

FILED

IN THE CIRCUIT COURT FOR THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

JAN 22 2020

Eva Cantagut Weinstein
CIRCUIT CLERK

PEOPLE OF THE STATE OF ILLINOIS

v.

GENERAL NO. 09 CF 926

MARNI YANG

**PEOPLE'S MOTION FOR DISCOVERY – DNA TESTING OF SWABS TAKEN
OF MEDICAL ALERT BRACELET**

Now comes Michael G. Nerheim States Attorney Lake County Illinois, by and through his assistant Jason R. Humke and hereby requests that the court allow the Northeastern Illinois Regional Crime Laboratory test the swabs taken of the medical alert bracelet tested by the laboratory retained by the Petitioner/Defendant, and in support of said motion states as follows:

1. At the Petitioner/Defendant's trial, the People admitted "People's Exhibit 5," a distinctive medical alert bracelet with the words "pregnant" on it.
2. After the Petitioner/Defendant's trial and sentencing, the Petitioner/Defendant requested an order allowing access to this exhibit by the clerk's office to inspect and photograph it. An agreed order was entered on April 26, 2011 allowing the Hanrahan Investigation Group of Westchester, Illinois to inspect and photograph this bracelet.
3. On June 23, 2016, pursuant to a defense motion for DNA testing, the court allowed the release of this exhibit to defense investigators to be examined for fingerprints and DNA by Independent Forensics DNA Testing and Technologies.

4. In paragraph 3 of the court's June 23, 2016 order allowing this testing, the court specified that the defense **would not conduct consumptive testing** of any samples collected without a court order to do so. No subsequent order was issued by the court authorizing such consumptive testing. (See Attached Exhibit 1).
5. In paragraph 4 of the court's order, the court directed that Independent Forensics prepare reports of their testing and provide copies of their testing reports to both the defense and the State Attorney's office. (See Attached Exhibit 1).
6. To date, the People have never received any report from Independent Forensics regarding any testing conducted in this case. The first time the People were made aware of the results of any of the testing conducted by Independent Forensics was when their reports were included as exhibits to the Petitioner/Defendant's post-conviction petition filed October 1, ²⁰¹⁹ ~~2009~~.
7. Enclosed as Exhibit 19 of Petitioner/Defendant's post-conviction petition is a lab report from Independent Forensics dated December 4, 2018. This lab report concerns the testing conducted by Independent Forensics of the medical alert bracelet. (See Attached Exhibit 2).
8. According to this report, Independent Forensics examined the bracelet for the testing of touch DNA. This was presumably done by swabbing the bracelet with a sterile Q-Tip, and then taking a cutting from this Q-Tip to be analyzed for the presence of DNA.
9. As the report indicates, DNA was found on the bracelet. The lab determined that the DNA found on the bracelet was inconsistent with the known DNA standard for

Rhoni Reuter, but for some reason the lab found that comparison of the DNA found on the bracelet to the Petitioner/Defendant's DNA to be "inconclusive."

10. This "inconclusive" result is curious to say the least. As the report indicates, Independent Forensics had the capability to test for DNA at 16 locations – 15 locations plus 1 sex/gender marker (D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, Vwa, TPOX, D18S51, AMEL, D5S818, FGA). From these tested locations, DNA was found 5 locations, yet this information was insufficient to definitively exclude her as a contributor to the sample.
11. As noted above, Independent Forensics only tested the DNA they retrieved from the bracelet at 16 locations. The People therefore request that the Northeastern Illinois Regional Crime Laboratory be allowed to test the swabs taken by Independent Forensics of the bracelet. The Northeastern Illinois Regional Crime Laboratory has the capability of testing for DNA at 24 locations (21 locations plus 3 sex/gender markers). From this testing, DNA could be discovered at additional locations. This additional information could be useful in helping to change the "inconclusive" result reached by Independent Forensics. It is the People's contention that there is a probability that sufficient DNA locations may be found to determine that the Defendant was a contributor to the DNA discovered on the bracelet.
12. Additional DNA testing conducted by the Northeastern Illinois Regional Crime Laboratory would be done using the same process described above. The lab would

take a cutting from the Q-Tip swabs taken of the bracelet by Independent Forensics and analyze the cutting for the presence for DNA.

13. Since Independent Forensics was not authorized by the court to conduct any destructive/consumptive testing on this swab, the swab will still be available for testing. (See Attached Exhibit 1).

WHEREFORE, the People respectfully request that the court grant the People's discovery request at this time.

Respectfully submitted,
MICHAEL G. NERHEIM
LAKE COUNTY STATE'S ATTORNEY

By:



JASON R. HUMKE
Assistant State's Attorney



IN THE CIRCUIT COURT OF THE NINETEETH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

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JUN 23 2016

Keith Bin
CIRCUIT CLERK

PEOPLE OF THE STATE OF ILLINOIS)
)
Respondent-Plaintiff,)
)
v.)
)
MARNI YANG)
)
Petitioner-Defendant.)

No. 09 CF 926

Honorable Christopher Stride
Judge Presiding

ORDER

On motion of Jed Stone for Marni Yang;

People by Ari Fisz, Assistant State's Attorney;

The being fully advised in the premises;

IT IS ORDERED:

1. The Court finds that DNA and Fingerprint testing of the outside and inside of the door knobs, and the bracelet found at the crime scene and currently in the possession of the Clerk of the Court would not be cumulative. Testing of said evidence shall be conducted at defense expense and by the agreement of the prosecution.
2. John Rea, a defense investigator, shall transport all fingerprint evidence along with the bracelet, in the possession and control of the Clerk of the Court and found at the crime scene of this cause to Dr. K.A. Reich, Independent Forensics, DNA Testing and Technologies, 500 Waters Edge, Suite 210, Lombard, IL 60148 at ambient temperature for DNA testing.
3. If in order to obtain interpretable DNA or fingerprint test results, the scientists at Independent Forensics determine that testing would require consumption of the entire sample, Independent Forensics is then required, prior to any testing, to consult with the Lake County State's Attorney's office and Ari Fisz to determine the proper scientific procedure to follow with regard to the consumptive testing of any sample and then to come back to this court for further instruction or order(s).

4. Dr. Reich and Independent Forensics shall prepare a written report of testing results and provide the defense counsel and state's attorney with copies of same within 21 days of completing said testing.
5. At the conclusion of testing by Independent Forensics all fingerprint evidence and the bracelet shall be returned to the Clerk of the Court by John Rea.

ENTER:



JUDGE

Dated this 23rd day
of June, 2016
at Waukegan, IL

Order prepared by
Jed Stone
Stone & Associates, Ltd.
415 Washington Street
Waukegan, IL 60085
847 336 7888

SUPPLEMENTAL TEST REPORT

*For results of previous analysis, see laboratory case NL-29683 report issued 02/18/2016.
For results of related casework, see case NL-35624 report issued 12/04/2018.*

Jed Stone
Stone & Associates, Ltd.
415 Washington St. Suite 107
Waukegan, IL 60085

December 4, 2018

Re: People v. Marni Yang #09 CF 926
Lake County Sheriff's Office Case # 07-15329
IFI Lab Case # NL-29683

Request: Genetic Identification testing

Received: Via pers. delivery by John D. Rea;
Arrived at Independent Forensics on 12/14/2016;
One item as follows:

Exhibit # 10: LCSO Item CMF002; medical alert bracelet (29683-100518-Q3)

Client requested genetic identification testing on Exhibit # 10 to determine if a human DNA profile could be generated from the item, for comparison to reference profiles of Marni Yang (29683-93362-Ref_1) and Rhoni Reuter (35624-102847-Q3).

Procedure for Genetic Identification:

Exhibit # 10 (29683-100518-Q3) was processed as per Touch DNA Procedure and analyzed for CSF1PO, D2S1338, D3S1358, D5S818, D7S820, D8S1179, D13S317, D16S539, D18S51, D19S433, D21S11, FGA, TH01, TPOX, vWA and Amelogenin using the Identifiler AmpFISTR kit as per LCN protocol.

Results:

A partial DNA profile was obtained from 29683-100518-Q3.

STR Summary Results

Locus	Q3 100518 consensus	Locus	Q3 100518 consensus
D8S1179	10, 13, 14	D2S1338	-
D21S11	-	D19S433	-
D7S820	-	vWA	-
CSF1PO	-	TPOX	-
D3S1358	15	D18S51	-
TH01	6, 7	AMEL	X
D13S317	11	D5S818	-
D16S539	-	FGA	-

Interpretation:

The DNA profile obtained from Exhibit # 10 (29683-100518-Q3) is indicative of a mixture of two contributors.

Conclusions:

There are insufficient data for source attribution of the partial DNA profile generated from the medical alert bracelet. Comparison of this profile with the DNA profile of Marni Yang is inconclusive.

Rhoni Reuter is excluded as a contributor to the partial DNA profile generated from the medical alert bracelet.

Disposition of Exhibits:

Exhibit # 10 was released to Steve LaPino of MSI Detective Services on November 12, 2018, for return to the Lake County Circuit Court Clerk.



Elizabeth A. Kopitke, M.S.
Forensic Scientist

This test is accredited under the laboratory's ISO/IEC 17025 accreditation issued by the ANSI-ASQ National Accreditation Board. Refer to certificate and scope of accreditation AT-1639.