

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - CRIMINAL  
INDICTMENT NO. 01-04-0697

STATE OF NEW JERSEY,	)	Transcript of
	)	DNA Ruling
-vs-	)	
	)	
JEFFREY GRANT,	)	
Defendant.	)	

-----

PLACE: Monmouth County Courthouse  
71 Monument Park  
Freehold, N.J., 07728  
DATE: January 6, 2003

BEFORE:  
HONORABLE MICHAEL D. FARREN, J.S.C.

TRANSCRIPT ORDERED BY:  
JACQUELYNN SEELY, ESQUIRE

APPEARANCES:

JACQUELYNN SEELY, ESQUIRE,  
Assistant Monmouth County Prosecutor  
For the State of New Jersey.

JEFFREY W. COGHLAN, ESQUIRE,  
Assistant Deputy Public Defender  
For the Defendant.

ANN MARIE LOFFREDO, C.S.R.  
Official Court Reporter  
Monmouth County Courthouse  
71 Monument Park  
Freehold, N.J. 07728-1255

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

1 January 6, 2003.

2 THE COURT: All right.

3 Would you enter your appearance for the  
4 record.

5 MS. SEELY: Assistant Prosecutor Jacquelynn  
6 Seely appearing on behalf of the State.

7 MR. COGHLAN: Jeffrey Coghlan for Jeffrey  
8 Grant.

9 Mr. Grant is also present in court.

10 THE COURT: All right.

11 The defendant, Jeffrey Grant, requested a  
12 hearing pursuant to New Jersey Rules of Evidence  
13 Section 702, to determine the admissibility of DNA  
14 evidence proposed by the State through the use of a DNA  
15 identification procedure known as Short Tandem Repeat  
16 also known as STR.

17 The State alleges that the DNA links the  
18 defendant to the crimes charged in the indictment.

19 On August 21st, 2000, at approximately 6:10  
20 p.m. Theresa Grant, the manager at McDonald's  
21 Restaurant in Millstone Township, was repeatedly  
22 stabbed in the restaurant parking lot as she was  
23 leaving work.

24 As a result of the attack, she died.

25 Just prior to her demise, a witness heard her

1 say: "Help me, my husband is trying to kill me."

2 The defendant is the only husband the victim  
3 had, and they were separated at the time of the attack.

4 During the investigative stage, the State  
5 obtained a hat and eyeglasses worn by the defendant  
6 that day which appeared to have red stains.

7 These items and other items were submitted to  
8 the State Police Lab for DNA analysis.

9 The methodology used by the lab for this  
10 analyses is referred to as Short Tandem Repeats.

11 The results of the testing established that  
12 the blood found on the hat and the glasses was that of  
13 Theresa Grant the victim.

14 On November 7th, 2002, this Court conducted a  
15 104 Hearing to determine the admissibility of DNA-STR  
16 Testing.

17 Use of DNA testing technology to identify or  
18 exclude a suspect is no longer considered a novel  
19 scientific technique requiring a 702 hearing. State  
20 versus Marcus, 294 N.J. Super. 267, (Appellate Division  
21 1996). Certification denied 157 New Jersey 543 (1998).

22 However, as newer technology is developed  
23 enabling law enforcement to use smaller samples more  
24 expeditiously and less expensively, trial courts cannot  
25 admit evidence produced through the use of the newer

1 technology absent acceptance of the technology by an  
2 Appellate Court of this state. State versus Doriguzzi,  
3 344 -- strike that, 334 N.J. Super. 530, 533  
4 (Appellate Division 2000).

5 Although trial courts of this state have  
6 recognized the admissibility of STR testing, there is  
7 no appellate division decision approving the same,  
8 hence, the reason for this Court to conduct a hearing  
9 pursuant to Frye versus the United States, 293 Federal  
10 1013 (District Court 1923) in which the burden rests on  
11 the State to clearly establish that the STR method of  
12 DNA testing is generally accepted in the relevant  
13 scientific community. State versus Harvey, 151 N.J.  
14 117 (1997).

15 The Court heard the testimony of the State's  
16 witness, Joseph LaRue, a Principal Forensic Scientist  
17 at the New Jersey State Police Lab and the supervisor  
18 of the DNA Unit.

19 He testified that STR is a Polymerase Chain  
20 Reaction which is currently the most popular type of  
21 DNA analysis.

22 In Short Tandem Repeat testing a very small  
23 piece of a substance, for example, blood, semen, etc.,  
24 is extracted and then, through a chemical process,  
25 visualized and identified as human DNA. Then, the DNA

1 is put through the PCR reaction or amplification that  
2 is what was described as a molecular xerox.

3 During amplification the DNA is heated to  
4 unzip it, a primer of DNA, the control DNA, is added  
5 enabling a spot to be tagged or marked and repeated or  
6 copied over 13 loci and as much as 16 loci. This  
7 science enables the tester to identify 10 markers over  
8 as much as 16 loci with sensitivity levels as low as  
9 one nanogram of DNA.

10 One nanogram being approximately 333 allele  
11 copies.

12 Following the PCR amplification, the product  
13 is examined on a Genetic Analyzer through a process  
14 called capillary electrophoresis during which the  
15 product is electrically charged. A process that can be  
16 done overnight in a lab without human supervision.  
17 This causes the tag that was placed on the primer DNA  
18 to fluoresce. Then through the use of the Profiler  
19 Plus and the Cofiler, 13 loci profiles are created from  
20 the small sample examined that can be compared to  
21 another profile from another sample.

22 Only if all 13 loci match will the forensic  
23 scientist so declare.

24 As noted, the odds of a match to a person not  
25 an identical twin is one in 100 quadrillion.

1 This type of analysis is not new. It has  
2 been used to identify casualties in Desert Storm, is  
3 used in paternity cases and to identify the remains as  
4 the result of the 911 attack on the World Trade Center.  
5 It has been used to exonerate convicted felons and is  
6 the State of the Art world wide.

7 It has been accepted as scientifically  
8 reliable in many states and is in use by the FBI.

9 Some 1600 articles have been written on its  
10 reliability. In fact, the New Jersey State Police Lab  
11 only uses STR in its analysis.

12 The State lab follows the procedures and  
13 guidelines of the DNA Advisory Board and is audited  
14 every two years by an outside agency.

15 The defense attacks the procedure on the  
16 refusal of Perken Elmer to release the raw data on  
17 their tests calls into question. Perken Elmer have  
18 refused to release the primer sequence used in the  
19 test, claiming it's proprietary information. However,  
20 Mr. LaRue testified that this information is  
21 unnecessary as each kit lot is checked against known  
22 samples. If a kit test does not result in an accurate  
23 reading, that lot of kits would not be used.

24 Additionally, this Court has reviewed the  
25 exhibits submitted by the State and concludes that the

1 State has clearly established the scientific  
2 reliability of DNA-STR and the results in this case  
3 will be admitted at trial.

4 Are we ready to conference?

5 MR. COGLAN: Yes, Judge.

6 THE COURT: All right. Okay. Thank you.

7 Would you come in, please.

8 C E R T I F I C A T I O N

9 I, ANN MARIE LOFFREDO, C.S.R., License Number  
10 XI01255, an Official Court Reporter in and for the  
11 State of New Jersey, do hereby certify the foregoing to  
12 be prepared in full compliance with the current  
13 Transcript Format for Judicial Proceedings and is a  
14 true and accurate compressed transcript to the best of  
15 my knowledge and ability

16 *Ann Marie Loffredo*  
17 ANN MARIE LOFFREDO, C.S.R.  
18 Official Court Reporter  
19 Monmouth County Courthouse  
20  
21  
22  
23  
24  
25

*Feb. 3, 2003*  
Date