David Delyea, Deputy Public Defender, ISB #10654
Aaron Bazzoli, Chief Public Defender, ISB #5512
CANYON COUNTY PUBLIC DEFENDER'S OFFICE
Canyon County Administration Building
111 N. 11th Avenue, Suite 120
Caldwell, Idaho 83605
Telephone: (208) 649-1818
Facsimile: (208) 649-1819
E-File Address: pdmail@canyoncounty.id.gov

Attorneys for the Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO Plaintiff, vs. DAVID ALLEN DALRYMPLE, Defendant.	Case No. CR14-20-07840 BRIEF IN SUPPORT OF MOTION TO SUPPRESS

COMES NOW, the Defendant, by and through the Canyon County Public Defender, David A. Delyea, and submits a BRIEF in support of the motion to suppress.

FACTS

In February 1982, the body of Daralyn Johnson was found in Idaho. Hairs not belonging to Daralyn were recovered from her clothing during the autopsy. During the subsequent investigation and litigation of the case, Charles Fain was convicted for the murder of Daralyn Johnson. In 2001, Charles Fain was exonerated through the use of mitochondrial DNA testing that ruled Fain out as a contributor of the DNA that was extracted from in the hairs located on Daralyn's body. The hair was not useable for

identification purposes due to an inability to obtain DNA from the hair that could compare to any DNA indexing database. In 2018, it was discovered that Dr. Green had a novel DNA testing procedure that could be used to obtain a substantial strain of DNA. Dr. Green of the University of California Santa Cruz Paleogenomics Lab (UCSC Paleogenomics Lab) was asked to perform DNA analysis of the hair through a process called whole genome sequencing (WGS).

The first step of this process was to extract DNA from the hair found in Daralyn's clothing. As the prosecution showed in their briefing in the State's motion for preliminary finding of admissibility of evidence pursuant to Idaho rules of evidence 702 and brief in support, WGS has been heavily relied upon in non-forensic contexts. For example, in the "Family of Four Study"[1] a family was tested for rare recessive disorders and that genetics was traced through the children. This link was due to the extreme amount of information gathered through WGS.[2] WGS was also used to ascertain why persons developed cancer, how their cancer behaves, which treatments may be most effective, and if the patient's family members are at risk.[3] In fact, it is such an invasive procedure that DNA can even be separated in utero between a mother and their fetus.[4]

After a Genotype File was created, which is done by creating a SNP (Single Nucleotide Polymorphisms) profile, it was sent to Dr. Barbara Rae-Venter. This SNP profile was then uploaded to GEDmatch Genesis by Dr. Rae-Venter. Purportedly, this

[1] Jared C. Roach et al., *Analysis of Genetic Inheritance in Family Quartet by Whole-genome Sequencing*, 328 Sci. 636 (2010).
[2] *Id*.
[3] Genomic Medicine Service, *Whole Genome Sequencing for Suspected Cancer: Information for Patients and Family Members*, NATIONAL HEALTH SERVICE ENGLAND, https://www.england.nhs.uk/wp-content/uploads/2021/07/genome-sequencing-cancer-patient-information.pdf (last visited April 1, 2024).
[4] Diana W. Bianchi, *Sequencing of Circulating Cell-free DNA During Pregnancy*, 379 NEW ENG. J. MED. 464 (2018).

search resulted in identification of the Dalrymple family tree. Importantly, Mr. Dalrymple never uploaded or otherwise made available to GEDmatch any raw DNA file containing his DNA. Which means that there was a familial DNA search performed. Defense counsel has not been provided with any information, including screenshots,[5] from GEDmatch to independently support the assertion that Mr. Dalrymple was identified by Dr. Rae-Venter by using GEDmatch. Additionally, no report has been generated to indicate what "tools" – i.e., methods – were utilized in identifying this purported "match." It has been averred by the Prosecuting Attorney that when the FBI turns over the records requested by the State that they will seek a protective order against all information not pertaining to Mr. Dalrymple due to the sensitive nature of data revealed in genealogy.

At this point, Mark Taylor utilized this match to narrow down possible suspects. Ultimately, he decides the most likely suspect is David Dalrymple. Detective Taylor then took a buccal swab of Mr. Dalrymple's brother to rule him out as a suspect, and applied for a search warrant to obtain Mr. Dalrymple's buccal swab based on the result. This sample was sent to Dr. Green for comparison. Dr. Green utilized IBDgem, a program he created to analyze "low-coverage sequencing data," to match the buccal swab DNA to the SNP profile he created.

ARGUMENT

The Fourth Amendment of the United States Constitution provides:

> The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or

[5] A report was provided that showed that no match was made (Attachment A)

> affirmation and particularly describing the place to be searched, and the persons or things to be seized.

It is well established law that an individual has a reasonable or legitimate expectation of privacy where there is a subjective expectation of privacy in the area searched or seized and society is willing to accept the subjective expectation of privacy. *Smith v. Maryland*, 442 U.S. 735, 99 S.Ct. 2577 (1979); *Katz v. United States*, 289 U.S. 347, 88 S.Ct. 507 (1967); and *State v. Johnson*, 126 Idaho 859, 893 P.2d 806 (Ct. App. 1995). Warrantless searches and seizures are presumptively unreasonable and in violation of the Fourth Amendment. Thus, if it is established that the warrantless search or seizure infringed on an individual's legitimate privacy interest, the state must show that the search or seizure fell within the delineated exceptions to the warrant requirement. *California v. Acevedo*, 500 U.S. 565, 111 S.Ct. 1982 (1991); *Coolidge v. New Hampshire*, 403 U.S. 443, 91 S.Ct. 2022 (1971); and *State v. Weaver*, 127 Idaho 288, 900 P.2d 196 (1995). Evidence obtained by searches and seizures in violation of an individual's Fourth Amendment rights must be suppressed, as "fruit of the poisonous tree." *Weeks v. United States*, 232 U.S. 383, 34 S.Ct. 341 (1914); *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684 (1961); and *State v. Arregui*, 44 Idaho 43, 254 P. 788 (1927). In summary, the evidence acquired as a result of a constitutionally impermissible search or seizure will be excluded unless the causal connection between the seizure and the acquisition has been broken. *Wong Sun v. United States*, 371 U.S. 471, 83 S. Ct. 407 (1963); and *State v. Bainbridge*, 117 Idaho 245, 787 P.2d 231 (1990).

In *Carpenter v. United States*, 138 S. Ct. 2206, 201 L. Ed. 2d 507 (2018), the United States Supreme Court ruled that the Government’s acquisition of the defendant’s

cell-site location information (CSLI) was a Fourth Amendment search. The Court further recognized that the:

> "Fourth amendment protects not only property interests but certain expectations of privacy as well. *Katz v. United States*, 389 U.S. 347, 351, 88 S. Ct. 507, 19 L. Ed. 2d 576 (1967). Thus, when an individual "seeks to preserve something as private," and his expectation of privacy is "one that society is prepared to recognize as reasonable," official intrusion into that sphere generally qualifies as a search and requires a warrant supported by probable cause. *Smith v. Maryland*, 442 U.S. 735, 740, 99 S. Ct. 2577, 61 L. Ed. 2d 220 (1979). The analysis regarding which expectations of privacy are entitled to protection is informed by historical understandings "of what was deemed an unreasonable search and seizure when [the Fourth Amendment] was adopted." *Carroll v. United States*, 267 U.S. 132, 149, 45 S. Ct. 280, 69 L. Ed. 543 (1925). "These Founding-era understandings continue to inform [the Courts] when applying the Fourth Amendment to innovations in surveillance tools. *See, e.g., Kyllo v. United States*, 533 U.S. 27. Pp. 4–7."

Id. The *Carpenter* Court went on to recognize that, in some circumstances, the third-party doctrine does not fit neatly under existing precedents but lies at the intersection of two lines of cases. *Id.* Specifically, "[o]ne set addresses a person's expectation of privacy in his physical location and movements. *See, e.g., United States v. Jones*, 565 U.S. 400, 132 S. Ct. 945, 181 L. Ed. 2d 911 (2012) (five Justices concluding that privacy concerns would be raised by GPS tracking). The other addresses a person's expectation of privacy in information ***voluntarily*** turned over to third parties. *See United States v. Miller*, 425 U.S. 435, 96 S. Ct. 1619, 48 L. Ed. 2d 71 (1976) (no expectation of privacy in financial records held by a bank), and *Smith*, 442 U.S. 735 (no expectation of privacy in records of dialed telephone numbers conveyed to telephone company)." *Id.*

Thus, the strict application of the third-party doctrine to cell-site records maintained by telephone companies was rejected. *Id*. The Court asserted that,

because a cell phone "logs a cell-site record * * * without any affirmative act on the part of the user" and using a cell phone is essential to daily life, it is inappropriate to assume that the user voluntarily assumes the risk of disclosure of his or her cell-site records to law enforcement. *Id*. at 2220. The Court further specified that the "depth," "breadth," "comprehensive reach," and inescapable and automatic nature of collection of cell-site data were highly relevant considerations in evaluating the nature of this particular form of information. *Id*. at 2223. "…[T]he fact that such information is gathered by a third party does not make it any less deserving of Fourth Amendment protection." *Id*.

A. People have a reasonable expectation of privacy in their genetic material and all the information it can reveal.

The Fourth Amendment is concerned with the entirety of the private information revealed to the government agent, not just the particular details the government agent chooses to focus on. In *Carpenter* the Court defined the privacy invasion not by reference to just the 16 location points that law enforcement relied upon to link Mr. Carpenter to the dates and times of the charged robberies, but rather the entirety of the 127 days of data obtained by the government without a warrant, comprising 12,898 location points. *Id.* at 2217. Likewise, in *Kyllo*, the Court found that using a thermal imaging device to observe the interior of a home is a search because, although police merely observed the heat signatures from marijuana grow lamps in the attached garage, the same search could also expose more "intimate" details, such as "at what hour each night the lady of the house takes her daily sauna and bath." *Kyllo v. United States*, 533 U.S. 27, 28 (2001).

This principle applies to government collection of DNA, Whenever law enforcement collects DNA, it gains access to the entirety of our genetic blueprint, not just the short tandem repeats that enable analysis of identity. A person's genetic DNA profile is, like cell-site records revealing every single locale a person visits each day, deeply revealing and extremely private. Courts have long recognized that a person has a legitimate expectation of privacy in his or her bodily fluids, including more narrowly his or her DNA. *See, e.g., Schmerber v. California*, 384 U.S. 757, 770, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966). Indeed, "[o]ne can think of few subject areas more personal and more likely to implicate privacy interests than that of one's health or genetic makeup." *Norman-Bloodsaw v. Lawrence Berkeley Lab.*, 1355 F.3d 1260, 1269 (9th Cir. 1998); *see also United States v. Davis*, 690 F.3d 226, 239 (4th Cir. 2012) (holding that "extract[ing] and test[ing]" a suspect's DNA constitutes a search).

DNA technology and research continue to advance, allowing ever-greater incursions into people's genetic privacy upon testing of a DNA sample. This is easily understood in this case, as this is the first case in which DNA evidence of this type has been used in Court for forensic purposes. The tactics used by law enforcement infringed upon Mr. Dalrymple's rights under the Federal Constitution and the Constitution of Idaho. Accordingly, all evidence obtained from the warrantless GEDmatch search and/or collection of Mr. Dalrymple's DNA must be suppressed.

B. All evidence obtained from the warrantless search of GEDmatch's familial DNA database was unconstitutional and therefore must be suppressed.

Informed consent is the essential underpinning of ethical DNA testing and results-sharing. All persons who test have the right to make their own individual choices about testing and about the uses to which their DNA results will be put, including its use in fishing expeditions by law enforcement for potential criminal suspects. Most users of genealogy services such as GEDmatch have uploaded their genetic information in order to find relatives, learn about ancestors, and get insights into their personal health.

The forensic technology technique of "genetic genealogy," which was used by Dr. Rae-Venter in this case,[6] makes it possible for law enforcement to identify a DNA profile even through ***distant family relationships***.[7] Warrantless searches of the genetic database GEDmatch (which was searched in this case) do not merely affect persons who have voluntarily chosen to upload their DNA into the GEDmatch database. Indeed, such searches affect huge swaths of the population, ***including those who have never taken a DNA test***. As of November 2019, GEDmatch's database has approximately 1.2 million users.[8] Due to concerns about how it was being used, GEDmatch updated its terms of use to require law enforcement agents to identify themselves when searching its database.[9] With the new policy, persons using the program for investigatory purposes have more limited access. It is unclear if law enforcement complied with the terms of use of GEDmatch when it uploaded and utilized GEDmatch's DNA database. Even so,

[6] *See*, Exhibit A, B, and C
[7] Kashmir Hill and Heather Murphy, *Your DNA Profile is Private? A Florida Judge Just Said Otherwise*, N.Y. TIMES (Nov. 5, 2019), https://www.nytimes.com/2019/11/05/business/dna-database-search-warrant.html
[8] *Id*.
[9] *Id*.

law enforcement has utilized genealogists who can use a loophole to skirt around this limitation and will show people who have opted out of their DNA being utilized for investigatory purposes.[10] More importantly, although the database only contains 0.5% of the U.S. adult population, research shows that their data alone could be used to identify 60% of white Americans.[11]

A search that would violate an individual's "reasonable expectations of privacy" generally requires a warrant. *Katz v. United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring). In *Katz*, the Court held that the Fourth Amendment protects "people, not places." *Id.* at 351, 353. In *Smith v. Maryland*, 442 U.S. 735 (1979), the Court hel that "a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties," which has come to be known as the "third-party doctrine." Under the third-party doctrime, the *Smith* Court held that an individual gives up "all of his Fourth Amendment rights" in any information disclosed to a third party. Subsequent courts have held that this standard holds true "even if the information is revealed on the assumption that it will be used only for a limited purpose and the confidence placed in the third party will not be betrayed." *United States v. Miller*, 425 U.S. 435, 443 (1976).

In *Carpenter*, *supra*, however, the Court drastically revised its prior stance of strictly precluding information disclosed to third parties from Fourth Amendment protections. 138 S.Ct. 2206, 2217 (2018). While disclosure of information to a

[10] Jordan Smith, Police are getting DNA data from people who think they opted out. THE INTERCEPT. (August 18, 2023). https://theintercept.com/2023/08/18/gedmatch-dna-police-forensic-genetic-genealogy/
[11] Jocelyn Kaiser, *We Will Find You: DNA Search Used to Nab Golden State Killer Can Home IN ON About 60% of White Americans*, SCIENCE (Oct. 11, 2018), https://www.science.org/content/article/we-will-find-you-dna-search-used-nab-golden-state-killer-can-home-about-60-white

third party suggests that an individual has a "reduced expectation of privacy," the Court asserted that possessing "diminished privacy interests" in information does not act as a per se bar to the application of the Fourth Amendment. *Id.* at 2219. The Court expressly held that individuals do not abandon all expectations of privacy merely "by venturing into the public sphere" and engaging with third-party providers. *Id.* at 2217. Instead, the Court implied that if disclosures made to a third party have the potential to reveal fundamentally personal and intimate information, an individual has not conclusively forfeited his or her Fourth Amendment privacy interests in the information through the disclosure. *Id.*

It is important to recognize that, unlike other cases involving third-party providers of records, the privacy interests of at least three separate entities are implicated in the context of familial searches of GEDmatch or other direct-to-consumer ("DTC") genetic databases: (1) the "genetic informant" or "pivot person" whose DNA is in the database and provides a partial match to a DNA sample from a crime scene ("informant"); (2) the relatives of the informant who are investigated as suspects as a result of the partial match in the genetic database, ("targets"); and (3) the "family unit as a whole" whose intimate familial ties are subject to investigation by law enforcement ("collective").

No warrant was procured in this case to utilize the DNA database possessed by GEDmatch nor to use their full database past any limitations. Further, assuming any accuracy of the search done by Dr. Rae-Venter, Mr. Dalrymple would constitute a "fourth-party" relative who was unwittingly implicated as a

result of his or her family member submitting his or her genetic information to a DTC provider, which was uploaded into GEDmatch.

Mr. Dalrymple undoubtedly has a reasonable expectation of privacy in his own genetic information, especially where, as is here, he has not disclosed his genetic information to any DTC provider such as GEDmatch. As a result, it is a fundamental principle under the Fourth Amendment and comparable provisions of the Idaho Constitution that law enforcement officers, or persons working as their agents, were absolutely required to obtain a warrant supported by probable cause in order to request and/or otherwise obtain Mr. Dalrymple's genetic information. The nature of genetic information is such that it has the ability to reveal a wide scope of information about a consumer's ethnicity, medical background, and familial relationships. Pursuant to *Carpenter*, allowing law enforcement to conduct investigations of the genetic material of millions of individuals without individualized suspicion constitutes prohibited "suspicionless searches" under the Fourth Amendment of the genetic information of the Informant, the Target, and the Collective.

It is well-settled that warrantless searches are "per se unreasonable under the Fourth Amendment subject only to a a few specifically established and well-delineated exceptions." *Coolidge v. New Hampshire*, 403 U.S. 443, 454-55, 91 S.Ct. 2022, 2031-32, 29 L.Ed.2d 564, 575-76 (1971). In cases where police officers can reasonably obtain a warrant before a search or seizure can be effectuated without significantly undermining the efficacy of the search, the Fourth Amendment mandates that they do so. *See, e.g., Carpenert v. United*

States, __ U.S. __, 138 S.Ct. 2206, 201 L.Ed.2d 507 (2018); *Missouri v. McNeely*, 569 U.S. 141, 133 S.Ct. 1552, 185 L.Ed.2d 696 (2012); *United States v. Ross*, 456 U.S. 798, 102 S.Ct. 2157, 72 L.Ed.2d 572 (1982). There was no rush in this case that would have prevented law enforcement from obtaining a warrant, the case was already thirty (30) years' old and there is no indication of any pending destruction of evidence or medically unavailable witnesses.

For these reasons, all evidence obtained from the warrantless search of the GEDmatch database must be suppressed. This result is even more necessary if it is determined that the GEDmatch terms of use requirements were not followed.

C. The SNP profile generated by Dr. Green must be suppressed.

For the reasons and with the jurisprudence listed above, the same applies to the WGS and SNP profile that Dr. Green created and attributes to Mr. Dalrymple. This profile is being used by Dr. Green to identify information about Mr. Dalrymple to compare, and much like the DNA database, it was a warrantless search to send the SNP profile to Dr. Rae-Venter as an agent of the State and to later use it to compare in the IBDgem software.

D. Article 1 § 17 of the Idaho Constitution provides greater protections than the federal and the Idaho Constitution independently necessitates suppression.

> [S]tate Courts are at liberty to find within the provisions of their constitutions greater protection than is afforded under the federal constitution as interpreted by the United States Supreme Court. See Oregon v. Hass, 420 U.S. 714, 719, 95 S.Ct. 1215, 1219, 43 L.Ed.2d 570 (1975). This is true even when the constitutional provisions implicated contain similar phraseology. Long gone are the days when state courts will blindly apply United States Supreme Court interpretation and methodology when in the process of interpreting their own constitutions.

State v. Newman, 108 Idaho 5, 10 n. 6, 696 P.2d 856, 861 n. 6 (1985); *State v. Guzman*, 122 Idaho 981, 988, 842 P.2d 660, 667 (1992). The Court has provided greater protection than the Fourth Amendment of the U.S. Constitution. *See, e.g., State v. Webb*, 130 Idaho 462, 943 P.2d 52 (1997); *State v. Guzman*, 122 Idaho 981, 842 P.2d 660 (1992); *State v. Thompson*, 114 Idaho 746, 760 P.2d 1162 (1988). The State of Idaho has unique values and rights that Idahoans have always cherished; specifically, Idahoans jealously guard their privacy to an extent beyond that guarantee by the Fourth Amendment. *State v. Pruss*, 145 Idaho 623, 181 P.3d 1231 (2008), *State v. Cada*, 129 Idaho 224 (1996), *State v. Henderson*, 114 Idaho 293 (1988), *State v. Thompson*, 114 Idaho 746, 760 P.2d 1162 (1988). Once it is determined that a violation has occurred, exclusion is mandated by the Idaho constitution. *State v. Guzman*, 122 Idaho 981, 842 P.2d 660 (1991).

The Idaho Supreme Court has adopted the dissenting comments found in *Smith v. Maryland*, 442 U.S. 735, 99 S.Ct. 2577, 61 L.Ed.2d 220 (1979) regarding pen registers. *State v. Thompson*, 114 Idaho 746, 751, 760 P.2d 1162, 1167 (1988). "A telephone call simply cannot be made without the use of telephone company property and without payment to the company for the service. The Telephone conversation itself must be electronically transmitted by telephone company equipment, and may be recorded or overheard by the use of other company equipment. Yet we have squarely held that the user of even a public telephone is entitled 'to assume that the words he utters into the mouthpiece will not be broadcast to the world.'" *Id.* at 750. "It seems clear to me that information obtained by pen register surveillance of a private telephone is information in

which the telephone subscriber has a legitimate expectation of privacy." *Id*. "The numbers dialed from a private telephone–although certainly more prosaic than the conversation itself–are not without 'content.'" *Id*. "… I doubt there are any who would be happy to have broadcast to the world a list of the local or long distance [*sic*] numbers they have called. This is not because such a list might in some sense be incriminating, but because it easily could reveal the identities of the persons and the places called, and thus reveal the most intimate details of a person's life." *Id*. "I would require law enforcement officials to obtain a warrant before they enlist telephone companies to secure information otherwise beyond the government's reach." *Id*. at 751.

The Court in *State v. Thompson*, relying on these dissenting comments, pointed out that without the pen register the case would not have developed probable cause to justify the charge. *Id*. There was no information contained in the affidavit that the defendant was using her phone for drug-related activities outside of the pen register. *Id*. Therefore, the use of a third-party system to obtain information about a defendant was held to be a search and unconstitutional. *Id*.

In Idaho, persons have a privacy interest in any DNA that can be used for more than identification purposes. *See, Piro v. State*, 146 Idaho 86, 190 P.3d 905 (Ct. App. 2008). It would be an infringement of a person's privacy interest if the DNA could be used for greater purposes, even if such data was not ultimately used. *See*, *Id*; *Carpenter v. United States*, 138 S. Ct. 2206, 201 L. Ed. 2d 507 (2018). Also, Idaho has no law regarding the collection of this invasive style of DNA. This is not a DNA collection that has been authorized constitutionally or

statutorily at any point, unlike DNA indexing. In specific, it is important to note that the State lab *refused* to give the DNA index they had on file to Detective Mark Taylor.[12]

With Idaho taking no steps to legitimize this style of DNA evidence gathering, and the fact that Idaho law supports the use of DNA solely for identification through DNA indexing, it is clear that Idaho has a strong and vested interest in protecting the privacy of its residents. If these types of searches are allowed, law enforcement would be able to systematically follow every person, collect their DNA and compile a database of profiles, genetic disorders, likely physical traits, and identities, along with all other manner of information accessible through DNA. They would then begin generalized searches of this database for any reason or no reason at all. Idahoans would abhor this result and so would the constitution. This necessitates the fact that, even if testimony comes out that no other information was accessed, it is true that Mr. Dalrymple's entire personhood is on file with the state. Not just his identity. This DNA profile can now be used by the government for an unlimited amount of purposes that the State wishes without regard to any privacy interest he may have, and that does not end at solely criminal matters. Therefore, the exclusionary rule in Idaho requires suppression of this evidence.

E. The Warrant utilized to obtain a buccal swab from Mr. Dalrymple must be suppressed as a result of the above.

When Tainted evidence has been relied upon for the issuance of a warrant, the Court must determine if, after the tainted evidence is excluded, the warrant contains adequate facts to conclude that probable cause existed for the issuance of

[12] *See*, Exhibit D

a search warrant. *State v. Cada*, 129 Idaho 224, 228, 923 P.2d 469, 473 (Ct.App. 1996). The search warrant affidavit beings the section on reasonable grounds to believe Mr. Dalrymple is a suspect by explaining the genetic genealogy.[13] Further, any testing of the brother was done solely with the guidance from the genetic database. Once the tainted evidence is removed, the only conclusion is there is no reasonable, articulable suspicion that would justify a search warrant in this case and therefore any evidence gathered from the warrant is suppressible.

CONCLUSION

The clearest concept the Court must consider, is how the State could have received a warrant at the start of the case, prior to any investigative genealogy. Without any particularized suspicion, this was a blatant, warrantless search that utilized extremely private data with no consent. The Court made a preliminary ruling that it does not want the attorneys to upload a jury questionnaire to our private databases, where we store all our confidential information, because the information contained is of such a private nature and must be guarded at all costs. It would shock the conscious if the same did not apply to a more invasive search in the form of genetic genealogy and allowing the government to retain copies of our DNA and makeup. To be clear, the data held in GEDmatch without Mr. Dalrymple's consent as well as the SNP profile that was generated through whole genome sequencing are both items of which Mr. Dalrymple has a right to privacy. Due to the State violating Mr. Dalyrmple's constitutional rights, the evidence is tainted and must be suppressed. This would require the Court to analyze the

[13] *See*, Exhibit D

search warrant and deem that there is no probable cause for the buccal swab of Mr. Dalrymple and the comparison and must also suppress that evidence.

DATED this 5th day of April, 2024.

David Delyea, Deputy Public Defender
Attorney for the Defendant

CERTIFICATE OF SERVICE

I certify that on this 5th day of April, 2024, I electronically filed the foregoing instrument with the Clerk of the Court using the iCourt e-file system, which caused the following parties or counsel to be served by electronic means:

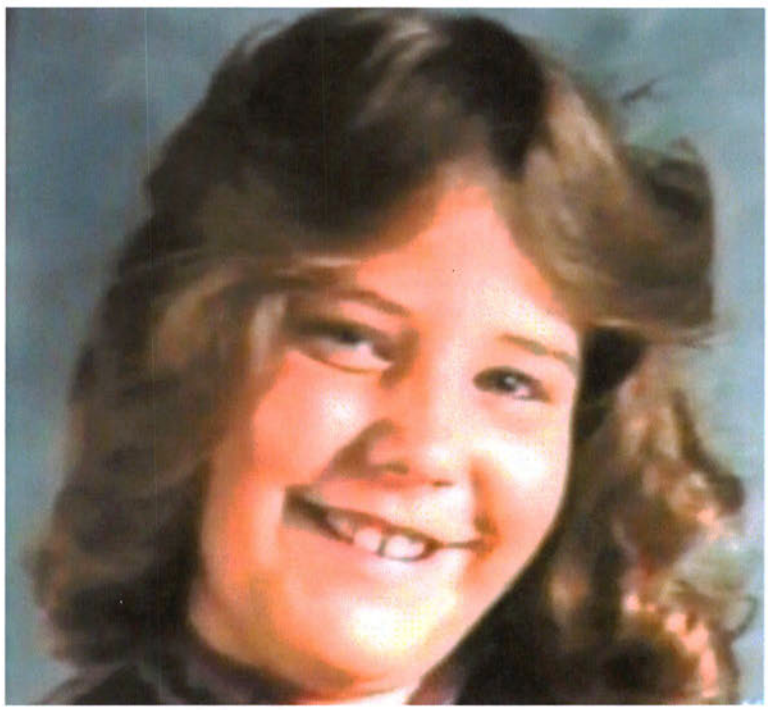
Canyon County Prosecuting Attorney	[ ] U.S. Mail
1115 Albany Street	[ ] Facsimile
Caldwell, Idaho 83605	[ ] Hand Delivery
criminalefile@canyoncounty.id.gov	[x] eFile

Canyon County Public Defender's Office

Barbara Rae-Venter, J.D., Ph.D.
P.O. Box 5566
Carmel, CA 93921
831 718 7994
GenealogyConsult@gmail.com

Email: DBallard@canyonco.org

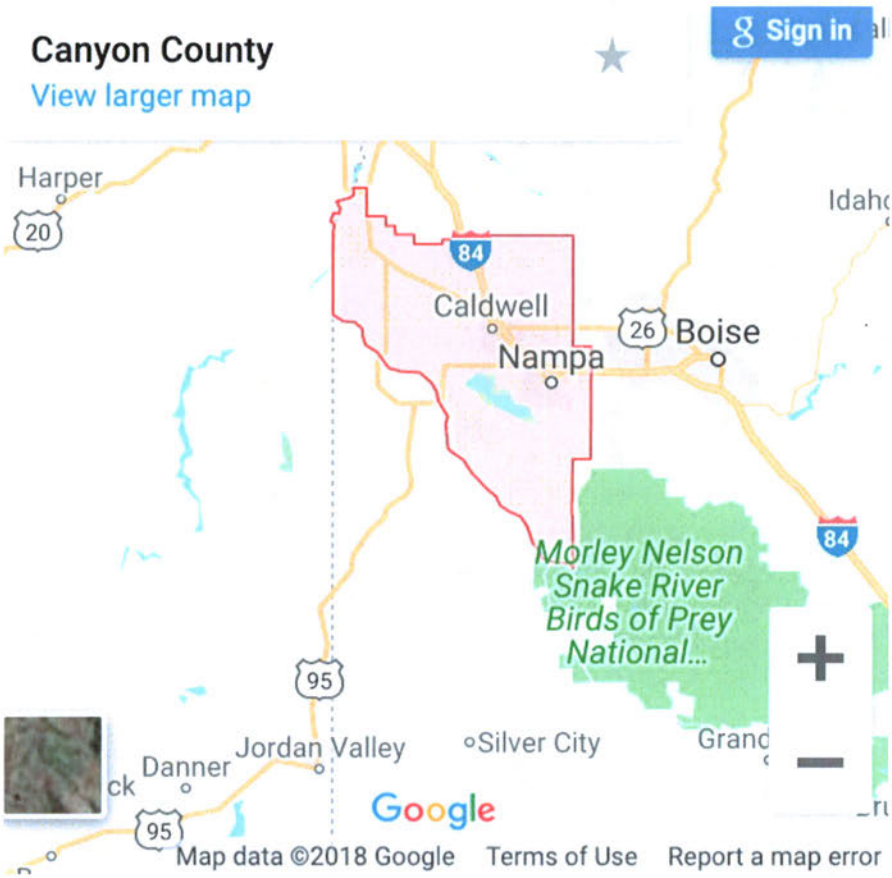
Who murdered Daralyn Johnson?
Case No:
Detective: Donia Ballard



Background information about case:

On Feb. 24, 1982, a brown-haired little girl in a furry brown jacket left her central Nampa home for her daily six-block walk to Lincoln Elementary School. Three days later, fishermen along the Snake River in rural Canyon County found Daralyn Johnson's body. She had been raped and drowned.

EXHIBIT A



Ballard said she has obtained DNA samples from about a dozen suspects and had them tested, most recently about seven months ago. None of the samples matched the evidence in Daralyn's murder. But she remains confident the case will break. She just doesn't know when. "We're going to work it until we solve it," she said.

One promising area of investigation, Ballard said, relies on the memories of people who were children in 1982. She's hoping Daralyn's fourth-grade classmates, who would be about 38 now, might have bits of information that could prove crucial. "Was there anybody bothering them, were there any particular cars they were leery of? There may have been kids aware of something that the adults weren't," Ballard said. She'd also like to talk to others who played on the Optimist Club soccer team with Daralyn, and to the coach of that team. "Maybe there was a man who was hanging around soccer practice or something," she said.

When/date body discovered: February 27 1982.

Age of victim:

Where: The Snake River in rural Canyon County, Idaho

Source of atDNA: **Two hairs were recovered from the victim's panties and socks:**

Hair #1 (case 16A): Female mt Haplogroup M7a1a7. Haplogroup M7a1a7 is found in Japan, Uyghurs.

Hair #2 (case 16B): male mt Haplogroup T1a3a. T1a3 is found in England, Algeria, Greece and India

Possible DOB perpetrator:

Occupation:

Area map:

Passwords:

Gedmatch Genesis
Case 16A: GT9875022
Case 16B: WJ3502801

MyHeritage: Files uploaded on December 15, 2018. So far no matching.

atDNA
Autosomal DNA extracts were prepared from two hairs by Dr Edward Green at UC Santa Cruz. Whole Genome Sequencing was used on the samples, The SNP file for each hair was supplied to Barbara Rae-Venter on December 14, 2018 and uploaded to GEDmatch Genesis on December 15, 2018. Both files were made Research Only.

Information from DNA Analysis

Admixure (Ethnicity)

A number of utilities are available on the GEDmatch site to assess admixture. A broad analysis using Eurogenes K13 shows the following admixture for the two hairs:

Hair 16A:

Eurogenes K13 Admixture Proportions

This utility uses the Eurogenes K13 model (rev 21 Nov 2013), created by Davidski (Polako). Questions and comments about this model should be directed to him at his Project Blog.
Software Version: Aug 11 2018 00:27:27

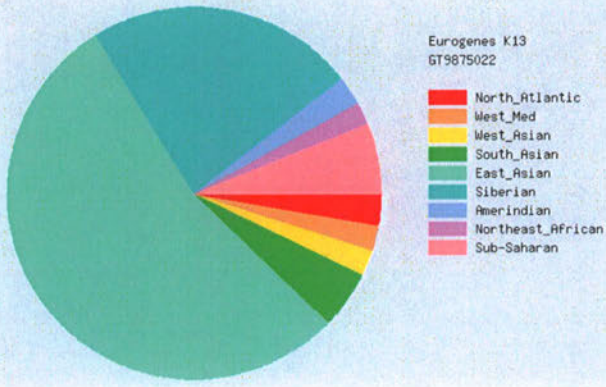
Kit Number: GT9875022 Elapsed Time: 8.91 seconds

Spreadsheet

Population	
North_Atlantic	2.66 Pct
Baltic	-
West_Med	2.26 Pct
West_Asian	2.44 Pct
East_Med	-
Red_Sea	-
South_Asian	4.93 Pct
East_Asian	53.90 Pct
Siberian	23.27 Pct
Amerindian	2.43 Pct
Oceanian	0.61 Pct
Northeast_African	2.11 Pct
Sub-Saharan	5.40 Pct

Oracle

Oracle-4



Hair 16B:

This utility uses the Eurogenes K13 model (rev 21 Nov 2013), created by Davidski (Polako). Questions and comments about this model should be directed to him at his Project Blog.
Software Version: Aug 11 2018 00:27:27

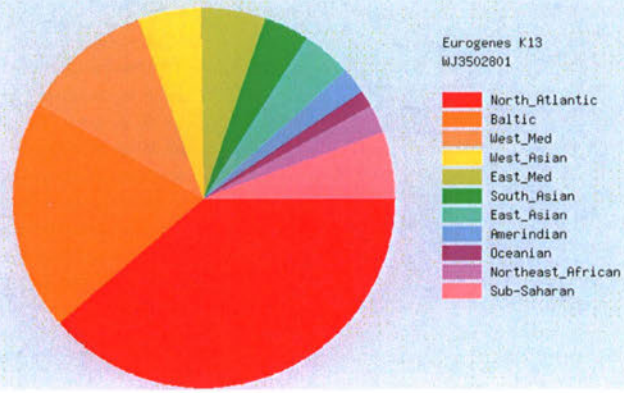
Kit Number: WJ3502801 Elapsed Time: 10.75 seconds

Spreadsheet

Population	
North_Atlantic	38.61 Pct
Baltic	19.77 Pct
West_Med	10.97 Pct
West_Asian	5.44 Pct
East_Med	5.46 Pct
Red_Sea	-
South_Asian	3.82 Pct
East_Asian	4.29 Pct
Siberian	0.46 Pct
Amerindian	2.06 Pct
Oceanian	1.56 Pct
Northeast_African	2.43 Pct
Sub-Saharan	5.13 Pct

Oracle

Oracle-4



We inherit 50% of our DNA from each parent, 25% from each grandparent and 12.5% from each great grandparent. So from the above admixture, we can predict that Jane Doe (Hair 16A) has the following from the ancestral admixture:

Admix Results (sorted) for Hair 16A:

#	Population	Percent
1	East_Asian	53.9
2	Siberian	23.27
3	Sub-Saharan	5.4
4	South_Asian	4.93
5	North_Atlantic	2.66
6	West_Asian	2.44
7	Amerindian	2.43
8	West_Med	2.26
9	Northeast_African	2.11
10	Oceanian	0.61
11	Red_Sea	

East Asian: two grandparents
Siberian: one grandparent

How the remaining admixture components are spread amongst the grandparents and great grandparents is unknown.

Admix Results (sorted) for Hair 16B:

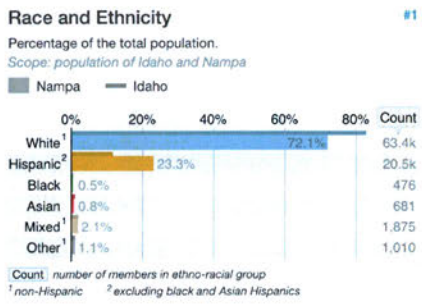
#	Population	Percent
1	North_Atlantic	38.61
2	Baltic	19.77
3	West_Med	10.97
4	East_Med	5.46
5	West_Asian	5.44
6	Sub-Saharan	5.13
7	East_Asian	4.29
8	South_Asian	3.82
9	Northeast_African	2.43
10	Amerindian	2.06
11	Oceanian	1.56
12	Siberian	0.46

North Atlantic: two grandparents predominantly of this ancestry
Baltic: one grandparent
Mediterranean (West and East): one great grandparent
Asian (West, East, South): one great grandparent

How the remaining admixture components are spread amongst the grandparents and great grandparents is unknown.

Ethnicity in Nampa, Idaho:

Race and Ethnicity in Nampa, Idaho (City)



The ethnicity of Jane Doe (hair 16A) is highly unusual for Nampa, Idaho.

Match information from GEDmatch

The Tier 1 One-to -Many match utility was run on Hair 16A:

any DNA comparison for kit GT9875022 filter by autosomal X with this offset 0 with this limit 500 and cm size 7 Search Tips Select all matches 1:501

n Options

Kit	Name (* => alias)	Email	GED WikiTree	Age(days)	Type	Sex	Haplogroup Mt	Haplogroup Y	Autosomal Total cM	Autosomal Largest	Autosomal Gen
[redacted]				853	2	M	M8a2a1	O2a2b1a2a1a2	847.4	25.3	2.04
				853	2	F	M8a2a1	O2a2b1a2a1a2	847.4	25.3	2.04
				107	2	M	CHEN	CHEN	259.0	46.4	2.90
				846	2	F			88.3	9.2	4.51
				303	2	F			87.4	11.5	3.68
				460	2	F	N		83.9	15.7	3.71
				1166	2	M			78.4	12.4	3.76
				614	2	F			73.8	10.1	3.80
				324	2	F	M9a3a		72.9	16.4	3.81
				544	2	F	M7b2		72.8	11.4	3.81
				63	2	M	f1a1	O-f492	72.3	11.6	3.82
				722	2	M			71.7	11.8	3.82
				529	2	F	F4a1		68.4	10.8	3.86
				110	2	F			68.3	12.1	3.86
				70	2	F	M7b		67.5	15.1	3.87
				711	2	F	M7b2		64.9	9.2	4.66
				353	2	M	B5a1	O-Page23	64.1	13.5	3.90
				6	2	F	A4		63.4	12.9	3.91
				728	2	M	D5a2a1	O2a1c1a1a1b	63.4	10.9	3.91
				259	2	F	N9a		62.6	16.0	3.92
				63	2	F			62.4	15.8	3.92
				419	2	F			61.1	16.8	3.94

The total matching DNA for the two closest matches suggests the following relationships:

DNA PAINTER « back to tools

The Shared cM Project 3.0 tool v4

August 2017

[redacted]

More about this project
CC 4.0 Attribution License
Interactive version v4 by Jonny Perl at DNA Painter
Click here to contribute data to the shared cM project
Shared cM online tool version 4 with probabilities
Last updated 20th April 2018

This is v4.
Other variants of this tool:

v3 with additional relationships
v2 with editable boxes
v1 original

Filter

Enter the total number of cM for your match here:

847 reset

show %

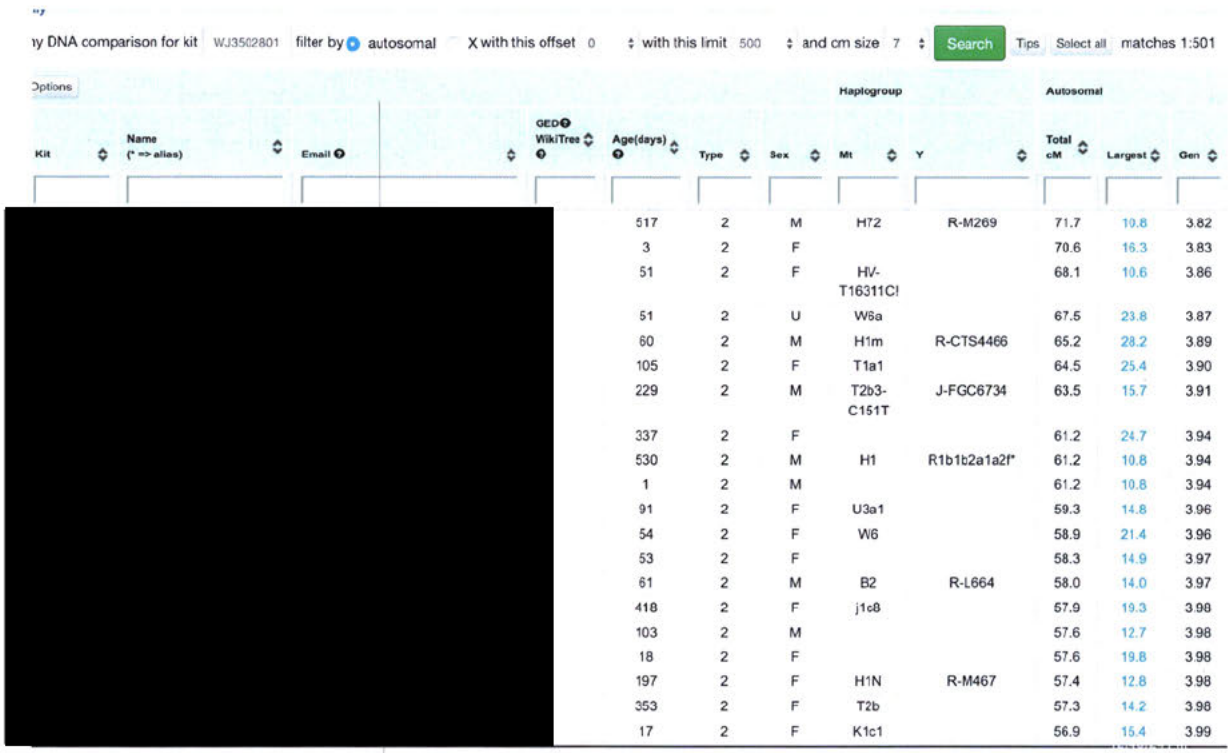
Then any relationships that fit will stand out below
Click here for a sharable link to the cM amount above

Relationship probabilities (based on stats from The DNA Geek)

96.46%	*Great-Grandparent Great-Aunt / Uncle Half Aunt / Uncle 1C Half Niece / Nephew Great-Niece / Nephew Great-Grandchild*
3.54%	*Half Great-Aunt / Uncle † Half Great-Niece / Nephew † Great-Great-Aunt / Uncle Half 1C 1C1R Great-Great-Niece / Nephew*

† this relationship has a positive probability for 847cM in thednageek's table of probabilities, but falls outside the bounds of the recorded cM range (99th percentile)

The Tier 1 One-to -Many match utility was run on Hair 16B:

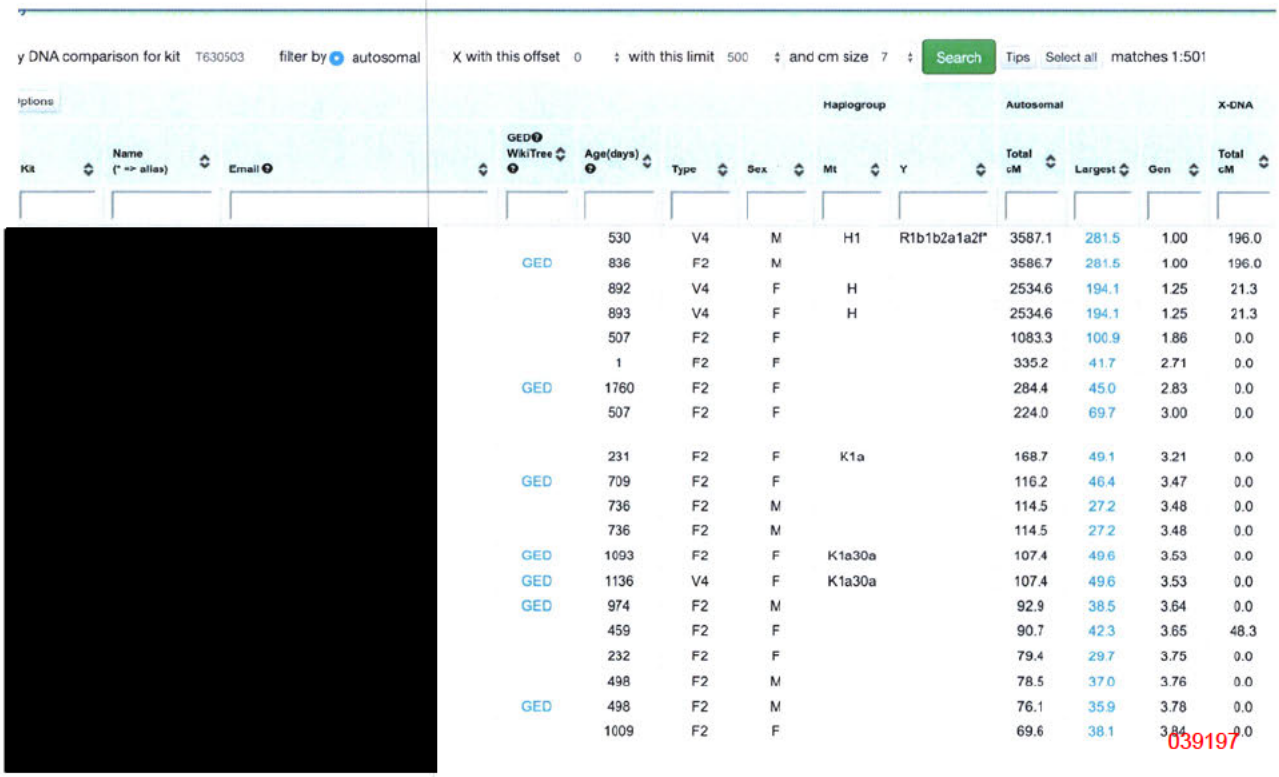


y DNA comparison for kit WJ3502801 filter by autosomal X with this offset 0 with this limit 500 and cm size 7 Search Tips Select all matches 1:501

Options

Kit	Name (* => alias)	Email	GED WikiTree	Age(days)	Type	Sex	Haplogroup Mt	Haplogroup Y	Autosomal Total cM	Autosomal Largest	Autosomal Gen
[redacted]				517	2	M	H72	R-M269	71.7	19.8	3.82
				3	2	F			70.6	16.3	3.83
				51	2	F	HV-T16311C!		68.1	19.6	3.86
				51	2	U	W6a		67.5	23.8	3.87
				60	2	M	H1m	R-CTS4466	65.2	28.2	3.89
				105	2	F	T1a1		64.5	25.4	3.90
				229	2	M	T2b3-C151T	J-FGC6734	63.5	15.7	3.91
				337	2	F			61.2	24.7	3.94
				530	2	M	H1	R1b1b2a1a2f*	61.2	10.8	3.94
				1	2	M			61.2	10.8	3.94
				91	2	F	U3a1		59.3	14.8	3.96
				54	2	F	W6		58.9	21.4	3.96
				53	2	F			58.3	14.9	3.97
				61	2	M	B2	R-L664	58.0	14.0	3.97
				418	2	F	j1c8		57.9	19.3	3.98
				103	2	M			57.6	12.7	3.98
				18	2	F			57.6	19.8	3.98
				197	2	F	H1N	R-M467	57.4	12.8	3.98
				353	2	F	T2b		57.3	14.2	3.98
				17	2	F	K1c1		56.9	15.4	3.99

The shared match information sometimes can be used to determine which of the match's lines are of interest. Here, when we look at the matches for [redacted] we see that he has a match of 2434.6



y DNA comparison for kit T630503 filter by autosomal X with this offset 0 with this limit 500 and cm size 7 Search Tips Select all matches 1:501

Options

Kit	Name (* => alias)	Email	GED WikiTree	Age(days)	Type	Sex	Haplogroup Mt	Haplogroup Y	Autosomal Total cM	Autosomal Largest	Autosomal Gen	X-DNA Total cM
[redacted]				530	V4	M	H1	R1b1b2a1a2f*	3587.1	281.5	1.00	196.0
			GED	836	F2	M			3586.7	281.5	1.00	196.0
				892	V4	F	H		2534.6	194.1	1.25	21.3
				893	V4	F	H		2534.6	194.1	1.25	21.3
				507	F2	F			1083.3	100.9	1.86	0.0
				1	F2	F			335.2	41.7	2.71	0.0
			GED	1760	F2	F			284.4	45.0	2.83	0.0
				507	F2	F			224.0	69.7	3.00	0.0
				231	F2	F	K1a		168.7	49.1	3.21	0.0
			GED	709	F2	F			116.2	46.4	3.47	0.0
				736	F2	M			114.5	27.2	3.48	0.0
				736	F2	M			114.5	27.2	3.48	0.0
			GED	1093	F2	F	K1a30a		107.4	49.6	3.53	0.0
			GED	1136	V4	F	K1a30a		107.4	49.6	3.53	0.0
			GED	974	F2	M			92.9	38.5	3.64	0.0
				459	F2	F			90.7	42.3	3.65	48.3
				232	F2	F			79.4	29.7	3.75	0.0
				498	F2	M			78.5	37.0	3.76	0.0
			GED	498	F2	M			76.1	35.9	3.78	0.0
				1009	F2	F			69.6	38.1	3.84	0.0

cM with [redacted] This is a full sibling match so the fact that she does not match with John Doe simply means that she did not inherit the DNA segments to match with John Doe.

Next Steps:
The next step is to build family trees for the matches to the two hairs and to look for common ancestors. Are you able to identify any of the close matches for Hair 16A?

Gmail **Ed Green <regjr35@googlemail.com>**

Genotype files for case 16

2 messages

Ed Green <ed@soe.ucsc.edu> Sat, Dec 15, 2018 at 12:50 PM
To: Barbara Rae-Venter <genealogyconsult@gmail.com>, Beth Nelson <bnelson3@ucsc.edu>

Hi Barbara,
Please find attached Genotype Files for SC18.BAN037 (case 16A) and SC18.BAN038 (case16B). These were two hairs from an Idaho case.

Some notes:
1. SC18.BAN037 is definitely from a female. I don't know if that was known.
2. SC18.BAN038 is definitely from a male.
3. We compared the complete and correct mtDNA assemblies from these samples to the markers reported in the Cellmark report and they match at all sites.
4. The genotype files are generated with less coverage than I like to get. I've asked Beth Nelson to check if there may be more sample to make another library, if necessary. But these may suffer from the "missing teeth" problem although I'm still hopeful.
5. If these don't yield good results, I would like to make another library. Beth Nelson says that the sample that wound up being from a male (SC18.BAN038) was a very short hair. Maybe they cut the available hair and only sent us part? If so, we would happily make and sequence another library if given more sample. The library and sequence data look good and clean. But the fragments are shorter than we normally get and that kept our coverage kinda low.

Once you do your search, I'd be curious to know if you get a promising lead.

Best,
Ed Green

2 attachments

SC18.BAN037_case16A.all.AD.v1.txt.gz
5809K

SC18.BAN038_case16B.all.AD.v2.txt.gz
5807K

Barbara Rae-Venter <genealogyconsult@gmail.com> Sat, Dec 15, 2018 at 6:56 PM
To: Ed Green <ed@soe.ucsc.edu>

Thanks, Ed. Have uploaded the files to GEDmatch Genesis. Will let you know how it goes.

Regards,
Barbara Rae-Venter, J.D., Ph.D.
Genetic Genealogy Consultant
GenealogyConsult@gmail.com
(831) 718-7994
"Put a scientist to work on your genealogy"

[Quoted text hidden]

EXHIBIT B

049079

Gmail **Ed Green <regjr35@googlemail.com>**

SC18.BAN038 / Case 16B / Donia Ballard / C82-00275 Q1

5 messages

Ed Green <ed@soe.ucsc.edu> Fri, Jan 18, 2019 at 6:22 PM
To: Barbara Rae-Venter <genealogyconsult@gmail.com>

Hi Barbara,
Here is the improved genotype file for Case 16B. This DNA is from a male. The mtDNA matches the genotype from 2M00-105-03B from the Bode Cellmark report we were sent. This may be perpetrator hair.

Happy hunting!

-ed

SC18.BAN038_case16B.combined.v3.1.txt.gz
5826K

Barbara Rae-Venter <genealogyconsult@gmail.com> Fri, Jan 18, 2019 at 7:06 PM
To: Ed Green <ed@soe.ucsc.edu>

Hi Ed:

Looking forward to what we find out. Thank you!

Regards,
Barbara Rae-Venter, J.D., Ph.D.
Genetic Genealogy Consultant
GenealogyConsult@gmail.com
(831) 718-7994
"Put a scientist to work on your genealogy"

[Quoted text hidden]

Barbara Rae-Venter <genealogyconsult@gmail.com> Fri, Jan 18, 2019 at 8:52 PM
To: Ed Green <ed@soe.ucsc.edu>

Hi Ed:

Upload to GEDmatch.

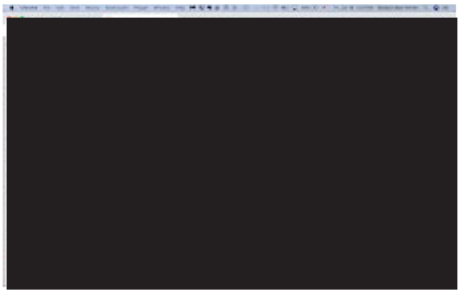
Regards,
Barbara Rae-Venter, J.D., Ph.D.
Genetic Genealogy Consultant
GenealogyConsult@gmail.com
(831) 718-7994
"Put a scientist to work on your genealogy"

On Fri, Jan 18, 2019 at 6:23 PM Ed Green <ed@soe.ucsc.edu> wrote:
[Quoted text hidden]

EXHIBIT C

Screen Shot 2019-01-18 at 7.22.47 PM.png

049080



805K

Ed Green <ed@soe.ucsc.edu> Sat, Jan 19, 2019 at 11:03 AM
To: Ed Green <ed@soe.ucsc.edu>

Bb2137740
[Quoted text hidden]

Ed Green <ed@soe.ucsc.edu> Sun, Apr 14, 2019 at 4:14 PM
To: Barbara Rae-Venter <genealogyconsult@gmail.com>

Hi Barbara,
I'm working my way through some of the older genotype files and re-running things. I'm using slightly more stringent cut-offs for fragment length and map quality. These more stringent cut-offs call slightly fewer sights but with higher accuracy.

Attached is the genotype file for Case16B. As you may remember, this was a strange one. There were two hairs. One wound up being from a female (16A) and the other from a male (16B). There were a few solid, but distant "hits" on GEDMatch. I don't know where things are with you or Donia Ballard interpreting these hits.

In any case, this new file may perform better. I would appreciate if you would send the kit number once it's uploaded.

Best,
Ed Green
[Quoted text hidden]

SC18.BAN038_case16B_v2.combined.v1.1.txt.gz
5823K

JILL LONGHURST
ADA PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605
Phone (208) 454-7391

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA MAGISTRATE DIVISION

IN THE MATTER OF THE APPLICATION OF A WARRANT OF DETENTION OF DAVID ALLEN DALRYMPLE DOB [redacted]	**AFFIDAVIT FOR WARRANT OF DETENTION**

STATE OF IDAHO }
} ss:
COUNTY OF CANYON }

INTRODUCTION AND INVESTIGATOR BACKGROUND

I, Mark Taylor, a Detective with the Canyon County Sheriff Office, being first duly sworn, do hereby depose and state the following:

I am a duly sworn peace officer and a Detective with the Canyon County Sheriff Office. I am assigned to the Criminal Investigation Division, Crimes Against Persons. I have been a Detective with the Canyon County Sheriff Office since January 2017. I was a Patrol Deputy with the Canyon County Sheriff Office from August 2016 to January 2018. I started my law enforcement career with the Boise Airport Police in Boise, Idaho from October 1999 to December 2000, then the Meridian Police Department from December 2000 to February 2016. I attended the Idaho Peace Officer's academy in 1999. I currently hold a Supervisor POST Certificate and I have 2377 POST training hours.

During my career as a law enforcement officer, I have conducted and been involved in numerous investigations involving the execution of search warrants for a variety of crimes (theft,

EXHIBIT D

homicide, possession of child pornography, sex offenses etc.). I was assigned this current case in the summer of 2019.

That I am a duly appointed, qualified and acting peace officer within Canyon County, State of Idaho, and that:

A) He has probable cause to believe that a felony crime, to wit: Murder Idaho Code §§18-4001, 18-4003(a) and/or 18-4003(d) (as in effect in 1982) and Kidnapping §18-4501 was committed within Canyon County, State of Idaho, because of the following facts, to wit:

On February 24, 1982, at approximately 0800 Daralyn Johnson, age 9, left her home located [redacted] Nampa, Idaho to walk to Lincoln Elementary, located in Nampa, Canyon County, Idaho, where she attended school. Daralyn did not make it to school that morning. Nampa Police were notified that Daralyn was missing at approximately 1800. An area search was conducted but Daralyn was not located. Three days later, Daralyn's deceased body was found by a group of fisherman in a shallow drain ditch near the Snake River just north of Map Rock Road located in Melba, Canyon County, Idaho. At the time she was discovered, the crotch of her pants were covered in blood.

During autopsy, Daralyn's underwear were observed as bloody. Two pubic hairs were located in her underwear; one public hair was found on her sock. In addition, one head hair was located (it was a gray hair which had been dyed black and, via lab testing, was determined to be from an Asian female.)

It was later determined during an autopsy that prepubescent Daralyn had been sexually assaulted both vaginally and anally. Prior to her death, Daralyn had sustained blunt force trauma to her torso, which caused tearing to her spline. She also sustained blunt force trauma to the upper, left portion of her skull. Photographs of the autopsy were shown to Child Abuse Pediatrician Dr. Matthew Cox. Dr. Cox was able to determine at least two, possibly three, locations of blunt force trauma to the skull. Ultimately, the cause of death was determined to be drowning and was ruled a homicide.

The pubic hairs located were stored in evidence at the Canyon County Sheriff Crime Lab until they were sent to Bode Labs in Lorton, Virginia in December, 2000. Bode Labs was able to build a Mitochondrial (Mito) profile from the pubic hairs. Over the almost twenty years of testing, multiple suspects DNA have been compared the Mito on file with Bode and none of the donors have matched. The Mitochondrial profile was used to exonerate Charles Fain, who had been convicted of the murder of Daralyn.

B) There are reasonable grounds to believe that the above named or particularly described individual committed the above-described offense, to wit:

In 2018, the remaining portion of pubic hair was sent to the University of California, Santa Cruz. The USC, Santa Cruz lab, under the direction of Dr. Edward Green, was able to use the DNA technique of sequencing to develop a SNP profile (Single Nucleotide Polymorphisms) to identify a certain stretch of DNA. The pubic hair was determined to be male. After developing a SNP profile, genetic genealogy was used to identify a family line, the Dalrymple family. The line included a family of four boys and two girls from Idaho.

During the course of my investigation, I immediately eliminated the two sisters since the pubic hair was male and I was able to eliminate three of the four Dalrymple brothers. Two brothers, [redacted], were 13 and 14 years of age, respectively, and lived in McCall, Idaho. Neither were of age to drive a vehicle or had access to a vehicle. Both were enrolled in school. The third brother, [redacted] was in the Army, based at Ft. Irwin, California at the time of the homicide (confirmed by his military records.)

The fourth brother, David Allen Dalrymple, (DOB: [redacted] SSN [redacted] Height: 5'11", Weight: 200 lbs, Hair: gray, Eye: blue,) resided at [redacted] Hudson Street, Nampa with his sister [redacted] This address was on the route that Daralyn would walk to school each morning.

David Dalrymple is currently serving a twenty to life sentence for kidnapping, lewd conduct with a minor and sexual abuse of a minor. The victim in that case was between the ages of 9-11 years old when she was abused. During the investigation I have found two other victims of David Dalrymple who never reported to law enforcement to being sexually abused by David Dalrymple. One victim was sexually abused by David Dalrymple between the ages of 8-11. The other victim was sexually abused by him between the ages of 9-11. One of these victims disclosed David Dalrymple took her down to the river near Eagle Idaho and threatened to "make her disappear" if she disclosed the abuse.

On December 12, 2019 I traveled to the Washington County Jail located in Weiser, Idaho. I met with [redacted], the biological brother of David Dalrymple. During my interview with [redacted], I explained my purpose in being there. [redacted] confirmed he was in the military at the time of Daralyn's death and was not discharged until mid-1982. I asked [redacted], if he would be willing to provide a DNA sample to help solve this case. [redacted] voluntarily provided four DNA samples on Buccal swabs. The swabs were returned the Canyon County Sheriff Office Crime Lab and booked into evidence. The buccal swabs were sent to Dr. Green's lab at USC Santa Cruz. I requested that Dr. Green build a Mitochondrial DNA profile, using the pubic hair. This profile would allow us to determine whether [redacted] had the same biological mother as the source of the pubic hair.

On February 24, 2020, FBI investigator Clark Harshbarger and I interviewed David Dalrymple at IDOC in Kuna, Idaho. David Dalrymple was advised that he did not have to speak to us. He consented to the interview. I told David Dalrymple I was investigating an abduction from 1982. Almost immediately, David Dalrymple indicated he was not living in Nampa at the time. He said he was in the military (I have confirmed he was discharged in January, 1981.) Later, when confronted with the fact he had been charged with two DUIs in mid to late 1981, he claimed that he was living in McCall, Idaho with his parents. He did indicate that in 1983, he moved [redacted] Hudson Street, Nampa, where he was living with his sister [redacted]. When asked if he knew anything about the case, he said he was aware that Charles Fain had been on death row and had been exonerated because of DNA evidence. He was asked to give consent for a buccal swab and refused, telling me to get a warrant.

C) Procurement of the evidence of identifying physical characteristics set forth in the Warrant of Detention from the identified or particularly described individual may

contribute to the identification of the person who committed such offense in the following manner, to-wit:

Your affiant knows that DNA can be recovered from items left at a crime scene. Further, your affiant knows that in order to compare DNA from the pubic hairs located on Daralyn's underwear with that of the Defendant, your affiant must provide a known sample of the Defendant's DNA to a certified laboratory. These samples can be taken by taking buccal swabs or by taking the Defendant's blood.

On March 10, 2020, I received a telephone call from Dr. Green at USC Santa Cruz. He had built a mitochondrial profile from the buccal swab from [redacted]. He compared the complete mitochondrial genome of the buccal swab against the complete mitochondrial genome from the pubic hair sample previously analyzed and determined it is a full and complete match. From this, we can conclude that the donor of the buccal swab sample has a close, maternal relationship with the contributor of the hair sample. These results are consistent with the buccal swab donor and the hair sample contributor having the same mother.

Your affiant is requesting an oral swab of David Allen Dalrymple in order to obtain DNA sample of evidentiary value to compare with the DNA collected at the crime scene

D) Your affiant further believes that such evidence cannot be otherwise obtained, to-wit:

Your affiant does not have access to a known sample of DAVID ALLEN DALRYMPLE. While a DNA sample is on file at the State Lab, because he is a known suspect, the State Lab will not give access to the DNA sample. As such, I do not have access to, a known sample of DAVID ALLEN DALRYMPLE'S BLOOD, SALIVA and/or DNA that is available to law enforcement at this time.

Further, your affiant performed an Offender Search of the Idaho Department of Corrections website and learned from that search that DAVID ALLEN DALRYMPLE is currently incarcerated in Ada County and is in the custody of the Idaho Department of Corrections at the Idaho State Correctional Institution, Unit 13, 14601 Pleasant Valley Road, Kuna, Ada County, Idaho, 83634.

_____

Detective Mark Taylor
Canyon County Sheriff Office

SUBSCRIBED AND SWORN to before me this_____ day of _____, 2020.

Notary: _____

My commission expires: _____