

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO

Plaintiff,

v.

HARRY BRISCOE

Defendant,

JUDGE DAVID T. MATIA

CASE NO. CR-06-487410

**PROSECUTING ATTORNEY'S REPORT REGARDING SEARCH FOR
BIOLOGICAL MATERIAL PURSUANT TO R.C. 2953.75(B)**

Respectfully submitted,

MICHAEL C. O'MALLEY (0059592)
CUYAHOGA COUNTY PROSECUTOR

BY: /s/ Gregory Ochocki
GREGORY OCHOCKI (0063383)

Assistant Prosecuting Attorney
1200 Ontario Street, 9th Floor
Cleveland, Ohio 44113
216.443.7800

**PROSECUTING ATTORNEY'S REPORT REGARDING SEARCH FOR BIOLOGICAL
MATERIAL PURSUANT TO R.C. 2953.75(B)**

Now comes Cuyahoga County Prosecutor Michael C. O'Malley, on behalf of the State of Ohio, by and through his undersigned assistant, and pursuant to the Prosecuting Attorney's obligations under R.C. 2953.75(B), respectfully submits this report detailing the search for biological material and a parent sample in response to an application for DNA testing.

Procedural Summary

In May 2007, a jury found defendant Harry Briscoe and codefendant Richard Segines guilty of the murder and aggravated robbery of Ali Th Abu Atiq.¹ The victim, who sold clothing from his van, was shot in the parking lot of the Banbury Apartments in Warrensville Heights, Ohio. A maintenance worker at the apartments saw two men, one that he identified as Briscoe, approach Atiq. Minutes later, the worker received a call that Atiq had been shot. A resident observed the shooting and saw two men run from to Dockery's vehicle, which Dockery drove from the scene. Dockery testified Segines and Briscoe divided the money they had stolen and threw a set of keys and a cell phone out the car window.

Warrensville Heights Police learned that the keys were missing from Atiq's van and there was no money in his possession. There were latent fingerprints on the outside of the van, one of which was matched to Briscoe.

DNA testing was performed by BCI on the following evidence:

- 8. Clear bag containing blue and white striped shirt found in a yard at 16305 Telfair;
- 8.1. Swab of shirt;
- 9. Clear bag containing T-shirt found in yard of 16225 Elberta; and

¹ A third codefendant, Sharon Dockery, pleaded guilty to involuntary manslaughter and robbery.

9.1 Swab of T-shirt.

BCI&I Laboratory Report Number 06-37479, dated April 24, 2007.²

BCI analysis determined Briscoe could not be excluded as a source of the DNA on the shirt. *Id.* Co-defendant Richard Segines could not be excluded as the major source of DNA on the T-shirt. *Id.*

Briscoe now asks this Court to order DNA testing of the fingerprint evidence “and any other physical evidence which may be available.”

Places Searched

Warrensville Heights Police

Officer William Neath of the Warrensville Heights Police Department advised that the Warrensville Heights PD Evidence Room did not have evidence in connection with this matter (Warrensville Heights PD report # 06-2838).

Ohio Bureau of Criminal Investigation

Melissa Zielaskiewicz of Ohio BCI indicated no fingerprints lifts were submitted to BCI. Zielaskiewicz stated the materials submitted for DNA testing (BCI&I Laboratory Report 06-37479) were returned to the Warrensville Heights Police Department.

Cuyahoga County Sheriff's Office

Officer Veverka of the CCSO indicated his office did not have the fingerprints. Officer Veverka suggested speaking with Cleveland Police Records/SIU.

Cleveland Police Crime Scene and Records Unit

Michele Johnson from CPD's Crime Scene and Records Unit indicated CPD had the latent fingerprints at one time. The Unit processed the latent fingerprints for Warrensville Heights PD,

² Exhibit “1.”

but transferred the latent prints back to the Warrensville Heights Police Department.

Warrensville Heights Police Department

On September 29, 2021, the undersigned circled back with Warrensville Heights PD. Officer Neath repeated his earlier assertion that Warrensville Heights PD did not have any evidence from this investigation. Officer Neath indicated there is no destruction log to determine whether the latent fingerprints in this matter were ever destroyed.

Cuyahoga County Clerk of Courts

Employees of the Cuyahoga County Clerk of Courts assigned to the "Dead Files" unit indicated they did not have any evidence in connection with this matter. Employees of the clerk's office for the Eighth District Court of Appeals looked through the box currently at the Court of Appeals³. They do not have any evidence. The "Dead Files" indicated that the transcript from Briscoe's criminal trial cannot be located.

The Cuyahoga County Prosecutor's Office Property Room

Paralegal Audra Facinelli confirmed the prosecutor's office only has cassette tapes and CDs. It does not have any other evidence in connection with this matter.

Conclusion

Pursuant to the obligations under R.C. 2953.75, the Prosecuting Attorney has used reasonable diligence to determine whether a parent sample of the biological material sought for DNA testing still exists. The undersigned will continue to use diligence and supplement this report

³ Briscoe has a pending appeal in the Eighth District (Case No. CA-21-110400).

as necessary.

Respectfully submitted,

MICHAEL C. O'MALLEY (0059592)
CUYAHOGA COUNTY PROSECUTOR

BY: /s/ Gregory Ochocki
GREGORY OCHOCKI (0063383)
Assistant Prosecuting Attorney
1200 Ontario Street, 9th Floor
Cleveland, Ohio 44113
216.443.7800

CERTIFICATE OF SERVICE

A copy of the foregoing Report was mailed or electronically sent this October 29, 2021,
to: Harry Briscoe, #A530-252, c/o Grafton Correctional Institution, 2500 S. Avon-Belden Road,
Grafton, OH 44044.

/s/ Gregory Ochocki
GREGORY OCHOCKI (0063383)
Assistant Prosecuting Attorney



MARC DANN
ATTORNEY GENERAL
STATE OF OHIO

Bureau of Criminal Identification and Investigation

Laboratory Report

To: Warrensville Hts. Police Dept. BCI&I Laboratory Number: 06-37479
Don Spera
4301 Warrensville Center Road Date: April 24, 2007
Warrensville Heights, OH 44128
Agency Case Number: 06-2838

Offense: Attempted Homicide
Subject(s): Harry Briscoe, Richard Segeines, Sharon J. Dockery
Victim(s): Ali th abu Atiq

Submitted on September 20, 2006 by Don Spera, Evidence Tech:

- 5. One box containing known standard from Harry Briscoe
- 5.1. Known standard from Harry Briscoe
- 6. One box containing known standard from Sharon J. Dockery
- 6.1. Known standard from Sharon J. Dockery
- 7. One paper-wrapped item of known standard from Richard Segeines
- 7.1. Known standard from Richard Segeines

Submitted on December 13, 2006 by Don Spera:

- 8. Clear bag containing blue and white striped shirt found in yard at 16305 Telfair
- 8.1. Swab of shirt
- 9. Clear bag containing T-shirt found in yard of 16225 Elberta
- 9.1. Swab of T-shirt

Findings

DNA profiling was performed using the polymerase chain reaction at the loci D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, Amel., D5S818, and FGA. The results are listed in Table 1.

The partial DNA profile from the swab of the shirt (Item 8.1) is a mixture consistent with contributions from Harry Briscoe. Additional types were detected and have limited value for comparison purposes.

The DNA profile from the swabbing of the T-shirt (Item 9.1) is consistent with Richard Segeines. An additional peak was detected at one location.

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)659-4800

Conclusions and Statistical Information

Harry Briscoe cannot be excluded as a source of the DNA on the shirt.

Based on the national database provided by the Federal Bureau of Investigation, the proportion of the population that cannot be excluded as possible contributors to the mixture of DNA profiles on the shirt (Item 8.1) is 1 in 44,880 unrelated individuals.

Richard Segeines cannot be excluded as the major source of the DNA on the T-shirt.

Based on the national database provided by the Federal Bureau of Investigation, the expected frequency of occurrence of the major DNA profile identified on the T-shirt (Item 9.1) is 1 in 3,264,000,000,000,000 unrelated individuals.

Remarks

The remaining portions of Items 5.1, 6.1, and 7.1 are being retained in the laboratory and are available should independent analysis be requested. The swabs from the shirt and T-shirt (Items 8.1 and 9.1) were consumed during testing.

All items of evidence will be returned to the submitting agency.

Melissa Zielaskiewicz
Forensic Scientist
(330) 659-4600 Ext. 233
mzielaskiewicz@ag.state.oh.us



cc: Cuyahoga County Prosecutor's Office

Table 1

Locus	8.1 Shirt	9.1 T-shirt	5.1 Harry Briscoe	6.1 Sharon J. Dockery	7.1 Richard Segeines
D8S1179	10,13,14, 15	12,14	15	13,14	14
D21S11	ND	30,32.2	29,30	27,30	30,32.2
D7S820	ND	8,12	10,12	11	8,12
CSF1PO	ND	11,12	11	11,14	11,12
D3S1358	16	15,16	16	15,17	15,16
THO1	7	7,9	7	7,9.3	7,9
D13S317	ND	11,12	12,13	11,12	11,12
D16S539	11	9,10	11	10,11	9,10
D2S1338	18	24,25	18,20	22,24	24,25
D19S433	11,13,16.2	12,14.2	11,16.2	13,15.2	12,14.2
vWA	14,15,16	17	14,16	15,16	17
TPOX	8,9,10	8,11	9,10	9,10	8,11
D18S51	ND	12,18	18,19	20	12,18
Amel.	X,Y	X,Y	X,Y	X	X,Y
D5S818	12	12	12,13	12	12
FGA	ND	22,23	23	21,23	22,23

ND = Not detected