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MAY 22 '02

MISSOURI  
ATTORNEY GENERAL

IN THE CIRCUIT COURT OF WEBSTER COUNTY, MISSOURI

STATE OF MISSOURI

v.

JERRY L. KEIGHTLEY

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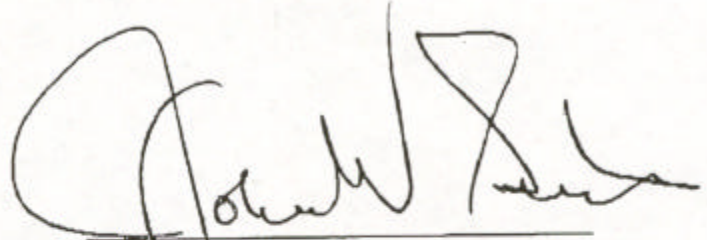
CASE NO. 30R090100013

DOCKET ENTRY

5/20/02 The Court considers the State's Motion for a Pretrial Ruling on the General Acceptance and Admissability of PCR-STR DNA Testing Technology and Defendant's Motion to Determine Admissability of Novel Scientific Evidence and Request for a Frye Hearing. The Court has considered both motions and the supporting exhibits and material as well as the applicable cited case law. After being well advised in the premises the Court rules as follows:

1. The applicable test applied in Missouri to the admissability of expert testimony is the Frye test. State v. Kinder, 942 S.W. 2d 313,326 (Mo. Banc 1996); M.C. v. Yeargin 11 S.W.3d 604 (619). The Frye test requires only that expert testimony be based on scientific principles generally accepted in the relevant scientific community. Id.
2. A Frye hearing is not required when an overwhelming majority of jurisdictions have found the evidence to be generally acceptable in the scientific community. State v. Huchting, 927 S.W. 2d 411 (Mo App. E.D. 1996). 84 A.L.R. 4<sup>th</sup> 313; State v. Davis, 860 S.W. 2d 369 (Mo. App. E.D. 1993). After an extensive review of the cases and technical articles presented to the Court the Court finds that PCR-STR DNA testing technology is "generally accepted" in the scientific community and that a Frye hearing would be expensive and time consuming and an unwise use of judicial resources. Defendant's motion for a Frye hearing is overruled as it relates to PCR-STR DNA testing techniques, laboratory conditions, Profiler and Cofiler tests kits, and interpretive statistics. In Missouri, use of population frequency statistics based on the product rule are admissible. State v. Brown 949 S.W. 2d 639 (Mo. App. E.D. 1997); State v. Link, 25 S.W. 3d 136 (Mo. Banc 2000).

The State's Motion for a Pretrial Ruling on the general acceptance and admissability of PCR-STR DNA Testing Technology is sustained. The hearing previously set by the Court on the matter at 9:00 a.m. June 4, 2002 is not now necessary and is canceled.



John W. Sims  
Circuit Judge

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