



F14 Three Coins in a Fountain: How the Florida Arrestee Database Solved a New York John Doe Rape Case 20 Years After the Fact

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After attending this presentation, participants will learn how a John Doe indictment led to a rape conviction 21 years after the crime.

This presentation will impact the forensic science community by illustrating: (1) how to preserve the legal viability of a backlogged rape case with a John Doe indictment; (2) how an arrestee database led to a Combined DNA Index System (CODIS) hit; and, (3) how best to present trial evidence in an old, cold sexual assault.

Like many newcomers to New York hoping to make a living in the arts, Wendy Webster (not her real name) worked in a restaurant. Late on a snowy January evening in 1995, business was slow, so the kitchen closed early, and Wendy ducked into a neighborhood movie theater in Greenwich Village to catch a late show; ironically, a courtroom drama called "Murder in the First." Walking home after the movie, Wendy was accosted by a man who asked her the time, then put his arm around her shoulders and held a knife to her side. He frog-marched her to the vestibule of a nearby brownstone, robbed her, and forcibly raped and sodomized her. Rifling through her wallet and reading her driver's license, he warned her that he knew where she lived, and, if she reported the assault, he would come back to kill her.

Undeterred, Wendy ran the few blocks to St. Vincent's Hospital, where an Emergency Room (ER) doctor took samples for a rape evidence kit and police took her report. The investigation hit a dead end, after early Registration Fragment Length Polymorphism (RFLP) testing failed to tie the attack to a serial rape case happening in Manhattan. The rape kit remained in New York Police Department (NYPD) custody, where it sat, untested, as part of a rape kit backlog.

With the advent of CODIS, New York law enforcement officials saw the wisdom of testing that backlog, and Wendy's case was one of the 17,000 sent for Short Tandem Repeat (STR) DNA testing. That testing generated a profile but no match in CODIS. Prosecutors decided to indict that DNA profile in order to stop the clock on a 10-year statute of limitations for rape. In 2003, Wendy testified before a grand jury, with no assurance her attacker would ever be found.

Fast forward to 2015, when prosecutors were notified of a DNA match to that John Doe indictment. Joseph Giardala was arrested after he scavenged coins from a Palm Beach shopping mall fountain, then bit the security guard who arrested him. That bite got Giardala swabbed for Florida's "arrestee" database, and a few weeks after that swab was taken, a CODIS hit identified Giardala as Wendy's attacker.

Prosecutors were able to find Wendy through the phone number of a friend listed in her medical records. A Google® search found the ER doctor, still practicing in New York City. The Crime Scene Unit detective, nearing retirement, was still with the NYPD. A new swab taken from the defendant and analyzed by the Office of the Chief Medical Examiner (OCME) allowed a criminalist to testify about the match between the defendant and the rape kit evidence. The jury deliberated for fewer than two hours and convicted Giardala in 2016 for the crime he committed 21 years earlier.

John Doe Indictment, Arrestee Database, Cold Case

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