



Office of the State Attorney
Harold F. Pryor
17th Judicial Circuit of Florida
Conviction Review Unit

Petition for Conviction Review

Complete this form to apply to our office to have a conviction reviewed. All information must be provided. Please provide copies of any documents that support your application. **Do not send original documents** or your only copy of any document. This form and supporting documents may be uploaded or mailed to:

Office of the State Attorney
Conviction Review Unit (CRU)
201 SE 6th St., Suite 07130
Fort Lauderdale, FL 33301-3360

(Where "petitioner" is indicated, provide defendant's information. A section has been provided for additional information if the applicant is not the petitioner/defendant).

The SAO Conviction Review Unit (CRU) will review cases that meet the following criteria:

1. The conviction must have occurred in the 17th Judicial Circuit of Florida (Broward County).
2. The case must have been prosecuted by the Broward State Attorney's Office. (Cases prosecuted by the Office of Statewide Prosecution or by the federal government are not eligible for review by this office).
3. The petitioner must present a claim of actual innocence (he/she did not commit or participate in the crime).
4. The conviction must be a felony, with the highest priority of review for individuals who are incarcerated and have been convicted of serious felonies.
5. The claim must be supported by information or evidence not previously litigated before the original trier of fact (judge or jury).
6. The claim must be capable of being investigated and resolved, and if substantiated, would bear directly on the issue of innocence.
7. The conviction must be in the procedural posture that the direct appeal has become final, post-conviction motions have already been ruled on, and there is no pending litigation.

8. The claim must be dispositive (a fact that determines the issue) and not frivolous.
9. The Conviction Review Unit (CRU) does not review lawful sentences.
10. The CRU gives less weight to affirmative defenses, claims, or information/evidence that was previously litigated before the original finder of fact (judge or jury).
11. Acknowledgment of receipt of the petition by the State Attorney's Office does not indicate acceptance of the case for investigation, or the validity of the claim of innocence.
12. A plea of guilty is not a bar to review, but will be subjected to a higher level of scrutiny.

Important: The State Attorney's Office cannot provide legal advice. Please consult with an attorney prior to submitting a petition if you need assistance or have any questions regarding anything contained in this petition. If you are currently represented by an attorney, the CRU will only communicate with your attorney. You should consult your attorney prior to submitting your petition.

Initial after each statement below to indicate your understanding and agreement:

1. Acknowledgment of receipt of the petition by the State Attorney's Office does not indicate acceptance of the case for investigation, nor does it infer acceptance of the validity of the claim of innocence. *EB*
2. Requesting review of your case by our office does not toll (suspend or stop) the time you have to pursue post-conviction remedies, such as file an appeal or post-conviction motions. You need to pursue those remedies separately. *EB*
3. I understand this is an extrajudicial process and there is no right of appeal from a declination (denial) by the CRU. All decisions made by the CRU, including the decision to accept a petition regarding reopening a case investigation, as well as how the claim will be investigated and resolved, are at the sole discretion of the Broward State Attorney's Office. *EB*
4. I understand that the State Attorney's Office cannot provide legal advice, they do not represent me. The attorney-client privilege does not apply to any information I provide to the CRU in this form or any other communication. *EB*

**IF YOU ARE CURRENTLY REPRESENTED BY COUNSEL, THIS FORM
MUST BE SUBMITTED BY YOUR ATTORNEY.**

Please complete this petition in its entirety. If you have supporting documents, please upload them or provide copies by mail, if possible, or indicate that you have such documents. Do not send your originals or the only copies you have.

5. Date Completing Petition: 10/20/21
6. Primary Language: English
7. Convicted Person's Name: Ernesto Behrens
8. Date of Birth: 11/10/64
9. Florida D.O.C. Number: 732564
10. Convicted Person's Address or Location in D.O.C.:
Martin Correctional Institution
1150 SW Allapatah Rd.
Indiantown, FL 34956
11. Are you currently represented by an attorney? If so, please provide current attorney's name and contact information.
NO
12. Please list any additional attorneys who have worked on your case, starting with your most recent. Please provide previous attorney's name and contact information:
- | | |
|--------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| Donald Goldrich, Esq.
Bar ID 103683
P. O. Box 970735
Coconut Creek, Florida 33097 | Tyrone Arwin Terrell, Jr., Esq.
Bar ID 779776
P.O. Box 15886
Plantation, FL 33318 |
| Kayo Elwood Morgan, Esq.
Bar ID 444677
432 N.E. 3rd Ave.
Fort Lauderdale, Florida 33301 | Andrea Rachel Tromberg, Esq.
Bar ID 92622
1515 S. Federal Hwy, Suite 100
Boca Raton, FL 33432 |

**Important: If you are currently represented by an attorney,
the CRU will only communicate with your attorney.**

****Your attorney must submit this petition on your behalf****

13. If this form is filled out by someone other than the defendant/petitioner, list your name, your relationship to the defendant/petitioner and contact information (phone, e-mail and mailing address):

N/A

PETITIONER'S CASE INFORMATION

14. State Court Case Number: 98-5739CF10A

15. What is the date the crime occurred: 5/12/95

16. What is the date you were arrested: 3/17/98

17. What is the date you were convicted: 9/14/00

18. Charge(s) on conviction:

Count I - Armed Sexual Battery

Count II - Burglary of a dwelling with a battery

19. Sentence received:

two (2) life sentences running concurrent

20. Name of attorney who represented you at trial or plea:
Tyrone Arwin Terrell, Jr and Andrea Rachel Tromberg

21. Name of judge who sentenced you:
The Honorable Alfred Horowitz

22. Are you still serving your sentence from this conviction? (If yes, please answer the questions below)

Are you in prison? Yes No

Are you on probation? Yes No

Are you on parole? Yes No

23. How were you convicted? (check one):

- Jury Trial
- Bench Trial
- Guilty Plea

Prior Post-Conviction Appeals

24. Do you have an active appeals or post-conviction motions? Yes No

25. If yes, please provide the case number: N/A

26. If yes, what court is it in?

- Trial Court
- Florida Court of Appeal
- Florida Supreme Court
- Federal District Court
- 11th US Circuit Court of Appeals
- US Supreme Court

27. Have you filed any post-conviction motions before in this case?

Yes
 No

28. If yes, provide case information:

Case Docket No. 9805739CF10A. For additional information visit www.helpdna.org

29. Is the conviction currently being challenged on appeal?

Yes
 No

30. If yes, please provide the case number and claims raised:

(N/A). However, the claims raised were: 1) DNA evidence tampering and 2) Insufficient circumstantial evidence to convict. See: Behrens v. State, 830 So. 2d 190 (Fla. 4th DCA 2002).

31. Are you serving a sentence based on additional cases? If so, please **list all of your pending case numbers?**

NO

Are the below responses a basis for your petition for review?

Please indicate whether or not the below responses are applicable.

32. Actual innocence (I did not commit the crime):

Yes
 No

33. Mitigating Factors:

- I did some of what I was convicted for but not all of it.
- I did something illegal but I was drunk or high at the time of the incident.
- I did something illegal but I have an illness.
- I did something illegal because I was forced to do it by someone else.
- I did something illegal but I got too much time in prison.

33. The witness/informant has recanted or changed their testimony:

- Yes
- No

34. I have an alibi?

- Yes
- No

35. If yes, please provide the alibi information:

See attached

37. There is new evidence that proves my innocence that wasn't available when I went to trial or entered my plea.

- Yes
- No

38. If yes, please explain:

See attached

39. There is new evidence that shows my trial was unfair that wasn't available when I went to trial or entered my plea.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

40. If yes, please explain in detail:

The black and white dress used by the victim to wipe off seminal fluid from her leg which was collected as evidence by law enforcement officers at the crime scene, is the best evidence to link a perpetrator to this crime, though it was never tested. (Exhibit B). This dress still exists and has never been tested for DNA. The scientific basis for testing this dress is that the technology is much more robust and discriminating. Modern STR testing examines 24 loci instead of the 5 that were done in 1995. At the time of testing in this case RFLP was relatively new and history has shown us it was prone to error and subjectivity. (Exhibit C). On the other hand, the same principle applies to the fingerprints, palm prints, foot prints and other prints collected at the crime scene from the point of entry and exit. There is a lot of advances in this technology today to correctly identify the individual who matches those sets of collected prints. There is no doubts, that in this case, my identification has been seriously disputed. Thus, DNA testing as well as fingerprints corroboration in this case seems necessary.

41. There was scientific testimony or expert witness testimony at my trial that was wrong or has been discredited.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

42. If yes, please explain in detail below:

See attached

43. The police officer in my case has been arrested:

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

44. If yes, what is the officer's agency, name and badge number?

N/A

45. How do you believe this impacts your case?:
N/A

46. Other:
N/A

47. Additional space for the basis of the petition:
N/A

48. Did you give a statement to the police?

- Yes
 No

49. Did you testify at trial?

- Yes
 No

50. Was there DNA evidence?

Yes
 No

51. Was all DNA evidence in your case tested?

Yes
 No

52. Is there any other pending litigation that involves the same subject matter as your criminal case?

Yes
 No

53. If yes, please explain type and any associated case number:

NO

54. Has the petitioner filed a 3.853 motion for DNA testing pursuant to Florida Statute, Section 925.11?

Yes
 No

55. If yes, please provide status information.

The 3.853 DNA motion was filed in 2003 and summary denied by the lower court. See Case Docket No. 98-5739CF10A. It was timely appealed and after a show cause order was issued by the Court, it was Per Curiam Affirmed. See: Case Docket No. 4D04-4156. For more information about this specific motion or any other motion filed in this case visit www.helpdna.org

56. Have you contacted an innocence organization/project about your case?

Yes
 No

57. If yes, which organization and have they started an investigation into your case?

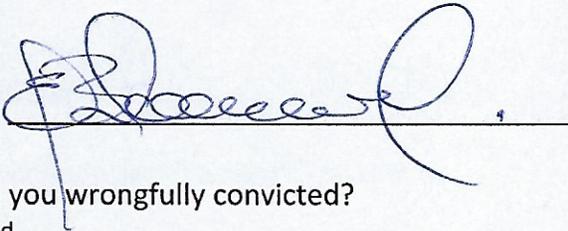
The Innocence Project of Florida, Inc. in Tallahassee - Based on all the explanations I am given below, which involve multiple correspondences, release of rights and waivers. I do believe they had started an investigation in my case. I initiated my direct contact with Dr. Adina M. Thompson, Intake Coordinator, back in November 2016. And in December 2016, I received her correspondence dated December 15, 2016. On January 1, 2017, I submitted their 100 question "Application" together with a "Consent for Release of information," form. In February 2020, I received a second correspondence from them, dated February 19, 2020, from Krista Dolan, Staff Attorney. I again resubmitted an "Authorization to Release Information to Conviction Integrity Unit/Waiver of Attorney-Client and Work Product Privileges." Then in January 2021, I received another correspondence dated January 25, 2021, from Seth Miller, Executive Director. I again resubmitted a third "Authorization to Release Information to Conviction Integrity Unit/Waiver of Attorney-Client and Work Product Privileges," on February 8, 2021.

58. Do you give the Innocence Project of Florida or any other innocence organization permission to share information from their review of your case with the CRU?

Yes
 No

59. Claimant/Declarant: Please write/type your full legal name and sign

Full Legal Name: Ernesto Behrens

Signature: 

60. How were you wrongfully convicted?

See attached

61. What new information or evidence, if any, exists that was not known at the time of trial?

See attached

62. Do you know of anything new about your case that you didn't know when you went to trial or pleaded guilty? (Has a witness changed his story, or do you think they will? Has someone else confessed to the crime? Do you know about new evidence? Please include as many details as possible.)

See Attached

63. Do you have information about who may have committed the crime?

Yes. I believe 100% that the person who committed the crime in this case is the very same individual who left his fingerprints, palm prints and footprints at the points of entry and exit of the crime scene. Even though, at the time of this investigation these multiple prints were not able to be matched with anybody else's prints, maybe because that specific individual's prints were not yet registered. It does not mean that now, 26 years later, these prints could not be now identified. And, if identified, they will also point out to a circumcised male, as it was correctly identified by the victim in this case.

Information about evidence in your case:

Please answer the following questions.

64. Police said I confessed to them but I did not.

- Yes
 No

65. An eyewitness or victim identified me but got it wrong.

- Yes
 No

66. An eyewitness or victim identified me from a show-up.

Yes
 No

67. An eyewitness or victim identified me from a photo array or photo lineup.

Yes
 No

68. An eyewitness or victim identified me from a live lineup.

Yes
 No

69. An eyewitness or victim identified me for the first time in court.

Yes
 No

70. The witness or informant who testified against me lied.

Yes
 No

71. The witness or informant who testified against me had a deal with the State I just learned about.

Yes
 No

72. If yes, please explain the deal and how you learned of it:

73. Police said they found my fingerprint at the crime scene.

Yes
 No

74. Police said they found my hair at the crime scene.

Yes
 No

75. Police said they found my blood at the crime scene.

Yes
 No

76. Police said they found other of my body fluids (semen, spit, sweat) at the crime scene.

Yes
 No

77. Police said the victim's DNA was on me.

Yes
 No

78. Police said I had the victim's property or other belongings.

Yes
 No

79. Explain in detail why you are innocent of this crime. If you were somewhere else when the crime happened, tell us where you were and what you were doing. If you don't think a crime really happened, please tell us why you believe that.

See attached

80. Please explain what you were doing the day of the incident and how you came to be arrested.

As testified at trial by my witnesses, on May 12, 1995 at approximately 5:00 am, when this crime was being committed. I was under pain medication, sleeping with my alibi witness in Light House Point, approximately twenty (20) miles away from Plantation. However, in the afternoon of that same day, I went to Doctor Durand's office for a routine examination after my operation of May 8, 1995. I was not arrested on the day of the crime. I got arrested 29 months after this crime was committed.

81. Please list the names and phone numbers of witnesses, alibis, or any other person you think can provide relevant information.

Paula R. Turgeon is the alibi witness who testified at trial that I was in bed rest, with her, and under pain medication at her house, twenty (20) miles away from the crime scene while the crime was being committed:

Paula Turgeon (Holder) P. O. Box 1562 Pompano Beach, Florida 33062 Phone number: (954) 786-8619

Dr. Guy Durand, M. D. is the doctor who testified at trial about my physical conditions at the time of the alleged crime, where he had just performed an operation on me four (4) days before this crime took place:

Dr. Guy Durand, M. D.
1670 N.W. 93rd Avenue
Plantation, Florida 33322

82. Finally, provide any other information you think would be helpful in reviewing your case. Include contact information (name, phone numbers, addresses and e-mail) for any person you think could provide information that could assist in your claims or verify information you provided:

See attached

Acknowledgement - Please initial after each statement you accept or agree with.

83. The Conviction Review Unit is a program of the State's Attorney's Office: *EB*

84. I understand I am providing information to a prosecutor's office and that any statements here are provided voluntarily: *EB*

85. I understand my statements on this Petition can be used against me if I have lied or provided false information: *EB*

86. No one has promised me anything to fill out this Petition: *EB*

87. I understand the Conviction Review Unit reviews cases based on its own standards and my case may or may not be reviewed or investigated: *EB*

88. I understand the Conviction Review Unit may contact any of the people or witnesses I have listed here to talk with them about my conviction: *EB*

Disclaimer:

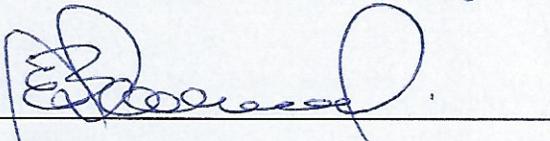
Please be advised that this office does not represent you. We are unable to give you legal advice, and the attorney-client privilege does not apply to any information you provide to us in this form or any other communication.

Under penalties of perjury, I declare that I have read the foregoing petition and that the facts stated in it are true.

Date:

Claimant/Declarant: Please write/type your full legal name and sign

Full Legal Name: *Ernesto Behrens*

Signature: 

Submitting this Petition:

You can submit this petition below by printing this application and mail it directly to the CRU along with other supporting documents to the following address:

Office of the State Attorney
Seventeenth Judicial Circuit
Attn: Conviction Review Unit
201 SE 6th St., Ste., 07130
Fort Lauderdale, FL 33301-3360

Please be sure to provide a coversheet with your contact information.

Please note that your petition may be subject to Florida public records laws. Please note that under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not submit this form via email. Instead, download this form and mail it to the address above.

**ERNESTO BEHRENS DC #732564
MARTIN CORRECTION INSTITUTION
PETITION FOR CONVICTION REVIEW**

35. I presented an alibi defense at trial. All pertinent information that she provided at trial is on the face of the record. Her name is Paula R. Turgeon. She is currently married and her last name is Holder. She resides in Lighthouse Point, Florida. Her last phone number I have available is (954) 786-8619. For more information about this alibi witness' testimony at trial and/or for access to the whole Trial Transcripts visit www.helpdna.org - (T. T. pgs. 1149, 1150, 1151).

38. On March 10, 2017, the State responded to one of my motions requesting them to disclose the existence, location and availability of the physical evidence collected in this case, which were indispensable for DNA testing. Within all the DNA documents the State provided me with, there were five (5) pages of DNA related documents that were never before disclosed to me. These documents unambiguously revealed to me the amazing fact that the victim's own DNA profile was not found on the green fitted sheet. (Exhibit A). I was sincerely dumbfounded by this new information. It is unimaginable for the victim's fitted sheet not to have contained her own DNA, after sleeping nude on it for over two weeks. I mean, had degradation and/or contamination occurred to the point where the victim's DNA profile was not present on her own bed sheet, no other person's DNA profile would have been found either. In other words, degradation would not only have affected the victim's DNA profile but not all DNA profiles on the bed sheet--the victim's as well as the suspected assailant's. Thus, the question still remains unanswered, how my perfectly non-degraded/non-contaminated DNA could have been extracted from such a degraded/ contaminated piece of evidence?

42. During the State's redirect-examination of DNA technician Donna Marchese, she told the jury—while been impeached by the Assistant State Attorney, Mr. Siegel, that the green fitted sheet did not come into the laboratory until Friday June 30th, 1995. Contrary to her initial testimony that all the evidence had come into the crime lab on May 18, 1995. However, BSO Crime Lab's Response to my Public Records Request dated December 29, 2018, unambiguously depicts that only two cases were submitted from Plantation Police Department to BSO Crime Lab on that date. Furthermore, the attached logs clearly reveal that both of those cases were ultimately logged into the BSO Crime Lab evidence vault on June 30th, 1995. (Exhibit D). Of course, the logs clearly demonstrate that no green fitted sheet relating to this case was ever logged into the BSO Crime Lab evidence vault on that day, contrary to Ms. Marchese's trial testimony. Equally important is the fact that contrary to how it is recorded by the Plantation Police Department chain of custody property receipt here attached. (Exhibit B). No green fitted sheet relating to this case was ever logged into the BSO Crime Lab evidence vault on February 1, 2000 either. (Exhibit E). These clear discrepancies in the logging of the only incriminating evidence of this case, not only shows a significant break in the chain of custody but also supports the probability of tampering with the evidence containing DNA in this case. On the other hand, at a pre trial Arthur Hearing on December 17, 1999, Ms. Marchese stated that: "when using my microscope, I was able to find one spermatozoa cell, that was entwined into the fiber of the fitted sheet." (Exhibit F). Then during trial she testified that the sperm cell yield six feet of genetic material. She claimed that she obtained a sufficient amount of DNA material to conduct the RFLP DNA testing in this case. However, according to Anthony D. Winston, Associate Technical

Director of Forensic Identity Testing of LabCorp, this would have been scientifically impossible. Apparently, science dictates that in order to conduct an RFLP DNA test using sperm cells, the scientists must have at a minimum of 200 individual sperm cells. (Exhibit G). Thus, this scientific conclusion from LabCorp is in sharp contrast with that presented by the BSO Crime Lab technician, Donna Marchese at trial. For more information about this State expert witness' testimony at trial and/or for access to the whole Trial Transcripts visit www.helpdna.org - (T. T. pgs. 878 - 1009).

60. I was wrongfully convicted because contrary to state and federal law, the only evidence that was used at trial and considered by the jury to convict me was based solely on inferences and not on personal knowledge or observation. In other words, my conviction was obtained due to circumstantial evidence alone. Despite the lack of inculpatory evidence placing me inside the victim's home and without paying attention to the multiple challenges I had made to the sole inculpatory DNA evidence in this case--while arguing actual innocence/manifest injustice claims, together with the well known lack of professional integrity that was accredited to the BSO Crime Lab DNA Unit and its employees (DNA technician Marchese and DNA consultant Dr. Tracey) in 2016. The courts have denied me all relief I have ever requested in this case. On the other hand, I was wrongfully convicted as well, due to the scientific limitations and lack of knowledge about new DNA testing procedures at the time of my trial. I was unable to afford a DNA expert that could have challenged or rebutted the State's DNA experts. And, of course, because my impossibilities of knowing back in 2000, about the BSO Crime Lab and its experts' lack of professional integrity and personal reputation before it became public in 2016. Therefore, because my whole theory of defense at trial was based on tampering with/planting DNA evidence. I was harmfully precluded from using this new information about BSO Crime Lab mishandling and miscalculating evidence that contained DNA, in order to cast out the necessary doubts on the State's seemingly powerful DNA evidence, collection and testing procedures, and its experts' now questionable, scientific testimonies. For more information related to this issue with the BSO Crime Lab DNA Unit go to: <http://www.sao17.state.fl.us/BSODNAASCLD.pdf>

61. #1- The fact that the victim's DNA was not found on her own sheets after sleeping nude on them for over two weeks. This was a relevant information that should have been timely revealed to the defense. (Exhibit A). #2- What appears to be some kind of "double check" of the green fitted sheet compared to the cuttings to ascertain if/where the cuttings originated from. It appears as they were fitting the cuttings back in the sheet like a puzzle. If there was some reason to suspect an error occurred that necessitated this review, this should have been explained in the case file and described for defense counsel and the court. (The note does not state who the author is, and the note does not describe repackaging of evidence). (Exhibit C) #3- The fact that no notations were made on the custody logs to describe that the cuttings were returned, and on paper they remained in the custody of the crime lab. Obviously, a significant brake in the chain of custody. #4- The fact that the black and white dress was returned to the lab separately in 6/2000 and presumably re-examined by BSO Crime Lab technician Marchese on 6/28/2000 in a fashion consistent with the examination of the green fitted sheet. (No notes exist to describe what examinations were performed on the dress or why it was resubmitted to the crime lab just before trial). (Exhibit C) #5- The fact that the ambiguous DNA database "hit" that is contained in the file as been used by BSO Crime Lab to match my DNA profile in 1995, was not a federally administered and/or regulated database as it is the national CODIS database we recognize today. (Exhibit C) with the exception of the alleged DNA match obtained with spot number one on the bed sheet, there is absolutely no one piece of inculpatory evidence in this case that could incriminate me as being the person inside the victim's home on the day this crime was committed.

62. On October 27, 2016, the Broward County Prosecutor's Office submitted its "NOTICE PURSUANT TO RULE 3.220(b)(4)" alerting me that on April 12, 2016, the Broward Sheriff's Office (BSO) DNA Crime Lab was advised by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD) that there was inappropriate use of DNA calculations by the Broward County's DNA Crime Laboratory. (Exhibit H). On a later day, I was also informed that the actual ASCLD report additionally revealed, that multiple BSO Crime Lab analysis practices were incorrect and that the Crime Lab mishandled, misinterpreted, and miscalculated samples that contain DNA from more than one person. Then, as I was in the middle of investigating the BSO Crime Lab's allegations. I also discovered that on December 24, 2016, BSO Crime Lab DNA consultant, Dr. Martin Tracey, was terminated from his 33-year job as a teacher at the Florida International University (FIU) amid accusations of bias, racism, sexism and particularly because his regular comments about drones and planting DNA evidence. On a later investigation initiated by Forensic DNA Consultant Tiffany Roy, it was revealed also that Dr. Tracey's work was central to Ms. Roy's published 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 rules and protocols. These new facts, of course, became directly relevant to my case because involved the same crime lab that performed DNA testing on the sole inculpatory evidence in my case. And also involves the State's DNA expert who testified at my trial, Dr. Martin Tracey. Equally new to me, is the fact that the January and February 2019, BSO Crime Lab reports generated in response to my Public Records Request, answered by BSO Crime Lab Administrative Coordinator, Diana Edwards. Unambiguously reveals that the sole inculpatory evidence in this case, the green fitted sheet--contrary to what DNA technician Marchese testified during her depositions and during her impeached trial testimony, was never logged into the crime lab vault. Instead, in two different occasions this particular piece of evidence was unaccounted for the following terms: from June 30, 1995 to October 8, 1995 and from February 1, 2000 to June 29, 2000. Both times in excess of 100 days. (Exhibits D and E). This fact, of course, goes directly to the DNA technician Marchese's credibility at trial, and to the probability of tampering with/planting the DNA evidence presented in this case. Please, compare it with how the evidence (the rape kit) was properly handled in this case. Specifically, with the Plantation Police Department chain of custody receipts of this evidence, as well as, with the BSO Crime Lab's logs and the response that was obtained from Ms. Edwards. In other words, both locations' paperwork conceded in submitting, receiving and logging such evidence according to the crime lab's protocols, contrary to how the green fitted sheet was handled and to what it was testified by Ms. Marchese. (Exhibit I).

79. I am actual innocent under criminal law, because the absence of facts that are prerequisites for the two life sentences I was ordered to serve. I am also innocent because I am free of guilt. I did not commit the crime for which I am serving two (2) life sentences. From the outset I have maintained my innocence and have continue to do so for the past 24-years. I have never met the victim, let alone committed a crime against her. I did argue this case by filing numerous motions to no avail. It seems clear to me that no one wants to believe the truth that I have been found guilty and sentenced to die in prison due to a mishandled, manipulated, tampered with and/or planted DNA evidence. I have been humbly pleading to be allowed to uncover the truth. I am not looking for favors or undeserved windfalls to come my way, but instead I am crying out and praying for justice! The evidence presented at trial shows that, the instant crime happened on May 12, 1995 at approximately 5:00 am. However, Dr. Guy Durand's uncontradicted testimony at trial was that on May 8, 1995, he had

performed a surgical proceeding on me, where three cysts were removed. One from my abdominal area, one from my lower back area and one from my left gluteus area. All three (3) incisions necessitated stitches for which changing of bandages and treatment was done for seven (7) days, until all the stitches were removed on May 15, 1995. (Exhibit J). Thus, as Dr. Durand clearly testified, it would have been physically impossible for me to commit the crimes alleged without causing stitches to tear, and without causing further trauma to the wounds I received during my surgery proceeding. Furthermore, due to the depth and close proximity to the spinal area of the one incision at my lower back, I was given pain killing medication, and I was instructed to rest and not to engage in unnecessary strenghen movements because of the multiple stitches that I had received. So, after this operation, I was pretty much in severe pain, under pain medication and on bed rest. (Exhibit K). At trial, it was shown also that I filled up my pain medication at the pharmacist close by my alibi witness' home in Light House Point. Equally uncontradicted was the previously discussed testimony of my alibi witness Paula R. Turgeon. Therefore, on the morning of May 12, 1995, I was sleeping at my alibi witness' home. I could not be in two different places at the same time. However, in the afternoon of May 12, 1995. I went to Doctor Durand's office for wounds check and dressing change. (Exhibit J). As to whether a crime really happened, in good faith, I cannot opine about this topic. However, with faith and confidence I am submitting to this Conviction Revie Unit all the facts contained in this application--which place into question my guilt in this case. In other words, how could reasonable individuals completely ignore the following facts of this case: 1) I underwent an operation four (4) days before this crime took place 2) I was physically incapable to commit such crime by crawling in and out of a kitchen window, without tearing a part the stitches of my wounds 3) I was under pain medications at the time of the crime 4) a Physician testified to these facts and presented all the pertinent documentation in support of this fact 5) I was somewhere else when the crime was committed, about twenty (20) miles away from the crime scene 6) an alibi witness without contradiction testified to this fact 7) there is no eye witness testimony that could ever place me near of or at the crime scene 8) the fingerprints, palm prints, foot prints, shoe castings and other prints found at the crime scenes' points of entry and exit do not belong to me, although they were good readable prints 9) the victim and I never met before 10) the victim's identification of the suspect in this case is not even close to any of my features, age, height, weight, hair length, build, etc the victim identified her assailant as a circumcised male, I am not circumcised 11) even in open court the victim did not identify me 12) there is no codefendant's testimony that could ever inculpate me 13) I never made a confession or admission of any kind to the Police in this case occurred here and demonstrates that these cuttings are apparently missing. (Exhibit C). 14) with the exception of the alleged DNA match obtained with spot number one on the bed sheet, there is absolutely no one piece of inculpatory evidence in this case that could incriminate me as being the person inside the victim's home on the day this crime was committed 15) the crime laboratory that handled and conducted all the related DNA evidence testing in this case was BSO Crime Lab 16) the BSO Crime Lab DNA technician Donna Marchese and the BSO Crime Lab DNA consultant Dr. Martin Tracey, were the only two individuals who performed the testing and corroboration of the DNA evidence in this case 17) DNA technician Marchese, no longer works for the BSO Crime Lab and consultant Dr. Tracey after been fired from his teaching job at the Florida International University, no longer makes consultation for BSO Crime Lab either 18) no other DNA technician from any other crime lab in this country have ever matched any DNA cases or evidence with me, other than technician Marchese, where she allegedly obtained a match with my DNA profile and one of her own unsolved cases at the BSO Crime Lab 19) in 2016, this crime lab was accused and reprimanded for mishandling and miscalculating evidence that contained DNA 20) since the time this news came public, I have been trying to obtain new DNA testing. For more information about these above witnesses' testimony at trial and/or for access to the whole Trial Transcripts visit www.helpdna.org -

(Physician Dr. Durand, Alibi Paula R. Turgeon, DNA Consultant Dr. Tracey and DNA Technician Marchese

82. The two defense attorneys who represented me at trial, would be able to corroborate the majority of the allegations contained in this application. Specifically, concerning BSO Crime Lab technician Donna Marchese's contradicting and misleading depositions and testimony, and BSO Crime Lab DNA consultant Dr. Martin Tracey's expert testimony at trial. Additionally, they would be able to corroborate the alibi defense I presented through Paula R. Turgeon my physical condition's inability defense given by Physician Dr. Guy Durand the tampering with the DNA evidence defense presented at trial and the overall defense's hypothesis of innocence:

Tyrone Arwin Terrell, Jr., Esq.
Bar ID 779776
P. O. Box 15886
Plantation, Florida 33318

Andrea Rachel Tromberg, Esq.
Bar ID 92622
Tromberg Law Group, P. A.
1515 South Federal Hwy Suite 100
Boca Raton, Florida 33432

The forensic DNA consultant, Tiffany Roy would be able to corroborate everything related to the DNA in this case. Specifically, about the old RFLP DNA testing procedure that was performed in this case, as well as the new PCR/STR DNA procedures that are currently available to corroborate the accuracy of what was tested:

Tiffany Roy, Forensic DNA Consultant,
36 Douglas Drive
West Palm Beach, Florida 33435
Email: info@forensicaid.net
Phone number: (561) 945-4585

A personal friend of mine, Franziska Kaltenbach, could also provide information that could assist in my claims and verify information that I provided in this application. She has a website with all the relevant information about my case. Visit www.helpdna.org

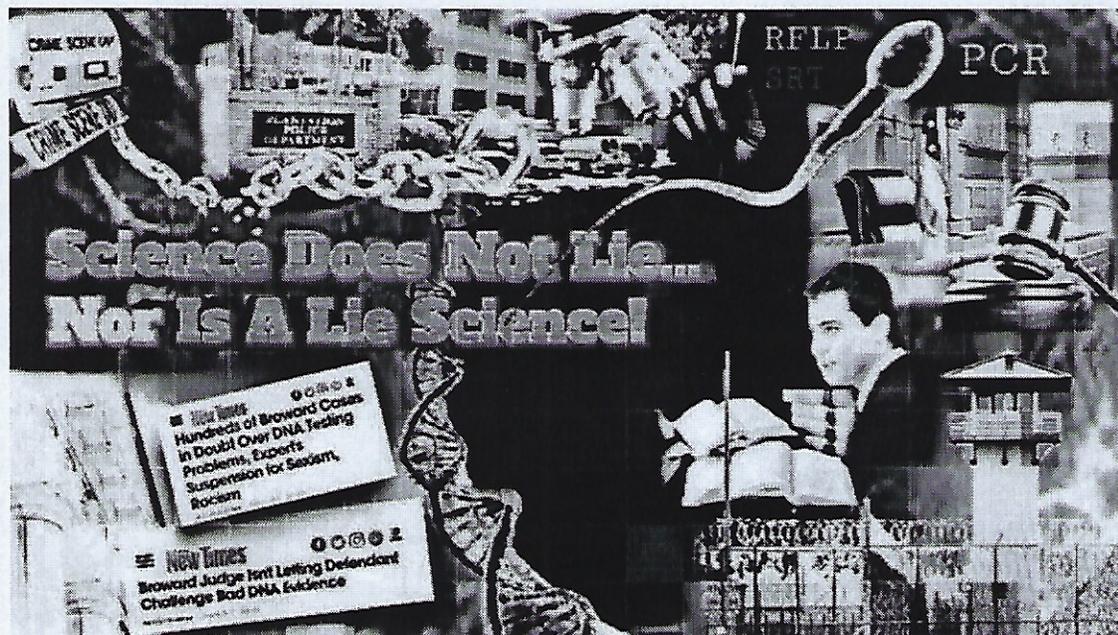
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DNA MANIPULATED CONVICTION

Science Does Not Lie...Nor Is A Lie Science!

DNA Manipulated Conviction



PREFACE

My name is Franziska Kaltenbach. I am a friend of Ernesto Behrens, an innocent man in the Florida Department of Corrections for the past 22 years. The certainty with which the prosecutor charged him with sexual battery and burglary of a dwelling in this case, highlights the very real injustice of what can occur when we place too much faith in DNA forensic technologies that have been handled by corrupted individuals.

DNA forensic evidence is an invaluable tool for law enforcement. But it is most useful when it does corroborate other evidence pointing to a suspect. However, when it does not, much more oversight by and accountable to the public are warranted. For far too

long, we have allowed the myth of DNA infallible to chip away our skepticism of government's prosecutorial power, undoubtedly leading to untold injustice.

The prosecutor did not acknowledge the obvious in Ernesto's case:

1. His suspect could not have been in two places at once;
2. His suspect had surgery 4 days before this crime to place;
3. His suspect did not match the fingerprints, palm prints, shoe castings and other prints collected from the points of entry and exit;
4. His suspect did not match the victim's description of the young circumcised male assailant;
5. His suspect's sole theory of defense, at trial, was that the State tampered with the DNA evidence.

As a consequence, Ernesto was found guilty and sentenced to die in prison solely on DNA. That one piece of evidence, obtained from technology with known limitations and susceptible to human error and prosecutorial misuse, mistakenly or intentionally led to a conviction at the hand of the State. Thus, the fact that DNA alone can be used to obtain a conviction and to support a life sentence should bring chills down every one's spine. **The next Ernesto Behrens could be you!**

So, one better hope the prosecutor acknowledges the obvious in your case in a timely manner. Otherwise, you will be prosecuted and convicted solely on DNA. Do not let this tragedy happen to you or someone you love. **Be a voice!**

Thank you for making a difference.

Sincerely,

Franziska Kaltenbach

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