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ERNESTO'S

LEGAL

PROJECT

A TRUE STORY

THE TRUTH MUST BE REVEALED,
 AN INNOCENT MAN SENTENCED TO LIFE
 IN PRISON IN THE STATE OF FLORIDA FOR
 A CRIME HE DID NOT COMMIT.

PLEASE, DO NOT TURN YOUR
 BACK ON THIS REVEALING CASE, INSTEAD
 TURN OVER THE PAGES AND LEARN THE
 IMPORTANCE OF THIS...TRUE STORY

Date: January 17, 2018
From: Franziska Kaltenbach,
helpernestobehrens@gmail.com
To: Whom it may concern,

I am a friend of Ernesto Behrens, a man behind bars for the past 21-years for a crime he did not commit. If I did not know him for the last 30-years, and I had doubt of his innocence, I would not be writing this pleading for public help. Why would I ask for help for a guilty man?

Contrary to the picture painted of him, Ernesto is a wonderful human being. He is sincere, authentic, generous, kind and definitely sweet. Ernesto is pro-feminist, and not a macho man. He never did and he never will hurt or diminish another human being, let alone a woman in any way shape or form. But he would instead protect and help anybody in need that crosses his way. Of course, this information is only provided for those who do not know him. Otherwise, everybody else who knows him will know what I am telling you is true.

My family and I have stayed behind him every step of his legal battles. I ran out of savings in trying to help him recover his freedom because I do believe 100% in his innocence. However, everything that could have been legally done has failed. Although I believe in being kind, in justice and in helping people in need, I also believe Ernesto needs help beyond my reach. He really needs someone to help him uncover the truth.

I have come to the point where I now believe that our judicial system is seriously flawed. How can an innocent man, who for the past 21 years tried every possible legal way to show his innocence, have been ignored in such reckless disregard of human and due process rights? Can a man spend the rest of his life behind bars based on tainted DNA evidence? Yes, he is a living testimony of this tragic fact. How can the people in charge keep looking the other way?

I am devastated to know that an innocent man whose entire case is built upon a single sperm cell found on a tainted fitted sheet can lose everything in life. From his daughter, family and friends, to possessions and freedom all the way to his own dignity, all has been lost. Therefore, I am begging for your help; you out there who could assist me in any way shape or form, helping Ernesto, my innocent friend. The truth is exposed in the motion attached. If you have any input in this matter, or would like to share a comment, please contact me at helpernestobehrens@gmail.com or on my Facebook page.

Thanking everyone out there from the bottom of my heart.

Gratefully yours,

Franziska Kaltenbach

P.S. People's faith in help – from the public, law firms and experts to Congress to media – is at its highest point ever when injustice is exposed. This is a case where justice is naked in front of the eyes of our society, and for that reason, alone I have faith that someone out there will help!

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

STATE OF FLORIDA,
Plaintiff,

v.

Case No: 98-5739CF10A
Judge: Andrew Siegel

ERNESTO BEHRENS,

Defendant. /

MOTION FOR POST-CONVICTION RELIEF

The Defendant, Ernesto Behrens, *pro-se*, hereby files this Motion for Post-Conviction Relief pursuant to Florida Rule of Criminal Procedure 3.850(b)(1), and respectfully requests this Court to vacate the conviction and sentence entered in this case. In support thereof Defendant states the following:

STATEMENT OF THE CASE AND FACTS

1. On March 27, 1998, the State filed a criminal information against Defendant charging him with Count 1, Armed Sexual Battery; and Count 2, Burglary of a Dwelling with a Battery.
2. On September 14, 2000, a jury found Defendant guilty as charged in the information.
3. On November 13, 2000 the Defendant was sentenced to serve two (2) concurrent life terms in prison.
4. The judgment of conviction and sentence was entered in the 17th Judicial Circuit Court in and for Broward County, Florida. Judge Alfred Horowitz, presided.
5. The State was represented by Dennis Siegel, Assistant State Attorney.
6. The Defendant was represented by Tyrone Terrel and Andrea Shelowitz, attorneys at law.
7. The Defendant's conviction and sentences were appealed to the Fourth District Court. See *Case No: 4D00-4484*. On October 30, 2002 the Appellate Court entered an Order affirming

Defendant's judgment and sentence with an opinion. See *Behrens v. State*, 830 So.2d 190 (Fla. 4th DCA 2002). The mandate issued on December 17, 2002.

8. The Defendant's conviction was based exclusively on DNA evidence listed by the State in its discovery submission.

9. The Defendant has filed multiple prior post-conviction motions.

10. This Motion is timely filed within two years of the time the new facts were or could have been discovered with the exercise of due diligence.

I.
**THE DEFENDANT IS ENTITLED TO A NEW TRIAL BASED ON NEWLY
DISCOVERED EVIDENCE THAT COULD NOT HAVE BEEN
DISCOVERED THROUGH DUE DILIGENCE AND IS LIKELY TO
PRODUCE AN ACQUITTAL AT TRIAL**

TIMELINESS

Although Rule 3.850 motions must be filed within two years of the date that the judgement and sentence become final, claims of newly discovered evidence fall within the exceptions to this time limitation. *Doby v. State*, 25 So.3d 598 (Fla. DCA 2nd 2009); Florida Rules of Criminal Procedure 3.850(b)(1). A claim of newly discovered evidence must be filed within two years from the date the evidence could have been discovered with the exercise of due diligence. *Blake v. State*, 152 So.3d 66, 68 (Fla. DCA 2nd 2014).

STANDARD OF REVIEW

Prior to an evidentiary hearing, the factual allegations made by the defendant in a Rule 3.850 motion must be accepted as true unless they are refuted by the record. *Colon v. State*, 909 So.2d 489 (Fla. DCA 5th 2005). A defendant is entitled to an evidentiary hearing unless his claims are conclusively refuted by the record. Florida Criminal Rules of Procedure 3.850(d). To prevail on a claim of newly discovered evidence, a defendant must meet two requirements:

First, the evidence must not have been known by the trial court, the party, or counsel at the time of trial, and it must appear that the defendant or defense counsel could not have known of it by the use of diligence. Second, the newly discovered evidence must be of such nature that it would probably produce an acquittal on retrial

See *Jones v. State (Jones I)*, 591 So.2d 911 (Fla.1991) and *Jones v. State (Jones II)*, 709 So.2d 512, 521 (Fla. 1998); *Cole v. State*, 74 So.2d 184, 185 (Fla. 2nd DCA 2011) (quoting *Preston v. State*, 970 So.2d 789, 797 (Fla. 2007).

ARGUMENT

THE DEFENDANT IS ENTITLED TO A NEW TRIAL BASED ON NEWLY DISCOVERED EVIDENCE

(i) Specific Facts Relating To The Charge

In the early morning hours of May 12, 1995, the victim, Denise Wood, arrived home from work, removed the black and white print dress she was wearing, laid the dress on the floor beside her bed, and went to sleep nude. Around 4:30 a.m. the assailant entered the victim's apartment by crawling through the downstairs kitchen window leaving footprints and finger and palm prints at the point of entry. Once inside the assailant went upstairs to the victim's bedroom where he stood at her bedroom door and shined a flashlight into her eyes to awaken her. During

the assault the assailant told the victim to cover her face and head with her pillow, but she was able to glimpse the features of her assailant and to hear his voice. The victim believed her assailant was armed with a sharp object.

While on top of the victim, the assailant forced his penis into the victim's mouth, forced her to masturbate him, forced her to masturbate herself, and then ejaculated upon her thigh. After ejaculating, the assailant wiped his semen using the victim's black and white dress, which he picked up from the floor. The assailant then dressed and fled down the stairs and exited through the same window. Following the attack, the victim told the police that her assailant was young, in his 20's, five-foot seven, 160 lbs., with short hair, a slight Hispanic accent, and circumcised.

The victim was transported to the Sexual Assault Treatment Center where a rape evidence kit was utilized and turned over to the Plantation Police Department. The rape kit was then entered into property as evidence. Plantation Police Department, Crime Scene Investigator (CSI), Marjorie Hanlon, (hereinafter Hanlon) responded to the crime scene. Trial testimony revealed that Hanlon collected a green fitted sheet, and a green top sheet, a green pillowcase, a multicolored comforter, a black and white print dress, three shoe impression casts, four latent shoe print impressions and eleven (11) fingerprint cards. (T.T. 527).

The evidence was collected and bagged individually and then turned over to the Broward County Sheriff's Office (BSO) Crime Lab for DNA testing. The record, per Hanlon's testimony, indicates that of the eleven (11) finger and palm prints, the shoe casts and other prints, none matched the Defendant.

(ii) Testimony Which Linked Defendant To The Crime

The BSO Crime Lab DNA technician, Donna Marchese, (hereinafter Marchese) testified that of all the evidence submitted to the BSO Crime Lab by Hanlon for DNA testing, which included the rape kit and evidence removed from the victim's bedroom, only one sperm cell was found. (T.T. 885, 886, 919, 973; See also Exhibit A). Marchese stated that she found hairs on the top sheet but never tested them. She also stated that she matched the single sperm cell she found on the green fitted sheet with the Defendant's DNA Standard using the Restriction Fragment Length Polymorphism (RFLP) method of DNA testing. (T.T. 939).

The State also presented the testimony of BSO Crime Lab DNA consultant, Dr. Martin Tracey, (hereinafter Dr. Tracey). Tracey testified that, based upon the results of Marchese's test, the odds of someone other than the Defendant committing the crime were 1 in 14 billion. (T.T. 1050). The prosecutor summed up these odds in his closing arguments by saying that no one else in the world could have committed the crime and emphasized that "science does not lie."

(iii) Chain of Custody Violations By The Plantation Police Department

Hanlon testified that the evidence she collected at the crime scene on May 12, 1995, at 5:00 a.m. was not logged into the Plantation Police evidence room until May 15, 1995 at 11:15 a.m. And that all the evidence collected remained in her CSI van parked outside her personal home for an unaccounted 3 ½ days before she delivered it to the Plantation Police evidence room. (Exhibit B). Marchese testified that 120-days after the crime was committed, the victim's green fitted sheet arrived at the BSO Crime Lab for DNA testing. This was 40-days after all the remaining evidence of this case, including the rape kit, had been viewed and DNA tested with negative results. (Exhibit B) (T.T. 965, 966-968).

(iv) DNA Evidence Planted/Tampered with by the BSO Crime Lab

On November 8, 2016, the Defendant filed a “Motion To Compel The State To Disclose The Existence, Location And Availability Of The Physical Evidence Collected In This Case, Which Are Indispensable For DNA Testing.” On January 6, 2017, the Court ordered the State to respond. On March 8, 2017, the Defendant filed an addendum to his motion. On March 10, 2017, the State responded to Defendant's motion, stating in pertinent part: “6. The State has also treated the items requested in the addendum as a public records request under Chapter 119, Florida Statutes. Any document in the files of the State Attorney which appear to be responsive to the items requested in the addendum are attached hereto. (see Exhibit A, Response to Public Records Request)”. Within all the documents sent by the State, five (5) pages have never before been disclosed to the Defendant. Although this information may not qualify for newly discovered evidence, it reveals to the Defendant an amazing fact that the victim's DNA profile was not found on the green fitted sheet. (Exhibit C). The Defendant was dumbfounded by this because he and his trial attorneys were led to believe that, based on Marchese's testimony and because the victim said she slept nude and alone for over two weeks on the sheet where the DNA evidence was allegedly found, this case was undoubtedly a DNA mixture case, which should have contained her profile.

It is unimaginable for the victim's green fitted sheet not to have contained, at minimum, a mixture of her DNA profile. Therefore, the following scenarios should be explored:

Was the genetic material on the victim's green fitted sheet degraded or contaminated to the point where it contains no readable DNA?

Hanlon testified that she individually packed each piece of evidence in plastic bags then left them inside the CSI van parked outside her own house for 3 ½ days before she delivered it to the Plantation Police Department evidence room. The collection of the evidence occurred in Florida, during the month of May, where it

was directly exposed to high levels of humidity, extreme high temperatures of over 145 degrees in a van exposed to the sun as well as the lack of air flow in the vehicle. Consequently, the possibility exists that this evidence suffered a significant amount of degradation or contamination.¹ Had degradation/contamination occurred to the point where the victim's DNA profile was not present on her own sheet, no other person's DNA would have been found. Put another way, degradation would not only have affected the victim's DNA but all DNA on the green fitted sheet – the victim's as well as the assailant's. Hence, there is only one way the Defendant's non-degraded DNA could have been present on that sheet: it was planted.

Was the victim's green fitted sheet tampered with while in law enforcement's possession?

Hanlon's testimony is that although she collected the evidence on May 12, 1995 at 5:00 a.m., she did not log it into the police station evidence room until May 15, 1995 at 11:15 a.m. because she left it in her CSI van parked outside her house for an unaccounted 3½ days. Marchese also testified as to the green fitted sheet arriving at the BSO Crime Lab for DNA testing 120-days after the crime was committed and 40-days after all the remaining evidence had been viewed and DNA tested with negative results. These chain of custody violations raise the question of the reliability of this evidence and the credibility of law enforcement's behavior, which is contrary to any police evidence collection protocol in the country. Consequently, these violations causes one to wonder if it is the same sheet? Could it have been misplaced or switched or altered in any way, shape or form? Thus, this high probability is supported by the fact that it is inconceivable for the victim to sleep nude on a sheet, unwashed for over 2 weeks, and be void of any trace of her DNA. Hence, there is only one way the Defendant's non-degraded DNA could have been present on that sheet: it was planted.

Were the BSO Crime Lab's DNA analysis practices incorrect in this case?

The fact is that the ASCLD-lab's report issued on April 12, 2016 already answered this question and it is also thoroughly discussed in the instant motion. See *Infra*. The undeniable fact still remains unanswered. Why would the BSO Crime Lab test exclude the presence of the victim's DNA and only reveal the Defendant's non-degraded DNA on her green fitted sheet? Hence, there is only one way the Defendant's non-degraded DNA could have been present on that sheet: it was planted.

¹ In support of this theory of degradation/contamination, it has been scientifically proven that every piece of evidence that was collected at the crime scene and left in the CSI van for the 3½ days, with the exception of spot #1 found on the fitted sheet, tested negative for DNA.

Was the genetic material allegedly found on the victim's green fitted sheet planted at the BSO Crime Lab?

While at the BSO Crime Lab in 1995 Marchese conducted DNA testing. Her results log depicts that the sheet did not contain the victim's DNA. At a pretrial *Arthur* hearing, Marchese stated the following: "While using my microscope I was able to find one spermatozoa cell, that was entwined into the fiber of the fitted sheet." At trial she testified that the sperm cell yielded six feet of genetic material. She explained to the jury that she cut up the six feet into fragments and that this process took several weeks using the RFLP method of DNA type testing. She claimed that she obtained a sufficient amount of DNA material to conduct the RFLP DNA test (T.T. 885, 886, 919, 924, 973).

According to Anthony D. Winston, Associate Technical Director of Forensic Identity Testing of LabCorp, this is scientifically impossible. To that end, during a post-conviction proceeding, Defendant obtained an affidavit from Winston wherein he concluded that, "based on the DNA quantity requirements for RFLP and PCR analysis it is my opinion that it is not scientifically possible to obtain reliable results from one single spermatozoa cell using traditional published methodology." (See Exhibit D). Apparently, science dictates that in order to conduct an RFLP test using sperm samples the scientist must have at a minimum 200 individual sperm cells. Also, the Defendant sent his PCR DNA profile, generated by Palm Beach Sheriff's Office (PBSO) Crime Lab DNA technician Ms. Glidwell, to LabCorp along with instructions to produce a report of the probability of randomly selecting an unrelated individual with a DNA profile that matches the profile provided at the genetic system analyzed. LabCorp's results were 1 in 469,000. Their results are in sharp contrast with those produced by the BSO Crime Lab consultant, Dr. Tracey, of 1 in 14 billion. (Exhibit E). Marchese's test results are in conflict with each other; that is, she was unable to find the victim's DNA profile on her sheet, and yet Marchese was able to detect, at first glance, and on her first randomly picked spot, the *one sperm cell* that she linked to the Defendant. Marchese arrived at her results sometime between 1995 and the Defendant's arrest on March 27, 1998. Remarkably, the genetic markers obtained from the single sperm cell turned out to be identical to the genetic markers obtained by Marchese from sperm collected at an earlier 1993 case for which the Defendant was exonerated after trial. The fact that the two test results just happened to be identical, is no small coincidence. The two lab reports held side by side are identical. This led the police and the court to determine that probable cause existed to arrest the Defendant in the instant case.

The unlikelihood of two separate sperm samples registering identical genetic markers confirmed that the sperm belonged to one donor and served as the basis for issuing a warrant for the Defendant's arrest. In the 1993 case, the semen was collected after a consensual sexual encounter. The examination and extraction of the semen in that case took place at the sexual assault center and was further conducted by a nurse practitioner with experience in the collection, handling and preservation of semen and/or bodily fluids. Vaginal swabs were used to collect the

semen in that case and the sexual assault kit generated from that examination was immediately transported to the Coral Springs Police evidence room, thus preventing any possible degradation/contamination. The semen in this case was found on a fitted sheet collected as evidence from the crime scene after a sexual assault was reported. This fitted sheet was exposed to damaging climatic conditions. It was placed in a plastic bag and left unattended for 3 ½ days inside the CSI van and outside of the CSI's house before it was ultimately logged into the evidence room. It is not logical to conclude that a DNA technician can find an exact match between the 5 loci of the profile collected from vaginal swabs in the 1993 case and the profile found on the sheet in the instant 1995 case, when the evidence in this case was mishandled and exposed to degradation and/or contamination. (Exhibit F). The BSO Crime Lab is the only Crime Lab in the nation that has obtained a DNA match of the Defendant. The Defendant's DNA, after being in the national DNA database for over twenty-years, has never been found to match any other crime scene. As such, the record establishes that the BSO Crime Lab planted the DNA evidence in this case.²

(v) Identification Of The Defendant Is A Disputed Issue In This Case

The victim in this case, Denise Wood, testified at trial that she could not identify the Defendant as the assailant. On the night of the alleged crime the victim reported to law enforcement officers that her assailant was in his early 20's, between five foot seven and five foot eight inches tall, stocky at about 160 lbs., with short hair and with a slight Hispanic accent. Significantly, the victim reported that her assailant was circumcised. (While the prosecutor tried to downplay the significance of this crucial identification feature, the fact remains that the victim was clearly aware of the difference between circumcised and uncircumcised penises, because she had recently dated men who were uncircumcised). The victim was forced to masturbate, bring to erection and perform oral sex on the assailant. In 1995 the Defendant was 31- years old, five foot ten inches tall, about 180- lbs with long hair, a very strong Hispanic accent and, most

² Planting DNA evidence is accomplished through a laboratory procedure called "transferring." The only tools needed for this standard procedure are distilled water and a swab tip.

significantly, he was uncircumcised. Moreover, all fingerprints, palm prints, shoe castings and other prints collected at the entry and exit points did not match that of the Defendant. Clearly, all doubt extended to the Defendant by the apparent lack of direct inculpatory evidence was overcome by the damaging impact of Marchese's DNA test results and the DNA consultant, Dr. Tracey's, corroboration.

(vi) Unrefuted Defense Presented At Trial

Although the Defendant did not testify, he maintained his innocence throughout trial. The Defendant had surgery four days before the victim in this case was assaulted. Consequently, he presented the testimony of his physician, Dr. Guy Durand, which demonstrated that it would have been physically impossible for the Defendant to commit the crime without causing his stitches to tear, and without causing further trauma to injuries he received that led to his surgery. (Exhibit G). The Defendant also presented the testimony of Paula Turgeon, who told the jury that he was in bed with her under pain medication, at her house, 20-miles away from the crime scene, at the time of the crime. (T.T. 1149, 1150, 1151).

The defense asserted that the State had less DNA oral swabs from the Defendant than they claimed to have had. The State claimed to have four. The Defendant's position was that they could only have had two because only two were taken in 1995 and no other DNA was ever swabbed or taken from him at any other time thereafter. (T.T. 988-989). Therefore, the defense asserted that the state's claim, that they had four oral swabs available at the time of trial, was false. The defense alleged probable tampering with the DNA evidence. This remains unrefuted. The mysterious appearance of additional swabs was never clarified and, when argued on appeal,

the appellate court explained it away as a mistake and affirmed. See *Behrens v. State*, 830 So.2d 190 (Fla. 4th DCA 2002).

(vii) Defendant Is Innocent

From the outset the Defendant has maintained his innocence and has continued to do so for the past 21- years. He has never met the victim, let alone committed any crime against her. The Defendant, knowing that he is innocent, never entered any plea but instead, exercised his constitutional right to a trial by a jury of his peers. Since he was found guilty he has argued his case by filing numerous motions to no avail. It seems that no one wants to believe the truth that an innocent man has been sentenced to die in prison due to tainted DNA.

The Defendant humbly pleads to be allowed to uncover and present the truth. He is not looking for favor or an undeserved windfall to come his way, but instead is crying out, and praying for justice.

(viii) Newly Discovered Evidence

The April 12, 2016, ASCLD's report revealed, in part, that multiple BSO Crime Lab's analysis practices were incorrect and that the Lab mishandled, misinterpreted and miscalculated samples that contain DNA from more than one person.

The May 31, 2017, New Times' article revealed, in part, that BSO Crime Lab DNA consultant, Dr. Tracey, was suspended from his teaching job at FIU amid accusations of bias, racism, sexism and making regular comments about using drones to plant DNA evidence. It also revealed that Dr. Tracey's work was central to Roy's concerns because he had reviewed DNA from a knife, on an unrelated case, that was erroneously found to be conclusive by BSO Crime Lab when it was actually inconclusive under the ASCLD's rules.

This combined newly discovered evidence is direct evidence that would have contributed to reasonable doubt of Defendant's guilt. Further, this newly discovered evidence would also impeach the testimony of both of the State's DNA experts, Ms. Marchese and Dr. Tracey. Such testimony, coupled with the defense's legitimate medical trial testimony, alibi witness and tampering with the DNA evidence defense presented at trial, would have produced a different outcome. Furthermore, the Defendant could not have discovered the abovementioned evidence through due diligence until the ASCLD-Lab and the New Times reported it.

The Defendant's DNA was a scientific building block upon which the State's entire case was built. The jury convicted the Defendant because the State presented persuasive DNA expert testimony. The newly discovered evidence reveals that those experts lack professional integrity. This is relevant to the way they found, tested and calculated the statistical significance of the DNA, and that they erroneously relied on the tainted DNA to charge the Defendant with this case.

Accordingly, the Defendant unequivocally submits that the state used incorrect or incomplete DNA to charge him with the sexual assault committed against the victim in the instant case.

(ix) Other Relevant Facts Of Misconduct Throughout This Case

Detective Steven Geller's professional misconduct

On October 10, 1997, Defendant was arrested in Clark County, Las Vegas, Nevada. A few weeks later, Det. Geller, from the Plantation Police Department in Broward County, Florida, and Det. Clements, from the Metro Police Department in Clark County, Nevada, took the Defendant for a special interview outside the county jail. In route to the interview, both of the detectives seriously beat the Defendant while attempting to force a confession in which Defendant maintained his innocence. The Defendant's left side lower rib was fractured and caused internal bleeding. This incident was immediately reported to the jail's medical personnel who treated the Defendant. (See county jail's medical records). Defendant also filed a 1983 civil complaint against both detectives. (See law suit filed in Clark County, Las Vegas, Nevada).

Assistant State Attorney Dennis Siegel's professional misconduct

On March 27, 1998, Defendant was formally charged with the instant case.³ The charging information was sworn by and prosecuted at trial by Mr. Siegel. He charged Defendant with one count that had been expired by the statute of limitations and one count - carrying a life sentence - that was never supported by the victim's allegations. After Defendant complained and contested the veracity of the sworn allegations made by Mr. Siegel, Defendant filed a motion to dismiss those two counts based on the lack of evidence supporting the charges. The Court and Mr. Siegel agreed with Defendant that neither the evidence nor the victim's statements supported such charges. Both charges were ultimately dismissed and an amended information was filed. The Defendant filed a Florida Bar complaint against Mr. Siegel for committing perjury during an official proceeding. The Florida Bar eventually dismissed the complaint. The Defendant moved the Court to recuse Mr. Siegel from the case but the Court denied the motion. The Defendant motioned for the State Attorney for Dade and Palm Beach Counties to prosecute Mr. Siegel, but both offices refused to "prosecute a prosecutor." (See Court On-line Docket)

After trial, on April 23, 2001, Defendant hired a private investigator to look into the circumstances that led to his conviction for a crime he did not commit. The investigator discovered the existence of Ms. Glidewell's exculpatory DNA report. (Exhibit H). Ms. Glidewell, a DNA technician at the Palm Beach Crime Lab employed what the general scientific community, as well as Florida courts, consider to be a more sophisticated DNA test, called PCR test. However, Mr. Siegel withheld Ms. Glidewell's exculpatory report in the 1993 case because it would have destroyed the reliability of the test performed by Ms. Marchese in this case. Defendant was ultimately found guilty at trial because of the DNA evidence.

BSO Crime Lab DNA tech, Donna Marchese's, professional misconduct

All evidence in this case points to Marchese as the only person who could have planted the DNA evidence on the green fitted sheet. She testified that although it was the BSO Crime Lab's standard policy to only analyze the rape kit in cases where no suspects were listed, in this particular case, after a special request was made by the Plantation Police Department (Det. Geller), she did it anyway. (T.T. 965-967). She had the Defendant's seminal fluid available at the BSO Crime Lab since 1993. She was the same lab technician who worked on the 1993 case. However, she testified that she did not have a container of Defendant's seminal fluid anywhere in the location while she was examining the sheet. (T.T. 910). Her own testimony shows that she was well aware of how to laboratory transfer evidence from one place to another. Marchese stated: "...[T]he proper medium for the collection of sample. If you put a q-tip and you add a little bit of distilled water and you rub anything, you are going to pick-up or transfer what ever is there." (T.T. 951).

³ This Assistant State Attorney simultaneously charged and prosecuted four additional cases in Broward County before this case went to trial. In two of the cases the Defendant was exonerated before the jury considered the cases. On the other two the jury acquitted the Defendant. Notably, on Case Number 94-6152 the jury acquitted the Defendant based on the tampering and planting of fingerprint evidence by the Coral Springs latent fingerprint expert Joel Geller. (See On-Line Case Number 94-6152)

BSO Crime Lab professional misconduct, mishandling and tampering with drug evidence

In 2014, another scandal at the BSO Crime Lab was made public. Two top staff members resigned, and an internal affairs investigation took place. Problems were found in everything from street-level drug busts to large-scale probes of heavy movers. The common factor: All the drugs landed on the desk of forensic chemist Kelli McDonald. In March 2014, Ongley and McDonald's former supervisor, Randy Hillard, resigned and McDonald herself was also terminated from her job soon thereafter due to the tampering with evidence.

BSO Crime Lab professional misconduct, mishandling of DNA evidence

On October 27, 2016, the Defendant received a notice from the Office of the State Attorney regarding the probability that the BSO Crime Lab's analysis practices were incorrect. This led to the Defendant's discovery of the ASCLD's findings. After contacting DNA consultant, Tiffany Roy, the Defendant was informed that while she reviewed DNA from a knife handle, in an unrelated case, she realized that the BSO Crime Lab had erroneously called it conclusive, in violation of ASCLD's rules. Roy emailed the directors of ASCLD about that issue and several others noting that the BSO Crime Lab analysts seemed to be skewing the process by using samples from suspects to determine which portions of DNA evidence to analyze. "I am certain a great many cases have been affected by this," she wrote to the group.

In the aforementioned unrelated case, Dr. Tracey's work was central to Roy's concerns because he had reviewed the DNA from the knife but he was quick to defend his work and the BSO Crime Lab. In a letter to its director, he and other FIU professors who served as Crime Lab consultants wrote that its protocols were carefully designed and validated. They added that Roy's allegations were baseless and, because she was working for the defense, suspect. "It appears to us that the allegations are an overt act by the defense to invalidate years of consistent and quality work," said the December 2015 letter signed by FIU's Dr. Tracey, McElfresh and Bruce McCord, each of whom had served as a consultant to the BSO Crime Lab. But in April 2016, ASCLD agreed with Roy. A June appeal by the BSO Crime Lab yielded the same results. By July, the BSO Crime Lab was still standing by its methods but agreed to stop processing complex DNA.

The ASCLD-lab confirmed many of Roy's suspicions and wrote that multiple BSO Crime Lab's analysis practices were incorrect. Among other claims, the BSO Crime Lab's procedures had "The potential to not fully recognize the genotypes of all potential contributors and the potential to overstate the statistical significance of occurrence of the evidentiary profile," the report said. In other words, the BSO Crime Lab could have been using incorrect or incomplete DNA to charge defendants with crimes. At issue, in that case, was DNA evidence based on complex samples in which the genetic material comes from multiple people. Complex samples require a complicated analysis to determine which portion of DNA belongs to which person. When the DNA is miniscule or degraded, pieces can be missing or seem to exist where they do not. Because so much of that evidence is up to interpretation the science can become more subjective and different experts often arrive at varying conclusion. That subjectivity led ASCLD in 2010 to issue new thresholds for interpreting DNA and calculating the odds that a particular person left DNA at a crime scene. As a result of the investigation ASCLD found problems with how the BSO Crime Lab was interpreting complex samples, which contain DNA from more than one person. With its accreditation threatened, the BSO Crime Lab last July ceased reporting those complex samples and instead began sending them to outside experts.

BSO Crime Lab DNA Consultant, Dr. Martin Tracey's professional misconduct

On or about June 15, 2017, the Defendant received a copy of a New Times article dated May 31, 2017, which led to the instant claim. Said article revealed that on December 24, 2016, BSO Crime Lab's consultant, Dr. Tracey, was suspended from his teaching job at FIU amid accusations of bias, racism and sexism. Some students alleged Dr. Tracey made sexist jokes, others claimed he said he should hate Cubans because his ex-wife was Cuban. Those allegations triggered a separate investigation by the school's equal opportunity office, which concluded last year that the professor "Frequently made offensive comments and jokes pertaining to sex and nationality," violating University policy.

However, the University said that it was particularly concerned by Dr. Tracey's regular comments about drones and planting evidence. On exam nights, Tracey would often send emails about drones going to students' homes to make sure they were in bed by 10:00 p.m. "The new drones will take an almost unnoticeable skin biopsy which will give me enough of your skin to place at the crime scene of my choice," he wrote occasionally. FIU found this reference inappropriate as well. On a later date, FIU terminated Dr. Tracey from his job at the University.

In 2017, Chief Assistant State Attorney Jeff Marcus, pointed to a ruling in a police shooting case, in which the Judge refused to allow defense attorneys to introduce the FIU investigation or to question Dr. Tracey about his alleged racial biases. "The defense is trying to portray Dr. Tracey as a racist when in fact no racial bias has been substantiated," Judge Paul Backman wrote in his order. But the Judge did add one note: his decision would have been different, he said, if the defendants were Cuban.

The Clerk of Court for Broward County professional misconduct

On June 22, 2017, the Defendant filed a public records request to the Clerk of Court compelling all related information regarding the DNA evidence in this case. The Clerk of Court never responded to the Defendant's public records request and ignored all phone calls made by family members. The Clerk refused to provide the requested information. In September 2017, Defendant filed a "Petition for Writ of Mandamus" in the Fourth District Court of Appeal. On October 11, 2017, the Appeal Court transferred the petition to the lower court to be addressed. (See Court On-line Docket). However, up to and including the time of the filing of this motion, there has been absolutely no action taken by the lower court on this "Petition for Writ of Mandamus."

Because of ongoing misconduct, disregard for proper procedures and non-compliance by the State's representatives, and in the interest of justice, a thorough investigation on the DNA evidence in this case is necessary.

**THE DEFENDANT COULD NOT HAVE PREVIOUSLY DISCOVERED THIS
EVIDENCE THROUGH DUE DILIGENCE**

The April 2016 ASCLD's report states that multiple BSO Crime Lab's analysis practices were incorrect and that the Lab mishandled, misinterpreted and miscalculated samples that contain DNA from more than one person. In other words, the report establishes that there is a reasonable probability that the BSO Crime Lab used incorrect or incomplete DNA to charge and ultimately assist the state in convicting the Defendant with this crime.

Additionally, a 2017 New Times' article revealed that the BSO Crime Lab DNA consultant, Dr. Martin Tracey, corroborated DNA evidence from more than one case in which the Lab had erroneously called conclusive when it was actually inconclusive under the ASCLD's rules. It also exposed that Dr. Tracey had been accused of bias, racism, sexism, and that he made regular comments about using a drone to plant DNA evidence at the crime scene of his choice. Lastly, it exposed the fact that Dr. Martin had ultimately been suspended from teaching at the FIU. Although, the ASCLD's report and the New Times' article were not written until 2017, more than fifteen-years after Defendant's trial, the errors exposed in the ASCLD's report and the accusations revealed in the New Times' article were unknown or not publicly acknowledged at the time of his trial. Accordingly, the report and the article constitute newly discovered evidence because they consist of facts that the Defendant or counsel could not have known or discovered through due diligence at the time of trial. See *Wyatt v. State*, 71 So.3d 86, 99-100 (Fla. 2011). Hence, the Defendant has sufficiently pled this necessary element.

**THE NEWLY DISCOVERED EVIDENCE IS LIKELY TO PRODUCE AN ACQUITTAL
IN A NEW TRIAL FOR THE DEFENDANT**

In addition to alleging that newly discovered evidence could not have been discovered through due diligence, the combination of the evidence above stated is "...of such a nature that it would probably produce an acquittal on retrial." See *Jones v. State*, 709 So.2d 512, 521 (Fla. 1998).

Justice demands a new trial for the Defendant- one free of the tainted DNA evidence used to convict him and sentence him to serve life in prison. Although the ASCLD's report and the New Times' article do not establish the Defendant's innocence, this newly discovered evidence will strike blows for reasonable doubt and likely lead to an acquittal.

The new evidence will contradict the State's sole theory of prosecution, i.e., that the Defendant committed the assault because his DNA was found on the victim's green fitted sheet. Notably, again, the victim's DNA or a mixture of it was not detected. This anomaly is a direct consequence of the BSO Crime Lab's mishandling and misinterpreting samples that contain DNA from more than one person. In other words, the Lab utilized incorrect and incomplete DNA which led to the Defendant being charged with the crime. Thus, the faulty DNA trial testimony and the tainted DNA evidence herein led all courts previously reviewing this case and the jurors to conclude that the Defendant sexually battered the victim. Further, this enabled the State to discredit the defense's medical testimony, alibi witness and tampering with the DNA evidence defense presented at trial. Because the new evidence was not available at the time of trial, the defense focused its entire tampering with evidence defense on the oral swabs collected instead of directly attacking the BSO Crime Lab and its experts' lack of integrity, analysis practices and

procedures. Had the jury heard the newly discovered evidence, which negates the tainted DNA evidence, there is a reasonable probability that they would have acquitted the Defendant.

A court evaluating newly discovered evidence claims must “evaluate the weight of both the newly discovered evidence and the evidence which was introduced at trial.” *Jones v. State*, 591 So.2d 911, 916 (Fla. 1991). In this case, the Court should not merely subtract the faulty DNA trial testimony and evidence from the State's case and then rely on other “overwhelming” evidence of guilt. Rather than assess the probability of acquittal after revising the State's case in light of the new evidence, this Court should follow the Florida Supreme Court’s precedent in *Jones* by considering the likely effect on the jury’s verdict of both the new evidence and the evidence presented at trial. In the discussion that follows, Defendant explores the areas in which the newly discovered evidence would have contributed to reasonable doubt of his guilt.

The Defendant's case was a scientific building block upon which the State's entire case was built. The State relied solely on the tainted DNA evidence to imply that Defendant committed the crime. At trial, two DNA experts testified on behalf of the State, BSO Crime Lab DNA technician, Donna Marchese, and the Lab’s DNA consultant, Dr. Martin Tracey. Marchese testified that she matched the sperm cell she found on the green fitted sheet with the Defendant's DNA standard deriving from the Defendant's oral swabs, collected by Det. Archie Moore in 1995, using the RFLP DNA methodology.

Dr. Tracey testified that based upon the results of Marchese’s test, the odds of someone other than the Defendant committing the crime were 1 in 14 billion. The State summed up these odds in closing arguments by stating that no one else in the world could have committed the crime but the Defendant, and emphasized to the jury “science does not lie.” The Fourth District

Court of Appeal's opinion in Defendant's direct appeal demonstrates the impact of the faulty DNA trial testimony and evidence presented at trial. See *Behrens v. State*, 830 So.2d 190 (Fla. 4th DCA 2002). Without doubt, the tainted DNA evidence led Defendant's jury, as well as the prior courts reviewing this case, to the conclusion that Defendant committed the crime.

The DNA testimony of the BSO Crime Lab consultant placing Defendant as the only person in the world that could have deposited the sperm cell on the victim's sheet, certainly made a substantial impression on the jury. Given the high degree of reliability, given to labs and experts by jurors, had they heard that, 1) multiple BSO Crime Lab analysis procedures were incorrect; 2) that the BSO Crime Lab mishandled and misinterpreted samples that contained DNA from more than one person, 3) that it's DNA consultant lacks professional integrity and has been accused of bias, racism, and sexism; 4) that the consultant has regularly made comments about planting DNA evidence with drones at the crime scene of his choice; and 5) that the consultant corroborated DNA evidence that BSO Crime Lab erroneously determined to be conclusive when according to ASCLD's rules should have been inconclusive, there would have been an even greater impact. All in all, the newly discovered evidence would have severed a link between the Defendant and the sexual assault thereby contradicting the strong implication that he was the assailant.

Analysis To The Cumulative Effect Of Newly Discovered Evidence

The following is relevant to an analysis regarding the cumulative effect of the newly discovered evidence alluded to herein. See *Robinson v. State*, 770 So.2d 1167, 1170 (Fla. 2000)(explaining that trial court must "evaluat[e] the newly discovered evidence in conjunction with evidence presented at trial").

At a pretrial *Arthur* hearing, Marchese testified that: "While using my microscope I was able to find one spermatozoa cell, that was entwined into the fiber of the fitted sheet." At trial she testified that the sperm cell yielded six feet of genetic material. She explained to the jury that she cut up the six feet into fragments and that this process took several weeks using the RFLP method of DNA type testing. She claimed she obtained a sufficient amount of DNA material to conduct her test. However, in 2003, during postconviction proceedings, the Defendant obtained an affidavit from Anthony D. Winston, Associated Technical Director of Forensic Identity Testing at LabCorp, stating that it was scientifically impossible to obtain reliable results from one single spermatozoa cell using traditional published methodology. Also, the Defendant sent his PCR DNA profile, generated by PBSO Crime Lab DNA technician Ms. Glidwell, to LabCorp along with instructions to produce a report of the probability of randomly selecting an unrelated individual with a DNA profile that matches the profile provided at the genetic system analyzed. LabCorp's results were 1 in 469,000. Their results are in sharp contrast with those produced by the BSO Crime Lab consultant, Dr. Tracey, of 1 in 14 billion.

The affidavit and reports obtained from LabCorp can be used to attack the reliability of the testing procedures followed by the BSO Crime Lab, and to impeach Marchese's testimony that she tested one sperm cell utilizing RFLP methodology. Additionally, they can be used to impeach Dr. Tracey's testimony about the odds he presented at trial.

At trial, although the Defendant did not testify, he maintained his innocence. The Defendant had surgery four days before the victim in this case was assaulted. Consequently, he presented the testimony of his physician, Dr. Guy Durand, which demonstrated that it would have been physically impossible for the Defendant to commit the crime without causing his

stitches to tear, and without causing further trauma to injuries he received that led to his surgery. The Defendant also presented the testimony of Paula Turgeon, who told the jury that, at the time of the crime, he was at her house in bed with her, under pain medication, 20 miles away from the crime scene. Both of these witnesses' testimony went unrefuted.

Turning to the present, the ASCLD's report confirming that multiple BSO Crime Lab's analysis practices were incorrect, coupled with the fact that it's DNA consultant, Dr. Tracey, lacks professional integrity, would have supported Defendant's tampering with DNA evidence defense.

There is a strong likelihood that the newly discovered evidence, alluded to herein, in conjunction with evidence presented at trial, will result in an acquittal in favor of the Defendant.

CONCLUSION

A rationale juror evaluating the newly discovered evidence, in tandem with the evidence at trial, will probably have reasonable doubt as to the Defendant's guilt. Thus, applying the standard of "probable acquittal" that governs newly discovered evidence claims, this Court should grant the Defendant a new trial free of the tainted DNA evidence that misled the jury and yielded a conviction. The DNA evidence presented in this case simply cannot be confidently relied upon as the basis for the Defendant's sentence of life in prison.

A HEARING IS REQUIRED

The Defendant has asserted a facially sufficient claim that this newly discovered evidence could not have been discovered through due diligence. Additionally, the newly discovered evidence creates a likelihood that the verdict and sentence would be altered. Moreover, this Court may not summarily deny this motion unless the claims are conclusively refuted by the record. *McLin v. State*, 827 So.2d 956 (Fla. 2002). The Defendant should be afforded an evidentiary hearing wherein appointed counsel and his *pro bono* forensic DNA consultant, Tiffany Roy, can complete the following:

Scientifically determine:

1. Why the victim's DNA profile is absent from the green fitted sheet.
2. Why a complex DNA mixture does not exist on the sheet.
3. That the DNA evidence on the green fitted sheet is degraded/contaminated.
4. That the green fitted sheet has been tampered with.

Compel, through appointed counsel, BSO Crime Lab's DNA work product including but not limited to issue subpoenas for:

1. The BSO Crime Lab's DNA technician(s) and consultant(s) who performed and evaluated any and all DNA testing and statistical calculations in this case.
2. The analyst and consultant's case file.
3. The electropherograms (or equivalent) from testing.
4. All printouts and worksheets from serology testing.
5. All DNA testing process
6. Any and all calculations made by BSO Crime Lab's analyst(s) and consultant(s) to convey a frequency of the DNA profile obtained from the evidence.

Compel, through appointed counsel, the Clerk of Court to disclose the existence, location and availability of the following physical evidence that was introduced at trial and is now indispensable for DNA testing:

1. The eleven (11) fingerprint cards collected from the point of entry.
2. The victim's green fitted sheet including cuttings #1, #3 and #4.
3. The victim's green top sheet including the 10-15 hairs found on it.
4. The victim's green pillow case used to cover the victim's face.
5. The victim's black and white print dress used to wipe off seminal fluid.

Accordingly, the Defendant is entitled to a hearing on this motion.

REQUEST FOR APPOINTMENT OF COUNSEL

In *Graham v. State*, 372 So.2d 1363 (Fla. 1979), the court recognized that although there is no absolute right to counsel in post-conviction relief proceedings, the post-conviction court must determine the need for counsel and resolve any doubt in favor of the appointment of counsel for the defendant. The court stated:

The question in each proceeding of this nature before this court should be whether, under the circumstances, the assistance of counsel is essential to accomplish a fair and thorough presentation of the petitioner's claims. Of course, doubts should be resolved in favor of the indigent petitioner when a question of the need for counsel is presented. Each case must be decided in the light of the Fifth Amendment due process requirements. The adversary nature of the proceeding, its complexity, the need for an evidentiary hearing, or the need for substantial legal research are all important elements which may require the appointment of counsel. This appointment authority is discretionary, with any doubts being resolved in favor of an indigent defendant. *Id.* at 1365-1366.

Because an evidentiary hearing is necessary that will involve complex scientific evidence, due process requires the appointment of counsel.

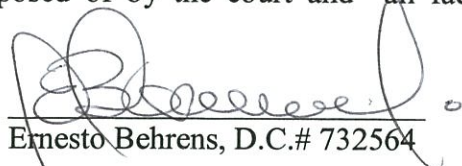
RELIEF SOUGHT

WHEREFORE, the Defendant Ernesto Behrens, request that this Honorable court grant all relief to which the defendant may be entitled to in this proceeding including but not limited to:

1. An evidentiary hearing with appointment of counsel;
2. An order vacating the judgement and sentence in this matter;
3. Such other and further relief as the court deems just and proper

UNNOTARIZED OATH

Under the penalty of perjury and pursuant to rule 3.850 (n), I declare that I have read the foregoing Motion for Post Conviction Relief, I understand English and the motions content, the motion is filed in good faith with a reasonable belief that it is timely filed, has potential merit, does not duplicate previous motions that have been disposed of by the court and all facts contained in it are true and correct.


Ernesto Behrens, D.C.# 732564

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Post Conviction Relief has been mailed to this Court and forwarded to the following listed below on this the _____ day of _____, 2018.

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Fort Lauderdale, FL. 33301

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Orlando, FL 32807
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Jackson, MS 39201
www.law.mc.edu

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Shepard Board Law Center
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Fort Lauderdale, FL 3314
www.nusulaw.nova.edu

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San Antonio, TX 63108
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University of Miami School of Law
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Law
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www.stu.edu/lawschool

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www.associatedpress.com
www.cnn.com, www.al.com

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125 Broad St. 18th FL
New York, NY 10004
www.aclu.org

Consulate General of Switzerland
633 3rd Ave. 30th FL
New York, NY 10017
www.eda.admin

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77 W 66th St.
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www.tampatribune.com

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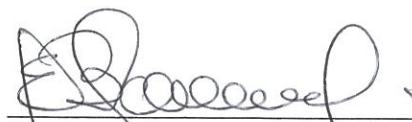
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Ernesto Behrens, D.C.# 732564
Martin Correctional Institution
1150 S.W. Allapattah Road
Indiantown, FL. 34956

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

STATE OF FLORIDA,
Plaintiff,

v.

Case No: 98-5739CF10A

Judge: Andrew Siegel

ERNESTO BEHRENS,
Defendant. _____/

MOTION FOR POST-CONVICTION RELIEF
EXHIBITS

- A. BSO CRIME LABORATORY ANALYSIS REPORT
- B. PLANTATION POLICE PROPERTY RECEIPT/EVIDENCE'S CHAIN OF CUSTODY.
- C. STATE ATTORNEY'S RESPONSE TO DEFENDANT'S MOTION.
- D. LABCORP'S SWORN AFFIDAVIT.
- E. LABCORP'S PCR DNA DATA SHEET AND CERTIFICATE OF ANALYSIS.
- F. BSO CRIME LABORATORY LOCAL MATCH RESULTS REPORT.
- G. MEDICAL RECORD PRESENTED AT TRIAL.
- H. PRIVATE INVESTIGATOR'S AFFIDAVIT AND REPORT.

EXHIBIT

“A”

BROWARD COUNTY SHERIFF'S OFFICE
P.O. Box 9507
Ft. Lauderdale, FL 33310

CRIME LABORATORY ANALYSIS REPORT

To: Detective Hager
Plantation Police Department
451 NW 70 Terr.
Plantation, FL 33317

Date: 06/19/95
Agency: # 1519-95-05

The evidence listed below was submitted to the laboratory:

- One sexual assault kit.
- 7. One black and white print dress.
- 8. One green top sheet.

Testing was negative on this evidence. It is NOT suitable for further analysis.

The foregoing instrument was
acknowledged before me this

by Donna J. Marchese
who is personally known to me
and who did take an oath.

Blanca M. Edwards

CC290750

Respectfully submitted,

Donna J. Marchese
DNA Specialist
Crime Laboratory

STATE OF FLORIDA, COUNTY OF BROWARD

BROWARD COUNTY SHERIFF'S OFFICE
P.O. Box 9507
Ft. Lauderdale, FL 33310

CRIME LABORATORY ANALYSIS REPORT

To: Detective Hager
Plantation Police Department
451 NW 70 Terr.
Plantation, FL 33317

Date: 09/27/95
Agency Case# 1619-95-05

VICTIM: DENISE WOOD

The evidence listed below was submitted to this laboratory:

9. One green fitted sheet.

Contact this lab when a suspect is in custody. Submitted items will be analyzed and entered into the BSO DNA open case file.

The foregoing instrument was
acknowledged before me this
day of Oct, 1995
by Donna J. Marchese
who is personally known to me
and who did take an oath.

Diana M. Edwards
Diana M. Edwards
CC290759

STATE OF FLORIDA, COUNTY OF BROWARD

Respectfully submitted,

Donna J. Marchese
Donna J. Marchese
DNA Specialist
Crime Laboratory



DIANA M. EDWARDS
MY COMMISSION # CC290759 EXPIRES
May 31, 1997
BONDED THRU TROY FARM INSURANCE CO.

11
D

EXHIBIT

“B”

(NOTE: BOX 2 (CONTAINS COMFORTER #1 ONLY)

POLICE DEPARTMENT
PLANTATION, FLORIDA

PROPERTY RECEIPT

1. ☐ Trial Evidence ☐ Safekeeping ☐ Found Property ☒ Lab Evidence (Attach Memo) ☐ Recovered Property

2. CASE NO. 1619-9505 3. DATE - TIME RECEIVED 5/12/95 0900 4. BIN NO. (P33) (B3) 5. TYPE OF CASE Actual Battery 9/186F

6. ADDRESS WHERE PROPERTY IMPOUNDED (GIVE EXACT LOCATION WHERE FOUND)

7. FOUND BY [Redacted] ADDRESS [Redacted] CITY [Redacted] STATE [Redacted] TEL. # [Redacted]

8. SUSPECT(S) (GIVE FULL NAME) UNKNOWN RACE/SEX [Redacted] DOB [Redacted] ARRESTED ☐ YES ☐ NO NTA ☐ YES ☐ NO CITATIONS ☐ YES ☐ NO ☐ PENDING

9. VICTIM Denise Wood ADDRESS [Redacted] CITY [Redacted] STATE [Redacted] TEL. # [Redacted]

10. OWNER'S NAME SAME AS #9 ADDRESS [Redacted] CITY [Redacted] STATE [Redacted] TEL. # [Redacted]

| 11. ITEM NO. | 12. QTY | 13. DESCRIPTION |
|--------------|---------|--|
| 1 | 1 | Multicolored Comforter - folded inward Envelope. |
| 2 | 1 | Pillow Case - *removed inside out.* |
| 3 | 1 | Top Sheet - Green - folded inward Envelope. |
| 4 | 1 | Fitted Sheet Green folded inward Envelope. |

[Redacted] Sheet ret. to PD 10-18-95
10:30 K. Amabile
*Refer to [Redacted]

Donna J. Norcross Analysis 9-18-95

14. SPECIAL INSTRUCTIONS
☐ PROCESS FOR FINGERPRINTS
☐ DESTRUCTION PURPOSE ONLY
☒ OTHER (Specify) Check for semen hairs and fit
☐ RELEASE UPON PROOF OF OWNERSHIP

15. I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt.

S. Geller / Discovery / 12/1/99

Redwood / Redwood / Ret to Pmp 12/1/99 0900 1300

Signature (X) _____

18. I hereby acknowledge that the above list represents all property impounded by me in the official performance of my duty as a Police Officer.

Division 1A PL # 8820

Impounding Officer Signature X [Redacted]

Print Name MARGORIE HANSON

17. RECEIVED BY Print Name K. Amabile Signature K. Amabile REASON Evid DATE AND TIME RECEIVED 5-15-95 11:15

SHEET RECEIVED BY K. Amabile K. Amabile REASON to 850 Lab DATE AND TIME RECEIVED 5-18-95 11:15

RECEIVED BY J Kattol REASON LS DATE AND TIME RECEIVED 5/18/95 1140

RECEIVED BY Donna J. Norcross REASON Analysis DATE AND TIME RECEIVED 6-13-95

RECEIVED BY K. Amabile REASON ret. to P.D. DATE AND TIME RECEIVED 6-21-95 11:50

RECEIVED BY M KEENAN M Keenan REASON DOT LAB DATE AND TIME RECEIVED 6-30-95 11:30

18. FINAL DISPOSITION J Kattol AUTHORITY AS DATE AND TIME OF DISPOSITION 6/30/95 1230

= 1,2,3

| RELEASED BY | REASON: | DATE | TIME |
|--------------------|-------------------|-------------------|-----------------|
| Item #4 K. Amabile | tot Lab | 2-1-00 | |
| Item #4 | Lab #4 | 2/1/00 | 1156 |
| Item #4 K. Amabile | tot Lab | 6-28-00 | 0900 |
| Jane J. Mousa | Lab | 6-28-00 | 0930 |
| Steve Geller | Return to PRD | 6-29-00 | 1350 |
| | | | |
| | | | |
| | | | |
| | | | |

11:30

EXHIBIT

“C”



MICHAEL J. SATZ
STATE ATTORNEY
 SEVENTEENTH JUDICIAL CIRCUIT OF FLORIDA
 BROWARD COUNTY COURTHOUSE

201 SE SIXTH STREET, SUITE 660 A, FORT LAUDERDALE, FL 33301-3360

PUBLIC RECORDS REQUEST

Contact Mrs. Seltzer at (954) 831-7228 / SSeltzer@sao17.state.fl.us

Requestor : **LUYSTER, ESQ. V. JULIA**
 Company :
 Address : **1205 N. FEDERAL HIGHWAY**

Request Reference #: **8089**
 Phone:
 Fax:
 Date: **3/10/2017**

City, State, Zip **LAKE WORTH, FL - 33460**
 Email: **JULIA@LUYSTERLAW.COM**

Pursuant to Chapter 119, Florida Statutes, request is made for:

Request Type: **COPIES**

Record Type: **Public Records Request**

Defendant: **BEHRENS, ERNESTO**

CtNum: **98005739CF10A**

Description: **the documents listed in the Motion to Compel and Addendum**

YOU ARE ADVISED that the State Attorney's Office is not the custodian of the official court records. The records you have requested are only those in the custody of the State Attorney, subject to all legal exceptions and/or redactions. For a copy of the complete and official record and/certified copies, contact the office of Howard Forman, Clerk of the Court, 17th Judicial Circuit of Florida, at (954) 831-6565

(For SAO use only)

Letter acknowledging request sent by _____

Date _____

Active Discovery provided by _____

Date _____

Reviewed/Redacted by _____

Date _____

Approved/Disapproved by *Susan Seltzer*

Date **3-10-17**

File unable to be located by Unit _____

Date _____

See Notes/Exemptions/Redactions indicated below

Request Withdrawn—Date _____

SAO has no record as requested _____

SAO record was destroyed per §119.021(2)(d),

Notes/Exemptions from Public Record Disclosure (For Reviewing ASA use only)

- | | |
|---|---|
| <input type="checkbox"/> Active internal affairs investigation => exempt, §112.533, FS; §655.057(1)(a), FS | <input type="checkbox"/> Mental Health records => exempt, §394.4615(1), FS; §456.057, FS |
| <input type="checkbox"/> Attorney notes=> confidential and exempt, Lopez v State 696 So. 2d 725 (Fla. 1997); Arbelaez v. State, 775 So. 2d 909 (Fla.2000) | <input type="checkbox"/> On active, pending cases, information not disclosed to defense in discovery=> exempt, Satz v. Blankenship, 407 So. 2d 396 (Fla. 4DCA 1981); Tribune Co. v. Public Records, 493 So. 2d 480 (Fla. 2nd DCA, 1986) |
| <input type="checkbox"/> Confession by Defendant on active cases=> exempt, §119.071(2)(e), FS | <input type="checkbox"/> Personal assets of crime victim=> exempt, §119.071(2)(i), FS |
| <input type="checkbox"/> Bank account numbers, debit, charge and credit account numbers and social security numbers=> exempt, §215.322(6)1, FS; §119.071(5)(a)(b), FS; §655.057, FS; §655.059, FS | <input checked="" type="checkbox"/> Personal victim information in cases of sexual offense, child abuse, lewd & lascivious offense=> exempt, §119.071(2)(h), FS; §794.024 |
| <input type="checkbox"/> Biometric ID Information=>exempt, §119.071(5)(g), FS | <input type="checkbox"/> Medical Records=> exempt, §395.3025(4), FS; §395.3025(8), FS; §456.057, FS |
| <input type="checkbox"/> information revealing id of Confidential Informant or confidential source=> exempt, §119.071(2)(f), FS | <input type="checkbox"/> PSI, PTL, pre-plea, post-sentence investigative records=> exempt, §945.10(1)(b), FS |
| <input type="checkbox"/> Defendant not entitled to free copy of file=> Roesch v. State, 633 So. 2d 1 (Fla. 1993) | <input type="checkbox"/> Reports of abuse of vulnerable adult=> exempt, §415.107, FS |
| <input type="checkbox"/> Criminal History Data=> exempt, §943.0525, FS | <input type="checkbox"/> Department of Children & Families Reports of child abuse=> exempt, §39.0132(4)(a), FS; §39.202, FS |
| <input type="checkbox"/> Department of Corrections Records & Investigations=> exempt, §945.10, FS | <input type="checkbox"/> School records=> exempt, §1002.22, FS |
| <input type="checkbox"/> Autopsy Photographs=> exempt, §406.135(1), FS | <input type="checkbox"/> Photograph of victim of sexual offense=> exempt, §119.071(2)(h) |
| <input type="checkbox"/> E.M.S. Reports=> exempt, §395.51, FS | <input type="checkbox"/> Active criminal intelligence and investigative information=> exempt, §119.071(2)(c), FS |
| <input type="checkbox"/> Home Addresses, etc., of current or former prosecutors, law enforcement personnel, firefighters, judges and code inspectors=> exempt, §119.071(4)(d)1, FS | <input type="checkbox"/> Identity of caller requesting or reporting "911" emergency=>exempt, §365.171(15), FS |
| <input type="checkbox"/> Traffic Crash Report exempt for 60 days after report is filed=>exempt, §316.066(5)(a), FS | <input type="checkbox"/> Juvenile Records=>exempt, §985.04, FS |
| <input type="checkbox"/> Videotaped statement of minor victim of sexual battery=>exempt, §119.071(2)a, FS | <input type="checkbox"/> Drivers License digital imaging=> exempt, §322.142(4), FS |
| <input type="checkbox"/> DL and DMV records=>exempt, §119.0712(2), FS | <input type="checkbox"/> Telecommunications records=>exempt, §119.071(5)(d) |
| <input type="checkbox"/> Other exemptions=> _____ | <input type="checkbox"/> Pharmacy Records=>exempt, §465.017(2) |
| <input type="checkbox"/> Photo/video/audio recording that depicts or records the killing of a human being=>exempt, F.S. 406.136 | <input type="checkbox"/> Federal Tax Information=>exempt- 26 USC 1603 |
| <input type="checkbox"/> Security video/surveillance=>exempt 281.301, F.S and/or F.S. 119.071(3)(a) | |

BSO CRIME LABORATORY/DNA UNIT/FINAL ZING

| SAMPLE | D1S7 | D2S44 | D4S139 | D10S28 | D5S110 | D7Z2 |
|---------------------------------|--------------|-----------|-----------|-----------|-----------|------|
| K562 | 4505 4343 | 2105 1784 | 6442 3431 | 1748 1178 | 3711 2916 | 2746 |
| Green Sheet 1 ♂ | 7876 3172 | 2105 2655 | 7744 3358 | 4019 2752 | 4307 2144 | 2736 |
| Green Sheet 1 ♀ | — | — | — | — | — | — |
| Green Sheet 3 ♂ | — | — | — | — | — | — |
| Green Sheet 3 ♀ | — | — | — | — | — | — |
| Green Sheet 4 ♂ | — | — | — | — | — | — |
| Green Sheet 4 ♀ | — | — | — | — | — | — |
| - V | 6965 5710 | 3278 1938 | 9235 5105 | 2088 1047 | 2147 1956 | 2750 |
| PS 95-118 | 9074 4340 | 3117 1730 | 8617 4307 | 1895 1592 | 3778 3064 | 2750 |
| 2178E | 2498 11/9/96 | | | | | .007 |
| Ernesto Beltrami | 7764 3140 | 2544 2653 | 7621 3333 | 3988 2722 | 4347 2130 | 2732 |
| 202 91234 OF 299 2100-105 | | | | | | 0 |

MEMBRANE # 95-10-151

CASE # 9186F

CLDNA 9(3/94)

ANALYZED BY: D. J. [Signature]

VICT. #:

DATE ANALYZED: 16 May 95

SUSPECT: _____

SUBMITTED BY: Quarega

OTHER: _____

AGENCY: Plantation

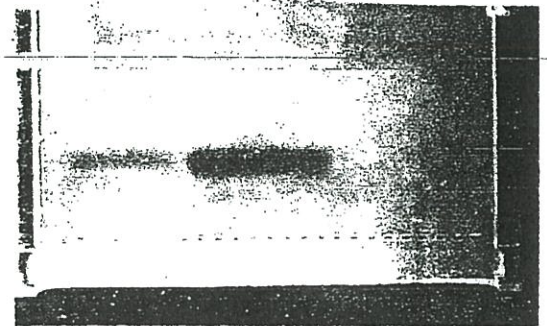
AGENCY #: 11014-95-05

LAB #.: 91810 F

| ITEM/DESCRIPTION | CHEMICAL TEST | SPECIES | SPERM | P-30 | REMARKS |
|----------------------------------|---------------|---------|-------|------|--|
| 1) Control swab | ⊖ pH ⊖ PO | | | | 2 swabs clean |
| 2) Saliva swab | ⊖ pH ⊖ PO | | | | 2 swabs yellow stains |
| 3) Oral swab | ⊖ pH ⊖ PO | | | | 6 swabs 2 pocket yellow stains |
| 4) Leg swab | ⊖ pH ⊖ PO | | | | 2 swabs yellow stains |
| 5) Oral smear | | | ⊖ | | 2 slides |
| 6) One Purple top blood vial | | | | | Dry blood stains |
| 7) One black & white print dress | ⊖ | | | | No visible stains - latent w/ ⊖ results - di. D. |
| 8) One green top shirt | ⊖ PO | | | | 1 swab stain ⊖ 10 slides w/ ⊖ results. Hair fibers covered - in w/ shirt |
| 9) One green fitted skirt | ⊖ PO strong | | ⊖ | | 4 swabs used #1, 3, 4 ⊕ #2 ⊖ stains |
| 10) Oral swabs - E. B. B. S. | | | | | 20 swabs referred from 4/20/02 thru 4/20/02 |

BSO CRIME LABORATORY/DNA UNIT
YIELD GEL DATA

| LANE | SAMPLE | ng DNA/LANE | ng DNA/SAMPLE | DNA SPECIALIST |
|-----------------|------------------------|-------------|---------------|------------------------|
| CATHODAL ORIGIN | | | | DATE 3.04.95 |
| 1 | BLANK | | LOT # | POWER SUPPLY P-1 |
| 2 | STANDARD | 500 ng | F1900.2 | TANK VOLTAGE 200 VOLTS |
| 3 | STANDARD | 250 ng | CC5 | TIME ON 3:45 |
| 4 | STANDARD | 125 ng | CC4 | TIME OFF 4:00 |
| 5 | STANDARD | 63 ng | CC5 | |
| 6 | STANDARD | 31 ng | CC6 | |
| 7 | STANDARD | 15 ng | CC7 | |
| 8 | 91816F Green skirt 107 | | x8 | SLP 1 lane |
| 9 | Green skirt 107 | | x8 | |
| 10 | Green skirt 307 | | x8 | |
| 11 | Green skirt 307 | | x8 | |
| 12 | Green skirt 407 | | x8 | |
| 13 | Green skirt 407 | | x8 | |
| 14 | Denim skirt | | x8 | |
| 15 | TS 95-118 | | x8 | |
| 16 | | | x8 | |
| 17 | | | x8 | |
| 18 | | | x8 | |
| 19 | | | x8 | |
| 20 | | | x8 | |
| 21 | | | x8 | |
| 22 | | | x8 | |
| 23 | | | x8 | |
| 24 | | | x8 | |
| 25 | BLANK | | | |
| MIDDLE ORIGIN | | | | |
| 26 | BLANK | | | |
| 27 | | | x8 | |
| 28 | | | x8 | |
| 29 | | | x8 | |
| 30 | | | x8 | |
| 31 | | | x8 | |
| 32 | | | x8 | |
| 33 | | | x8 | |
| 34 | | | x8 | |
| 35 | | | x8 | |
| 36 | | | x8 | |
| 37 | | | x8 | |
| 38 | | | x8 | |
| 39 | | | x8 | |
| 40 | | | x8 | |
| 41 | | | x8 | |
| 42 | | | x8 | |
| 43 | | | x8 | |
| 44 | | | x8 | |
| 45 | | | x8 | |
| 46 | | | x8 | |
| 47 | | | x8 | |
| 48 | | | x8 | |
| 49 | | | x8 | |



BSL CRIME LABORATORY \ DNA UNI
DIGESTION OF BODY FLUID STAIN WITH HAE III

Case # : 9186F DNA Specialist : J. J. J. DATE: 3-20-95

Digestion Control Lot Number : DMTC01 Source: BRL

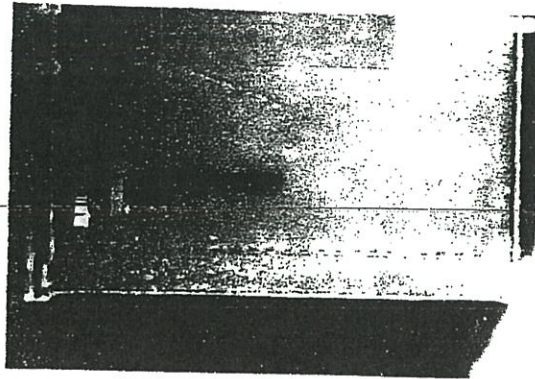
| REAGENT | VOL(ul) | LOT# |
|-----------------------|---------|--------------------------|
| TE-4 | 189 | 10-10-95 |
| SPERMIDINE | 9.6 | 1-27-96 |
| HAE III BUFFER | 25 | EJA403 |
| HAE III ENZYME | 1 | SOURCE BRL LOT # EJA404 |
| AMMONIUM ACETATE | 83 | 1-18-96 |
| ABSOLUTE RGT. ALCOHOL | 666 | 952110-36 |
| 70 % REAGENT ALCOHOL | 1000 | 28-96 |
| TE -4 | 16 | 10-10-95 |
| TIME | | START: 4:30P END: 10:00A |

| | | | |
|-----------------------|---------|--------------|--------------|
| DATE | | | |
| SAMPLES | | | |
| REAGENT | VOL(ul) | REDIGEST/LOT | REDIGEST/LOT |
| TE-4 | 212 | | |
| SPERMIDINE (OPTIONAL) | 9.6 | | |
| HAE III BUFFER | 25 | | |
| HAE III ENZYME | 1 | | |
| AMMONIUM ACETATE | 83 | | |
| ABSOLUTE RGT. ALCOHOL | 666 | | |
| 70 % REAGENT ALCOHOL | 500 | | |
| TE-4 | 16 | | |
| TIME | | START: END: | START: END: |

TEST GEL PREPARATION

| | | | | |
|-----------------|--------|--------------------|----------|----------|
| DNA SAMPLES | 2ul | XXXXXXXXXXXXXXXXXX | REDIGEST | REDIGEST |
| LOADING SOL. | 2ul | 10-27-95 | | |
| AGAROSE | 1.0 gm | 90K8053 | | |
| GEL/TANK BUFFER | 100mLs | 3-13-96 | | |
| EtBr | 10ul | 11-2-95 | | |

| | SAMPLE | LOT # | SOURCE | DATE | ANALYST | CASE #'S |
|----|--------------------------|--------|---------|---------|---------|------------------------|
| 1 | | | | 4/10/95 | | |
| 2 | VISUAL MARKER | | | | | |
| 3 | DIGEST CONTROL | 3-5-96 | Panorpa | | | |
| 4 | TEST GEL CONTROL | DMTC01 | BIL | | | 9186F |
| 5 | | EE2001 | BIL | | | |
| 6 | 9186F Green sheet 1 of 7 | | | | | |
| 7 | | | | | | |
| 8 | Green sheet 1 of 7 | | | | | Tank voltage 200 volts |
| 9 | Green sheet 3 of 7 | | | | | Time on 2:30 |
| 10 | Green sheet 3 of 7 | | | | | Time off 2:50 |
| 11 | Green sheet 4 of 7 | | | | | |
| 12 | Green sheet 4 of 7 | | | | | |
| 13 | D.W.D.M. | | | | | |
| 14 | 75 95-118 | | | | | |
| 15 | | | | | | |
| 16 | | | | | | |
| 17 | | | | | | |
| 18 | | | | | | |
| 19 | | | | | | |
| 20 | | | | | | |
| 21 | | | | | | |
| 22 | | | | | | |
| 23 | | | | | | |
| 24 | | | | | | |
| 25 | BLANK | | | | | |
| | MIDDLE ORIGIN | | | | | |
| 26 | BLANK | | | | | |
| 27 | VISUAL MARKER | | | | | |
| | LOT# | | | | | |
| 28 | | | | | | |
| 29 | | | | | | |
| 30 | | | | | | |
| 31 | | | | | | |
| 32 | | | | | | |
| 33 | | | | | | |
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| 49 | | | | | | |
| 50 | | | | | | |



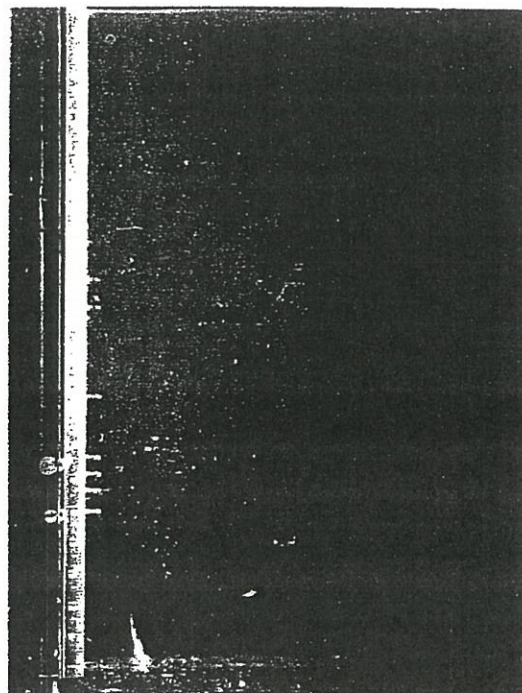
ISO CRIME LABORATORY/DNA UNIT
ANALYTICAL GEL DATA

CASE # 9186 F DNA SPECIALIST Jym DATE 10-4-95 TIME ON 5:05 P
POWER SUPPLY R-1 TRAY # 6-7 GEL LENGTH 12 X 20 CM TIME OFF 9:15
VOLTAGE(GEL) 30 VOLTS MEMBRANE # 95-10-151

| SIZING | LANE | SAMPLE | VOL (ul) | SOURCE |
|--------|------|-----------------------------|----------|--------|
| | 1 | VISUAL/LOT EBE001 | 10 ul | ↑ |
| 1 | 2 | SIZE MARKER/LOT EBN001/1005 | 10 ul | BLK |
| 2 | 3 | CELL LINE/LOT 250 ng EE2001 | 10 ul | ↓ |
| 3 | 4 | 9186 F Green sheet 1 ♂ | 10 ul | |
| 4 | 5 | 9186 F Green sheet 1 ♀ | 10 ul | |
| 5 | 6 | SIZE MARKER | 10 ul | |
| 6 | 7 | 9186 F Green sheet 3 ♂ | 10 ul | |
| 7 | 8 | 9186 F Green sheet 3 ♀ | 10 ul | |
| 8 | 9 | | | |
| 9 | 10 | 9186 F Drizzle wood | 10 ul | |
| 10 | 11 | SIZE MARKER | 10 ul | |
| 11 | 12 | TS 95-118 | 10 ul | |
| 12 | 13 | 9186 F Green sheet 4 ♂ | 10 ul | |
| 13 | 14 | 9186 F Green sheet 4 ♀ | 10 ul | |
| 14 | 15 | | | |
| 15 | 16 | SIZE MARKER | 10 ul | |
| | 17 | BLANK | | |

WITNESS: kn

| GEL PREPARATION | | |
|--|----------|------------|
| REAGENT | VOLUME | LOT NUMBER |
| LOADING SOLUTION | 4.0ul | 10-27-95 |
| AGAROSE | 2.0 GRAM | EAAC01 |
| GEL/TANK BUFFER | 200 ml | 3-13-96 |
| PLACE RANDOM SAMPLES BETWEEN LANES 11 & 16 | | |



EXHIBIT

“D”

SWORN AFFIDAVIT

Mr. Ernesto Behrens-732564 [G-1110U]
Calhoun Correctional Institution
19562 S.E. Institution Drive
Blountstown, Florida 32424

TO: The Seventeenth Judicial Circuit Court In And For Broward County, Florida

REF.: STATE OF FLORIDA v. ERNESTO BEHRENS CASE NO.: 98-5739 CF10A

To The Honorable Court,

This sworn affidavit is being submitted in conjunction with the instant DNA Post Conviction Motion in support of and to notify this Honorable Court of such material witnesses are willing to corroborate via testimonial statement [s] as to the specific facts therein the instant (DNA) motion.

1. On December 17, 1999 an "Arthur" hearing was held where the Honorable Judge: Ronald J. Rostchild presided over, this specific hearing.

2. During this "Arthur" hearing there were several key individual [s] present, and they are listed as follows: State Attorney- Mr. Dennis Siegel, State's Expert Witness- Serologist- Ms. Donna Marchese, Honorable Court's Bailiff- (Male), Defense Attorney-Mr. Ty Terrel and Ms. Andrea Shelowitz, and the defendant- Mr. Ernesto Behrens.

3. During such review of the specific evidence that the State of Florida intended to present at trial. There was a conversation that ensued between the State's Expert Witness Ms. Donna Marchese and the defense concerning a specific exhibit, a spot cut from the" victim's fitted sheet."

4. Ms. Donna Marchese, Serologist, made the following statement:

"While using my microscope I was able to find one (1) spermatozoa cell, that was entwined into the fiber of the fitted sheet". She further stated the she pulled the cell from the fabric, and performed a (RFLP) DNA testing. That resulted into a match of this defendant's DNA make-up.

5. In preparation of my post-trial DNA motion I have been able to obtained sworn statement [s] from the DNA/ Forensic Community. That has stated it is scientifically impossible to conduct a (RFLP) DNA testing with a single spermatozoa cell. Indicating apparent variance to the State's Expert witness testimony' resulting into "questionable" evidence in this instant case.

6. Hereafter, I contacted Mr. Ty Terrel, my trial attorney on September 5, 2003 round about [1:40 p.m.] by phone, inquiring as to his recollection of the 12-17-99 "Arthur" hearing. Upon him affirming that he recall such proceeding, I further inquired as to his specific recollection of the State of Florida's Expert Witness specific testimony pertaining to the spermatozoa cell that was allegedly a "match" to my (DNA) make-up?

7. Mr. Ty Terrel, quoted back to me via this phone call essentially verbatim as to Ms. Donna Marchese previous testimony, however, Mr. Terrel used words and phrases during our call such as i.e.:

"I clearly remember talking about testing one (1) single spermatozoa cell, and how it the (cell) was intertwined within the fabric of the sheet and her using a microscope to pull the cell from... But, as to Ms. Marchese exact words that she used during the latter portion of her statement then...I (Mr. Terrel) cannot remember."

8. Also, see attached correspondence dated October 6, 2003, where Mr. Terrel has stated the following:

"Ernesto, I clearly remember talking about testing one (1) single spermatozoa cell, and how it the (cell) was intertwined within the fabric of the sheet..."

9. The defendant now states to this Honorable Court that based upon such holding and whereas the defendant continuously asserts his innocent to this specific crime. Not to exclude that the (DNA) community as a whole does not agree with the particularities proffered by the State of Florida's Expert Witness pertaining to the facts of such procedural tested. See attached sworn affidavit.

9. Also, whereas Mr. Ty Terrel and Ms. Andrea Shelowitz, Attorneys-at-Law, located at 1801 S. Perimeter Road Suite 180, Fort Lauderdale, Florida 33309. Will proffer their individual and professional recollection ... of the State of Florida's Expert testimony if this court requires it.

10. This sworn affidavit is being submitted to this Honorable Court in good faith and to provide the court such opportunity to subpoena the defendant's witnesses if so required.

Respectfully Submitted

Ernesto Behrens, #732564

NOTARY

Before, me the undersigned authority, this day personally appeared, Ernesto Behren
Who first being duly sworn, stated that he is the individual that has provided the information
herein, and such facts are true. Thereby, certifying that the forgoing has been thoroughly read and
having personal knowledge of the facts herein are true and correct.

/S/ Ernesto Behren

Sworn to and subscribed before me this 22nd day of October 2003.

/S/ Thomas M. Woodham

My Commission Expires: 9-9-07

Notary No.: DD248679

Notary Public, State of FLORIDA

Type of identification used? Personally known _____, or produced identification ✓

Department of Correction
Inmate I



Thomas M. Woodham
Commission #DD248679
Expires: Sep 09, 2007
Bonded Thru
Atlantic Bonding Co., Inc.



SHELOWITZ, SHELOWITZ & TERRELL, P.A.

1801 SOUTH PERIMETER ROAD, SUITE 180 • FORT LAUDERDALE, FLORIDA 33309

TELEPHONE: 954.489.2204 • FAX: 954.489.0637
WWW.SSTLAWOFFICE.COM

MARC A. SHELOWITZ*
ANDREA SHELOWITZ
TY TERRELL
DONALD GELIN
ANDREW M. COFFEY

*Admitted to New York Bar

October 6, 2003

Ernesto J. Behrens
D.C. # 732564
Mailing No.: G110U
Caihoun Correctional Institution
19562 S.E. Institution Drive
Blountstown, Florida 32424

Dear Ernesto:

I am in receipt of your letter wherein you are requesting an affidavit from me regarding statements from Donna Marchese regarding spermatozoa and DNA testing. First of all, I have reviewed the statute you speak of (3.853) and feel you do have a viable claim for relief under that statute. Although I intend to help you where I can, I don't see where you need an affidavit from me in order to proceed forward with the post conviction relief.

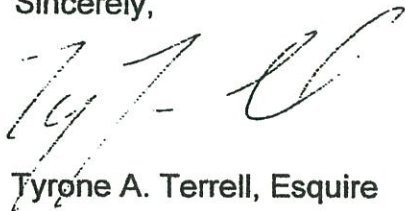
As for the affidavit, I am very uncomfortable signing an affidavit that could end up in the Supreme Court which details a conversation that I may have had with Donna Machese in 1999 when I simply don't remember the "verbatim" words she used during one of our many conversations. Ernesto, I clearly remember her talking about testing one single Spermatozoa and how it was intertwined within the fabric of the sheet, but I do not remember exactly what words she used and the rest of our conversation on the issue. I spoke with Donna Marchese several times and we spoke about DNA testing several times while viewing the sheet, both in and out of court. I can not positively remember if I first saw the sheets in court the day of the Arthur Hearing or if it was in the jail while they were being shown to you. I spent a lot of time on your case including meetings with experts, viewing the physical evidence, taking many trips to the jail, and a

week of trial and I just can not remember the specific time and place and words used when Donna Marchese was talking about the single spermatozoa.

I don't mean to be an obstacle in your quest for freedom, and I will help where I can, but the exact content of an affidavit that you want me to produce, I just can't do. On the other hand, if you want an affidavit with the information contained in this letter, I will be happy to provide you with that. Think it over and let me know if you still want an affidavit or some alternative assistance.

I am sorry this correspondence does not meet with your expectations.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyrone A. Terrell", with a stylized flourish at the end.

Tyrone A. Terrell, Esquire

September 11, 2003

EBN, INC.
MRS. HOLDER, CEO
P.O. BOX 1562
POMPANO BEACH, FLORIDA 33061
PHONE NO.: (954) 786-8619

LAB CORP, LABORATORY CORPORATION OF AMERICA
MRS. EISENBERG, PH.D
P. O. BOX 13973
1912 ALEXANDER DRIVE
RESEARCH TRIANGLE PARK, NORTH CAROLINA 27709

REF.: ON BEHALF OF MR. ERNESTO BEHRENS # 0-732564
CASE NO.: 98-5739 CF10A

SUBJ.: SWORN AFFIDAVIT / UNIVERSAL INQUIRY AS TO THE DNA PROCEDURES
/ CLARIFICATION AS TO THE DIFFERENCE IN (RFLP) DNA TESTING, AND (PCR)
DNA TESTING.

MRS. Eisenberg,

As per our recent phone conference, whereby you spoke with Mr. Behrens and myself; this correspondence is forwarded to you by EBN, INC. EBN, will be the mediator and responsible for all current and future financial requirements between Lab Corp and Mr. Behrens, holding Mr. Behrens's interest in this matter.

SUMMARY

Mr. Behrens is currently incarcerated in the State of Florida on a crime of which he is claiming his complete innocence. The State of Florida proffered in support of Mr. Behrens's conviction alleged positive DNA results derived from partial tangible evidence collected from the crime scene. Mr. Behrens did not object to the DNA evidence presented by the State of Florida, including their DNA expert's testimony. Due to defense counsel insufficiency during trial

Mr. Behrens only option now is to file a DNA Post Conviction Motion (3.853), requesting the court to grant a new DNA testing per the new (PCR) test, on the actual evidence submitted at trial; as well as the evidence collected by the State of Florida but not tested for DNA.

FACTS

In the case **STATE of Florida v. Ernesto Behrens**, case no.: 98-5739 CF10A, the defendant was formally charged with Armed Sexual Battery and Burglary of a Dwelling with a Battery on March 27, 1998. The defendant did proceed to trial and was found guilty by a jury in 2000. The State of Florida proffered to the court as evidence positive DNA results from partial evidence collected from the crime scene.

However, in Mr. Behrens's DNA Post Conviction Motion that he intends to present to the Florida 's Court as support for granting a new DNA testing on all of the evidence, with the sophisticated (PCR) test. Mr. Behrens's strategy is to illuminate the gross conflict and inconsistency as to the State's Expert Witness' Testimony and the DNA community, which transpired during a pre-trial hearing on the evidence that the State plans to proffer at trial and the evidence actually presented at trial.

The State's Expert Witness, (Broward County Crime Lab Tech), asserted that she received the victim's fitted sheets in the crime lab. During her examination for seminal fluid, she located four spots, which were assigned numeric numbers (i.e., spot-1, spot-2, spot-3 and spot-4). The State's expert witness asserted that (spot -1, spot-3 and spot-4) tested positive for seminal fluid, whereas, (spot-2) had a negative result. This witness additionally asserted that during such examination she discovered "hairs" on the victim's sheet and "dry-spots" on the victim's comforter, but did not perform any type of DNA testing on these specific items.

The expert further testified that upon a thorough examination of (spot-3 and spot-4), that she was unable to discover any DNA material on those pieces of evidence.¹ Concerning (spot-1) she stated (verbatim):

"While using my microscope I was able to find one (1) spermatozoa cell that was entwined into the fiber of the fitted sheet". She further asserted that she pulled the cell from the fabric, and performed a (RFLP) DNA testing that resulted into a match of Mr. Behrens's DNA make-up. During this testimony she explains to the jury that, **"if you were to take a single piece of DNA from a single cell and stretch it out, it would be approximately (6) feet long. Which is really kind of hard to imagine, but the body has a wonderful way of twisting and compacting it to make it fit into each and every one of our cells."**

Mrs. Eisenberg in accordance to our (9-11-03) phone conference and such clear-cut information shared during this call. Defining, spermatozoa cells and the difference in (RFLP) DNA testing as opposed to (PCR) DNA testing, also articulating the required weight and amount of cells that are needed to perform a reliable DNA test, ect...it is now imperative that I acquire the riches of your knowledge per our phone conference in a sworn written affidavit format. It has

¹ It is note worthy to point out that the State's (DNA) experts stated that spot-1 is approximately a "dime" in dimensional size, spot-3 is approximately "five" times bigger than spot-1, and spot-4 is approximately "ten" times bigger than spot-1. In spite of the exceeding dimensional size of spot-3 and spot-4, she was unable to find any (DNA) material thereon these specific spots.

become apparent that your expert statements; being highly recognizable in the DNA community, and the State of Florida's expert's testimony, have some sharp inconsistencies. Thus, resounding a prior statement quoted herein, Mr. Behrens's strategy is to illuminate the gross conflict and inconsistency as to the State's expert witness testimony in opposed to the overall DNA community.

CONCLUSION

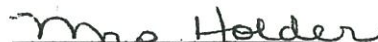
Considering the facts of this case at hand, the State of Florida by way of their expert witness presented to the trial court to support their theory, the results from a (RFLP) test using a single spermatozoa cell to produce an alleged positive DNA match of Mr. Behrens's DNA. We now inform you that Mr. Behrens is serving a life sentence in the Florida State Prison based solely from the (RFLP) test results and the State's Expert testimony, which by the way was not corroborated by any other DNA testing or expert testimony. We must mention herein that the investigation resulted into absolutely no independent evidence, i.e. (fingerprints, palm prints, foot casting nor victim' or witnesses identification). But most importantly there is an unrefuted alibi witness for Mr. Behrens, not to exclude that there were no DNA tests performed on the remaining evidence within the State of Florida possession i.e. ("hairs and dry-spots") found on the victim's sheets and comforter.

In holding Mr. Behrens interests, he has authorized us to voice on his behalf that he only seeks justice in this matter. He has continued to claim such innocence and will not relinquish in this fight to regain his freedom. Please, if you hold any additional comments or suggestions surrounding the DNA community that meet the facts of this case; that have not been covered herein, and you are of the opinion that such information would be fruitful to Mr. Behrens in his endeavor, we ask that you would freely share this such information.

Please place your answers and complete responses on a separate sheet, labeling this sheet answers and respond in numerical order, and then place these documents in the following order.

- Our cover letter detailing the facts and summary of this case should be first.
- Our questions should be second.
- This corporation's answers and detail responses to the requested questions should be third.
- Finally the signed certificate of service and the signed sworn oath making this document authentic should be fourth and the last sheet herein.

Sincerely



Mrs. Holder, CEO
EBN, INC.

P.O. Box 1562
Pompano Beach, Florida 33061
(954) 786-8619

SWORN AFFIDAVIT

**FROM: LAB CORP, LABORATORY CORPORATION OF AMERICA
MRS. EISENBERG, PH.D
P. O. BOX 13973
1912 ALEXANDER DRIVE
RESEARCH TRIANGLE PARK, NORTH CAROLINA 27709**

**TO: IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA**

REF.: STATE OF FLORIDA v. ERNESTO BEHRENS CASE NO.: 98-5739 CF10A

To Whom It May Concerns:

The following questions have been presented to us for explicit answers by Mr. Ernesto Behrens, therefore, based on Lab Corp's exclusive pride and mission statement, we answer the following questions in their entirety.

1. Would it be scientifically possible and reliable to conduct a (RFLP) DNA testing and a (PCR) DNA testing using one single spermatozoa cell? Yes or No, Please explain your answer.

2. What is the size of one spermatozoa cell?

3. What is the nanogram or picogram weight of one spermatozoa cell?

4. What is the minimum amount of spermatozoa cell [s] required to perform a reliable scientific test using (RFLP) and (PCR)? Please explain your answer.

5. Is there a minimum required size of DNA sample[s] needed to perform a (RFLP) DNA test versus a (PCR) DNA test? Yes or No, Please explain your answer.

6. Upon a normal, healthy male ejaculation, approximately how many spermatozoa cells are released?

7. Based upon the DNA protocol community is it possible to recheck/retest evidence that has been (RFLP) tested, with the new (PCR) test? Please explain your answer.

8. When viewing (RFLP) or (PCR) DNA forms of tests individually, the National Resource Council recommends the use of which test when the forensic evidence is old, small, and partially degraded? Please explain your answer.

9. Is its possible to extract DNA from human hair? Yes or No

10. What is the specific type of DNA test that must be used when the evidence is human hair? Please explain your answer.

11. Is the (PCR) test a more sophisticated test in opposed to the (RFLP) test? Yes or No, Please explain your answer.

12. Would it be safe to say that this company recommends that all evidence collected from the crime scene be DNA tested, and not just partial evidence? Please explain your answer.

Based on the articulate facts therein the cover letter attached to this questionnaire it would be wise and parallel to this corporation recommendation to perform a (PCR) DNA test on the remaining untested evidence, to corroborate the reliability of the previous?



Laboratory Corporation of America® Holdings
P.O. Box 13973
1912 Alexander Drive
Research Triangle Park, North Carolina 27709
Telephone: 800-533-0567
Fax: 919-361-7737

September 30, 2003

ENB, INC.
2740 NE 47 Street
Lighthouse Point, FL 33064
Attn: Mrs. Holder

RE: Mr. Ernesto Behrens #0-732564
Case No.: 98-5739 CF10A
FS Lab #F03-4525

Dear Mrs. Holder:

Pursuant to your request for answers to the questions that you provided, I am providing the following responses:

1. Based on the DNA quantity requirements for RFLP and PCR analysis it is my opinion that it is not scientifically possible to obtain reliable results from one single spermatozoa cell using traditional published methodologies.
2. The human sperm cell consists of a head 0.005 by .003 mm and a tail .05 mm long.
3. The weight of a spermatozoa cell is not a determining fact in RFLP or PCR analysis.
4. The minimum amount of spermatozoa required for RFLP and PCR analysis would depend on the quantity of DNA in each sperm cell. The average amount of DNA in a single sperm cell is approximately 3.5 pg.
5. The average minimum amount of DNA required for RFLP is approximately 50 ng and the average minimum amount of DNA required for PCR is approximately .1 ng. It is possible to get results from samples with less DNA than the suggested amounts of DNA depending on the quality of the DNA.
6. The average amount of seminal fluid in a normal healthy male ejaculation is 2.5 to 3.5 ml containing 200 to 300 million sperm cells.

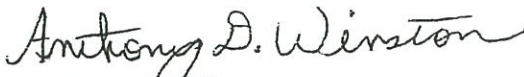
7. If there is enough evidence remaining, you can retest the evidence with PCR using excepted protocols.
8. Do to the lower DNA quantity and quality requirements associated with PCR analysis PCR would be the best method of analysis for old, small and partially degraded samples. Few labs if any are still using RFLP methods.
9. Yes it is possible to extract DNA from human hair.
10. There are two types of PCR methodologies that can be used for hair analysis. If the hair has an intact root it can be tested using **nuclear** DNA methods, if there is not a root present on the hair **mitochondrial** DNA method must be used.
11. No I would not say that PCR testing is more sophisticated than RFLP. They are simply two different types of methodologies used in forensic identity testing. RFLP is an older method of analysis requiring higher quality and quantity of DNA than the PCR method. PCR produces results in days vs. RFLP, which takes months.
12. LabCorp can not suggest to a client that all evidence collected from a crime scene be tested. The type and number samples tested would depend on the particular circumstances involved with that particular case.

Advancements in DNA testing technology have made it possible to obtain results from evidence that in the pass yielded none. Due to the lower DNA quantity and quality requirements for PCR analysis evidence previously analyzed using RFLP yielding no results may now yield results using PCR technology.

Once a case has been accepted for testing the details of that particular case will be reviewed at that time. It is not the policy of LabCorp to suggest to clients what samples they should submit for testing.

Should you need additional information or have any questions, please give me a call at 1-800-533-0567 ext. 3209.

Sincerely,



Anthony D. Winston
Associate Technical Director
Forensic Identity Testing

CERTIFICATE OF SERVICE

I, Anthony D. Winston, the preparer of the answers herein, certify that a copy of this entire document has been placed in Lab Corp's file and the original signed and sworn copy has been placed in the United States Postal Service possession to be delivered to the following individuals:

Mrs. Holder, in the interest State of Florida v. Ernesto Behrens, Case No.: 98-5739CF10A
EBN, INC.
P.O. Box 1592
Pompano Beach, Florida 33061
(954) 786-8619

on this, 1 day of October 2003.

/s/ Anthony D. Winston
Anthony D. Winston
Print Name

LAB CORP, I. D. No.: NA
P. O. BOX 13973
1912 ALEXANDER DRIVE
RESEARCH TRIANGLE PARK,
NORTH CAROLINA 27709

NOTARY

Before, me the undersigned authority, this day personally appeared,
Anthony D. Winston, Associate Technical Director
NAME Title I.D. No.,

Who first being duly sworn, states that he or she is the individual that provided the answers and responses outlined on the answers sheet[s]. Based on the facts and summary provided in the cover letter from EBN INC, in the interest of Mr. Ernesto Behrens, case no.: 98-5739-CF10A. Thereby, certifying that the answers and responses have been thoroughly read and having personal/professional knowledge of the forgoing herein are true and correct.

/s/ Anthony D. Winston

Sworn to and subscribed before me this 1st day of October 2003.

/s/ Julie A. Hnat
Julie A. Hnat
Notary Public, State of North Carolina

My Commission Expires: Oct 31, 2004
Notary No.: _____

Type of identification used? Personally known X, or produced identification _____.

EXHIBIT

“E”

CERTIFICATE OF ANALYSIS

October 8, 2001

Dr. Guy Durand, M.D.
1670 NW 93rd Avenue
Plantation, FL 33322

FS Lab #: F01-3385

Dear Dr. Durand,

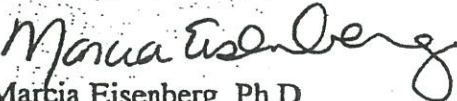
Pursuant to your request to consult on the above referenced case please find the following conclusions.


* Based on the DNA profile provided via fax, The probability of randomly selecting an unrelated individual with DNA profile that matches the profile provided at the genetic systems analyzed is approximately:

- 1 in 2,220,000 for the African American population.
- 1 in 469,000 for the Caucasian population.
- 1 in 454,000 for the Southeastern Hispanic population.
- 1 in 829,000 for the Southwestern Hispanic population.

If you have any additional questions, feel free to call me at the number listed above, ext. 3393.

Sincerely,


Marcia Eisenberg, Ph.D.
AVP and Senior Director, Forensic Identity Testing


Shawn M. Weiss, B.S.
Associate Technical Director, Forensic Identity Testing

EXHIBIT

“F”

Local Match Results Report

Date: Jan-04-1996 Time: 12:21

Target ID: 09186F/GREENSHEET1

Laboratory: FL0060000

Specimen Type:

Target Profile:

| | | | | | |
|---------|-------|-------|------|-----|---------------------|
| D1S7: | 7876, | 3172, | N/A, | N/A | Moderate Stringency |
| D2S44: | 2905, | 2655, | N/A, | N/A | Moderate Stringency |
| D4S139: | 7744, | 3358, | N/A, | N/A | Moderate Stringency |
| D10S28: | 4019, | 2732, | N/A, | N/A | Moderate Stringency |
| D5S110: | 4307, | 2144, | N/A, | N/A | Moderate Stringency |

Match Window in Effect:

Above 10000 BP: 8.0%

Between 10000 BP and 2000 BP: 3.0%

Below 2000 BP: 3.0%

Target profile searched against 977 Casework profiles.

Target profile searched against 0 Offender profiles.

Target profile searched against 0 Population profiles.

Match Summary:

| | |
|---------------------|---|
| 5 Loci Candidates: | 1 |
| 4 Loci Candidates: | 0 |
| 3 Loci Candidates: | 0 |
| 2 Loci Candidates: | 0 |
| 1 Locus Candidates: | 0 |

Total Candidates: 1

Match Details:

Specimen ID: 1571

Laboratory: FL0060000

Local Specimen ID: 10892D05/Q-MALE

D1S7:

1 7888 (T1, 0.2%)
2 3157 (T2, 0.5%)

D2S44:

1 2867 (T1, 1.3%)
2 2677 (T2, 0.8%)

D4S139:

1 7625 (T1, 1.6%)
2 3363 (T2, 0.1%)

D10S28:

1 3990 (T1, 0.7%)
2 2718 (T2, 0.5%)

D5S110:

1 4284 (T1, 0.5%)
2 2130 (T2, 0.7%)

Local Match Results Report

Date: Jan-08-1996 Time: 17:25

Target ID: 9186F/

Laboratory: FL0060000

Specimen Type:

Target Profile:

| | | | | | |
|---------|-------|-------|------|-----|---------------------|
| D1S7: | 6965, | 5770, | N/A, | N/A | Moderate Stringency |
| D2S44: | 3078, | 1720, | N/A, | N/A | Moderate Stringency |
| D4S139: | 9235, | 5105, | N/A, | N/A | Moderate Stringency |
| D10S28: | 2088, | 1047, | N/A, | N/A | Moderate Stringency |
| D5S110: | 2147, | 1956, | N/A, | N/A | Moderate Stringency |

Match Window in Effect:

Above 10000 BP: 8.0%

Between 10000 BP and 2000 BP: 3.0%

Below 2000 BP: 3.0%

Target profile searched against 995 Casework profiles.

Target profile searched against 0 Offender profiles.

Target profile searched against 0 Population profiles.

Match Summary:

| | |
|---------------------|---|
| 5 Loci Candidates: | 0 |
| 4 Loci Candidates: | 0 |
| 3 Loci Candidates: | 0 |
| 2 Loci Candidates: | 0 |
| 1 Locus Candidates: | 0 |
| Total Candidates: | 0 |

Match Details:

LDIS SPECIMEN REPORT January 8, 1996 3:44:42 PM LOCAL CASEWORK INDEX

Local Specimen Number: 09186F06A/V:

Universal Specimen Number: 4054

SPECIMEN INFORMATION

| Specimen Laboratory | Received Date | Assign To | Contract Laboratory | Specimen Category | Tissue Type | Population Group | Population Description | Entry Cntd | State Cntd | Dnr Sex | LDIS Entered By/Date | SDIS Entered By/Date |
|---------------------|---------------|-----------|---------------------|-------------------|-------------|------------------|------------------------|------------|------------|---------|----------------------|----------------------|
| FL006000 | | DJF | FL006000 | FORENSIC, UNKNOWN | BLOOD | UNKNOWN | | XX | XX | U | DJF 01/08/96 | AD05 |

SIZING INFORMATION

| Locus | Probe | Technology | Gel No | Assign To | Tissue Form | Ladder | Enzyme | Autored No | Entered By | Entered Date | Submt By | Submt Date | Lane No | Allele No | Mol Wt or VALUE |
|--------|-------|------------|--------|-----------|-------------|--------|---------|------------|------------|--------------|----------|------------|---------|-----------|-----------------|
| D5S110 | LH1 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2288 | DJF | 01/08/96 | AD05 | | 9 | 1 | 2147 |
| D4S139 | PH30 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2289 | DJF | 01/08/96 | AD05 | | 9 | 1 | 1956 |
| D2S44 | YNH24 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2290 | DJF | 01/08/96 | AD05 | | 9 | 1 | 9235 |
| D1S7 | MS1 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2291 | DJF | 01/08/96 | AD05 | | 9 | 1 | 5105 |
| D10S28 | TBQ7 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2292 | DJF | 01/08/96 | AD05 | | 9 | 1 | 3078 |
| | | | | | | | | | | | | | 2 | 2 | 1938 |
| | | | | | | | | | | | | | 1 | 1 | 6965 |
| | | | | | | | | | | | | | 2 | 2 | 5770 |
| | | | | | | | | | | | | | 1 | 1 | 2088 |
| | | | | | | | | | | | | | 2 | 2 | 1047 |

LDIS SPECIMEN REPORT January 8, 1996 3:44:42 PM LOCAL CASEWORK INDEX

SPECIMEN INFORMATION

Local Specimen Number: 09186F09B/M-GREENSHEET1

Universal Specimen Number: 4049

| Specimen Laboratory | Received Date | Assign To | Contract Laboratory | Specimen Category | Tissue Type | Population Group | Population Description | Entry Cited | State Cited | Dur Sex | LDIS Entered By/Date | SDIS Entered By/Date |
|---------------------|---------------|-----------|---------------------|-------------------|-------------|------------------|------------------------|-------------|-------------|---------|----------------------|----------------------|
| FL006000 | | DJF | FL006000 | FORENSIC, UNKNOWN | SPERM | UNKNOWN | | XX | XX | U | DJF | DJF |
| | | | | | | | | | | | 01/08/96 | 01/08/96 |

SIZING INFORMATION

| Locus | Probe | Technology | Gel No | Assign To | Tissue Form | Ladder | Enzyme | Autorad No | Entered By | Entered Date | Submt By | Submt Date | Lane No | Allele No | Mol Wt or VALUE |
|--------|-------|------------|--------|-----------|-------------|--------|---------|------------|------------|--------------|----------|------------|---------|-----------|-----------------|
| D5S110 | LH1 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2288 | DJF | 01/08/96 | DJF | 01/08/96 | 3 | 1 | 4307 |
| | | | | | | | | | | | | | | 2 | 2144 |
| D4S139 | PH30 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2289 | DJF | 01/08/96 | DJF | 01/08/96 | 3 | 1 | 7744 |
| | | | | | | | | | | | | | | 2 | 3358 |
| D2S44 | YNH24 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2290 | DJF | 01/08/96 | DJF | 01/08/96 | 3 | 1 | 2905 |
| | | | | | | | | | | | | | | 2 | 2655 |
| D1S7 | MS1 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2291 | DJF | 01/08/96 | DJF | 01/08/96 | 3 | 1 | 7876 |
| | | | | | | | | | | | | | | 2 | 3172 |
| D10S28 | TBQ7 | FBI RFLP | 482 | DJF | STAIN | B2 | HAE III | 2292 | DJF | 01/08/96 | DJF | 01/08/96 | 3 | 1 | 4019 |
| | | | | | | | | | | | | | | 2 | 2732 |

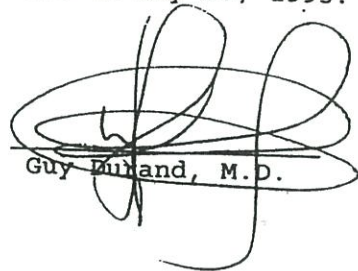
EXHIBIT

“G”

I, Guy Durand, M.D., affirmatively state that:

- 1) I am a physician duly licensed by the State of Florida with an established practice in the City of Plantation, Florida.
- 2) I have been the defendant Ernesto Behrens' personal physician since July 1988.
- 3) On May 08, 1995 said Mr. Behrens underwent excision of two growths from his torso, one from the front and another one from the back. Photocopy of the pathology report is hereto attached.
- 4) The involvement of both the front and the back and the extent of the dissection required the prescription of the painkiller Darvocet N-100 in the quantity of 10 as photocopy of the original script shows.
- 5) In the post-operative period, from May 08, 1995 to May 15, 1995, Mr. Behrens has had a wound check and dressing change every other day, as it is the routine in my practice.
- 6) Two weeks after the surgery there was also a follow-up visit when no abnormality was observed.
- 7) During that post-operative period, Mr. Behrens' whole torso was routinely visualized.
- 8) During those visits (wound checks and dressing changes) there was no disruption of the sutures or any other sign or wound abnormality that would indicate physical stress or trauma that could have resulted from exertion, violent physical contacts or struggle. That would have been against my postoperative instructions.
- 9) In my professional opinion anyone of such circumstances should and would have undoubtedly adversely affected the incision sites to the point of showing signs of trauma or dehiscence that would be manifest to me.
- 10) In conclusion Mr. Behrens was not likely to have been involved in any strenuous activity during the period extending from May 08, 1995 to May 25, 1995.


Affiant further sayeth not.


Guy Durand, M.D.

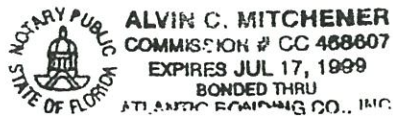
Sworn this 31st Day of March, 1999

Before me, personally appeared, Dr. Guy Durand whose identity is known to me by his State of Florida driving license No. D653-280-40-098-0 and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 31st day of March, 1999


Alvin Mitchener
Notary Public

My Commission expires:



FINAL REPORT

Date Received: 05/09/95
Date Reported: 05/11/95

Doctor:

GUY DURAND, M.D.
8251 WEST BROWARD BLVD.
PLANTATION, FL 33324

Unit#:

Patient: BEHRENS, ERNESTO

Age: 30

CLINICAL HISTORY/SPECIMEN LOCATION:

Inclusion cysts back.

GROSS DESCRIPTION:

Specimen designated back. Submitted are two white grey tan to brown irregularly shaped soft cystic appearing, tissue fragments that measure up to 1.5 cm. Representative sections submitted. bt/em

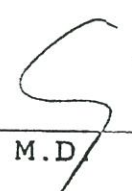
DIAGNOSIS:

Back, biopsy:
INFUNDIBULAR CYST, BENIGN.

*This is to certify that this document is a true
copy of the original*



ALVIN C. MITCHENER
COMMISSION # CC 468607
EXPIRES JUL 17, 1999
BONDED THRU
ATLANTIC SURETY CO., INC.



Ramon E. Gallego, M.D.

OFFICE VISIT BY APPOINTMENT

NAME

Ernst Behrens

ADDRESS

DATE

25/07/92

R.

Darvecliv 100

T 94-60 Jan
+ 10

☐ Indicate Drug Expiration Date on Label

☐ Label

Refill _____ times PRN NR

To insure brand name dispensing, prescriber must write "Medically Necessary" on the prescription.

08/27/89

64704700210

*This is to certify that this document is
a true copy of the archive copy*

Alvin C. Mitchener



ALVIN C. MITCHENER
COMMISSION # CC 488607
EXPIRES JUL 17, 1999
BONDED THRU
ATLANTIC SURETY CO., INC.

DATE / PROBLEMS
(Number and Brief Description)

FINDINGS (S = Subjective; O = Objective)

TESTS ORDERED and/or PLANNED

8/28/51

Rt is here for removal lump left
post a posterior view

Procedure: (pt in supine position)
The left paravertebral areas prepped
& draped in Betadine & sterile
drapes. A 3.5 cm incision was
made following skin crease over
an area corresponding to the
X or XI rib in the left upper back.
Dissection was carried down thru
the subcutaneous in blunt
dissection by spreading &
hooking the subcutaneous.

The pericapsular tissue was
grasped & two mosquito clamps
and incised. That allowed
identification of a pinkish gray
& irregularly shaped nodules.

The capsule was grasped &
a baby Allis with sharp nose
dissected the cyst wall free
from surrounding tissue and
dissected the incision and
excised "in toto"

Subglottic & l/o trachea & l/o
cervical & l/o thorax & l/o
abdomen

It was noted the two are ventral
& posterior prepped & draped in similar
fashion. Dissection & closure were
identical. A 1 cm x 1 cm cyst was re-
moved for examination in an area
1 cm from umbilicus slightly left of
midline. Rt to L a lot of pus came
out. Blood loss was insignificant.
Wound closed & l-o 8-10 pm & 10

Wound in 2 days. Hand to keep wound
dry and clean

Subglottic
l/o trachea
l/o thorax
l/o abdomen

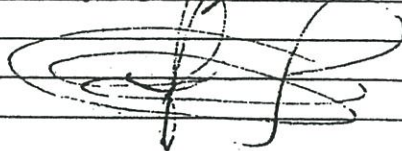
05/10/95

S. in complaint. TBS lin used
~~to show~~. G/A not seen in 84
to show

O. Wound clean & dry - dead.

A. ST 2 days removal inclusion cysts

P. Encouraged to be patient
bulky dressing removed
wound applied & dressing
& dressing. Will see again
on Friday



05/12/95

S = Status quo. No complaint

O = Wounds clean & dry - de
chance of

A. ST 4 days removal cysts
from back & epidermis

P. Wound cleaned & bolting
a JSD applied - Will have
to change dressing on his own over
weekend. Pt gave correct info
for change change. Was advised
to change dressing on and to
change bandage to show
Will remove stitches on Monday



05/17/95

Wound clean & dry. Skin rubber
& moved - Skin strip applied
Elevated by 1/2". Pt advised
to be clean for 10 on the skin
RTO in 24h



TYPEWRITTEN TRANSCRIPTION FROM EXCERPTS OF MR. ERNESTO BEHRENS' MEDICAL RECORD PERTAINING TO THE 05/08/95 EXCISION BIOPSY OF INCLUSION CYSTS FROM HIS TORSO (05/08 to 05/15/95). (Done for the sake of legibility).

Behrens, Ernesto

05/08/95:

"Pt is here for removal lumps left post and anterior torso.

Procedure: C ("*cum*" = *with*) Pt. in supine position the left para-vertebral area was prepped and draped c (*with*) Betadine and sterile drapes. A 3.5 cm incision was made following a skin crease over an area corresponding to the X or XI rib in the left upper back. Dissection was carried down thru the subcutaneous in blunt fashion by spreading c (*with*) a baby Metzenbaum.

The peri-capsular tissue was grasped c (*with*) two mosquito clamps and incised. That allowed identification of a pinkish gray 2 cm irregularly shaped nodule.

The capsule was grasped c (*with*) a baby Allis. C (*with*) sharp scissors dissection the cyst freed from surrounding tissue and delivered thru incision and excised "in toto".

Sub/q (subcutaneous) closed c (*with*) 4/0 chr (chromic) catgut. Skin closure c (*with*) 5/0 Nylon & sterile dressing applied.

Pt. was asked to turn over and the epigastrium prepped & draped in similar fashion. Dissection and closure were identical. A 1cm plus cyst was removed from epigastrium in an area 15 cm above the umbilicus slightly to left of midline. Pt. tolerated procedures well. Blood loss was insignificant.

Rx. Darvocet 1 (*one*) q (*every*) 4-6° (° = *hours*) prn (*as needed*) # 10.

Will see in two days. Advised to keep wound dry and clean".

(Writing in right-hand "TESTS ORDERED and/or PLANED" column reads: "*biopsy pathology cysts x 2*")

(SIGNATURE)

05/10/95:

S: no complaint, took his med. (Erasure). C/o (*complains of*) not being able to shower.

O: Wounds clean & dry – Nad ("*nothing abnormal detected*")

A (*assessment*): S/P (*status post*) 2 days removal inclusion cysts.

P (*plan*): Encouraged to be patient. Bulky dressing removed. Coverlet (*dressing*) applied p (*after*) cleansing c (*with*) betadine. Will see again on Friday.

(SIGNATURE)

05/12/95:

S= Status quo. No complaint.

O= wound clean & dry – No drainage.

A: S/P (*status post*) 4 days removal cysts from back & epigastrium.

P: wounds cleansed c (*with*) betadine & DSD (*dry sterile dressing*) applied. – Will have to change dressing on his own over weekend. Pt was given coverlet pads for dressing change. Was advised to shower c (*with*) dressing on and to change same p (*after*) shower.

Will remove stitches on Monday.

(SIGNATURE)

05/15/95:

Wound clean & dry – Skin sutures removed – Steri-strip applied p (*with*) Benzoin spray. Pt advised to let them fall on their own.

RTO (*return to office*) in 2 wks.

(SIGNATURE)

EXHIBIT

“H”

AFFIDAVIT OF CARY M. KULTAU

**State of Florida vs. Ernesto Behrens
98-5739CF10A**

Cary M. Kultau, who after being duly sworn according to law states:

- ◆ I am currently a Florida licensed Private Investigator for 13 years. I have prior certified Florida law enforcement experience of 15 years, most of which I served as a crime against person/homicide detective.
- ◆ Lengthy investigation resulted in obtaining Detective Steven Geller affidavit to arrest Ernesto Behrens dated May 13, 1997. In this document Detective Geller outlines in detail the DNA evidentiary link of victims, Renee Ahladis and Denise Wood separate cases.

Exhibit A attached

- ◆ On October 05, 2000 (post verdict/Denise Woods case) I was requested to document all related DNA tests and the amount of DNA swabs pertaining to Ernesto Behrens. I contacted both the Palm Beach County and Dade County Crime laboratories.
- ◆ Palm Beach County Sheriff's Laboratory responded timely and disclosed new evidence. An upgraded DNA test had been conducted comparing victim Renee Ahladis' evidence with Ernesto Behrens DNA standard. The result was negative, although a prior DNA laboratory test in Broward County produced positive results.

Exhibit B attached

- ◆ I know that the attorneys defending Mr. Behrens in the Renee Ahladis and Denise Wood cases were not provided with this newly discovered negative DNA test performed by Palm Beach County Laboratory.

I

- ◆ I personally met with attorney Ty Terrell (defended Ernesto Behrens in the Denise Wood case). Terrell reviewed the new evidence and confirmed that the state of Florida never provided this information during the process of discovery. If Terrell knew this, preparing for the trial and the actual trial would have changed in many ways.
 - ◆ In my professional opinion if this newly discovered evidence was known to the defense this would have altered the case preparation and trial strategy to a great extent. In addition, this new evidence is exculpatory in nature and creates reasonable doubt.
 - ◆ I took considerable time and efforts contacting Dade County crime laboratory regarding the original DNA standard taken from Ernesto Behrens. A response via fax was received from the laboratory supervisor, Willard "Bud" Stuver, reflecting the only documentation was a property receipt that reads one (1) oral swab specimen of Ernesto Behrens was impounded. Mr. Stuver wrote that the Dade laboratory currently possessed two (2) swabs of the original four (4) specimens. This in fact is not consistent and has no basis compared with the property receipt. My efforts to locate any other Dade County "Behrens" documentation was negative.
- Exhibit C attached

**STATE OF FLORIDA
COUNTY OF BROWARD**

Cary M. Kultau
Affiant

Sworn to and subscribed before me on this 23rd day of April, 2001, by Cary M. Kultau.

G. Cunningham
Notary Public
G Cunningham



IN THE COUNTY/CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

ERNESTO JOSE BEHRENS
H/M DOB 11/10/64

Defendant.

97-0083-AF104
AFFIDAVIT TO ARREST

BEFORE ME, Judge of the Circuit Court in and for Broward County, personally came Detective Steven Geller, who, after being duly sworn, deposes and says that on the 12th day of May, A.D. 19 95, in the County and State aforesaid, one Ernesto Jose Behrens did then and there unlawfully:

Victim #1: On September 12th, 1994, the Coral Springs Police Department investigated an armed residential burglary, documented under case number 94-6152, which occurred at 11885 Royal Palm Blvd., Coral Springs, Broward County, Florida. In response to an AFIS hit, on October 25th, 1996, Coral Springs Latent Examiner Joel Geller positively matched latent fingerprints found at the crime scene to Defendant Ernesto Behrens.

Victim #2: On October 21st, 1993 the Coral Springs Police Department investigated an Armed Residential Burglary and Sexual Battery which occurred at 8105 N.W. 27 Street, Apartment 2, Coral Springs, Broward County, Florida. This case had remained unsolved until the latent fingerprint identification of Ernesto Behrens in the previous offense. The suspect description matched that of Ernesto Behrens, so Coral Springs Detective Barbara Haydu prepared a photo lineup, incorporating a picture of Ernesto Behrens. The lineup was shown to the victim, Renee Ahladis, and without any hesitation and with great emotion, she positively identified Ernesto Behrens as the person who illegally entered her apartment and who committed the offense of Sexual Battery.

On April 21st, 1997 Detective Haydu secured a warrant to arrest Ernesto Behrens for violating Florida State Statute 810.02(2), Burglary, and Florida State Statute 794.011(3), Sexual Battery.

Victim #3: On May 12, 1995, at approximately 0430 hours, the defendant illegally entered the victim's apartment located at 750 N.W. 91 Terrace, Plantation, Broward County, Florida. Entrance into the apartment was gained by the defendant via the kitchen window. Once

Behrens, Ernesto

97-0083-AF

(A)

inside, the defendant went into victim Denise Wood's bedroom where she was sleeping. He shined a flashlight in her face and when she began to awake, used the light to conceal his identity. The defendant told the victim to place a pillow over her face so she could not see him. The victim reported that she had submitted to his demand out of fear that the defendant would cause her physical harm. The defendant disrobed, climbed on top of the victim and told her to "feel this". At that point, the victim felt what she believed to be a knife on her stomach.

The defendant advised the victim that she was to "jerk" him off and at that point grabbed the victim's hand and placed it on his penis. After being forced to commit that act, the defendant climbed on top of the victim's upper torso and told her to "blow" him until he ejaculated. The defendant then forced his penis into the victim's mouth against her will committing the act of sexual battery. Next, the defendant told the victim to turn over on to her stomach at which time he began to rub her buttocks. A short time later the defendant had the victim turn over on her back. The defendant ordered the victim to expose her vagina and to engage in manual masturbation while the defendant watched.

The victim reported that while she was being forced to touch herself, the defendant ejaculated upon her thigh. The defendant picked up an article of clothing owned by the victim and wiped the semen from the victim's thigh using the clothing article. The clothing article was thrown by the suspect on the floor and was later collected as evidence by this agency. The defendant told the victim to count to 500 before she removed the pillow from her face. The victim reported hearing the defendant dress and leave the room. The victim immediately contacted this agency via 911 to report the incident. Subsequently, the victim was transported to the Sexual Assault Treatment Center where a rape evidence kit was utilized and turned over to this agency. The kit was entered into property as evidence.

Victim Denise Wood advised that she did not appear to know the suspect. She did not give him permission at any time to enter her apartment, or perform any of the acts that he committed upon her.

A crime laboratory analysis report from the Broward County Sheriff's Office indicated an identical DNA match from semen collected in the Coral Springs case involving victim #2 Renee Ahladiis and the positive identification of Ernesto Behrens, to the unsolved Plantation

The offense(s) set forth in the foregoing Affidavit is/are contrary to the statute(s) in such case made and provided, and against the peace and dignity of the State of Florida.

Sworn to and subscribed before me)
this _____ day of _____)
A.D. 19____)

Affiant

JUDGE, CIRCUIT COURT

(Seal)

page 2 of 3 pages

Behrens Ernesto

97-0083-AF

case, number 1619-95-05, involving an Armed Burglary and Sexual Battery of victim #3 Denise Wood. In both cases the suspect's semen was collected from the crime scenes and submitted to the Broward County Sheriff's Office Crime Laboratory for analysis.

From this concluding Crime Lab report, probable cause has been developed to believe that the suspect who committed the criminal violation of sexual battery in the Plantation case is the same suspect who committed the sexual battery in the Coral Springs case. Crime lab results indicated that the semen tested provided an identical DNA match to each other.

In addition to an identical DNA match in both cases the suspect operated in a manner so unique and so similar that the offenses were more than likely committed by the same person. For example, both victims described the suspect as a Hispanic male with a slight Spanish accent. Also, in both cases the suspect was armed with a screwdriver or knife, and he placed a pillow over the face of his victims in an effort to conceal his identity. All of the victims were women residing in an apartment complex, and although no accomplice was ever heard or observed, the suspect led the victims to believe that he was not alone. Upon completion of the Sexual Battery, in the Plantation case the suspect demanded that the victim count to 500 before removing the pillow which had been placed over her face. In the Coral Springs case, the suspect ordered the victim to remain in a closet for five (5) minutes. These delays were to afford the suspect ample time to escape.

Therefore, your affiant believes that Probable Cause exists for the arrest of Ernesto Behrens: (1) DNA matches are identical in the case of victim #2 Ahladiis and the Plantation Sexual Battery case of victim #3 Denise Wood, and that (2) victim #2 Ahladiis was able to positively identify the suspect as Ernesto Behrens, and that (3) Ernesto Behrens fingerprints were positively matched to victim #1 another case involving a sexual deviant act.

It should be noted that when Ernesto Behrens is taken into custody a DNA sample from his person will be requested through a court order.

BROWARD COUNTY, FLORIDA
I certify this document to be a true
and correct copy of the original.
WITNESS MY HAND AND SEAL

The offense(s) set forth in the foregoing Affidavit is/are contrary to the statutes of the State of Florida, and provided, and against the peace and dignity of the State of Florida.

5/13/97
ROBERT L. JOHNSON, Clerk
D.C.

Sworn to and subscribed before me
this 13 day of May
A.D. 19 97.

JUDGE, CIRCUIT COURT

RICHARD D. EADE

page 3

of 3 pages

Affiant

97-0083-AF

4/11/17

DEPT 31 DATED

197-36

☐ Property of Deceased
☒ Trial

☐ Found Property
☒ Laboratory

☐ Other Recovered
☐ Destroyed

Release After Processing: ☒ Yes ☐ No

To Whom

Address Where Property Impounded

D-50 LAB

NAME

ADDRESS

PSV

PHONE

Discovered by

BSO Crime Lab

451 NW 70 Terr Fort Lauderdale 33309-2112

Owner

N/A

Victim

Renee Ahladi's

Suspect(s) include DOB

Ernesto Behrens 1/10/64

N/A ID Carded

ITEM #

QUANTITY

VALUE

DESCRIPTION

X2-1

1

0

DATA Swab from Metro-Dade Lab from
SUSPECT Ernesto Behrens
CHAIN OF CUSTODY:
From BSO LAB to
Detective Steven Geller to
P.B.S.O LAB

ISWE

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt.

I hereby acknowledge that I have received the property listed above in the official performance of duty as a Deputy Sheriff.

Signature

Steven Geller Det/08

Signature

Steven Geller

DATE

DATE

RECEIVED BY

REASON

DATE

Maritza

Lab

10-12-97-145

Off. Debra Glidewell

Seq/DNA

10-12-97-145

Off. Debra Glidewell

Return to BSO by UPS

10-12-97-145

Final Disposition

Authority

Date & Time

☐ WEST PALM BEACH ☐ DELRAY BEACH ☐ PALM BEACH GARDENS

PBSC # 0145

CONTRIBUTOR'S COPY

"H"

RICHARD L. TANTON
LABORATORY DIRECTOR

*** CRIME LABORATORY REPORT ***

SECTION: SEROLOGY

INVEST. AGENCY: BSO CASE NUM: 10892D AGENT: DET. GELLER
INVEST. AGENCY: CASE NUM: AGENT:
INVEST. AGENCY: CASE NUM: AGENT:
INVEST. AGENCY: CASE NUM: AGENT:
INVEST. AGENCY: CASE NUM: AGENT:
DATE SUBMITTED: 10/14/97 ANALYSIS COMPLETE: 12/22/97

*** PRINCIPALS ***

| SUSPECT/VICTIM | LAST NAME | FIRST NAME | MI | BT | DOB | RACE | SEX |
|----------------|-----------|------------|----|----|----------|------|-----|
| VICTIM | AHLADIS | RENEE | | | | | |
| SUSPECT | BEHRENS | ERNESTO | | | 11/10/64 | | |

*** EVIDENCE ***

| ITEM NO. | QTY | DESCRIPTION |
|----------|-----|--|
| ***** | | *** SEROLOGY/DNA EVIDENCE *** |
| PR #1 | 1 | SEALED PAPER BAG CONTAINING: |
| 1-1 | 2 | VAGINAL SWABS IN A SEALED ENVELOPE |
| 1-2 | 1 | BLOOD STANDARD FROM "RENEE AHLADIS" IN A SEALED ENVELOPE |
| PR #2 | | |
| 2-1 | 2 | DNA SWABS FROM ERNESTO BEHRENS IN A SEALED ENVELOPE |

*** RESULTS ***

SEROLOGY/DNA RESULTS

1. DNA FROM ERNESTO BEHREN'S STANDARD (2-1) WAS ANALYZED FOR 10 GENETIC MARKERS INCLUDING: AMELOGENIN, DQA1, LDLR, GYPA, HBBG, D7S8, GC, CSF1PO, TPOR, AND TH01 (SEE ATTACHED DATA SHEET).
2. NO DNA RESULTS WERE OBTAINED FROM THE SPERM ON THE VAGINAL SWAB (1-1 SP). DNA WAS RECOVERED FROM RENEE AHLADIS' BLOOD STANDARD (1-2) AND THE NONSPERM FRACTION ON THE VAGINAL SWAB (1-1 NS).

Debra E. Glickwell
DEBRA E. GLICKWELL
SENIOR FORENSIC SCIENTIST

DATE 12/23/97

(B)

DNA DATA SHEET

| | |
|------------------|--------------------|
| PBSO LAB NUMBER: | 97-11152 |
| PAGE: | 2 |
| ANALYST: | Dobra E. Gildewell |

DNA PROFILE

| | | | | | | | | | | | |
|------|-----------------|---------|----|----|----|----|----|--------|--------|----|------|
| X2-1 | ERNESTO BEHRENS | 2, 4, 1 | BB | AB | AB | AA | AC | 10, 12 | 10, 11 | NR | MALE |
| | | | | | | | | | | | |

NOTES:

NR = No Results (negative/insufficient)

(B)

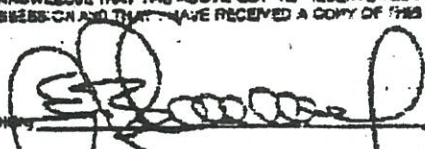
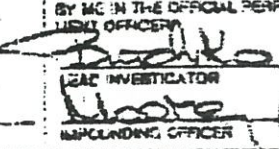

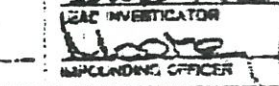
| | | |
|--|-------------------------------|--|
| DATE TIME IMPOUNDED 20050101 | PROPERTY BUREAU LOCATION CODE | PROPERTY BUREAU LOCATION AND INVENTORY NO. |
| OTHER DEPT. CASE NO. | FOR GROUP | |


| | | | | | |
|--|--------------|--------------|-------|-----------|---------------------|
| ADDRESS WHERE PROPERTY IMPOUNDED (Give exact location where property was located.) | | CITY | | STATE | TEL. |
| 5300 NW 74 TER | | MIAMI | | FL | 305 471 2400 |
| DISCOVERED BY (Name) | ADDRESS | CITY | STATE | TEL. | |
| Det. A Moore | MIAMI | | | | |

| | | | | | | | | |
|--------------------------------|----------------------------------|----------------------------------|----------------------------------|------|-----|-----|--|--|
| <input type="checkbox"/> OWNER | <input type="checkbox"/> WITNESS | <input type="checkbox"/> SUBJECT | <input type="checkbox"/> SUSPECT | RACE | SEX | DOB | INCARCERATED | WARRANT |
| | | | | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO |

| | | | |
|--|--|---|---|
| <input type="checkbox"/> STOLEN PROPERTY | <input type="checkbox"/> TRIAL EVIDENCE | <input type="checkbox"/> HOMICIDE PROBATE | <input type="checkbox"/> SECURITY STORAGE |
| <input type="checkbox"/> LOST/FOUND PROPERTY | <input checked="" type="checkbox"/> LAB EVIDENCE | <input type="checkbox"/> OTHER AGENCY | <input type="checkbox"/> OTHER (SPECIFY) |

| ITEM NO. | QUANTITY | DESCRIPTION (Article - Brand - Model - Serial No. - Size - Color - Caliber - Barrel - Item's currency by denomination) | Currency Only Total Face Value | PROPERTY BUREAU ONLY |
|---|----------|---|-----------------------------------|-------------------------|
| 1 | 1 | BRASS EVIDENCE BAG CONTAINING 200 SWB SPECIMENS OF FLORIDA BUREAU HAS DTD 11-10-14 | | |
| <div style="border: 1px solid black; border-radius: 50%; width: 100px; height: 100px; display: flex; align-items: center; justify-content: center; margin: 0 auto;"> 232 </div> | | | | |

| | | | |
|--|--|---|--|
| I HEREBY ACKNOWLEDGE THAT THE ABOVE LIST REPRESENTS ALL PROPERTY TAKEN FROM MY POSSESSION AND THAT I HAVE RECEIVED A COPY OF THIS RECEIPT. | | I HEREBY ACKNOWLEDGE THAT THE ABOVE LIST REPRESENTS ALL PROPERTY IMPOUNDED BY ME IN THE OFFICIAL PERFORMANCE OF DUTY AS A DEPUTY SHERIFF / LAW ENFORCEMENT OFFICER. | |
|  | |  | |
| SHERIFF | | INVESTIGATOR | |
|  | |  | |
| IMPOUNDING OFFICER | | IMPOUNDING OFFICER | |



CAUTION

BIOHAZARDOUS MATERIAL

| | | | |
|----------|------------|--------|------------------------|
| RECEIVED | PRINT NAME | REASON | DATE AND TIME RECEIVED |
| RECEIVED | PRINT NAME | REASON | DATE AND TIME RECEIVED |
| RECEIVED | PRINT NAME | REASON | DATE AND TIME RECEIVED |
| RECEIVED | PRINT NAME | REASON | DATE AND TIME RECEIVED |
| RECEIVED | PRINT NAME | REASON | DATE AND TIME RECEIVED |

Miami, Florida
USA



FAX COVER SHEET

☐ Confidential requires immediate pick up

TO: MR. CARY M. KULTAU

PHONE: (954)429-9194

FAX: (954)429-0426

FROM: MR. WILLARD "BUD" STUYER, Supervisor - Forensic Biology Section

PHONE: (305) 471-3034

FAX: (305) 471-3478

SUBJECT: PROPERTY RECEIPT OF ORAL SWAB SPECIMEN

TWO (2) Pages, Including Cover Sheet

REMARKS: REGARDING YOUR FAX DATED 10/06/2000, THE ONLY DOCUMENTATION

REGARDING SWABS FROM MR. ERNEST BREHNS IS A PROPERTY RECEIPT SHOWING
TRANSMITTAL OF THESE SWABS FROM THE IMPOUNDING OFFICER TO THE LABORATORY.

THE MIAMI-DADE POLICE DEPARTMENT CRIME LABORATORY BUREAU IS PRESENTLY IN
POSSESSION OF TWO OF THE ORIGINAL FOUR SWABS SUBMITTED WITH THAT RECEIPT.

A COPY OF THAT RECEIPT ACCOMPANIES THIS FAX.

The information contained in this facsimile message is **CONFIDENTIAL** information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly **PROHIBITED** and will be considered as a serious interference in our confidential business relationships. Additionally, unauthorized dissemination of this confidential information subjects you to criminal and civil penalties. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

C