

Press Release by the Dent County Prosecuting Attorney's Office

Prosecuting Attorney Andrew M. Curley

State v. Donald Nash; 08C7-CR00139-02 (Change of Venue to Crawford County)

On March 11, 1982, Judy Spencer was found dead in Dent County. An initial police investigation determined she had been strangled with her shoelace, then shot in the neck by a shotgun, postmortem. The case remained unsolved for 25 years until 2007. Investigators collected a DNA sample from Donald Nash to compare with the DNA evidence found on the fingernail clippings taken from Spencer's body in 1982 due to the advancements in DNA testing. The Missouri Highway Patrol Crime Laboratory analyzed the fingernail clippings and confirmed the presence of Donald Nash's DNA and DNA belonging to the victim. No other DNA was located under the fingernails. There was also a small amount of DNA evidence located on the victim's shoe. The DNA on the shoe remains unidentified but was confirmed to belong to a male. Following the DNA analysis and with much attention given to the DNA under the fingernails in the Probable Cause Statement, the Defendant was charged with capital murder in 2008 by then Prosecutor Jessica Sparks. Sparks later withdrew from the case, and a trial was conducted in 2009 with the state being represented by the Attorney General's Office and the Defendant by private counsel. As a result of the trial, the jury convicted the Defendant of murder. The conviction was originally affirmed by the Missouri Supreme Court, who later appointed a special master to hear evidence for habeas relief requested by the defendant.

At the 2009 trial, there was evidence the victim was observed washing her hair the day of her death. The Missouri State Highway Patrol DNA laboratory criminologist testified at trial regarding the results of the DNA analysis. The expert testified that DNA from the victim and Donald Nash was present under the victim's fingernails. The expert further testified that (s)he "expected that washing your hair...would remove DNA from underneath the fingernails." The expert further indicated the act of hair washing would have a "great effect" to the amount of DNA (2.25 nanograms) present under the victim's fingernails. The Defendant argued at trial his DNA was found under the victim's fingernails due to casual contact from their ongoing relationship. Essentially, the expert testified there was a large volume of the defendant's DNA under the victim's fingernails. This testimony, among other facts, created an inference the DNA of Nash ended up under the victim's fingernails during the struggle preceding her death.

In June of this year, the Special Master heard evidence about the case and recommended the Supreme Court to vacate the conviction rendered by the jury in 2009 due in part to a change in DNA expert testimony. During the hearings the DNA expert testified that "I have revised my opinion regarding the effect of hair washing from the original adjective of "great effect" to "some effect". The expert was unable to quantify the "some effect" opinion other than to say it's more than no effect. On July 3, 2020 the Missouri Supreme Court vacated the sentence and remanded the case back to the trial court due, in part, to this change in testimony.

Prosecutor Curley inherited the case and with assistance from the Missouri Attorney General's Office began reviewing the case and discovered the bulk of the physical evidence remained in the custody of the Missouri Highway Patrol. All evidence was resubmitted for DNA re-testing in anticipation of the upcoming trial. Additional DNA testing was performed by the State due to the advancements in DNA technology and to be thorough. The MSHP DNA expert reviewed their previous findings and trial testimony. The expert indicated due to an increase in testing standards now implemented by MSHP laboratory they could no longer testify, as they did in 2009, that it was Donald Nash's DNA that was located under the victim's fingernails. The fingernails were also re-tested and found to be degraded to a point that no DNA analysis could be performed. Most importantly, DNA analysis was recently conducted on the shoestring used to strangle the victim. DNA was identified from 2 male contributors. **Donald Nash was excluded as a contributor to the male DNA located on the shoestring used to strangle the victim. As a result of the change in testimony from the DNA analyst and the existence of genetic material from 2 unknown males on the shoestring, the case against Donald Nash will be dismissed by the state.** In addition, at least three of the witnesses who testified at the previous trial are now deceased.

According to Prosecutor Curley, "The criminal justice system utilizes the stringent standard of proving a defendant guilty by beyond a reasonable doubt. This standard is meant to protect an innocent person from being convicted. I was not the Prosecutor in 2009, but I am the prosecutor that inherited this case in 2020. I have reviewed the original preliminary hearing, trial transcript, appellate transcripts, and newly discovered DNA evidence. The DNA expert previously testified in the preliminary hearing and at trial that the frequency of occurrence for the partial profile under the fingernails was one in 16.13 million in the Caucasian population and one in 325.3 million in the black population and that Donald Nash's DNA fit the standards for the profile. This testimony and evidence was utilized to implicate the Defendant in the homicide. The results of the recent DNA testing identifying 2 unknown males, while excluding Donald Nash, and the reversal in opinion of the expert testimony creates a reasonable doubt as to whether Donald Nash committed the offense charged in 2008. As a result, the charges against Donald Nash have been dismissed. This decision was made following consultation with the prosecutors in the Attorney General's Office, who concur in my conclusions and have recommended this same course of action.

I hope and pray that justice can be delivered for Judy and her family in the future for this tragic loss of life."