

**Article Title:** Second Declaration of Dr. Simon Cole RE: State of Washington vs. Le Nhu Le

**Origin:** Superior Court of Washington

**Date Published:** 2010-08-09

**Author:** Simon Cole

**Article's Subject Matter:**

The document is a declaration of Simon Cole in rebuttal to the State's response brief and affidavit of Michele Triplett in response to the first declaration of Simon Cole.

A copy of Simon Cole's first declaration was not provided.

**Key Points in Article**

- The declaration commences with Simon Cole stating his list of qualifications to demonstrate to the court why he thinks he is an authority on the subject of "the scientific basis for the testimonial claims made by fingerprint examiners" as well as an authority on who represents "the scientific community".
- Cole states in his declaration that he is not trying to impose a new legal admissibility standard upon the State of Washington for the admissibility of expert testimony rather he declared that latent print testimony failed to meet the admissibility standard. He stated that since the NAS report rejected the ACE-V methodology then by extension, ACE-V is not generally accepted by the scientific community.
- Cole surmises that while no body or document can officially speak for the scientific community, a report prepared by a National Research Council comes as close to doing so as any document that could be produced in American Science.
- Cole points out a number of statements in Michele Triplett's response to his initial affidavit which according to him are contradicted by the NAS report and again by extension would mean are not generally accepted by the scientific community
  - Triplett stated ACE-V is a valid scientific method and therefore conclusion reached in its utilization are scientific – Cole points out that the NAS report stated that ACE-V is not specific enough to qualify as a validated method for this type of analysis
  - Triplett stated several times in her rebuttal that latent print identification is "extremely reliable based on her experience, her research and her first-hand knowledge – Cole does not see this as providing useful data relative to the reliability of friction ridge analysis and quotes the NAS report that said "there is limited information about the accuracy and reliability of friction ridge analysis."
  - Triplett quotes specific numbers with respect to the number of reported errors that have been made worldwide - Cole refutes these numbers with a valid

argument that one cannot assume that all misidentifications made have been reported and indeed there may be misidentifications made that are yet unknown.

- Triplett attempts to explain that in the cases of error that she quoted, she personally examined a number of the cases and was of the opinion that the examiner was incompetent or the ACE-V methodology had not been correctly applied – Cole refutes this argument by stating that at the time the mistakes were made they were made by reportedly trained, competent examiners using ACE-V and to state the reason for the errors was examiner incompetency or inappropriate application of ACE-V, is simply post hoc rationalization
- Cole ends by stating the real question that remains to be answered with reliable data is “How accurate is this process?”

### **Fallacies and Issues**

- Love him or Hate him, Cole does raise some valid points
- Proper testing and documentation of the ACE-V methodology needs to be completed by our discipline to address the concerns of the NAS report