

STATE OF INDIANA)
) SS:
COUNTY OF SPENCER)

IN THE SPENCER CIRCUIT COURT
CRIMINAL DIVISION

2013 TERM

CAUSE NO. 74C01-1210-MR-000184

STATE OF INDIANA)
)
vs.)
)
DAVID R. CAMM)

FILED
SPENCER CIRCUIT COURT

AUG 09 2013

Steph Ann Haraway
CLERK SPENCER CIRCUIT COURT

ORDER ON ISSUES HEARD AUGUST 1 AND AUGUST 2, 2013

Comes now the State of Indiana by its Special Prosecuting Attorneys, Stanley Levco and Todd J. Meyer, and comes now the Defendant, David R. Camm, in person and by counsel, Richard Kammen and Stacy R. Uliana, and the Court having heard evidence and arguments on pending motions on August 1, 2013 and August 2, 2013, and having taken the same under advisement, the Court now Finds and ORDERS:

I. State's Challenge Under Indiana Evidence Rules 104(a), 401, 403, and 702.

The State's Challenge Under Indiana Evidence Rules 104(a), 401, 403, and 702 is denied. In this case, the State's argument was not really against the science or underlying technology about the Defendant's proposed DNA evidence, which included touch or low copy number (LCN) DNA evidence. In fact, such evidence is slowly gaining more acceptance in the United States and the State's expert conceded the Indiana State Police Lab has from time to time conducted such testing and pursuant to Indiana Rules of Evidence 702, this Court is satisfied that



the scientific principles upon which the expert scientific testimony of Richard Eikelenboom rests are reliable.

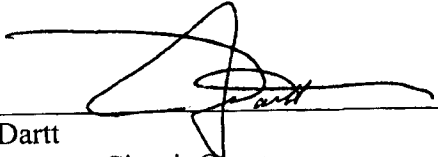
Instead, most of the State's arguments go to weight and not admissibility. Indiana cases hold matters such as general DNA testing procedural irregularities, lack of control tests, improper handling, contamination, lack of accreditation, failure to follow protocol, how alleles are or are not called, and attacks on methods of statistical calculation all go to weight and not admissibility. See e.g. Smith v. State, 702 N.E. 2d 668 (Ind. 1998); Jenkins v. State, 485 N.E. 2d 625 (Ind. 1985).

The Court does agree with the State that weight must be given for DNA results. The Defense will have to have Mr. Eikelenboom to provide all DNA evidence/matches with statistical data for it to be relevant and so the jury can assess its weight. See Deloney v. State, 938 N.E. 2d 724, 730 (Ind. App. 2010).

The Court further finds the DNA evidence is relevant to material facts at issue pursuant to Indiana Evidence Rule 401. The Court also finds it is proper under Indiana Evidence Rule 403 as it is not unduly prejudicial to the State compared to its probative value and once the proper statistical values are added it will not risk jury confusion or result in a waste of time.

The Court finds the Defense has presented sufficient evidence that Richard Eikelenboom's expert DNA testimony shall be allowed in this cause. However, the Court will give the State considerable leeway in rebutting said evidence with its own witnesses and/or evidence.

SO ORDERED this 9th day of August, 2013.



Jon A. Dart
Judge, Spencer Circuit Court