

1 THE STATE OF OHIO, )  
 ) SS: DAVID T. MATIA, J.  
 2 COUNTY OF CUYAHOGA.)

3 IN THE COURT OF COMMON PLEAS

4 CRIMINAL DIVISION

5 THE STATE OF OHIO, )

6 Plaintiff, )

7 -v-

) Case No. 487410-A

) C/A: 089979

8 HARRY BRISCOE, )

9 Defendant. )

10 - - - -

11 PARTIAL TRANSCRIPT OF PROCEEDINGS

12 - - - -

13 APPEARANCES:

14 WILLIAM D. MASON, ESQ., Prosecuting Attorney,  
 15 by: A. STEVEN DEVER, ESQ., and ANDREW  
 16 NICHOL, ESQ., Assistant County Prosecutors,

on behalf of the Plaintiff;

17 DOUGLAS GLENN, ESQ.  
 18 EDWARD MULLEN, ESQ.,

19 on behalf of the Defendant Briscoe.

20  
 21  
 22  
 23  
 24 Gregory L. Koterba  
 25 Rita A. Kucera  
 Official Court Reporters  
 Cuyahoga County, Ohio

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16 BE IT REMEMBERED, that at the September  
 17 A.D., 2006 term of said Court, to-wit,  
 18 commencing on **Monday, November 6, 2006**, this  
 19 cause came on to be heard before the Honorable  
 20 David T. Matia, in Courtroom No. 17-D, Courts  
 21 Tower, Justice Center, Cleveland, Ohio, upon  
 22 the indictment filed heretofore.

23 - - - -

I N D E X

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PLAINTIFF'S WITNESSES:

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Joseph Felo, M.D.	361	385	401	403
Gregory Curry	405	425	438	440, 448
Melvin Barnes	451	483	502	506
Sharon Dockery	507	600	676	681
Damon Leggett	731	755	775	777
Gaylon Clark	778	798	804	
Donald Spera	810	840	860	860
Lisa Przepyszny	885	900	916	917
Lisa Slovek	919	926	928, 934	931
Alaias Perkins	955	971		
Pamela Dennis	990	1005		
Darren Senft	1020	1033		
Thomas Murphy	1038	1052, 1067	1062, 1069	1065, 1070
Barbara Kuszniir	1071	1095	1118, 1134	1133
Melissa Zielaskiewicz	1135	1158	1173	1175
Tankia Dixon	1181	1200	1217	1218
Jonathan Gardner	1221	1235	1240	
Spencer Sherels	1264	1276	1293, 1298	1296, 1300
Patrick O'Callahan	1311	1314		
Michelle Lykins	1317			
Jerry McGilbra	1319	1327	1334	1335
Dennis Fossett	1336	1386		
Maurice Clark	1432	1462	1480	1482

DEFENDANT BRISCOE'S WITNESS:

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Emma J. Anderson	1505	1511		

C O N T I N U E D I N D E X

EXHIBITS

	<u>Offered</u>	<u>Admitted</u>
<u>State's:</u>		
4-9, 11-24, 26-41,	1485	1486
46-59, 61&62, 66&67,		
70-80, 81&82		
84&86	1485	
42	1486	
25, 44, 68, 69	1487	1489
48	1489	
80-87	1490	
84&85	1490	1491
86	1490	1492
90	1667	
91	1668	

DEFENDANT'S BRISCOE'S

A-F	1522	1522
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PROSECUTOR HAS STATE'S EXHIBITS 19-22, 49, 78, 80, 84  
SEE ATTACHED EXHIBIT LIST

EXHIBITS FILED IN CASE NO. 487410-C, STATE OF OHIO  
VS. RICHARD SEGINES



FRIDAY MORNING SESSION, APRIL 11, 2007

\* \* \* \* \*

\* \* \* \* \*

\* \* \* \* \*

THE COURT: Okay. Officer  
Murphy, you may step down.

Ma'am, if you would come forward and  
raise your right hand.

- - - - -

The **STATE OF OHIO**, to  
maintain the issues on its part to  
be maintained, called as a witness,  
**BARBARA KUSZNIR**, who, being first  
duly sworn, was examined and  
testified as follows:

- - - - -

THE COURT: Please have a  
seat.

DIRECT EXAMINATION OF BARBARA KUSZNIR

BY MR. DEVER:

Q. Good morning.

Would you tell us your name, please.

A. Barbara Kuzsnir, K-u-s-z-n-i-r.

Q. Where are you employed?

A. City of Cleveland, Division of Police.

Q. What do you do for the City of Cleveland?

1 A. I'm a latent fingerprint examiner.

2 Q. Would you tell the ladies and gentlemen of the  
3 jury a little bit about your education, your  
4 training, your experience, your background, that  
5 would qualify you to be a fingerprint examiner?

6 A. I have a bachelor's of science degree in  
7 criminal justice from Ashland University. I have  
8 attended the FBI basic fingerprint classification  
9 school and their advanced latent class, and various  
10 on-the-job training and classes offered by the Ohio  
11 Pease Officers Training Academy.

12 Q. And what is a latent fingerprint examination?

13 A. That's looking at fingerprints from crime  
14 scenes, it's partial fingerprints versus whole rolled  
15 fingerprints, nail to nail.

16 Q. And how long have you been doing this?

17 A. Nine and a half years.

18 Q. Always with the City of Cleveland Police  
19 Department?

20 A. Yes.

21 Q. Have you been called upon to testify in a  
22 court of law and give an expert opinion concerning  
23 identification of fingerprints?

24 A. Yes.

25 Q. And how many occasions have you done that?

1 A. About five.

2 Q. Five times. Okay.

3 And the training, do you have any type of  
4 certification or are you a member of any type of  
5 associations that deal with analysis of fingerprints?

6 A. I'm a member of the International Association  
7 of Identification, and the Ohio Identification --  
8 it's the Ohio branch of the IAA. I forgot the name.

9 Q. Have you been subject to peer review or  
10 checking by other fingerprint examiners or teachers  
11 as to the reasonableness and validity of your work?

12 A. Yes.

13 Q. Now turning your attention to the matter of  
14 concerning a homicide that occurred in the City of  
15 Warrensville Heights. Did you become involved in  
16 that case?

17 A. Yes.

18 Q. And when did you become involved?

19 A. When John Spera had dropped off fingerprints  
20 for comparison.

21 Q. Who is Don Spera?

22 A. He's is the evidence technician for  
23 Warrensville Heights.

24 Q. Do you recall on what date those latent  
25 fingerprints were dropped off for comparison?

1 A. I can check my report.

2 Q. Did you bring the report with you?

3 A. Yes.

4 Q. By all means.

5 A. The first date was September 14th, 2006,  
6 September 20th, 2006, and September 27th, 2006.

7 Q. Can we go through each one of those dates and  
8 tell the ladies and gentlemen of the jury what was  
9 given to you on the certain dates?

10 First dealing with September 14th, 2006. What  
11 was dropped off to you at this time?

12 A. Nine white powder latent fingerprints were  
13 dropped off.

14 Q. Were they logged into the scientific  
15 investigative unit of the Cleveland Police Department  
16 at that time?

17 A. Yes.

18 Q. Showing you what's been marked for  
19 identification purposes as State's Exhibit 46. If  
20 you look at the outside of the envelope and then  
21 examine the contents.

22 First of all, tell us the outside of the  
23 envelope, what does it indicate?

24 A. Homicide case number, the victim's name, the  
25 date, the location, the disposition, being that

1 they're nine white powder latent fingerprints  
2 obtained from a 1998 gray Ford Escort, Ohio License  
3 DTL 1597.

4 Q. At that time what did you do with these -- or  
5 first of all, look at the contents. Are there in  
6 fact nine latents in there?

7 A. Yes.

8 Q. And what did you do with those nine latent  
9 fingerprints?

10 A. First I looked at them to see what kind of  
11 quality they are, to see if they're really good  
12 quality. And they didn't have a suspect. We could  
13 put them into our fingerprint computer called AFIS,  
14 Automated Fingerprint Identification System, or if  
15 they would be just no value for a known suspect  
16 comparison.

17 Q. What kind of quality were these prints?

18 A. These were considered to be of AFIS quality,  
19 very good.

20 Q. So when you say you logged them into the  
21 computer, how do you log those into a computer?

22 A. You just give them a case number and the year  
23 and put in what kind of crime it is. You check the  
24 fingerprint for a pattern type, if you have one, you  
25 mark points, and it searches a candidate list.

1 Q. Are these images? The images of the prints,  
2 are they scanned into a computer?

3 A. Yes.

4 Q. And then this database that's scanned for, who  
5 maintains that database?

6 A. It's the City of Cleveland local database.

7 Q. Is it tied into a national database?

8 A. No.

9 Q. So this is just to compare prints that are  
10 maintained by the City of Cleveland, is that correct?

11 A. Yes.

12 Q. What about say, for instance, a larger  
13 computer, the Ohio BCI or the FBI?

14 A. That's a different computer system.

15 Q. Okay. And did you do that? Did you log them  
16 into the larger computer system, either BCI or the  
17 FBI?

18 A. No.

19 Q. Why not?

20 A. I believe it was down at the time.

21 Q. So when you say, "down at the time," what do  
22 you mean by "down at the time?"

23 A. The computer wasn't up, it wasn't connected on  
24 line where it was working.

25 Q. So all that you had for database to compare

1 these prints with was of the Cleveland database, is  
2 that correct?

3 A. Correct.

4 Q. How big a database is the Cleveland database?

5 A. Thousands.

6 THE COURT: Counsel. Would  
7 everybody come on up here.

8 - - - - -

9 (Discussion held off the record and out  
10 of the presence of the Jury at sidebar.)

11 - - - - -

12 Q. Okay. So the AFIS system is down, as far as  
13 the national database, is that correct?

14 A. The BCI terminal is the one that was down.  
15 AFIS is up.

16 Q. Does that happen a lot?

17 A. It happens sometimes.

18 Q. So --

19 THE COURT: Let me ask you a  
20 question not related to the case.

21 But, now, when this BCI terminal is  
22 down, how long is it usually down for?

23 THE WITNESS: Just depends if  
24 there's something with our computer.

25 THE COURT: Days, weeks,

1 months?

2 THE WITNESS: One time it was  
3 down for six months, another times it will be  
4 down for the day.

5 THE COURT: Go ahead.

6 MR. DEVER: I have to follow  
7 up on that, judge, if I can.

8 Q. So for six months the City of Cleveland  
9 doesn't have access to the national database for  
10 fingerprint examination?

11 A. Yes.

12 Q. Okay.

13 THE COURT: Is this like a  
14 Dell computer, you can call 1-800-Dell and buy  
15 another one for \$1,500?

16 MR. DEVER: I'll go back to  
17 my case now.

18 Q. So you have those nine latents that are  
19 submitted apparently from Detective Spera from  
20 Warrensville Heights claiming to have been taken from  
21 a Ford Escort, is that correct?

22 A. Correct.

23 Q. Now, before we go on to the next items that  
24 were submitted, you said -- you talked a little bit  
25 about latents and quality. Can you give us a little



1 bit of an explanation as to how fingerprint  
2 examination is conducted to take latents, which are  
3 known prints, is that correct?

4 A. Correct.

5 Q. And can compare them with known prints.

6 What's the examination techniques that you use?

7 A. Okay. If you look at your hand, present on  
8 your hand are raised portions of skin, which are  
9 constantly excreting perspiration on the hand and  
10 sole of your feet. Within those raised portions of  
11 skin are tiny minute sweat pours. When they  
12 excreting perspiration they outline characteristics  
13 on your hands, which are points of identification.

14 Therefore, when an object is touched a  
15 reproduction of those images from your hand is left  
16 behind.

17 Now, how we take those and compare them is, an  
18 evidence technician will go and use powder or a  
19 chemical to develop a latent fingerprint. When the  
20 latent fingerprint is developed, I review it to see  
21 what kind of quality it is. And I look at the points  
22 of identification. And if I have a known suspect,  
23 for example, I will take a fingerprint card that is  
24 rolled from nail to nail of all ten fingers and I'll  
25 look at it. I'll look at the latent to see if it's

1 one of those ten, which one it is, and how many  
2 points are there.

3 Q. And is this technique, is this being used by  
4 law enforcement worldwide?

5 A. Yes.

6 Q. And how long has this technique existed?

7 A. Very long time.

8 Q. Now, as far as individuals having the same  
9 fingerprints -- are there situations that throughout  
10 the literature that have indicated no two people  
11 would have the same fingerprints?

12 A. It's never been proven that anybody had the  
13 same fingerprints.

14 Q. And turning your attention then to -- did  
15 there come a time that you were provided fingerprint  
16 cards from individuals by the name of Harry Briscoe  
17 and Richard Segines?

18 A. Yes.

19 Q. Showing you what's been marked as State's  
20 Exhibit 61 and 62. Take a look at those cards and  
21 tell us what they are.

22 A. This is a ten fingerprint card rolled nail to  
23 nail. This is considered a known print.

24 Q. Now, that print card is -- that's used by law  
25 enforcement, is that correct?

1 A. Yes.

2 Q. The quality of the fingerprint card, is there  
3 sufficient detail on the card? Was it properly  
4 prepared?

5 A. Yes, it was.

6 Q. And is there enough, as far as looking at the  
7 images, for each one of the ten digits on the card?

8 A. Yes.

9 Q. All right. And did there come a time that you  
10 compared those latent fingerprints that were  
11 submitted to you, that were submitted on the 14th of  
12 September, 2006, to the two fingerprint cards that  
13 you have there?

14 A. Yes.

15 Q. Would you tell us whether or not you were able  
16 to make any kind of observations?

17 A. On September 14th I had compared Harry Briscoe  
18 and Sharon Dockery and they were found to be one and  
19 the same.

20 MS. TYLEE: Objection.

21 THE COURT: Overruled.

22 Q. I'm asking you to look at the two fingerprint  
23 cards that you have there. Do you see their names  
24 are Richard Segines and Harry Briscoe? Is that  
25 correct?

1 A. Yes.

2 Q. Were you provided anyone else's print card?

3 A. Yes.

4 Q. Who was that?

5 A. Sharon Dockery.

6 Q. What day did you get the fingerprint cards for  
7 Briscoe and Segines?

8 A. Briscoe I received on September 14th, Segines  
9 I received on September 21st.

10 Q. Okay. So then -- when did you get the Dockery  
11 card?

12 A. September 14th.

13 Q. Going then to the comparisons that you dealt  
14 with from the Ford Escort. Would you tell us whether  
15 or not you were able to make identification of the  
16 latent fingerprint with the known fingerprint cards  
17 for Dockery, Briscoe and Segines?

18 A. For September 14th I found two partial latent  
19 prints to be identical --

20 MS. TYLEE: Objection.

21 THE COURT: Overruled.

22 A. -- two partial latent fingerprints to be  
23 identical to Harry Briscoe and one fingerprint lift  
24 to be identical to Sharon Dockery.

25 Q. Okay. Of the nine then that's all that you

1 could make an identification on, is that correct?

2 A. That's correct.

3 Q. And then how many in making your evaluation to  
4 determine what you say to identify identical --  
5 what's the standard that you must meet to call it  
6 identical?

7 A. In order to make an identification, what is  
8 one print being the unknown and the known print,  
9 there needs to be within -- I like to have between  
10 seven to twelve points of identification in order to  
11 say it's one and the same. So what is in one print,  
12 the latent fingerprint and the same area and space  
13 needs to be in the known print in order for you to  
14 call it an identical match. On top of that you also  
15 need another examiner to look at it and concur with  
16 your finding.

17 Q. Did that occur?

18 A. Yes.

19 Q. Looking at the nine prints can you pick out  
20 the two that you claim to be identical to Briscoe and  
21 the one that you claim to be identical to Dockery?

22 A. Okay. I have two for Harry Briscoe  
23 (indicating).

24 Q. Now you're holding them up in your hand. Is  
25 there any writing on those two images, those two

1 latents, so if the jury wanted to compare them for  
2 another time they can look at them?

3 A. Yes. The red writing is the writing that I  
4 put on these. It tells me who I identified it to,  
5 their number that's associated to their fingerprint  
6 card so I can find it, and the date that I did it and  
7 what finger number and which finger it is.

8 Q. Would you read that to us, too, please?

9 A. Yes. This one is identified to Harry Briscoe,  
10 SO number 200711, my initial BK, 9-15-06, one was  
11 finger number nine.

12 Q. Which one is finger number nine?

13 A. The left ring finger. And finger number  
14 eight, the left middle finger and these two fingers,  
15 those two fingers (indicating).

16 Q. So there are two latents on that one card, is  
17 that correct?

18 A. Yes.

19 Q. These two fingers (indicating).

20 And does the card indicate where the latent  
21 was listed from the location?

22 A. Yes. On the back it says, "passenger door  
23 frame."

24 Q. So claims to be from Ford Escort, lifted  
25 passenger door frame, two fingers of Harry Briscoe,

1 is that right?

2 A. Yes.

3 Q. Next latent?

4 A. This is finger number one, which is the right  
5 thumb, it's identified to Harry Briscoe, SO number  
6 200711, BK, September 15th, 2006.

7 Q. Okay. And where does it say that that was  
8 lifted from?

9 A. The passenger door handle.

10 Q. Right thumb passenger door handle, Harry  
11 Briscoe, is that correct?

12 A. Yes.

13 Q. Now, you say you lifted prints from Sharon  
14 Dockery, as well, or there were latents that were  
15 submitted that you were able to give to Sharon?

16 A. Yes.

17 Q. Which ones were those?

18 A. There are two of them. This one, which is  
19 finger number two, which is the right index, Sharon  
20 Dockery, sheriff's office number 223004, September  
21 15th, 2006. That is from the driver door frame.

22 Q. Okay.

23 A. And then there's another one, it's number  
24 four, it's the right ring finger, it's identified to  
25 Sharon Dockery, SO number 223004, BK, September 15th,



1 '06. That one is from the passenger door, as well.

2 Q. Okay. Of the nine that were submitted in that  
3 lot, any other latents that you were able to make  
4 comparison to?

5 A. There's one more.

6 Q. I'm sorry.

7 A. That's okay. It's to Segines.

8 Q. Can you spell the name?

9 A. S-e-g-i-n-e-s.

10 Q. Okay.

11 A. It's finger number three, which is the right  
12 middle finger.

13 Q. I won't show that finger.

14 A. Richard Segines, I have date of birth,  
15 February 24th, '69, and it's a white -- report number  
16 06-2838-3, and that was from the driver's side rear  
17 wing window.

18 Q. Of the Ford Escort, is that correct?

19 A. Yes.

20 Q. Now, you had Segines' fingerprint card later  
21 than you had Briscoe and Dockery's card, is that  
22 correct?

23 A. Correct.

24 Q. So of that exhibit that you identified for the  
25 nine latents you were able to pull two latents and



1 make a comparison, Briscoe, is that correct?

2 A. Yes.

3 Q. Three that related to Dockery, is that  
4 correct?

5 A. Two.

6 Q. Two to Dockery.

7 And then one to Segines, is that correct?

8 A. Yes.

9 Q. Okay. Any other comparisons that you made  
10 with those nine latents?

11 A. No.

12 Q. You can put those away. We're going to move  
13 to the next items that were submitted to you.

14 By the way, how long do fingerprints last?

15 For instance, put my hand here and you go away and we  
16 come back after lunch, is it possible that that image  
17 or there would be enough of a print left over a  
18 period of time for you to be able to gather a latent?

19 A. It depends on the surface that's touched. If  
20 it's a smooth surface and the environment is dry and  
21 clear without rain or something that would wash away  
22 prints, or if the person is a secreter and  
23 nonsecreter, person is a secreter, every person who  
24 sweats, not all people sweat, you can't determine how  
25 long a print has lasted.

1 THE COURT: We're all going  
2 to be secreters soon if the air conditioner  
3 doesn't kick on.

4 Q. Does there come a time that there was another  
5 series of latents that were submitted for your  
6 examination?

7 A. Yes.

8 Q. I'm going to show you an envelope. Can you  
9 tell us -- first of all, look at the contents of the  
10 envelope and tell us if these items were submitted to  
11 SIU for review.

12 A. The crime was a homicide, it has a case number  
13 06-2838, the date was September 13th, 2006, the  
14 location 23756 Banbury, four latents taken from a  
15 1996 Ford van, Ohio Driver's License DNG 8196, and it  
16 has the victim's name.

17 Q. Who submitted those latents to you?

18 A. Don Spera.

19 Q. What day did those latents arrive over at SIU?

20 A. September 20th.

21 Q. And can you examine the contents and see if  
22 those were in fact the four latent fingerprints that  
23 came to you?

24 A. They were.

25 Q. Okay. And did you -- does your handwriting

1 appear on them, as well?

2 A. It does.

3 Q. Now taking a look at those four latent prints,  
4 the same sort of exercise that we went through with  
5 the ones from the Escort. Was the quality sufficient  
6 to make comparison?

7 A. Yes.

8 Q. Did you log these four prints into that AFIS  
9 system that you talked about?

10 A. No.

11 Q. Why not?

12 A. Don asked me to make a known suspect  
13 comparison.

14 Q. So you didn't check the AFIS system, you were  
15 just making comparison, is that correct?

16 A. Correct. That's correct.

17 Q. Comparison to whom?

18 A. To Harry Briscoe, Sharon Dockery and Richard  
19 Segines.

20 Q. Okay. And did you have their print cards  
21 available at this time?

22 A. I did.

23 Q. What day did you make those comparisons?

24 A. September 28th, 2006.

25 Q. What day did the four latent fingerprints from