



Questioned Documents Section - 2015

J29 Forensic Document Examiner (FDE) Testimony Related to Quality Processes Denied — What a Florida Jury Did Not Hear and More (or Less)

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After attending this presentation, attendees will have been provided information on how certain courts may apply adverse rulings to the various quality processes and methodologies employed by forensic document examiners.

This presentation will impact the forensic science community by providing insight on the judicial demands of the forensic science disciplines and the resulting counterintuitive decisions by the judiciary when those demands are met.

This presentation will discuss the facts and circumstances surrounding forensic document examinations and three subsequent trials of an individual accused of murdering a young assistant manager at a popular chicken restaurant in West Palm Beach, FL, more than 15 years ago.

The specifics of the lengthy and controversial investigation and multiple trials will shed light and promote discussions on forensic document examination processes, testimony, extremely controversial rulings, un rebutted “expert critic” testimony, and the tainting of testimony by association.

In 1999, a young 18-year-old assistant manager at a West Palm Beach fast food restaurant was bound and shot execution-style while closing the restaurant. Almost five years later, the questioned handwriting allegedly written by one of the perpetrators while at the scene and purported known writings of numerous individuals were submitted to the laboratory by investigators with the West Palm Beach Police Department and later from the State Attorney General’s office. Two examiners from different laboratories ultimately identified the same individual as the person responsible for the questioned writing. In each instance, the conclusions reached by the primary examiners were reviewed by another FDE as part of each laboratory’s quality assurance process.

The first trial resulted in a mistrial (eleven to one, guilty). The second trial resulted in a guilty verdict. The Florida Court of Appeals reversed the conviction on the grounds that the FDEs testifying about their peer review process were, in effect, bolstering their testimony. The court ruled the trial judge was in error by allowing each FDE to testify to their quality review process, without providing the opportunity to the defense to cross-examine the FDEs conducting the quality review. Of course, there were depositions of the FDE conducted prior to trial and the defense was well aware of the processes employed with respect to quality review and verification at both FDE laboratories.

This presentation addresses the forensic document examinations, the process methodology employed by two recognized forensic laboratories, testimony by two FDEs at multiple trials, and the controversial rulings by the court on several issues, including the court’s refusal to allow testimony by more than one examiner, the court’s decision to forbid testimony by the FDEs who provided the peer review and verification, and the spill-over impact or tainting of the case based on issues related to problematic investigative techniques.

At the third trial, the defendant was acquitted. In that trial, not only was the FDE forbidden to provide the jury with information on the quality processes employed, but the court ruled the FDE who conducted the quality/peer review would not testify because the testimony would amount to “bolstering.” So, this begs the question...just exactly how is the jury to assess the reliability of our quality processes if we are not allowed to testify to them and/or if other FDEs involved in the process are precluded from testifying as to their role in the process? As a result of another questionable ruling from the bench, a rebuttal witness to the testimony of a pervasive “expert critic” was not allowed to testify.

There are certainly anomalies within the circumstances of this case and rulings by the court which may never appear again as they did in this case. However, the rulings in this case are difficult to understand given the past criticisms of the judiciary and other critics. The ever-critical judicial system has demanded of the forensic science profession methodologies and processes which are well-grounded in science and quality. Yet, in this case, the jury was forbidden to hear about the methodology and quality processes the forensic document examination community has been criticized for failing to employ in years past. As forensic document examiners, this is indeed cause for concern.

Quality Process, Methodology, Bolstering