

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,)
)
 Plaintiff,)
) Case No. 05-CF-381
 v.)
) Honorable Judge Angela Sutkiewicz,
 STEVEN A. AVERY,) Judge Presiding
)
 Defendant.)

SUPPLEMENTAL AFFIDAVIT OF CHRISTOPHER PALENIK, PhD

Now comes your affiant, Christopher Palenik, PhD, and under oath hereby states as follows:

1. I incorporate ¶¶ 1-18 of my affidavit (P-C Motion Exhibit 48) as if set forth fully herein.
2. The purpose of this supplemental affidavit is to explain to the court certain misinterpretations of my original affidavit made by the court in its order of October 3, 2017.
3. The court appeared to believe that the entire bullet surface had not been examined for the presence of bone. This assumption is incorrect. As I explained in ¶ 15(f) of my original affidavit, “no particles consistent with bone were detected by an examination using stereomicroscopy or digital video microscopy.”
4. In addition to the use of stereomicroscopy and digital video microscopy, the bullet fragment was subjected to further analysis by means of scanning



electron microscope and energy dispersive x-ray spectroscopy (SEM/EDS) and, as stated in ¶ 17(f), “no particles consistent with bone were detected by SEM/EDS analysis.”

5. Based upon my analysis, I offered an opinion based upon a reasonable degree of scientific certainty that the FL bullet did not pass through the skull of Teresa Halbach.

6. This court also misconstrued my statements in ¶ 15(e) regarding my observation of two red droplets on the surface of item FL. I proffered the opinion that the color, texture, and shape of the red droplet deposits suggest that the material may be paint and that it could be tested to identify it. There has never been an issue in the underlying case that the red droplets were blood because, at trial, the forensic analyst Sherry Culhane testified that she had not done a presumptive test for blood nor had she observed any stains on the bullet fragment. She also testified that she had washed the bullet fragment in a solution. The following observations all suggest that the material on the bullet is composed of paint:

- A. The properties of the droplets that were observed;
- B. the fact that bone was not detected on the bullet;
- C. the fact that the bullet had been previously extracted specifically for DNA;
- D. the fact that no indications of blood were previously noted during prior examinations;

E. the presence of additional bullet holes in the garage where this bullet was found; and

F. evidence that red paint was used to paint the garage, as well as objects in the garage, which would suggest a source for the bullet.


Though this material could be identified by sampling and analyzing the droplets (analyses that were expressly prohibited and outside the scope of my analysis of the bullet), the identity of the material was not pursued further due to the above-listed facts of the case, which together with the lack of any prior indication of blood on the bullet, suggest that these droplets on the bullet are composed of paint.

FURTHER AFFIANT SAYETH NAUGHT


Christopher Palenik, PhD

State of Illinois
County of DuPage

Subscribed and sworn before me
this 19 day of October, 2017.


Notary Public

