



IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA

SEDRICK COURTNEY,  
Petitioner,

v.

STATE OF OKLAHOMA,  
Respondent

DISTRICT COURT  
**FILED**

MAR 12 2017

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA. TULSA COUNTY

TULSA COUNTY  
Case No. CF-95-2348

**Petitioner's Post-Conviction Relief Petition (22 Okl. St. § 1080) and Writ of Habeas Corpus (12 Okl. St. § 1331, Okla. Const. art. II, § 10) Based On Newly-Discovered Exculpatory, Non-Matching DNA Evidence**

1. Petitioner, Sedrick Courtney, hereby submits his *Post-Conviction Relief Petition and Writ of Habeas Corpus Based On Newly-Discovered Exculpatory, Non-Matching DNA Evidence*. His motion is presented in good faith and premised on the following facts and points of authority.

2. Courtney stands convicted of the April 6, 1995 armed robbery of Shemita Greer.

a. Two men, who covered their faces with ski masks, kicked in Greer's apartment door, attacked her, and robbed her at gunpoint.

b. Greer suffered a traumatic brain injury as a result of the attack.

c. Greer was positive that the taller assailant, who wore the *black* ski mask, was Courtney Sedrick. Greer said she recognized his voice when he spoke and his skin tone and eyes when he briefly lifted his black ski mask during the offense.

i. Greer knew Courtney because the two had lived in the same apartment complex a year before.

ii. Greer also knew Courtney because her and her boyfriend, Travis Chambers, went on a few double dates with Courtney and his girlfriend before the robbery.

d. Greer said the smaller assailant wore a *green* ski mask.

e. Crime scene personnel recovered the *black* and *green* ski mask outside Greer's apartment.

3. Prior to trial, the State recovered several hairs from both the black and green ski masks and subjected them to DNA testing, but the testing produced no results.

a. Neither the State nor Courtney subjected the hairs to mitochondrial DNA testing because it was not available at the time of trial and did not become generally accepted and routinely used in the scientific community until 1998 and 1999.

4. At trial, the State relied on the hair evidence to secure Courtney's conviction.

a. The State argued that the hairs from the black ski mask could have come from Courtney because he could not be eliminated as a donor of the hairs.

b. The green ski mask contained a single bleached red hair that was microscopically similar to a bleached red hair taken from Courtney's head hair. The State argued it was very unlikely that the bleached red hair came from anyone other than Courtney.

5. Courtney challenged and collaterally attacked his conviction, but obtained no relief.

a. In 2000, Courtney's previous attorney (from the Oklahoma Indigent Defense System) sought DNA testing on the hairs recovered from both ski masks, but the Tulsa Police Department (TPD) informed counsel that the hairs had been destroyed.

6. In 2001, Courtney contacted the Innocence Project, which officially opened his case in late 2007. Shortly thereafter, the Innocence Project contacted the TPD, requesting information regarding the whereabouts of the black and green ski masks as well as the hairs recovered from the two ski masks.

a. The TPD informed the Innocence Project that the masks and hairs had been destroyed.

7. In September 2011, the Innocence Project contacted the TPD again to inquire about the ski masks and hairs, but this time the TPD said it did in fact have custody of the hairs. The TPD did not have the ski masks.

a. Shortly thereafter, the TPD sent the hairs to Orchid Cellmark (Cellmark) in Dallas.

b. Cellmark subjected the hairs recovered from the black and green ski masks to mitochondrial DNA testing – a form of DNA testing not available prior to trial.

c. The mitochondrial DNA testing *excluded* Courtney as a donor of ten hairs recovered from the black ski mask and five hairs recovered from the green ski mask.

i. Nine of the ten hairs from the black ski mask came from one donor.

ii. Four of the five hairs from the green ski mask came from one donor.

8. Based on these newly-discovered exculpatory DNA results, Courtney respectfully moves to have his conviction vacated because the DNA results demonstrate that he is actually innocent (at best) or that this Court can have no confidence in his conviction (at worst).

**I. Statement of Facts**

**A. Pre-Trial Events**

9. In February 1996, a Tulsa County jury convicted Sedrick Courtney of robbery with a firearm and first-degree burglary for the April 6, 1995 robbery of Shemita Greer. The trial judge sentenced him to thirty years in prison.

10. According to Greer, around noon time on April 6, 1995, two men wearing ski masks broke into her apartment by kicking in her front door.

a. The shorter of the two men had on a green ski mask and wielded a gun, while the taller assailant had on a black ski mask.<sup>1</sup>

b. The taller man in the black ski mask – who Greer identified as Sedrick Courtney – was not wearing gloves.<sup>2</sup>

c. Once inside, they forced her to lie on the floor as they ransacked the apartment. During the robbery, the two assailants struck Greer in the head, repeatedly kicked her, and ultimately blindfolded her with duct tape.<sup>3</sup>

d. Once blindfolded, Greer said the taller of the two assailants pistol-whipped her.<sup>4</sup>

e. Seriously injured and fearing for her life as well as her four-month-old niece's life, Greer played dead as the two assailants continued to ransack her apartment.

f. When the two assailants fled Greer's apartment they took nearly \$400 in cash from her purse, four tires, and four tire rims that belonged to her boyfriend, Travis Chambers.<sup>5</sup>

11. Greer said the incident lasted between five and six minutes.<sup>6</sup>

12. After checking on her four-month-old niece, Greer called 911 and Tulsa police officers were dispatched to the scene. After talking with police, Greer was taken to a hospital where she spent three days recovering from a traumatic brain injury.<sup>7</sup>

---

<sup>1</sup> NT, Trial, 02/07/96, at 208-209. Exs. 1-2.

<sup>2</sup> *Id.* at 238.

<sup>3</sup> *See id.* at 214-217.

<sup>4</sup> *See id.*

<sup>5</sup> *See id.* at 225.

<sup>6</sup> *See id.* at 243.

<sup>7</sup> *See id.* at 222.

13. Detective Alvin McDonald arrived at the scene and interviewed Greer who told him she recognized the taller of the two men wearing the black ski mask as Sedrick Courtney.<sup>8</sup> She recognized his voice because she knew Courtney's girlfriend and her (Greer) and her boyfriend occasionally went out with Courtney and his girlfriend.<sup>9</sup> Likewise, when the taller assailant lifted his black ski mask to cool down, Greer said she saw his eyes, nose, and skin tone and was positive it was Sedrick Courtney.<sup>10</sup>

14. Detective Doug Noordyke photographed and processed Greer's apartment as well as the area surrounding around her apartment.<sup>11</sup>

a. Detective Noordyke search for latent fingerprints and lifted one from the stereo cabinet.<sup>12</sup>

b. He also recovered a black ski mask from the sidewalk east of Greer's apartment and a green ski mask across the street from her apartment sitting atop the tires stolen during the robbery.<sup>13</sup>

15. Despite Greer's positive identification of Courtney on April 6, 1995, the TPD did not arrest Courtney until June 12, 1995.<sup>14</sup> The shorter assailant, who wore the green ski mask was never identified, arrested, and prosecuted.

16. Although Courtney proclaimed his innocence when arrested, he cooperated with the TPD by waiving his *Miranda* rights and voluntarily providing samples of his hair.<sup>15</sup>

17. Prior to Courtney's arrest, the TPD Forensic Laboratory recovered several hairs from the black and green ski masks.<sup>16</sup>

18. Prior to trial, the TPD Forensic Laboratory sent the hairs to the Oklahoma State Bureau of Investigation (OSBI) for DNA testing.<sup>17</sup>

a. Seven hairs had *roots* so OSBI subjected the roots to nuclear DNA testing – which produced inconclusive results.<sup>18</sup>

---

<sup>8</sup> Ex. 2.

<sup>9</sup> *See id.* at 199-201.

<sup>10</sup> *See id.* at 215-218; Ex. 2.

<sup>11</sup> NT, Trial, 02/06/96, at 162-164; Ex. 3.

<sup>12</sup> *See id.*

<sup>13</sup> *See id.*

<sup>14</sup> NT, Trial, 02/06/96, at 178; Ex. 4.

<sup>15</sup> Ex. 4.

<sup>16</sup> NT, Trial, 02/06/96, at 182-188; Ex. 5.

<sup>17</sup> *See id.* at 192; Ex. 6

<sup>18</sup> *See id.*

b. OSBI did not perform mitochondrial DNA analysis on the hair *shafts* because mitochondrial DNA testing was not available prior to Courtney's trial in February 1996.

19. Prior to trial, the TPD Forensic Laboratory concluded that Courtney did *not* leave the latent fingerprint on the stereo cabinet in Greer's apartment.<sup>19</sup>

20. Prior to trial, Carol Cox of the TPD Forensic Laboratory attempted to compare the hairs lifted from the black and green ski masks to Courtney's hair samples, but could not make a comparison because Courtney's hair samples were too short.<sup>20</sup> As a result, she concluded that the unknown head hairs from the black ski mask "can not [sic] be eliminated as having come from Cedric [sic] Courtney."<sup>21</sup>

21. Cox also recovered a single bleached red hair from the green ski mask that was microscopically consistent with a bleached red hair taken from Courtney's head.<sup>22</sup>

#### **B. Trial**

22. Courtney pled not guilty and went to trial.

23. At trial, the State's case rested primarily on Greer's identification of Courtney.

a. During direct examination, the prosecutor asked Greer, "Ma'am, do you realize that this case *is largely dependent on your identification* of Mr. Courtney today?," to which Greer replied, "Yes."<sup>23</sup> The prosecutor then asked Greer, "Do you know what will happen to you if this jury *believes your identification?*," to which Greer ultimately replied, "I feel like justice will be served."<sup>24</sup>

b. Greer was "positive" that Courtney was the taller of the two assailants who wore the black ski mask.<sup>25</sup>

c. Greer also positively identified the black ski mask recovered from outside her apartment as the black ski mask worn by Courtney.<sup>26</sup>

d. During closing arguments, the prosecutor urged to jury to find Greer's identification reliable.<sup>27</sup> The prosecutor said it was "impossible" that Courtney was not one of the assailants:

---

<sup>19</sup> See *id.* at 193; Ex. 7.

<sup>20</sup> See *id.* at 187; Ex. 8.

<sup>21</sup> Ex. 8.

<sup>22</sup> See *id.*

<sup>23</sup> NT, Trial, 02/07/96, at 223 (emphasis added).

<sup>24</sup> *Id.* (emphasis added).

<sup>25</sup> NT, Trial, 02/07/96, at 200-01, 203, 218-19, 225, 228.

<sup>26</sup> See *id.* at 254.

I believe that if you go back there and you consider all that, you'll find it's impossible for that to have been someone other than Sedrick Courtney, same height, same size, same build. That's beyond possibility that another human being could match all of those characteristics.<sup>28</sup>

e. The prosecutor also argued: "All we know is that there are two people who entered that apartment, two people who wore stocking masks. *And we know that Sedrick Courtney was one of those two people.*"<sup>29</sup>

24. The prosecutor used the hair evidence from the black and green ski masks to bolster Greer's identification.

a. During closing arguments, the prosecutor acknowledged that the hair evidence was critical to the State: "The hair in the stocking mask. Now, this is *some key evidence really.*"<sup>30</sup>

b. The State's hair expert, Carol Cox, said she could not exclude Courtney as a donor of the hairs recovered from the black ski mask.<sup>31</sup>

i. Cox, however, undermined Greer's claim that Courtney was the assailant wearing the black ski mask when she said she identified a single bleached red hair from the green ski mask that was microscopically consistent with a bleached red head hair recovered from Courtney.<sup>32</sup>

ii. Realizing Cox's testimony undermined Greer's identification, the prosecutor argued during closing arguments that Greer may have "mixed up" who wore what ski mask:

But the key here that Carol Cox did testify to is she said there was something unusual [regarding the bleach hair]. In... [the green] mask[] she found a short bleached red hair, one short bleached red hair among numerous Negroid hairs, okay. And then she testified that she plucked approximately 50 hairs from Sedrick Courtney's head, and of those 50 hairs she found one short bleached red hair, okay.

Now, I think probably the defense is going to point out to you... that she testified [Greer] testified he was wearing the black stocking mask and that Carol Cox testified that the red hair was found in the green stocking mask. I can't deny that. That's true. There are numerous explanations for that... It's entirely possible that.... She got those two stocking masks mixed up.<sup>33</sup>

---

<sup>27</sup> NT, Trial, 02/08/96, at 347-350.

<sup>28</sup> *Id.* at 381.

<sup>29</sup> *Id.* at 347-48 (emphasis added).

<sup>30</sup> NT, Trial, 02/08/96, at 351 (emphasis added).

<sup>31</sup> NT, Trial, 02/06/96, at 188-189; Ex. 8.

<sup>32</sup> *Id.* at 188; Ex. 8.

<sup>33</sup> NT, 02/08/96, at 352-53.

iii. The prosecutor also suggested that Courtney may have owned both ski masks or that the unnamed and unidentified co-assailant may have lived with Courtney:

But another very plausible explanation... is that the person he was with may have been somebody he lived with, that both stocking masks may have been [Sedrick Courtney's]. He may have worn both of those stocking masks on any number of occasions prior to that day. So there is a lot of reasons why that red hair may be in the... green stocking mask rather than the black stocking mask. Again, [Sedrick Courtney] could have worn that green stocking mask just the night before.<sup>34</sup>

iv. Likewise, the prosecutor argued that the red bleached hair likely came from Courtney because it was "very unusual to find one red bleached hair among numerous Negroid hairs both in a stocking mask and on the defendant's head."<sup>35</sup>

25. Courtney testified and claimed his innocence.<sup>36</sup>

a. He argued that Greer misidentified him as the assailant in the black ski mask.<sup>37</sup>

b. He also presented three alibi witnesses, who claimed he was with them between noon and 1 pm on April 6, 1995 – the time during which the offense occurred.<sup>38</sup>

26. On February 8, 1996, a Tulsa County jury convicted Courtney of robbery with a firearm and first-degree burglary. The trial judge sentenced him to thirty years in prison.<sup>39</sup>

## II. Post-Conviction Proceedings

27. Courtney has unsuccessfully challenged and collaterally attacked his conviction over the last sixteen years.

28. In 2000, Courtney's previous attorney (from the Oklahoma Indigent Defense System) sought DNA testing on the hairs recovered from both ski masks, but the Tulsa Police Department (TPD) informed counsel that the hairs had been destroyed.<sup>40</sup>

29. On April 23, 2001, Courtney contacted the Innocence Project requesting assistance in obtaining DNA testing to prove his innocence. After obtaining documents and transcripts and reviewing Courtney's case, the Innocence Project officially accepted Courtney's case on February 5, 2007.

---

<sup>34</sup> *Id.* at 353.

<sup>35</sup> NT, Trial, 02/08/96, at 354.

<sup>36</sup> NT, Trial, 02/07/96, at 306-22.

<sup>37</sup> NT, Trial, 02/08/96, at 362-65.

<sup>38</sup> NT, Trial, 02/07/96, at 256 – 263, 274-82, 290-95, 306-22.

<sup>39</sup> NT, Trial, 02/08/96, at 385-86.

<sup>40</sup> Ex. 10.

30. On August 17, 2007, undersigned counsel sent a letter to the TPD requesting an evidence search for the following items of evidence collected in relation to Greer's robbery and stored under property receipt number AF-1482:

- a. Piece of gray duct tape;
- b. Black ski mask;
  - i. Six slides with hairs and/or fibers mounted from black ski mask;
- c. Green ski mask;
  - i. Six slides with hairs and/or fibers mounted from green ski mask.<sup>41</sup>

31. In early 2008, the TPD informed undersigned counsel that the aforementioned evidenced had been destroyed. The TPD, however, did not produce official documentation identifying when the evidence was destroyed, who authorized its destruction, and under what authority was the destruction authorized.

32. In September 2011, the Innocence Project – on a whim – contacted the TPD once more to inquire whether it had the aforementioned evidence. On September 15, 2011, the TPD informed the Innocence Project it still had the hair slides from the black and green ski masks.

33. Once located, the TPD agreed to send the hair slides to Orchid Cellmark (Cellmark) in Dallas, Texas for DNA testing.<sup>42</sup>

34. On September 22, 2011, Cellmark received the hair slides from the TPD.

a. Cellmark subjected 10 hairs from the *black* ski mask to mitochondrial DNA testing, which, as mentioned, was not available when the State prosecuted Courtney.

i. The mitochondrial DNA results *excluded* Courtney from all 10 hairs lifted from the black ski mask.<sup>43</sup>

ii. More importantly, 9 of the 10 hairs originated *from the same donor*.<sup>44</sup>

b. Cellmark subjected 5 hairs from the *green* ski mask to mitochondrial DNA testing, including the single bleached red hair that was microscopically consistent with one of Courtney's hair samples that the State argued most likely came from Courtney.<sup>45</sup>

i. The mitochondrial DNA results excluded Courtney from all 5 hairs, including the single bleached red hair.<sup>46</sup>

---

<sup>41</sup> *See id.*

<sup>42</sup> Ex. 11.

<sup>43</sup> Ex. 12.

<sup>44</sup> *See id.*

<sup>45</sup> NT, Trial, 02/08/96, at 354.

ii. More importantly, 4 of the 5 hairs originated *from the same donor*.

c. Cellmark issued its official report on February 24, 2012 and undersigned counsel received notice of the report (via email) on February 28, 2012.

35. Courtney's instant petition is based on the exculpatory DNA results from the black and green ski masks.

a. The mitochondrial DNA results from the black ski mask conclusively demonstrate Courtney was not the assailant wearing the black ski mask.

b. The mitochondrial DNA results from the green ski mask also conclusively demonstrate that he was not the donor of the bleached red hair or the assailant wearing the green ski mask.

c. Individually and collectively, the exculpatory mitochondrial DNA results conclusively establish Courtney's innocence (at best) and undermine all confidence in his conviction (at worst). Under either scenario, Courtney is entitled to the immediate relief of having his conviction vacated and a new trial ordered.

### III. Arguments

#### A. Courtney Is Entitled To Post-Conviction Relief Because The Newly-Discovered Exculpatory DNA Evidence Conclusively Establishes His Innocence And Undermines All Confidence In His Conviction

36. Courtney's instant petition is properly filed under the Post-Conviction Procedure Act, *see* 22 Okl. St. § 1080, because (1) his conviction and sentence are in violation of the U.S. Constitution and Oklahoma state law and (2) there are new "material facts" – not previously presented and heard – that requires vacation of his conviction and sentence in the interest of justice.

37. Greer was adamant that Courtney wore the black ski mask,<sup>47</sup> while the prosecutor argued that Courtney may have worn or owned the green ski mask because of the bleached red hair recovered from it that microscopically matched one of Courtney's hair samples.<sup>48</sup>

38. The exculpatory DNA results from the black and green ski masks, however, conclusively prove that Courtney is innocent because he cannot be the individual who wore the black ski mask or the green ski mask.

---

<sup>46</sup> Ex. 12.

<sup>47</sup> NT, Trial, 02/07/96, at 230, 236.

<sup>48</sup> NT, 02/08/96, at 352-53.

39. The exculpatory DNA results also undermine all confidence in Courtney's convictions, meaning his conviction must be vacated and a new trial ordered "in the interest of justice." 22 Okl. St. § 1080(d).

40.

**1. Courtney's Conviction Rests On Greer's Identification And The Hair Evidence Recovered From The Black And Green Ski Masks**

41. The State's case against Courtney rested primarily on Greer's identification. During direct examination, the prosecutor asked Greer, "Ma'am, do you realize that this case *is largely dependent on your identification* of Mr. Courtney today?," to which Greer replied, "Yes."<sup>49</sup>

a. At trial, Greer was "positive" that Courtney was the taller assailant who wore the *black* ski mask.<sup>50</sup>

b. Greer said she recognized Courtney's voice because she used to live in the same apartment complex as him, and her and her boyfriend, Travis Chambers, used to double-date with Courtney and his girlfriend.<sup>51</sup>

c. Greer also said that when the taller assailant lifted the base of his black ski mask up to his eye lids she recognized Courtney's skin tone and the bag under his eyes.<sup>52</sup>

d. During closing arguments, the prosecutor hammered home why Greer's identification was reliable – at one point arguing that it was "impossible" for Greer to have misidentified Courtney.<sup>53</sup> The prosecutor also argued that Greer was "100 percent positive that it was Sedrick Courtney's voice."<sup>54</sup>

42. The State's case also rested significantly on the hair evidence recovered from the black and green ski masks.

a. During closing arguments, the prosecutor acknowledged that the hair evidence was critical to the State case: "The hair in the stocking mask. Now, this is *some key evidence really*."<sup>55</sup>

b. Carol Cox, the State's hair expert, said that Courtney could not be excluded from the black ski mask hairs.

---

<sup>49</sup> NT, Trial, 02/07/96, at 223 (emphasis added).

<sup>50</sup> NT, Trial, 02/07/96, at 218, 225, 228.

<sup>51</sup> NT, Trial, 02/07/96, at 200-01, 203, 218-219.

<sup>52</sup> NT, Trial, 02/07/96, at 231, 240.

<sup>53</sup> NT, Trial, 02/08/96, at 381.

<sup>54</sup> *Id.* at 348, 349.

<sup>55</sup> *Id.* at 351 (emphasis added).

c. Cox, moreover, identified a bleached red hair from the green ski mask that was microscopically similar to a head hair sample voluntarily provided by Courtney.<sup>56</sup>

i. During closing arguments the prosecutor seized on this fact to argue that Courtney either owned the green ski mask or that Courtney's (unidentified) co-assailant may have lived with him before Greer's robbery and that Courtney may have worn the green ski mask sometime before the robbery.<sup>57</sup>

ii. The prosecutor also argued it was unlikely that anyone other than Courtney had the "same unusual red hair[.]"<sup>58</sup>

**2. Voice Identification, Eyewitness Identification, and Hair Identification Are Notoriously Unreliable, Particularly When The Facts In This Case Are Present**

43. The evidence used against Courtney is fraught with reliability issues.

a. To begin with, voice identifications "involve grave danger of prejudice" to defendants. *Biggers v. Tennessee*, 390 U.S. 404, 408 (1968) (Douglas, J., dissenting). This is especially true when the person making the voice identification is physically assaulted, pistol-whipped in the head, repeatedly kicked, threatened with her life, blindfolded with duck tape, and suffers a traumatic brain injury as a result of her assault.

b. Eyewitness identifications are also wrought with reliability issues. To date, 289 prisoners have been exonerated with post-conviction DNA testing. See [www.innocenceproject.org](http://www.innocenceproject.org) (last visited March 1, 2012). Of these 289 exonerations, 70% involved eyewitness *misidentification*. See *id.*

i. The unreliability of a witness's identification increases significantly when the witness is the actual victim, who is physically assaulted, pistol-whipped in the head, repeatedly kicked, threatened with her life, blindfolded with duck tape, and who suffers a traumatic brain injury as a result of her assault.

ii. Greer said she suffered a traumatic brain injury and that she lost "a lot of brain tissue" as a result of being punched, kicked, and pistol-whipped in the head: "I was traumatized to the brain, and I still have a scar. I lost a lot of brain tissue."<sup>59</sup>

iii. Greer also said she nearly bled to death as a result of her injuries.<sup>60</sup>

---

<sup>56</sup> NT, Trial, 02/06/96, at 188-89.

<sup>57</sup> NT, Trial, 02/08/96, at 352-53.

<sup>58</sup> *Id.* at 354.

<sup>59</sup> NT, Trial, 02/07/96, at 217.

iv. Greer also testified that she did not see Courtney's entire face, but only from his chin to his eyes – but not his eye brows: "I couldn't see the eyebrow part[.]"<sup>61</sup>

v. Greer, moreover, said that when the assailants duct taped her eyes, she could see nothing because her eyes had filled with blood.<sup>62</sup>

vi. Greer's brain injuries were so severe she spent three days in the hospital recovering.<sup>63</sup>

vii. Greer also said that the trauma she suffered prevented her from recalling how long she played dead for after the assailants left her apartment: "It was a while. I mean *the trauma that I went through*, I'm just estimating. I don't know exactly how long I was laying there."<sup>64</sup>

c. Hair identification is one of the most unreliable forensic identification techniques, *see* BRANDON GARRETT, CONVICTING THE INNOCENT: WHERE CRIMINAL PROSECUTIONS GO WRONG 98 (2011) (noting that the DNA exoneration cases "provide a large body of examples of just how unreliable hair comparison can be in practice."), and Oklahomans know this all too well because hair *mis*identifications played a role in Timothy Durham's wrongful conviction (from Tulsa),<sup>65</sup> Calvin Lee Scott's wrongful conviction (from Tulsa),<sup>66</sup> Ron Williamson's wrongful conviction (from Ada),<sup>67</sup> Dennis Fritz's wrongful conviction (from Ada),<sup>68</sup> Jeffery Pierce's wrongful conviction (from Oklahoma City),<sup>69</sup> David Johns Bryson's wrongful conviction (from Oklahoma City),<sup>70</sup> Curtis McCarty's wrongful conviction (from Oklahoma City),<sup>71</sup> Robert Miller's wrongful conviction (from Oklahoma City),<sup>72</sup> and Thomas Webb's wrongful conviction (from Oklahoma City).<sup>73</sup>

---

<sup>60</sup> *See id.*

<sup>61</sup> *Id.* at 218.

<sup>62</sup> *See id.* at 222.

<sup>63</sup> *See id.*

<sup>64</sup> *Id.* at 243 (emphasis added).

<sup>65</sup> [http://www.innocenceproject.org/Content/Timothy\\_Durham.php](http://www.innocenceproject.org/Content/Timothy_Durham.php).

<sup>66</sup> [http://www.innocenceproject.org/Content/Calvin\\_Lee\\_Scott.php](http://www.innocenceproject.org/Content/Calvin_Lee_Scott.php).

<sup>67</sup> [http://www.innocenceproject.org/Content/Ron\\_Williamson.php](http://www.innocenceproject.org/Content/Ron_Williamson.php).

<sup>68</sup> [http://www.innocenceproject.org/Content/Dennis\\_Fritz.php](http://www.innocenceproject.org/Content/Dennis_Fritz.php).

<sup>69</sup> [http://www.innocenceproject.org/Content/Jeffrey\\_Pierce.php](http://www.innocenceproject.org/Content/Jeffrey_Pierce.php).

<sup>70</sup> [http://www.innocenceproject.org/Content/David\\_Johns\\_Bryson.php](http://www.innocenceproject.org/Content/David_Johns_Bryson.php).

<sup>71</sup> [http://www.innocenceproject.org/Content/Curtis\\_McCarty.php](http://www.innocenceproject.org/Content/Curtis_McCarty.php).

<sup>72</sup> [http://www.innocenceproject.org/Content/Robert\\_Miller.php](http://www.innocenceproject.org/Content/Robert_Miller.php).

<sup>73</sup> [http://www.innocenceproject.org/Content/Thomas\\_Webb.php](http://www.innocenceproject.org/Content/Thomas_Webb.php).

### 3. Credibility Or Believability Where The Critical Issues Before the Jury

44. When the prosecutor questioned Greer, he revealed the critical issue before the jury: “Do you know what will happen to you if this jury *believes your identification?*,” to which Greer ultimately replied, “I feel like justice will be served.”<sup>74</sup> The critical issue before the jury, therefore, was whether it believed Greer’s identification, *i.e.*, whether it found her identification reliable. How the jury viewed Greer’s identification, furthermore, would have impacted its assessment of Courtney’s alibi defense. If the jury found Greer’s identification reliable (or credible), it undoubtedly would have found Courtney’s alibi defense incredible and, presumably, a fabrication. Moreover, if the jury believed that Courtney fabricated his alibi defense they also, presumably, would have considered him not only a violent thug, but also a remorseless psychopath who forced his family members to lie on his behalf in an attempt to subvert the criminal process. In short, if the jury found Greer’s identification believable (or reliable), such a finding substantially undercut and prejudiced Courtney’s defense at trial.

45. The prosecutor’s assessment of the critical issue is consistent with the U.S. Supreme Court’s assessment. According to the U.S. Supreme Court, the “*only* duty of a jury in cases in which identification evidence has been admitted will often be to assess the reliability of that evidence.” *Watkins v. Sowders*, 449 U.S. 341, 347 (1981) (emphasis in original); *accord Perry v. New Hampshire*, 132 S.Ct. 716, 723 (2012) (holding that “state and federal statutes and rules ordinarily govern the admissibility of evidence, and juries are assigned the task of determining the reliability of the evidence presented at trial.”); *Kansas v. Ventris*, 556 U. S. 586, 594, n. (2009) (“Our legal system... is built on the premise that it is the province of the jury to weigh the credibility of competing witnesses.”).

46. At trial, Courtney’s attorney tried to diligently expose, through cross-examination and argument to the jury, factors that called into question the reliability of Greer’s identifications.<sup>75</sup>

47. Trial counsel, however, did not have “contrary evidence,” *see Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 596 (1993) (observing that “vigorous cross-examination, [and] *presentation of contrary evidence*... are the traditional and appropriate means of attacking shaky but admissible evidence.”) (emphasis added), particularly contrary (and

---

<sup>74</sup> NT, Trial, 02/07/96, at 223 (emphasis added).

<sup>75</sup> NT, Trial, 02/07/96, at 228-253.

exculpatory) DNA evidence from the ski masks, to persuade the jury that Greer's identification "should be discounted as unworthy of credit." *Perry v. New Hampshire*, 132 S.Ct. at 723; *District Attorney's Office v. Osborne*, 129 S.Ct. 2308, 2316 (2009) ("Modern DNA testing can provide powerful new evidence unlike anything known before.").

48. Had the jury been informed that DNA testing on the hairs recovered from both the black and green ski masks not only *excluded* Courtney, but identified two dominant DNA profiles from both ski masks, these new facts would have not only altered the jury's reliability assessment regarding Greer's identifications and the State's hair evidence, they would have also altered the jury's credibility assessment regarding Courtney's alibi defense.

a. Jury instruction #17, for instance, instructed the jury on how it had to approach its task when considering Courtney's alibi defense. According to the instruction, "If after careful consideration of all the evidence in this case the jury *entertains a reasonable doubt*... as to whether the defendant was in or at the place where the crime was alleged to have been committed when such crimes were committed, then that jury should give the benefit to the defendant... and acquit him."<sup>76</sup> Thus, if the jury *entertained* a reasonable doubt, the jury was required by law to acquit Courtney. This is a lower standard of *beyond* a reasonable doubt.<sup>77</sup>

b. Consequently, if Courtney was in fact the perpetrator who wore the black ski mask, the jury could have reasonably expected to find his hair on the inside and outside of the black ski mask. If Courtney could not have contributed the hairs in or on the black ski mask, however, a properly-instructed jury could easily adhere to the following line of reasoning to acquit Courtney:

i. The hairs from the black ski masks came from the assailant who wore the black ski mask when he (and his co-assailant) assaulted and robbed Greer on April 6, 1995.

ii. If DNA testing excluded Courtney as a potential contributor of the hairs in and on the black ski mask, Courtney cannot be the assailant who wore the black ski mask.

iii. If Courtney is not the assailant with the black ski mask, Greer's identification must be incorrect, while Courtney's alibi defense must be truthful.

---

<sup>76</sup> NT, Trial, 02/08/96, at 373 (quoting defense counsel reading jury instruction #17 to the jury) (emphasis added).

<sup>77</sup> As argued *infra*, Courtney would be entitled to relief even if the jury instruction incorporated the standard – "*beyond* a reasonable doubt" – language.

iv. If Greer's identification is wrong, and Courtney's alibi is truthful, Courtney must be innocent.

v. Based on these findings, a properly-instructed jury may reasonably enter a judgment of acquittal in Courtney's favor believing 100% in his innocence.

vi. This same reasoning applies to the green ski mask as well. If DNA testing excludes Courtney as a contributor of the hairs lifted from in and on the green ski mask, including the bleached red hair, this means he cannot be the assailant who wore the green mask.

c. A properly-instructed jury could also rely on a slightly different line of reasoning to reach a similar and reasonable conclusion.

i. Greer's identification has reliability issues, *e.g.*, she was physically assaulted, pistol-whipped in the head, repeatedly kicked, threatened with her life, blindfolded with duck tape, and suffered a traumatic brain injury. In the absence of exculpatory DNA evidence, however, these issues are inadequate to warrant an acquittal on Courtney's behalf.

ii. In light of the exculpatory DNA evidence from the black and green ski masks, however, the aforementioned reliability concerns obtain new meaning and significance, increasing the jury's belief that Greer's identification is unreliable, that Courtney's alibi defense is truthful, and that Courtney should be acquitted.

iii. Thus, because the State's case rests entirely on Greer's identification and the hair evidence, the doubt generated by the exculpatory DNA evidence and the reliability issues regarding Greer's identification is adequate to warrant a judgment of acquittal, even if the jury is not 100% certain Courtney is innocent.

d. Consequently, there is a reasonable probability that had the newly-discovered exculpatory DNA evidence been presented to Courtney's jury, the outcome of his trial would have been different, *i.e.*, the jury would have acquitted him. In other words, the new exculpatory DNA evidence puts the State's case "in such a different light as to undermine confidence in the verdict." *Kyles v. Whitley*, 514 U.S. 419, 435 (1995).

e. Courtney, therefore, is entitled to have his conviction vacated and a new trial ordered in the interest of justice.

**4. Courtney Diligently Pursued DNA Testing And For More Than a Decade The Tulsa Police Department Told Courtney And His Attorneys That The Physical Evidence Had Been Destroyed**

49. Courtney diligently pursued DNA testing and developed the new facts that form the foundation of his instant petition and constitutional claims.

50. The delay in DNA testing can be directly attributed to the TPD.

a. In October 2000, Tulsa Police Officer R.M. Kurowski informed Courtney's prior counsel with the Oklahoma Indigent Defense System that the TPD destroyed the hair samples.<sup>78</sup>

b. On April 23, 2001, Courtney contacted the Innocence Project requesting assistance in obtaining DNA testing to prove his innocence. After obtaining documents and transcripts and reviewing Courtney's case, the Innocence Project officially accepted Courtney's case on February 5, 2007.<sup>79</sup>

c. On August 17, 2007, undersigned counsel sent a letter to the TPD requesting the TPD to conduct an evidence search for the following items of evidence collected in relation to Greer's robbery and stored under property receipt number AF-1482.<sup>80</sup>

d. In early 2008, the TPD informed undersigned counsel that the aforementioned evidenced had been destroyed.

e. In September 2011, when undersigned counsel was in the midst of closing Courtney's case, he had his law student, Erik Wilson, contact the TPD one final time to see if it had located any of the sought-after physical evidence.

51. When the TPD informed undersigned counsel and Wilson that it had located the hair evidence, the TPD quickly agreed to send the hair evidence to Cellmark in Dallas, Texas. A September 16, 2011 memo to Sergeant Kim Presley memorializes Courtney's quick efforts to have the hair evidence sent to Cellmark.<sup>81</sup>

---

<sup>78</sup> Ex. 10.

<sup>79</sup> The Innocence Project has a significant backlog of cases to review so it takes several years before it can determine whether it will officially accept a prisoner's case. Courts in other jurisdictions have recognized this reality when determining whether a prisoner diligently sought post-conviction DNA testing. *See Powers v. State*, 343 S.W.3d 36, 59 (Tenn. 2011) ("[T]he petitioner is represented by the Innocence Project, an organization which receives over 3,000 applications seeking assistance each year, and 'at any given time' is evaluating between 6,000 and 8,000 potential cases. Based on the number of applications received by the Innocence Project, there may be a substantial delay between a petitioner's request for assistance and a decision by the Innocence Project as to whether the case should be accepted. In light of the demands placed upon the entity representing the petitioner, we find that the petitioner's delay in filing his petition for DNA analysis is justified.").

<sup>80</sup> Ex. 10.

<sup>81</sup> Ex. 11.

52. Cellmark, as mentioned, performed mitochondrial DNA testing, which was not available when the State prosecuted Courtney. Mitochondrial DNA testing did not become widely used and generally accepted until the late 1990s. *See* NAT'L INST. JUST., THE FUTURE OF FORENSIC DNA TESTING: PREDICTIONS OF THE RESEARCH AND DEVELOPMENT WORKING GROUP 18 (2000).

53. Courtney, as a result, diligently developed the facts that give rise to his instant post-conviction petition, writ of habeas corpus, and state and federal constitutional claims.

**B. Courtney's Federal Constitutional Claims**

**1. The New Exculpatory, Non-Match DNA Results Demonstrate that Courtney's Conviction Is Premised On Unreliable Identification Evidence In Violation of His Due Process Rights. U.S. Const. Amends. VI, XIV**

54. The facts pled in all previous paragraphs are incorporated herein as if fully pled.

55. The exculpatory DNA results render Courtney's trial fundamentally unfair under the Sixth and Fourteenth Amendments. In the absence of exculpatory DNA results, Courtney did not have a meaningful opportunity to present a complete defense. *See* U.S. Const. Amends. VI, XIV.

56. Whether "rooted directly in the Due Process Clause of the Fourteenth Amendment or in the Compulsory Process or Confrontation Clauses of the Sixth Amendment, the Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense.'" *Holmes v. South Carolina*, 547 U.S. 319, 324 (2006) (quoting *Crane v. Kentucky*, 476 U.S. 683, 690 (1986)) (emphasis added). Courtney, consequently, had a constitutional right to present a complete defense against Greer's identifications.

57. As the U.S. Supreme Court recently acknowledged, "The Constitution... protects a defendant against a conviction based on evidence of questionable reliability, not by prohibiting introduction of the evidence, but by affording the defendant *means to persuade the jury* that the evidence should be discounted as unworthy of credit." *Perry v. New Hampshire*, 132 S.Ct. at 723 (emphasis added). For instance, under the Sixth Amendment, defendants are afforded the right to counsel, *see Gideon v. Wainwright*, 372 U. S. 335, 343-345 (1963), the right to compulsory process, *see Taylor v. Illinois*, 484 U. S. 400, 408-409 (1988), and the right to confront and cross-examine witnesses. *See Bullcoming v. New Mexico*, 131 S.Ct. 2705, 2713-14 (2011); *Delaware v. Fensterer*, 474 U. S. 15, 18-20 (1985). In regards to "shaky" testimony, like

eyewitness testimony, the Supreme Court in *Daubert* emphasized that “[v]igorous cross-examination, *presentation of contrary evidence*, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but admissible evidence.” *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. at 596 (emphasis added); *accord Rock v. Arkansas*, 483 U.S. 44, 61 (1987). “Apart from these guarantees,” however, “state and federal statutes and rules ordinarily govern the admissibility of evidence, and *juries are assigned the task of determining the reliability of the evidence presented at trial.*” *Perry v. New Hampshire*, 132 S.Ct. at 723.

58. Courtney exercised all three Sixth Amendment rights at his trial, particularly his rights to counsel and confrontation. Indeed, trial counsel cross-examined Greer in an attempt to expose certain factors that presumably impacted her memory and perception in such a way to prevent her from accurately identifying Courtney as her assailant.<sup>82</sup>

59. That Courtney was able to freely exercise his Sixth Amendment rights to counsel and confrontation, however, does not mean he had an opportunity to present a “complete defense” or that his trial was fundamentally fair. Rather, the critical issue is whether Courtney had the requisite contrary evidence and technology to persuade the jury, through either argument or cross-examination, that Greer’s identification should be “discounted as unworthy of credit.” *Perry v. New Hampshire*, 132 S.Ct. at 723.

60. Courtney did not because he did not have access to the requisite contrary evidence, namely, the exculpatory DNA results from the ski mask hairs. Had Courtney had access to this contrary evidence and technology, trial counsel’s cross-examination of Greer, as well as his closing arguments to the jury, would have most certainly persuaded the jury to discount her identification as untrustworthy, which in turn would have resulted in Courtney’s acquittal. Thus, had Courtney had access to this contrary evidence and technology, there is a reasonable probability of a different outcome. In other words, in the absence of this contrary evidence, Courtney’s conviction is worthy of no confidence because the new DNA results put the State’s case in an entirely different light.

61. Courtney’s case, in many ways, is analogous to the U.S. Supreme Court’s *Brady* cases. In a typical *Brady*-type case, the State withholds (either purposefully or inadvertently) material evidence (either exculpatory or impeachment) that prejudices the defendant in one or

---

<sup>82</sup> NT, Trial, 02/07/96, at 228-253.

several ways rendering his verdict worthy of no confidence. *See Smith v. Cain*, 132 S.Ct. 627, 629 (2012) (“A reasonable probability does not mean that the defendant ‘would more likely than not have received a different verdict with the evidence, only that the likelihood of a different result is great enough to ‘undermine[] confidence in the outcome of the trial.’”) (quoting *Kyles v. Whitley*, 514 U. S. at 434). The primary prejudice in *Brady* cases stem from the defendant’s inability to present a “complete” defense. In other words, although the defendant had effective trial counsel who compelled witnesses to testify on his behalf and cross-examined the State’s witnesses, in the absence of the undisclosed evidence, the defendant’s right to confrontation, cross-examination, and compulsory process was not “complete.”

62. A prime example is from the U.S. Supreme Court’s most recent *Brady* case in *Smith v. Cain*, 132 S.Ct. 627 (2012). In *Smith*, Louisiana charged Smith with killing five people during an armed robbery. At Smith’s trial, a single witness, Larry Boatner, linked Smith to the crime. Boatner testified that “he was socializing at a friend’s house when Smith and two other gunmen entered the home, demanded money and drugs, and shortly thereafter began shooting, resulting in the death of five of Boatner’s friends.” *Id.* at 629. At Smith’s trial, Boatner identified Smith as the first gunman to come through the door. He claimed that he had been face to face with Smith during the initial moments of the robbery. No other witnesses and no physical evidence implicated Smith in the crime. *See id.* at 630 (“Boatner’s testimony was the *only* evidence linking Smith to the crime.”) (emphasis in original).

63. When Smith sought post-conviction relief, he obtained police files that were not disclosed prior to trial, including those of lead investigator John Ronquillo. Ronquillo’s notes “contain[ed] statements by Boatner that conflict[ed] with his testimony identifying Smith as a perpetrator.” *Id.* at 629. The “notes from the night of the murder state[d] that Boatner ‘could not... supply a description of the perpetrators other than [sic] they were black males.’” *Id.* Ronquillo also made a handwritten account of a conversation he had with Boatner five days after the crime, in which Boatner said he “could not ID anyone because [he] couldn’t see faces’ and ‘would not know them if [he] saw them.’” *Id.* And Ronquillo’s typewritten report of that conversation states that Boatner told Ronquillo he “could not identify any of the perpetrators of the murder.” *Id.*

64. Although Smith exercised his Sixth Amendment right to counsel, and his trial counsel confronted and cross-examined Boatner and Detective Ronquillo at trial, the Supreme Court

nonetheless vacated his conviction, finding that the undisclosed reports undermined all confidence in Smith's conviction. *See id.* at 631. The lack of confidence in Smith's conviction, more importantly, is directly related to Smith's inability to present a "complete" defense at trial. Indeed, had trial counsel had access to Ronquillo's reports, his cross-examination of Boatner and Ronquillo would have significantly undermined their credibility and the State's case, making it reasonably probable the jury would have acquitted Smith had it been privy to the undisclosed "contrary evidence." *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. at 596. Similarly, the undisclosed reports may have led to additional witnesses that trial counsel could have compelled to testify under the Compulsory Process Clause – that would have undermined the State's case even more. In other words, having access to the undisclosed, "contrary evidence" would have enabled Smith's trial counsel to present a "complete" defense as envisioned by the Sixth and Fourteenth Amendments.

65. In the end, the U.S. Supreme Court articulated its rule in *Brady* not to deter prosecutorial misconduct, *cf. Stone v. Powell*, 428 U.S. 465, 484 (1976) (recognizing that the Fourth Amendment's exclusionary rule is specifically aimed at deterring police misconduct, and not at enhancing the truth-seeking function of the trial),<sup>83</sup> but to ensure that a miscarriage of justice does not occur. *See United States v. Bagley*, 473 U.S. 667, 675 (1985); *California v. Trombetta*, 467 U.S. 479, 485 (1984). From the Supreme Court's perspective, the best way to guarantee fair and accurate convictions is to make certain that criminal defendants have a meaningful opportunity to present a "complete defense" and the only way to present a "complete" defense is to have full disclosure and access to all *material* facts and contrary evidence:

The need to develop all relevant facts in the adversary system is both fundamental and comprehensive. *The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts.* The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts[.]

*United States v. Nixon*, 418 U.S. 683, 709 (1974) (emphasis added); *accord United States v. Nobles*, 422 U.S. 225, 230 (1975).

---

<sup>83</sup> The U.S. Supreme Court makes no distinction between bad faith and accidental discovery violations. *See Brady v. Maryland*, 373 U.S. 83, 87 (1963). This reinforces the notion that the principle harm in *Brady* cases is not the malevolent or dishonest attitude of the State or law enforcement, but rather a defendant's inability to have a meaningful opportunity to present a complete defense.

66. In Courtney's case, we have an analogous situation. In *Smith*, the petitioner obtained newly-discovered evidence in post-conviction proceedings that the prosecution withheld prior to trial. Here, Courtney obtained newly-discovered evidence in post-conviction proceedings that was withheld from him, not because of prosecutorial wrongdoing, but because science did not advance quickly enough. The type of DNA testing used to reveal the DNA profile on the ski mask hairs, mitochondrial DNA testing, was not available at the time of Courtney's trial in 1996 and only became generally accepted and routinely used in the scientific community in the late 1990s.

67. Like the undisclosed, contrary evidence in *Smith* and other *Brady* cases, the new contrary and exculpatory DNA evidence demonstrates that Courtney did not have a meaningful opportunity to present a "complete defense" and that his conviction is worthy of no confidence because, at this point, it is based on a "partial... presentation of the facts." *United States v. Nixon*, 418 U.S. at 709, and the new DNA results put the State's case in an entirely different light.

68. Again, the U.S. Supreme Court's comment in *Daubert*, that the "appropriate" way to attack "shaky but admissible evidence" is to present "contrary evidence," 509 U.S. at 596, cannot be overemphasized. Here, the contrary (scientific) evidence needed to present a complete defense was not available until well after Courtney's conviction. The new contrary (scientific) evidence, however, will finally allow Courtney to present a "complete" defense and meaningfully argue to a jury that Greer's identification is worthy of no credit and that there is sufficient doubt to enter a judgment of acquittal in Courtney's favor.

69. Likewise, had Courtney's trial attorney had access to the exculpatory DNA results prior to trial, he could have moved to exclude Greer's identification at a pre-trial reliability hearing, arguing that the DNA results demonstrate that her identification is unreliable and inadmissible under the Due Process Clause. See *Neil v. Biggers*, 409 U.S. 188, 198 (1972) ("It is the likelihood of a misidentification which violates a defendant's right to due process... ."); *Manson v. Brathwaite*, 432 U.S. 98 (1977); *Simmons v. United States*, 390 U. S. 377 (1968). Had Greer's identification been excluded, the State had no case because its entire case was dependent on her identification.<sup>84</sup>

---

<sup>84</sup> NT, Trial, 02/07/96, at 223.

70. Courtney, therefore, is entitled to a new trial so he may present a “complete” defense and a jury of his peers can accurately assess – in light of the new contrary (scientific) evidence – the credibility and reliability of Greer’s identification. *See Kansas v. Ventris*, 556 U. S. at 594, n. (“Our legal system... is built on the premise that it is the province of the jury to weigh the credibility of competing witnesses.”). As the U.S. Supreme Court stated a half-century ago: “The jury’s estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence[.]” *Napue v. Illinois*, 360 U.S. 264, 269 (1959). Here, there is no doubt that the new DNA results substantially undermine the reliability of Greer’s testimony and identification.

71. Courtney is entitled to relief.

**2. The New Exculpatory DNA Results Demonstrate that Courtney’s Conviction Is Premised On Unreliable Identification Evidence In Violation of His Due Process Rights. U.S. Const. Amends. VI, XIV**

72. The facts pled in all previous paragraphs are incorporated herein as if fully pled.

73. The exculpatory DNA results demonstrate that Greer’s identification is unreliable and inadmissible under the Due Process Clause. *See Neil v. Biggers*, 409 U.S. 188, 198 (1972) (“It is the likelihood of a misidentification which violates a defendant’s right to due process... .”); *Simmons v. United States*, 390 U. S. 377 (1968).

74. The introduction of their unreliable identifications rendered Courtney’s entire trial fundamentally unfair. *See Manson v. Brathwaite*, 432 U.S. 98 (1977); *Dowling v. United States*, 493 U.S. 342, 352 (1990).

75. Courtney is entitled to relief.

**3. The New Exculpatory, Non-Match DNA Results Demonstrate That The State of Oklahoma Convicted And Innocent Person And His Continued Custody and Liberty Restraints Violate His Due Process and Eighth Amendment Rights. U.S. Const. Amends. VI, VIII, XIV**

76. The newly-discovered DNA results establish that Courtney is actually innocent and that his continued custody and liberty restraints violate his due process rights and right to be free of cruel and unusual punishment. *See U.S. Cont. Amends. VI, XIII, XIV; Schulp v. Delo*, 513 U.S. 298 (1995); *House v. Bell*, 547 U.S. 518, 538 (2006).

77. Courtney is on parole and has been since 2010. As a parolee he is still in the custody of the Oklahoma Department of Corrections and his liberty is restrained as a result of being a parolee.

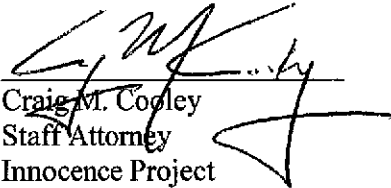
78. Courtney is entitled to relief.

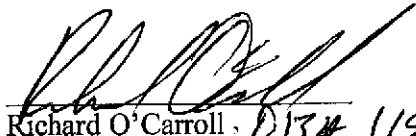
**III. Request and Prayer For Relief**

79. WHEREFORE Courtney respectfully requests the Court to grant the following relief:

- a. A timely hearing on his petition;
- b. If the State intends to file a written response to Courtney's petition, an order compelling the State to file its response (or answer) as soon as possible so the parties can present their issues and arguments to the Court;
- c. An order vacating Courtney's conviction;
- d. An order compelling the State to timely retry Courtney in accordance with state law – assuming it chooses to retry Courtney; and
- e. Any other order the Court feels is necessary in the interests of justice to protect Courtney's state and federal constitutional rights.

Respectfully submitted this the 6<sup>th</sup> day of March, 2012

  
Craig M. Cooley  
Staff Attorney  
Innocence Project  
40 Worth Street, Suite 701  
New York, New York 10013  
212-364-5361  
[ccooley@innocenceproject.org](mailto:ccooley@innocenceproject.org)

  
Richard O'Carroll, *013# 11947*  
O'Carroll & O'Carroll  
2171 North Vancouver Avenue  
Tulsa, Oklahoma 74127-2218  
Oklahoma Bar # 11947  
918-584-4192  
[troc@cox.net](mailto:troc@cox.net)

Date: March 6, 2012

## VERIFICATION

I, Richard O'Carroll, do hereby swear and attest that the Petitioner has read the foregoing application and assignment(s) of error and he advised me and I hereby state under oath that there are no other grounds upon which he wishes to attack the judgment and sentence under which he am presently convicted. He has further been advised that he cannot later raise or assert any reason or ground known to him at this time or which could have been discovered by him by the exercise of reasonable diligence. He has further been advised that he is aware he is not entitled to file a second or subsequent application for post-conviction relief based upon facts within his knowledge or which he could discover with reasonable diligence at this time.



Richard O'Carroll, Attorney for Petitioner

My Commission Expires: 8-11-14

Aharon Dillon  
02012341

**CERTIFICATE OF SERVICE**

A true and correct file-stamped copy of the foregoing document was delivered to  
Tim Harris, District Attorney, 500 S. Denver, 9<sup>th</sup> Floor, Tulsa, OK 74103 on March <sup>12</sup>~~7~~, 2012.



Richard O'Carroll

# EXHIBIT 1



STATE OF OKLAHOMA,

Plaintiff,

vs. Cedric R. Courtney

Case No. \_\_\_\_\_

Defendant(s).

AFFIDAVIT

STATE OF OKLAHOMA )  
COUNTY OF TULSA ) ss.

The undersigned, of lawful age, being first duly sworn, upon oath deposes and states as follows:

- 1. He is a detective with the Tulsa Police Department assigned to the Robbery Detail.
- 2. He has read certain official investigative reports and statements of witnesses regarding the above named Defendant(s) and, from these statements and reports it appears as follows:

Shemita Greer stated that on 4-6-95, at the location of 4019 South 130th East Avenue, Apartment 1715, which is located in the City and County of Tulsa, Oklahoma, Cedric R. Courtney and an unknown black male forced their way into her apartment. Ms. Greer stated that Courtney kicked her locked front door open as she sat on her sofa. Ms. Greer stated that Courtney held onto the frame of the door as he kicked it open. Courtney and the unknown suspect entered the apartment and pointed a pistol at Ms. Greer's head and yelled, "Where's the loot, bitch? Is Travis here? We'll shoot him, too."

Ms. Greer stated that she was afraid that the suspects would kill her and her four-month-old niece. Ms. Greer stated that the baby was crying, and she begged the suspects not to hurt the baby.

The suspects knocked Ms. Greer to the floor, and Courtney went to the bedroom while the unknown suspect held her down on the floor by her hair. The unknown suspect began to hit Ms. Greer in the face with his fist and stated, "Bitch, if you don't get me some money, I'm going to blow your fucking head off."

Courtney came back into the living room and had Ms. Greer's purse. When she looked up, Courtney said, "Look down, don't look up. If you do, we're going to kill you." Courtney began pouring the contents of Greer's purse out, and she could feel the contents hitting her on the head.

Ms. Greer stated the unknown suspect pulled out some wide silver tape, grabbed her by the hair, and gave the gun to Courtney. The mask on Courtney apparently was getting hot because he flipped it up to where he was exposing parts of his face to where she could see the skin color, and it was the same complexion of Courtney, whom she has known for about three years.

(over)

WHEREFORE, affiant prays this Honorable Court to issue a warrant for the arrest of the within named Defendant(s), that he/she/they may be brought before a magistrate and held to answer for the offense(s) of Armed Robbery

Det. A. R. McDonald  
AFFIANT Det. A. R. McDonald

Subscribed and sworn to before me this 4th day of May 1995

My commission expires 11-09-96  
Marcene J. Sewell  
Notary Public

FINDING OF PROBABLE CAUSE

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the above styled and numbered cause came on for hearing before me, the undersigned Judge of the District Court of Tulsa County, Oklahoma, upon the Affidavit of Det. A. R. McDonald requesting that a warrant of arrest be issued for the within named Defendant(s), that he/she/they might be arrested and held to answer for the offense(s) of Armed Robbery

Based upon said Affidavit I am satisfied and do hereby find that the offense(s) of Armed Robbery

has/have been committed and that there is probable cause to believe the within named Defendant(s) has/have committed said offense(s) and that a warrant of arrest should issue.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The unknown suspect began to tape her head on down to her nose. Ms. Greer was then hit in the head with the gun and began to bleed profusely from the head. Ms. Greer could feel her blood flow down her face as her body went limp. Ms. Greer stated that she played dead so that the suspects would not beat her anymore. Ms. Greer stated she held her breath to make Courtney and the other suspect think she was dead.

The baby had stopped crying, so she thought they had taped the baby's mouth.

Ms. Greer could not move because she could still hear movement in her apartment. Then she felt a hand on her neck, and the voice that she recognized as Cedric Courtney said, "You killed the bitch. Fuck the bitch." The victim then felt a hard kick to the back of her head. Ms. Greer laid on the floor for about three minutes until she felt a cool breeze over her face. She removed the tape from her face and saw her door standing open, and found the baby on the sofa. She then called 911.

The suspects had taken \$397.00 from Ms. Greer's purse and tires and rims that were in her kitchen that belonged to her boyfriend. Ms. Greer stated that she and her boyfriend used to go out and eat together with Courtney and his girlfriend, and Ms. Greer stated that Courtney had been to her apartment within the last week to visit her boyfriend, Travis Chambers, and he had seen the wheels in the kitchen of her apartment.

Ms. Greer stated that the man that kicked her door in was the same build as Courtney, and the voice she heard on 4-6-95, was Cedric Courtney.

Ms. Greer was transported to St. Francis Emergency Room by EMSA for medical treatment, and the attending physician was Dr. Workman.



# EXHIBIT 2



T U L S A P O L I C E D E P A R T M E N T

S U P P L E M E N T A R Y O F F E N S E R E P O R T

VICTIM: GREER SHEMITA RENEE File No. 624133

ADDRESS: 4019 SO. 130TH E. AVE. APT. 1715

PHONE: 664-7421

CRIME TYPE: ARMED ROBBERY

LOCATION: 4019 SO. 130TH E. AVE. APT. 1715

DATE: 04/06/95

SUSPECT: CEDRIC R. COURTNEY B/M DOB 01/14/72 TPD 140757

SYNOPSIS: THE VICTIM SHEMITA GREER STATES THAT ON 04/06/95 AT THE LOCATION OF 4019 SO. 130TH E. AVE. APT. 1715 WHICH IS LOCATED IN THE CITY AND COUNTY OF TULSA OKLAHOMA, CEDRIC COURTNEY, AND A UNKNOWN BLACK MALE FORCED THEIR WAS INTO HER APARTMENT.

MS. GREER STATES THAT COURTNEY KICKED HER LOCKED FRONT DOOR OPEN AS SHE SAT ON HER SOFA. GREER STATES THAT COURTNEY HELD ONTO THE FRAME OF THE DOOR AS HE KICKED IT OPEN. COURTNEY AND THE UNKNOWN SUSPECT ENTERED THE APARTMENT AND POINTED A PISTOL AT MS. GREERS HEAD AND YELLED " WHERE'S THE LOOT BITCH? IS TRAVIS HERE ? WE'LL SHOOT HIM TO ". MS. GREER STATES THAT SHE WAS AFRAID THAT THE SUSPECT'S WOULD KILL HER AND HER FOUR MONTH OLD NIECE. MS. GREER STATES THAT THE BABY WAS CRYING, GREER BEGGED THE SUSPECT'S NOT TO HURT THE BABY. THE SUSPECT'S KNOCKED THE VICTIM TO THE FLOOR, COURTNEY WENT TO THE BEDROOM WHILE THE UNKNOWN SUSPECT HELD HER DOWN ON THE FLOOR BY HER HAIR.

THE UNKNOWN SUSPECT BEGAN TO HIT THE VICTIM IN THE FACE WITH HIS FIST, AND STATED "BITCH IF YOU DON'T GET ME SOME MONEY I'M GOING TO BLOW YOUR FUCKING HEAD OFF". COURTNEY CAME BACK INTO THE LIVING ROOM AND HE HAD GREERS PURSE, AND WHEN SHE LOOKED UP THE SUSPECT COURTNEY SAID "LOOK DOWN DON'T LOOK UP IF YOU DO WERE GOING TO KILL YOU". COURTNEY BEGAN POURING THE CONTENTS OF GREERS PURSE OUT, AND SHE COULD FEEL THE CONTENTS HITTING HER ON THE HEAD.

THE VICTIM STATES THAT THE UNKNOWN SUSPECT PULLED OUT SOME WIDE SILVER TAPE, AND GRABBED HER BY THE HAIR, AND GAVE THE GUN TO COURTNEY. THE MASK ON COURTNEY APPARENTLY WAS GETTING HOT BECAUSE HE FLIPPED IT UP TO WHERE HE WAS EXPOSING PARTS OF HIS FACE TO WHERE SHE COULD SEE THE SKIN COLOR, AND IT WAS THE SAME COMPLEXION OF COURTNEY WHOM SHE HAS KNOWN FOR ABOUT THREE YEARS.

THE UNKNOWN SUSPECT BEGAN TO TAPE HER HEAD, ON DOWN TO HER NOSE. MS. GREER WAS THEN HIT IN THE HEAD WITH THE GUN AND BEGAN TO BLEED PROFUSELY FROM THE HEAD. MS. GREER COULD FEEL HER BLOOD FLOW DOWN HER FACE, AS HER BODY WENT LIMP. MS. GREER STATES THAT SHE PLAYED DEAD SO THAT THE SUSPECT'S WOULD NOT BEAT HER ANYMORE.

MS. GREER STATES THAT SHE HELD HER BREATH TO MAKE COURTNEY AND THE OTHER SUSPECT THINK SHE WAS DEAD. THE BABY HAD STOPPED CRYING, SO SHE THOUGHT THEY HAD TAPED THE BABIES MOUTH. MS. GREER COULD NOT MOVE BECAUSE SHE COULD STILL HEAR MOVEMENT IN HER APARTMENT, (THEN SHE FELT A HAND ON HER NECK) AND THE VOICE THAT SHE RECOGNIZED AS CEDRIC COURTNEY SAY "YOU KILLED THE BITCH, FUCK THE BITCH". THE VICTIM THEN FELT A HARD KICK TO THE BACK OF HER HEAD. MS. GREER LAID ON THE FLOOR FOR ABOUT THREE MINUTES UNTIL SHE FELT A COOL BREEZE OVER HER FACE.

MS. GREER REMOVED THE TAPE FROM HER FACE AND SAW HER DOOR STANDING OPEN, AND FOUND THE BABY ON THE SOFA. MS. GREER CALLED 911.

THE SUSPECT'S HAD TAKEN \$397.00 FROM MS. GREERS PURSE, AND TIRES AND RIMS THAT WERE IN HER KITCHEN THAT BELONGS TO HER BOYFRIEND. MS. GREER STATES THAT SHE AND HER BOYFRIEND USE TO GO OUT AND EAT TOGETHER WITH COURTNEY AND HIS GIRLFRIEND, AND MS. GREER STATES THAT COURTNEY HAD BEEN TO HER APARTMENT WITHIN THE LAST WEEK TO VISIT HER BOYFRIEND TRAVIS CHAMBERS AND HE HAD SEEN THE WHEELS IN THE KITCHEN OF HER APARTMENT. MS. GREER STATES THAT THE MAN THAT KICKED HER DOOR IN WAS THE SAME BUILD AS COURTNEY, AND THE VOICE SHE HEARD ON 04/06/95 WAS CEDRIC COURTNEY.

MS. GREER WAS TRANSPORTED TO ST. FRANCIS EMERGENCY ROOM BY E.M.S.A. FOR MEDICAL TREATMENT, AND THE ATTENDING PHYSICIAN WAS DR. WORKMAN.

THE SUSPECT'S DROPPED A VCR CAMERA JUST OUTSIDE OF VICTIMS APARTMENT DOOR.

A BLACK SKI-MASK WAS RECOVERED JUST EAST OF THE APARTMENT. THE APARTMENT WAS PROCESSED BY DETECTIVE D.A. NOORDYKE.

OFFICER REESE RECOVERED A GREEN SKI-MASK, AND THE 4 WHEELS AND TIRES AT 4109 S. 130TH E. AVE BUILDING 21 THE TWO SKI-MASKS ALONG WITH THE DUCT TAPE WERE TURNED TO THE PROPERTY BY DETECTIVE NOORDYKE.

REPORTING OFFICER: DET. MPO. A.R. McDONALD

# EXHIBIT 3



City of Tulsa  
TULSA POLICE DEPARTMENT

Scientific Investigation Unit  
SUPPLEMENTARY OFFENSE REPORT

FILE NO:

VICTIM: Greer, Shemita R.  
DESCRIPTION: N/F, 010572  
TPD/PID: unk  
ADDRESS: 4019 S. 130th E.AV. #1715  
PHONE: unk.

CRIME TYPE: Residential Armed Robbery  
LOCATION: 4019 S. 130th E.AV. #1715  
DATE: 040895  
TRACIS BY: Off. C. Ryan, U.O.E.

REPORT BY: Det. D.A. Noordyke  
DATE: 040895  
TIMES: 1306/1322/1425hrs

PHOTO FILE: 77778  
PROPERTY REC: AF-1482  
LATENT FILE: 040895 N-3978\*

Details:

On 040895, reporting officer was radio assigned to assist with the investigation into a residential armed robbery. Upon my arrival I met with Cpl. R. Campbell and Off. C. Ryan. They requested that I photograph the scene and attempt to process for any latents, they also requested that I go across the street and process some tires and rims that were taken from the apartment and left behind by the suspects across the street.

Processing:

Photos: Photo file #77778

Photos taken will show the front of the apartment in question 4019 S. 130th E.AV. #1715, with specific photos of the front door and the damage to the casing and door trim. Photos taken outside of the apartment will also show a camcorder and some bloody duct tape on the front porch and photos of a black stocking cap on the sidewalk to the east of the apartment.

Inside of the apartment photos taken will show 360 degree views of the livingroom, eating area and the bedroom. Specific photos will show a bloody area at the south end of the couch, overturned furniture and the victim's purse and contents scattered about on the floor. Additional specific photos will show an open stereo cabinet, a hammer on the hall floor and the ransacked

624133

dresser drawers in the bedroom. Photos will also show in the dining area where a set of 4 tire and rims were.

Additional photos were taken in the apartment complex to the south and across E. 41st St. Photos will show the outside of apartment building with an address of 4109 S. 130th E.AV. The photos will show the tire and rims in question on the ground floor patio with specific photos of a green stocking cap on top of one of the tires.

Latents: #040695 N-3978\*1

Front door areas	no
Camcorder by front door	no
Stereo cabinet (lift 1)	yes —
Phone in living room	no
Ashtray	no
Bedroom dressers	no
Other misc. areas in the apartment	no
Four tire rims	no

Evidence: Property Receipt #AF-1482

- Item #1. Piece of gray duct tape, recovered from the front porch of apt. #1715.
- #2. Black stocking cap, recovered from the sidewalk outside of apt. to the east.
- #3. Green stocking cap, recovered on top of the tires recovered at 4109 S. 130th E.AV.  
Note: Tires & rims returned to victim per Cpl. R. Campbell.

End of supplement...

Det. D.A.NOORDYKE SIU-2, N-3978

C.S. 1178.7



# EXHIBIT 4

**TULSA POLICE DEPARTMENT**

STANDARDIZED REPORTING FORMAT TUL- 4701

SHEET 1 OF 1

**SEARCH WAIVER**

Ⓟ

COUNTY JAIL  
LOCATION

500 W 5<sup>TH</sup>  
DESCRIPTION OF PREMISES

**WAIVER**

I HAVE BEEN INFORMED OF MY CONSTITUTIONAL RIGHT NOT TO HAVE A SEARCH MADE OF THE PREMISES MENTIONED WITHOUT A SEARCH WARRANT BEING ISSUED AND OF MY RIGHT TO REFUSE TO CONSENT TO SUCH A SEARCH, HEREBY AUTHORIZE DET. ALVIN R. McDONALD, AND \_\_\_\_\_, POLICE OFFICERS FOR THE CITY OF TULSA, STATE OF OKLAHOMA, TO CONDUCT A SEARCH OF PROPERTY IN MY POSSESSION OR IN MY CONTROL AND DESCRIBED ABOVE.

THESE OFFICERS ARE AUTHORIZED BY ME TO TAKE FROM SAID PROPERTY ANY ARTICLE(S) THEY DEEM TO BE POSSIBLE EVIDENCE FOR THEIR CRIMINAL INVESTIGATION.

THIS WRITTEN PERMISSION IS BEING GIVEN BY ME TO THE ABOVE NAMED OFFICERS VOLUNTARILY AND WITHOUT THREATS OR PROMISES OF ANY KIND.

Sodick Greenway  
SIGNATURE

IN THE PRESENCE OF:

DET. A. R. McDONALD  
LAB TECH CAROL COX

6-12-95  
DATE

9:45  
TIME

**SEIZURE**

DESCRIPTION OF PROPERTY SEIZED: HEAD HAIRS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMPLAINT NUMBER  
624133

OFFICER

DIV

ID NUMBER

PROPERTY RECEIPT NUMBER



# EXHIBIT 5

CB

TULSA POLICE DEPARTMENT

Forensic Laboratory  
600 Civic Center  
Tulsa, Oklahoma 74103  
(918) 596-9119

PRELIMINARY LABORATORY REPORT

LAB NO.:	624-133	CLASSIF.:	Armed Robbery
OFF. DATE:	04-06-95	VICTIM:	Greer, Shemita Renee
OFF. NO.:	624-133	SUSPECT:	Courtney, Cedric
SUBMITTED BY:	Det. A.R. McDonald	PR#:	AF-1482
DATE OF RQST:	04-10-95	CRF(M)#:	
DATE OF REPORT:	04-27-95		

RESULTS OF EXAMINATION: (continued)

Item # 2: One (1) dark brown Negroid head hair, 1/2" in length, was found.  
(continued) The bulbous root has a small amount of follicular material adhering to it.

Two (2) dark brown Negroid head hairs, 1/16" in length, were found. Their bulbous roots have no follicular material adhering to them.

Item # 3: Moderate number of fibers were found. Colors: green, colorless, beige, dark blue, bright pink, blue, green, black.

One (1) bleached red Human head hair fragment which is very damaged, 1/2" in length, was found.

One (1) dark brown Negroid head hair, 1/4" in length, was found. The bulbous root has a small amount of follicular material adhering to it.

Several black/dark brown Negroid head hair fragments, less than 1/16" to 1" in length, were found.

Four (4) black/dark brown Negroid hairs, approx. 1/4" in length, were found. Their bulbous roots have a very small amount of follicular material adhering to them.

One (1) black Negroid head hair, 1" in length, was found. The bulbous root has a small amount of follicular material adhering to it.

One (1) dark brown Human hair, 1/16" in length, was found. The bulbous root has a very small amount of follicular material adhering to it.

One (1) dark brown Negroid head hair, 1" in length, was found. The bulbous root has a moderate amount of follicular material adhering to it.

Small amount of soil material was found.

Small amount of botanical material was found.

continued on the next page

TULSA POLICE DEPARTMENT

Forensic Laboratory  
600 Civic Center  
Tulsa, Oklahoma 74103  
(918) 596-9119

PRELIMINARY LABORATORY REPORT

LAB NO.:	624-133	CLASSIF.:	Armed Robbery
OFF. DATE:	04-06-95	VICTIM:	Greer, Shemita Renee
OFF. NO.:	624-133	SUSPECT:	Courtney, Cedric
SUBMITTED BY:	Det. A.R. McDonald	PR#:	AF-1482
DATE OF RQST:	04-10-95	CRF(M) #:	
DATE OF REPORT:	04-27-95		

RESULTS OF EXAMINATION: (continued)

Item # 3: One (1) black wool fiber was found.  
(continued)

NOTE: The root of a hair, especially if follicular material is attached, may be utilized for DNA-PCR testing.

All items collected and processed in the laboratory have been preserve for further testing.

Hairs do not possess a sufficient number of unique individual characteristics to be positively identified as having originated from a particular person to the exclusion of all others.

*Carol English Gox*  
Carol English Gox, B.S., M.T. (ASCP), M., MPH  
Forensic Chemist, Trace Analyst  
Special Investigations Division

cc: D.A.'s Office  
Requesting officer  
Records  
Lab File  
05-01-95

# EXHIBIT 6





# OKLAHOMA STATE BUREAU OF INVESTIGATION

P.O. Box 11497  
Oklahoma City, OK 73136  
(405) 427-5421

## CRIMINALISTICS EXAMINATION REPORT

LAB NO.:	96-982	Reported To:	Tulsa Police Dept.
		Address:	Attn: Carol English Cox 600 Civic Center, Rm. 108
Date Received:	1-26-96		
Date Reported:	1-31-96	Submitted By:	Cert. Mail Z 177 132 059 Carol English Cox Tulsa P.D.
Classification of Case:			

Suspect(s):	Sedric COURTNEY	Victim(s):	Shemita Renee GREER
-------------	-----------------	------------	---------------------

### Description of Evidence:

One (1) sealed blue box containing two (2) sealed slide holders which contain:

Six (6) slides with hairs and/or fibers mounted from black stocking mask (Tulsa P.D. Case # 624-133, #2).

Six (6) slides with hairs and/or fibers mounted from green stocking mask (Tulsa P.D. Case # 624-133, #3).

Eleven (11) slides with known hairs mounted from COURTNEY (Tulsa P.D. Case # 624-133, #4).

The following samples were removed for analysis:

#N1	One (1) hair root (Tulsa P.D. #3-1), green stocking mask.
#N2	One (1) hair root (Tulsa P.D. #3-5), green stocking mask.
#N3	One (1) hair fragment with root (Tulsa P.D. #3-6), green stocking mask.
#N4	One (1) hair root (Tulsa P.D. #2-2), black stocking mask.
#N5	One (1) hair fragment with root (Tulsa P.D. #2-3), black stocking mask.
#N6	One (1) hair root (Tulsa P.D. #2-4), black stocking mask.
#N7	One (1) hair root (Tulsa P.D. #2-7), black stocking mask.
#N8	One (1) known hair from COURTNEY (Tulsa P.D. #4).
#N9	One (1) known hair from COURTNEY (Tulsa P.D. #4).

Tulsa P.D. # 624-133

Continued on page 2...



\*

LAB NO.: 96-982  
DATE: 1-31-96  
PAGE: 2

**Analysis and Results:**

No interpretable DNA results were obtained from extractions performed on items #N1 through #N7, the hairs from black stocking mask (Tulsa P.D. #2) and green stocking mask (Tulsa P.D. #3).

Known hairs from COURTNEY (Tulsa P.D. #4) were not typed.

*Mary M. Long*  
Mary M. Long  
Criminalist

*Pursuant to Title 22 O.S. Section 751,  
I hereby certify that I am maker of  
this document, and that it is a true and  
correct report of the findings of the  
Oklahoma State Bureau of Investigation  
Criminalistics Laboratory.*

TML:11



# EXHIBIT 7

TULSA POLICE DEPARTMENT  
FORENSIC LABORATORY  
500 CIVIC CENTER

LABORATORY REPORT

\*\*\*\*\*  
 OFFENSE NO.: 624133 CLASSIF.: ARMED ROBBERY  
 OFFENSE DATE: 04-06-95 VICTIM: GREER, SHERITA RENEE  
 LAB. NO.: 624133 SUSPECT: COURTNEY, CEDRIC  
 SUBMITTED BY: A.R. McDONALD / DET. TPD#C140757  
 DATE OF RQST: 04-11-95 PHOTO #: 77778  
 DATE OF EXAM: 04-17-95 LATENT #: 040695 N3976 1  
 CRF (M) #: UNKNOWN PR #: AF-1482  
 \*\*\*\*\*

RESULTS OF EXAMINATION:

THE ABOVE LATENT PALM/FINGERPRINTS HAVE BEEN COMPARED WITH NEGATIVE RESULTS TO THE KNOWN PALM/FINGERPRINTS OF CEDRIC COURTNEY, TPD#C140757.

THE LATENT PRINTS ON FILE FOR THIS CASE ARE OF VALUE FOR IDENTIFICATION PURPOSES, HOWEVER THEY ARE NOT OF SUFFICIENT QUALITY TO SEARCH THROUGH THE AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS). IF POSSIBLE PLEASE OBTAIN AND SUBMIT ELIMINATION PALM AND FINGERPRINTS OF THE VICTIM(S) INVOLVED.

*Robert R. Yerton*  
 Robert R. Yerton  
 Latent Print Examiner  
 Forensic Laboratory  
 Tulsa Police Department

624133

RRY:rry  
04-17-95

TULSA POLICE DEPARTMENT

Forensic Laboratory  
600 Civic Center  
Tulsa, Oklahoma 74103  
(918) 596-9119

PRELIMINARY LABORATORY REPORT

LAB NO.: 624-133	CLASSIF.: Armed Robbery
OFF. DATE: 04-06-95	VICTIM: Greer, Shemita Renee
OFF. NO.: 624-133	SUSPECT: Courtney, Cedric
SUBMITTED BY: Det. A.R. McDonald	
DATE OF RQST: 06-08-95	PR#: AF-1482
DATE OF REPORT: 07-05-95	CRF(M) #:

DESCRIPTION OF EVIDENCE: Received from the Tulsa Police Evidence Room with Property Receipt # AF-1482, on 04-12-95, the following items:

- Item # 2: One (1) brown paper sack (sealed and initialed, DN) labeled AF-1482 Item # 2 Blk Stocking Cap, containing one (1) black knit ski mask.
- Item # 3: One (1) brown paper sack (sealed and initialed, DN) labeled AF-1482 Item # 3 Green Stocking Cap, containing one (1) green knit ski mask.

On 06-12-95, the following Item was obtained from Cedric Courtney:

- Item # 4: Two (2) white envelopes (sealed and initialed, CEC) labeled AF-1482 # 4 Head Hair obtained from Cedric Courtney on 06-12-95 by Carol E. Cox.

RESULTS OF EXAMINATION:

In this case there are several unknown head hairs that can not be eliminated as having come from Cedric Courtney (Item # 4). Some of these hairs have follicular material adhering to their bulbous roots.  
This material may be utilized for DNA-PCR testing.

In Item # 3 there is a bleached red Human hair fragment, approximately 1/2" in length, which is heavily damaged and chemically processed. This hair fragment exhibits both similarities and dissimilarities to the single bleached red Human hair fragment, 3/8" in length, found in the known head hair Comparison Standard from Cedric Courtney.

Due to the extreme shortness, growth stage, and partial opaqueness of the known head hairs from Cedric Courtney, effective Forensic Hair Comparisons could not be made. Refer to the information given in the notes.

continued on the next page

6511

# EXHIBIT 8



TULSA POLICE DEPARTMENT

Forensic Laboratory  
600 Civic Center  
Tulsa, Oklahoma 74103  
(918)596-9119

PRELIMINARY LABORATORY REPORT

LAB NO.: 624-133	CLASSIF.: Armed Robbery
OFF. DATE: 04-06-95	VICTIM: Greer, Shemita Renee
OFF. NO.: 624-133	SUSPECT: Courtney, Cedric
SUBMITTED BY: Det. A.R. McDonald.	
DATE OF RQST: 06-08-95	PR#: AF-1482
DATE OF REPORT: 07-05-95	CRF(M) #:

RESULTS OF EXAMINATION: (continued)

NOTES: In order to do an effective hair comparison, certain requirements must be fulfilled.

1. An adequate number of head hairs, called the Comparison Standard, must be collected randomly from all areas of the head. In this case more than ninety (90) head hairs and head hair fragments were obtained. They were collected from all areas of the head.
2. The known hairs and the unknown hairs should be in the same growth stage of growth. Several of the known hairs are in the same growth stage as the unknown hairs (Telogen). However, most of the known hairs are in the Anagen growth stage.
3. The known hairs and the unknown hairs must be of sufficient length to show a pattern of similar changes in the structural characteristics encountered in the hairs throughout the length of the shaft. Typically, unless extremely unusual characteristics are found, the hairs must be a minimum of 1/2" in length, before comparisons are valuable. The hairs in this case are extremely short. The known hairs are black to very dark brown Negroid head hairs and fragments, less than 1/16" to 3/8" in length. Most are approximately 1/16" in length.
4. Areas in the hair which are opaque, or partially opaque, mask many of the characteristics. Thus, the hairs should then be longer in length (more than 1/2") before comparisons can be made.

The root of a hair, especially if follicular material is attached, may be utilized for DNA-PCR testing.

All items collected and processed in the laboratory have been preserved for further testing.

*Carol English Cox*  
Carol English Cox, B.S., M.T. (ASCP) M., MPH.  
Forensic Chemist, Trace Analyst  
Special Investigations Division

cc: D.A.'s Office  
Requesting officer  
Records  
Lab File  
07-05-95

# EXHIBIT 9



# TRACIS

Tulsa Regional Automated Criminal Information System  
STANDARDIZED REPORTING FORMAT TUL-4410

## INCIDENT REPORT TULSA POLICE DEPARTMENT

COMPLAINT NUMBER

Sheet 1 of 2

ATTENTION:

- ORIGINAL
- SUPPLEMENTAL
- INJURY
- JUVENILE SUSPECT
- CITATION ISSUED
- ARREST MADE
- NCIC ENTRY
- NCIC CANCELLATION

CRIME TYPE DESCRIPTION: Robbery USER: 3AS

LOCATION (STREET, CITY, STATE, COUNTY): 4019 So. 130th E. ave. apt. 1715 Tulsa, Ok. Tulsa LOCATION OF OFFENSE: U.S.E. 1715

DATE/TIME: 04 06 95 Thur. 1230 AND 04 06 95 Thur. 1255 REPORTED PREPARED: 04 06 95 Thu. 1305

CODE: IV TPO / PID NUMBER: Green, Shemita Renee AKA: OV HGT: 505 WGT: 165 HAIR: Bk. EYES: Br. SKN: B RACE: B SEX: F

STREET ADDRESS, CITY, STATE: 4019 So. 130th E. ave. apt. 1715 Tulsa, Ok. ZIP CODE: 74134 AGE: 23 DATE OF BIRTH: 010572 SOCIAL SECURITY NO: 447-68-4640

EMPLOYER / SCHOOL NAME: Mazzio Corp. HOME PHONE: 664-7421 DRIVER'S LICENSE NO: 447 68 46 40 STATE EXP: OK.

EMPLOYER ADDRESS, CITY, STATE, ZIP: 4729 So. 130th E. ave. Tulsa, Ok. BUSINESS PHONE: 663-8880 OTHER PHONE:

CODE: TPO / PID NUMBER: VICTIM NAME (LAST, FIRST, MIDDLE) AKA: HGT: WGT: HAIR: EYES: SKN: RACE: SEX:

STREET ADDRESS, CITY, STATE: ZIP CODE: AGE: DATE OF BIRTH: SOCIAL SECURITY NO:

EMPLOYER / SCHOOL NAME: HOME PHONE: DRIVER'S LICENSE NO: STATE EXP:

EMPLOYER ADDRESS, CITY, STATE, ZIP: BUSINESS PHONE: OTHER PHONE:

CRIME TRADEMARK CODES:

CATEGORY: A-CASH B-JEWELRY C-CLOTHING D-LOCAL VEH E-OFF EQUIP F-TV STEREO G-FIREARMS H-HOUSEHOLD I-CONSUMER J-LIVESTOCK K-MISC

TAKEN: RECOVERED:

INSURANCE CO. NAME:  POLICY  TITLE  REGISTRATION BROADCAST:  YES  NO ODOMETER READING: CONDITION:  DRIVEABLE  WRECKED  DAMAGED  STRIPPED  BURNED

RECOVERED BY: AGENCY OFFICER ID NO. DIV. LOCATION (STREET, CITY, STATE, ZIP):

VEHICLE STORED AT: NAME LOCATION (STREET, CITY, STATE, ZIP) PHONE:

TTY NOTIFIED: NAME / DATE / TIME  OWNER NOTIFIED: NAME / DATE / TIME RECORDS CLERK NOTIFIED:

STATUS / CRIME VIN TAG YEAR TAG STATE TAG NUMBER

VEH YEAR VEH MAKE VEH MODEL VEH STYLE COLOR TOP / BOTTOM MISC IDENTIFIERS VALUE

VICTIM CODES: N BY CV PR BV ID DM PD PB PROPERTY INFORMATION PROPERTY CODES: S - STOLEN R - RECOVERED F - FOUND

DISP	ITEM	CODE	QTY	TYPE	SERIAL NUMBER	BRAND	CALIBER / COLOR or LENGTH	NCIC NO	CAT	VALUE
S	1	IV		CASH						397.
S-R	2	IV	4	TIRES		DEW QUASAR	P175 / 70R14			1,500.
S-R	3	IV	4	WIRE CHROME RIMS			gold trim			
S	4	IV		CAR KEYS						

COMPLAINT NUMBER: **024133**

DISP ITEM CODE CITY TYPE SERIAL NUMBER BRAND CAL / COLOR OR LENGTH INC NO CAT VALUE

The victim was a home with her niece. She had the front door locked. The victim had returned approximately 1 1/2 hours earlier from trip to get groceries and to cash her check. The victim stated that two black males kicked in her front door and pointed a pistol at her head. She stated that they yelled "where's the loot bitch? Is Travis here? We'll shoot him to." The victim was struck on the head with the pistol and then the suspects placed duct tape over her eyes and mouth. The suspects told the victim to lay on the floor and not to look up or they would shoot her. The suspects also kicked the victim in the back. The victim's niece was lying on the couch. The niece is 4 months old. The suspects ransacked the apartment and then took cash from the victim and her car keys. The wheels and tires taken belong to Travis' chambers, the victim's boyfriend. He works at CarTricks 2625 E. 11th St 8151. He bought the tires from some guy at CarTricks. The suspects dropped a VCR camera just outside the apartment door. A black ski-mask was recovered just east of the apartment. The apartment was processed by V-262 O. Noordyke. Officer Reces recovered a green ski mask and the 4 wheels and tires at 4109 So. 130th E. ave. building 21. See officer Reces supplement for further information. The two ski-masks and the duct tape were turned to the property room by officer Noordyke. The wheels and tires were returned to Travis.

PROPERTY RECEIPT		PHOTO NO 77778	LATENT NO 040695-N3976-1	I ACKNOWLEDGE I AM THE VICTIM OR AGENT OF THE VICTIM OF THE CRIME DESCRIBED HEREIN. THE INFORMATION IS TRUE AND CORRECT, AND I WILL ASSIST IN THE PROSECUTION OF THOSE PERSONS RESPONSIBLE.	
INTERVIEWING OFFICER C. Ryan	ID NO R1549	DIV U.O.I.E.	DATA ENTRY	ID NO	DATE
SUPERVISOR	ID NO	DIV	DATE	SIGNATURE OF PERSON REPORTING [Signature] 04/06/95	

# TRACIS

FLD INTERVIEW REPORT  
 SUSPECT SUPPLEMENTAL

COM AT NUMBER

Sheet 2 of 2

Tulsa Regional Automated Criminal Information System  
STANDARDIZED REPORTING FORMAT TUL-40088

ATTENTION:

CRIME TYPE	armed Robbery	ORIGINALLY REPORTED	04 06 95	THUR.	1305	PREPARED	04 06 95	THUR.	1305
------------	---------------	---------------------	----------	-------	------	----------	----------	-------	------

TPD/PID NUMBER	VICTIM NAME (LAST, FIRST, MIDDLE)	LOCATION OF OCCURRENCE
	Greer Shemita Renee	4019 So. 130th E. ave. apt. 1715

TPD/PID NUMBER	SUSPECT NAME (LAST, FIRST, MIDDLE) AKA	HGT RANGE	WGT RANGE	HAIR	EYES	SKIN	RACE	SEX
140757	Courtney, Cedric	602	185	Blk	Br.		B	M
STREET ADDRESS, CITY, STATE		ZIP CODE	AGE	DATE OF BIRTH		SOCIAL SECURITY NO.		
Sawmill apartments #914 or #916 Tulsa Ok.			23	01/14/72		429-31-9925		
EMPLOYER / SCHOOL NAME		HOME PHONE	DRIVER'S LICENSE NO.		STATE	EXP		
EMPLOYER ADDRESS, CITY, STATE, ZIP		BUSINESS PHONE		<input type="checkbox"/> JUVENILE		<input checked="" type="checkbox"/> POP		

PERSONAL COOTIES

TRADEMARK COOTIES

CLOTHING

WARNING INDICATORS

Blk. Jacket with big pockets, blk. pants, ski-mask, gloves

TPD/PID NUMBER	SUSPECT NAME (LAST, FIRST, MIDDLE) AKA	HGT RANGE	WGT RANGE	HAIR	EYES	SKIN	RACE	SEX
							B	M
STREET ADDRESS, CITY, STATE		ZIP CODE	AGE	DATE OF BIRTH		SOCIAL SECURITY NO.		
EMPLOYER / SCHOOL NAME		HOME PHONE	DRIVER'S LICENSE NO.		STATE	EXP		
EMPLOYER ADDRESS, CITY, STATE, ZIP		BUSINESS PHONE		<input type="checkbox"/> JUVENILE		<input type="checkbox"/> POP		

PERSONAL COOTIES

TRADEMARK COOTIES

CLOTHING

WARNING INDICATORS

Blk. Jacket with big pockets, blk. pants, ski-mask, gloves

TPD/PID NUMBER	SUSPECT NAME (LAST, FIRST, MIDDLE) AKA	HGT RANGE	WGT RANGE	HAIR	EYES	SKIN	RACE	SEX
STREET ADDRESS, CITY, STATE		ZIP CODE	AGE	DATE OF BIRTH		SOCIAL SECURITY NO.		
EMPLOYER / SCHOOL NAME		HOME PHONE	DRIVER'S LICENSE NO.		STATE	EXP		
EMPLOYER ADDRESS, CITY, STATE, ZIP		BUSINESS PHONE		<input type="checkbox"/> JUVENILE		<input type="checkbox"/> POP		

PERSONAL COOTIES

TRADEMARK COOTIES

CLOTHING

WARNING INDICATORS

VEH REGISTRATION OWNER	YH	TAG YEAR	TAG STATE	TAG NUMBER
VEH YEAR	VEH MAKE	VEH MODEL	VEH STYLE	COLOR TOP / BOTTOM
MISCELLANEOUS IDENTIFIERS				

VEH REGISTRATION OWNER	YH	TAG YEAR	TAG STATE	TAG NUMBER
VEH YEAR	VEH MAKE	VEH MODEL	VEH STYLE	COLOR TOP / BOTTOM
MISCELLANEOUS IDENTIFIERS				

BUSP #	PARENT / GUARDIAN NAME	ADDRESS	HOME PHONE	WORK PHONE

624133  
COMPLAINANT NUMBER

05/04/95 08:53 918 596 1288

POLICE RECORDS DET

005/009

**SUSPECT 4**

TPD/PID NUMBER	SUSPECT NAME (LAST, FIRST, MIDDLE) AKA	HGT RANGE	WGT RANGE	HAIR	EYES	SKN	RACE
STREET ADDRESS, CITY, STATE, ZIP		ZIP CODE	AGE	DATE OF BIRTH	SOCIAL SECURITY NO		
EMPLOYER / SCHOOL NAME		HOME PHONE	DRIVER'S LICENSE NO		STATE	EXP	
EMPLOYER ADDRESS, CITY, STATE, ZIP		BUSINESS PHONE		<input type="checkbox"/> JUVENILE		<input type="checkbox"/> POP	
PERSONAL ODDITIES							
CLOTHING							
WARNING INDICATORS							

**SUSPECT 5**

TPD/PID NUMBER	SUSPECT NAME (LAST, FIRST, MIDDLE) AKA	HGT RANGE	WGT RANGE	HAIR	EYES	SKN	RACE
STREET ADDRESS, CITY, STATE, ZIP		ZIP CODE	AGE	DATE OF BIRTH	SOCIAL SECURITY NO		
EMPLOYER / SCHOOL NAME		HOME PHONE	DRIVER'S LICENSE NO		STATE	EXP	
EMPLOYER ADDRESS, CITY, STATE, ZIP		BUSINESS PHONE		<input type="checkbox"/> JUVENILE		<input type="checkbox"/> POP	
PERSONAL ODDITIES							
CLOTHING							
WARNING INDICATORS							

**SUSPECT 6**

TPD/PID NUMBER	SUSPECT NAME (LAST, FIRST, MIDDLE) AKA	HGT RANGE	WGT RANGE	HAIR	EYES	SKN	RACE
STREET ADDRESS, CITY, STATE, ZIP		ZIP CODE	AGE	DATE OF BIRTH	SOCIAL SECURITY NO		
EMPLOYER / SCHOOL NAME		HOME PHONE	DRIVER'S LICENSE NO		STATE	EXP	
EMPLOYER ADDRESS, CITY, STATE, ZIP		BUSINESS PHONE		<input type="checkbox"/> JUVENILE		<input type="checkbox"/> POP	
PERSONAL ODDITIES							
CLOTHING							
WARNING INDICATORS							

**NARRATIVE:**  
 chambers. The victim was transported to St. Francis by E.M.S.A. For medical treatment. The victim stated that she recognized one of the suspects voice as being the person listed as suspect #1. She stated that the wheels and tires had been stored inside her apartment for approximately 1 1/2 weeks. She stated that suspect #1 had been at her apartment in the last week to visit Travis chambers. She stated that suspect #1 knew the wheels and tires were in her apartment. The victim stated the suspect had brought the duct tape with them.

DATA ENTERED  
 DATE 4 9 95 INT BH

624133

PROPERTY RECEIPT	PHOTO NO	LATENT NO
INTERVIEWING OFFICER C. Ryan	ID NO A1549	DIV U.P.E.
	SUPERVISOR [Signature]	ID NO C-3000

# TRACIS

Tulsa Regional Automated Criminal Information System  
STANDARDIZED REPORTING FORMAT TUL-4603

- IN TRIAL DIAGRAM
- NARRATIVE SUPPLEMENTAL
- WORTHLESS DOCUMENT

COMP	IT NUMBER
------	-----------

Sheet \_\_\_ of \_\_\_

ATTENTION:

CRIME TYPE	ROBBERY	ORIGINALLY REPORTED	NO	DAY	YR	DATE	TIME	PREPARED	NO	DAY	YR	DATE	TIME
TPO / PID NUMBER	VICTIM NAME (LAST, FIRST, MIDDLE)	LOCATION OF OCCURRENCE											
	GREER, SHERITA	4109 So 130 E N Tulsa											

### EVIDENCE RECOVERY:

1) FOUR WHEELS / TIRES RECOVERED AT 4109 So 130 E PL # 2115  
FROM PATROL. ALL RETURNED TO VICTIM @ SCENE.

WHEELS / TIRES PROCESSED BY PD OFFICER WOODRUFF, PHOTO # 77778  
SUSPECT SKI MARK RECOGNIZED BY PD OFFER WOODRUFF.

WITNESS JERRY HUGHES JR W/M DOB 02 22 69 SSN 448 62 8281  
4109 So 130 E. PL # 2115 PH 252-3658

FOLLOW UP REE COURTNEY SHOWED HIM TO NOW RESIDE AT  
12932 E 55<sup>th</sup> ST #914

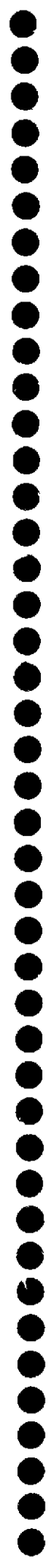
PROPERTY RECEIPT	PHOTO NO	LATENT NO			
	77778				
INTERVIEWING OFFICER	ID NO	BY	SUPERVISOR	ID NO	DN
SPD T. REECE	P9926	ODE			

COMPLAINT NUMBER  
621729

WORTHLESS DOCUMENT COPY - FRONT

WORTHLESS DOCUMENT COPY - BACK

# EXHIBIT 10





Barry C. Schock, Esq.  
Peter J. Neufeld, Esq.  
Directors

Maddy deLone, Esq.  
Executive Director

Innocence Project  
100 Fifth Avenue, 3rd Floor  
New York, NY 10011  
Tel 212.384.5340  
Fax 212.384.5341

[www.innocenceproject.org](http://www.innocenceproject.org)

August 17, 2007

Captain Jim Hunter  
Tulsa Police Department  
Evidence and Property Room  
600 Civic Center  
Tulsa, Oklahoma 74103

Re: Evidence/Property Room Search  
re: Sedrick Courtney's case (CF-95-2348)

Dear Capt. Hunter,

I am writing to ask your assistance in locating certain items of evidence relating to Sedrick Courtney's 1995 armed robbery case, so the Innocence Project and the Tulsa County District Attorney's Office can best determine how to proceed with further DNA testing. As you requested in your July 30, 2007 email, I enclosed the necessary property room information so the Tulsa Police Department can thoroughly search its property room to determine whether it currently houses the sought after items of evidence. An Oklahoma jury (Tulsa County) convicted Mr. Courtney (and his co-defendant) of armed robbery in 1996 (Case No. CF-95-2348). Prosecutors premised their case on eyewitness and voice identification, two of the more unreliable forms of identification. Mr. Courtney contacted the Innocence Project to see if we could locate certain items of evidence, and if so, have them tested for DNA evidence. Given the fact Mr. Courtney's conviction is premised on two very unreliable forms of evidence, the Innocence Project agreed to take his case.

The Tulsa Police Department investigated the armed robbery, which occurred on April 8, 1995. The Tulsa Police Department Case Number is #624 133. According to police reports and trial testimony, two masked men broke into Shemita Greer's apartment, beat her with the butt of a firearm, tied her up with duct tape, and ransacked her apartment taking numerous items. As part of its investigation, the Tulsa Police Department recovered three items of evidence, which, if located, can be subjected to DNA testing; investigators submitted these items to the property and evidence room under property receipt #AF-1482:

- Item #1: Piece of gray duct tape, recovered from the front porch of apt. #1715.
- Item #2: Black stocking cap, recovered from the sidewalk outside of apt. to the east.

- Items #2-1 to #2-6: Six slides with hairs and/or fibers mounted from black socking cap
- Item #3: Green stocking cap, recovered on top of the tires recovered at 4109 S. 130<sup>th</sup> East Avenue.
- Items #3-1 to #3-6: Six slides with hairs and/or fibers mounted from green stocking cap

I have enclosed several police and crime laboratory reports which (a) describe the aforementioned items, (b) identifies when investigators collected the items, and (c) when investigators submitted the items to the Tulsa Police Department crime lab or the Oklahoma State Bureau of Investigation crime lab. Hopefully, these reports will assist the Tulsa Police Department with its search.

In October 2000, Tulsa Police Officer R.M. Kurowski informed Mr. Courtney's prior counsel (with the Oklahoma Indigent Defense System) that the Tulsa Police Department destroyed a specific item submitted under property receipt # AF-1482—specifically item #4 (i.e., hair samples). I attached Officer Kurowski's report for your convenience. I must admit, I am a bit confused by Officer Kurowski's memo, particularly his reference to 22 Okl. St. §1372. To begin with, 22 Okl. St. §1372 primarily deals with personal property or money/currency which the State of Oklahoma possessed for litigation purposes, and the rightful owners failed to contact the court to reclaim their property or money. Under these circumstances, 22 Okl. St. §1372 authorizes the State of Oklahoma to destroy or sell unclaimed items—but only if certain conditions are satisfied. In particular, under §1372, ¶¶ (C)(1)-(2):

1. After the expiration of six (6) months from the time the conviction becomes final, or if the action or proceeding has not resulted in a conviction, at any time after the judgment has become final, the court in which the case was tried shall make an order requiring such exhibits to be destroyed; provided, that no such order shall be made authorizing the destruction of any documentary exhibit if the destruction of such exhibit would prejudice the state;
2. No exhibit shall be destroyed or otherwise disposed of until sixty (60) days after the clerk of the court has posted a notice conspicuously in three public places in the county, referring to the order for the disposition, describing briefly the exhibit, and indicating the date after which the exhibit will be destroyed or otherwise disposed of.

Thus, even if §1372 applies to Mr. Courtney's situation, which I doubt it does, there must be a court order authorizing the destruction of any item of evidence relating to his case. To date, the Tulsa Police Department has yet to produce the court order which authorized it to destroy the hair samples in item #4 (property receipt #AF-1482). Additionally, before the court could authorize the destruction of item #4, the clerk of the court or the Tulsa Police Department had to provide Mr. Courtney (and his attorneys) with proper notice that the State of Oklahoma intended to destroyed the physical evidence relating to his case (Case No. CF-95-2348). From my review of the case, it is my understanding neither the clerk of the court nor the Tulsa Police Department notified Mr. Courtney (or his attorneys) that the State of Oklahoma intended to destroy the physical evidence relating to his case. If I am mistaken about

this, which I may very well be, I would respectfully request that you please forward me the court order authorizing the destruction of evidence item #4 and the notification letter sent to Mr. Courtney (and his attorneys) regarding this destruction. Again, both documents had to be generated before the Tulsa Police Department could legally destroy any evidence relating to Mr. Courtney's case.

If the Tulsa Police Departments does in fact locate any of the abovementioned items of evidence, I would respectfully request these items not be destroyed, and I would refer you to 22 Okla. St. § 1372, which requires the State to preserve physical evidence which is susceptible to DNA testing. I know you are aware of 22 Okla. St. § 1372, because of our phone conversation earlier this week, but I simply wanted to memorialize my request for litigation purposes.

I hope the enclosed documents make my request easier to process. If you have questions or concerns regarding my request or interpretations of the aforementioned Oklahoma statutes please feel free to contact me at your earliest convenience. Again, the Innocence Project and I greatly appreciate your continued assistance with Mr. Courtney's case and other Tulsa County cases.

Sincerely,

Craig M. Cooley, Esq.  
Staff Attorney  
The Innocence Project  
212-364-5361 (o)  
[ccooley@innocenceproject.org](mailto:ccooley@innocenceproject.org)

# EXHIBIT 11



**INNOCENCE PROJECT**

Barry C. Scheck, Esq.  
Peter J. Neufeld, Esq.  
Directors

Maddy deLone, Esq.  
Executive Director

Innocence Project  
40 Worth Street, Suite 701  
New York, NY 10013

Tel 212.364.5340

Fax 212.364.5341

[www.innocenceproject.org](http://www.innocenceproject.org)

September 16, 2011

Sergeant Kim Presley  
Tulsa Police Department  
600 Civic Center # 303  
Tulsa, OK 74103-3822

*Sent via email*

**Re: Request to Mail Evidence to DNA Testing Facility**

Dear Sgt Presley,

As per our phone conversation earlier today, this letter is an official request that you mail the evidence we discussed to a DNA testing facility.

The evidence should be stored under Tulsa Police Department Case # 624-133. The suspect's name is Sedrick Courtney. As you mentioned, the evidence is catalogued as # 5 (packaging) and # 6 (two trays of slides). I am attaching an OSBI lab report that I believe refers to the evidence you listed on the phone.

Please allow us to pay for the shipping. Our FedEx account number is: 2855-8255-5. Please send the package FedEx Priority Overnight. The address to send the package to is:

Orchid Cellmark  
Attn: Donna Granger  
13988 Diplomat Drive  
Suite 100  
Dallas, TX 75234

For our record-keeping purposes, please respond either by phone or email once the package has been shipped. You may email me at [erik.l.wilson@gmail.com](mailto:erik.l.wilson@gmail.com) or call (212) 364-5350 and ask to speak with Erik Wilson.

Benjamin N. Cardozo School of Law, Yeshiva University

Innocence Project, Inc.  
September 16, 2011  
Page 2



Thank you very much for all your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig M. Cooley". The signature is stylized with large, sweeping strokes.

Craig M. Cooley, Esq.  
Staff Attorney  
The Innocence Project  
(212) 364-5361 (o)  
ccooley@innocenceproject.org

A handwritten signature in black ink, appearing to read "Erik Wilson". The signature is stylized with large, sweeping strokes.

Erik Wilson  
Legal Intern  
The Innocence Project  
(212) 364-5350  
erik.l.wilson@gmail.com



# EXHIBIT 12



### Report of Laboratory Examination

February 24, 2012

Supplemental - M11-0010-B

Craig M. Cooley  
The Innocence Project  
40 Worth Street  
Suite 701  
New York, NY 10013

**SUBJECT:** Shemita Greer  
**SUSPECT:** Sedrick R. Courtney

**ORCHID CELLMARK NO:** M11-0010  
**AGENCY CASE NO:** 624-133  
**ADD'L AGENCY NO:** AF-1482

#### EXHIBITS

Client Item	OC Item	Received	Item Description	Screened	PCR
624-133-2/AF-1482-6	M11-0010-01.01	9/22/2011	Hair : Black ski hat mask (inside)	N	Y
624-133-2/AF-1482-6	M11-0010-01.02	9/22/2011	Hair : Black ski hat mask (inside)	N	Y
624-133-2/AF-1482-6	M11-0010-02.01	9/22/2011	Hair : Black ski hat mask (outside)	N	Y
624-133-2/AF-1482-6	M11-0010-02.02	9/22/2011	Hair : Black ski mask hat (outside)	N	Y
624-133-2/AF-1482-6	M11-0010-02.03	9/22/2011	Hair : Black ski mask hat (outside)	N	Y
624-133-2/AF-1482-6	M11-0010-02.04	9/22/2011	Hair : Black ski mask hat (outside)	N	Y
624-133-2/AF-1482-6	M11-0010-02.05	9/22/2011	Hair : Black ski mask hat (outside)	N	Y
624-133	M11-0010-03.01	12/9/2011	Oral swab - Sedrick R. Courtney	N	Y
624-133	M11-0010-03.02	12/9/2011	Oral swab - Sedrick R. Courtney	N	N
624-133-2/AF-1482-6	M11-0010-04.01	9/22/2011	Hair : Black ski mask hat (outside)	N	Y
624-133-2/AF-1482-6	M11-0010-04.02	9/22/2011	Hair : Black ski mask hat (outside)	N	Y
624-133-2/AF-1482-6	M11-0010-04.03	9/22/2011	Hair : Black ski mask hat (outside)	N	Y
624-133-3/AF-1482-6	M11-0010-05.01	9/22/2011	Hair : Green cap (inside)	N	Y
624-133-3/AF-1482-6	M11-0010-05.02	9/22/2011	Hair - "bleached red fragment" : Green cap (inside)	N	Y
624-133-3/AF-1482-6	M11-0010-06.01	9/22/2011	Hair : Green cap (inside)	N	Y
624-133-3/AF-1482-6	M11-0010-06.02	9/22/2011	Hair : Green cap (inside)	N	Y
624-133-3/AF-1482-6	M11-0010-06.03	9/22/2011	Hair : Green cap (inside)	N	Y
624-133/AF-1482-5	NOT EXAMINED	9/22/2011	Medium Manila Envelope	N	N
624-133-2/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Hairs/fibers on black hat ski mask (inside)	N	N
624-133-2/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Black stocking cap - no hairs	N	N
624-133-3/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Hairs/fiber on green cap (inside)	N	N
624-133-3/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Hairs/fibers on green cap (outside)	N	N
624-133-3/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Apparent green fiber on green cap (inside)	N	N
624-133-3/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Hairs on green cap (outside)	N	N
624-133-2/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Hairs/fiber on black ski hat mask (outside)	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Pulled head hairs - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Pulled head hairs - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Pulled head hairs - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Pulled head hairs - Sedrick R. Courtney	N	N

624-133 |

M11-0010-B

1 of 4

Client Item	OC Item	Received	Item Description	Screened	PCR
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Pulled head hairs - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Pulled head hairs - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Combed head hairs - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Pulled head hairs - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Pulled head hairs - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Combed head hair - Sedrick R. Courtney	N	N
624-133-4/AF-1482-6	NOT EXAMINED	9/22/2011	Slide : Combed head hairs - Sedrick R. Courtney	N	N
624-133	NOT EXAMINED	12/9/2011	Swab Carton : Oral Swabs - Sedrick R. Courtney	N	N

## RESULTS

Mitochondrial DNA (mtDNA) from the indicated exhibit(s) was amplified and sequenced at Hypervariable Regions I and II of the Mitochondrial Control Region. MtDNA from exhibit 05.02 was amplified at Hypervariable Regions I and II but only sequenced at Hypervariable Region I due to insufficient mtDNA following amplification. Sequence data are presented as variations from the Revised Cambridge Reference Sequence (rCRS). Bases not specifically listed are consistent with rCRS. The results obtained for each tested sample are listed in Table 1 (see attachment). Due to the maternal inheritance of mtDNA, maternal relatives are expected to share the same mtDNA profile. This report supplements Orchid Cellmark's Laboratory Report M11-0010-A dated January 27, 2012.

## CONCLUSIONS

### M11-0010-01.01.1

A mitochondrial DNA profile was obtained from the hair from the black ski hat mask (inside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

### M11-0010-01.02.1

A mitochondrial DNA profile was obtained from the hair from the black ski hat mask (inside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

### M11-0010-02.01.1

A mitochondrial DNA profile was obtained from the hair from the black ski hat mask (outside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

### M11-0010-02.02.1

A mitochondrial DNA profile was obtained from the hair from the black ski hat mask (outside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

February 24, 2012



ORCHID  
CELLMARK

Accredited by the American Society of Crime Laboratory Directors / Laboratory Accreditation Board  
Dallas, TX

624-133

M11-0010-B

2 of 4

M11-0010-02.03.1

A mitochondrial DNA profile was obtained from the hair from the black ski hat mask (outside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-02.04.1

A mitochondrial DNA profile was obtained from the hair from the black ski mask hat (outside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-02.05.1

A mitochondrial DNA profile was obtained from the hair from the black ski mask hat (outside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-04.01.1

A mitochondrial DNA profile was obtained from the hair from the black ski mask hat (outside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-04.02.1

A mitochondrial DNA profile was obtained from the hair from the black ski mask hat (outside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-04.03.1

A mitochondrial DNA profile was obtained from the hair from the black ski mask hat (outside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-05.01.1

A partial mitochondrial DNA profile was obtained from the hair from the green cap (inside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-05.02.1

A partial mitochondrial DNA profile was obtained from the "bleached red" hair from the green cap (inside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-06.01.1

A mitochondrial DNA profile was obtained from the hair from the green cap (inside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.



M11-0010-06.02.1

A partial mitochondrial DNA profile was obtained from the hair from the green cap (inside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

M11-0010-06.03.1

A partial mitochondrial DNA profile was obtained from the hair from the green cap (inside). Sedrick R. Courtney (M11-0010-03.01.1) is excluded as a contributor of the mitochondrial DNA obtained from this sample.

**DISPOSITION**

In the absence of specific instruction, evidence will be returned to the submitting agency by Federal Express or another appropriate carrier.

**REVIEW**

The results described in this report have been reviewed by the following individuals:

Analyst: Romy I. Francis  
Romy I. Francis / DNA Analyst II

Technical  
Reviewer: Barbara L. Leal  
Barbara L. Leal / DNA Analyst II

Procedures used in the analysis of this case adhere to the Quality Assurance Standards for Forensic DNA Testing Laboratories. Orchid Cellmark is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board and Forensic Quality Services-International. The results in this report relate only to the items tested.

February 24, 2012



624-1331

M11-0010-B  
4 of 4

Accredited by the American Society of Crime Laboratory Directors / Laboratory Accreditation Board  
Dallas, TX

REPORT OF LABORATORY EXAMINATION

Orchid Cellmark Dallas  
 February 24, 2012  
 Supplemental - M11-0010-B

ORCHID CELLMARK CASE NO: M11-0010  
 AGENCY CASE NO: 624-133  
 ADD'L AGENCY NO: AF-1482

Table 1: Mitochondrial Sequence Data

Specimen #	16036	16086	16114	16129	16153	16189	16193.1	16202	16203	16204	16206	16207	16213	16221	16223	16241	16264	16270	16274	16278	16298	16311	16318	16325	16327	16362
M11-0010-01.01.1	.	.	.	.	.	C	C	.	.	.	.	.	.	T	T	.	.	.	.	.	.	.	.	C	.	C
M11-0010-01.02.1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	T	.	.	.	.	.	T	.	G	.	.	.
M11-0010-02.01.1	.	.	.	.	.	C	C	.	INS	.	.	.	.	T	T	.	.	.	.	.	.	.	C	.	C	
M11-0010-02.02.1	.	.	.	.	.	C	C	INS	INS	INS	INS	INS	.	T	T	.	.	.	.	.	.	.	C	.	C	
M11-0010-02.03.1	.	.	.	.	.	C	C	.	.	.	.	.	.	T	T	.	.	.	.	.	.	.	C	.	C	
M11-0010-02.04.1	INS	INS	.	.	.	C	C	.	.	.	INS	.	.	T	T	.	.	.	.	.	.	.	C	.	C	
M11-0010-02.05.1	.	INS	.	.	.	C	-	.	.	.	.	.	.	T	T	.	.	.	.	.	.	.	C	.	C	
M11-0010-03.01.1	.	.	A	A	A	.	-	.	.	.	.	.	A	.	T	.	.	.	A	T	.	C	.	.	C	
M11-0010-04.01.1	.	.	.	.	.	C	C	.	.	.	.	.	.	T	T	.	.	.	.	.	.	.	C	.	C	
M11-0010-04.02.1	.	.	.	.	.	C	-	.	.	.	.	.	.	T	T	.	.	.	.	.	.	.	C	.	C	
M11-0010-04.03.1	.	.	.	.	.	C	C	.	.	.	INS	INS	.	T	T	.	.	.	.	.	.	.	C	.	C	
rCRS	G	T	C	G	G	T	-	A	A	A	A	A	G	C	C	A	C	C	G	C	T	T	A	T	C	

\* (consistent with rCRS) INS (insufficient) INC (inconclusive) NS (not sequenced) D (base deletion)  
 - (no base present at this position) \* (present in the major mitochondrial DNA species)

REPORT OF LABORATORY EXAMINATION

Orchid Cellmark Dallas  
 February 24, 2012  
 Supplemental - M11-0010-B

ORCHID CELLMARK CASE NO: M11-0010  
 AGENCY CASE NO: 624-133  
 ADD'L AGENCY NO: AF-1482

Table 1: Mitochondrial Sequence Data

Specimen #	HVI (16024-16365) continued																										
	16036	16086	16114	16129	16153	16189	16193.1	16202	16203	16204	16206	16207	16213	16221	16223	16241	16264	16270	16274	16278	16298	16311	16318	16325	16327	16362	
M11-0010-05.01.1							16024-16209 NS																				
M11-0010-05.02.1							16024-16209 NS																				
M11-0010-06.01.1																											
M11-0010-06.02.1							16024-16209 NS																				
M11-0010-06.03.1																											
rCRS	G	T	C	G	G	T	-	A	A	A	A	A	G	C	C	A	C	C	G	C	T	T	A	T	C	T	

\* (consistent with rCRS) INS (insufficient) INC (inconclusive) NS (not sequenced) D (base deletion)  
 - (no base present at this position) \* (present in the major mitochondrial DNA species)

REPORT OF LABORATORY EXAMINATION

Orchid Cellmark Dallas  
 February 24, 2012  
 Supplemental - M11-0010-B

ORCHID CELLMARK CASE NO: M11-0010  
 AGENCY CASE NO: 624-133  
 ADD'L AGENCY NO: AF-1482

Table 1: Mitochondrial Sequence Data

Specimen #	HVII (73-340)																		
	73	93	146	150	151	152	182	183	185	195	198	204	247	249	263	297	309.1	315.1	325
M11-0010-01.01.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C*	•
M11-0010-01.02.1	G	G	C	T	•	C	T	•	•	C	T	•	•	•	G	•	C*	C*	T
M11-0010-02.01.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C	•
M11-0010-02.02.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C	•
M11-0010-02.03.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C	•
M11-0010-02.04.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C	•
M11-0010-02.05.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C	•
M11-0010-03.01.1	G	•	C	T	•	C	T	G	•	C	T	C	•	•	G	•	C*	C*	•
M11-0010-04.01.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C	•
M11-0010-04.02.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C	•
M11-0010-04.03.1	G	•	C	•	T	•	•	G	•	•	•	•	•	•	G	•	•	C	•
rCRS	A	A	T	C	C	T	C	A	G	T	C	T	G	A	A	A	-	-	C

\* (consistent with rCRS) INS (insufficient) INC (inconclusive) NS (not sequenced) D (base deletion)  
 - (no base present at this position) \* (present in the major mitochondrial DNA species)

REPORT OF LABORATORY EXAMINATION

Orchid Cellmark Dallas  
 February 24, 2012  
 Supplemental - M11-0010-B

ORCHID CELLMARK CASE NO: M11-0010  
 AGENCY CASE NO: 624-133  
 ADD'L AGENCY NO: AF-1482

Table 1: Mitochondrial Sequence Data

Specimen #	HVII (73-340) continued																			
	73	93	146	150	151	152	182	183	185	195	198	204	247	249	263	297	309.1	315.1	325	
M11-0010-05.01.1	G	.	.	.	.	C	T	.	T	C	.	.	A	.	G	.	-	C	.	
M11-0010-05.02.1	73-340 NS																			
M11-0010-06.01.1	G	.	.	.	.	.	.	.	.	.	.	.	.	D	G	.	-	C	.	
M11-0010-06.02.1	G	.	.	.	.	.	.	.	.	.	.	.	.	D	G	266-340 NS				
M11-0010-06.03.1	73-183 INC																			
rCRS	A	A	T	C	C	T	C	A	G	T	C	T	G	A	A	INS	-	-	-	C

\* (consistent with rCRS) INS (insufficient) INC (inconclusive) NS (not sequenced) D (base deletion)  
 - (no base present at this position) \* (present in the major mitochondrial DNA species)