

FEB 16 2011

LINDA K. FANKHAUSER, CLERK
PORTAGE COUNTY, OHIO

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

STATE OF OHIO

Plaintiff,

v.

TYRONE NOLING

Defendant.

Case No. 1995 CR 220

JUDGE ENLOW

RESPONSE TO NOLING'S
APPLICATION FOR LEAVE TO
FILE MOTION FOR NEW TRIAL

Now comes the State of Ohio and submits this response to Noling's application for leave to file a motion for new trial, filed June 21, 2010.

MEMORANDUM OF LAW

Noling has requested an order from this Court allowing him to file his untimely motion for new trial pursuant to Crim.R. 33 and R.C. 2945.80. According to his application, Noling's motion for a new trial is based upon newly discovered evidence, Crim.R. 33(A)(6), and prosecutorial misconduct, Crim.R. 33(A)(2). As Noling's application was filed more than thirteen years after his February 23, 1996, sentence, he has to obtain leave from this Court to seek a new trial. Crim.R. 33(B).

Crim.R. 33(B) dictates the procedure for filing an untimely motion for a new trial and anticipates a two step procedure. *State v. Valentine* (May 23, 2003), Portage App. 2002-P-0052, 2003-Ohio-2838, at ¶9. The first step requires a showing by "clear and convincing proof that the defendant was unavoidably

prevented from the discovery of the evidence upon which he must rely[.]” Crim.R. 33(B). The second step requires the defendant to file his motion within seven days of the Trial Court’s determination. *Id.*

“A party is unavoidably prevented from filing a motion for new trial if the party had no knowledge of the existence of the ground supporting the motion for a new trial and could not have learned of that ground within the time prescribed for filing the motion for new trial in the exercise of reasonable diligence.” *State v. Walden* (1984), 19 Ohio App.3d 141, 145-146.

Clear and convincing proof is more than a preponderance of the evidence, but less than proof beyond a reasonable doubt: it “produce[s] in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.” *State v. Schiebel* (1990), 55 Ohio St.3d 71, 74, quoting *Cross v. Ledford* (1954), 161 Ohio St.469, paragraph three of the syllabus. Black’s Law Dictionary defines due diligence as “[t]he diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation.” Black’s Law Dictionary (8 Ed.Rev.2004) 488.

A motion for a new trial, made pursuant to Crim.R. 33, is addressed to the sound discretion of the Trial Court. *State v. Schiebel* (1990), 55 Ohio St.3d 71, paragraph ten of the syllabus. A Trial Court’s ruling on a Crim.R. 33(B) motion will not be disturbed by a reviewing court absent an abuse of that discretion. *Id.* Furthermore, the discretionary decision to grant a motion for a new trial is an extraordinary measure which should be used only when the evidence presented

weighs heavily in favor of the moving party. *State v. Otten* (1986), 33 Ohio App.3d 339.

NOLING'S ALLEGED NEWLY DISCOVERED EVIDENCE

Noling asserted that newly discovered evidence established two separate grounds that prove his innocence: (1) "another man could be responsible for the Hartig murders" and (2) details of "questionable activity by another suspect with regard to a .25 caliber automatic gun." (Application, p.g. 7). Noling's another man and questionable gun activity innocence theories are based on the following alleged newly discovered evidence:

- Exhibit A Dale Laux's June 19, 1991 BCI Laboratory Report, results of blood analysis, (1 page).
- Exhibit B Hand written notes regarding Nathan Chesley, dated April 24, 1990, (1 page).
- Exhibit C Voluntary Statement of Marlene M. VanSteenberg, dated April 1, 1990, (2 pages).
- Exhibit D Document titled "Transcript of Marlene M Van Steenberg [*sic*] Voluntary Statement 04-01-91 J.R." (1 page).

He also supplied these additional exhibits in support of these two innocence theories:

- Exhibit E Affidavit of Nathan Chesley, dated January 13, 2010, (3 pages).
- Exhibit F Affidavit of George Keith, dated April 3, 2010, (6 pages).
- Exhibit G Affidavit of Peter T. Cahoon, dated May 5, 2010, (6 pages).
- Exhibit H Affidavit of Kenneth Amick, dated January 13, 2010 (2 pages).

- Exhibit I Hand written notes regarding Jim Geib, dated April 10, 1990 (1 page).
- Exhibit J Portage County Sheriff's Office typed interview notes of Larry Clemenetson and Dennis VanSteenberg dated April 8, 1990; hand written interview notes of Larry Clemenetson and Dennis VanSteenberg dated April 8, 1990; hand written investigation notes dated April 9, 10 and 11, 1990. (6 pages).

OPEN FILE DISCOVERY

As a threshold matter, Noling has the burden of demonstrating that his motion for a new trial is in fact based on newly discovered evidence. In other words, that Noling's Exhibits A-D, were not part of the State's open file discovery in his case. The Portage County Grand Jury originally indicted Noling on October 8, 1992, with two counts of aggravated murder, two counts of aggravated robbery and a single count of aggravated burglary. (Portage County Case No. 92 CR 261). Shortly thereafter, Defense Counsel, Peter Cahoon and George Keith filed 24 motions on behalf of their capital client.

At a November 23, 1992, motion hearing, the following discussion occurred on the record:

JUDGE: I see there has been 24 motions filed that were filed November 16th. Has the State provided discovery to the defendant?

MR. DURST: Yes, your Honor, we have. Within a couple days of the arraignment in this case we completed copying the extent of our current file and provided defense counsel with the copies. I would indicate to the Court, as Mr. Cahoon and I discussed here a little earlier this afternoon, recommended at their convenience they meet with us at our office for purposes of comparing their copies with our file just to make sure that due to the volume of paper work in these files we haven't omitted anything. We have not done that as yet but we have provided that initial discovery.

JUDGE: Let's see here, on the motion we're talking about, they have a motion for you to disclose witnesses' statements prior to trial. Would that be taken care of in your discovery?

MR. DURST: Yes, your Honor, it would and in this case the State would be - - despite the fact we are providing open file discovery - - would be willing to submit a formal list of witnesses we intend to call at trial and would supplement that list as is necessary throughout the next few weeks as we prepare for trial.

(Exhibit 10). As the State was conducting open file discovery, there were no formal discovery receipts filed in Case No. 92 CR 261. Assistant Prosecuting Attorney Muldowney recalled meetings with the Portage County Sheriff's Department to compare files on the Hartig murder investigation. (Exhibits 1, 2, 3). Muldowney further recalled that the State provided several binders of discovery to Defense Counsel and both defense attorneys met with the prosecutors and investigators on the case to review discovery materials at the Prosecutor's Office. (Exhibit 1).

Although nothing was formally filed with the Court, there is a receipt containing 34 items copied for discovery in Noling's case that was signed by George Keith and dated April 8, 1993. (Exhibit 4). A review of this list reveals the following descriptions for Items Nos. 31, 33 and 34, "31. Miscellaneous Hartig papers * * * 33. Miscellaneous: reports - calendar - personal papers" and "34. Blood analysis reports." (Exhibit 4). The alleged newly discovered evidence, Noling's Exhibits A-D, were items contained in numbers 31, 33 and 34 on the discovery receipt signed by George Keith. (Exhibit 4). Accordingly, Noling has failed to satisfy his threshold requirement that Exhibits A-D were not provided in discovery in Case No: 92-CR-261.

On June 2, 1993, with only 35 days remaining to try Noling for the Hartig murders, the State was forced to nolle the charges to have time to react to information belatedly provided in discovery by Defense Counsel. August 18, 1995, the Portage County Grand Jury again indicted Noling with the same charges, Portage County Case No. 95 CR 220. On the record at Noling's arraignment, the following discovery discussion occurred:

MR. MULDOWNNEY: Your Honor, there is one more issue I would like to bring up and that is the issue of discovery. This case had been set for trial before and there had been discovery before with the prior administration between the Prosecutor's Office and Mr. Keith and Mr. Cahoon. I believe there are several new items of discovery that we have, and at this time, me and Mr. Keith have discussed a little about it and Mr. Cahoon, and my understanding is that they're willing to accept what we had given them in the prior case and come to our office and go over our file, plus the new developments, the new discovery that we have, and if that is agreeable with Mr. Keith, I would like to put something on the record to that effect.

MR. KEITH: Your Honor, I would state for the record that we had received considerable discovery, running at a minimum of three very large binders for the last trial and we still have those. The Prosecutor's Office has talked to us about this. Certainly we cannot by some stipulation waive the right to discovery in this matter or suggest at this time it is complete. However, I would state for the record we have that discovery, we have had conversations. I believe we can resolve the issue of discovery without further involvement. If there is some reason we can't, we would approach the Court at the earliest possible moment, but certainly the Prosecutor's Office has voluntarily and deliberately done everything they can up to this point to resolve that particular issue. I suppose that is what they want their record to reflect and I don't disagree with that.

THE COURT: All right, put it in the record.

(Exhibit 11). Accordingly, the order and journal entry of Noling's arraignment provided in relevant part, "[t]he Court further finds that the Assistant Prosecuting Attorney, Eugene L. Muldowney, stated that they have additional discovery that

they will make available to the Attorney for the Defendant, along with the discovery that was previously obtained for this matter.” (Exhibit 5).

As the trial date approached, Cahoon sent a letter to the State dated December 4, 1995, in which he requested discovery “generated concerning the Noling case after June 1, 1993, the approximate date the Noling [*sic*] was dismissed the last time it was set to go forward.” (Exhibit 6). Cahoon agreed to set a time to go over all the discoverable materials with Keith and the State. (Exhibit 6). The letter continued,

[i]f I may suggest it, it makes sense to me that discovery could be completed by your bringing a copy of the June 1, 1993-to the present discoverable paperwork with you for the hearing on Wednesday of this week. George and I could certainly share one copy of that between us and make our own copies. Then, as a later time convenient to both of you, we could make sure in a manner reasonable with you that we have copies of all the appropriate discoverable materials.

(Exhibit 6). The discovery provided to Defense Counsel at the pre-trial was reflected in a list containing 5 items dated December 6, 1995. (Exhibit 7).

After videotaping the crime scene on December 6, 1995, Prosecutor Muldowney sent a fax to Keith advising him that the videotape of the crime scene was available in addition to a videotape of the Channel 3 News coverage outside the house the morning after the bodies were discovered. (Exhibit 8). The fax further provided, “our file is open for your inspection at your convenience. It would probably be wise if we got together very soon and compare notes to be sure both sides have everything.” (Exhibit 8).

In the present case, discovery was conducted by open file. (Exhibit 1). Defense Counsel signed a discovery receipt dated April 8, 1993, and

acknowledged receipt of, "considerable discovery, running at a minimum of three very large binders for the last trial and we still have those." (Exhibits 4 and 11). Accordingly, Noling has not satisfied his initial burden of demonstrating that his Exhibits A-D were not among the materials provided by the State in the course of its open file discovery. Without newly discovered evidence, Noling's application for leave to file his motion for a new trial is moot and should be dismissed by this Court.

**CLEAR AND CONVINCING EVIDENCE LACKING TO DEMONSTRATE UNAVOIDABLY
PREVENTED FROM DISCOVERY OF EVIDENCE SUPPORTING NOLING'S MOTION FOR A NEW
TRIAL**

Assuming arguendo that this Court determines Noling satisfied his threshold showing that Exhibits A-D were not included in the State's discovery materials, the State submits that Noling either had knowledge of the existence of this information or could have learned of it by exercising reasonable diligence.

ANOTHER MAN INNOCENCE THEORY

Noling's another man innocence theory is based upon the alleged newly discovered evidence labeled Exhibits A and B. Noling alleged that said evidence was "suppressed" and suggested "Dan Wilson as an alternative suspect." (Noling's Motion p.g. 8). However, the State notes that the same public records request that contained Noling's Exhibits A and B also contained copies of numerous newspaper articles detailing Daniel Wilson as a suspect in the Hartig murder investigation. (Exhibits 23-33).

Within a year of the Hartig murders, media coverage of the investigation was reporting Daniel Wilson as a suspect in the Hartig murders. (Exhibit 23).

Portage County along with other authorities were anxious to question Wilson regarding his possible involvement in their pending investigations. (Exhibit 23).

As the year continued, the media continued to report Dan Wilson as a suspect in the case and that fluids were taken from Wilson for testing. (Exhibits 24, 25, 26, 27, 28, 29). Two years after the murders, Dan Wilson remained a possible suspect in the Hartig murders. (Exhibits 30, 31).

On August 6, 1992, both the Akron Beacon Journal and the Record Courier reported that Prosecutor Norris had re-opened the Hartig murders investigations following Dan Wilson's conviction and sentence of death for the murder of an Amherst woman. (Exhibits 32, 33). In 1987 Wilson had lived with a foster mother on a farm in Portage County located about a mile from the Hartig's home and public opinion had linked Wilson as a possible suspect in the case. (Exhibits 32, 33). Although the Prosecutor Norris "never felt he (Wilson) was a suspect, we could not eliminate him as a suspect without further investigation." (Exhibit 33). It was this further investigation into Wilson that led the Prosecutor's Office to St. Clair, Dalesandro, Wolcott and Noling. (Exhibits 32, 33).

Noling's attempt to characterize Daniel Wilson as a possible alternate suspect that the prosecution somehow failed to disclose is a complete misrepresentation of the facts in existence at the time of Hartig murder investigation and Noling's prosecution. Noling can hardly show by clear and convincing proof that he was unavoidably prevented from the discovery of evidence upon which he must rely, as this evidence was featured in both the Akron Beacon Journal and the Record Courier. Furthermore, the fact that counsel for Noling had

these very newspaper articles provided to them in response to a public records request along with Noling's Exhibits A and B, demonstrates the lack of merit in this filing and that this current application for leave to file a motion for a new trial is nothing more than an attempt to delay Noling's sentence.

Even if this Court were to overlook the obvious, that the fact that Daniel Wilson was a suspect in this case could be learned by simply reading the newspaper for the two years following the Hartig murders, the State submits the following in response to Noling's Exhibits.

Contrary to Noling's repeated reference to Exhibit A as a DNA analysis, Exhibit A is a June 19, 1991, BCI laboratory report indicating that blood tests, not DNA tests, were conducted on an extract of a cigarette butt. (Noling Exhibit A). The results of the blood tests were, "elevated levels of amylase which is indicative of the presence of saliva. *Typing of the extract failed to reveal detectable levels of secreted blood group substances.* The cigarette may have been smoked by a non-secretor." (Emphasis added). (Noling's Exhibit A). The findings provided by the BCI Forensic Scientist Dale Laux also contained the following sentence, "[t]yping of the blood from Daniel E. Wilson, BCI & I case number 91-31692-D, revealed him to be a type A non-secretor." (Noling's Exhibit A).

Exhibit B is hand written notes dated April 24, 1990, regarding an individual named, Nathan Chesley. (Noling's Exhibit B). Chesley, a foster child, was 18 years old at the time of the Hartig murders and was living with foster parent, Shirley Spinney, along with two other foster children. (Noling's Exhibit B). The notes contain the following, "Nathan made the statement he thought it was cool

what happened to the Hartigs. Nathan made the statement his brother did it." (Noling's Exhibit B). Exhibit B also contains contact information for Ms. Spinney at her place of employment and Chesley's case worker's information. (Noling's Exhibit B).

In preparation for filing his application for leave to file a motion for new trial, Noling procured an affidavit from Chesley in which Chesley averred that Dan Wilson was one of Shirley Spinney's foster children who was moving out when Chesley was moving in. (Noling's Exhibit E).

Contrary to Noling's assertions, the clear and convincing evidence in this case establishes that Noling would have learned of the existence of Exhibit A in the exercise of reasonable diligence. Dale Laux, the BCI Forensic Scientist who performed the blood test and authored the report indicating the results of his testing, Noling's Exhibit A, appeared as a witness on the State's witness list filed on April 12, 1993, in the original case 92 CR 261 (Exhibit 12), and again as a witness on the State's witness list filed on December 6, 1995, after Noling was re-indicted in Case No. 95 CR 220. (Exhibit 13). As Laux appeared on the State's witness list, contacting and simply inquiring what reports Laux had authored in connection with the Hartig murder investigation, BCI Lab Number 90-31768, would have led to the discovery of Exhibit A.

Another avenue of reasonable diligence that would have led to the discovery of Exhibit A is researching the chain of evidence supporting a serological report Defense Counsel was considering using at trial. The record reflects that as the trial date approached, the matter proceeded to a hearing on Noling's motion to

suppress and motion in limine to exclude similar acts evidence. After the substantive portion of the hearing concluded, the Court attended to some housekeeping matters:

MR. CAHOON: Judge, I have a couple of brief things, terms of housekeeping.

THE COURT: Lot of housekeeping things to straighten out.

* * *

MR. CAHOON: The other thing, I would like to mention previously had some discussion with Attorney Muldowney about this. There had been some DNA testing of a cigarette butt, if I could call it that, the remnants of a cigarette, quite a long time ago. The report of that is provided to us. That issue may or may not become important during trial. The thing that concerns me is the laboratory that did that is the Seres [sic] Lab in California. I would hate to have to bring an individual concerning that issue; it's pretty exculpatory evidence, your honor, shows that the saliva on the cigarette was inconsistent with any of the individuals involved in this case, so - -

MR. MULDOWNNEY: We'll stipulate to that report.

MR. CAHOON: That is what we're asking for. Thank you. That is all we have today, your Honor. Thank you.

(Exhibit 14). At issue in this stipulation was the Serological Research Institute report dated February 19, 1993. (Exhibit 15). Exhibit 13 contained the results of a forensic serological comparison between blood samples from Noling, St. Clair, Dalesandro, Wolcott, the cigarette butt and Noling's saliva. (Exhibit 15). The results of the testing indicated that "the smoker of the cigarette butt is a nonsecretor of unknown ABO type" and that two samples from the cigarette butt "had HLA Dqa results of 3, 4." (Exhibit 15).

In 1993, only two types of DNA testing were available, one that detected the presence of Restriction Fragment Length Polymorphisms (RFLPs) in the DNA and a second method which relied on identifying a small specific section of DNA known as the HLA Dqa locus. (Exhibit 15). The HLA Dqa analysis required less DNA and "[a]lthough there may be an elimination of a person using this system clearly an identification to the exclusion of all others is not possible." (Exhibit 15). Using the HLA Dqa analysis, Noling, St. Clair, Wolcott, and Dalesandro were excluded as persons who could have smoked the cigarette. (Exhibit 15).

As the record in the present case indicated that Defense Counsel considered the findings of the Serological report "exculpatory evidence," reasonable diligence of this allegedly exculpatory piece of evidence would have included research in the chain of evidence of who had handled the cigarette butt before it underwent testing in California. The inventory list from the crime scene indicated that the cigarette butt (filter) was collected from the driveway, placed into inventory at the Portage County Sheriff's Department and then submitted to BCI on April 18, 1990. (Exhibits 16, 17, 18).

A BCI laboratory report dated April 23, 1990, also authored by Dale Laux, indicated the following results from his initial testing of the cigarette butt, "[e]xamination of the contents of item #1 revealed the presence of a cigarette butt filter which had been burned. The only marking is a thin dark line approximately 3 cm. From the tip. A portion of the end of the cigarette was removed and will be retained in the event that typing of the secretions is desired." (Exhibit 19). Typing of the secretions was desired and performed by Laux, the results which appear in

Noling's Exhibit A. Furthermore, research into whether DNA testing was a possibility in 1991 was also discussed with Laux. (Exhibit 20).

As the exercise of reasonable diligence would have led to the discovery of Noling's Exhibit A, a blood test and typing of the cigarette butt and comparison with an individual identified as "Daniel E. Wilson, BCI & I case number 91-31692-D" (Noling's Exhibit A), Noling has failed to meet his burden of proof by clear and convincing evidence that he was unavoidably prevented from the discovery of the evidence upon which he must rely for his another man innocence theory and therefore is not entitled to leave from this Court to file his motion for an untimely motion for a new trial pursuant to Crim.R. 33(B).

QUESTIONABLE GUN ACTIVITY INNOCENCE THEORY

Noling's questionable gun activity innocence theory is based upon the alleged newly discovered evidence labeled Exhibits C and D. Exhibit C is Marlene VanSteenberg's written statement to the police dated April 1, 1991. (Noling's Exhibit C). Exhibit D is a typed document titled "Transcript of Marlene M. Van Steenberg" that appears to be a typed version of Marlene's statement with three additional paragraphs not contained in Marlene's hand written statement. (Noling's Exhibit D). When Marlene came in to pick up her husband's .25 caliber pistol, she provided the statements. (Noling's Exhibit C and D).

Exhibit D provides in relevant part:

On April 8, 1990 I was at work, when I got home Richard L. Van Steenberg told me that his brother Raymond Van Steenberg was at the house and got the gun. We only have one pistol. Raymond wanted to show the gun to somebody. My husband took the clip out because Raymond had just been charges for domestic violence on Friday, April 6, 1990.

On April 8, 1990 at about 5:00 p.m. When I got home from work, Raymond called on the phone. He was calling from the Sheriff's Department and said the detectives wanted him to turn in a gun. Raymond didn't say why. He told me he turned in our gun, and I'm to tell the detectives that he had our gun for at least three or four months. I told him I would not do that and asked where his gun was at. He told me he threw it away. I asked why he threw the gun away and he said he just had to do it. He was upset that I wouldn't lie for him.

On April 9, 1990 while I was on my way to work I heard on the radio about the double murder. When I got to work (Portage County Muni Court) I contacted a detective at the Sheriff's department and talked to Detective Don Doak. I told him everything about Raymond getting the gun from my husband and turning it into the Sheriff's Office.

(Noling's Exhibit D). This Exhibit also contains information that Marlene had learned, second hand, that Raymond's son, Dennis, had been seen throwing a gun out of a truck near the skating rink on State Route 224 and Alliance Road in Deerfield, Ohio. (Noling's Exhibit D).

With only 120 days to file a motion for a new trial based upon newly discovered evidence, reasonable diligence following the verdict and sentence in Noling's case would lead one to investigate the issue of the missing murder weapon. At the very least, a review the Sheriff's investigation into the weapons that were tested as possible matches for the murder weapons would have led to the discovery of Marlene VanSteenberg's visit to the Sheriff's Department on April 1, 1991, to pick up Evidence Items No. 72 and 73, the .25 caliber pistol and holster turned over by her brother-in-law, Raymond VanSteenberg. (Exhibit 21). The evidence disposition report for these items reveals, "[o]n 04-01-91 Lt. John Ristity released the items to: Marlene Van Steenberg, (Richard's wife). Note: Marlene made a written statement about the gun." (Exhibit 22).

As the exercise of reasonable diligence would have led to the discovery of Noling's Exhibits C and D, Noling has failed to meet his burden of proof by clear and convincing evidence that he was unavoidably prevented from the discovery of the evidence upon which he must rely for his questionable gun activity innocence theory and therefore is not entitled to leave from this Court to file his motion for an untimely motion for a new trial pursuant to Crim.R. 33(B).

Therefore, the State respectfully requests that this Court deny Noling's application for leave to file motion for new trial.

Respectfully submitted,

VICTOR V. VIGLUICCI (0012579)
Portage County Prosecuting Attorney

A handwritten signature in cursive script, appearing to read "Pamela J. Holder", written over a horizontal line.

PAMELA J. HOLDER (0072427)
Assistant Prosecuting Attorney
241 South Chestnut Street
Ravenna, Ohio 44266
(330) 297-3850
(330) 297-4594 (fax)

CERTIFICATE OF SERVICE

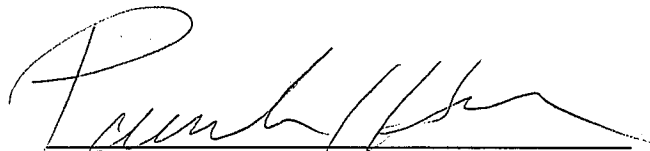
I hereby certify that a copy of the foregoing Motion has been sent on this

16th day of February 2011, to the following:

Jennifer A. Prillo
250 East Broad Street
Suite 1400
Columbus, Ohio 43215
(614) 752-8921
jenniferprillo@opd.oh.gov

Ralph Miller
1300 Eye Street NW, Suite 900
Washington, DC 20005

James A. Jenkins
1370 Ontario Street, Suite 2000
Cleveland, Ohio 44113



PAMELA J. HOLDER
Assistant Prosecuting Attorney

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

STATE OF OHIO,)	CASE NO. 1995 CR 220
)	
Plaintiff,)	
)	
vs.)	<u>AFFIDAVIT</u>
)	
TYRONE NOLING)	
)	
Defendant.)	

AFFIDAVIT OF EUGENE MULDOWNNEY

STATE OF OHIO)
)
COUNTY OF PORTAGE) ss:

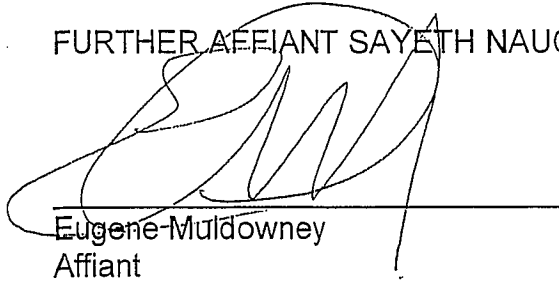
I, Eugene Muldowney, being first duly cautioned and sworn, state the following:

1. That I am over 18 years old, and have firsthand knowledge of the facts set forth in this Affidavit.
2. That I am an Assistant Prosecuting Attorney that worked on the 95 CR 220 prosecution of Tyrone Noling for the aggravated murders of Cora and Bernhart Hartig, aggravated robbery and aggravated burglary.
3. That I had meetings at the Portage County Sheriff's Department to review the Sheriff's photographs, evidence and files regarding the Hartig murders.
4. I hereby swear that the copies of documents attached to my affidavit are true and accurate copies of the originals.

5. Labeled as Exhibit 2 is a true and accurate copy of a letter to Detective Ristity, dated April 14, 1995. (1 page).
6. Labeled as Exhibit 3 is a true and accurate copy of a letter Lieutenant Doak, dated June 20, 1995. (1 page).
7. That the Portage County Prosecutor's Office conducted open file discovery with Noling's defense counsel, Peter Cahoon and George Keith, for both the 92 CR 261 and 95 CR 220 cases.
8. That complete copies of the Portage County Prosecutor's file were provided to defense counsel in connection with the prosecution of Case Nos. 92 CR 261 and 95 CR 220.
9. That both Attorney Cahoon and Attorney Keith visited the Portage County Prosecutor's Office, on more than one occasion, to meet with prosecutors and investigators to review the Prosecutor's file.
10. That by agreement with Attorney Cahoon and Attorney Keith, I supplemented the discovery materials already in their possession from the 92 CR 261 prosecution with all the new discovery materials since the dismissal of Noling's first case on June 1, 1993.
11. Labeled as Exhibit 4 is a true and accurate copy of a discovery receipt containing 34 typed items, dated April 8, 1993, signed by George Keith. (3 pages).
12. Labeled as Exhibit 5 is a true and accurate copy of August 28, 1995 Order and Journal Entry from Portage County Court of Common Pleas Case No. 1995 CR 220 (2 pages).
13. Labeled as Exhibit 6 is a true and accurate copy of a facsimile letter from Attorney Cahoon, dated December 13, 1995 (2 pages).
14. Labeled as Exhibit 7 is a true and accurate copy of discovery provided on December 6, 1995 (1 page).
15. Labeled as Exhibit 8 is a true and accurate copy of a facsimile letter to Attorney Keith, dated December 13, 1995 (2 pages).

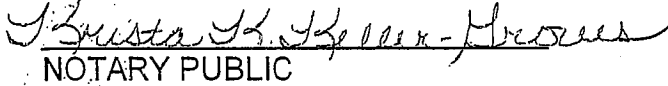
16. All of the foregoing is true to the best of my knowledge, information, and belief.

FURTHER AFFIANT SAYETH NAUGHT



Eugene Muldowney
Affiant

SWORN to before me and in my presence this 15 day of February 2011.



KRISTA K. KELLER-GROVES
NOTARY PUBLIC

KRISTA K. KELLER-GROVES
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES 12-7-2013

VICTOR V. VIGLUICCI
PORTAGE COUNTY PROSECUTING ATTORNEY

466 SOUTH CHESTNUT STREET
RAVENNA, OHIO 44266
(216) 297-3850 (216) 678-0882
FAX (216) 297-3856

April 14, 1995

Detective John Ristity
PCSO
8204 Infirmary Rd.
Ravenna, OH 44266

In Re: State of Ohio v. Tyrone Noling

Dear Detective Ristity:

Please be advised that this office is in the process of preparing this case for Grand Jury. Please contact me at your earliest convenience to set up an appointment to look at photos and evidence collected in investigation this case.

Please call me as soon as possible to arrange this appointment.

Sincerely,


Eugene L. Muldowney
Assistant Prosecutor

ELM/ejh

PORTAGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF DUANE WILLARD KALEY

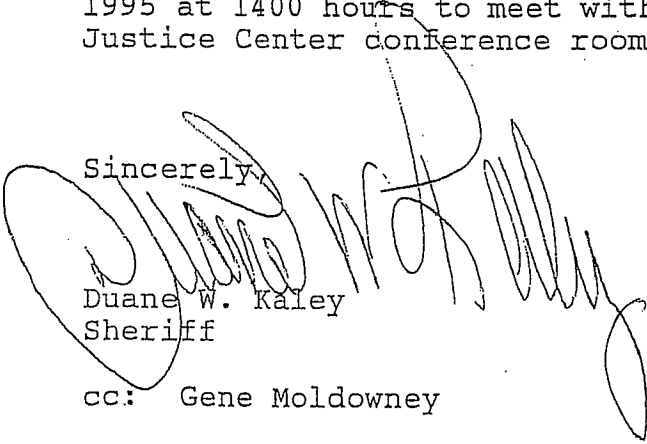
June 20, 1995

To: Lt. Don Doak
FROM: Sheriff Duane W. Kaley
RE: Tyrone Noling

Dear Don:

Gene Moldowney of the Portage County Prosecutor's Office contacted me today in regards to setting up a meeting reference discussions over the Hartig homicides. Besides going over the case I believe he has particular questions in regards to conversations with Noling at one point in time. Please make yourself available on July 5, 1995 at 1400 hours to meet with Gene along with myself here at the Justice Center conference room.

Sincerely,


Duane W. Kaley
Sheriff

cc: Gene Moldowney

Exhibit 3

COPIED FOR DISCOVERY, STATE v. TYRONE NOLING

1. 6/3/92 PCPO Report - Craig summary of Wolcott statements
2. BCI Poly exam report
3. 6/9/92 transcribed intvw. w/Wolcott at PCPO
4. 6/8/92 transcribed statements - Wolcott w/ct reporter at PCPO
5. 8/10/92 PCPO report - Craig summary and transcript of tape
6. 6/8/92 agreement w/Norris - Wolcotts & Bill Carrell
7. 4/20/90 1pg. 7pm intvw w/Joe Dalesandro summary
8. 6/12/92 Joe Dalesandro intvw at Orient w/Craig Hornyak Durst
9. 7/29/92 1pg. report PCSO - Dalesandro summary (route)
10. 7/29/92/ 48 pg. transcript of intvw w/Dalesandro & John Noble, Don Doak, Kaley, Durst & Craig
11. 3/2/93 1pg. report PCPO - Craig summary of Dalesandro statement to Craig, Mackey, Tatarsky, Heisas, and Mike Durkin
12. 5/4/90 1pg. PCSO summary intvw w/Noling
13. 4/9/90 transcribed intvw w/Noling & Alliance PD
14. 4/9/90 transcribed intvw w/St. Clair & Alliance PD
15. 4/24/90 PCSO summary intvw w/st. Clair
16. 7/28/92 1pg. summary intvw w/St. Clair & Durst/Craig
17. 3/19/93 transcribed intvw w/St. Clair & Craig/Mackey/Tatarsky
18. 4/6/93 PCPO 2pg. summary intvw w/St. Clair & Craig/Tatarsky
19. 4/15/93 intvw at Orient w/St.Clair & Darla Cogan/Vicky Buckwalter
20. PCSO Position and Location of Bodies report
21. 4pg. BCI lab report 90-31768-D
22. 3pg. BCI lab report 90-31768-B
23. 4pg. BCI lab report 90-31768
24. 2pg. BCI lab report ~~90-31768-A~~

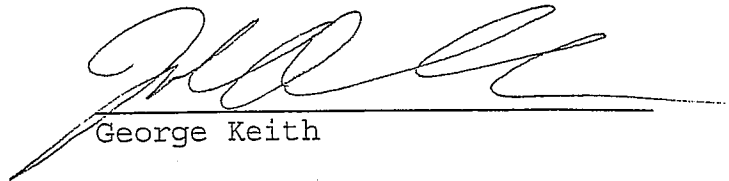
25. 4pg. Request for Tracing Firearms to ATF from PCSO
26. 7/2/92 10pg. handwritten statement Joe Dalesandro/John Noble
27. Coroner's Report of Investigation - Bearnhardt Hartig
28. Coroner's Report of Investigation - Cora Hartig
29. Certificate of Death - Bearnhardt Hartig
30. Certificate of Death - Cora Hartig
31. Miscellaneous Hartig papers
32. Hartig's 1990 calendar
33. Miscellaneous: reports - calendar - personal papers
34. Blood analysis reports

DISCOVERY RECEIPT

The undersigned, being the attorney of record in this case, acknowledges that he received this 8th day of April, 1993 all discovery material in the Prosecutor's file as of this date.

Defendant: Tyrone Noling

Case No.: 92 CR 0261


George Keith

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

STATE OF OHIO,

Plaintiff,

-vs-

TYRONE NOLING,

Defendant.

CASE NO. 95 CR 0220

FILED
COURT OF COMMON PLEAS

JUDGE GEORGE E. MARTIN

AUG 28 1995

ORDER AND JOURNAL ENTRY

DELORES REED, Clerk
PORTAGE COUNTY, OHIO

This matter came before the Court on Wednesday, August 23, 1995 for an Arraignment.

Present in Court were the Prosecuting Attorney, Victor V. Vigluicci, and Assistant Prosecuting Attorney, Eugene L. Muldowney, appearing on behalf of the State of Ohio and the Defendant, Tyrone Noling, represented by Attorney George G. Keith.

The Court finds that the Defendant, Tyrone Noling, by and through his counsel, entered a plea of Not Guilty to the Indictment, reserved the right to enter a plea of Not Guilty by Reason of Insanity to the Indictment and reserved the right to move against the Indictment at a later time, acknowledged receipt of a copy of the Indictment, waived the 24 hour waiting period between service and Arraignment, and waived the reading of the Indictment.

The Court further finds that the Assistant Prosecuting Attorney, Eugene L. Muldowney, orally made a motion to the Court requesting to amend Count Two of the Indictment to change the Specification titles to read First, Second and Third Specifications to Count Two, and not to Count One as stated in the Indictment, which said Motion was granted by the Court.

IT IS FURTHER ORDERED that the Defendant, Tyrone Noling, shall be held without bond.

IT IS FURTHER ORDERED that this matter shall be and hereby is set as follows:

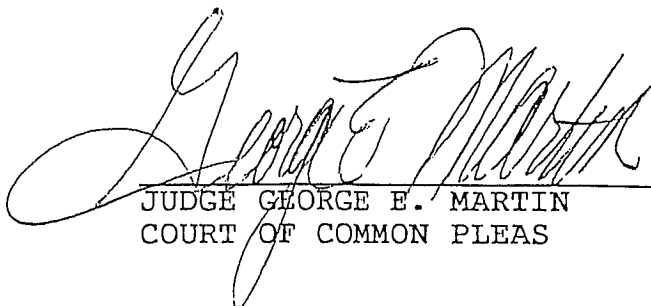
Final Pre-Trial: Friday, September 8, 1995 at 9:00 a.m.

Trial to Jury: Monday, September 18, 1995 at 9:00 a.m.

IT IS FURTHER ORDERED that the Jury Commissioner for this Court is hereby instructed to pull and have a Jury present for the aforementioned Trial.

The Court further finds that the Assistant Prosecuting Attorney, Eugene L. Muldowney, stated that they have additional discovery that they will make available to the Attorney for the Defendant, along with the discovery that was previously obtained for this matter.

IT IS SO ORDERED.


JUDGE GEORGE E. MARTIN
COURT OF COMMON PLEAS

cc: Victor V. Vigluicci, Prosecuting Attorney
Eugene L. Muldowney, Assistant Prosecuting Attorney ✓
George G. Keith, Attorney for Defendant
Marie E. Kunka, Jury Commissioner

B A K E R , C H A P M A N & C A H O O N
ATTORNEYS AT LAW

523 SOCIETY BUILDING 159 SOUTH MAIN STREET AKRON, OHIO 44308-1300

ROBERT C. BAKER
JAMES B. CHAPMAN
PETER T. CAHOON
NATHAN A. RAY

(216) 535-5900
FAX (216) 535-5990

December 4, 1995

VIA FAX AND ORDINARY U.S. MAIL SERVICE

Mr. Fran Ricciardi
Mr. Gene Muldowney
Portage County Prosecutor's Office
466 S. Chestnut St.
Ravenna, OH 44266

RE: STATE v. NOLING

Dear Mr. Ricciardi and Mr. Muldowney:

Please find enclosed the following motions which are being submitted for filing forthwith in behalf of Defendant:

1. Defendant's response to State's motion for discovery;
2. Defendant's motion for leave to file motions concerning mitigation/penalty phase;
3. Defendant's motion for evidentiary hearing concerning State's similar acts motion;
4. Defendant's motion to exclude victim impact testimony at trial; and
5. Defendant's motion for discovery.

Concerning completion of discovery herein, I am respectfully requesting that Mr. Keith and I be supplied with copies of all paperwork generated concerning the Noling case after June 1, 1993, the approximate date the Noling was dismissed the last time it was set to go forward.

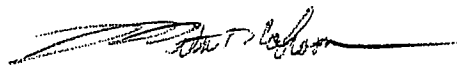
At a time mutually convenient to you and George and me, I would be more than glad to sit down and make sure that we have all of the paperwork that is appropriately discoverable from your office.

If I may suggest it, it makes sense to me that discovery could be completed by your bringing a copy of the June 1, 1993-to the present discoverable paperwork with you for the hearing on Wednesday of this week. George and I could certainly share one copy of that between us and make our own copies. Then, at a later time convenient to both of you, we could make sure in a manner reasonable with you that we have copies of all of the appropriate discoverable materials.

By the same token, I am extremely sensitive to the need to provide reciprocal discovery, and George and I will make sure that this is timely accomplished. The reciprocal discovery response is an accurate one at this time, and we will fully supplement it as further trial preparation develops in this case.

I thank you both for your anticipated cooperation, and look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter T. Cahoon", written over a horizontal line.

Peter T. Cahoon

PTC/k1
Encl.

Dec. 6, 1995

- 1) Mucklo's statement 6-22-95
- 2) Rennie Gantz interview + report from Rick Perez
- 3) Robyn Elliott's statement to Ron + Ted 6-17-93
- 4) Joe Dalessandro's ~~statement~~ letter to Vic.
- 5) Juv. Records. (ALL)

DISCOVERY TO Δ AT PRE-TRIAL

VICTOR V. VIGLUICCI
PORTAGE COUNTY PROSECUTING ATTORNEY

466 SOUTH CHESTNUT STREET, P.O. Box 671
RAVENNA, OHIO 44266-0671

(216) 297-3850 (216) 678-0882

TELECOPIER COVER SHEET

DATE: 12/13/95

FAX NO.: 535-5990 / 929-1796

TO: Attny George Keith / Attorney Pete Caborn

FROM: _____

COMMENTS: see letter to Forward

_____ Thx _____

*****ALL TRANSMISSIONS CONFIDENTIAL*****

WE ARE TRANSMITTING 2 PAGES (INCLUDING THIS COVER SHEET).

If transmission is not complete, please call sender at 297-3850.

VICTOR V. VIGLUICCI
PORTAGE COUNTY PROSECUTING ATTORNEY

466 SOUTH CHESTNUT STREET, P.O. Box 671
RAVENNA, OHIO 44266-0671

(216) 297-3850 (216) 678-0882

December 13, 1995

George Keith
Attorney at Law
P.O. Box 8
Cuyahoga Falls, Ohio 44224

In Re: State of Ohio v. Tyrone Lee Noling
Case No. 95 CR 0220

Dear George:

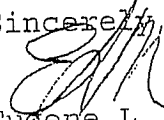
I have been trying to reach you on the phone for the past several days.

Please be advised that I have in my possession the video tapes we took on December 6, 1995 for your viewing. The first video is of the crime scene. The second video is of Joe Mosbrook, Channel 3 News, and the outside of the Moff Rd. home the morning after the bodies were discovered.

In addition, our file is open for your inspection at your convenience. It would probably be wise if we got together very soon and compare notes to be sure both sides have everything.

Please let me know at your earliest convenience.

Sincerely,


Eugene L. Muldowney
Assistant Prosecutor

ELM/ejh

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

STATE OF OHIO,)
)
 Plaintiff,)
)
 vs.) AFFIDAVIT
)
 TYRONE NOLING)
)
 Defendant.)

AFFIDAVIT OF AUTHENTICATION

STATE OF OHIO)
)
 COUNTY OF PORTAGE) ss:

I, Pamela J. Holder, being first duly cautioned and sworn, state the following:

1. That I am over 18 years old, and have firsthand knowledge of the facts set forth in this Affidavit.
2. That I am the Assistant Prosecuting Attorney handling the State of Ohio's written response to Noling's Application for Leave to File Motion for New Trial in the above captioned matter.
3. I hereby swear that the copies of documents attached to the State's Response are true and accurate copies of the originals.
4. Labeled as Exhibit 10 is a true and accurate copy of the Transcript of Proceedings of the November 23, 1992 Hearing in Portage County Common Pleas Case No. 92 CR 0261. (19 pages).

5. Labeled as Exhibit 11 is a true and accurate copy of Transcript of Proceedings of the August 23, 1995, Arraignment in Portage County Common Pleas Case No. 95 CR 0220. (13 pages).
6. Labeled as Exhibit 12 is a true and accurate copy of Portage County Court of Common Pleas Case No. 92 CR 0261, State of Ohio's witness list filed April 12, 1993. (4 pages).
7. Labeled as Exhibit 13 is a true and accurate copy of Portage County Court of Common Pleas Case No. 95 CR 0220, State of Ohio's witness list filed December 12, 1995. (4 pages).
8. Labeled as Exhibit 14 is a true and accurate copy of partial Transcript of Proceedings from December 22, 1995 hearing. (7 pages).
9. Labeled as Exhibit 15 is a true and accurate copy of a Serological Research Institute report dated February 19, 1993. (6 pages)
10. Labeled as Exhibit 16 is a true and accurate copy of the Portage County Sheriff's Department Inventory List of Cora and Bernhardt Hartig, Items Nos. 1-10. (1 page).
11. Labeled as Exhibit 17 is a true and accurate copy of Sheriff's Department-Portage County, Ohio Evidence Record and Log Card, Items 1-3. (1 page).
12. Labeled as Exhibit 18 is a true and accurate copy of Evidence Submission Sheet, BCI Lab Number 90-31768, dated April 19, 1990. (2 pages).
13. Labeled as Exhibit 19 is a true and accurate copy of Dale Laux's Laboratory Report, BCI Laboratory Number 90-31768, dated April 23, 1990 (1 page).
14. Labeled as Exhibit 20 is a true and accurate copy of the Portage County Detective Bureau June 1990 Notes. (2 pages).
15. Labeled as Exhibit 21 is a true and accurate copy of the Sheriff's Department-Portage County, Ohio Evidence Record and Log Card, Items 72-73. (3 pages).
16. Labeled as Exhibit 22 is a true and accurate copy of Portage County Sheriff's Department Evidence Disposition Form. (1 page).

17. Labeled as Exhibit 23 is a true and accurate copy of a Beacon Journal Article dated May 12, 1991. (2 pages).
18. Labeled as Exhibit 24 is a true and accurate copy of a Record Courier Article dated May 13, 1991. (1 page).
19. Labeled as Exhibit 25 is a true and accurate copy of a Record Courier Article dated May 16, 1991. (1 page).
20. Labeled as Exhibit 26 is a true and accurate copy of a Record Courier Article dated May 19, 1991. (1 page).
21. Labeled as Exhibit 27 is a true and accurate copy of a Record Courier Article dated May 17, 1991. (1 page).
22. Labeled as Exhibit 28 is a true and accurate copy of a Record Courier Article dated June 5, 1991. (1 page).
23. Labeled as Exhibit 29 is a true and accurate copy of a Beacon Journal Article dated August 25, 1991. (1 page).
24. Labeled as Exhibit 30 is a true and accurate copy of a Record Courier Article dated April 20, 1992. (1 page).
25. Labeled as Exhibit 31 is a true and accurate copy of a Record Courier Article dated April 23, 1992. (1 page).
26. Labeled as Exhibit 32 is a true and accurate copy of a Record Courier Article dated August 6, 1992. (1 page).
27. Labeled as Exhibit 29 is a true and accurate copy of a Beacon Journal Article dated August 6, 1992. (1 page).

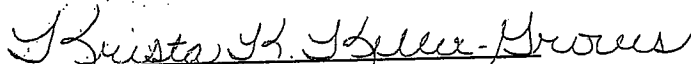
28. All of the foregoing is true to the best of my knowledge, information, and belief.

FURTHER AFFIANT SAYETH NAUGHT



Pamela J. Holder
Affiant

SWORN to before me and in my presence this 16 day of February 2011.


NOTARY PUBLIC

KRISTA K. KELLER-GROVES
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES 12-7-2013

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STATE OF OHIO
COUNTY OF PORTAGE, SS

ORIGINAL

IN THE COURT OF COMMON PLEAS

STATE OF OHIO

Plaintiff

CASE NO. 92 CR 261

versus

TYRONE NOLING

Defendant

FILED
COURT OF COMMON PLEAS

DEC 03 1992

APPEARANCES:

Attorney Robert Durst,

DELORES REED, Clerk
PORTAGE COUNTY, OHIO
Prosecutor

On behalf of the Plaintiff

Attorney Peter Cahoon

On behalf of the Defendant

IN COMPUTER

BE IT REMEMBERED that on the 23rd day of

November, 1992 in the Portage County Common Pleas
Court, Ravenna, Ohio, before the Honorable George
E. Martin, the above appearances having been made,
the following proceedings were had:

MR. DURST: Your Honor, this is 92 CR
0261, State of Ohio versus Tyrone Noling. The
defendant is present in court this afternoon
together with one of his attorneys, Peter Cahoon,
for purposes of an initial pretrial conference in

REBECCA PARK, OFFICIAL COURT REPORTER
COMPUTERIZED TRANSCRIPTION

1 this case.

2 THE COURT: I see there has been 24
3 motions filed that were filed November 16th. Has
4 the State provided discovery to the defendant?

5 MR. DURST: Yes, your Honor, we have.
6 Within a couple days of the arraignment in this
7 case we completed copying the extent of our
8 current file and provided defense counsel with the
9 copies. I would indicate to the Court, as Mr.
10 Cahoon and I discussed here a little earlier this
11 afternoon, recommended at their convenience they
12 meet with us at our office for purposes of
13 comparing their copies with our file just to make
14 sure that due to the volume of paperwork in these
15 files we haven't omitted anything. We have not
16 done that as yet but we have provided that initial
17 discovery.

18 THE COURT: Let's see here, on the
19 motion we're talking about, they have a motion for
20 you to disclose witnesses' statements prior to
21 trial. Would that be taken care of in your
22 discovery?

23 MR. DURST: Yes, your Honor, it would
24 and in this case the State would be -- despite the
25 fact we are ~~providing open file discovery~~ would

1 be willing to submit a formal list of witnesses we
2 intend to call at trial and would supplement that
3 list as is necessary throughout the next few weeks
4 as we prepare for trial.

5 THE COURT: I have sort of run through
6 these motions. Let's run through them rather
7 quickly. I have done it this way. Put the first
8 motion, constitutional motion to dismiss, and
9 you'll have to respond to that and I can rule on
10 that.

11 The second motion I have is a motion for
12 consolidated media coverage and that will be
13 granted and we will draft an order -- assuming we
14 get requests -- to take care of the television and
15 so forth, in that order.

16 The next motion that I have I marked as
17 number three, motion to prohibit the filming,
18 photographing or videotaping of the defendant
19 while in the courtroom. I think I'm going to have
20 to look a little closer at that. I think I'm
21 going to grant that. I'll have to rule on it in a
22 few minutes.

23 MR. DURST: We have no objection to
24 that, your Honor.

25 THE COURT: ~~The next one would be number~~

1 four, motion for the defendant to appear at all
2 proceedings without restraints. That would be
3 granted.

4 The next motion which I made number
5 five, motion to permit defendant to appear in
6 civilian clothing at all proceedings, that is
7 granted.

8 If you need any -- you'll have to see
9 that he has the clothing, sir.

10 Motion -- the one I marked next is six,
11 motion to record all trial proceedings. I assume
12 you mean by the court stenographer?

13 MR. CAHOON: That is correct, your
14 Honor.

15 THE COURT: That will be granted.

16 In that motion we just talked about, you
17 said that would include conferences in chambers.
18 There will be none. Bench conferences during
19 trial, there should be none but if there would be
20 occasion for us to discuss something during trial,
21 we'll either send the jury out and put it on the
22 record or if it would be just a short one we can
23 step outside the door with the defendant and
24 record it, but there will be no conferences in
25 chambers.

1 MR. CAHOON: Your Honor, if I may
2 interject. Certainly we did file a motion to make
3 that request, which I know the Court is aware that
4 is basically a standard motion in these.

5 THE COURT: It's granted.

6 MR. CAHOON: I just want to make sure I
7 understand that, your Honor. However, lest we
8 shoot ourselves in the foot inordinately, I would
9 indicate to the Court there may be times during
10 trial in this case where conferences in chambers
11 off the record may become appropriate and
12 certainly we don't wish to--

13 THE COURT: I just don't permit that.
14 Once -- in any case, I do not have conferences in
15 my chambers with anybody. Whatever we do, if we
16 have a conference we don't need a jury, we'll do
17 it in the courtroom with the court stenographer
18 and the defendant present. There will be no
19 conferences in chambers.

20 MR. CAHOON: We appreciate that. Thank
21 you, sir.

22 THE COURT: That was number six.

23 Number seven was a motion for the
24 videotaping of the voir dire examination. That
25 would be denied.

1 The next one is number eight. That is a
2 motion to have reasons for overruling objections
3 to be placed on the record.

4 Unless it's abundantly clear, we will
5 put those on the record.

6 Next one I marked as number nine is a
7 motion for a protective order and that is
8 forbidding court personnel, prosecutor, his staff,
9 law enforcement agencies or any individual working
10 with or for the defense from making any
11 extrajudicial statements by any means of public
12 communication.

13 I would, of course, expect the lawyers
14 to abide by the rules and that there would be no
15 comment. My people will not comment or make any
16 statement, so that is granted.

17 MR. DURST: Your Honor, could I at this
18 point interject one question relative to that last
19 motion, I believe you labelled motion number
20 nine? First I assure the Court and defense
21 counsel our office will itself comply with the
22 ethical considerations and will certainly advise
23 all law enforcement officers who may be involved
24 to comply with the same ethical considerations.
25 However, I think that ~~the ethical rules adopted by~~

1 the American Bar Association, as well as the case
2 law in cases such as this, do permit some comment
3 as to such issues as when the trial is going to
4 be, the identity of the charge that the defendant
5 is --

6 THE COURT: This has to do with stuff
7 that is in evidence, I would think.

8 MR. DURST: That, your Honor, we have no
9 problem making no comment.

10 THE COURT: Is that satisfactory?

11 MR. CAHOON: Yes, sir.

12 THE COURT: Next one I have is marked
13 number ten, it's a motion to restrain certain
14 parties from discussing the case with the
15 defendant and asking the Court for an order
16 restraining the State, it's agents, employees, the
17 prosecutors, the police and social workers and
18 psychiatric clinic personnel, corrections
19 officers, Sheriff's Department employees . . .
20 They put some others in -- I would say sheriff
21 department employees from initiating conversations
22 with the defendant relating in any way to the
23 pending charges without the presence of counsel.

24 That part of it would be granted. Where
25 they ask me to restrain inmates, I can't do that.

1 He should be able to restrain himself. This is
2 only as to any law enforcement or court personnel
3 initiating any conversations with the defendant
4 concerning this and that is granted.

5 The next one I marked is eleven and we
6 talked about it, motion for disclosure of witness
7 statements prior to trial and you're working that
8 out with discovery. If there has to be any
9 further orders, we'll take that up.

10 Number twelve is a motion to prohibit a
11 display of evidentiary exhibits until they are
12 admitted in trial and I suspect that that would be
13 granted without any objection from the
14 prosecutor.

15 And the next one is thirteen, motion to
16 compel disclosure of any specific request for
17 exculpatory evidence, and that will be taken care
18 of, I believe, in the discovery, will it not?

19 MR. DURST: We certainly intend to.

20 THE COURT: Unless there is some reason.

21 MR. DURST: Let me, if I could, just
22 address that a little on the record at this
23 point. As the defense is aware, the majority of
24 our case is based on not only certain physical
25 findings from the crime scene and testimony that

1 the State intends to proffer to this court at the
2 appropriate time from police officers who were at
3 the crime scene and, of course, the usual medical
4 testimony from the autopsies, but we do have
5 several individuals that the defense is aware of
6 who may have had some involvement with this matter
7 who we are going to call as witnesses in this
8 case. We have to date and will continue to do
9 this, provide the defense with all of the
10 transcripts and/or summaries of the statements
11 that these people have made to the State in the
12 course of our investigation of this crime. I
13 believe the defense itself is quite capable of
14 looking at those statements and determining what
15 is exculpatory, assuming any part of those
16 statements are exculpatory. We have given the
17 complete statement and we believe by doing so
18 we're then relieving ourselves of any obligation
19 to go through that statement ourselves and make
20 our own determination what is exculpatory and
21 relay that by a separate statement of discovery to
22 the defense.

23 THE COURT: Is that satisfactory, is
24 that correct?

25 MR. CAHOON: It is, your Honor.

1 THE COURT: The next motion I have,
2 which I marked fourteen and this is directing the
3 prosecutor to put a complete copy of their file
4 sealed and given to the Court for public review --
5 but I believe you're giving the defendant a copy,
6 is that correct?

7 MR. DURST: We are, your Honor. Our
8 file does have in this case as well as other files
9 in our office have a section we call work product
10 and that is our own personal notes, legal
11 research, internal memorandum that they have not
12 been given.

13 THE COURT: They are not entitled to
14 that. But you have given a complete copy of your
15 file with exception of your work product?

16 MR. DURST: Yes, sir.

17 THE COURT: This motion will be
18 overruled. Motion fourteen requiring you to seal
19 one with the Court will be overruled.

20 Motion number fifteen, motion for
21 disclosure of impeaching information. I suspect
22 we ought to hold that for ruling after you
23 complete your discovery. Maybe you want to bring
24 some of these to my attention.

25 The next is sixteen, ~~motion to compel~~

1 disclosure of aggravating factors or mitigating
2 factors. That we can take up after you complete
3 your discovery, if necessary. I would grant the
4 order but maybe the discovery will take care of
5 it.

6 Number seventeen, motion for disclosure
7 of rebuttal witnesses. We'll have to reserve
8 ruling on that.

9 Now we're talking -- next is motion to
10 insulate the venire and jury. You're asking
11 prohibiting publication of names, addresses and
12 telephone numbers of the special venire to be
13 drawn, and when we serve them we are not to
14 mention the nature of the case in any way to the
15 prospective jurors.

16 I'll have to look and see whether we
17 have a right to prohibit the media from seeing
18 official documents which the jury commission would
19 draft.

20 MR. DURST: Your Honor, for the record
21 the State has no objection to that motion but we
22 have no standing to represent the various private
23 media who may have an interest in the
24 constitutional issue.

25 THE COURT: ~~I would have to check on~~

1 that.

2 MR. DURST: I'd also indicate I think
3 the special summons goes out has the caption on
4 it.

5 THE COURT: That is provided by statute.

6 MR. DURST: Yeah.

7 THE COURT: And the next motion is
8 nineteen, that is sequestering the jury during the
9 trial, and that will be overruled.

10 And the next one is twenty, a motion to
11 prohibit reference to the jury that the verdict as
12 to death is only a recommendation, that would be
13 granted.

14 And number twenty-one is a motion for
15 ruling on the number of peremptory challenges and
16 I believe that is twelve a side, isn't it, as set
17 forth in the rule? Isn't it twelve?

18 MR. CAHOON: I believe under the Rule,
19 your Honor, it's six.

20 MR. DURST: Per side.

21 MR. CAHOON: There is an argument going
22 up and down the Supreme Court more than once but
23 the current law is six.

24 THE COURT: Well, I'll have to look at
25 the rule. ~~I didn't look at it before we come in.~~

1 MR. CAHOON: To protect the record I
2 would ask an opportunity later on to reargue that
3 particular motion.

4 THE COURT: Certainly, certainly.

5 MR. CAHOON: Thank you.

6 THE COURT: We'll have to make sure.
7 We'll go through later on.

8 The next one I have is twenty-two,
9 motion for alternating voir dire. I think that
10 would be overruled. The burden is on the State.

11 And the next one, the motion is
12 twenty-three, and that is a motion to prohibit any
13 reference to the first phase as the guilt phase.
14 I guess that would be granted.

15 And the last one is a motion to prohibit
16 death qualification of jury; in the alternative if
17 necessary, to seat a separate jury during the
18 penalty phase. I'll have to read that a little
19 more, see what can and can't be done.

20 Now then, what we ought to do today,
21 gentlemen, is set the trial date. We need a trial
22 date. Should we try and set it yet this year or
23 wait until after the first of the year?

24 MR. DURST: Your Honor, I would only
25 indicate on behalf of the State we're prepared to

1 try this case within the Court's schedule.
2 Speaking with Mr. Cahoon earlier I think the
3 defense has some requests in this regard we would
4 not object to.

5 THE COURT: All right.

6 MR. CAHOON: That is correct, your
7 Honor. If I may, first, I know the Court is aware
8 Mr. Noling is presently serving prison time for
9 other offenses. Therefore, the 90 day speedy
10 trial situation does not apply here. Even if it
11 did, after very extensive consultation with Mr.
12 Noling, my understanding he would waive any speedy
13 trial requirements. Certainly in this type of
14 case, your Honor, I think it's better for the
15 defendant to have more time rather than less time
16 to prepare properly. There are many things we
17 have yet to do. I will indicate to the Court in
18 terms of my own schedule I have two felony juries
19 in December and a federal jury trial approaching
20 mid January. If it's not an imposition on the
21 Court I would respectfully ask the Court to
22 consider sometime in March or late February for
23 this trial. Again, there is a lot of work we need
24 to do to effectively prepare for Mr. Noling.

25 ~~THE COURT: Mrs. Noling, you have heard.~~

1 what your lawyer has just said.

2 DEFENDANT: Yes, sir.

3 THE COURT: Indicating that he would, on
4 your behalf, request a trial sometime late
5 February or early March. Do you understand that?

6 DEFENDANT: Yes, sir.

7 THE COURT: Would you have any objection
8 to the Court honoring that request?

9 (The defendant conferred with his
10 counsel off the record.)

11 DEFENDANT: Yes.

12 THE COURT: Do you object?

13 DEFENDANT: No.

14 THE COURT: In other words, it's a
15 question how soon you can be brought to trial.
16 It's your time and if you object I would set it
17 earlier. If you don't--

18 DEFENDANT: I don't object.

19 THE COURT: If you don't, I'll honor the
20 request of your lawyer. You understand that?

21 DEFENDANT: Yeah.

22 THE COURT: All right, well, Mr.
23 Prosecutor, I think maybe we ought to try then for
24 the early part of March. I would hope to take
25 some vacation sometime in February. The two of

1 you get together with the assignment commissioner
2 and pick a date that is a starting date in March.
3 And then, of course, let us know because we will
4 then have to order the venire to be served
5 properly and within time. I would think that we
6 would get together maybe in a couple weeks to go
7 over these motions again to make sure the ones we
8 have taken under advisement and ruled on, we can
9 either argue them or do something with them, make
10 sure we do get them ruled on and get them properly
11 journalized so we know that is all done and if
12 there are other things to be brought to the
13 Court's attention, we'll do that at that time.

14 MR. CAHOON: Yes, your Honor. If I may
15 speak for a moment. I completely agree with what
16 the Court just stated and would request such a
17 status hearing. First, for the record, there are
18 several other motions we have not addressed today
19 and I don't think they are going to be a problem
20 but we certainly need to address them.

21 THE COURT: All right.

22 MR. CAHOON: Second, your Honor, at the
23 time of the status hearing I understand the Court
24 will set I would ask leave at that time to get
25 into the matters of some experts we will be

1 requesting. I don't know if this is the proper
2 time to get into it but I would like to get into
3 it in more length at that time.

4 THE COURT: If you give me some idea of
5 the experts you need and people you want, I would
6 certainly grant you those orders.

7 MR. CAHOON: Thank you very much, your
8 Honor.

9 THE COURT: If you would just get them
10 timely to me, and the name of your expert and
11 we'll take them up, but we will not have any
12 problem.

13 MR. CAHOON: I appreciate it. Thank
14 you, sir.

15 THE COURT: The sooner you get at it,
16 the sooner we'll grant it.

17 We should probably, what, in about three
18 or four weeks get together again? Both of you are
19 busy, you work that out with the assignment
20 commissioner and the next time give us a couple
21 hours so we make sure we can go over everything,
22 make sure all motions are in, and what we have we
23 can rule on and go on from there.

24 All right. Anything further we ought to
25 discuss today?

1 MR. DURST: Not from the State.

2 MR. CAHOON: No, sir.

3 THE COURT: All right, then we'll remand
4 the defendant into the custody of the sheriff and
5 have the Assignment Commissioner get your date.
6 Get a trial date, get another status conference
7 date, and then we'll see where we go from there.

8 Thank you very much.

9 MR. CAHOON: Thank you, your Honor.

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the above and foregoing, consisting of 19 pages, inclusive, is a true and complete transcription of my stenotype notes taken by me at the time of these proceedings and subsequently transcribed by means of computerized transcription.

Rebecca Park

REBECCA PARK, OFFICIAL COURT REPORTER
PORTAGE COUNTY COMMON PLEAS COURT
RAVENNA, OHIO

DATED THIS 30TH DAY OF NOVEMBER, 1992.

REBECCA PARK, OFFICIAL COURT REPORTER
COMPUTERIZED TRANSCRIPTION

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STATE OF OHIO
COUNTY OF PORTAGE, ss

ORIGINAL

IN THE COURT OF COMMON PLEAS

STATE OF OHIO

Plaintiff

CASE NO. 95 CR 220

-v-

FILED Hon. George E. Martin
COURT OF COMMON PLEAS

TYRONE LEE NOLING

OCT 12 1999

Defendant

DELORES REED, Clerk
PORTAGE COUNTY, OHIO

TRANSCRIPT OF ARRAIGNMENT PROCEEDINGS

BE IT REMEMBERED that on the 23rd day of August, 1995, in the Portage County Common Pleas Court, Ravenna, Ohio, before the Honorable George E. Martin, the appearances listed having been made, the following proceedings were had:

FILED
COURT OF APPEALS
OCT 12 1999
DELORES REED, Clerk
PORTAGE COUNTY, OHIO

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APPEARANCES:

Victor Vigluicci, Prosecuting Attorney,
Eugene Muldowney, Assistant Prosecutor,
Portage County Prosecutor's Office

On behalf of the State of Ohio

George Keith, Esq.

On behalf of the Defendant.

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MR. MULDOWNEY: Good morning, your Honor.

THE COURT: All right.

MR. MULDOWNEY: Your Honor, this is Case Number 95 CR 0220, State of Ohio versus Tyrone Lee Noling.

Mr. Noling is present in court today represented by Attorney George Keith and we're here for purposes of arraignment.

Your Honor, we're here for purposes of arraignment on -- and I'll go through Count -- Count One, a murder, capital offense. First specification to Count One of aggravating circumstances, felony murder. Second specification to Count One, aggravating circumstances, specification of murder to escape account for another crime. Third specification to Count One, that the defendant had a firearm while committing the offense.

Count Two, your Honor, aggravated murder, a capital offense, the first specification to Count Two -- and I would note for the record that there is a typo in

1 that specification in Count One, and we
 2 would at this time move to amend that so it
 3 reflects Count Two. The first specification
 4 to Count Two, aggravated circumstances,
 5 being a specification of felony murder. The
 6 second specification to Count Two,
 7 aggravating circumstances, specification of
 8 murder to escape accounting for another
 9 crime. And the third specification to Count
 10 Two, being a specification that the offender
 11 had a firearm while committing the offense.

12 Count Three, your Honor, is aggravated
 13 robbery, a felony first degree. The first
 14 specification to Count Three is the offender
 15 had a firearm while committing the offense.

16 Count Four, aggravated robbery, a
 17 felony of the first degree. The first
 18 specification to Count Four, uhm, is that
 19 the offender had a firearm while committing
 20 the offense.

21 Count Five is aggravated burglary, a
 22 felony first degree. The first
 23 specification to Count Five, again, that the
 24 offender had a firearm while committing the
 25 offense.

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THE COURT: Mr. Keith, you had at one time been appointed to represent the defendant, is that correct?

MR. KEITH: That is correct, your Honor.

THE COURT: I believe you had co-counsel?

MR. KEITH: That is correct.

THE COURT: All right, you may proceed.

MR. KEITH: Thank you, your Honor.

If it please the Court, Mr. Noling was served with a copy of this indictment, he would waive at this time any defect in the time or manner of service, he would indicate to the Court that he has it and read it, he understands the allegations which it contains. He does not wish it read to him at this time.

At this time we would waive an explanation of rights and penalties, we would ask the Court to accept a plea of not guilty to each specific count of the indictment and each specific specification. We would ask the Court for leave to move to the indictment at a later time should it be

1 appropriate and we would reserve the right
 2 to do so. We would ask the Court to allow
 3 us to reserve the right to file a written
 4 plea of not guilty by reason of insanity at
 5 a later time should that become for some
 6 reason appropriate.

7 I don't know, your Honor, if there is
 8 an issue with regard to bond. Currently he
 9 is incarcerated at Chillicothe, Ohio, based
 10 on a separate charge from a separate county.
 11 He does not anticipate that he will have a
 12 parole hearing within the next twelve months
 13 so I don't know how the Court wants to
 14 address bond with regard to this matter.

15 THE COURT: All right, the Court will
 16 acknowledge the plea of not guilty to all
 17 counts and all specifications, waives the 24
 18 hour service, waives the reading of the
 19 indictment and waives explanation of rights.
 20 Reserves -- the defendant reserves the right
 21 to file motions to the indictments and
 22 possibly a motion to not guilty by reason of
 23 insanity.

24 We will schedule a trial date in this
 25 matter. The month of October is not

1 available. There are two felony murder
2 cases scheduled for this Court in October.
3 We could schedule a trial to start November
4 sixth, that is 73 days from today.

5 It comes to the Court's attention that
6 we have a matter scheduled September 13th, I
7 believe, it is -- the 19th that involves
8 that Spak from Brimfield, criminal case.
9 I'm not sure whether that is going to be
10 able to go on the 19th.

11 Of course, this requires a special
12 venire so we probably couldn't get it ready
13 for September anyway.

14 What about the November sixth trial
15 date, Prosecutor?

16 MR. MULDOWNNEY: Well, your Honor, other
17 than the fact by our calculations there is
18 35 days left.

19 THE COURT: 35.

20 MR. MULDOWNNEY: We could be prepared to
21 go on the 19th. Of September.

22 THE COURT: What say the Defendant?
23 You might want time to discuss that with
24 your client.

25 MR. KEITH: ~~Your Honor, there are two~~

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issues, that lead counsel in this matter would be Pete Cahoon and he's not available today, as you're aware, and he's on vacation and he's in Connecticut right now. I do not have the opportunity to consult with him, have not had an opportunity to consult with Mr. Noling in regard to the issue of waiving time in this matter.

THE COURT: We better set it, because we -- always can waive time at any time.

MR. KEITH: Your Honor, if the Court were to set it for September 19th, with the understanding that in the event Mr. Noling agreed we would file a motion to continue the matter to another time, as much as this indictment had been brought once before and Mr. Cahoon and I had prepared the matter for trial, I'm still not certain that we can do the things that are required within 35 days with regard -- especially in regard to the motion practice which is required in a death penalty case. However, I would assume that the filing of those motions until they are disposed of may be one of the things that tolls the running of the statute.

1 THE COURT: I'm going to set the trial
 2 date on September 19th, 1995. That will
 3 be -- let's make it September eighteenth,
 4 that is a Monday. You will schedule a
 5 pretrial for September the eighth of '95 at
 6 nine a.m. That gets us within the time
 7 limits and then see how we stand with that.

8 All right. Pretrial is September the
 9 eighth at nine a.m. Trial to jury to
 10 commence September eighteenth at nine a.m,
 11 instruct the Jury Commissioner to -- to pull
 12 a venire. And if I remember correctly, I
 13 think the defendant has the right to be here
 14 when they do that. I haven't looked at that
 15 statute recently, we'll have to all of us do
 16 that and see that it's complied with.

17 All right. Anything further?

18 Oh, what about the bond? Do you have
 19 any --

20 MR. MULDOWNEY: Your Honor, our
 21 recommendation is that he be held without
 22 bond.

23 THE COURT: All right. Held without
 24 bond.

25 MR. MULDOWNEY: Your Honor, there is

1 one more issue I would like to bring up and
2 that is the issue of discovery. This case
3 had been set for trial before and there had
4 been discovery before with the prior
5 administration between the Prosecutor's
6 Office and Mr. Keith and Mr. Cahoon. I
7 believe there are several new items of
8 discovery that we have, and at this time, me
9 and Mr. Keith have discussed a little about
10 it and Mr. Cahoon, and my understanding is
11 that they're willing to accept what we had
12 given them in the prior case and come to our
13 office and go over our file, plus the new
14 developments, the new discovery that we
15 have, and if that is agreeable with
16 Mr. Keith, I would like to put something on
17 the record to that effect.

18 MR. KEITH: Your Honor, I would state
19 for the record that we had received
20 considerable discovery, running at a minimum
21 of three very large binders for the last
22 trial and we still have those. The
23 Prosecutor's Office has talked to us about
24 this. Certainly we cannot by some
25 stipulation waive the right to discovery in

1 this matter or suggest at this time it is
 2 complete. However, I would state for the
 3 record we have that discovery, we have had
 4 conversations. I believe we can resolve the
 5 issue of discovery without further
 6 involvement. If there is some reason we
 7 can't, we would approach the Court at the
 8 earliest possible moment, but certainly the
 9 Prosecutor's Office has voluntarily and
 10 deliberately done everything they can up to
 11 this point to resolve that particular issue.
 12 I suppose that is what they want their
 13 record to reflect and I don't disagree with
 14 that.

15 THE COURT: All right, put it in the
 16 record.

17 MR. MULDOWNNEY: Your Honor, one last
 18 issue for the record. I move to amend the
 19 specifications on Count Two, there was a
 20 typo, the first specification to Count One
 21 should reflect Two.

22 THE COURT: Let me get there, please.
 23 Count Two -- Count Two, you want to amend
 24 which specification?

25 MR. KEITH: Actually the title to the

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specification, your Honor.

MR. MULDOWNEY: Right, should say "Two" rather than "One" on the specification.

THE COURT: Any objection?

MR. KEITH: It's no material change, your Honor. We have no option.

MR. MULDOWNEY: Thank you, your Honor.

THE COURT: All right.

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the above and foregoing, consisting of 13 pages, inclusive, together with any exhibits attached hereto or filed under separate cover, is a true and complete transcription of my stenographic notes taken by me at the time of these proceedings and subsequently transcribed by me by means of computerized transcription.

Rebecca Park

REBECCA PARK, OFFICIAL COURT REPORTER
PORTAGE COUNTY COMMON PLEAS COURT
RAVENNA, OHIO

DATED THIS 12TH DAY OF OCTOBER, 1999.
(Order for transcript received 10/12/99)

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

STATE OF OHIO
PLAINTIFF

FILED
COURT OF COMMON PLEAS

CASE NO. 92 CR 0261

JUDGE: GEORGE E. MARTIN

APR 12 1993

--VS--

TYRONE NOLING
DEFENDANT
DELORES REED, Clerk
PORTAGE COUNTY, OHIO

WITNESS LIST

In accordance with Criminal Rule 16 (B)(1)(e) the State of Ohio hereby furnishes the defendant a written list of the names and addresses whom the prosecuting attorney intends to call at trial, together with any record of prior felony convictions of any such witness, which record is within the knowledge of the prosecuting attorney.

- | | |
|---|---|
| <p>1. Det. William Mucklo
Alliance Police Dept.
Alliance, Ohio
No Felony Record</p> | <p>2. Det. Michael Dailey
Alliance Police Dept.
Alliance, Ohio
No Felony Record</p> |
| <p>3. Sgt. Tom Warner
Alliance Police Dept.
Alliance, Ohio
No Felony Record</p> | <p>4. Det. Anderson
Alliance Police Dept.
Alliance, Ohio
No Felony Record</p> |
| <p>5. Butch Wolcott, Jr.
699 Carlisle St.
Akron, Ohio
No Felony Record</p> | <p>6. Joey Dalesandro
Allen Correctional Facility
Lima, Ohio</p> |
| <p>7. John Trandafir, Jr.
421 Bonnieview
Alliance, Ohio
No Felony Record</p> | <p>8. John Trandafir, Sr.
421 Bonnieview
Alliance, Ohio</p> |

9. Holly Farrah
Portage Cty. Pros. Office
Ravenna, Ohio 44266
No Felony Record
10. Ron Craig
Portage Cty. Pros. Office
Ravenna, Ohio 44266
No Felony Record
11. Chief Det. Duane Kaley
Portage County Sheriff
Ravenna, Ohio 44266
No Felony Record
12. Lt. John Ristity
Portage County Sheriff
Ravenna, Ohio 44266
No Felony Record
13. Det. Don Doak
Portage County Sheriff
Ravenna, Ohio 44266
No Felony Record
14. Det. Tale Tyjeski
Portage County Sheriff
Ravenna, Ohio 44266
No Felony Record
15. James C. Krakora
BCI
3333 Brecksville Rd.
Richfield, Ohio
No Felony Record
16. Nancy E. Bulger,
BCI
3333 Brecksville Rd.
Richfield, Ohio
No Felony Record
17. Dale Laux
BCI
3333 Brecksville Rd.
Richfield, Ohio
No Felony Record
18. D.M. Florea
Stark County Crime Lab
Central Ave.
Canton, Ohio
No Felony Record
19. Tim Myers
448 Buckeye
Alliance, Ohio
20. Paul S. Garner
Ohio State Reformatory
Mansfield, Ohio
21. Dr. Robert Sybert
Portage County Coroner
Ravenna, Ohio
No Felony Record
22. Kenneth M. Garcia
324 Grant St.
Alliance, Ohio
23. Beverly Rupp
606 S. Seneca
Alliance, Ohio
24. Robert Rupp
606 S. Seneca
Alliance, Ohio
25. Julie Mellon
231 W. Wayne St.
Alliance, Ohio
26. Jill Hill
120 E. Church St.
Limaville, Ohio
27. Richard Ingledue
13814 Tank St.
Alliance, Ohio
28. Nita Patal
210 W. Market St.
Akron, Ohio
29. Amy Davis
283 Rockwell Ct.
Akron, Ohio
30. Kerry Scott Koons
246 W. Vine St.
Alliance, Ohio

31. Keith Koons
140 Washington
Alliance, Ohio
32. Lt. Tim Brown
Alliance Police Dept.
Alliance, Ohio
No Felony Record
33. Frederick J. Murphy
1045 W. Cambridge
Alliance, Ohio
No Felony Record
34. Suzanne W. Murphy
1045 W. Cambridge
Alliance, Ohio
No Felony Record
35. Ted. Hornyak
Portage Cty. Pros. Off.
Ravenna, Ohio
36. James S. Hughes
630 Fernwood Blvd.
Alliance, Ohio
37. Rose V. Hughes
630 Fernwood Blvd.
Alliance, Ohio
No Felony Record
38. Darwin Rose
unknown at this time
39. Terry Davis
6593 Moff Rd.
Atwater, Ohio
No Felony Record
40. James Davis
6593 Moff Rd.
Atwater, Ohio
No Felony Record
41. Mrs. Bonnie Treesh
2700 Hawthorne
Cuyahoga Falls, Ohio 44221
No Felony Record
42. Joseph Collins
Cuyahoga Co. Coroner
Cleveland, Ohio 44111
No Felony Record
43. Steve T. Hale
B.C.I. London
P.O. Box 365
London, Ohio 43140
No Felony Record
44. Anthony Travise
P.C. Jail
203 W. Main St.
Ravenna, Ohio 44266
45. Ann Arganti, LPN
Med Center One
S.R. 59
Kent, Ohio 44240
No Felony Record
46. Barbara Cluggish
Diagnostic Lab
6693 N. Chestnut St.
Ravenna, Ohio 44266
No Felony Record
47. Dep. Carrozzi
P.C. Sheriff's Off.
Ravenna, Ohio
No Felony Record
48. Maria Dalesandro
33 Parkway
Alliance, Ohio
No Felony Record
49. Jason Fowler
915 W. Ely
Alliance, Ohio
No Felony Record
50. Kent West
626 Buckeye
Alliance, Ohio
No Felony Record

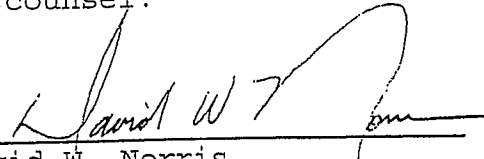
51. Carl Moore
159 E. Beech Rd.
Alliance, Ohio
No Felony Record .

53. Christopher Brooks
Lorain Corr. Inst.
Grafton, Ohio

52. Steve Hunt
1810 Fernwood
Alliance, Ohio
No Felony Record

54. Keith Brooks
Lorain Corr. Inst.
Grafton, Ohio

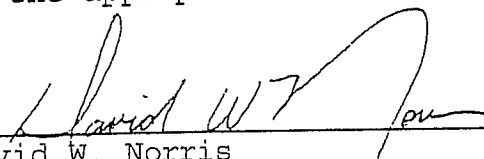
NOTE: Where "No Felony Record" is not listed for witness, a CCH has been provided to the defense counsel.



David W. Norris
Prosecuting Attorney
466 S. Chestnut St.
Ravenna, Ohio 44266
(216) 297-3850

PROOF OF SERVICE

A copy of the foregoing Witness List was sent this 8th day April, 1993 to Peter Cahoon and George Keith, Attorneys for the Defendant, by faxing same to the appropriate fax numbers.



David W. Norris
Prosecuting Attorney

FILED
COURT OF COMMON PLEAS

DEC 06 1995

DELORES REED, Clerk
PORTAGE COUNTY, OHIO

PA#92-

cc: Atty. G. Keith/P. Cahoon

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

STATE OF OHIO

CASE NO. 95 CR 0220

PLAINTIFF

JUDGE: JOSEPH R. KAINRAD

vs.

TYRONE LEE NOLING

WITNESS LIST

DEFENDANT

In accordance with Criminal Rule 16 (B)(1)(e) the State of Ohio hereby furnishes the defendant a written list of the names and addresses whom the prosecuting attorney intends to call at trial, together with any record of prior felony convictions of any such witness, which record is within the knowledge of the prosecuting attorney.

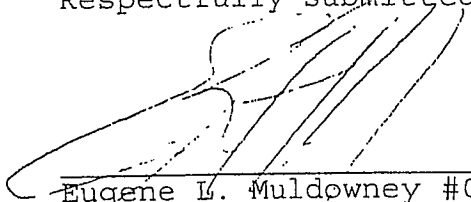
- | | |
|--|--|
| 1. Det. William Muckle
Alliance Police Dept.
Alliance, OH 44601 | 2. Sgt. Tom Warner
Alliance Police Dept.
Alliance, OH 44601 |
| 3. Butch Wolcott
unknown this time
Akron, OH | 4. John Trandifer
unknown this time
Massillon, OH |
| 5. Det. Mike Dailey
Alliance Police Dept.
Alliance, OH 44601 | 6. Det. Anderson
Alliance Police Dept.
Alliance, OH 44601 |
| 7. Joey Dalesandro
Allen Correctional Inst.
Lima, OH 45801 | 8. Sheriff Kaley
P. C. S. O.
8240 Infirmary Rd.
Ravenna, OH 44266 |
| 9. Lt. Don Doak
P.C.S.O.
8240 Infirmary Rd.
Ravenna, OH 44266 | 10. Dale Laux
B.C.I.
3333 Brecksville
Richfield, OH 44286 |
| 11. Tim Myers
448 Buckeye
Alliance, OH 44286 | 12. Dr. Robert Sybert
402 S. Chestnut St.
Ravenna, OH 44266 |
| 13. Julie Mellon
231 W. Wayne St.
Alliance, OH 44601 | 14. John Noble

Delta, Ohio |

15. Lt. Ristity
P.C.S.O.
8240 Infirmary Rd.
Ravenna, OH 44266
16. Det. Dale Tyjeski
P.C.S.O.
8240 Infirmary Rd.
Ravenna, OH 44266
17. Nancy Bulger
B.C.I.
3333 Brecksville Rd.
Richfield, OH 44286
18. Paul S. Garner
Trumbull Correct. Ctr.
Warren, OH
19. Kenneth M. Garcia
324 Grant St.
Alliance, OH
20. Jill Hall
Union St.
Alliance, OH 44601
21. Kerry S. Koons
246 W. Vine St.
Alliance, OH 44601
22. Keith Koons
140 Washington
Alliance, OH 44601
23. Frederick J. Murphy
1045 W. Cambridge
Alliance, OH 44601
24. Ted Hornyak
Columbus, OH
25. Bonnie Treesh
2700 Hawthorne Dr.
Cuyahoga Falls, OH 44221
26. Steve Hale
BCI - London
London, OH 43140
27. Deputy Carrozzi
P.C.S.O.
8240 Infirmary
Ravenna, OH 44266
28. Jason Fowler
915 W. Elm St.
Alliance, OH 44601
29. Lt. Tim Brown
Alliance Police Dept.
Alliance, OH 44601
30. James Davis
6593 Moff Rd.
Atwater, OH 44201
31. Joseph Collins
Cuyahoga Cty Coroners
Cleveland, OH 44111
32. Anthony Travise
602 Meridian St.
Ravenna, OH 44266
33. Gary St. Clair
Pickaway Corr. Inst.
Orient, OH 44667
34. Bob Durst
Kent, OH 44240
35. P. Ken Howe
Queen
Rootstown, OH
36. Ronnie Gartz
1425 35th
Canton, OH 44701
37. Robin Elliott
170 W. Wayne St.
Alliance, OH 44601
38. Dr. Elizabeth Bajha
Cuyahoga County Coroner
Cleveland, OH
39. Dr. Grzegorck
Kent State Univ.
40. Sgt. Rich H. Perez
Stark Co. Sheriff

- Kent, OH 44242
41. Rick DeHeer
110 Central Plaza So.
Stark Co. Juvenile Cntr
Canton, OH 44701
43. Det. Rachel Huffman
Alliance Police Dept.
Alliance, OH 44601
45. C.O. Brewer
P.C.S.O.
8240 Infirmary Road
Ravenna, OH 44266
47. Christopher Brooks
Address Unknown
49. Richard Ingelude
Address Unknown
51. Akron Beacon Journal
44 E. Exchange
Akron, OH
53. Ptl. LaNave
Alliance Police Dept.
Alliance, OH 44601
55. Richard Turbok
B.C.I.
3333 Brecksville Road
Richfield, OH 44286
57. Dan Williams
Multi Video
St. Rt. 43
Kent, OH 44240
59. Joe Mosbrook
T.V. 3
East 6th Street
Cleveland, OH
61. Vincent Stephens
Trumbull Correctional Inst.
Warren, OH
- Canton, OH 44701
42. Terry Davis
6613 Moff Road
Atwater, OH
44. Sgt. P. Youngblood
P.C.S.O.
8240 Infirmary Road
Ravenna, OH 44266
46. Cpl. Dan Cardinal
P.C.S.O.
8240 Infirmary Road
Ravenna, OH 44266
48. Keith Brooks
Address Unknown
50. Alliance Review
Alliance, OH 44601
52. Sgt. Weaver
Alliance Police Dept.
Alliance, OH 44601
54. Sharon Allen
B.C.I.
3333 Brecksville Rd.
Richfield, OH 44286
56. Dr. Jaraki
Wayne, MI
58. Jim Aylward
330 Whetstone Dr.
Kent, OH 44240
60. Terry Pearson
P.C. Engineer's Ofc.
449 S. Meridian St.
Ravenna, OH 44266

Respectfully submitted,

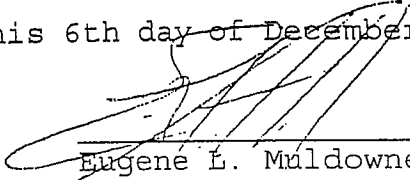


Eugene L. Muldowney #0041627
Assistant Prosecutor
466 S. Chestnut St.
Ravenna, Ohio 44266

FRANCIS M. RICCIARD #RIICI
CHIEF - CRIMINAL DIVISION

PROOF OF SERVICE

A copy of the foregoing Witness List was hand delivered this 6 day of DECEMBER, 1995 to Mr. George Keith, and Mr. Pete Cahoon, Attorneys for the defendant, at the Portage County Courthouse, Ravenna, OH 44266, on this 6th day of December, 1995.



Eugene L. Muldowney
Assistant Prosecutor

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ORIGINAL

STATE OF OHIO

COUNTY OF PORTAGE, ss

IN THE COURT OF COMMON PLEAS

STATE OF OHIO

Plaintiff

CASE NO. 95 CR 220

-v-

TYRONE LEE NOLING

Defendant

91A0126
FILED
COURT OF COMMON PLEAS
DEC 28 1995

DELORES REED, Clerk
PORTAGE COUNTY, OHIO

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on the 22nd day of
December, 1995, in the Portage County Common Pleas
Court, Ravenna, Ohio, before the Honorable George
E. Martin, the appearances listed having been
made, the following proceedings were had:

113

REBECCA PARK, OFFICIAL COURT REPORTER
COMPUTERIZED TRANSCRIPTION

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APPEARANCES:

Francis Ricciardi, Chief Prosecutor,
Criminal Division

Eugene Muldowney, Assistant Prosecutor
Portage County Prosecutor's Office
On behalf of the State of Ohio

Peter Cahoon, Esq.

George Keith, Esq.

On behalf of the Defendant.

Also present: Defendant Tyrone Noling

1 have, is that correct?

2 MR. MULDOWNEY: That is correct.

3 MR. CAHOON: Judge, I have a couple of
4 brief things, terms of housekeeping.

5 THE COURT: Lot of housekeeping things
6 to straighten out. I want you gentlemen -- but I
7 think we should meet, maybe we can agree on a time
8 after Christmas, because I don't have what you
9 agreed to, and I don't have what I have to rule
10 on, and I would like all of us together. Maybe
11 between Christmas and New Years, I would like to
12 do it right after Christmas, the two of you could
13 tell me when you can be here. Spend a half a day,
14 morning, straightening out what is left to be
15 decided.

16 Okay. All right.

17 MR. CAHOON: Judge, if I may, what I
18 wanted to ask for today, and I hate to do this to
19 our court reporter. I would ask reasonably before
20 trial, I think the defense needs a copy of the
21 hearing transcripts from today as well as
22 photocopies of all the exhibits, those are pretty
23 essential.

24 THE COURT: Work that out with the Court
25 stenographer.

1 MR. CAHOON: The other thing, I would
2 like to mention previously had some discussion
3 with Attorney Muldowney about this. There had
4 been some DNA testing of a cigarette butt, if I
5 could call it that, the remnants of a cigarette,
6 quite a long time ago. The report of that is
7 provided to us. That issue may or may not become
8 important during the trial. The thing that
9 concerns me is the laboratory that did that is the
10 Seres Lab in California. I would hate to have to
11 bring in an individual concerning that issue; it's
12 pretty exculpatory evidence, your Honor, shows
13 that the saliya on the cigarette was inconsistent
14 with any of the individuals involved in this case,
15 so --

16 MR. MULDOWNNEY: We'll stipulate to that
17 report.

18 MR. CAHOON: That is what we're asking
19 for. Thank you.

20 That is all we have today, your Honor.

21 Thank you.

22 THE COURT: I want the two of you to
23 agree on some time next week. Your schedules are
24 busy, get -- my schedule will be not that busy,
25 actually, so I can accommodate you. If you just

1 let me know, I would like to do it in the
2 morning.

3 Okay. Wednesday would be a bad day but
4 if we have to, could do it Wednesday, maybe
5 Thursday or Friday.

6 Thursday would probably be better for
7 me. Your schedules, take a look. I'll be
8 available Thursday, if you're available Thursday.

9 MR. CAHOON: Thursday morning, nine
10 o'clock?

11 THE COURT: Let's try Thursday, that is
12 the 28th, nine o'clock. Then we'll see what has
13 to be, what the housekeeping chores will be.

14 -oOo-

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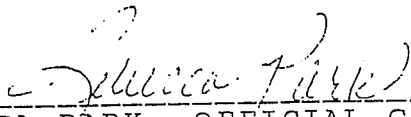
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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the above and foregoing, consisting of 135 pages, inclusive, together with any exhibits attached hereto or filed under separate cover, is a true and complete transcription of my stenographic notes taken by me at the time of these proceedings and subsequently transcribed by me by means of computerized transcription.


REBECCA PARK, OFFICIAL COURT REPORTER
PORTAGE COUNTY COMMON PLEAS COURT
RAVENNA, OHIO

DATED THIS 24TH DAY OF DECEMBER, 1995.

THE FOLLOWING STATE'S EXHIBITS ARE ATTACHED:
#'s 55, 56, 57, 58, 59.
Also #116 (objection sustained)

REBECCA PARK, OFFICIAL COURT REPORTER
COMPUTERIZED TRANSCRIPTION

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State's Evidence on Motions:

William Mucklo, direct - p. 7

cross - p. 22

Duane Kaley, direct - p. 41

cross - p. 47

Reference playing of videotape deposition of

Mr. Murphy, p. 65

Joseph Dalesandro, direct - p. 66

Lawrence Kouri, direct - p. 99

cross - p. 105

Butch Wolcott, direct - p. 113

Court Ruling, p. 122



February 19, 1993

Portage County Sheriff's Department
203 W. Main Street
Ravenna, OH 44266
ATTN: Lt. John Ristity

SERI Case No: M'3449'93

BCI Lab No: 90-31768

Agency No: 90-2674

Victims: Bearnhardt Hartig
Cora Hartig

Suspects: Butch Wolcott
Tyrone Noling
Gary E. St. Clair
Joseph Dalesandro

PROSECUTOR'S COPY
PORTAGE COUNTY SHERIFF DEPARTMENT

ANALYTICAL REPORT

On February 10, 1993, five (5) items of evidence were received and on February 17, 1993, one (1) item of evidence was received at the Serological Research Institute from Lt. John Ristity, via Federal Express (6593403946 and 6507769321). A forensic serological comparison of these items was requested on a rush basis.

ITEM 1 BLOOD SAMPLE FROM JOSEPH DALESANDRO

This item consists of a single tube of liquid blood in fair condition. A portion of the blood was sampled and tested for ABO and for secretor status by the Lewis genetic marker. DNA was extracted from this sample, amplified by the Polymerase Chain Reaction (PCR), and grouped for the HLA DQ α genetic marker. The results are in the table.

ITEM 2 BLOOD SAMPLE FROM GARY E. ST. CLAIR

This item consists of a single tube of liquid blood in good condition. A portion of the blood was sampled and tested for ABO and for secretor status by the Lewis genetic marker. DNA was extracted from this sample, amplified by the Polymerase Chain Reaction (PCR), and grouped for the HLA DQ α genetic marker. The results are in the table.

Lt. John Ristity
SERI Case No: M'3449'93
February 19, 1992
Page 2

PROSECUTOR'S OFFICE
PORTAGE COUNTY SHERIFF DEPARTMENT

ITEM 3 BLOOD SAMPLE FROM BUTCH WOLCOTT

This item consists of a single tube of liquid blood in good condition. A portion of the blood was sampled and tested for ABO and for secretor status by the Lewis genetic marker. DNA was extracted from this sample, amplified by the Polymerase Chain Reaction (PCR), and grouped for the HLA DQ α genetic marker. The results are in the table.

ITEM 4 BLOOD SAMPLE FROM TYRONE NOLING

This item consists of a single tube of liquid blood in good condition. A portion of the blood was sampled and tested for ABO and for secretor status by the Lewis genetic marker. DNA was extracted from this sample, amplified by the Polymerase Chain Reaction (PCR), and grouped for the HLA DQ α genetic marker. The results are in the table.

ITEM 5 CIGARETTE BUTT

This item consists of a flattened, smoked, white filtered cigarette butt. No logo is visible on the burnt end. A trimmed portion of the smoked end had been removed and placed in a separate container (Item 5A). A portion of this paper was sampled and tested. The remaining filter (Item 5B) was also examined and three (3) areas were sampled. One next to the trimmed filter paper over wrap (Item 5B-2), a portion of the filter element at the smoked end (Item 5B-1) and an area near the burnt end for a blank control. The pieces were extracted and a small portion of the debris pellet from each of the extracts was examined microscopically for nucleated epithelial cells (oral cavity cells). Nucleated epithelial cells were identified in the debris pellets from the smoked areas. The liquid extract was tested for the enzyme amylase, ABO, and secretor status. The remaining cellular pellets and control were digested for their DNA content. The DNA solutions were subjected to the PCR test and grouped for the HLA DQ α genetic marker. The genetic marker results are in the table.

ITEM 6 SALIVA FROM TYRONE NOLING

This item consists of a dried saliva sample on gauze. A portion was extracted and tested for ABO and secretor status. The results are in the table.

PROSECUTOR'S COPY
 PORTAGE COUNTY SHERIFF DEPARTMENT

TABLE OF RESULTS

ITEM NO.	DESCRIPTION	ABO	LEWIS	SECRETOR STATUS	HLA DQ α
1	Blood from J. Dalesandro	O	a-b+	Secretor	2,4
2	Blood from G. St. Clair	O	a-b+	Secretor	2,4
3	Blood from B. Wolcott	O	a+b-	Nonsecretor	1.1,3
4 and 6	Blood and Saliva from T. Noling	O	a-b-	Secretor	1.2,1.2
5A	Trimmed Filter Paper	NA	a+b-	Nonsecretor	NA
5B-1	Filter Element	NA	a+b-	Nonsecretor	3,4 (wk)
5B-2	Filter Paper Over Wrap	NA	a+b-	Nonsecretor	3,4
5 Control	Control Area from Burnt End	NA	NA		NA

KEY: NA = No activity (wk) = Weak activity

EXPLANATION

The enzyme amylase is found in many body fluids including saliva, urine, blood serum, perspiration and vaginal secretion. The highest concentration of amylase is found in saliva followed by perspiration, urine and vaginal secretion. Amylase can be separated into two types: Amy 1 and Amy 2. Amy 1 is found in saliva and perspiration. Amy 2 is found in urine and vaginal secretion. Vaginal secretion can also contain Amy 1. A small amount of amylase activity was detected in Items 5B-1 and 5B-2, but none in Item 5A or the blank control.

A secretor is a person who secretes his ABO blood group substances together with H substance into his body fluids (e.g. semen, saliva, vaginal secretion, etc.). Therefore, an A secretor will secrete A plus H, a B secretor B plus H and an O secretor just H. The method for detecting the blood group substances in body fluids is known as absorption inhibition. Body fluids from ABO nonsecretors give test results of no activity by the inhibition test. The more sensitive absorption elution test is used for detecting the small amount of ABO blood group substances which are found in nonsecretors and also in dilute stains from secretors.

Lt. John Ristity
SERI Case No: M'3449'93
February 19, 1992
Page 4

PROSECUTOR'S COPY

PORTAGE COUNTY SHERIFF DEPARTMENT

The four (4) samples from the Cigarette Butt (Item 5) had no activity for the ABO absorption inhibition and absorption elution tests.

The Lewis inhibition test can indicate ABO secretor status. A Lewis a-b+ is an ABO secretor, an a+b- is an ABO nonsecretor and a type a-b- can be either an ABO secretor or nonsecretor.

The Cigarette Butt (Item 5A, 5B-1 and 5B-2) extracts all had Lewis inhibition results of a+b-. Therefore, the smoker of the cigarette butt is a nonsecretor of unknown ABO type.

Deoxyribonucleic acid or DNA is found in nucleated cells, e.g. white blood cells, spermatozoa, salivary, vaginal and tissue epithelial cells. The DNA can be extracted and the amount obtained is proportional to the number of cells present.

Two types of DNA testing are presently available. One detects the presence of Restriction Fragment Length Polymorphisms (RFLPs) in the DNA. This is commonly known as "DNA Profiling" or "DNA Fingerprinting" and in most cases results in either a positive identification or exclusion of an individual as a donor. This analysis requires approximately 100 ngs of high quality DNA for a successful determination.

The second method relies on identifying a small specific section of DNA known as the HLA DQ α locus wherein there are twenty-one (21) different phenotypes. Although there may be an elimination of a person using this system clearly an identification to the exclusion of all others is not possible. The advantage of this method is that it requires substantially less DNA as the recovered DNA can be amplified (increased in amount) in order to obtain successful typing. The amplification uses the Polymerase Chain Reaction (PCR) method.

The Human Leukocyte Antigen Class II (HLA-D) genes are located on chromosome 6. The HLA-D genes are organized into three regions: HLA-DR, -DQ, -DP, each of which encodes an alpha and beta glycopeptide. The sequence of DNA found in the HLA DQ alleles is known.

The typing is performed by hybridizing the amplified DNA to nylon strips containing specific probes which will recognize the six common DQ α alleles detected (DQ α 1.1, 1.2, 1.3, 2, 3 and 4). These alleles will give rise to 21 possible types. The end result is the visualization of an enzymatically detected dye giving rise to a series of colored dots. The number and position of the dots determines the type.

Because DQ α is a genetic marker following the normal rules of genetics, a maximum of two alleles only are expressed in any one individual. Therefore, the detection of more than two alleles indicates a mixture of body fluids from more than one individual.

The Cigarette Butt (Item 5B-1 and 5B-2) had HLA-DQ α results of 3,4.

PROSECUTOR'S COPY
FORBES COUNTY SHERIFF DEPARTMENT

CONCLUSIONS

1. Joseph Dalesandro and Gary E. St. Clair are both ABO type O secretors and HLA DQ α type 2,4. Butch Wolcott is an ABO type O, a nonsecretor, and an HLA DQ α type 1.1,3. Tyrone Noling is an ABO type O secretor and an HLA DQ α type 1.2,1.2.
2. The smoker of the Cigarette Butt (Item 5) is a nonsecretor of unknown ABO type and an HLA DQ α type 3,4. The combination of groups present in Item 5B occurs in approximately 2.3% (or 2 in 86 persons) of the Caucasian population, in approximately 1.9% (or 1 in 53 persons) of the African-American population, and in approximately 2.8% (1 in 36 persons) of the Mexican-American population.
3. Joseph Dalesandro, Gary E. St. Clair, Butch Wolcott, and Tyrone Noling could not be the person who smoked the Cigarette (Item 5).

SEROLOGICAL RESEARCH INSTITUTE



Gary C. Harmor
Senior Forensic Serologist

GCH/par

cc: Robert Durst, Chief Criminal Prosecutor



SEROLOGICAL RESEARCH INSTITUTE
 3053 Research Drive
 Richmond, CA 94806
 (510) 223-7374 (SERI) FAX: (510) 222-8887

SERI CASE NO. #344993
 AGENCY CASE NO. 9031768

PAGE 1 OF 1

EVIDENCE RECEIPT AND STORAGE

SUBMITTING AGENCY Portage County Sheriff's Dept PHONE 216 678 7012
 ADDRESS 203 W. Main St. CITY Lavenna STATE OH ZIP 44266
 SUBMITTER Lt. John Ristity

ITEM	DESCRIPTION	LOCATION
1.	Lg blood sample - Joseph Dalzandro	
2	Lg blood sample - Gary E. St. Clair	
3	Lg blood sample - Butch Wolcott	
4	Lg blood sample - Tyrone Noling	
5	Cigarette Butt	
6	Saliva Sample - Tyrone Noling (ORIGINAL ENVELOPE KEPT)	

RECEIVED BY
 PORTAGE COUNTY SHERIFF DEPARTMENT
 FEB 10 1993

(IN)OUT ITEMS #1 → 5 6593403946 FROM Lt John Ristity P.C.S.O. BY K. Bangs DATE FEB 10 1993
 (IN)OUT ITEMS #6 6507769321 FROM Lt John Ristity P.C.S.O. BY K. Bangs DATE 2-17-93
 IN(OUT) ITEMS 6 0250 1564 041 FROM Lt J. Ristity BY L.C. Slamm DATE 2/19/93
 IN/OUT ITEMS _____ VIA _____ TO/FROM _____ BY _____ DATE _____
 IN/OUT ITEMS _____ VIA _____ TO/FROM _____ BY _____ DATE _____
 IN/OUT ITEMS _____ VIA _____ TO/FROM _____ BY _____ DATE _____
 IN/OUT ITEMS _____ VIA _____ TO/FROM _____ BY _____ DATE _____

UPS NEXT DAY AIR
 SHIPPER RECEIPT
 TRACKING NO. 0078 6990 330
 PLACE ON PACKAGE NEXT TO SHIPPER NUMBER



Feb. 23, 1993

1600 63rd Street
Emeryville, CA 94608
900 660-8503
FAX 510 420-1444

Portage County
Sheriff
203 W. Main St
Ravenna, OH 44266

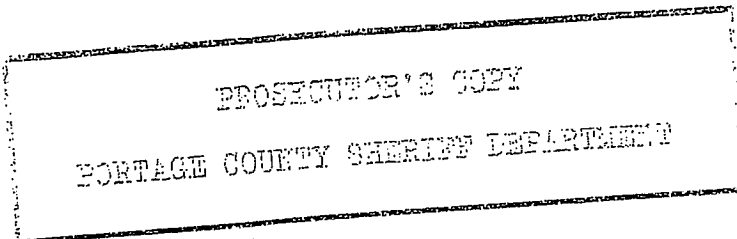
Dear Customer:

I am writing in response to your request which we received on Feb. 9, 1993
asking for written proof of delivery for package tracking
number 659403946.

Enclosed is the information relative to your request. The package tracking
number, as well as the delivery information, is highlighted for your reference.

We at Federal Express look forward to the privilege of serving your future
express shipping needs.

Sincerely,



Mike O.

FEDERAL EXPRESS CORPORATION
Customer Support Department
1 (800) 238-5355

Employee Signature

Employee Number

DELIVERY RECORD

Signature

Print Name

Sender's Account Number

Package Tracking Number

Recipient Address

Pcs. Serv.

Time

Status

1	<i>[Signature]</i>	FED 10 FEB 09:34 Recv'd by: P. REYES Pkg Trk#'s: 6234170854 6593403946 2950132132	Pcs: 3 Emp#: 111766	1 of 1 Rt*: 108	3053 RES	0938
2						
3						
4	<i>[Signature]</i>	FED 10 FEB 09:39 Recv'd by: A. WONG Pkg Trk#'s: 2727789654 5683993357	Pcs: 2 Emp#: 111766	1 of 1 Rt*: 108	4134 LAK	0939
5						
6						
7	<i>[Signature]</i>		6427303514		4138 LAK	0942
8	<i>[Signature]</i>	LAICO	6173180473		4134 LAK	0944
9	<i>[Signature]</i>		2721411781		4123 LAK	0948
10	<i>[Signature]</i>		6907947955			
11	Rose Bianchi	Sender's Account Number 1163-8914-2	9374746157		4123 LAK	0949
12	<i>[Signature]</i>	FED 10 FEB 09:55 Recv'd by: L. STCKMAN Pkg Trk#'s: 5378270074 6533863615 2977719656	Pcs: 3 Emp#: 111766	1 of 1 Rt*: 108	4131 LAK	0955
13	<i>[Signature]</i>					
14	<i>[Signature]</i>					
15	<i>[Signature]</i>		400-02357025		2977 TECH	0958
16	R McCabe	Sender's Account Number 0904-9072-9	5637595591		4301 LAK	1002
17	<i>[Signature]</i>		5065152525		3065 RICH ¹¹⁷	1007
18	<i>[Signature]</i>	PROSECUTOR'S COPY	9773952882		3065 RICH ¹⁰¹	1011
19	H. Morra	PORTAGE COUNTY SHERIFFS DEPARTMENT	6879511505		3065 RICH ¹⁰²	1012
20	<i>[Signature]</i>	WALKER	6675025851		3065 RICH ¹¹²	1015
21	<i>[Signature]</i>		6125268984			
22	<i>[Signature]</i>	WALKER	5483879321		3065 RICH ¹¹²	1033
23	<i>[Signature]</i>		5483879310			
24	<i>[Signature]</i>		720 7898 835		3065 RICH ¹¹⁷	1035
25	<i>[Signature]</i>		2913443197	4300 LAK		1039

EXCEPTIONS Describe below all exceptions that require clarification. Be certain to indicate line number.

Zip/Postal Code Delivered In:

94806

RECEIVED IN GOOD ORDER EXCEPT AS NOTED.

PURE	Delivered Pieces*	PURE	Net Stops*	Undelivered Pieces* No. of Pieces that have not received POB	Late Pieces*	MO	DAY	YEAR	Day of Week
MIX	4	MIX	3	0	0	2	10	2008	WED
						Route Number	Station Number		Page
						108	963		of

NAME: Harley, Bernard CITY: Atwater, CA 94201
 ADDRESS: 6593 McFF Rd. PAGE: # One

DATE: 04-07-90 TIME ENTERED: _____ FINDERS INT. _____

ITEM#	ITEM FOUND	LOCATION ITEM FOUND	FINDERS INT.
#1	1-Cigarette butt (Filter)	driveway	
#2	1-25 cal. spent shell casing (win)	Kitchen Floor near door to garage	
#3	1-25 cal. spent shell casing (win)	Kitchen Floor on rug near door way	
#4	1-25 cal. spent shell casing (win)	Kitchen Floor near Females' right left leg	
#5	1-25 cal. spent shell casing (win)	Kitchen Floor near Table leg	
#6	1-25 cal. spent shell casing (win)	Kitchen Floor near male's head	
#7	1-25 cal. spent shell casing (win)	Kitchen on male	
#8	1-25 cal. spent shell casing (win)	Kitchen on Table	
#9	1-25 cal. spent shell casing (win)	Living room on carpet Females'	
#10	1-Projectile (possible 25 Cal.)	Kitchen Floor near right knee	

INVENTORY OFFICER: Det. John R. Smith WITNESS: [Signature]
 INVENTORY OFFICER: [Signature] WITNESS: [Signature]

AGENCY: Portage County Sheriff's Dept REPORT# 90-2674
4-17-90

1) Case or Call card Number 90-2674 Officer Bistitz

2) Owner's name and address Unknown

3) Description of evidence (make, model, color, quantity and serial number)

8480
1) ONE (SEAL BY Ristitz) envelope # 1 CONTAINING:

1 Cigarette Butt Filter

8481
2) ONE (SEAL BY Ristitz) envelope # 2 CONTAINING:

1- 25 Cal. Spent Shell casing

8482
3) ONE (SEAL BY Ristitz) envelope # 3 CONTAINING:

1- 25 Cal. Spent Shell casing - W/S

ENTERED EVIDENCE

4) Location Floor

5) Checked in by Det. J. Ristitz Date APR 08 1990 Page # 342

Evidence Usage and Handling Log

PC-1043

#2 & #3	Date out <u>APR 09 1990</u>	By <u>Det. J. Ristitz</u>	Use <u>Alliance P.D. Lab</u>	Returned <u>APR 18 1990</u>
#1, #2, #3	Date out <u>APR 19 1990</u>	By <u>Det. J. Ristitz</u>	Use <u>B.C.I. 90-31768</u>	Returned <u>MAY 01 1990</u>
3)	Date out _____	By _____	Use _____	Returned _____
4)	Date out _____	By _____	Use _____	Returned _____
5)	Date out _____	By _____	Use _____	Returned _____

Date released from custody _____ Owner notified _____

Date evidence was picked up by owner _____

Date destroyed _____ By whom _____

Date auctioned _____ By whom _____



Attorney General
 Anthony J. Celebrezze, Jr. Evidence Submission Sheet

BCI-101 (Rev. 7-88)

NEW: XX
 ADD'L:

BCI LAB NUMBER
 90-31768

PLEASE REFER TO THIS BCI LAB
 NUMBER WHEN MAKING INQUIRY.

RECEIVED IN LABORATORY AT BCI: NE

BCI & I - Akron Office 5 Pine St. Akron, OH 43420 Phone: (419) 334-3851	BCI & I - London Office P.O. Box 365 London, OH 43140 Phone: (614) 466-8204	BCI & I - Cambridge Office 60788 Southgate Rd. Byesville, OH 43723 Phone: (614) 439-3655	BCI & I - Richfield Office P.O. Box 336 3333 Brecksville Rd. Richfield, OH 44286 Phone: (216) 659-4600
---	---	--	---

Date: 4/19/90	Time: 4:00 P.M.	Day: Thursday
Agency Case No. 90-2674		

Offense: Double Homicide	Date of Offense: 4/4/90	Location: (City-County) Portage County
-----------------------------	----------------------------	---

Subject(s): (Name, Race, Sex, DOB)

Victim(s): (Name, Race, Sex, DOB)
 Bearnhardt Hartig w/m 81 Cora Hartig w/f 81

Submitting Agency: Portage County Sheriff Office	Submitting Officer: Det. John Ristity
---	--

Case Investigator: Det. Lt. D. Doak Chief Det. D. Kaley	MAILING ADDRESS: Sheriff P. K. Howe 213 W. Main St. Ravenna, Ohio 44266
Telephone Number: 216/297-3888	

Latent Prints <input checked="" type="checkbox"/> XX	Chemistry	Microanalysis <input checked="" type="checkbox"/> XX	Firearms <input checked="" type="checkbox"/> XX	Documents	Hand Swabs/AA	Other
--	-----------	--	---	-----------	---------------	-------

Please List Individual Items and Examinations Requested: Please Attach a Synopsis of the Case to Assist the Examiner.

1. Brown envelope containing cigarette butt filter/determine brand (PCSO #1)
2. Brown envelope containing one .25 caliber shell casing-WIN (PCSO #2)/ballistics/prints
3. Brown envelope containing one .25 caliber shell casing-WIN (PCSO #3)/ballistics /prints
4. Brown envelope containing one .25 caliber shell casing-WIN (PCSO #4)/ballistics/prings
5. Brown envelope containing one .25 caliber shell casing-WIN (PCSO #5)/ballistics /prints
6. Brown envelope containing one .25 caliber shell casing-WIN (PCSO #6)/ballistics/prints
7. Brown envelope containing one .25 caliber shell casing-WIN (PCSO #7)/ballistics/prints
8. Brown envelope containing one .25 caliber shell casing-WIN (PCSO #8)/ballistics/prints
9. Brown envelope containing one .25 caliber shell casing-WIN (PCSO #9)/ballistics/prints
10. Brown envelope containing a projectile (PCSO #10)/ballistics
11. Brown envelope containing a projectile with gray material (PCSO #11)/fiber compare with vest jacket of male victim
12. Brown envelope containing one piece of unknown material (PCSO #15)/determine material
13. Brown envelope containing one .25 caliber spent shell casing-WIN (PCSO #17)/prints/ ballistics
14. Brown envelope containing one projectile (PCSO #18)/ballistics fibers
15. Brown envelope containing one projectile (PCSO #19)/ballistics/blood /compare blood fiber with victims clothes
16. Brown envelope containing seven green boxes (PCSO #21)/prints
17. Brown envelope containing .25 caliber shell casing-WIN (PCSO #35)/ballistics/prints
18. Brown envelope containing :
 one fingerprint card of Bearnhardt Hartig (PCSO #36)
 One fingerprint card of Cora Hartig (PCSO #37)
19. Brown envelope containing one projectile, #1 at base (PCSO # 61)/ballistics
 (removed from Cora's body)
20. Brown envelope containing one projectile #2 at base (PCSO #62) from Cora's body/ballist.
21. Brown envelope containing a plastic container containing hair from Cora's body (PCSO #63 compare with #11 (over)

Date/Time Returned:	Form Filled Out By: dh	Is subject(s) in custody? ___ Yes ___ No	Date of trial or hearing:	Evidence Location:
---------------------	---------------------------	---	---------------------------	--------------------

Returned to: (Signature) Should there be any changes in the status of this case, including trial dates
 Exhibit 18

22. Brown envelope containing a projectile with #1 at base (PCSO #64) from Bearnhardt's body/ballistics
 23. Brown envelope containing a projectile with #2 at base (PCSO #65) from Bearnhardt's body/ballistics
 24. Brown envelope containing a plastic container containing hair from Bearnhardt's body/compare with #11 (PCSO #66)
 25. Brown bag containing clothing of Cora/blood/ballistics (PCSO #38 thru #44)
 26. Brown bag containing clothing of Bearnhardt/ballistics/blood (PCSO #45 thru #54)
-

D.J. Bistitty



Attorney General
Anthony J. Celebrezze, Jr.

BCI-30 (Rev 10-85)

Bureau of Criminal Identification and Investigation

Laboratory Report

To: Sheriff P.K. Howe
Portage County Sheriff Office
213 W. Main Street
Ravenna, Ohio 44266

BCI Lab Number: 90-31768

Analysis Date: April 23, 1990

Re: Double Homicide
Victim: Bearnhardt Hartig
Cora Hartig

Agency No: 90-2674

PROSECUTOR'S COPY
PORTAGE COUNTY SHERIFF DEPARTMENT

Examination of the contents of item #1 revealed the presence of a cigarette butt filter which had been burned. The only marking is a thin dark line approximately 3 cm. from the tip. A portion of the end of the cigarette was removed and will be retained in the event that typing of the secretions is desired.

Examination of the contents of item #11 revealed the presence of a mass of blue and white fibers. Microscopic analysis revealed the presence of blue and white delustered, polyester fibers. Comparison of samples of these fibers with samples of fibers removed from the vest in item #26 revealed them to exhibit the same color, texture, and microscopic characteristics. It is concluded that the blue and white polyester fibers in item #11 could have originated from the vest in item #26.

Microscopic examination of the contents of item #12 revealed the presence of material consistent with dried pieces of tissue.

Examination of the projectile in item #15 revealed the presence of a small amount of white cotton fibers adhering to the tip of the projectile. It should be noted that the flannel shirt in item #26 is 100% cotton, and that a defect is present in a white area of the shirt.

Dale L. Laux
Dale L. Laux
Criminalist

DLL/kmv
T-042490

Please address inquiries to the office indicated, using the BCI lab number.

- [] BCI & I - Fremont Office
405 Pine Street
Fremont, Ohio 43420
Phone: (419) 334-3851
- [] BCI & I - London Office
P.O. Box 365
London, Ohio 43140
Phone: (614) 420-3655
- [] BCI & I - Richfield Office
P.O. Box 336
3333 Brecksville Road
Richfield, Ohio 44286
Phone: (216) 885-3336
- [] BCI & I - Cambridge Office
60788 Southgate Road
Byesville, Ohio 43723
Phone: (614) 420-3655

C. R. # 90-2674

Offense Homicide

Victims: Name Hartig, Cora & Bearnhardt

Date of Offense discovered 04-07-90

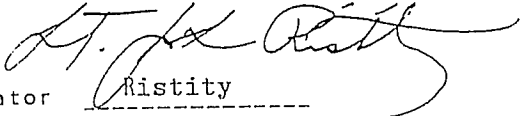
On 06-07-91 Lt. John Ristity checked the envelope of evidence item #1, B.C.I. evidence item #1, and found it to be empty. The envelope had been opened and resealed by B.C.I. Criminologist Dale Laux.

On 06-07-91 Lt. Ristity called the F.B.I. lab in Washington, D.C. and talked to Jim Gerhart, (202-324-4489). He advised they could examine the cigarette butt filter and possibly identify it's brand name. He also advised that it was real important that the item was not cut because the measurements of a cigarette filter are very precise. Lt. Ristity also talked to Jack Quill, in the serology Department, (202-324-3239) about DNA testing. He advised that if the subject that smoked the cigarette was a nonsecreter, they would not be able to do a DNA test at their lab. However, the test might be able to be done at a special lab. He suggested the Cetus Company in California (1-800-548-4545) be called.

On 06-07-91 Lt. Ristity called the Cetus Company and they referred the question to Forensic Science Associates in California, (415-222-8883).

On 06-07-91 Lt. Ristity called the forensic Science Associates in California. They advised there may be epidermis cells on the cigarette filter and if there are they may be able to do a DNA test. He advised it would be advantageous to have our BCI expert call Jennifer Mihalovich of their agency, as she has done a lot of work with cigarette butts. Ms. Mihalovich may be able to determine the brand name of the cigarette butt.

On 06-10-91 at 0855 hours, Lt. Ristity called BCI Criminologist Dale Laux and advised him of all of the aforementioned information received on 06-07-91. Mr. Laux also advised that he has the cigarette butt at the lab. He

Investigator  Ristity

Supervisor _____

This document contains neither recommendations nor conclusions of the PCSO. It is property of the PCSO and is loaned to your agency; it and its contents are not to be distributed outside your agency.

PROSECUTOR'S COPY
PORTAGE COUNTY SHERIFF'S DEPARTMENT

C. R. # 90-2574

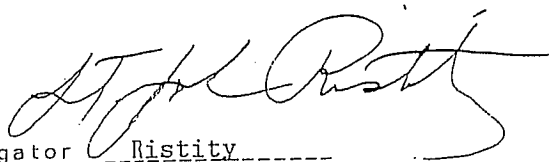
Offense Homicide

Victim: Name Hartig, Cora & Bearnhardt

Date of Offense discovered 04-07-90

had cut about 1/8 inch off the mouth end with scissors for testing. Lt. Ristity requested that Mr. Laux call FBI Lab and talk to Jim Gerhart and Jennifer Mihalovich, of Forensic Science Associates, and find out what tests can be done.

PROSECUTOR'S COPY
PORTAGE COUNTY SHERIFF DEPARTMENT



Investigator Ristity

Supervisor _____

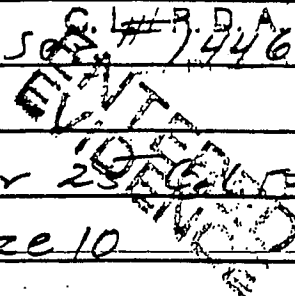
This document contains neither recommendations nor conclusions of the PCSO. It is property of the PCSO and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Sheriff's Department - Wayne County, Ohio Evidence Record and Log Card

Case or Call card Number 90-2674 Officer D. Kaley
2) Owner's name and address Ray VanSteenberg 947-1006
2296 Porter Rd., Atwater, OH.
3) Description of evidence (make, model, color, quantity and serial number)

852 72) 1 - Raven 25 Cal. Semi Auto 2 3/8 Barrel -
mod. # MP-25 - S&W # 7446154 - Chrome -
No Clip
857 73) Gun Holster For 25 Cal. Black - Brand:
Uncle Mike's - size 10

4) Location Floor
5) Checked in by D.J. Priddy Date 04-25-90 Page 35



Evidence Usage and Handling Log

PC-1043

#	Date out	By	Use	Returned
1) #72	APR 25 1990	D.J. Priddy	90-31748# B.C.F.	MAY 01 1990
2)				
3)				
4)				
5)				

Date released from custody APR 01 1991 Owner notified _____
Date evidence was picked up by owner APR 01 1991 Marlene Van Steenburg
Date destroyed _____ By whom _____
to auctioned _____ By whom _____

APR 25 1990 *Logged #352* *Rec From CLIF D. Kaley #72*

PC 631 PORTAGE COUNTY SHERIFF'S DEPARTMENT - PROPERTY TAG

CR # 90-2574 DATE 4-8-90 TIME _____

WHERE OBTAINED (RECEIVED FROM) Rav VanSteenberg

ADDRESS Porter, Atwater, Oh PHONE _____

PROP. TYPE Raven Arms 25 Auto Serial 1446154 Chrome

DISPOSITION: FOUND _____ EVIDENCE RECOVERED _____

NAME OF SUSPECT: Danny Van Steenberg

LAB REQUESTS: _____ OFFICERS: D. Kaley

PROPERTY RECEIVED BY OWNER COPY
 PORTAGE COUNTY SHERIFF'S DEPARTMENT

PROPERTY RECEIVED BY OWNER

DATE 04-01-91 TIME 1130 hr.

SIGNATURE *[Signature]*

ADDRESS 9492 Minerva Rd PHONE 358-2288
Ravenna, OH 44266

APR 25 1990 *copy of # 352* *rec. by Chief Det. D. Kaley JR #73*

PC 631 PORTAGE COUNTY SHERIFF'S DEPARTMENT - PROPERTY TAG

CR # 90-2674 DATE 04-08-90 TIME

WHERE OBTAINED (RECEIVED FROM) Ray VanSteenberg

ADDRESS Porter Rd Atwater OH PHONE

PROP. TYPE 1-Black 25 Ga. Gun Holster - brand: Uncle Marks -
Size 10

DISPOSITION: FOUND EVIDENCE XXX RECOVERED

NAME OF SUSPECT: Danny VanSteenberg

LAB REQUESTS: OFFICERS: Val... / Don...

PORTAGE COUNTY SHERIFF'S DEPARTMENT

PROPERTY RECEIVED BY OWNER

DATE 04-01-91 TIME 1130 hr

SIGNATURE Marlene VanSteenberg

ADDRESS 9492 Minnow Rd PHONE 358-2285
Ravenna, OH 44266

**ORTAGE COUNTY SHERIFF DEPT.
EVIDENCE DISPOSITION**

Issue Date 04-01-91

Return Date 04-01-91

Officer Lt. John Ristity

Evidence is currently being held in the following case: 90-2674

Please indicate the current disposition case by using the following abbreviations for the appropriate designation.

- | | |
|-----------------------|---|
| 1) G-Guilty Plea | 7) GJ-Pending Grand Jury |
| 2) NC-No Contest | 8) AP-Pending Appeal or time for Appeal to run out. |
| 3) I-Found Innocent | 9) CD-Case dismissed and will not be refilled. |
| 4) ST-Set for Trial | 10) CR-Case will be filed or refilled. |
| 5) PL-Preliminary Set | |
| 6) NF-No Case Filed | |

Disposition of evidence on this case; mark the appropriate box for:

- | | |
|----------------|---------------|
| 1.) M-Maintain | 3.) A-Auction |
| 2.) R-Return | 4.) D-Destroy |

Call Card #	Court Case No.	Case Disposition	Evidence Disposition
90-2674	NF	Open	M <input type="checkbox"/> R <input checked="" type="checkbox"/> A <input type="checkbox"/> D <input type="checkbox"/>
narrative			
Pursuant to O.R.C. 2933.41(A)(B) the property:			
72.) 1-Raven 25 Cal. Semi Auto. Pistol - Mod. #MP-25 - Ser. #1446154 - No			
Clip			
73.) 1-Black Gun Holster - brand: UNCLE MIKE"S - size 10			
should be released to: Richard Van Steenberg, 9492 Minyoung Rd., Ravenna, OH 44266,			
358-2288.			
On 04-01-91 Lt. John Ristity released the items to: Marlene Van Steenberg (Richard's			
wife). note: Marlene made a written statement about the gun.			
REPORT OFFICER/ <i>[Signature]</i>	UNIT NO. 117	SUPERVISOR APPROVING <i>[Signature]</i>	UNIT NO. 163

Suspect checked in string of killings

• Elyria case may trace
to Edinburg Twp., Akron

BY GEORGE W. DAVIS
Beacon Journal staff writer

The boy who drowned a pet bird in front of its 81-year-old owner has become the man suspected of slaying two women and setting them afire.

Authorities say Daniel E. Wilson, 21, formerly of Edinburg Township in Portage County, was convicted as a juvenile in one killing, admitted to involvement in another, and may be responsible for as many as three more deaths in Summit and Portage counties.

Portage County authorities said they are investigating Wilson in the April 5, 1990, shooting deaths of Cora and Bearnhardt Hartig, both 81, in the kitchen of their home in Atwater Township.

Wilson also is a suspect in the March 30, 1991, rape, beating and stabbing death of Rachael M. Johnson, 23, of Tallmadge. Her burning body was found on a North Akron street.

Wilson is being held in the Lorain County Jail in Elyria on a charge of aggravated murder. Elyria police said he has admitted to setting fire May 4 to a car in which the body of Carol Lutz, 24, was found. Bond was set at \$200,000.

Detective William Cameron of Elyria said an autopsy showed the victim had a high level of carbon monoxide in the bloodstream, indicating she was alive when placed in the car trunk.

Police said Wilson had been living with grandparents in Elyria for about four weeks. There were indications he moved to Elyria the same weekend Johnson was killed by repeated stabbings and a slit throat.

The body of Johnson, the mother of a 3-year-old girl, was found on Weller Street in North Akron about five hours after she left a girlfriend, saying she would find another ride home after the friend's car developed a flat tire.

In the Atwater Township case, Wilson was living about a mile from the Hartig home on Mott Road, off state Route 183. Wilson graduated from Rootstown High



The Beacon Journal
Sunday, May 12, 1991

LOCAL NEWS

• Deaths, Page 7 • Fran Murphey, Page 2

See WILSON, Page B6

WILSON

• Elyria, Akron deaths involved fires; Portage couple killed in home

Continued from Page B1

School in 1987.

Portage County Prosecutor David Norris, asked whether Wilson had been questioned in the Hartig double killing, said, "It's not appropriate to be discussing an ongoing case. However, in light of the new information that has surfaced, it would certainly seem to suggest that Mr. Wilson should be looked at as a potential suspect."

Portage County sheriff's Detective Don Doak said Saturday that Wilson had not been questioned yet in the Hartig killings.

Akron police Detective Joseph Bosko said samples of Wilson's blood have been sent to the state crime lab in West Richfield for testing on whether Wilson's genetic DNA matches that of semen found in the Johnson case.

Wilson, at age 14 and living in Elyria, was convicted in 1984 of delinquency by reason of involuntary manslaughter and aggravated burglary. Authorities said the victim, an 81-year-old man, fractured a hip while struggling with Wilson and died of complications.

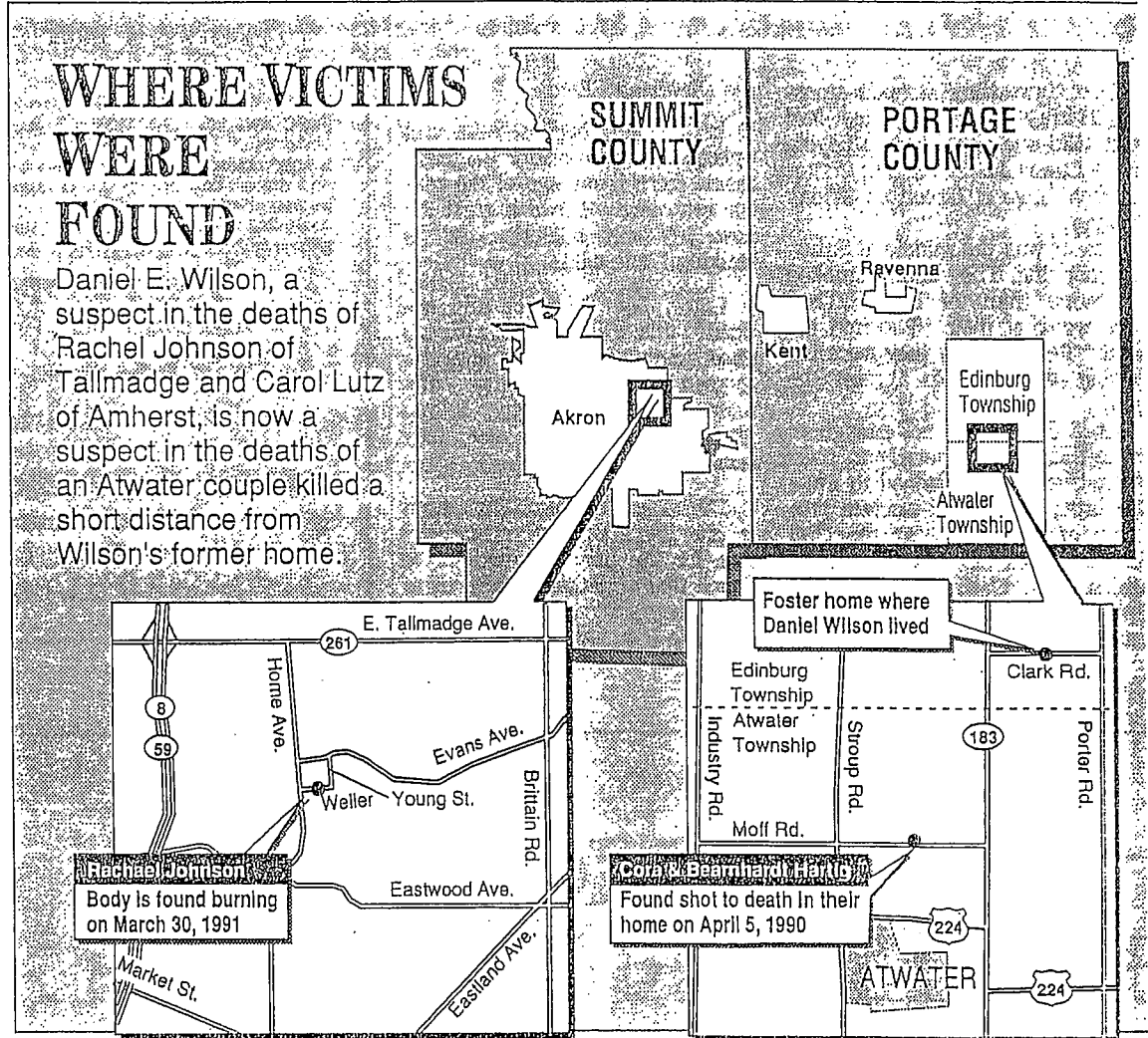
Bosko said Elyria police told Akron detectives that Wilson made the man watch as Wilson drowned the man's pet bird.

In the Elyria killing earlier this month, Cameron said Wilson admitted to involvement within 90 minutes of being brought in for questioning.

Cameron said the body of Lutz, who had lived with her parents in Amherst, was discovered by Elyria firefighters after they had extin-

WHERE VICTIMS WERE FOUND

Daniel E. Wilson, a suspect in the deaths of Rachel Johnson of Tallmadge and Carol Lutz of Amherst, is now a suspect in the deaths of an Atwater couple killed a short distance from Wilson's former home.



guished a car fire in a parking lot across the street from Elyria Catholic High School. The car was registered to Lutz.

Cameron said Wilson admitted to setting fire to the car but said he couldn't remember how he got the woman in the trunk.

Police said Wilson and Lutz had met in an Elyria bar and left together about 12 hours before the killing was discovered.

In the Akron investigation, Bosko said information developed Saturday by Detective Charles Snyder would be forwarded to Elyria police. He would not elaborate.

A co-owner of the El Cid lounge on East Tallmadge Avenue, where Johnson and her girlfriend were last seen hours before Johnson's

body was found, said Saturday that he did not recognize a photo of Wilson in Saturday's Beacon Journal.

Other lounge employees, including a waitress who worked the night of Johnson's death, also said they didn't recognize Wilson from the photo.

Man questioned on local murders

By Robert W. Spirko
Record-Courier staff writer

ATWATER — Portage County sheriff's detectives are waiting to question a former Edinburg Township man in connection with the murder of an elderly couple in Atwater and the murder of a Kent State University graduate student who was found dead in her burning car in Geauga County.

Portage authorities plan to question Daniel E. Wilson, 21, formerly of Edinburg, about the shooting deaths of Bearnhardt and Cora Hartig in Atwater on April 5, 1990 after he was arrested Friday by Elyria police. Wilson allegedly has admitted to being involved in a car burning death of an Elyria woman several weeks ago in front of Elyria Catholic High School.

The new developments have law enforcement officials in a four-county area scrambling to check into Wilson's background for possible involvement in these and other murder cases.

Portage County Prosecutor David Norris said this morning that Wilson will be questioned extensively by Portage County sheriff's detectives on at least the two cases.

"This is a pending investigation, and our policy is not to talk about it until we've completed our check," said Norris. "But, that in and of itself tells you there is an investigation."

It is believed Wilson had relatives in the Atwater area at the time of the Hartig murders, although Portage County sheriff's deputies would not confirm that
(See Man, page 9)

Man questioned on local murders

(From page 1)

information.

"I don't see why we wouldn't check this out," said Dennis Coyne, an assistant prosecutor in the Geauga County Prosecutor's Office. "The cases are very similar. It's worth looking into."

Gauga County Sheriff James Todd said the Geauga County coroner did the forensic investigation on the case that remains open.

The Kent State coed's burned body was found on an isolated stretch of Fisher Road in Geauga County on the passenger side of a car on fire. It took examiners several days to identify the body.

Wilson is also a suspect in the rape, beating and stabbing death of Rachael J. Johnson, 23, of Tallmadge on March 30, 1991. Her body was found on a North Akron street by a motorist.

Wilson was arrested by Lorain County sheriff's deputies over the weekend and is being held in Lorain County Jail on charges of aggravated murder in the death of

Carol Lutz, 24, whose burned body was found in the trunk of her car.

Cash bond has been set at \$200,000.

Elyria police said Wilson already has admitted to setting a car on fire on May 4. Lutz's body was found in that car.

Police also said Wilson had been living with grandparents in Elyria for about four weeks.

According to Portage County authorities, Wilson is a 1987 graduate of Rootstown High School and had a history of crime as a juvenile.

Wilson has become a suspect in the shooting deaths of the Hartigs, both 81, on April 5, 1990, in the kitchen of their home Atwater home.

Wilson has been identified as living in the Kent area by several sources at the time of the Hartigs murders.

In the Atwater case, Wilson was living about a mile from the Hartig home.

RECORD-COURIER

A Strong Voice In A Growing Area

THURSDAY, MAY 16, 1991

RAVENNA and KENT, OHIO

161st Year, No. 116

35 CENTS

Former Portage man suspect in 5 murders

From staff and wire reports

BURTON — A former Portage County man accused of setting fire to a car and killing a Lorain County woman is now a suspect in the fiery death of a former Kent State University classmate, authorities said.

Daniel E. Wilson, 21, also a suspect in three killings in Sum-



Wilson

mit and Portage counties, is being held on a charge of aggravated murder in a slaying in Lorain County.

Portage County sheriff's detectives are waiting to question Wilson in connection with the April 1990 shooting deaths of Bearnhardt and Cora Hartig, both 81, of Atwater Township.

"This is a pending investigation, and our policy is not to talk about it until we've completed our

check," Portage County Prosecutor David Norris said earlier this week.

Wilson reportedly lived on Clark Road, about a mile from the Atwater murder site, at the time of the shootings.

Akron authorities are also investigating a possible connection between Wilson and the murder of a 23-year-old Tallmadge mother on March 30.

Rachael M. Johnson of Tall-

madge was beaten, stabbed and raped, then her body set on fire on North Akron Street.

Authorities are expected today to get a court order to take blood, hair and semen samples from Wilson.

An Akron police investigator said the department will see if those samples match samples taken from Johnson's body.

Wilson was a 1987 graduate of Rootstown High School but, ac-

cording to high school Principal Roger Sldoul, was a "regular kid."

"There was nothing to distinguish him either positively or negatively," he said this morning. "He just came through here and kept a low profile."

Wilson and Elaine J. Graham, 33, of Chardon, whose charred remains were found Nov. 14 in a burning car in Geauga County, were both enrolled at KSU in

1987 and 1988, according to Janet Thiede, a university spokeswoman.

The Geauga County coroner said the cause of her death was undetermined because the fire was so intense.

"It's one of the obvious connections we are looking at," said Chief Geauga Deputy Harry Hageman, when asked about Wilson's and Graham's KSU enrollment. "There's enough of a connection for us to check into it."

Hageman said it is not known (See Wilson, page E)

Wilson linked to death of student

(From page 1)

whether Wilson and Graham had ever met while they attended Kent State.

Graham had attended a class at Kent State a few hours before her death.

Wilson is being held in the Lorain County Jail in lieu of a \$200,000 bond in the May 4 killing in Elyria of Carol L. Lutz, 24, of Amherst in Lorain County.

Lutz was found May 4 in the trunk of her burning car at Northwood Junior High School in Elyria, the same school Wilson attended.

Murder suspect had troubled past

By Robert W. Spirko
Record-Courier staff writer

The 1987 Rootstown High School graduate who confessed this month to murdering a woman in Elyria, leading authorities in three other counties, including Portage, to investigate him for possible links to four



Wilson
Wilson

other slayings, didn't make much of a lasting impression on his classmates, except for a fight he once got into at school.

Wilson, a 21-year-old man with a troubled past, confessed to one murder in which a woman's body was badly burned in Elyria and is being linked to the deaths of at least two more women whose bodies were set aflame in Geauga County and in Akron less than six months apart.

Wilson is also a suspect in the murder of Beamhardt and Cora Hartig of Atwater.

Tim DeVault, 21, of Brimfield, a Rootstown High School graduate who attends Kent State University, said he doesn't remember Wilson very well, but remembers a fight that Wilson got into once at the high school.

"He was there my senior year," DeVault said. "All I know is that it was the fight of the year."

Gary Cox, 22, another Brimfield resident who went to high school with Wilson, said they were in classes together, but that they really didn't know each

other.

"He seemed like a normal kid," Cox said. "He didn't talk much when I was around him. He was kind of quiet." Cox described him as one of those kids who just blended in with everyone else.

Rootstown High School Principal Roger Sidoti, who has been at the school for nine years, said he remembers Wilson as a kid who kept a low profile, except for a couple of incidents.

"I knew him as soon as I heard the name," said Sidoti. "He was a foster placement kid. They gave

us no indication whatsoever of his prior history."

He said the school knew nothing of his past juvenile record involving the death of an 11-year-old man when Wilson was 14. It was found guilty in 1982 of involuntary manslaughter when the man died a week later of pneumonia after a scuffle when Wilson burglarized his apartment.

Wilson was in a youth detention center for three years before his release in 1987.

He said Wilson "didn't mix with" (See Rootstown, page A6)

Rootstown grads remember Wilson

From page A1)

Wilson said he either positively or negatively while he was here for nine months," adding that he played some football and got into a few fights.

"But, I remember him. When you have a graduating class the size of about 100, you tend to remember everybody."

Sidoti said the only other thing he remembers about Wilson is that he thought he also attended Lake School in Stark County.

Wilson is now considered a suspect in the murder of a Kent State University student, Elaine J. Graham, 33, of Chardon, whose body was found inside a burning car on the passenger side of the front seat on Nov. 14, 1990, according to the Geauga County Coroner's Office.

Gauga County firefighters were notified of a burning car on

isolated Fisher Road in Burton Township, when several teenagers spotted the fire and called police.

Graham had attended a political science class that evening and was apparently on her way home. She was on a leave of absence from a custodian position in the Chardon schools to study for a teaching degree at Kent State. Graham was a student at Kent from 1986 until her death.

Police discovered that Wilson was at KSU at the same time as Graham, enrolled in the fall of 1987 and spring of 1988. However law enforcement officials are still puzzled about whether the two ever actually knew each other.

Wilson is now being held in Lorain County Jail on a \$200,000 cash bond for the Elyria murder in which Carol Lutz, 24, of Amherst was slain. Her body was found in

the trunk of her burning car parked behind Northwood Junior High School in Elyria. He allegedly had confessed to the murder to Lorain County authorities.

Police from Akron and sheriff's deputies in Portage and Geauga counties are eager to question Wilson in the other cases, including the shooting deaths of Beamhardt and Cora Hartig in Atwater, close to where Wilson was allegedly living when they were killed on April 5, 1990.

Wilson apparently lived on Clark Road, about a mile and a half from the couple's residence on Moff Road.

Meanwhile, John Doering of the Geauga County Coroner's Office, said one of its investigators traveled to the Lorain County Jail on Friday to ask Wilson questions about the Graham case, but Wilson told the investigator to talk to

his attorney instead.

"We're pursuing another route to see if there's a connection," he said but wouldn't disclose details. "There are some similarities in the Elyria case, but there are some differences, too. That's not to say the two cases are not connected."

In the Geauga case, a flammable liquid was used to burn the victim in the front seat of the car.

"I can't speak for Elyria authorities. I don't know what was used, if anything, in that case," Doering said.

Elyria police press liaison William Cameron was unavailable to verify if a flammable liquid was used in the Lutz case.

Police said Wilson lived in the Akron area when 23-year-old Rachael Johnson of Tallmadg was murdered. He moved to Elyria about three weeks ago.

Police take fluid samples of Wilson

Akron police on Thursday took hair, saliva and blood samples from former Portage County resident Daniel E. Wilson, 21, in connection with the March 30 murder of 23-year-old Rachel M. Johnson of Tallmadge.

Johnson was found beaten, stabbed and raped on an Akron street. Her body also had been set

on fire.

Capt. Jerry Foy's of the Akron Police Department said the samples may be sent to the FBI laboratory in Washington D.C. for analysis to see if they match similar samples taken from Johnson's body.

Wilson, a 1987 graduate of Rootstown High School, is a sus-

pect in three other murders, the April 7, 1990 double slaying of an elderly Atwater Township couple and the November 1990 death of a Kent State University student whose body was discovered in her burning car in Geauga County.

He has been charged with the death of 24-year-old Carol L. Lutz of Amherst, whose body was

found May 4 in the trunk of her burning car at a junior high school in Elyria, a school that Wilson once attended. He is being held in the Lorain County Jail in lieu of \$200,000 bond.

Wilson reportedly lived on Clark Road in Edinburg Township at the time of the shooting death

(See Fluid, page 8)

Fluid samples taken from Wilson

(From page 1)

of Bearnhardt and Cora Hartig of Atwater. The couple, both 81, were found dead in their Moff Road home, about two miles away from Clark Road.

He also is being investigated by

the Geauga County Sheriff's Department in connection with the Nov. 14, 1990 burning death of a 33-year-old Elaine Graham of Hambden Township, whose body was discovered in her burning car on a deserted road in Burton Township.

Atwater connection probed

Wilson charged in slaying

From staff and wire reports

ELYRIA — A Lorain County grand jury indicted former Rootstown resident Daniel E. Wilson in the death of an Amherst woman, who was burned alive in her car.

Wilson, 21, was indicted Tuesday on three charges of aggravated murder and one count each of kidnapping and aggravated arson. If convicted, he could face the death penalty.

The Portage County Sheriff's Office is also looking for possible connections between Wilson and the April 1990 murder of Bearnhardt and Cora Hartig of Atwater.

Wilson reportedly lived in Edinburg Township, not far from the murdered couple's home, at the time of their deaths. No charges have been filed.

He graduated from Rootstown High School in 1987.

Wilson is charged with the May 4 death of Carol Lutz, 24. Lutz's body was found in the trunk of her burning car outside an Elyria junior high school. The Lorain County coroner's office said she was alive when she was placed in the trunk.

Lutz was seen leaving an Elyria

tavern with Wilson about 12 hours before her body was found. Police said Wilson had admitted to killing her.

Assistant Prosecutor Paulette Lilly said Wilson was charged with three murder charges because of different theories as to why the crime was committed. Each theory requires a separate charge.

Wilson was in Lorain County Jail under a \$200,000 bond, but a

judge Tuesday increased that bond to \$250,000.

Wilson is being investigated in two similar deaths in Summit and Geauga counties. No charges have been filed in either case.

Akron police have long wait for lab results in homicide

•DNA tests on suspect in brutal rape-slaying may take till year's end

BY ROBERT HOILES
Beacon Journal staff writer

Results of DNA comparison tests — the key to whether Akron detectives charge Daniel Wilson with the March 30 rape-slaying of a 23-year-old Tallmadge woman — may not be available until the end of the year.

Akron's chief of detectives said investigators won't have any good suspects in the heinous killing of Rachael M. Johnson, 23, if the DNA test does not link Wilson to the case.

"Our case will rise or fall with the DNA test," Maj. Leonard Strawderman said. "Wilson is our only good suspect. If it is not him, we are back to square one."

Johnson was raped, stabbed 10 times in the chest, beaten and slashed across the neck; her body was dumped March 30 on Weller Street in North Akron and set on fire.

The crime is similar to a killing Wilson is accused of committing in Elyria. Wilson, who is in the Lo-

QUOTE

"Our case will rise or fall with the DNA test. Wilson is our only good suspect. If it is not him, we are back to square one."

MAJ. LEONARD STRAWDERMAN

rain County Jail, is accused of murdering a woman whose body was found in her burning car.

In an attempt to link Wilson to Johnson's death, semen taken from Johnson's body during an autopsy will be compared with a blood sample taken from Wilson to see whether the DNA — genetic material unique to each individual — matches.

The Akron Police Department's request for a DNA test is one of more than 1,000 such requests from U.S. law enforcement agencies pending with the FBI's Scientific Analysis Section in Washington, D.C.

Because of the tests' complexity and the fact that only 10 analysts are trained to do DNA comparisons, it can take up to six months before the FBI sends a final report to local police, said Kenneth W. Nimmich, chief of the

Scientific Analysis Section of the FBI Laboratory.

Akron police sent a DNA sample to the FBI on May 21, Strawderman said.

Detectives said Johnson was last seen alive about 2 a.m. March 30 at Fouse and Dan streets in North Akron after she got out of a girlfriend's car. She got out of the car seeking another ride because the girlfriend's car had a flat tire, police said.

Wilson, 21, was arrested by Elyria police on May 9 for the killing of Carol L. Lutz, 24, of Amherst in Lorain County. He is charged with aggravated murder and is in jail in lieu of a \$200,000 bond.

Wilson, who had been living in Portage County, moved back to Elyria the day after Johnson was killed, Akron detectives said.

Jury to decide whether ex-area man gets death

ELYRIA — The jury that convicted a former Portage County man last month of murdering a woman was ordered to reconvene today to hear arguments and decide whether to recommend the death penalty.

Daniel E. Wilson, 22, formerly of Edinburg Township, was found guilty of aggravated murder and aggravated arson for the May 4 burning death of Carol Lutz, 24, of Amherst. Her body was found in the trunk of her burning car at an Elyria school.

Lorain County prosecutors expect the hearing, in which jurors will decide whether to send Wilson to the electric chair or to life in prison, to take about one and one-half days.

Wilson, who attended Rootstown High School and Kent State University, had at one time been a possible suspect in the April 1990 murders of Bearnhardt and Cora Hartig, both 81, of Atwater.

Portage County Prosecutor David Norris said Wilson has not been indicted for the Hartig murders.

“There were similarities between that case and the one in Lorain County,” Norris said today. “Obviously because of the other cases and where he lived at the time of the Hartig’s murder, he immediately became a suspect. The information we had was minimal and the news media was pushing to tie him to the Hartig murders.”

Jury urges death for former Portage man

From staff and wire reports

Former Portage County resident Daniel Wilson should be put to death for the fiery murder of an Amherst woman, a Lorain County Common Pleas Court jury recommended Wednesday.



Wilson

The jury, which last month had convicted former Edinburg Township resident Daniel Wilson, 22, of killing Carol Lutz, 24, of Amherst, returned its recommendation after deliberating

Tuesday afternoon.

Judge Lynette McGough, who isn't bound by the jury's recommendation, is to pass sentence on May 8.

Wilson, a 1987 graduate of Rootstown High School who later lived in Edinburg and Ravenna, was convicted of killing Lutz by locking her in the trunk of a car, then setting the vehicle afire. The slaying took place on May 4, 1991 in Lorain County.

Wilson stood with his head bowed as he heard the jurors' recommendation. His brother, David, covered his face with his hands and three cousins wept.

(See Death, page 16)

Death penalty urged for former area man

From page 1

Wilson's attorney, Kenneth Lieux, said the case will be appealed.

Prosecutor Gregory White said he was satisfied.

"The jury worked hard and came to the right decision," White said. "The punishment has to fit the crime. I'm happy for the victim's family that it's over."

During arguments Tuesday, Lieux had asked jurors to spare Wilson's life because of his troubled childhood with an alcoholic father.

"Dan knows abuse," Lieux said. "He knows how it was being beaten with a belt across a bare rear end ... being humiliated, being neglected emotion-

ally, physically. Dan told you he makes mistakes."

White told the jury that Wilson was "a walking time bomb."

Wilson, who attended Kent State University after graduating from Rootstown High School, had at one time been a possible suspect in the April 1990 murders of Bearnhardt and Cora Hartig, both 81, of Atwater. Wilson reportedly lived less than one mile from the Hartigs, who were found shot to death in their Moff Road home.

While Portage County authorities said there were similarities between the Hartig murders and the Lorain County murder, Wilson was not indicted in the Hartig case.

Man held in murder of Atwater couple

By Craig Paeth
Record-Courier staff writer

A Stark County man charged Wednesday in the two-year-old murder case of Bearnhardt and Cora Hartig could be facing the death penalty if found guilty of killing the elderly Atwater couple.

Gary E. St. Clair, 23, of Alliance appeared for arraignment but

St. Clair indicted in double-slaying of Hartigs

did not enter a plea Wednesday in Portage County Common Pleas Court to two counts of aggravated murder in connection with the April 5, 1990 double-slaying of the 61-year-old couple that occurred at their Moff Road home.

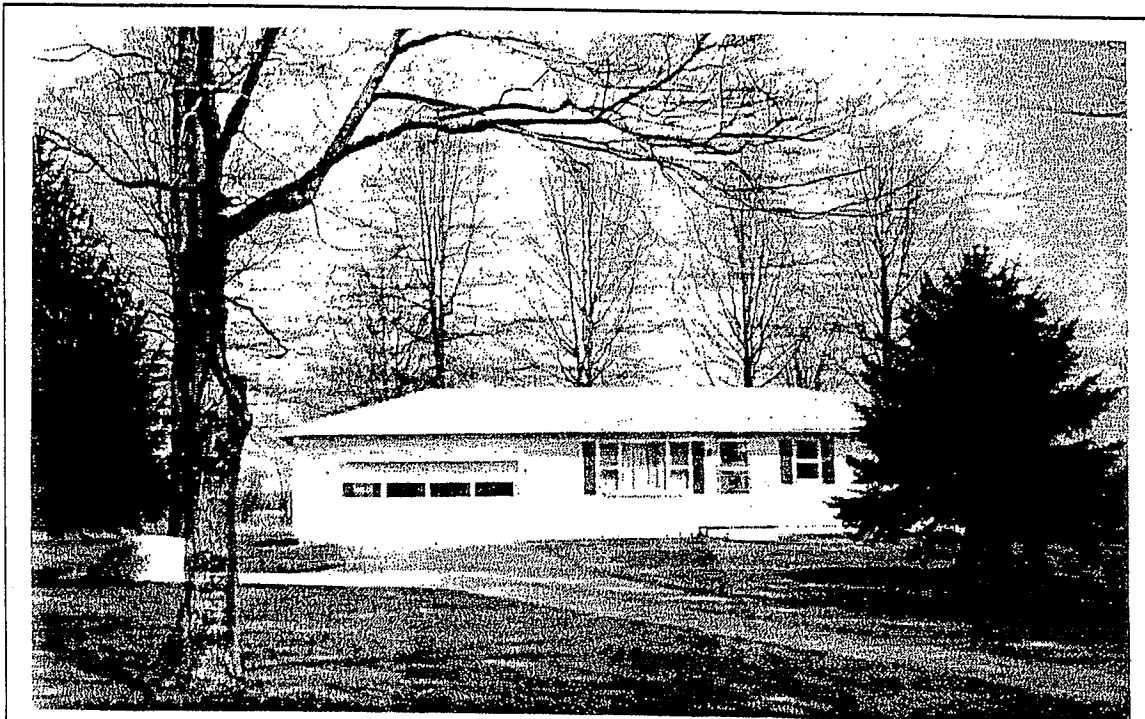
St. Clair, who was indicted Friday by a Portage County grand jury on the aggravated murder charges, also faces two counts of aggravated robbery and one count of aggravated robbery in connection with same incident, in which

both husband and wife were shot to death. The arraignment was continued until Monday morning by Judge Joseph R. Kainrad, in order that St. Clair have an attorney present when entering pleas to the charges.

Portage County Prosecutor David Norris said the Hartig murder case was reopened in May when former Portage resident 22-year-old Daniel Wilson was convicted of murdering an Amherst woman and sentenced to the Ohio

electric chair. Public opinion had linked Wilson, who lived within a mile of the Hartig home, as a possible suspect in the case.

"Although we never felt he (Wilson) was a suspect, we could not eliminate him as a suspect without further investigation," Norris said. "That's what got us started on it in the process of (See Man, page A8)



The Hartig home on Moff Road in Atwater Township.

Man held in Atwater Twp. slaying

From page 1

investigating Wilson, we became interested in these people. Over the last three or four months we were able to solve the case."

St. Clair was transported to the Portage County Jail from the Orient Correctional Institution located south of Columbus, where he is currently serving a five- to 25-year prison term after he pleaded guilty to two robberies that also involved burglarizing elderly victims at gun point in Stark County. Both robberies to which St. Clair pleaded guilty occurred within 48 hours of the Hartigs' murders.

Norris would not comment as to the number of other possible suspects that could be involved

and indicted in the murders, but court records revealed 21-year-old Joseph Dalesandro of Alliance pleaded guilty July 30 to a second-degree felony charge of conspiracy to aggravated robbery in connection with the Hartig incident.

Delasandro, who faces a maximum of 15 years in prison, is reportedly cooperating with authorities. "He has agreed as part of his plea negotiations to testify for the state of Ohio. They have withheld sentencing on him pending a pre-sentencing investigation," Norris said.

Norris said the investigators in his office, and most notably former Kent police officer Ronald Craig, completed the inves-

tigation and managed to secure the two indictments in the case that have been brought forth so far.

According to Norris, the leads and information his investigators utilized were culled from and based upon the original investigation that was handled by the Portage County Sheriff's Office. "It's a lot easier for someone to come along later and take their work product and be more effective," Norris said.

Norris said he expected St. Clair, who will remain in the Portage County Jail until the new charges against him are resolved, will go to trial within 45 to 60 days.

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Atwater murder suspect indicted

• Prosecutor's aide probes 1990 case, charges Stark man doing time in prison

BY DENNIS McPANEENEY
Beacon Journal staff writer

RAVENNA: An Alliance man serving five to 25 years in prison for robbing an elderly couple two years ago has been charged with the April 1990 slayings of Beamhardt and Cora Hartig of Atwater Township.

Gary Eugene St. Clair, 23, could face the death penalty if he is convicted of killing the Hartigs, whose bodies were found April 7, 1990, in their home. The Hartigs, both 81, had been shot.

Coroner Robert Sybert said at the time that from the condition of the bodies, it appeared the couple had been dead for some time before they were discovered. A neighbor called police after seeing the Hartigs' garage door open and their riding lawn mower outside for two days.

Prosecutor David Norris credited investigator Ron Craig with gathering the evidence that led to the charges filed against St. Clair.

St. Clair appeared Wednesday before Portage County Common Pleas Judge Joseph Rainrad, but an arraignment was postponed until Monday so St. Clair can have

See DEATHS, Page A11



Cora and Beamhardt Hartig were slain in their Atwater Township home in Portage County in 1990.

DEATHS

• Atwater Twp. couple were shot in apparent robbery

Continued from Page A1

attorneys present when he enters a plea.

St. Clair was brought to Ravenna by sheriff's detectives from the Orient Correctional Institution near Columbus to face two counts of aggravated murder, two of aggravated robbery and one of aggravated burglary.

A secret indictment handed down by the county grand jury Friday says St. Clair broke into the Hartigs' home and shot them while robbing the house.

St. Clair was not alone in the break-in, "but that's as far as I'll elaborate," Norris said Wednesday.

Court records, however, say another Alliance man — Joseph Dalesandro, 21 — has pleaded guilty to conspiracy to aggravated robbery and has agreed to testify against St. Clair in connection with the Hartig robbery and killings.

Dalesandro's sentencing has been delayed until after St. Clair's trial.

Norris said he assigned Craig to the Hartig investigation in May when his office had a lull in criminal cases needing supplemental investigations.

After police detectives complete their reports, prosecutor's investigators usually perform supplemental investigations "geared toward what the prosecutor needs in the courtroom," Norris said.

A 26-year veteran and detective with the Kent police department before joining the prosecutor's staff about three years ago, Craig "is a fine detective," Norris said.

Craig's detective work led in 1990 to the convictions of three men for the murder of Connie Nardi, 31, of Randolph Township. Nardi was strangled in 1988 after she refused to have sex with the three

men, who dumped her body into a pond in Geauga County.

In May, while Craig had had time on his hands, Norris said he assigned Craig to go through several detective files to see whether new leads could be developed.

Investigation of the Hartig murders was suspended in 1991 while authorities in Elyria prosecuted Daniel E. Wilson, 22, for the May 1991 slaying there of Carol Lutz of Amherst, who was found dead in the trunk of burning car.

Wilson also was a suspect in the March 1991 slaying of Rachael M. Johnson, who was found burning on Weller Street in Akron after she had been beaten, raped and repeatedly stabbed.

Wilson had been convicted in 1984 at age 14 of delinquency by reason of involuntary manslaughter and aggravated burglary in the death of an Elyria man, 81.

In 1987, Wilson had lived with his foster mother on a farm in Portage County about a mile from the Hartigs' home.

Norris said questions from reporters about Wilson's possible involvement in the Hartig murders was a major reason he asked Craig to go through the files.

"We never thought Wilson was a serious suspect (in the Hartig murders) but you never know until you do all the background work," Norris said. "At any rate, we thought it was time to put the question to rest.

"When I assigned this case to Ron Craig, it was for the purpose of eliminating Wilson as a suspect. In the course of doing that, we were led to St. Clair," Norris said.

St. Clair pleaded guilty in the spring of 1990 to robbing an elderly couple in their home in Alliance on April 4, 1990, the day before the Hartigs were robbed and murdered.