



### E31 An Expert for the Court: Testimony in the Magdelana Dzubia Case

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After attending this presentation, attendees will understand principles governing the role of the expert witness and the difficulties that can be encountered when attempting to fulfill the responsibilities to the judicial process that surround the role of an expert witness.

This presentation will impact the forensic science community by improving practitioner knowledge regarding the provision of expert opinion evidence.

Providing expert opinion evidence within a criminal trial can be a daunting and lonely experience. Often the testimony of an expert becomes pivotal to the acceptance, or otherwise, of scenario(s) consistent with the guilt or innocence of an accused person and in many instances becomes the decision fulcrum used by the jury in coming to a determination. In this presentation, the forensic component of investigations surrounding a murder case to highlight the value of expert opinion evidence to the criminal trial process and demonstrate the overarching responsibility code those experts must apply to the judicial process, irrespective of party advocacy.

At about 9:00 a.m. on Wednesday, November 30, 2005, Magdelana Dzubia returned home from work to an improvised covert alarm positioned across her entry door with security locks on doors between her and her male housemate which had been rendered inoperable with the insertion of cardboard into components of the doors locking mechanisms. Within five minutes of entering the house she was set upon by her housemate who attempted to bind her with rope thus rendering her incapable of resistance and who then advised her that it was his intention to rape and then kill her. She managed to escape from the bindings, and in fighting for her life she subsequently killed her housemate by stabbing him in the chest with the very knife he intended to use upon her. At postmortem, the deceased housemate was found to have several incised and penetrating injuries to his chest and leg. Dzubia suffered a single superficial incised injury to her left index finger.

The assessment and analysis of the bloodstains and bloodstain patterns along with complementary DNA results from more than 60 of those bloodstains spoke of that fight, particularly when the results were schematically mapped to the floor and wall plans of the house. The physical evidence assessed during the course of investigations surrounding the death of the housemate, and in particular the bloodstains and bloodstain patterns, became vital to the issue of “acting in self defense” that was raised and argued at Dzubia’s subsequent trial for murder.

The presentation of this case example, articulates an unlikely “event” scenario proffered by the prosecution and its subsequent attempts to mitigate the evidence of the state’s own bloodstain pattern analysis (BPA) expert. A highlight of the trial was the cogent exposé of the bloodstain evidence by the defense team following extensive pre-trial dialogue with that same BPA witness. Following less than five hours of jury deliberation, Magdelana Dzubia was acquitted of murder on the grounds of self defense.

**Expert, Evidence, Bloodstain**