
)
) Respondent/Plaintiff,)
and) AFFIDAVIT SUPPORTING
) POST CONVICTION RELIEF
) CAPITAL RULE 32 CASE
)
JULIUS JARREAU MOORE,) (Assigned to:
))
) Petitioner/Defendant.) **THE HONORABLE**
) **JOSEPH WELTY**
)
_____)

STATE OF ARIZONA)
) ss.
County of Maricopa)

Dr. Stephen W. Williams, being sworn upon his oath, does hereby depose and state that the following statements are true and within his own personal knowledge, information and belief:

1. That affiant is a Doctor of Osteopathic Medicine that is board certified in the area of family medicine through the American College of Osteopathic Family Practitioners;
2. That affiant graduated from the Oklahoma College of Osteopathic Medicine in 1987, and has a Bachelor of

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Science Degree in Biology through Arizona State University;

3. That affiant did his internship at Phoenix General Hospital in 1987-88, and has been practicing in the field of osteopathic medicine for the last twenty-six (26) years since July of 1988;
4. That over this twenty-six (26) year period of time, a large portion of affiant's medical practice has been with patients battling both Type I and Type II Diabetes, whereby it is a fair estimate that affiant has actually treated over 1000 patients since becoming a doctor related to their diabetic conditions which conditions have included some patients with severe ketoacidosis;
5. That the difference between Type 1 Diabetes and Type 2 Diabetes includes the following:
 - a. Type I Diabetes is juvenile onset and includes diminished pancreatic function; and
 - b. Type II Diabetes is usually adult onset due to obesity and generally includes an overactive pancreas and increased levels of insulin in its early stages, yet ultimately the pancreas may overproduce insulin to the point where it burns itself out and essentially becomes non-functioning.
6. That affiant has been retained by Petitioner Julius Jarreau Moore's Rule 32 defense team to review the issue of whether Mr. Moore may have been suffering from diabetic ketoacidosis during his 2001 guilt phase trial related to allegations that although he had been diagnosed with diabetes in 1998, the Maricopa County Jail withheld diabetes medication from him contemporaneous to his guilt phase trial and failed to properly feed him during said trial except for at 4:00 am before leaving the jail to attend trial at the Maricopa County Superior Court, and at 6:00 pm upon his return to jail;

7. That in considering this issue affiant has reviewed or consulted the following evidence:
 - a. Petitioner Moore's Maricopa County Jail Medical Records (1998-2007)
 - b. Petitioner Moore's Arizona Dept. of Corrections Medical Records (2007-2013)
 - c. Interview with Petitioner Julius Jarreau Moore and the members of his family that attended his 2001 guilt phase trial (Ms. Chalyce Moore, Ms. Damita Moore and Ms. TeHara Moore;
 - d. Interview of ADC Employee CO2 Courtney Molina who was the Browning Visitation Officer from 2012-14 during which time the prison *withheld* medications from death penalty inmates, including Petitioner's diabetes medication, following the overdose of a fellow death penalty inmate resulting in suicidal death (ie. Dale Hausner);
 - e. CD's of the 2001 guilt phase trial; and
 - f. 9/12/01 e-mail from Judge Cates describing Petitioner not being fed lunch during the guilt phase trial (due to no paperwork prior to trial that Petitioner was diabetic) despite prior promise by jail to feed Petitioner lunch, and expressing Judge Cates being upset because if had been aware of the issue before the 2001 trial (ie. Petitioner being diabetic and not being fed lunch) Judge Cates would have held a hearing regarding the subject.
8. That the review of Petitioner's jail and prison medical records resulted in the following information for affiant's consideration:

- a. That Petitioner Moore was diagnosed on June 9, 1999 by a Cigna Pediatrician with diabetic ketoacidosis, and Type I Diabetes;
 - b. That Petitioner Moore was then treated with insulin for one (1) year, and was subsequently put on a diabetic diet and prescribed oral diabetes medicine or hypoglycemic agents;
 - c. That six (6) months prior to his 2001 trial they stopped his oral diabetic medicine, his diabetic diet and stopped monitoring his blood sugars due to a mistaken idea that he was no longer diabetic because when monitoring his diabetes with a hemoglobin A1C testing it appeared that his diabetes was so well controlled, that it mistakenly appeared that he was no longer diabetic;
 - d. That this mistake was not discovered until December, 2001 when Petitioner Moore began to have problems with his vision, his blood sugar level was over 300 and ketones were found in his urine, at which time he was restarted on his diabetic diet, re-placed on oral diabetic medication and placed on a sliding scale of insulin if his blood sugar level exceeded 200; and
 - e. That except for a six (6) month period prior to the 2001 trial, and a two to three (2-3) month period afterward, Petitioner has been continually treated for diabetes from December, 2001 to present being prescribed medication for said treatment.
9. That diabetic ketoacidosis is a serious complication of diabetes that occurs when the body produces high levels of blood acids called "ketones";
 10. That diabetic ketoacidosis occurs when an individual's body is unable to produce enough insulin, with insulin playing a key role in helping blood sugar (which is a major source of energy for muscles and other tissues) to enter the cells of the body;

11. That without insulin an individual's body begins to breakdown fat as an alternative fuel, which process results in a buildup of toxic acids or "ketones" in the blood stream which eventually leads to diabetic ketoacidosis if it remains untreated;
12. That the symptoms of diabetic ketoacidosis include
 - a. Excessive thirst
 - b. Frequent urination
 - c. Nausea and vomiting
 - d. Abdominal pain
 - e. Weakness or fatigue
 - f. Shortness of breath
 - g. A fruity scented breath
 - h. Confusion
13. That diabetic ketoacidosis also causes high blood sugar and a high ketone level in an individual's urine;
14. That the key risk factors that would predispose an individual to suffer from diabetic ketoacidosis include:
 - a. Type I Diabetes
 - b. If an individual's age is less than 19 years old; and
 - c. Frequently missed insulin doses.
15. That it is noteworthy that each of the interviews described the following clinical information for affiant's consideration:
 - a. That after Petitioner Moore was mistakenly taken off of the diabetic medications, he actually lost 30 pounds contemporaneous to the withheld medications and the time of his trial reflecting that his body may have been burning a lot of fat rather than regular blood sugars because he did not have the necessary insulin for his body to absorb normal blood sugars from regular food intake;
 - b. That on the afternoons of Petitioner's 2001 guilt phase trial he would experience a fruity taste in his mouth, that he was

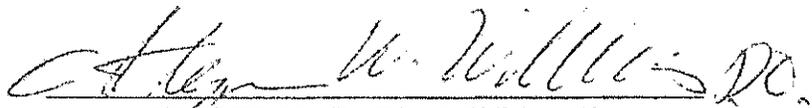
hungry, thirsty, had polyuria (ie. had to frequently urinate), was fatigued to the point of having difficulty keeping his head up, and would notice that during witness testimony in the afternoons of trial he was not cognizant of what was being said as although he would be aware of a particular witness taking the stand, he would experience a fast-forwarding to the end of their testimony without being able to describe what had been said during that testimony

- c. That those who observed him during trial described him as looking as if he had been drugged, lethargic, having trouble keeping his head up, fighting sleep and generally inattentive; and
 - d. That the interview with CO2 Molina described similar symptoms during the period in which Petitioner was not given diabetes medication (ie. tired, groggy, pale, talking slowly, eyes glassy with bags under eyes).
16. That a review of the CD's of Petitioner Moore's 2001 guilt phase trial yielded the following clinical observations:
- a. That in the afternoons of Petitioner's 2001 guilt phase trial his head was down at times (in sharp contrast to not having his head down at all during the morning trial sessions) and he was rubbing his eyes;
 - b. That Petitioner substantially decreased or stopped writing notes during the afternoon sessions of the proceedings;
 - c. That Petitioner stopped interacting with his attorney and his family sitting behind him during the afternoon sessions of the proceeding in sharp contrast to interaction with both counsel and family during the morning sessions, and
 - d. That Petitioner Moore even stopped physically reacting to very animated witness testimony in the afternoons suggesting a trance-type state consistent with or as

described by Mr. Moore as a "fast forwarding" during witness testimony to end of the testimony.

17. That as the result of a clinical review of the foregoing referenced materials, interviews and other evidence, affiant is able to opine to a reasonable degree of medical probability that Petitioner Moore was suffering from diabetic ketoacidosis during the afternoons of his 2001 guilt phase trial, and that as the result, was unable during these episodes, to appreciate the nature of the proceedings, and was unable assist his attorney in his defense because the diabetic ketoacidosis had impaired his mental faculties to a grave extent.

DATED this 25th day of July, 2014.


DR. STEPHEN W. WILLIAMS

SUBSCRIBED AND SWORN to before me this 25th day of July, 2014.



Notary Public

My Commission Expires OCT. 28th 2016

