


IN THE CRIMINAL COURT
FOR THE THIRTIETH JUDICIAL DISTRICT
AT MEMPHIS
DIVISION 2

BY: 

SEDLEY ALLEY)

Petitioner)

v.)

STATE OF TENNESSEE)

Respondent)

No. 85-05085-87

MOTION FOR DEPOSITIONS

Pursuant to Tenn. Code Ann. §40-30-301 *et seq.*, including §40-30-311, Petitioner Sedley Alley respectfully moves this Court to allow him to take depositions to identify the current location of evidence which may be subject to DNA analysis. See Tenn. Code Ann. §40-30-304(2), -305(2) (testing can or may be ordered where evidence is still in existence).

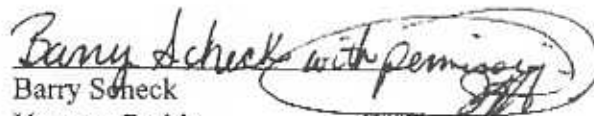
In particular, it appears that there were numerous forensic samples taken from the victim, including swabs, a fingernail, and other items of evidence. See Exhibits 1 & 2 (Reports of Paulette Sutton). Informal investigation, however, has raised questions whether such evidence identified in Paulette Sutton's reports still exists, or was destroyed, including intentionally. To identify the location of such evidence and/or the reasons (if any) for its destruction, Petitioner respectfully requests that this Court allow him to take depositions in order that he may meet the requirements of Tenn. Code Ann. §40-30-304(2) and/or §40-30-305(2).

Petitioner therefore requests that this Court order the depositions of: (1) Paulette Sutton, who performed the original tests on such evidence; (2) The custodian of evidence and records for the University of Tennessee Toxicology Lab, where she was employed; and (3) The Custodian of

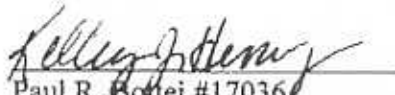
evidence and records for the Regional Forensic Center, where such evidence would likely have been located at some point. Also, it appears that the Tennessee Bureau of Investigation Laboratory was involved in the investigation of this case, as was the F.B.I. Lab. This Court should also enter an order allowing a deposition of the evidence and records custodians for the T.B.I. and F.B.I. Labs.

Under similar circumstances in a Post-Conviction DNA case, Judge Burch in the 23rd Judicial District has ordered depositions to allow the Petitioner to identify evidence which may be subjected to DNA analysis. See Exhibit 3 (Mar. 2, 2006 Order in *Hines v. State*, No. 9852, In The Circuit Court For The Twenty-Third Judicial District). As in *Hines*, this Court should order depositions, to insure that all available, relevant evidence may be tested.

Respectfully Submitted,



Barry Scheck
Vanessa Potkin
Colin Starger
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Paul R. Bottei #17036
Kelley J. Henry, #21113
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Middle District of Tennessee
810 Broadway, Suite 200
Nashville, Tennessee 37203
(615) 736-5047
FAX (615)736-5265

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served by hand delivery to counsel for the State, District Attorney General William Gibbons on this 25th day of May, 2006.

Kelley J. Henry

Exhibit 1

UNIVERSITY OF TENNESSEE LABORATORY SYSTEM
TOXICOLOGY AND CHEMICAL PATHOLOGY LABORATORY
3 N DUNLAP STREET MEMPHIS TN 38163

MEDICARE # 44-0166

901-528-6355

MEDICAID # 044-0166

Name: COLLINS, SUSAN M

County: SHELBY

MEDICAL EXAMINER - DR. JAMES BELL
838 MADISON AVENUE
MEMPHIS, TENN.

CASE # -85-1681
ATP. # -259

Collected: Date-07/13/85 Time-09:00 By-DR. JAMES BELL
Received: Date-07/15/85 Time-08:45 From-MORGUE

Lab # 85-1778

By: JOAN RIAL

Spec:1 BLOOD

1-ALCOHOL-ETHYL	TRACE	07/18/85-15:22	S. FERNANDEZ
2-BLOOD AND/OR TYPE	GROUP O, Rh (D) POS	07/15/85-16:50	A. FOWLER
3-SECRETOR STATUS	SECRETOR	07/16/85-09:27	P. BUTTON

** BY THE LEWIS SYSTEM **

Spec:2 BLOOD

1-NO WORK PERFORMED 07/19/85-00:00
** RIGHT CHEST **

Spec:3 URINE

1-ALCOHOL-ETHYL	TRACE	07/16/85-14:18	S. FERNANDEZ
2-PHENYLPROPANOLAMINE	POSITIVE	07/16/85-17:00	S. FERNANDEZ
2-CAFFEINE	POSITIVE	07/16/85-17:00	S. FERNANDEZ

Spec:4 BILE

1-NO WORK PERFORMED 07/19/85-00:00

Spec:5 GASTRIC CONTENTS

1-NO WORK PERFORMED 07/19/85-00:00

Spec:6 SMALL BOWEL CONTENTS

1-NO WORK PERFORMED 07/19/85-00:00

** CONTINUED **

Spec:7 VITREOUS, RIGHT 1-NO WORK PERFORMED		07/19/85-00:00
Spec:8 VITREOUS, LEFT 1-NO WORK PERFORMED		07/19/85-00:00
Spec:9 OTHER 1-NO WORK PERFORMED ** GRASS ON SKIN **		07/19/85-00:00
Spec:10 OTHER 1-NO WORK PERFORMED ** WOOD IN PERINEUM **		07/19/85-00:00
Spec:11 VAGINAL SWABS 1-ACID PHOSPHATASE 2-SPERMATOZOA 3-SEMINAL TYPE ** DETECTED **	VERY WEAKLY POSITIVE NONE SEEN *H* SUBSTANCE	07/18/85-15:45 P. SUTTON 07/18/85-15:45 P. SUTTON 07/18/85-15:45 P. SUTTON
Spec:12 OTHER 1-ACID PHOSPHATASE ** RIGHT INNER THIGH ** 2-SPERMATOZOA ** RIGHT INNER THIGH ** 3-SEMINAL TYPE ** SUBSTANCE DETECTED ** *** RIGHT INNER THIGH ***	WEAKLY POSITIVE NONE SEEN NO BLOOD GROUP	07/18/85-15:45 P. SUTTON 07/18/85-15:45 P. SUTTON 07/18/85-15:45 P. SUTTON
Spec:13 OTHER 1-ACID PHOSPHATASE ** LEFT INNER THIGH ** 2-SPERMATOZOA ** LEFT INNER THIGH ** 3-SEMINAL TYPE ** SUBSTANCE DETECTED ** *** LEFT INNER THIGH **	NEGATIVE NONE SEEN NO BLOOD GROUP	07/18/85-15:45 P. SUTTON 07/18/85-15:45 P. SUTTON 07/18/85-15:45 P. SUTTON

** CONTINUED **

Laboratory-No. 85-1778

Page 3

Spec114 OTHER

1-NO WORK PERFORMED
** MID FINGERNAIL **

07/19/85-00:00

CERTIFICATION

I certify and attest that this document
is the proper record it purports to be.



D. T. Stafford, Ph.D.
Laboratory Director

Report Date 7/19/1985

Date Printed 7/19/1985

- END OF REPORT -

Exhibit 2

UNIVERSITY OF TENNESSEE LABORATORY SYSTEM
TOXICOLOGY AND CHEMICAL PATHOLOGY LABORATORY
3 N DUNLAP STREET MEMPHIS TN 38163

MEDICARE # 44-0166

901-528-6355

MEDICAID # 044-0166

Name: COLLINS, SUSAN M

County: SHELBY

MEDICAL EXAMINER - DR. JAMES S. BELL
858 MADISON AVENUE
MEMPHIS, TENN. CASE # -85-1681

Collected: Date-07/12/85 Time-13:40 By-DR. JAMES S. BELL
Received: Date-07/12/85 Time-15:15 From-MORGUE

Lab # 85-1775

By: PATRICIA MIDDLETON

Spec:1 BREAST SWABS
1-SECRETOR STATUS 07/17/85-07:50 P. SUTTON *z*
** NO AMYLASE OR BLOOD GROUP SUBSTANCE(S) DETECTED ON EITHER SWAB **

Spec:2 OTHER
1-NO WORK PERFORMED 07/19/85-00:00
** HAIR AND INSECT EGGS **

Spec:3 NASOPHARYNGEAL SWABS
1-ACID PHOSPHATASE WEAKLY POSITIVE 07/18/85-11:27 P. SUTTON *z*
2-SPERMATOZOA NONE SEEN 07/18/85-11:27 P. SUTTON *z*
3-SEMINAL TYPE 07/18/85-11:27 P. SUTTON *z*
** 'H' SUBSTANCE DETECTED **

Spec:4 ORAL SWABS
1-ACID PHOSPHATASE WEAKLY POSITIVE 07/18/85-11:27 P. SUTTON *z*
2-SPERMATOZOA NONE SEEN 07/18/85-11:27 P. SUTTON *z*
3-SEMINAL TYPE 07/18/85-11:27 P. SUTTON *z*
** NO BLOOD GROUP SUBSTANCE(S) DETECTED **

Spec:5 RECTAL SWABS
1-ACID PHOSPHATASE WEAKLY POSITIVE 07/18/85-11:27 P. SUTTON *z*
2-SPERMATOZOA NONE SEEN 07/18/85-11:27 P. SUTTON *z*
3-SEMINAL TYPE 07/18/85-11:27 P. SUTTON *z*
** NO BLOOD GROUP SUBSTANCE(S) DETECTED **

** CONTINUED **

CERTIFICATION

I certify and attest that this document
is the proper record it purports to be.



D. T. Steward, Ph.D.
Laboratory Director

Report Date 7/19/1985

Date Printed 7/19/1985

- END OF REPORT -

Exhibit 3

COPY

IN THE CIRCUIT COURT
FOR THE TWENTY-THIRD JUDICIAL DISTRICT
AT ASHLAND CITY

ANTHONY DARRELL HINES

Petitioner

v.

STATE OF TENNESSEE

Respondent

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No. 9852

FILED

MAR 03 2006

Julie Womack
Circuit Court Clerk

ORDER

On February 27, 2006, this Court heard arguments on the Petitioner's motion to recuse. For the reasons stated by the Court during the proceedings, Petitioner's motion to recuse is **DENIED**.

After hearing from counsel for the parties, and to identify the location of evidence relevant to Petitioner's petition for DNA testing, the Court further **ORDERS** that Petitioner shall be entitled to conduct the following discovery: (1) Deposition of the custodian of evidence and records thereof for the Tennessee Bureau of Investigation Laboratory; (2) Deposition of the custodian of evidence and records thereof for the Cheatham County Sheriff's Office; (3) Deposition of Dr. Charles Harlan, M.D. Petitioner shall complete such discovery within 60 days.

In accordance with the Court's statements in Court on February 27, 2006, the Court shall conduct further proceedings on this matter on June 12, 2006 at 1:00 p.m.

IT IS SO ORDERED this 2 day of MARCH, 2006


JUDGE ROBERT BURCH
Circuit Judge