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Deposition of Linda Luke

Linda M. Luke

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1 State of Ohio,) SS:

2 County of Cuyahoga.)

3 - - -

4 IN THE COURT OF COMMON PLEAS

5 - - -

6 ALAN DAVIS, et al.,)

7 Plaintiffs,)

8 v.)

9 STATE OF OHIO,)

10 Defendant.)

Case No. 312322
Judge Ronald Suster

11 - - -

12 THE DEPOSITION OF LINDA LUKE

13 THURSDAY, FEBRUARY 3, 2000

14 - - -

15 The deposition of LINDA LUKE, a witness, called
16 for examination by the Plaintiffs, under the Ohio Rules
17 of Civil Procedure, taken before me, Cynthia A.
18 Sullivan, Registered Professional Reporter and Notary
19 Public in and for the State of Ohio, pursuant to
20 notice, at the offices of Cuyahoga County Coroner,
21 11001 Cedar Road, Cleveland, Ohio, commencing at
22 3:20 p.m., the day and date above set forth.

23 - - -

24

25

1 APPEARANCES:

2

3 On behalf of the Plaintiffs:

4 TERRY H. GILBERT, ESQ.
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10 On behalf of the Defendant:

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- 1 Q. Currently who are the three trace evidence
2 people?
- 3 A. I have Nicole Pawlowski, Brian Peck.
- 4 Q. How do you spell that?
- 5 A. P-A-W-L-O-W-S-K-I, and Brian Peck and Curtis
6 Jones.
- 7 Q. Who are the three DNA people?
- 8 A. Kay May, Andrea Fischer, F-I-S-C-H-E-R, and Julie
9 Heinig.
- 10 Q. How long have you been the supervisor?
- 11 A. Since 1995.
- 12 Q. What is your occupation by training?
- 13 A. Forensic serologist and a DNA analyst, and the
14 last one I am is a forensic scientist because I deal
15 with bodies, so all my people upstairs are forensic
16 scientists and then they have their specialties.
- 17 Q. Forensic serology deals with what matters?
- 18 A. Serology basically analyzes and identifies body
19 fluids.
- 20 Q. Ms. Luke, your name is listed as a witness in
21 this upcoming civil lawsuit trial -- well, it's not
22 upcoming anymore. It has actually started.
- 23 A. Okay.
- 24 Q. -- involving a wrongful imprisonment claim by the
25 estate of Dr. Sheppard.

1 Are you aware that your name is on the witness
2 list?

3 A. I actually received a subpoena from Mr. Gilbert,
4 so I'm very aware of it.

5 Q. Do you also know whether you're a witness for the
6 State of Ohio?

7 A. I have not been notified by subpoena, but I have
8 had an inclination that I would be called.

9 Q. Well, have you had any conversations with any
10 members of the Cuyahoga County Prosecutor's Office
11 regarding potential testimony that you may give?

12 A. No, I was asked to in a meeting with Dr. Balraj
13 and Mr. ^{Wintel}Winsel, but no one has officially told me I
14 would be testifying as in a written form.

15 Q. I have not received any expert opinion report
16 from you in this case and there is none; is that
17 correct?

18 A. DNA.

19 Q. Just the DNA?

20 A. Yes.

21 Q. Your general role outside the DNA matters
22 connected in this case has been in connection with the
23 handling of the evidence?

24 A. I'm the one that received evidence and then
25 shipped them to various places.

1 Q. Okay. That's why this deposition is going to be
2 short, but I just want to make sure. Before we get
3 into that, I was provided a 13-page typewritten
4 document, and I want to make sure that what we have is
5 complete.

6 MR. GILBERT: Would you mark
7 this?

8 (Thereupon, Plaintiffs' Exhibit 1 to
9 the deposition of LINDA LUKE was marked
10 for identification.)

11 BY MR. GILBERT:

12 Q. I'm showing you Plaintiffs' 1. This is the
13 original 13-page document that I received in connection
14 with the work that you did on this case.

15 A. That's correct.

16 Q. Now, the other day when we were here, I believe
17 it was the 28th, you handed me a single page, one
18 of 13.

19 A. That's correct.

20 Q. Does that replace page 1 or is this an addition
21 to that?

22 A. This replaced page 1.

23 Q. Okay. Basically this was just an addition to?

24 A. I didn't make it clear when I received the wood
25 piece from Detective Shmucker from Bay Village.

Shmucker

1 MR. GILBERT: Off the record.

2 (Thereupon, there was a discussion
3 off the record.)

4 BY MR. GILBERT:

5 Q. Let me just ask you if you had any involvement in
6 any matter pertaining to the Sheppard case prior to
7 March 1st, 1996?

8 A. Yes.

9 Q. Tell me what that was.

10 A. I was asked to inventory the items that were
11 found in this case, and that's what I participated in.

12 Q. Is that inventory included in Plaintiffs'
13 Exhibit 1?

14 A. Yes. If you look at page 3 out of 13 up to
15 page 5 out of 13.

16 Q. Okay. Now, just so I understand, there are
17 numbers, numerical numbers 1, 2, 3, 4 and so on and so
18 forth and there are numbers with small case alphabets
19 and then there are TE numbers?

20 A. That's correct.

21 Q. Would you explain how we understand all that?

22 A. Sure. If you go to Item No. 3 on page 3 out of
23 13, it has Item No. 3, so when I was asked to do that,
24 like TE104 originally was what Ms. Cowan put on her
25 trace evidence report. So TE refers to TE104. If you

1 wanted to see her notes on this microscopic slide of
2 hair, that's the number you would refer to. When I was
3 asked to start going through the inventory, what we
4 came up with was if it was a box, then we referred to
5 it as box No. 1 of microscopic slides B-1(a) to B-1(z),
6 and I have pictures. We tried to make this easy.

7 Q. That's No. 4?

8 A. Correct.

9 Q. Referring to box No. 1 of microscopic slides?

10 A. Correct. So everything that's in the microscopic
11 slides then would go from B-1, box one, (a) through
12 (z), so that would take you from trace evidence No. 101
13 and ending up with (z) which is trace evidence 97 on
14 page 4 of 13 on my report.

15 Q. Okay. So 4 lists the general box and then (a)
16 through (z) deals with the individual items?

17 A. Correct.

18 Q. Some of which have the E numbers?

19 A. Correct.

20 Q. But there are those that do not have the E
21 numbers?

22 A. That's correct.

23 Q. Is there any reason why that's the case?

24 A. It either did not make it clear on the original
25 items, or it was so old and faded that I could not see.

- 1 Q. Each one of these was photographed; is that
2 correct?
- 3 A. Correct.
- 4 Q. At the time you did the inventory?
- 5 A. Correct.
- 6 Q. Was this done over a period of days?
- 7 A. I believe we had everything finished. We started
8 the end of February, and we photographed. I think you
9 came to our office on the 25th of March, so I think
10 everything was done then when you and Prosecutor
11 Zimmerman came to review our items at the Coroner's
12 Office.
- 13 Q. Okay. These items in their entirety, were they
14 in fact sent to Dr. Mohammad Tahir?
- 15 A. That's correct.
- 16 Q. Who is with the Indianapolis-Marion County
17 Forensic Services Agency; is that correct?
- 18 A. Yes.
- 19 Q. According to page 3, the items were sent on
20 March 1st, 1996; is that correct -- I'm sorry, May 1st,
21 1996?
- 22 A. That's correct.
- 23 Q. And per whose authority and direction did you
24 send those items to Dr. Mohammad Tahir?
- 25 A. Dr. Balraj.

- 1 Q. What was your understanding as to what was to
2 happen with those items?
- 3 A. I don't know if I really knew. I believe he was
4 going to look at them, examine them. I don't think
5 back then I knew.
- 6 Q. You knew he was a DNA expert?
- 7 A. That's correct.
- 8 Q. Now, item one was two pieces of cloth with
9 samples of Richard Eberling's blood. Do you see that
10 there?
- 11 A. That's correct.
- 12 Q. How do you know that Richard Eberling's blood was
13 deposited on those two pieces of cloth?
- 14 A. Because I did it.
- 15 Q. Do you remember when you did it?
- 16 A. Yes, I do. That would be March 1st, 1996.
- 17 Q. Where was that?
- 18 A. At 2121 Adelbert, 3rd floor, the trace evidence
19 department.
- 20 Q. He was brought over?
- 21 A. No, no, I just received his blood from
22 Detective Schmucker.
- 23 Q. So you received his blood from Detective
24 Schmucker?
- 25 A. That's correct.

- 1 Q. Do you know how he got the blood?
- 2 A. I could look on the package. You have that noted
3 in my report. Do you want me to check?
- 4 Q. Yes. Let me know.
- 5 A. This is it (indicating).
- 6 Q. This is a picture of the property receipt. There
7 is one picture of the property receipt, and one picture
8 of the actual tube?
- 9 A. That's correct.
- 10 Q. That reflects the sample was taken from
11 Mr. Eberling by a Charlene Baker; is that right? You
12 can read that?
- 13 A. Blood sample from Richard Eberling placed in Bay
14 Village Police Department containers sealed by
15 Detective Schmucker, and it was from Mr. Eberling and
16 it was Charlene Baker on March 1st, 1996 at 1055 hours.
- 17 Q. On page 2 of your report it does indicate that
18 you did DQ alpha polymarker DNA analysis of that blood;
19 is that correct?
- 20 A. That's correct.
- 21 Q. When did you do that?
- 22 A. My recollection was after that receipt, and I
23 believe it was around March 15th, 1996, but I don't
24 have that, you know, written anywhere.
- 25 Q. In a relatively short time?

- 1 A. Yes.
- 2 Q. You have seen Dr. Tahir's DNA reports in this
3 case?
- 4 A. Correct.
- 5 Q. And your profile of Richard Eberling comports
6 with the findings of Dr. Tahir regarding Eberling's
7 blood sample as well; is that correct?
- 8 A. His confirms with mine.
- 9 Q. His confirms with yours?
- 10 A. Right. I did mine first, right.
- 11 Q. All right. Now, the wood chip in glass vial --
- 12 A. Yes.
- 13 Q. -- tell me the genesis of the receipt of that
14 particular item.
- 15 A. Okay. That was submitted again by Detective
16 Schmucker, Bay Village Police Department, to myself on
17 March 12th, 1996 at 11:30 a.m.
- 18 Q. You took a photograph of that?
- 19 A. That's correct.
- 20 Q. It was picked up at your office. Did you have an
21 opportunity to examine that glass vial?
- 22 A. No, I did not.
- 23 Q. You never actually saw the vial itself?
- 24 A. I had pictures taken of what was submitted, so I
25 did open it up. I didn't examine it.

1 Q. Let's take a look at the envelope itself. There
2 is a Manila kind of envelope with A-3 on it.

3 A. That's correct.

4 Q. Is there a picture of the other side?

5 A. No, there is not.

6 Q. Do you know what was on the other side?

7 A. No, I don't.

8 Q. Do you know where that envelope is now?

9 A. It is in the box that I released to the
10 Prosecutor's Office.

11 Q. When was that box released to the Prosecutor's
12 Office?

13 A. Just a minute, please.

14 It may be a few minutes. There is so much here.

15 Q. Take your time.

16 A. I show it going to the Prosecutor's Office
17 December 29th, 1999 and being delivered to Worship at
18 12:50 p.m.

19 Q. Can I see that?

20 MR. GILBERT: Mark this as
21 Exhibit 2.

22 (Thereupon, Plaintiffs' Exhibit 2 to
23 the deposition of LINDA LUKE was marked
24 for identification.)

25 ///

- 1 BY MR. GILBERT:
- 2 Q. Ms. Luke, who ordered you to turn this stuff over
3 to the Prosecutor's Office?
- 4 A. I don't think I was ordered. I was asked by
5 Dr. Balraj to turn it over.
- 6 Q. I see. For what reason?
- 7 A. I wasn't given a reason.
- 8 Q. We'll have to make a copy of this and put that
9 aside for the time being.
- 10 Do you know if there was an exhibit number on the
11 wood chip in the glass vial?
- 12 A. It was 84, and that's, you know, my number on it
13 was, you know, I referred to a 96, number 96-E.
- 14 Q. Have you had a chance to review Mary Cowan's
15 trace evidence report in this case?
- 16 A. Review, I read it over to find the State's
17 exhibit for that wood chip so I could include it, but
18 not study her report.
- 19 Q. Exhibit 84 was the wood chip; was it not?
- 20 A. Yes.
- 21 Q. I'm calling your attention to page 4. In
22 February and March you did have in the custody of the
23 Coroner's Office two glass tubes with fabric, stained
24 and unstained portions of trousers; is that correct?
- 25 A. Back in '96?

- 1 Q. Yes.
- 2 A. That would be depicted at 6(b); that's correct.
- 3 A. I know that you are probably too young to --
- 4 A. Thanks.
- 5 Q. -- have been around in 1954 as an adult
6 professional person.
- 7 A. That's correct.
- 8 Q. But do you have any reason to believe that these
9 items that we're talking about were maintained in the
10 control and custody of the Coroner's Office upon
11 obtaining those items in the trace evidence department
12 in 1954 and beyond?
- 13 A. Maybe I'm not understanding.
- 14 Q. Maybe it's the question.
15 Do you have any reason to believe these items
16 were not kept in the Coroner's Office since they were
17 received in connection with this case continuously?
- 18 A. I started in 1976, and in February and March of
19 1996 they were removed, and that was one of these items
20 that was moved from our safe. '54 to '96 I have -- I
21 did not know those items were in the safe, okay, until
22 they came out.
- 23 Q. Tell me where you found these items. I know
24 we're in a different building.
25 In the old building on Adelbert where were these

1 items found?

2 A. On the second floor there was a safe, a built-in
3 safe, walk-in, and the day that I was asked by
4 Dr. Balraj to start inventorying the items, they were
5 taken out of the safe and placed in our conference
6 room.

7 Q. That was a walk-in safe. How big was it?

8 A. Maybe took you four steps to get into it.

9 Q. Had you been in there before?

10 A. I never went into the safe.

11 Q. You knew about it?

12 A. I knew the safe. I mean, you saw the door and
13 everything, but it was locked. I mean, I didn't have
14 the combination to the safe.

15 Q. All these items that are listed in the inventory
16 from page 3 through 5, were they all in the safe?

17 A. Yes.

18 Q. That safe was locked. There was a key that you
19 had to get in or a combination?

20 A. It was a combination.

21 Q. Do you know if that safe had been there all the
22 time when you were there working?

23 A. Yes. When I started in '76 the safe was there.

24 Q. You have a photograph of the pants, the glass
25 tubes with portions of the trousers?

- 1 A. I'll have to look for it.
- 2 Q. I think I've seen it, but I want to make sure you
3 have it.
- 4 A. We're looking for 5 or 6(b), correct? I thought
5 it was given another number. Am I incorrect?
- 6 Q. Was it taken under 6?
- 7 A. If so, I don't have 6.
- 8 Q. In this it's under 6(b), but you believe there
9 was another number to it?
- 10 A. I believe it was called B3. I mean, all I have
11 here -- I don't have it under 6.
- 12 Q. It is if you look at this. Maybe we should have
13 this marked (indicating).
- 14 (Thereupon, Plaintiffs' Exhibit 3 to
15 the deposition of LINDA LUKE was marked
16 for identification.)
- 17 BY MR. GILBERT:
- 18 Q. We'll call that Exhibit 3. This is titled
19 Cuyahoga County Coroner's Office Inventory of Marilyn
20 Sheppard Case.
- 21 A. Okay.
- 22 Q. You have a copy of that. I can give you one if
23 you need one.
- 24 A. Yes, I do.
- 25 Q. Now, before we get into anything, what is this?

- 1 A. It's not numbered, but I have 14 pages.
- 2 Q. What is this?
- 3 A. This reflects everything found in the safe that
4 we went through and inventoried.
- 5 Q. So this is a more expansive list of items than
6 the trace evidence list that's contained in Exhibit 1
7 which is the 13-page list?
- 8 A. That's correct.
- 9 Q. Now, if you look on page -- well, there are no
10 really good page numbers, but if you look at where it
11 talks about the B3 box --
- 12 A. Yes.
- 13 Q. Box No. 3, 16 evidence packets.
- 14 A. That's correct.
- 15 Q. In here the pants are, correct me if I'm wrong,
16 B3b?
- 17 A. That's correct, and here is the picture of B3b.
- 18 Q. Do you have a closer picture than that?
- 19 A. No, I do not.
- 20 Q. Thank you. All right. So the next thing after
21 is you met with me and David Zimmerman?
- 22 A. Correct.
- 23 Q. That was I think March 26th?
- 24 A. 25th, I have it as the 25th.
- 25 Q. We went over all the items at that time; is that

- 1 right?
- 2 A. That's correct.
- 3 Q. And subsequently at some point these items were
4 then sent to Dr. Mohammad Tahir in Indianapolis?
- 5 A. Correct.
- 6 Q. And then subsequently the items were returned on
7 July 9th, 1999; is that correct?
- 8 A. That's correct, except items U1, U2 and U3.
- 9 Q. Those were hair plucked from head?
- 10 A. Correct.
- 11 Q. Is that because he used them up in the DNA
12 testing?
- 13 A. You'd have to ask Dr. Tahir.
- 14 Q. He did indicate what he did on return?
- 15 A. When Dr. Tahir came to my office to return these,
16 we went through and checked off the items that he gave
17 to me.
- 18 Q. He personally brought all these items back?
- 19 A. That's correct.
- 20 Q. That was July 9th, 1999?
- 21 A. Correct.
- 22 Q. And then they remained in the office here, the
23 Coroner's Office, until December 29th when they were
24 sent over to the Prosecutor's Office; is that right?
- 25 A. Correct.

1 Q. Then I believe the next flurry of activity was
2 right before the exhumation of Dr. Sheppard; is that
3 correct?

4 A. That's correct.

5 Q. That was in '97, and just so we agree, the date
6 of the exhumation was September 17th, 1997, correct?

7 A. That's correct.

8 Q. The day before you received a FedEx box from John
9 Murdock; is that correct?

10 A. Yes.

11 Q. And what is your understanding of that item that
12 was received?

13 A. I didn't look at it. I didn't photograph it. I
14 had a white cardboard box. What I did was I had to
15 fill out a chain of custody from John Murdock, so I
16 signed a piece of paper and sent it back to him.

17 Q. Let's look at that.

18 MR. GILBERT: We'll mark this
19 as 4, and we'll get copies.

20 (Thereupon, Plaintiffs' Exhibit 4 to
21 the deposition of LINDA LUKE was marked
22 for identification.)

23 BY MR. GILBERT:

24 Q. Did you know anything about what that was?

25 A. No, I did not.

- 1 Q. Basically you were facilitating receipt and then
2 the subsequent turning over of that box to someone
3 else?
- 4 A. Correct.
- 5 Q. That someone else was?
- 6 A. Dr. Tahir.
- 7 Q. Then on September 17th, according to page 10 of
8 your trace evidence documentation, materials that were
9 extracted from the exhumation of Dr. Sheppard's body
10 listed here, actual organic material, was collected and
11 sent or given to Dr. Tahir?
- 12 A. That's correct.
- 13 Q. He was here at that time?
- 14 A. That's correct.
- 15 Q. That was September 17th, 1997?
- 16 A. I also turned over a white cardboard box to him
17 on the same date.
- 18 Q. Did you do anything between then and now, between
19 the exhumation of Dr. Sheppard and the present time?
20 Maybe I should ask, was your next involvement in
21 connection with the exhumation of Marilyn Sheppard?
- 22 A. That's correct.
- 23 Q. You had receipt of the materials taken from her
24 body that were used for various forensic examinations;
25 is that right?

- 1 A. The DNA, yes.
- 2 Q. That's on page 12.
- 3 A. That's correct.
- 4 Q. And you also then collected samples from the
5 fetus that was also removed in connection with the
6 exhumation; is that right?
- 7 A. That's correct.
- 8 Q. The fetus was not in her body, but was in a jar;
9 is that correct?
- 10 A. That's correct.
- 11 Q. Now, I have this document dated November 12th,
12 '99. There was further DNA extracted from the femur of
13 Sam Sheppard on November 12th, 1999?
- 14 A. I tried to make it easy for people to see when we
15 first did the bones because we had to keep going back
16 for more of Marilyn's and stuff. That's more of my
17 note.
- 18 Q. All right. So your task then, finally we get to
19 you as a real forensic scientist, was to do DNA testing
20 on the materials take from the exhumation of the fetus
21 and Marilyn Sheppard; is that right?
- 22 A. And Dr. Sheppard.
- 23 Q. Tell me what you were attempting to do.
- 24 MS. CASSIDY: With regard to
25 which?

1 MR. GILBERT: The materials
2 taken from the various sources.

3 MS. CASSIDY: In general?

4 MR. GILBERT: Yes.

5 A. To see if we could establish the paternity of the
6 fetus, so we did DNA testing on Sam Sheppard, received
7 a DQ alpha polymarker. We also did the same on Marilyn
8 Sheppard's bone and received a result on the DQ alpha
9 and poly.

10 We did not receive a clean profile on the fetus,
11 and the result would be inconclusive.

12 Q. You did successfully get a DNA profile by the DQ
13 alpha polymarker procedure on Marilyn Sheppard's
14 remains; is that correct?

15 A. That's correct.

16 Q. That was consistent with previous findings of
17 Dr. Tahir with respect to hair samples from the crime
18 scene; is that correct?

19 A. That's correct.

20 Q. You have issued a report on this, and the DQ
21 alpha was 1.1, 1.3?

22 A. Correct.

23 Q. The samples that you tested the remains of
24 Dr. Sheppard you successfully got a profile; is that
25 correct?

1 A. That's correct.

2 Q. That was consistent with previous findings of
3 Dr. Tahir from the similar materials take from the
4 exhumation?

5 A. That's correct.

6 Q. Now, with respect to the fetus, how many DNA
7 tests did you do?

8 A. How many attempts did we make?

9 Q. How many attempts did you make?

10 A. I have that someplace. We started on the fetus
11 October 29th, and we kept going until the 3rd,
12 January 3rd of the year 2000. I believe there was four
13 attempts.

14 First, that was the last part of it, that we had
15 to put all this DNA together with what the fetus -- we
16 needed enough DNA to get a profile, but unfortunately
17 for us the amount of DNA we were extracting was not
18 enough. I believe it was four times. I'd have to go
19 through.

20 Do you want me to go through when the fetus was
21 done?

22 Q. Yes. Well, let me ask you before you do that
23 just some general questions.

24 Did you at any time extract sufficient DNA to go
25 forward with the amplification in the DQ alpha?

1 A. Yes. That's how we knew we didn't get clean
2 samples because we kept getting mixtures. With a
3 child, you should only get one from mom and one from
4 dad. We didn't know we didn't have enough DNA until we
5 actually did the DQ alpha polymarker. We started over
6 with the fetus.

7 Q. You actually were getting mixtures?

8 A. That's correct.

9 Q. Did you identify the mixtures?

10 A. No, because on a person you only want two, so you
11 go in there and you look at your results, but we made
12 it inconclusive because on that fetus we should have
13 had two markers, one from mom and one from dad.

14 Q. So you made no notes of the alleles found on the
15 mixtures?

16 A. We made notes, yes.

17 Q. Did I get those notes?

18 A. Yes.

19 Q. Because I haven't had a chance to go through
20 that.

21 A. Yes.

22 Q. How many alleles did you detect in the mixtures;
23 do you recall?

24 A. No. I can go and look. The first time it was
25 everything was faint. There was a 1.1 and a 1.2.

1 Then there was a real, real light 4.

2 The second time I believe it came up a 1.1, there
3 was a 1.2, but it was a 2 then coming up, and it was
4 just, I mean, it was really denatured DNA that you
5 cannot call these reliable. DNA is reliable. I'm not
6 saying that, but because you were dealing with an
7 individual, you only need two alleles.

8 Q. It wasn't like you were getting the control dots,
9 right?

10 A. Some of them we got them on; others we didn't.
11 Sometimes we got nothing.

12 Q. What about the third attempt?

13 A. The third attempt I believe was nothing.

14 Q. So you didn't get anything?

15 A. Correct.

16 Q. And the fourth?

17 A. The fourth is when we put everything together
18 that was available from another box, and we still came
19 up with a mixture.

20 Q. Do you recall what the alleles were?

21 A. Let me look. That came up a 1.2, 1.1 and a 2 and
22 a 3. But when things are faint and everything --

23 Q. Yes.

24 A. -- that's why it's inconclusive.

25 Q. What is the procedure of establishing paternity

1 through the DNA sample of an offspring?

2 A. All we were going to do is what is available for
3 forensics on the computer. It's called Popstats, and
4 we would have put the types of Marilyn Sheppard, her DQ
5 alpha and poly, and then we would have put
6 Dr. Sheppard's allele, DQ alpha and poly, and then the
7 fetus; and then the Popstats would have generated a
8 frequency saying what is the likelihood of this baby
9 being their child.

10 Q. Did you use Popstats at all in this case?

11 A. No.

12 Q. Dr. Balraj stated in a press conference that it
13 was inconclusive, but that it was likely, some words to
14 that effect and, maybe you can correct me, that it
15 looked like or it was likely that the fetus was the
16 child of Dr. Sam and Marilyn Sheppard, but it was
17 inconclusive.

18 A. Correct.

19 Q. Now, can you tell me on what basis that statement
20 could be made?

21 A. Dr. Balraj reviewed our records from the
22 beginning, and the most common alleles that we saw, not
23 the new additional alleles we kept getting, but the
24 common alleles that we saw through this every time we
25 did the fetus was a 1.1, which could be attributed to

1 Marilyn, and 1.2, which could be attributed to
2 Dr. Sheppard.

3 Also in the polymarkers I believe they're both BC
4 in the last GC string component. As you look at it, it
5 was more of looking at it and looking at the
6 polymarkers that were coming up and looking at the
7 mother and father that we, you know, she felt that most
8 likely. You cannot report it because we didn't get a
9 true allele, but looking at it and all this stuff that
10 was generated, that's what we felt.

11 Q. According to the DQ alpha, because except for one
12 attempt where you got nothing, the other three you were
13 getting a 1.1 and 1.2 consistently, although there were
14 some light 4s, or a 2 and 2 and 3, correct?

15 So one might say that those other alleles were
16 contamination?

17 A. That's what it has to be, but we couldn't say it.

18 Q. I understand. I just want to get an
19 understanding. That's pretty much it as far as your
20 work on this case?

21 A. Correct.

22 (Thereupon, there was a brief
23 recess.)

24 BY MR. GILBERT:

25 Q. Just a few other questions. Subsequent to the

1 work of Dr. Tahir on this case, did there become a
2 formal relationship between Dr. Tahir and your trace
3 evidence department?

4 A. Yes.

5 Q. Tell me about what that was.

6 A. I met Dr. Tahir in '96 after I took over the
7 department in '95, and the State was going for a
8 federal grant and they needed Cuyahoga County to join
9 in. So Dr. Tahir, the way that the State was going was
10 called RFLP, restriction fragment length polymorphism,
11 so Dr. Tahir having the experience with RFLP, that's
12 how I met him. He came here and trained me for RFLP.
13 It was later decided then with the RFLP experience that
14 he become the technical manager. Then the State went
15 and instead of doing RFLP did start ^{Short tandem repeats} ten and repeat or
16 STR.

17 Q. Dr. Tahir became a technical manager?

18 A. In 1998.

19 Q. Is he still a technical manager?

20 A. Dr. Tahir and I have shared that responsibility
21 because I do all the reports, I check the reports and
22 stuff, so what he provides for that is training. He
23 brought RFLP, trained me, and then we ran it. He helps
24 us with hiring because he gets to more meetings and
25 stuff.

- 1 Q. So obviously you respect his capability as a DNA
2 scientist; is that right?
- 3 A. Yes.
- 4 Q. He still shares with you today now the technical
5 manager role?
- 6 A. Yes. Him and I are on it together.
- 7 Q. The DNA lab here does RFLP?
- 8 A. Correct.
- 9 Q. ~~P~~PCR based testing, correct?
- 10 A. Correct.
- 11 Q. And STR?
- 12 A. We are validated and we should be up and running
13 casework hopefully in March or April.
- 14 Q. STR is now becoming the preferred method because
15 it configures in with the State plan; is that right?
- 16 A. Correct.
- 17 Q. I suppose that when DNA databases are in full
18 operation that will be the methodology; is that
19 correct?
- 20 A. That's correct.
- 21 Q. Did Dr. Tahir have any role in the hiring of
22 people that worked in the DNA lab here?
- 23 A. No. He recommended, and we ran the people
24 through. The hiring was Dr. Balraj and myself.
- 25 Q. Okay. Is there anything that you have seen in

1 the items that you have seen in connection with the
2 Sheppard case over the years that are no longer
3 available that you see missing in this case?

4 A. No.

5 Q. You knew Mary Cowan, right?

6 A. Yes.

7 Q. Did you train under her?

8 A. She was my supervisor.

9 Q. When did she pass away?

10 A. I believe in '98.

11 Q. Did you ever talk to her about the Sheppard case?

12 A. Out of the years that I spent here, no. I was
13 from Wooster, Ohio instead of Cleveland. I never had
14 an interest.

15 MR. GILBERT: I have no
16 further questions. Thank you.

17 Do you want to waive signature or
18 read the deposition?

19 MR. MASON: Why don't you
20 read it?

21 THE WITNESS: I'll read it.

22 (DEPOSITION CONCLUDED.)

23

24

25


LINDA LUKE

2/16/00
DATE

1 State of Ohio,) CERTIFICATE

2 County of Cuyahoga.) SS:

3 I, Cynthia A. Sullivan, Notary Public and
4 Registered Professional Reporter within and for the
5 State of Ohio, duly commissioned and qualified, do
6 hereby certify that the within-named witness, LINDA
7 LUKE, was by me first duly sworn to tell the truth, the
8 whole truth and nothing but the truth in the cause
9 aforesaid; that the testimony then given by her was
10 reduced to stenotype in the presence of said witness,
11 and afterwards transcribed by me through the process of
12 computer-aided transcription, and that the foregoing is
13 a true and correct transcript of the testimony so given
14 by her as aforesaid.

15 I do further certify that this deposition was
16 taken at the time and place in the foregoing caption
17 specified.

18 I do further certify that I am not a relative,
19 employee or attorney of either party, or otherwise
20 interested in the event of this action.

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 and affixed my seal of office at Cleveland, Ohio, on
23 this 14th day of February 2000.

24 Cynthia A. Sullivan
Cynthia A. Sullivan, RPR and Notary Public
25 in and for the State of Ohio.
My Commission expires October 6, 2001.