

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS

STATE OF MISSOURI

STATE OF MISSOURI,)
)
 Plaintiff,)
) Cause No. 821-02021
 vs.)
) Division No. 16
 RODNEY LINCOLN,)
)
 Defendant.)

DEPOSITION OF HAROLD MESSLER
Taken on Behalf of the Defendant

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FREEMAN R. BOSLEY, JR.
CLERK, CIRCUIT COURT

Reported by Cynthia A. Redel
CERTIFIED SHORTHAND REPORTER

Baker Reporting

REGISTERED PROFESSIONAL REPORTERS — NOTARIES PUBLIC
300 CHESTERFIELD CENTER — SUITE 190
CHESTERFIELD, MISSOURI 63017
314/532-5407

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STATE OF MISSOURI

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 Plaintiff,)
) Cause No. 821-02021
 vs.)
) Division No. 16
 RODNEY LINCOLN,)
)
 Defendant)

DEPOSITION OF WITNESS produced, sworn and examined
on the 10th day of May, 1983, between the hours of eight
o'clock in the forenoon and six o'clock in the afternoon of
that day at the Municipal Courts Building, 1320 Market, in
the City of St. Louis, State of Missouri, before Cynthia A.
Redel, a Certified Shorthand Reporter and Notary Public for
the State of Missouri, in a certain cause now pending in the
Circuit Court of the City of St. Louis, State of Missouri,
wherein the State of Missouri is the Plaintiff and
Rodney Lincoln is the Defendant; taken on behalf of the
Defendant Rodney Lincoln.

A P P E A R A N C E S

Circuit Attorney: Joseph L. Bauer, Jr.
Assistant Circuit Attorney
1320 Market
St. Louis, Missouri 63103

Defense Attorney: Robert A. Hampe
Lisa Parsons
Attorneys at Law
7 North 7th
St. Louis, Missouri 63101

S T I P U L A T I O N

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2 Before the taking of the within deposition, the
3 parties, by their counsel, stipulated that same, being taken
4 pursuant to agreement; counsel further stipulate that same
5 may be taken by stenotypy and thereafter, typed and regularly
6 filed in the case, subject to objections as to competency,
7 relevancy and materiality.

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HAROLD MESSLER

of lawful age, being produced, sworn and examined on behalf of
the Defendant Rodney Lincoln, deposeth and saith:

DIRECT EXAMINATION

BY MR. HAMPE:

Q Sir, what is your name and occupation?

A My name is Harold Messler. My occupation is a
Criminologist.

Q For whom are you employed?

A I'm employed by the Metropolitan Police Depart-
ment, City of St. Louis.

Q And assigned to what particular section or
department?

A I'm assigned to the Laboratory Division.

Q Any specialty?

A Criminalistics.

Q Have long have you been so employed and assigned?

A I've been so employed and assigned for approxi-
mately thirteen years.

Q Related to the case which is titled State

1 against Rodney Lincoln, did you have an occasion to examine
2 any items which for the moment we'll call evidence?

3 A Yes, I did.

4 Q Okay. Can you tell us first what it was that
5 you examined, just list for me what you --

6 MR. BAUER: Can he refer to his report? I think
7 that would be --

8 MR. HAMPE: Please.

9 MR. BAUER: -- more complete and he may not
10 remember. He may.

11 THE WITNESS: The items examined by me consisted
12 of a specimen identified as Q-12.

13 Q (By Mr. Hampe) Okay. What is that?

14 A Steak knife with three and three-quarter inch
15 handle and four and three-quarter inch blade.

16 Q Okay. What else did you examine?

17 A Specimen Q-21.

18 Q Uh-huh, and what is that?

19 A Rape kit from JoAnn Tate consisting of pulled
20 head hair, pulled pubic hair, pubic hair combings.

21 Q Okay. What else did you examine?

22 A Q-23, rape kit from [REDACTED] Tate consisting of hair
23 from perineum.

24 Q What else?

25 A Q-25, hair from blanket removed by Crow.

1 Q What else?

2 A Q-27, hair from sheet removed by Crow.

3 Q What else?

4 A Q-32, fingernail scrapings of victim, JoAnn

5 Tate.

6 Q What else?

7 A K-2, head hair from victim, [REDACTED] Davis.

8 Q Okay.

9 A K-3, head hair from victim, [REDACTED] Tate. K-4,

10 hair samples from suspect, Rodney Lincoln, pulled head hair,

11 pulled pubic hair.

12 Q Okay. Before we get into the individual items,

13 is this the total of evidence? Are these items that you

14 examined the sum total of evidence, physical evidence examined

15 by you related to this case?

16 A Yes, sir.

17 Q You examined, other than what's listed here and

18 what you've already listed, no other hair samples of any kind,

19 no other scrapings, no anything were examined by you related

20 to this case other than what's listed in your report which

21 shows the date these items were examined as June 11, 1982?

22 A That's correct.

23 Q Okay. Related to specimen Q-3, from whom did you

24 receive that?

25 A I received all the items on this work sheet from

1 Examiner Joseph Crow.

2 Q Okay. And they were received by you on
3 April the 20th?

4 A No. I received these items, I believe it was
5 around the first part of June.

6 Q Okay. Did you receive all of these items at
7 one time?

8 A Yes, I did.

9 Q Okay. Related to the specimen Q-21, the rape
10 kit from JoAnn Tate, when you say that this item failed to
11 disclose anything of evidential value, can you tell me first
12 what you did with these items, and second, why the conclusion
13 is made that there's nothing of evidential value?

14 A Yes, sir. I examined the evidence, conducted a
15 microscopic examination first of all to find out what the hair
16 samples looked like, acquainted myself with them, and secondly,
17 looking for material which was different than anything that
18 would come from the victim. So I would be looking for hair
19 that was not consistent with the known samples of the victim
20 and for the presence of any extraneous matter such as fibers,
21 other material.

22 Q Okay. Did you type any blood in this case?

23 A No, sir, I did not.

24 Q Of your own personal knowledge, do you know what
25 other criminologists in your lab section worked on this case

1 other than you, in addition to Crow?

2 A On anything in the case?

3 Q Uh-huh.

4 A Yes, I do.

5 Q Who else?

6 A A Mr. Randall Webster.

7 Q Anyone else?

8 A Not that I recall.

9 Q Okay. Related to specimen K-4, when you examined
10 hair samples from Rodney Lincoln, did you ultimately compare
11 those hair samples to any other hair samples provided to you?

12 A Yes, I did.

13 Q Okay. Can you tell us with what specimens you
14 compared K-4 with and what the result of your findings were?

15 A The hair specimens K-4 were essentially
16 compared with all the other hairs on the case, and the findings
17 were that the hair samples, the known hair from Rodney Lincoln
18 was distinctly different than the other known hair samples
19 from the victims, and on some of the -- on one of the other
20 items, Q-25, the hair from the blanket removed by Crow, the
21 result was that the hair was comparable in microscopic
22 appearance to pubic hair of the suspect, Rodney Lincoln,
23 K-4.

24 Q Now, I need you to tell us what comparable means.

25 A The word comparable means that upon conducting

1 a microscopic examination and comparison, that I could find no
2 differences between his pubic hair and the hair from the
3 blanket. This does not mean that the hair definitely came
4 from that individual. It's a grouping type of hair, so that
5 upon comparing hair, I could find no difference between this
6 hair and his hair.

7 Q Okay. And what is the grouping in which this
8 hair falls? And I'm not trying to be overly broad or anything.
9 When you say that this hair is comparable, does that mean that
10 any white male within the ages of such and such would have
11 this? Their hair would compare with --

12 A No, it does not.

13 Q Okay.

14 A There is more distinction among hair samples.
15 We cannot tell the sex of the hair. We can tell the race and
16 color and appearance.

17 Q Okay. I may be begging the question, but what
18 grouping of individuals would this hair denote to you as a
19 scientist?

20 A There would not be a name of the group. It would
21 have to be someone having the same color and microscopic
22 appearance of the hair. You get, almost by looking at people,
23 you can see various head colors. So we have a differentiation
24 of colors, and then under the microscope there are different
25 appearances, too.

1 Q Okay. Can we eliminate any grouping on the
2 basis of age as a result of your examination? Can we elimi-
3 nate individuals over fifty or eighty or --

4 A No, age would not have a definite bearing on
5 the case.

6 Q How about race?

7 A Yes.

8 Q Race will eliminate?

9 A Yes.

10 Q Okay. So we know that hair came from a
11 Caucasian person?

12 A That's correct.

13 Q Okay. Can we eliminate anybody with a particular
14 disease?

15 A Yes, that will effect the appearance of some
16 hair.

17 Q Okay. What diseases, for example?

18 A I would not know which particular ones, just that
19 some of them effect the appearance of the hair.

20 Q Okay. So from your examination and your experience
21 in this area as a scientist, we can say that the hair came from
22 a Caucasian? A Yes.

23 Q Can we eliminate sex?

24 A Not from this, no.

25 Q So it came from a Caucasian male or female. Is

1 there any other way, as a result of your study, to define
2 further the group from which, other than a white male or fe-
3 male?

4 A Of the things that I have mentioned, the color
5 and the microscopic appearance.

6 Q Okay. So we can eliminate black people. We can
7 eliminate -- well, let me go at it a different way. Is it
8 possible that any Caucasian with similar hair color will fall
9 within the group?

10 A Not if we are talking about hair color with the
11 naked eye.

12 Q Uh-huh.

13 A First of all, you have that range of hair color-
14 ing, and then it would also have to have the same microscopic
15 appearance, the internal structure of the hair would have to
16 be comparable, too.

17 Q Okay. In a sample, say a random, truly random
18 sample of 250,000 people, does your experience indicate to you
19 how many people within that group would fall within the classi-
20 fication that the hairs you examined would be similar?

21 A I would have no idea.

22 CROSS EXAMINATION

23 BY MR. BAUER:

24 Q Is there any way to determine the percentage of
25 the population that would have hair the same color and structure

1 as the Defendant, Rodney Lincoln?

2 A Not that I'm aware of right now.

3 Q Okay. And you did compare his hair to [REDACTED]
4 Tate, [REDACTED] Davis and JoAnn Tate, and they were dissimilar?

5 A That's correct.

6 MR. BAUER: I don't have any other questions.

7 REDIRECT EXAMINATION

8 BY MR. HAMPE:

9 Q In a person, let's say the same person, whether
10 it was me or Rodney Lincoln or you or Joe Bauer or George Peach
11 or anyone walking down the street, will their pubic hair have
12 the same characteristics, microscopically speaking, as
13 the hair on the head as far as color and structure and make
14 up and all that?

15 A No.

16 Q Do we make the groups smaller than that these
17 hairs could have come from, if we ask you what portion of
18 the population that both those hair samples would be the same
19 in?

20 A I really would not know.

21 Q Okay. Now, related to the fingernail scrapings
22 that you examined, first, how many did you examine; do you re-
23 call?

24 A Samples from both hands is all I know right now.

25 Q Okay. As a result of your study of the scrapings

1 piece of human skin, I guess we can call it, other
2 setting that aside, what else did you discover in th
3 the rest of these scrapings?

4 A Nothing of evidential value. That would
5 only thing that was apparent.

6 MR. HAMPE: Okay. I have nothing further.

7 MR. BAUER: I don't either. Mr. Messler, as
8 I'm sure know, this young lady has been taking down everything
9 we've said. She will type it up into a form that most people
10 can read, and after she does so, you have a right to read it
11 over to determine the accuracy of it, or you can assume, since
12 this is how she makes her living, that she will do it correctly.
13 The choice is yours.

14 THE WITNESS: I'll waive the reading.

15 MR. BAUER: Okay.

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19 (WITNESS EXCUSED)
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S T I P U L A T I O N

It is stipulated and agreed by all parties hereto, through their respective counsel, and by the witness in his own behalf, that submission of this deposition to the witness for examination and reading, and that the signing of the deposition by the witness, all as provided in Rule 57.03, Missouri Rules of Civil Procedure, are hereby expressly waived, and that the deposition may be filed with the court and be used as fully as though signed; provided, however, that without limitation as to the scope and effect of the waiver herein made, at any time before use of the deposition at trial, the witness may, by appearing before the officer having taken said deposition, as authorized under Rule 57.03 to take depositions in this state, make any changes in same he desires, in the manner, and with the effect as set out in Rule 57.03(f); and that prompt notice be given to all parties of any changes so made.

1 NOTARIAL CERTIFICATE

2 STATE OF MISSOURI)
3) SS.
4 COUNTY OF ST. LOUIS)

5 I, Cynthia A. Redel, Certified Shorthand Reporter of
6 Baker Reporting Agency, Registered Professional Reporters, a
7 Notary Public for the State of Missouri, do certify that
8 pursuant to agreement and the foregoing stipulation at the
9 Municipal Courts Building, in the City of St. Louis, in said
10 City and State,

11 HAROLD MESSLER

12 came before me, was by me duly sworn to testify the whole
13 truth of his knowledge of the matters in controversy aforesaid,
14 was examined and his examination then written in shorthand by
15 me and afterward typed, the signature of the witness being
16 expressly waived by agreement of counsel and the witness; and
17 said deposition is herewith returned.

18 I further certify that I am not counsel, attorney
19 or relative of either party, or clerk or stenographer of
20 either party, or of the attorney of either party, or otherwise
21 interested in the event of the suit.

22 GIVEN under my hand and notarial seal at my office
23 in said county and state this 25th day of May,
24 1983.

25 My commission expires August 8, 1986.

26 \$16.00
27 Taped in boxes of:

28 Robert J. Klump
29 Attorney at Law

30 7 N 7th
31 St Louis, Mo 63101

32 Cynthia A. Redel
33 CERTIFIED SHORTHAND REPORTER
34 Notary Public within and for
35 the State of Missouri