

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS, MISSOURI  
22<sup>ND</sup> JUDICIAL CIRCUIT

RODNEY LINCOLN, )  
)  
Movant/Defendant, )  
)  
vs. ) Cause No. 821-2021 BY M  
)  
STATE OF MISSOURI, ) Division 22  
)  
Respondent. )

MOTION FOR DNA TESTING  
PURSUANT TO SECTION 547.035 R.S.MO. (SUPP. 2001)

Comes now Rodney Lincoln, hereinafter Movant, pursuant to §547.035 et seq. (Supp. 2001), and moves the Court for its Order directing the State of Missouri to show cause why DNA analysis and comparison of certain biological material should not take place. In support of his motion, Movant states that:

MOTION FOR DNA TESTING

1. Rodney Lincoln is currently in the custody of the Missouri Department of Corrections at the Jefferson City Correctional Center, having been convicted of Manslaughter and Assault in the First Degree.

2. The files and records of the case establish the following facts: In the early morning hours of April 27, 1982, [REDACTED] was stabbed to death in her St. Louis apartment. Her two young daughters were also stabbed and left for dead, but survived. The homicide was discovered by [REDACTED] brother and boyfriend mid-morning. The crime scene showed signs of a significant struggle and a great deal of blood was found throughout the apartment. There was no sign of forced entry and no sign of theft from the apartment. Several knives were found that were used as weapons by the killer. All belonged to [REDACTED] and were left at the crime scene. None of the

fingerprints found at the crime scene was matched to Rod Lincoln, though the jury was permitted to hear that “a print on a knife might be incriminating.” None of the blood at the scene was definitively matched to Movant, though the jury was permitted to hear that “one blood stain could have been related to Rodney Lincoln.”

In several statements offered by the surviving victims, the killer was identified as “Bill.” In one of the statements, the girl stated that she knew the man as “Bill.” In another, she stated that she heard her mother screaming for “Bill” to stop attacking her. She did not deviate from the identification of the attacker as “Bill” until after a composite was drawn and the distributed to adult relatives of the homicide victim. Those adults, who the girl knew might be the persons taking over the care for her sister and herself, said that the sketch resembled a man that the adults knew to be “Rod.” Movant's name was found in the victim's diary,

When it was determined that Movant had been romantically involved with the victim many months prior to her death (but not a part of her life in recent months) and had a criminal record which included a 13-year old conviction for second-degree murder, he was questioned by police. He cooperated in every possible way by giving the police a statement and voluntary hair and blood samples. Although one of the young girls who survived the attack told the police that the killer was a man in his late 30's or 40's, Movant was placed in a lineup with three men more than 10 years his junior. Although the attacker was described with fairly long black hair, Movant was the only person in the lineup whose hair came close to that description. Not surprisingly, Movant was selected as the killer by one of the girls.

At trial, the inconsistencies in the testimony of the older daughter were exposed for the jury. Nevertheless, on the strength of the pubic hair “match,” Movant is convicted.

Movant was convicted of these crimes in the second of two trials. The first trial ended in a mistrial when the jury could not reach a unanimous verdict. Movant believes that in the first trial there were at least five votes for acquittal.

3. Forensic DNA testing as described herein will demonstrate Rodney Lincoln's innocence of the crimes for which he is in custody.

4. There is evidence in the possession of the Circuit Attorney's Office for the City of St. Louis and/or the St. Louis Metropolitan Police Department upon which DNA extraction, profiling and comparison can be conducted including a certain pubic hair, fingernail scrapings, and blood stain specimens. All of these items were seized in connection with the investigation of the crimes and have not been tested for DNA extraction, profiling and comparison because the technology for DNA testing was not reasonably available to Movant or any other person in 1982 and 1983 when these crimes were being investigated and the movant's trials took place.

5. Because Rodney Lincoln interposed a defense of alibi in his trial, identity was an issue in Movant's trials.

6. Had the biological evidence referred to above been subjected to DNA testing with the result that the specimens did not match Movant's DNA, there is a reasonable probability that the jury would not have found Rodney Lincoln guilty of the offenses in question because:

A. With respect to the pubic hair, the state offered evidence that the hair in question was consistent with the pubic hair of Movant and inconsistent with the pubic hair of all other suspects tested. If mitochondrial DNA extraction, profiling and comparison of this hair demonstrated that it was not the pubic hair of Movant, there is a reasonable probability that Movant would have not been found guilty of being the perpetrator of these offenses;

B. With respect to the fingernail scrapings, the state offered evidence that the tissue identified under the deceased victim's fingernails contained "a ridge pattern" and presumably contained the skin and tissue of her attacker as a result of the victim defending herself during the attack. While this tissue was not identified in trial as having come from the body of Movant, if DNA profiling and comparison demonstrated that Movant's DNA did not appear under the fingernails of the victim, and some other person's DNA did, there is a reasonable probability that Movant would have not been found guilty of being the perpetrator of these offenses;

C. With respect to the blood located in the home, the state offered testimony that certain bloodstains in the home could have been caused by the blood of the Movant. If DNA extraction, profiling and comparison proved that Movant's blood was not present in the stains so identified and the blood of some person other than the three victims was present in the home, there is a reasonable probability that Movant would not have been found guilty of being the perpetrator of these offenses.

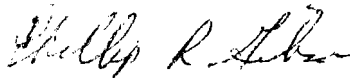
7. The circuit attorney should be ordered to show cause why the testing described above should not take place because the motion, files and records of this case do not conclusively show that Movant is not entitled to relief.

#### CONCLUSION

If this horrible crime were being investigated today, there is absolutely no doubt that the St. Louis Metropolitan Police Department would submit the pubic hair, fingernail scrapings, and blood stains to its local crime lab for purposes of DNA extraction, profiling, and comparison to standards provided by suspects and elimination suspects. No modern criminalist would opine that a certain person was the contributor of a certain pubic hair on the basis of microscopic analysis

alone. No modern serologist would identify a blood stain as containing the blood of a certain individual solely on the basis of ABO typing. No modern pathologist would declare that tissue found under the fingernails of a homicide victim came from a certain individual with any combination of non-DNA tests. Certainly, all of this crucial identifying evidence would be subjected to DNA testing if the crime occurred today and just as certainly would have been subjected to DNA testing in 1982 if the technology had existed at that time. DNA testing should be ordered on these samples now to determine the identity of the contributor.

WHEREFORE, Rodney Lincoln moves this Court for its Order compelling the state to show cause why the requested testing should not occur, and, upon examination of that response, order testing as requested, or, in the alternative, order a hearing to determine of the items described above should occur, and to grant such further relief as the Court deems appropriate.



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#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was delivered to the office of Ed Postawko, Assistant Circuit Attorney, 1210 Tucker, St. Louis, MO 64136, on this 3rd day of March, 2005.



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Attorney for Movant