

Affidavit of Terry L. Laber

In the Criminal District Court No.3

Dallas County, Texas

DARLIE LYNN ROUTIER

No. F96-39973-MJ □□□□□□□□□□ IN THE CRIMINAL

DISTRICT COURT

NO. 3 OF

DALLAS COUNTY, TEXAS

Affidavit Of Terry L. Laber

Before me, the undersigned notary, on this day, personally appeared Terry L. Laber, a person whose identity is known to me. After I administered an oath to him, upon his oath, he said:

1. My name is Terry L. Laber. I am over twenty-one years old and I reside in White Bear Lake, Minnesota. I am capable and fully competent to make this Affidavit. The statement herein are true and correct to the best of my personal knowledge.

2. I received a B.S. in Chemistry from the University of Wisconsin in 1969. From 1969-1971, I worked as a Crime Laboratory Analyst for the United States Army Criminal Investigation Laboratory. From 1971-2000, I held a series of positions at the Minnesota Bureau of Criminal Apprehension Forensic Science Laboratory ("Minnesota BCA"), including forensic scientist, supervisor of Serology Section and Biology Section, and assistant laboratory director. In August of 2000, I retired from the Minnesota BCA.

3. I am presently employed approximately forty-hours per week as a senior project consultant for Minnesota BCA. I am also self-employed as a forensic consultant on an as-needed basis in White Bear Lake, Minnesota and have been so employed since 1981. As part of my work as a forensic consultant, I analyze physical evidence, such as blood stains, microscopic particles and other trace evidence left at crime scenes to determine what such evidence suggests about how the crime occurred or did not occur. I

have testified as an expert in bloodstain pattern analysis about forensic analysis of physical evidence in over fifty trials, including trials in the State of Texas. I have served as a forensic consultant in more than two hundred other cases.

4. I am a member of several forensic science organizations including the American Academy of Forensic Sciences, the Midwestern Association of Forensic Scientists, and the International Association of Bloodstain Pattern Analysts.

5. In August of 1996, I was retained by Douglas Parks and Wayne Huff, then-defense counsel to Darlie Lynn Routier, who was then-scheduled to be prosecuted for the death of her son Damon Routier. As part of that engagement, my colleague, Barton P. Epstein, and I viewed a number of pieces of physical evidence, then in the custody of the State of Texas. In August, 1996, Barton Epstein and I met with State's forensic analyst, Charles Linch, at the Southwestern Institute of Forensic Sciences in Dallas, Texas. We reviewed a number of pieces of physical evidence in Mr. Linch's possession. We also reviewed evidence in possession of the Rowlett Police Department.

6. Barton Epstein and I recommended to Mr. Parks and Mr. Huff that certain samples of physical evidence that we reviewed be analyzed to test the State's theory that the crime scene at 5801 Eagle Drive, Rowlett, Texas had been stated. For example:

a. Fiber and Opaque Material Said to Have Been Removed from Bread Knife: We recommended that microscopic and/or elemental comparison tests be conducted on the fiberglass and opaque materials removed from a bread knife to substantiate or dispute the State's theory that the source of these materials was the window screen in the garage of 5801 Eagle Drive, Rowlett, Texas.

b. Other Fibers Said To Have Been Removed from Knife on Counter: We recommended that the apparent wood fragments and blue fibers removed from the knife found on the kitchen counter be microscopically examined to determine their source.

c. Darlie Routier's Nightshirt: Based on defects (i.e. cuts) observed on the left side of the nightshirt, we determined that additional testing was required to identify the source of the defects. In addition, we recommended that genetic testing be conducted on several blood-stained areas of the nightshirt.

d. Hoover Vacuum Cleaner: Based on our visual examination of the blood stains found on the Hoover vacuum cleaner, we determined that genetic testing was required to determine the source of the blood.

e. Carpet: We recommended DNA and possible chemical testing of blood stains and prints left on the carpet from 5801 Eagle Drive, Rowlett, Texas.

f. Darin Routier's Blue Jeans: We recommended that genetic testing be conducted on several blood-stained areas of Darin Routier's blue jeans.

g. Pillow and furniture: We recommended that genetic testing be conducted on several blood-stained areas on the living room furniture, pillow and on the wine rack.

7. In late October 1996, Douglas Parks informed Mr. Epstein and I that he had been replaced as defense counsel by Darlie Routier and that we should send him a final bill for our services. Shortly thereafter, Mr. Parks informed us that he had been removed as trial counsel and Douglas Mulder had been substituted as the new trial counsel.

8. In late October or November 1996, I met with Douglas Mulder and his investigator, Lloyd Harrell, to discuss the testing that Barton Epstein and I had conducted to date. Barton Epstein did not attend that meeting.

9. During the meeting, I provided Mr. Mulder and Mr. Harrell with a general overview of the work done to date by Mr. Epstein and I. It was my impression that neither Mr. Mulder nor Mr. Harrell seemed particularly interested in that work. Both men asked me only a few questions. The meeting lasted about two hours.

10. Following the meeting, I expected that Douglas Mulder or one of his colleagues would follow up with me because the time in the introductory meeting was not sufficient time to explain in necessary depth the forensic significance of the analysis Barton Epstein and I had performed or had recommended be performed. Mr. Mulder did not retain either Barton Epstein or me to perform any of the testing we recommended, and so we discontinued all work on the case. I had no further involvement in the trial of Darlie Lynn Routier after November 1996.

11. Based on the analysis I performed in this case, it was my professional opinion in November 1996, and is my professional opinion today, that there were numerous pieces of physical evidence we reviewed that were not consistent with a staged crime scene. For example:

a. Review of the blood spatter on and near the vacuum cleaner indicated that the vacuum cleaner had not been pushed around by someone bleeding, but, instead, that most of the bleeding had occurred after the vacuum cleaner had been knocked down.

b. The placement of shards of glass below the location of the wine glasses indicated that the wine glass had broken while still in the rack and was not consistent with a person smashing or throwing the glass onto the floor as part of a staged crime scene.

12. In my professional opinion, scientific testing of the physical evidence would have been critical to Darlie Lynn Routier's defense. Independent testing of that physical evidence was crucial to properly evaluate the State's case. There were numerous potential holes in the State's case that required testing to conform or refute the State's presentation of the evidence and to provide evidence that could well have refuted the State's forensics testimony. These and other tests would have been critical to developing the physical evidence to refute the State's use of forensic and physical evidence and establish Darlie Lynn Routier's innocence.

a. Based on my blood-spatter analysis experience, for the theory that direct hits of Darlie Lynn Routier's blood being spattered from her stab would precisely covered each blood spatter of her two sons Damon and Devon to have been correct would have required an extremely unlikely sequence of events. My preliminary analysis of the shirt Darlie Lynn Routier was wearing indicated only minimal area of blood spatter and the critical areas of spatter were not subjected to genetic testing. Genetic testing should have been conducted on those blood-stained areas of Darlie Lynn Routier's nightshirt. In addition, a microscopic examination should have been performed to determine the source of cuts observed on the left-side of the neck of the nightshirt.

b. Testing of the fiberglass and opaque material said removed from the bread knife should have been conducted to substantiate or dispute the State's theory that the source of these materials was the window screen in the garage, and the window screen was cut as part of the staged crime scene.

c. The apparent wood fragments and blue fibers removed from the knife found on the kitchen counter should have been microscopically examined to determine their source.

d, DNA testing should have been performed on the blood stains found on the Hoover vacuum cleaner to determine the identity of the persons or persons whose blood was on the vacuum cleaner.

e. DNA and possible chemical testing of blood stains and prints left on carpet and flooring should have been pursued to determine the identity of those who bled or left prints.

f. Genetic testing should have been conducted on several blood-stained areas of Darin Routier's blue jeans since they might have indicated that he was involved in the murder.

g. Genetic testing should have been conducted on several blood-stained areas on the furniture, pillow and wine rack to reconstruct the location and movement of individuals at the crime scene.

12. It is my professional opinion that further testing and evaluation of the items referenced above in numbered paragraphs 6-11 would help establish if in fact the crime scene was or was not staged. Such testing is necessary to confirm or refute the State's testimonial evidence presented at Darlie Routier's trial and to establish Darlie Lynn Routier's innocence.

For example:

a. DNA testing and/or microscopic examination should be conducted on blood stains left on Darlie Routier's nightshirt, the Hoover vacuum cleaner, furniture items, pillow, wine rack, and all flooring and carpeting samples in the State's custody.

b. Chemical testing of the flooring and carpeting samples should also be explored. In addition, all microscopic slides of fibers and other matter removed from 5801 Eagle Drive should be examined to determine their source and/or to rule out possible sources.

c. Testing of the brush and powder used to dust the knives in the home at 5801 Eagle Drive should be performed and may refute the theory that fiberglass was consistent with the material from the garage window screen.

13. In order to conduct such testing, access to the above-referenced items in the State's custody, as well as samples of the garage window screen and all known blood samples would be required. Although certain testing might use up a portion of the existing sample, none would destroy the sample completely. Thus, there would be remaining sample for the State to conduct confirmatory testing should it desire to do so.

I declare under penalty of perjury that the foregoing 13 numbered paragraphs are true and correct.

STATE OF MINNESOTA

COUNTY OF RAMSEY

SWORN TO and SUBSCRIBED before me by Terry L. Laber on July 11, 2002

Dated: _____

[signed]

Terry L. Laber