

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

2012 JUL 24 AM 9:57

STATE OF OHIO

Plaintiff

v.

DOUGLAS E. PRADE

Defendant

SUMMIT COUNTY
CLERK OF COURTS

CASE NO. CR 98 02 0463

JUDGE JUDY HUNTER

**BRIEF OF STATE OF OHIO
IN RESPONSE TO MOTION
FOR NEW TRIAL/PETITION
FOR POST-CONVICTION
RELIEF**

**REQUEST FOR
EVIDENTIARY HEARING**

FILED UNDER SEAL

The State requests an evidentiary hearing on Defendant Prade's Petition for Post-Conviction Relief or in the Alternative Motion for a New Trial (Brief). The State contends that the proper remedy requires Prade to prove actual innocence by clear and convincing evidence. The State further contends that at a hearing Prade will not meet that burden.

By Order dated June 28, 2012, this Court scheduled an evidentiary hearing for August 21, 2012, and August 22, 2012. In his Brief, Prade does not mention this hearing. Perhaps he takes for granted that the hearing will proceed as scheduled. But if he seeks a substantive ruling without a hearing the State opposes that request.

ARGUMENT

A. The Proper Remedy is R.C. 2953.23

Prade references two statutory remedies in his Brief: R.C. 2953.21 and in passing, Crim.R. 33. Analysis of the statutes indicates that where a defendant relies on the results of DNA testing the petition for post-conviction relief statutes (PCR) provide the sole remedy.

Both R.C. 2953.21(A)(1)(a) and R.C. 2953.23(A)(2) make specific reference to DNA testing done pursuant to R.C. 2953.71 to R.C. 2953.81. There is no reference to DNA testing in Crim.R. 33.

The reference in the PCR statutes to the DNA testing statutes is no coincidence since both PCR statutes were amended to add the reference to the DNA testing statutes in SB 11, effective October 29, 2003, the same bill that enacted the DNA testing statutes. By amending the PCR statutes the legislature created vehicles for defendants to seek relief after favorable or allegedly favorable DNA test results. By contrast, Crim.R. 33 has never been amended since its enactment effective July 1, 1973.

Prior to the amendment of the PCR statutes, a defendant's claim that improved DNA test results would show actual innocence could not be addressed under the PCR statutes because actual innocence based on newly discovered evidence was not a constitutional violation as required by the

statutes. *State v. Elliott*, 1st Dist. No. C-010598, 2002-Ohio-4454, ¶14. At that time the proper remedy was under Crim.R. 33. *Id.* ¶15.

After the enactment of the DNA testing statutes, the same defendant was successful in requiring the trial court to order DNA testing. *State v. Elliott*, 1st Dist. No. C-050606, 2006-Ohio-4508. Accordingly, the denial of the former petition for post-conviction relief was no bar to the right to DNA testing and certainly no bar to a potential remedy under the amended PCR statutes because the amended statutes did provide a remedy.

A new trial is a possible remedy for a defendant who proves actual innocence. R.C. 2953.21(G). Hence, the remedy under Crim.R. 33 is also available under the PCR statutes.

After the amendment of the PCR statutes, the bar on actual innocence claims as constitutional violations continued. However, actual innocence claims were allowable under the PCR statutes but “restricted to certain cases in which DNA testing has been duly performed.” *State v. Davis*, 5th Dist. No. 2008-CA-16, 2008-Ohio-6841, ¶138, quoting *State v. Nelson*, 5th Dist. No. CT2008-0013, 2008-Ohio-5901.

Since the PCR statutes were amended together with the enactment of the DNA testing statutes to specifically enumerate DNA test results as affording potential remedies and further by making special provision for

actual innocence claims this Court should hold that Prade is entitled to relief, if at all, only under the PCR statutes upon proof of actual innocence.

B. The PCR Statutes Require Prade to Prove Actual Innocence by Clear and Convincing Evidence

B.1 Prade's Petition is Untimely

Proof of actual innocence is required before the petition can be considered timely.

Prade's petition is filed almost twelve years after the Court of Appeals affirmed the convictions. *State v. Prade*, 139 Ohio App.3d 676, (2000). Under any version of R.C. 2953.21 the petition is untimely. *See* R.C. 2953.21(A)(2). Consequently, Prade must comply with R.C. 2953.23. *State v. Hartman*, 9th Dist. No. 25055, 2010-Ohio-5734, ¶7.

Prade claims to be actually innocent. R.C. 2953.23(2). If that is so, then he has complied with R.C. 2953.23. R.C. 2953.23(A). That is the point of the hearing scheduled for August. If Prade proves actual innocence at the hearing, then the petition is timely and the choice of remedy in Prade's case is either discharge or a new trial. R.C. 2953.21(G).

Prade correctly cites the definition of actual innocence and the burden of proof he bears: clear and convincing evidence. Brief, 17-18. He wrongly suggests to this Court that it has made a nearly identical finding in the Testing Order dated September 23, 2010.

B.2 The Testing Order does Not State that Prade is Actually Innocent

The Testing Order was necessitated by the decision of the Supreme Court of Ohio in *State v. Prade*, 126 Ohio St.3d 27, 2010-Ohio-1842. The point of the decision was that Prade had not had a definitive DNA test(s) at his trial. *Id.* ¶19. Because the prior tests were not definitive it remained on remand to see if an exclusion would be outcome determinative. *Id.* ¶28, ¶30; R.C. 2953.74(B)(2); R.C. 2953.71(L).

This Court understood and complied with the Supreme Court's mandate. Testing Order, 3. The State notes that the pertinent statute did not allow the State to appeal this Court's finding that an exclusion of Prade from the bite mark would be outcome determinative. R.C. 2953.73(D)/(E) (only allows an appeal from an order rejecting an application for DNA testing to either the Supreme Court of Ohio in a death case or to the Court of Appeals in a non-death case, neither of which apply to our case.)

The Testing Order determines that an exclusion would be outcome determinative:

had the results of DNA testing of the subject offender been presented at the trial of the subject offender requesting DNA testing and been found relevant and admissible with respect to the felony offense for which the offender is an eligible offender and is requesting the DNA testing, and had those results been analyzed in the context of and upon consideration of all available admissible evidence related to the offender's case as described in division (D) of section 2953.74 of

the Revised Code, **there is a strong probability that no reasonable factfinder would have found the offender guilty of that offense***.**

R.C. 2953.71(L) (Emphasis added.)

The PCR statute requires proof by clear and convincing evidence of actual innocence:

“actual innocence” means that, had the results of the DNA testing conducted under sections 2953.71 to 2953.81 of the Revised Code or under former section 2953.82 of the Revised Code been presented at trial, and had those results been analyzed in the context of and upon consideration of all available admissible evidence related to the person's case as described in division (D) of section 2953.74 of the Revised Code, **no reasonable factfinder would have found the petitioner guilty of the offense** of which the petitioner was convicted ***.

R.C. 2953.21(A)(1)(b) (Emphasis added.); R.C. 2953.23(A)(2) (incorporating definition.)

The difference between the two definitions is distinct despite Prade's efforts to conflate them. Outcome determinative means that the probability is strong that no reasonable factfinder would convict the defendant of the offense. Actual innocence goes beyond that to require that no reasonable factfinder would convict. The first definition refers to a probability but the second mandates certainty. The Testing Order addresses outcome determinative only. Therefore the issue of actual innocence remains to be addressed.

C. Both Prade and this Court Must Address All of the Evidence

The definition of actual innocence requires the Court to consider the DNA test results together with and in the context of all admissible evidence.

The State stands by the jurors' verdict. Accordingly, the following is written to reflect the verdict of the jury, that Prade, not some unknown person, did certain things or was observed doing certain things. Both the trial transcript and the opinion of the Ninth District Court of Appeals in *Prade*, 139 Ohio App.3d 676 are cited in support of Prade's guilt for the murder of Margo Prade.

Each and every alleged defect in the eyewitness testimony was the subject of cross-examination at trial and within the ken of the jury when it convicted Prade. A fundamental premise of our criminal trial system is that 'the jury is the lie detector.' *United States v. Barnard*, 490 F.2d 907, 912 (9th Cir.1973). Determining the weight and credibility of witness testimony is the "part of every case [that] belongs to the jury, who [is] presumed to be fitted for it by [his or her] natural intelligence and ... practical knowledge of men and the ways of men." *Aetna Life Ins. Co. v. Ward*, 140 U.S. 76, 88 (1891). Any court should proceed with caution in determining that a jury verdict should be held for naught.

And it will not do to dismiss evidence as merely circumstantial. A conviction can be sustained based on circumstantial evidence alone. *State v.*

Nicely, 39 Ohio St.3d 147, 154-155 (1988). Circumstantial evidence can be as persuasive as direct evidence if not more so. *State v. Lott*, 51 Ohio St.3d 160, 167 (1990). There is no difference between direct and circumstantial evidence as far as determining its effect on the jury. *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph one of the syllabus.

Between 8:00 – 9:00 AM on November 26, 1997, Robin Husk of Rolling Acres Dodge (which adjoined Dr. Prade's office) saw Douglas Prade and asked if he could help him, to which Prade responded negatively and moved away. T. 1262-1264; *Prade* 698.

The homicide was committed between 9:10 – 9:12 am, as documented by the Rolling Acres Dodge security videotape. T. 1044-1046; State Exhibits 179, 180, 181.

Prade waited for the victim in his car, started to leave, stopped when the victim pulled in, and parked near the victim's van. State Exhibits 179, 180, 181. Prade gained swift entry into the van by key, or by the victim unlocking the doors. Prade had keys to the van. State Exhibits 179, 180, 181; *Prade* 697. Six shots were fired into Dr Prade. T. 1141-1161.

Margo Prade was bitten during the struggle, which left a bite mark impression that a forensic odontologist ascribed to Prade. In the words of Dr. Marshall who tried to exclude Prade as the person who left the bite marks,

“Every mark lined up with every other mark.” T. 1226-1227, 1392, 1406; *Prade* 699.

As Prade drove away from the scene of the murder, patient Howard Brooks saw him as Brooks exited the medical office building. T. 1425-142; *Prade* 697-698. Prade was seen at the scene immediately before and after the killing. His bite mark impression was found on the lab coat and on her arm.

A piece of evidence strongly indicative of premeditation was that before the killing Prade was experiencing money problems. He opened Margo’s mail and knew about the insurance policy. He received \$75,238.50 after her death in insurance proceeds. More than a month before the murder, Prade’s debts had been tallied against \$75,000.00. The tally was made on the back of an October 8, 1997, bank deposit slip from Prade’s account and was found at the residence of Prade’s girlfriend, Carla Smith. T. 511-518, 1415-1453, 1463-1464; State Exhibits 51, 192-194; *Prade* 699. Prade admitted that his handwriting is on the tally. T. 2115.

In his Brief, Prade attempts to discount this evidence with the theory that Prade could have written the tally after the murder. That theory won’t hold water. The truth is that the debts listed on the slip existed prior to the time Dr. Prade was killed. After the murder Prade disbursed the insurance proceeds to other creditors.

Describing State Exhibit 194, the tally, Lieutenant Calvaruso said that the figures subtracted from \$75,000.00 were compared to notations in State Exhibit 195, Prade's checkbook. That checkbook contained notations of amounts owed to creditors comparable to the amounts listed on the tally. T. 1454.

Examination of the relevant exhibits indicates that State Exhibit 194 is an enlargement of the back of the deposit slip dated October 8, 1997. The front of the slip is enlarged in State Exhibit 193.

On Exhibit 194 amounts corresponding to several businesses are listed. The total is 24,670.00. On the bottom, the amount of 24,600 is subtracted from 75,000. The businesses are MBMA (10,000); MH (motor home) (5400.00); Sears (3700.00); HRS (Builders Square) (350); Kay's (240); Diamond's (240); Mellion (a doctor) (900); and the figure 2,140.00. T. 1451-1453.

State exhibit 195, Prade's checkbook, indicates that the amount due to the creditor is listed after a payment to the creditor. On October 16th, more than a month before the homicide, a payment of \$30.00 is made to HRS with a balance of \$357.21. Also on that date a payment of \$207.00 is made to MBNA with a balance of \$10,176.00 and a payment of \$80.79 is made to Diamonds with a balance of \$247.81.

On October 10th a payment of \$51.48 is made to Kay's with a balance of \$244.31. On October 3rd payments of \$41.00 and \$54.00 are made on two Sears accounts with a total balance of \$3,500.15. On October 31st a payment of \$118.00 is made to Mellion with a balance of \$1062.00.

On November 25th the checkbook shows a negative balance of \$508.54.

This exhibit shows that the debts listed in the deposit slip dated October 8, 1997, pre-dated the murder and that Prade anticipated collecting the insurance proceeds well before the murder. The exhibit screams his guilt.

State exhibit 197 is an enlargement of State Exhibit 196, Prade's check register. T. 1455-1456. The exhibit shows a beginning balance of \$75, 238.50 corresponding to the amount of the insurance proceeds. From that sum are deducted payments to Rolling Acres Dodge; First Merit/Old Phoenix; IRS, Kerry O'Brien (one of Prade's attorneys); and L. Davidson, another attorney. There is a deposit of \$5,000.00. The ending balance is \$18,239.00, less \$450.00 for an unattributed payment. The point of exhibit 197 is that after the murder Prade used the insurance proceeds to pay creditors substantially different from the creditors listed on exhibit 194. This buttresses the impact of exhibits 194 and 195.

Prade never signed the divorce separation agreement documents. Had he done so, he would have forfeited his right to collect life insurance benefits. T. 2162. Prade claimed that he did not have financial problems but in August

and September of 1997, just before the homicide, he had \$300.00 in overdraft charges and as stated a \$500.00 negative balance in his checkbook. T. 2121. In November of 1997 Margo Prade had her attorney send Prade a letter concerning an increase in child support. State Exhibits 62 and 94.

Other evidence showing that Doug Prade was obsessively jealous of Dr. Margo Prade was that Prade wire tapped Dr. Margo Prade's home phone calls. There were more than five hours of taped calls played at trial from some three years of wiretapping. T. 418. There were 86 calls in October of 1994 through January of 1995 and 349 calls in December of 1996. The taped calls in December of 1996 correlate to Dr. Prade finally deciding to divorce Prade. As their relationship declined the taping increased. Prade was obsessive about her whereabouts and relationships which is typical of domestic violence cycles. The divorce complaint was filed in 1996 after Christmas. T. 558.

The Court of Appeals found that this evidence was admissible under Evid.R. 404(B). *Prade*, 685. Accordingly, it is admissible evidence under the definition of actual innocence.

Prade denied wiretapping Margo Prade's phone. He claimed that Margo Prade wanted her conversations taped to have a record of client matters. He admitted erasing some tapes so they could be used again. T. 2135. Prade's explanation is incredible because witnesses said that Margo Prade remembered her patient information; notably on a tape Margo Prade says that

she thinks Doug is taping the phone and to be careful of what is said. T. 2139. Clearly the jury in convicting Doug Prade of wiretapping did not find this explanation credible.

Despite his serious financial problems and debts, Prade admitted that he hired a private investigator for \$3,600.00 to follow her and her friend weeks before Dr. Prade was murdered. T. 2165. This is another act of compulsive, obsessive behavior for him to want to keep her.

In truth, Dr. Prade saw her death coming at Prade's hands.

Dr. Prade was very afraid of Douglas Prade. Dr. Prade's friends shared that concern and even advised her to get a gun. T. 462, 637, 766, 768, 829. Prade loitered around Dr. Prade's office late at night when he worked the midnight shift for the police department. T. 833. Prior to the murder a police cruiser was frequently seen parked near Dr. Prade's office. After the murder that car was not seen again. T. 709-712, 721.

Dr. Prade's purse and bag were left untouched in her vehicle when she was shot. T. 750. The killing was not part of a robbery.

Prade's alibi is false. Prade told police after Dr. Prade's body was discovered that he had started a workout at 9:30 am (some twenty minutes after the murder occurred) on November 26, 1997. T. 1034-1035. Prade arrived at the murder scene just after 11:00 am. T. 953. Prade claimed that he came directly from the gym, that was six minutes away and where he had been

working out, but his appearance gave no hint that he had been working out. *Prade* 698. Later, Prade attempted to foist an alibi on the jury based on his alleged workout at the time of the killing.

But he had already admitted that he was not working out when the killing occurred.

Prade testified that he assumed that he arrived at the gym on the day of the murder a little before 9:00 (am). T. 1900. He estimated that the alibi witness, Katherine Lynch, left the gym between 9:20 and 9:30. T. 1901.

Prade's alibi witness Lynch told police on January 22, 1998, that Prade arrived at the gym anywhere from 8:25 am to 9:25 am on November 26, 1997. T. 1545-1546. She testified that she arrived probably around 8:30. T. 1524. The Court of Appeals found that this alibi witness could not establish when her workout commenced (and so could not definitely say when defendant entered the gym). *Prade* 699. Prade also said that a man came into the gym when the murder occurred. But that man denied ever seeing Prade at any time in the gym. *Prade*, 699.

Prade did not have an alibi and his own statement contradicted the alibi that he attempted to establish. Prade's alibi is a fabrication.

Prade's alibi was admissible evidence at the trial and it is admissible evidence now. Evid.R. 801(D)(2)(a) excludes from the definition of hearsay

admissions by a party opponent where the statement is offered against a party and is the party's own statement.

Courts construing the analogous federal rule of evidence and prior case law hold "that a criminal defendant's prior testimony, if voluntarily given, is admissible at a subsequent trial of the same case." *United States v. Toombs*, 2010 WL 5067617 (D. Kan.), 2, citing *Harrison v. United States*, 392 U.S. 219 (1968); *United States v. Ndubuisi*, 460 Fed.Appx. 436, 2012 WL 490144 (5th Cir. 2012), 439-440.

Likewise, the testimony of the purported alibi witness is admissible. If this witness becomes unavailable her former testimony is admissible under Evid.R. 804(B)(1). *State v. Jackson*, 2nd Dist. No. 24430, 2012-Ohio-2335, ¶¶49-¶50; *State v. Arnold*, 189 Ohio App.3d 507, 2010-Ohio-5379, ¶65.

D. Expert Testimony Will Show that the Exclusion is Meaningless and Cannot Prove Actual Innocence

Attached to this Brief is BCI Lab Report number 97-35366 signed by BCI DNA Technical Leader Lewis Maddox PhD and Director of Research, Development and Training Elizabeth Benzinger, PhD dated July 17, 2012. Exhibit 1. The conclusion is "that the DNA results obtained from the fingernail samples and bite mark lab coat samples are not outcome-determinative and likely represent background DNA due to casual transfer rather than a signature of the assailant in the homicide of Margo Prade."

This contrasts with the conclusions of Rick Staub, PhD and Julie A. Heinig, PhD who aver that the male DNA identified in lab coat bite mark cuttings is far more likely or very likely to have originated from the murderer. Prade Exhibits M, ¶13 and P, ¶16.

As such this Court is faced with making a credibility determination. Prade must prove his theory by clear and convincing evidence.

It must be noted here that the language in the BCI report, “outcome-determinative” is obviously not used to describe the threshold finding required by the DNA testing statutes before a DNA test is ordered. The language clearly means that the male DNA identified through the testing is not from the murderer.

The BCI report also includes two color photographs. In one the clearly soiled collar of the lab coat is shown in a 2009 photograph. In the other then Assistant Prosecutor Alison McCarty is shown holding the stained lab coat as FBI DNA expert Thomas Callaghan PhD gestures towards it. The latter photograph is reflected in the transcript at pages 1097 to 1098 where the prosecutor takes out the lab coat and questions Callaghan about it. The photographs illustrate one possibility of contamination.

Moreover, during his testimony Callaghan was shown bite mark cuttings. The transcript indicates that the “little swatches that you took out of

this cutting” were displayed and handled in court. T. 1107-1108. This illustrates another possibility of contamination.

E. Other Background Information Concerning Prade

Prade offers for background and information that in a news broadcast three jurors agreed that the bite mark was critical to their voting to convict (presumably for murder). Prade Brief, 21-22.

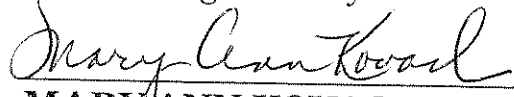
Other inadmissible background and information is that Prade took and failed a polygraph test shortly after the murder. The test was given by Bill Evans, and Prade answered deceptively on two key questions. However, Prade was told that he passed the polygraph by police investigators in order to see how he would react later thinking that he had been cleared. A transcript of an interview conducted on November 15, 2007, by Eric Mansfield then with Channel 3 News with Bill Evans and Craig Gilbride is attached to the State’s Memorandum dated August 9, 2010, along with an internet posting of the Channel 3 news story. Exhibit 5, Memorandum dated August 9, 2010. A tape recording of the interview is available.

CONCLUSION

For the foregoing reasons the State requests an evidentiary hearing, an opportunity to brief the issues subsequent to the hearing, and a determination that Defendant Prade is not entitled to relief.

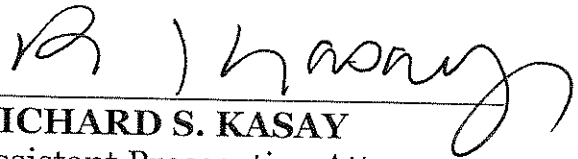
Respectfully submitted,

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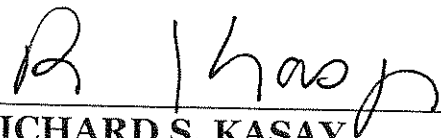


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PROOF OF SERVICE

I hereby certify that a copy of the foregoing has been mailed by regular U.S. Mail and email to- David B. Alden and Lisa B. Gates, Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114; and by regular U.S. Mail and email to Mark Godsey and Carrie E. Wood, Ohio Innocence Project, University of Cincinnati College of Law, P. O. Box 210040, Cincinnati, Ohio 45221-0040, on this 24th day of July, 2012.



RICHARD S. KASAY
Assistant Prosecuting Attorney



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Bureau of Criminal Identification and Investigation

Laboratory Report

To: Mary Ann Kovach
Summit county Prosecutor's Office
53 University Avenue
Akron, OH 44308

BCI&I Laboratory Number: 97-35366

Date: July 17, 2012

Offense: Homicide
Subject(s): Douglas E. Prade
Victim(s): Margo S. Prade

Review of DNA Testing Results

The goal of the recent round of DNA testing was to identify DNA which could have been left by the killer of Margo Prade. DNA testing has been performed by both DNA Diagnostics Center (DDC) and the Ohio Bureau of Criminal Investigation (BCI). At BCI, Lewis Maddox and Elizabeth Benzinger reviewed the test results of both DDC and BCI as well as the reports of the FBI (July 24, 1998) and Serological Research Institute (SERI; September 9, 1998). In sum, we conclude that the DNA results obtained from the fingernail samples and bite mark lab coat samples are not outcome-determinative and likely represent background DNA due to casual transfer rather than a signature of the assailant in the homicide of Margo Prade. Our findings follow.

Review of bite mark area of lab coat tests

The FBI identified DNA consistent with Margo Prade using the Polymarker/DQa DNA testing system.

SERI identified DNA consistent with Margo Prade using Polymarker/DQa but failed to identify amylase, a biochemical marker for saliva.

DDC obtained a partial mixed DNA profile using Y-STRs. Interpretable data was obtained for only 7 of the 16 genetic locations included in the Y-STR test.

Review of fingernail tests

In 1998, the FBI, using Polymarker/DQa, found DNA consistent with Margo Prade and Timothy Holsten on the fingernail samples.

Please address inquiries to the office indicated, using the BCI&I case number.

BCI & I-Bowling Green Office
1616 E. Wooster St.-18
Bowling Green, OH 43402
Phone:(419)353-5603

BCI & I-London Office
P.O. Box 365
London, OH 43140
Phone:(740)845-2000

BCI & I-Richfield Office
4055 Highlander Pkwy. Suite A
Richfield, OH 44286
Phone:(330)659-4600

EXHIBIT 1

2012 testing by BCI, using Y-STRs, identified DNA consistent with Timothy Holsten. Additional partial unknown profiles and profiles below the interpretation threshold were seen as well.

Peer-reviewed publications document the presence of just this level of DNA results based on testing of volunteers' fingernails. For example, Williams et al., 2012, Prevalence and persistence of foreign DNA beneath fingernails, Forensic Science International Genetics, 6:236-243.

Exposure of lab coat to sources of extraneous DNA.

We believe that there have been multiple opportunities for extraneous DNA to be deposited on the lab coat. In the 2009 photograph taken by Benzinger, soiling of the collar suggests that the lab coat had not been recently laundered. Dr. Prade's lab coat would have been exposed to coughs and sneezes from her patients.

The lab coat was handled by evidence technicians and forensic examiners at both the FBI and SERI.

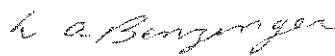
During trial, the lab coat was exposed to the DNA of court officials. The evidence was displayed during testimony. See the picture of FBI DNA examiner Tom Callaghan talking over the lab coat during trial.

Final Analysis of DNA testing

We agree that Douglas Prade is excluded as a contributor to the partial DNA profiles obtained from the bite mark and the fingernails. However, DNA testing has failed to identify a full DNA profile besides that of Margo Prade from the bite mark and besides that of Timothy Holsten from the fingernails. We question the relevance of the partial mixed profiles obtained. Within one year of the crime, SERI was unable to find evidence of saliva on the bite mark area, suggesting that the amount of saliva or cells or DNA originally deposited was very low. Y-STR testing, capable of identifying male DNA even in the presence of the blood stains from Margo Prade, failed to obtain a full male DNA profile. Instead, a mixture of partial male profiles was obtained. The presence of multiple low-level sources of DNA is most easily explained by incidental transfer (patients, police, lab workers, court officials). However, no single, complete male DNA profile has been obtained by any of the testing laboratories, except for that of Timothy Holsten.



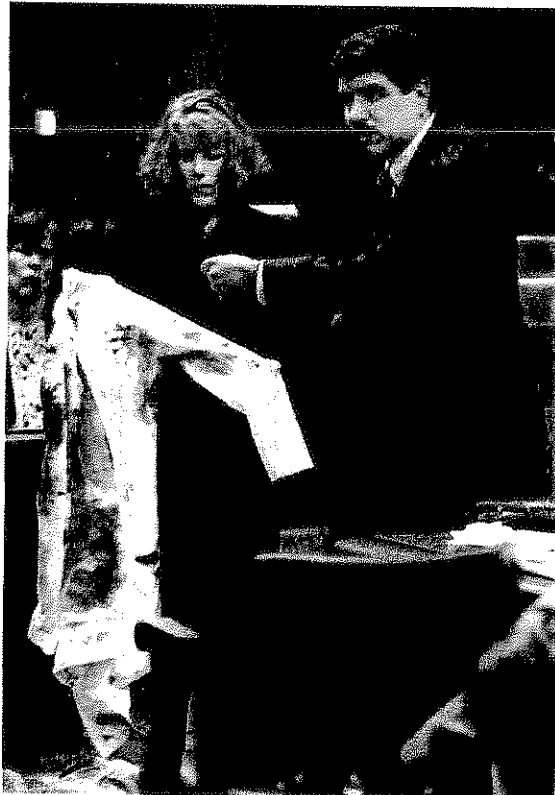
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Margo Prade lab coat soiled collar photographed by Benzinger 2009



FBI DNA examiner Tom Callaghan testifies during Prade trial. From www.ohio.com