



SUPERIOR COURT OF SAN MATEO COUNTY

400 County Center 1050 Mission Road
Redwood City, CA 94063 South San Francisco, CA 94080
www.sanmateo.courts.ca.gov

Minute Order

The People of the State of California vs. SCOTT LEE PETERSON

SC055500A

05/29/2024 9:00 AM

Motion hearings

Hearing Result: Held

Judicial Officer: Hill, Elizabeth M.

Location: Courtroom 2D

Courtroom Clerk: Valerie Hronis;

Courtroom Reporter: Geraldine Vandeveld; Annette Jaycox

Deputy District Attorney:

Parties Present

PETERSON, SCOTT LEE Defendant
The People of the State of California Plaintiff

Exhibits

Minutes

Journals

- Motion to Re- Test DNA Hearing

At 9:05am- Court commences.

Court Reporter for morning session- Geraldine Vandeveld

Parties listed below are present on behalf of The Stanislaus County District Attorneys Office:

Birgit Fladager
Dave Harris
Ahanna Reicks
Victoria Vasquez

Parties listed below are present on behalf of The Los Angeles Innocence Project:

Paula Mitchell
Hillary Morman

Scott Lee Peterson, Defendant, incustody at CDCR-Mule Creek present via ZOOM.

At 9:05am- Court commences.

At 9:06am- Paula Mitchell makes arguments to the Court Re: Re-testing of DNA, on behalf of the

Defendant.

At 10:20am- Court recesses for morning break.

At 10:40am- Court reconvenes from morning break.

All named parties above are present in the courtroom.

Scott Lee Peterson, Defendant, incustody at CDCR-Mule Creek present via ZOOM.

At 10:41am- Paula Mitchell continues to make arguments to the Court Re: Re-testing of DNA, on behalf of the Defendant.

At 10:53am- Paula Mitchell ends argument on behalf of the Defense.

At 10:54am- Dave Harris makes rebuttal argument to the Court on behalf of the People.

The People have marked the following exhibits:

Exhibit 1- USB Drive of Sealed Exhibits

Exhibit 2- A Certified Daily Prisoner Roster for: December 24, 2002- ran on May 14, 2024 (24 pages)

Exhibit 3- An Indictment, from the United States District Court in Case No. CR-E92-5152-EDP Certified from the National Archives and Records Administration Dated: March 05, 2024

At 12:00pm- Court recesses for lunch break.

At 1:40pm- Court reconvenes from lunch break.

Court Reporter for afternoon session- Annette Jaycox.

All named parties above are present in the courtroom.

Scott Lee Peterson, Defendant, incustody at CDCR-Mule Creek present via ZOOM.

At 1:41pm- Dave Harris continues to make rebuttal argument to the Court on behalf of the People.

At 2:49pm- Dave Harris ends his argument to the Court on behalf of the People.

At 2:50pm- Court recesses for afternoon break.

At 3:13pm- Court reconvenes from afternoon break.

All named parties above are present in the courtroom.

Scott Lee Peterson, Defendant, incustody at CDCR-Mule Creek present via ZOOM.

At 3:14pm- Paula Mitchell gives rebuttal argument to the Court on behalf of the Defense.

At 3:37pm- Paula Mitchell ends rebuttal argument to the Court on behalf of the Defense.

At 3:38pm- 1405 Motion is submitted by the Defense.

At 3:39pm- 1405 Motion is submitted by the People.

At 3:40pm- The Court announces her decision.

The Court Denies PC 1405 motion for all items except Item No. 9, tape attached to Laci Peterson's pants.

The Court Denies PC 1405(c) except as to Item No. 9,

As to Item No. 9, The Court GRANTS PC 1405(c) discovery.

At 4:04pm- The Courts decision ends.

At 4:05pm- The Court takes a short break for the District Attorneys Office to make calls Re: Lab to be used to Re- Test DNA on Item No. 9.

At 4:27pm- Court reconvenes from short break.

All named parties above are present in the courtroom.

Scott Lee Peterson, Defendant, incustody at CDCR-Mule Creek present via ZOOM.

At 4:28pm- The Court made the following Testing Rulings:

Items 1-4 from orange van:

1 = cloth from mattress, 2 = a piece of partially burned mattress cloth, 3= cloth from van fuel tank, 4 = metal furl container.

Defense has failed to make a prima facie showing that the evidence sought to be tested is material to the issue of the convicted person's ID as perpetrator/accomplice to crime, that requested DNA results would raise a reasonable probability in light of all of the evidence that the convicted persons's sentence would have been more favorable if DNA testing had been available at the time of conviction; Defense has failed to show that additional DNA testing on items 1 and 2 would provide results that are reasonably more discriminating and probative of the ID of the perpetrator or have a reasonable probability of contradicting prior test results than the testing conducted by stipulation in 2019.

Reasons: testing in 2019 from 17 separate sampled areas on the 2 cuttings failed to even presumptively demonstrate the presence of blood. Further confirmatory testing failed to demonstrate the presence of human blood. Trace amounts of male human DNA were found on the mattress, but could not be associated with the red-brown staining that appears to be blood. The only way that any evidence from the orange van would be material to defendants identity as the perpetrator is if there is a reasonable probability that Laci Peterson was in the orange van at some point during the commission of the crime. The DNA testing referenced above conducted with the agreement of the AG in 2019 failed to raise any reasonable probability of that. There is nothing in the defense pleadings that explains 1) if the currently proposed testing uses a different method than that conducted in 2019; 2) how the state of the art in

DNA testing has changed since 2019 that makes a more discriminating or a contradictory result reasonably probable.

Items 5, 6, 7, 10, 11, 12 - collectively "Bay debris"

5 = Target bag, 6 = duct tape from Target bag, 7 = four packages of debris collected from Target bag, 10 = Duct tape from bay, 11 = Black tarp found 4/15/2003 (the day after Laci's remains found), 12 = Black tarp found 5/11/2003

Defense has failed to make a prima facie showing that this evidence is material to the issue of the convicted person's ID as perpetrator/accomplice to the crime, or that the requested DNA results would raise a reasonable probability in light of all of the evidence that the convicted persons's sentence would have been more favorable if the DNA testing had been available at the time of conviction

Reasons: for items 5, 6, 7 and 10, physical examination of the duct tape conducted at the time of the original trial demonstrated that based on the structure and "thread count" of the tape, none of these items were consistent with the type of tape found adhering to Laci Peters's remains. Gene Ralston's side scan sonar did not indicate presence of any wrapping material on object he believed were Laci's remains. Their condition (lack of barnacles or associated adipocere) also suggests a different amount of time in the water than the victim's remains and a lack of connection to the remains. None of the witness or hearsay-of-witness evidence that defense alleges in their pleadings provides any connection between any kind of wrapping or covering an the remains of Laci and Conner, nor any connection between any third party alleged to have been involved and the construction site where the Target bag came from. The totality of the evidence shows that a large amount of unrelated debris washed up in the area where Laci and Conner's remains were found after a powerful storm. In light of all of the evidence, the court finds that there is not a reasonable probability that Defendants sentence would have been more favorable if the proposed DNA testing of these items had been available at the time of conviction. In addition, for item 12, the defense has failed to make a prima facie showing that the evidence has been subject to a chain of custody sufficient to establish a lack of substitution or tampering given the involvement of Jean Bonadio in the collection, storage conditions in her car, and transportation of the item to Vallejo Police Department.

Items 13 & 14 - Medina burglary

13 = work glove and/or sample swab; 14= hammer and /or sample swab

Defense has failed to make a prima facie showing that this evidence is 1) available for testing and 2) has been subject to a chain of custody sufficient to establish a lack of substitution, tampering, or replacement.

Reasons: Defense's own witness to establish materiality (Susan Medina) says that her best recollection is that the police never collected these items from the scene of the burglary.

Items 8 & 9 - items found on remains of Laci and Connor

8 = 50" tape/twine from neck of Conner, 9 = 15.5" length of duct tape adhered to Laci's pants

Item 8:

Defense has failed to make a prima facie showing that testing of this item is material to the issue of the

convicted person's ID as perpetrator of the crime or that the requested DNA test results would raise a reasonable probability in light of all of the evidence that the convicted person's sentence would have been more favorable if the results had been available at the time of the trial.

Reasons: The Defense has not identified a single witness who contradicts the forensic evidence presented at trial that Conner died in the womb as a result of Laci's murder. To summarize that evidence:

Laci's uterus was still enlarged, her birth canal was still closed, and her remains showed no indications of a Caesarean delivery. Conner's remains were in substantially better condition than Laci's, with a lack of evidence of extensive animal feeding which suggested that his remains had been protected from exposure to the marine conditions for a longer period of time. There were no injuries to Conner's neck consistent with the tape having been applied to the neck. Evidence is relevant if it has a tendency in reason to prove or disprove a disputed fact. The only way that the presence of another person's DNA on the tape/twine found on Conner's remains would have a tendency in reason to prove ID is if the tape had been applied to Conner's neck outside of Laci's uterus by a person. Defense presents no evidence of that beyond rumor by unidentified third party hearsay. In light of the entirety of the evidence the court does not find that the requested DNA results would raise a reasonable probability of a more favorable sentence.

Item 9:

The court finds that the defense has made the required prima facie showing for conducting the proposed DNA testing on this item. The court concludes that the evidence is both available, suitable for testing, and has been subjected to a sufficient chain of custody based on its presumed maintenance under Penal Code section 1417.9 as biological material introduced in evidence in a case where Defendant is still serving sentence for the underlying crime, and the presumption in Evidence Code 664 that an official duty has been regularly preformed. The court finds that it is in a condition to permit testing because previous testing did result in the collection on DNA, albeit in a quality and amount that was insufficient for generating a profile in 2003. It cannot seriously be contested that ID was an issue in this case. The tape adhering to Laci's remains had biological material adhering that was capable of being tested and actually tested in 2013. At that time the Penal Code 1405 motion was litigated 2013, counsel for the People conceded in argument that they were not advancing a theory that the tape adhering to Laci was somehow randomly applied after her death by the action of the water. If third party DNA is found on the tape adhering to the remains of Laci Peterson, court finds that would be both material to the identity of the perpetrator of her murder and that a favorable result to Defendant would raise a reasonable probability of a more favorable sentence had that evidence been available at trial. The only direct testing of any portion of the tape conducted occurred in 2003, and at that time the amount of material found was insufficient or of insufficient quality to generate a DNA profile. Defense's DNA expert witness declaration has established that DNA testing technology has advanced significantly in the amount of material needed to generate a profile since 2003, and the court finds that the defense has made a prima facie showing that the proposed DNA testing conducted in 2003. The court finds that the specific testing method proposed is generally accepted within the scientific community and that this motion is not made for purposes of delay. The defense motion for DNA testing of this item is granted.

The Court made the following Discovery rulings:

1) Prosecutor is ordered to make all reasonable efforts to obtain, and police agencies/law enforcement labs to provide: current versions of all evidence logs & chain of custody logs/reports including documentation of current location of evidence associated with case and any evidence destruction logs

or reports GRANTED AS TO ITEM NO. 9 ONLY. Court note: grant, this is directly within statutory language of PC 1405(c)

2) Court note: records, bench notes, and any photos or ID tech notes/reports/docs "prepared in connection with the laboratory testing of biological evidence are discoverable, the rest of the materials are outside the scope of discoverable material under this section is GRANTED AS TO ITEM NO. 9 ONLY.

3) All " administrative documentation or paperwork associated with the file" whether or not considered part of the analytical notes is DENIED Court note: goes beyond statutorily permitted discover material.

4) A copy of all standard operating protocols used in connection with the testing in this case, including DNA analysis and interpretation guidelines and work instructions related to DNA interpretation, report writing and testimony is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

5) All work instruction pertaining to DNA analysis and interpretation including memos, guidelines, protocols, and instructions regarding mixture analysis and interpretation, report statistics and report language is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

6) Copies of all records that document treatment and handling of "biological evidence" in the case from point of collection to current disposition. Including documentation of where and how materials were stored (temperature and type of container), amount of material consumed in testing, amount of remaining material, and where/how remaining evidence is stored including temperature and type of container is GRANTED AS TO ITEM NO. 9 ONLY. Court note: to the extent that this material exists, it's within the scope of "copies of evidence logs, chain of custody logs and reports, documentation of current location of biological evidence and evidence destruction logs and reports.

7) Dates of work, set-up sheets for plates and tubes, concentration and quantity of DNA extracted from each case sample clearly labeled to indicate which sample is represented along with any examiner notes GRANTED AS TO ITEM NO. 9 ONLY. Court note: if it exists, comes within the ambit of underlying notes of reports of DNA lab reports.

8) Copies of relevant electropherograms with allele calls and RFU for each peak, clearly labeled to indicate which sample is represented on each page along with any examiner notes GRANTED AS TO ITEM NO. 9 ONLY. Court note: if exists, comes within the ambit of underlying notes of reports of DNA lab reports.

9) A list of all commercial software programs used in the DNA testing in this case, including name of the program, manufacturer, and version used is DENIED. Court note: motion contains no evidence of use of any computer program to perform DNA testing, since no DNA ever located that was of either of sufficient quality to be tested nor actually tested.

10) If the results of any software are dependent on instructions used in macros, copies of the macros used is DENIED. Court note: motion contains no evidence of use of any computer program to perform DNA testing, since no DNA ever located that was of either of sufficient quality to be tested nor actually tested.

11) Copies of any allelic frequency tables relied on in making statistical estimates in this case is DENIED. Court note: no DNA profile ever generated nor statistical analysis made. May be a proper request under PC 1405(i) for testing ordered to be performed, but not yet.

12) Copies of all data files used and created in the course of performing the testing and analyzing the data in this case, including all data necessary to independently reanalyze the raw data and reconstruct the analysis performed in this case is GRANTED AS TO ITEM NO. 9 ONLY. Court note: if it exists, comes within the ambit of underlying notes of reports of DNA lab reports.

13) Copies of all records maintained by the laboratory that document instances of unintended transfer of DNA or samples contamination, such as detection of unexpected alleles in controls or reference samples, and any corrective measures taken during the time of processing the samples in this case as well as 24 months before and after the processing of samples in this case is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

14) Copies of all licenses or other certificates of accreditation held by the DNA testing laboratory is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c),

15) Current resume, job description, summary of proficiency test results over the last 20 years, and all disciplinary/corrective actions and contamination events for each person involved in conducting or reviewing the DNA testing performed in this case is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

16) Copies of the laboratory file of unexpected results or other laboratory documentation of DNA issues related to quality control for the 24 months preceding and following the testing in this case is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

17) Copies of all documents regarding CODIS/NDIS uploads and reports related to this case is DENIED. Court note: Nothing in motion suggests any CODIS/NDIS uploads were ever performed because no useable DNA has ever been located.

18) Copies of all documents regarding state/count/agency or other local database uploads and reports related to this case, including lists of all database partial matches determined after keystroke (keyboard) or any other input method is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

19) Report of matches between samples in this case(reference and evidentiary) and any laboratory personnel or profiles prepared by the laboratory is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

20) Copy of all communications between laboratory personnel and any other party with regard to the instant case, including letters, memos, conversation notes, emails, and records of telephone conversations, including but not limited to all communications between the Stanislaus County DA's Office and any law enforcement agency, and Pin Kyo and Galen Nicky regarding testing of the Target bag is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

21) Copies of the testing laboratory's Quality Assurance and Quality Control Manuals that were in place at the time of testing in the instant case, including those which pertain to physical and procedural precautions taken to monitor, minimize, and remedy laboratory contamination and the "acceptable" level of contamination in control samples and blanks is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

22) Copy of all in-house validation studies undertaken by the testing laboratory to demonstrate the

reliability and limitations of the DNA tests performed in the instant case, including known and nonprobative evidence samples; reproducibility and precision; match criteria; sensitivity and stochastic studies; mixture studies; contamination studies; and qualifying tests is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

23) Copy of the laboratory's corrective actions log for the time period beginning 24 months before the start of testing and ending 24 months after the completion of testing is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

24) Copy of Date Interpretation guidelines followed in the instant case including criteria to establish that electropherograms are of sufficient quality for interpretation purposes; criteria for interpreting electropherograms indicating more than one contributing source; criteria for establishing that an individual can or cannot be eliminated as a possible source of DNA; criteria for declaring matches between samples exhibiting one or more base pair mismatch; criteria for declaring the results inconclusive; interpretational guidelines for cases in which heteroplasmy may have occurred; and interpretational guidelines for reporting results in which there is evidence of contamination occurring during the testing process is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c).

25) For any mitochondrial data in the case provide the mitochondrial DNA statistical references is DENIED. Court note: beyond the scope of discoverable material specified in PC 1405(c); motion does not indicate any mitochondrial DNA was ever located or any statistical analysis performed.

This matter is continued for Further Proceedings on July 1, 2024 at 9am Re: Resolution of any disputes over Courts order.

This minute order shall be the Formal Order of the Court.

Hearing complete.

Case Events

- CRC Worksheet Jail
- Judge Face Sheet
- Defendant not brought into the courtroom.; DEFENDANT IS CURRENTLY HOUSE AT MULE CREEK - CDCR
- Party appeared by audio and/or video; INCUSTODY AND HOUSED AT MULE CREEK - CDCR
- Defendant ordered to return.; VIA ZOOM IS APPROVED BY JUDGE HILL

Charge Changes

Interim Conditions

Judgment

Others

Pleas

Dispositions

Sentence

Credits:

Total Credits for CA Confinement	;;;;
Credit for Time Served	;;;;
Treatment Credit	;;;;

Additional Credit ; ; ; ;
Post Sentence Credit ; ; ; ;
Mandatory Supervised Release Credit

Comments:

Status of Defendant:

Future Hearings and Vacated Hearings

July 01, 2024 9:00 AM Further Proceedings
Hill, Elizabeth M.
Hronis, Valerie
Courtroom 2A

July 15, 2024 9:00 AM Motion hearings
Hill, Elizabeth M.
Hronis, Valerie
Courtroom 2A