

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

STATE OF UTAH	:	MEMORANDUM DECISION
Plaintiff,	:	CASE NO. 981909353
Vs.	:	
RAYMOND LYNN BUTTERFIELD	:	
Defendant.	:	

After having conducted an evidentiary hearing, heard arguments on the law, and read memoranda with attached exhibits, the Court, being fully advised in the premises, now hereby grants the State's Motion to Introduce DNA Evidence at Trial. Specifically, the Court allows the State to introduce evidence that DNA from a bloodstain on an LDS undergarment which the defendant was wearing when he was arrested on May 17, 1998 (identified at the evidentiary hearing as item Q2b) matches the DNA of the alleged victim V.R. (identified at the evidentiary hearing as V1). This ruling includes allowing the introduction of testimony by expert state witness, lab criminalist, Palar Shortsleeve, with regard to the statistical probabilities of such a match.

Before ruling to allow the admission at trial of this DNA evidence, this Court has applied the Rimmach standard for admitting scientific evidence (and reviewed the case law in support thereof).

1. The Court has determined and finds that the scientific principles and techniques of DNA testing are inherently reliable. These principles and techniques have been generally recognized and accepted by the legal and scientific communities.

In the scientific community, The National Research Council's Report released in May of 1996 (NRC Report) reaffirms an earlier 1992 report stating that the molecular technology used in DNA testing is thoroughly sound and highly reproducible when appropriate quality control methods are followed. The NRC Report also indicates approval of the use of short tandem repeat (STR) DNA typing recognizing it's potential for forensic use.

In the legal community, every state and the District of Columbia, except North Dakota (which has legislatively provided for the admissibility of DNA testing results), and Utah, have case law which has held that DNA testing results are admissible in court. Several state appellate courts have held that polymarker typing following polymerase chain reaction amplification (PCR) DNA testing is admissible. Most recently, in Massachusetts and Nebraska, appellate courts have upheld the admission of PCR STR DNA testing results. The Nebraska Court found "STR testing is similar in

principle to the RFLP (or VNTR) method, which has been found to be reliable.”

Based upon the State's expert witness testimony about the scientific concepts, protocol and procedures of analysis, the nature of materials used in DNA testing, the basic workings of test instruments including principles involved in their functions, about numerous validation studies and about usage throughout the country, the Court believes STR based evaluation has been shown to yield valid, reliable results.

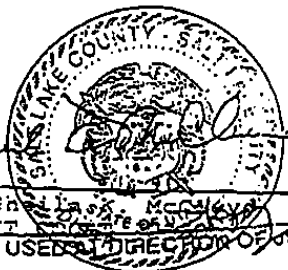
This Court also believes and hereby finds that the scientific principles and methods used in STR DNA testing are sufficiently similar to those used in other PCR-based DNA testing and restriction fragment length polymorphisms (RFLP) DNA testing to be able to be considered inherently reliable.

2. The Court has determined and finds that the DNA testing in this case was performed properly by qualified experts who are highly experienced and are well-trained, working in an accredited lab which is subject to internal and external audits, uses procedures and protocols that comply with generally accepted guidelines and employs instrumentation which has undergone a rigorous validation process. Specifically in this case, all necessary and appropriate protocols and procedures were performed by these qualified experts.

3. The Court has determined and finds that the DNA evidence offered in this case is more probative than prejudicial. The State alleges that the blood on the defendant's undergarment links him to the crime scene. This certainly is a probative piece of evidence if believed by the trier of fact. At the same time, there is minimal danger, if any, of unfair prejudice to the defendant. This evidence is not cumulative, needless nor a waste of time. It will not result in undue delay, confusion of issues, or misleading the jury. It can be adequately presented in a simplified manner and is subject to differing expert opinion.

There is no basis upon which to deny the entry of this evidence at trial. The Court therefore grants the State's Motion to Introduce DNA Evidence, adopting all of the State's arguments in support thereof. The State is directed to prepare an Order consistent with this ruling.

Dated this 20th Day of April, 1999:


Judge Shelley A. McKeya
BY STRICT
STAMP USED BY DIRECTOR OF JUDICIAL