

District Court, City and County of Denver, Colorado Lindsey-Flanigan Courthouse, Room 135 520 W. Colfax Ave Denver, CO 80204	DATE FILED: March 22, 2024 10:33 AM FILING ID: 51A07588975B0 CASE NUMBER: 2006CR6594
Plaintiff: The People of the State of Colorado v. Defendant: Jason Keith Groshart (DOB 1 [REDACTED])	▲ COURT USE ONLY ▲
McKenna Elizabeth Burke, Reg. No. 49550 Deputy District Attorney Dawn M. Weber, Reg. No. 23433 Senior Chief Deputy District Attorney Cold Case Unit For: Beth McCann, Reg No. 5834 District Attorney 201 W. Colfax Ave. Dept. 801 Denver, CO 80202 Phone Number: (720) 913-9000 Fax Number: (720) 913-9035	Case Number: D0162006CR006594 Div: Criminal Ctrm: 5B
PEOPLE'S NOTICE OF INTENT TO <u>NOT</u> MENTION THE USE OF FORENSIC GENETIC GENEALOGY IN THE INVESTIGATION OF THIS CASE & PROPOSED ASSOCIATED STIPULATION TO ENSURE THE DEFENDANT’S RIGHT TO A FAIR TRIAL	

Beth McCann, District Attorney, in and for the Second Judicial District, City and County of Denver, State of Colorado, by and through the undersigned counsel, respectfully submits the above-captioned notice and proposed stipulation.

As grounds therefore, the People state as follows.

1. This defendant is charged with Sexual Assault, First Degree Burglary, Second Degree Kidnapping, and two Crime of Violence sentence enhancers. The charged offenses took place on March 30, 2004. As has been discussed extensively on the record in the case, the defendant’s identity was learned approximately 18 years later using forensic genetic genealogy (or “FGG”).
2. After the defendant was identified as a potential suspect through FGG, his identity as the assailant was twice confirmed. It was first confirmed through the comparison of his DNA that was surreptitiously collected from restaurant utensils in Sedalia, Missouri. His DNA

recovered from those utensils matched the DNA profile from his semen deposited during his rape of the victim, A.R. The match was again confirmed after the court, acting under authority of Rule 16, allowed the People to collect a buccal swab from the defendant. The DNA profile from that buccal swab was then compared to the evidence and, again, it was confirmed that it was the defendant's DNA that was deposited on A.R.'s body during the sexual assault.

3. The People have already stated on the record that they do not intend to elicit any testimony in their case-in-chief about the use of FGG to solve the case. This pleading memorializes those prior statements.
4. The pleading also serves another purpose, to offer the below stipulation to the defense as a means of eliding from the trial the question of how the defendant got identified as a suspect. That topic is one most juries are curious about. The below stipulation puts their curiosity to rest, protects the defendant's right to a fair trial and is standard in cold case prosecutions.
5. The proposed stipulation reads as follows:

INSTRUCTION NO. _____

The prosecution and the defense stipulate to the following:

In this case, DNA was recovered from the suction cup given to police by Amy Ross. In March of 2022, the Denver Police Department learned that the DNA profile developed from that evidence may be linked to the defendant, Mr. Groshart. Detective Martin Smith then identified Mr. Groshart as a suspect in the case and renewed the investigation of the case.

You are not to speculate nor draw any conclusions as to how the defendant's DNA became linked to the DNA found on the suction cup.

6. The proposed stipulation confers the added benefit that the jury will not be allowed to speculate that the defendant was in a criminal database (such as CODIS) and that is how he was identified as a suspect. That would be an unfair speculation since the defendant was not, in fact, identified through CODIS.
7. As with any proposed stipulation, the defense is free to accept or reject it. The People seek an on-the-record articulation of the defense's position on the matter at or before the May 17, 2024 motions hearing.
8. Finally, and to be clear, the People do intend to elicit testimony about the surreptitious collection of the two straws and the fork from the Chinese restaurant in Sedalia, Missouri, the ensuing confirmatory testing and the second round of confirmatory testing following the Rule 16 swab. However, the People do not plan to inform the jury of anything related to FGG.

Dated: March 22, 2024.

Respectfully submitted,
BETH MCCANN
District Attorney

By: /s/ Dawn Weber, Reg. No. 23433
Senior Chief Deputy District Attorney
Cold Case Unit

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2024, a true and correct copy of the foregoing was:

- E-served through CCE to party of record listed below
- Placed in the United States mail to party of record listed below
- Filed with Denver County Court and emailed to party of record listed below
- Filed with Denver County Court and will be provided upon request for discovery

Steven Graziano
30 E. Pike's Peak Avenue
Suite 203
Colorado Springs, CO 80903

By: /s/ DAWN WEBER