

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

DEC 6 2006

CLERK OF CIRCUIT COURT

STATE OF WISCONSIN VS. STEVEN A. AVERY

CASE NO. 05 CF 381

DEFENDANT'S MOTION FOR ORDER ALLOWING ACCESS
TO PRIOR COURT FILE WITH EXHIBITS ONE THROUGH SEVEN ATTACHED.

CORRESPONDENCE REGARDING MOTION.

ORDERED SEALED PER JUDGE WILLIS ON 12-08-06.

**CALUMET COUNTY
DISTRICT ATTORNEY'S OFFICE
Kenneth R. Kratz, District Attorney**

Jeffrey S. Froehlich,
Assistant District Attorney
Julie L. Leverenz/Llonda K. Thomas
Victim/Witness Assistance Coordinators

206 Court Street
Chilton, WI 53014
(920) 849-1438
FAX: 849-1464

December 8, 2006

**SENT VIA FACSIMILE & U.S. MAIL
FILED UNDER SEAL**

Attorney Dean Strang
10 E. Doty Street #320
P.O. Box 1528
Madison, WI 53701-1528

Attorney Norman Gahn
Milwaukee County DA's Office
821 W. State Street
Milwaukee, WI 53233

Attorney Jerome Buting
400 N. Executive Drive #205
Brookfield, WI 53005-6029

Attorney Thomas Fallon
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Manitowoc County Clerk of Courts Office ✓
P.O. Box 2000
Manitowoc, WI 54221-2000

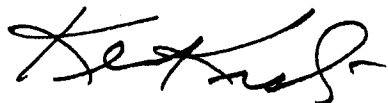
**Re: State of Wisconsin vs. Steven A. Avery
Manitowoc County Case No. 05-CF-381**

Dear Attorneys and Clerk of Court:

On today's date, I received a telephone call from Janet from the Manitowoc County Clerk of Court's office. Janet advised me that she had personally contacted Judge Willis about my request regarding the motion filed by the defense.

Janet advised me that Judge Willis has ordered that the motion be placed under seal and not disseminated until all parties can be contacted by telephone sometime next week. Judge Willis requested that I notify you of his decision.

Sincerely,



Kenneth R. Kratz
Calumet County District Attorney
Manitowoc County Special Prosecutor

KRK:mlm

REC'D DEC 11 2006

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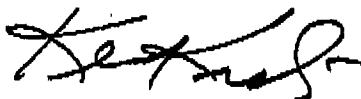
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December 8, 2006

The Honorable Patrick Willis
Circuit Court Judge, Branch I
Manitowoc County Courthouse
P.O. Box 2000
Manitowoc, WI 54221-2000

SENT VIA FACSIMILE & U.S. MAIL

FILED UNDER SEAL

**Re: State of Wisconsin vs. Steven A. Avery
Manitowoc County Case No. 05-CF-381**

Dear Judge Willis:

On December 6, 2006, Attorney Strang and Buting "hand-delivered" a motion to allow access to a prior court file. The motion, and supporting materials, contains potentially prejudicial information; that is, that would tend to influence or contaminate the possible jury pool in this case.

It appears that the defense has had access to this information since at least August 2006, based upon their filings. This Court has previously ordered correspondence filed with the Court to be "sealed" until the Court determines its significance and/or prejudicial effect.

Given the timing of the filing of this motion and supporting information (publicly filed), and given the potential for prejudice, the State is requesting that the Court order this motion be "sealed" until a conference call can be held to determine when the merits of said motion will be addressed.

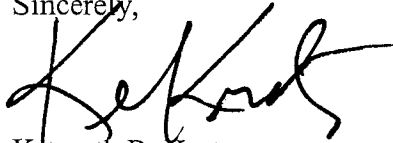
I would further ask that an immediate conference call be scheduled, including all attorneys and the Court, to discuss these matters. As an aside, this motion was not served on Assistant District Norm Gahn, serving as special prosecutor, that the defense by now should be aware has assumed responsibility of blood, DNA or other related evidence for the state.

REC'D DEC 11 2006

The Honorable Patrick Willis
December 8, 2006
Page -2-

I understand that Judge Willis is not at the Manitowoc County Courthouse on today's date, and therefore am providing copy of this correspondence to the Manitowoc County Clerk of Court, who will hopefully receive direction from Judge Willis as to the motion's filing or release status.

Sincerely,



Kenneth R. Kratz
Calumet County District Attorney
Manitowoc County Special Prosecutor

KRK:mlm

Enclosure

cc: Attorney Dean Strang
Attorney Jerome Buting
Attorney Tom Fallon
Attorney Norm Gahn
Manitowoc County Clerk of Court ✓

**CALUMET COUNTY
DISTRICT ATTORNEY'S OFFICE**

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December 8, 2006

The Honorable Patrick Willis
Circuit Court Judge, Branch I
Manitowoc County Courthouse
P.O. Box 2000
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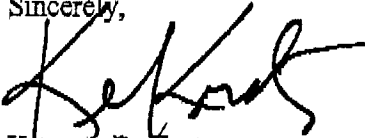
REC'D DEC 8 2006

Post-It® Fax Note	7671	Date	12/8	# of pages	2
To	Lynn Zigmunt	From	DA Ken		
Co./Dept	Manitowoc County	Co.	Kratz		
Phone #	of Court	Phone #			
Fax #		Fax #			

The Honorable Patrick Willis
December 8, 2006
Page -2-

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Sincerely,



Kenneth R. Kratz
Calumet County District Attorney
Manitowoc County Special Prosecutor

KRK:mlm

Enclosure

cc: Attorney Dean Strang
Attorney Jerome Buting
Attorney Tom Fallon
Attorney Norm Gahn
Manitowoc County Clerk of Court

JB called Judge Willis at home and was directed to seal the motion filed by the defense until all parties can discuss this next week. JB was directed to call Attorney Kratz to inform him of this as well as to notify the other parties.

Law Offices
BUTING & WILLIAMS, S.C.

Jerome F. Buting*
Kathleen B. Stilling

400 N. Executive Drive, Suite 205
Brookfield, Wisconsin 53005-6029
Telephone: (262) 821-0999
Facsimile: (262) 821-5599

*Also admitted to practice
in the District of Columbia

Dudley A. Williams

6165 N. Green Bay Avenue
Glendale, Wisconsin 53209-3813
Telephone: (414) 247-8600
Facsimile: (414) 247-8655

December 6, 2006

HAND DELIVERED

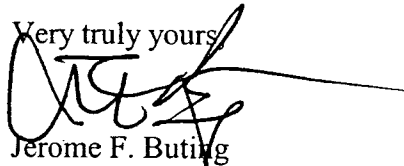
The Honorable Patrick Willis
Circuit Court Judge, Branch 1
Manitowoc County Courthouse
1010 S. Eighth St.
Manitowoc, Wisconsin 54211-2000

Re: State of Wisconsin vs. Steven A. Avery
Manitowoc County Case No. 05-CF-381

Dear Judge Willis:

Enclosed is a courtesy copy of the *Defendant's Motion for Order Allowing Access to Prior Court File*, the original of which was filed with the Clerk of Circuit Court today. As indicated in the motion, the defense respectfully requests this Court to take immediate custody of and secure a box contained in Avery's 1985 wrongful conviction court file, Case No. 85-FE-118, which purportedly contained a whole blood sample of Steven Avery, pending resolution of this motion.

I appreciate the court's attention.

Very truly yours,

Jerome F. Buting

JFB:bas

Enclosures

cc: Attorney Dean Strang
Attorney Kenneth Kratz
Attorney Tom Fallon

REC'D DEC 6 2006

STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC COUNTY

STATE OF WISCONSIN,

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

Plaintiff,

DEC 6 2006

v.

CLERK OF CIRCUIT COURT Case No. 2005-CF-381

STEVEN A. AVERY,

Defendant.

**DEFENDANT'S MOTION FOR ORDER
ALLOWING ACCESS TO PRIOR COURT FILE**

Steven A. Avery, by counsel, now moves for an order permitting the defense supervised access to certain evidence contained within a prior court file involving this defendant, the 1985 wrongful conviction of Steven Avery, Manitowoc County Case No. 85-FE-118. He makes this motion for the following reasons, and in compliance with this Court's July 10, 2006, order regarding notice of extrinsic evidence of third party misconduct.

I.

Introduction

The defendant has reason to believe the 1985 court file contained a tube of Steven Avery's blood at or about the time of Teresa Halbach's disappearance, and that the evidence seal on the box containing the blood now shows evidence that it was broken and the contents of the box became easily accessible. Further, the blood

sample was not held in any secured area of the clerk's office, and would have been available to any individual(s) intent on tampering with the evidence in this pending case.

In prior filings with this Court, Avery has alleged bias on the part of Lt. James Lenk and other members of the Manitowoc County Sheriff's Department. *See* Defendant's First Motion in Limine, filed, July 14, 2006. Lenk was one of three high-ranking members of that department deposed in Avery's multi-million dollar civil case just three weeks before Halbach's disappearance. Avery himself, in public statements before present counsel was retained, alleged that evidence in this case, including blood evidence, was "planted" by unknown individuals.

Discovery now reveals that Lt. James Lenk of the Manitowoc County Sheriff's Department, the same individual who "discovered" in Steven Avery's bedroom in "plain view" on the sixth search of his trailer a key which fit Halbach's vehicle, was also directly involved in the transfer of evidence from the 1985 court file in 2002, and for that reason likely would have known that Avery's blood sample was kept in the clerk's office in 2005. *See* Exhibit 1. Others may also have been aware of this as the 1985 court file was a public record of a completed court case at that time.

Avery requests this Court to immediately take custody of and secure a box in the 1985 file which purports to contain Steve Avery's blood, to prevent any attempt by someone to alter the present condition of the evidence contained within the 1985

case file before this Court can order supervised access to the exhibits in the file. Defense counsel have examined only the exterior of the box purportedly containing Avery's blood, but have not yet opened the box to examine its contents. The box remains in the Clerk's office at this time in an unsecured area. Obviously, if there is a tube of Avery's blood missing, or if it has been tampered with, the individual(s) responsible have already demonstrated serious and likely criminal misconduct, such that they would have a strong incentive to try to cover up their malfeasance. That may already have occurred, of course, but failure to secure the box apparently containing Avery's blood now that this motion has been filed would only exacerbate the risk of tampering.

This motion is more particularly supported by the following facts and reasonable inferences.

II.

Prior Wrongful Conviction for Attempted Murder and Rape.

Avery was convicted in 1985 for attempted murder and rape in Manitowoc County and subsequently imprisoned for eighteen years before DNA testing proved his innocence in the case. During the many years of wrongful imprisonment Avery consistently maintained his innocence and worked with several post-conviction counsel to correct the injustice that occurred in his case. Avery's first attempt to use DNA to exonerate himself occurred in 1996, when testing was requested by Avery

attorney Robert R. Henak. The State opposed a defense motion for testing, but the court granted the request, and a stipulation and order to remove exhibits for testing was entered on November 29, 1995.

Several court exhibits, including scrapings from the victim's fingernails and a sample of her blood, were located in the courthouse and sent to Lab Corp., a respected independent DNA laboratory in North Carolina. Separately, a sample of Steven Avery's blood was taken from him at Fox Lake Correctional Institution and sent directly to Lab Corp. A kit containing one sealed tube of Avery's blood was received by Lab Corp. on January 4, 1996. Exhibit 2. The lab consumed only one milliliter of Avery's blood in its tests. Exhibit 3.

After Lab Corp. concluded its DNA tests,¹ all court exhibits and the tube of the remaining sample of Avery's whole, liquid blood were returned and received at the office of the Manitowoc County Clerk of Circuit Court on June 6, 1996. *See* Exhibit 4. Avery filed a motion for post-conviction relief under Wis. STAT. § 974.06, arguing the DNA results showing another person's DNA under the victim's fingernails were newly discovered evidence warranting a new trial. The trial court

¹ DNA tests of the fingernail scrapings could not conclusively exclude Avery from a mixture of DNA, although several additional alleles were discovered in the mixture which could not have come from either the victim or Avery. Unfortunately, no statistical estimates could be provided at that time to bolster Avery's continued claim that he was not the perpetrator of that offense.

denied the motion and was later upheld on appeal. *See State v. Avery*, 213 Wis. 2d 228, 570 N.W.2d 573 (Ct. App. 1997).²

Years later, Avery pursued another, ultimately successful, attempt at exoneration with the assistance of the Wisconsin Innocence Project in Madison. A motion for post-conviction testing was filed on December 10, 2001, and later granted by the circuit court on April 3, 2002. An order was entered on May 2, 2002, requiring the Clerk of Courts to seal certain court exhibits and release them to a deputy of the Manitowoc County Sheriff's Department for transport to the Wisconsin Crime Lab in Madison. However, due to the age of the exhibits, the clerk had some difficulty identifying precisely which exhibits were to be sent. *See Court Docket Sheet, Case No. 85 FE 118, entry 5-14-02.*

²Unknown to the defense at that time was that in approximately 1995-96, the Manitowoc County Sheriff's Department received a call from another law enforcement agency indicating that it had reason to believe another suspect committed the 1985 sexual assault at issue in this case. The call was taken by Sgt. Andrew Colborn, who failed to write any report documenting the information until the day after Avery was released from prison in 2003. Lt. James Lenk apparently also had notice of this information at some point prior to Avery's eventual exoneration, for he also wrote a report the day after Avery's release in 2003. Just three weeks before Teresa Halbach's disappearance, both Lenk and Colborn were deposed in Avery's civil lawsuit about their own involvement in the failure to follow up an exculpatory lead which contributed to Steven Avery spending another eight years in prison before his eventual exoneration. Curiously, although Lenk and Colborn were aware that authority for the investigation of the Halbach disappearance was transferred to the Calumet County Sheriff's Department because of the conflict of interest arising from Avery's lawsuit, both officers volunteered to search Avery's personal residence and did not inform the Calumet County authorities that they had a direct contact with the civil case or that they had themselves been deposed (and had their conduct as to Avery called into question) in the case a mere three weeks earlier. *Trans.*, 8/9/06, at 203-04; *Trans.*, 8/10/06, at 122-24. This obvious conflict of interest belies the state's claim that "[l]aw enforcement has taken great caution to insulate this prosecution from the appearance of any impropriety." *State's Memorandum Regarding Motions in Limine*, dated Dec. 4, 2006, at 2.

On information and belief, a 2002 meeting was held between then Manitowoc County District Attorney E. James Fitzgerald and counsel for Avery at which the court exhibits were opened and reviewed to determine what should be sent to the Crime Lab. A white box presently contained in the court file bears handwritten notations that on June 19, 2002, at 12:25 p.m., per instructions from Judge Hazelwood, the box was opened by Fitzgerald. The box shows that it was originally sealed with red evidence tape, and it has a date stamp of 01/04/96, consistent with Lab Corp. records showing Avery's blood sample was received in that lab on that date. *See Exhibit 2.* Fitzgerald's notations indicate that the box "contains S. Avery's whole blood sample." The notations on the box indicate that it was closed on June 19, 2002 at 12:27 p.m., but the method of closure is not indicated.³

On September 19, 2002, an amended order was entered by the court which specified that head and pubic hairs and the fingernail scrapings were to be transported by the Manitowoc County Sheriff's Department to the Crime Lab for DNA testing. On the same date those exhibits were released by the Clerk to Mike Shallue, a representative of the Manitowoc County Sheriff's Department, a

³The defendant's blood sample was apparently not removed from the file in that round of DNA testing. Instead, separate buccal swabs were obtained from the defendant in prison and those DNA standards were used for comparison with the crime scene evidence in the 1985 case. Upon the conclusion of the DNA tests which exonerated Avery, the defendant's buccal DNA swabs and extracts were sent to the Manitowoc County Sheriff's Department, where, according to recent evidence review, they remain to this day.

transmittal of evidence form was prepared by "Det. Sgt. James Lenk" and the items were transported to the Crime Lab. *See* Exhibit 1.

In September 2003, DNA tests exonerated Avery in the 1985 case. The tests also inculpated another person, Gregory Allen, who was originally a suspect in the 1985 case, and who later was convicted and imprisoned for a different sexual assault. Steven Avery retained counsel and a civil lawsuit was filed against Manitowoc County and its sheriff for their alleged misconduct in the investigation and wrongful conviction. That lawsuit sought damages in the amount of \$36 million, but was later settled for a great deal less after Avery was charged with the instant offenses.

III.

Avery's pending charge for the death of Teresa Halbach.

On October 31, 2005, Teresa Halbach went missing. She was last known to have visited the Avery Salvage property on business that afternoon. On November 5, 2005, Halbach's vehicle was discovered near the edge of the Avery Salvage property. Several blood stains were located inside the vehicle, some of which were later linked by DNA tests to Steven Avery. He was then charged with several crimes related to Ms. Halbach's disappearance. *See* Complaint, Case No. 2005 CF 381.

Avery publicly denied any wrongdoing and argued that if his DNA was found inside Ms. Halbach's vehicle, it must have been planted there by the police or another individual. The State more than a year ago denied this accusation and even recently has claimed the Manitowoc County Sheriff's Department had no blood sample of Avery's in its property inventory from which it could plant any evidence in the Halbach vehicle. *See State's Memorandum Regarding Motions in Limine*, dated December 4, 2006, at 2.

In light of that earlier state denial, defense counsel and his investigator went to the Manitowoc County Clerk's office to review the 1985 case file. Pictures of its condition and contents were taken on two occasions. The file and exhibits were contained in an open, battered brown cardboard box sitting on a shelf near a window in the Clerk's office. The box was not held in a vault or secure storage, and was apparently accessible to anyone upon request. Inside the cardboard box was the above-mentioned small white box which purportedly contained Steven Avery's whole blood sample, at least as of June 19, 2002. The red evidence tape seal was broken and the box was sealed only by a small piece of scotch-type tape. Photographs of the box and its inadequate seal were taken and are attached as

Exhibits 5, 6, and 7.⁴ Neither defense counsel nor their investigator opened the white box to determine what, if anything, remained inside.

Avery now asks this Court for permission to open the white box still present in his 1985 case file to determine whether there remains a tube of his blood at this point. The State has denied that the Manitowoc County Sheriff's Department had a sample of Avery's blood in its possession from which any member of that department could have removed a portion to "plant" evidence linking the defendant to the victim's vehicle. Nevertheless, even if the department had no sample in its own property room, it appears that a tube of Avery's blood was present in the Clerk's office in an unsecured location and within a white box which has a broken evidence tape seal and was resealed with only scotch-type tape, an obviously inadequate seal for evidence.

It is important for Avery's trial defense for him to determine whether the sample of his own whole blood taken for the purposes of DNA tests in his old case has been removed or shows any evidence of tampering. Such evidence would be exculpatory at trial, and in addition would further support the Defendant's First Motion in Limine, filed on July 14, 2006, still pending before this Court.

⁴ Photographs were originally taken on July 20, 2006, but were not in sharp focus. The box was photographed again on November 3, 2006, and the same inadequate seal is depicted. The cardboard box has been replaced with a plastic bin, but the condition of the white box purportedly containing Avery's blood sample had not changed since the first defense photographs were taken.

WHEREFOR, Steven Avery asks the Court to authorize a supervised opening and viewing of the contents of a white box inside the 1985 case file which purports to contain Steven Avery's whole blood sample. The opening and viewing of the box purportedly containing Avery's whole blood sample could be done under the supervision of this Court and with the presence of the prosecution, but Avery respectfully requests this Court immediately take sole custody of the box at issue to preserve its condition until the Court decides this motion.

Dated at Brookfield, Wisconsin, December 6, 2006.

Respectfully submitted,

BUTING & WILLIAMS, S.C.



Jerome F. Buting
Wisconsin Bar No. 1002856
Counsel for Steven A. Avery

400 Executive Drive, Suite 205
Brookfield, Wisconsin 53005
[262] 821-0999

HURLEY, BURISH & STANTON, S.C.

Dean A. Strang
Wisconsin Bar No. 1009868
Counsel for Steven A. Avery

10 East Doty Street, Suite 320
Madison, Wisconsin 53703
[608] 257-0945

TRANSMITTAL OF CRIMINAL EVIDENCE
 DJ-LE-1018 (FORM 3/22/02)

- Copy -

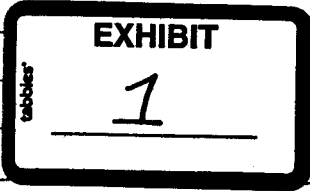
WISCONSIN DEPARTMENT OF JUSTICE
 STATE CRIME LABORATORY - MADISON
 4706 University Ave
 Madison, WI 53705-217
 (608) 266-2033
 FAX (608) 267-1303

Complete this form, place in an envelope addressed to the State Crime Laboratory and attach to outside of package when mailing evidence. Keep a copy of this transmittal for your files.

Submitting Agency Manitowoc County Sheriff's Dept.	Agency Case No. S85-04851
City of Agency Manitowoc County Manitowoc	Date Transmitted 09-19-02
Offense Committed in City/Town/Village Manitowoc County Manitowoc	Offense Date 07-29-85
Criminal Offense (In drug cases report charge; i.e., Possession, Possession with Intent, Delivery) ATT. Murder A6GB SEX 1 Fimp	Trial Date (if known) ---

Victim(s)	Sex/Race	Date of Birth	Age
Suspect(s) STEVEN A. AVERY	Sex/Race M W	Date of Birth 07-09-62	Age 40
Suspect(s)	Sex/Race	Date of Birth	Age

Agency Exhibit Number	Number of Items	Item Description and Source
	1	1- Box of items to be tested by use of D.N.A. procedures. (per Circuit Court order). These items were exhibits held by the court since the end of the trial. (Hair and fingernail cuttings)



Full Name & Title of Submitting Officer: Please Type or Print DET. SGT. James Lenk	Phone No. (920) 683-4200
--	------------------------------------

JOSEPH F. BAUKNECHT
CLERK OF CIRCUIT COURT
JANET M. BONIN
CHIEF DEPUTY CLERK

MANITOWOC COUNTY
1010 South 8th Street, P. O. Box 2000
Manitowoc, Wisconsin 54221-2000
(920) 683 - 4030 TDD (920) 683 - 4495

RECEIPT FOR EXHIBITS

STATE OF WISCONSIN VS. STEVEN A. AVERY

CASE NO: 85 EE 118

Manila envelope containing the following:

One sealed envelope containing items C1 through C5.

One sealed envelope containing item A.

One sealed envelope containing item D12.

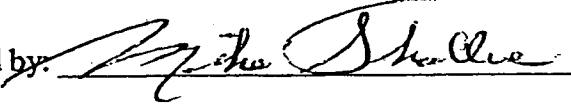
One sealed envelope containing item D11.

One sealed envelope containing item D10.

One sealed envelope containing item D13.

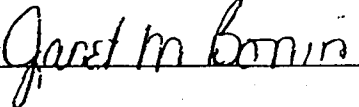
One sealed envelope containing items F1 and F2.

These items in this envelope to be sent to the Wisconsin State Crime Lab for further testing as agreed to by the parties and as ordered by the Court.

Received by: 

Representative of the Manitowoc County
Sheriff's Department

Date: 09/19/02

Witnesses by: 

Deputy Clerk of Court

Date: 09-19-02

TYPE OF OFFENSE _____
DATE OF OFFENSE _____
AGENCY CASE # _____
COURT DATE 1 _____
ADD COURT DATE(S) _____

ACCOUNT NO. 95-624

CASE DESCRIPTION / ANALYSIS / COMMENTS

VICTIM(S) _____ AGE _____ SEX _____ RACE _____ REFERENCE _____ SEX _____ RACE _____
SPECIMENS _____ SEX _____ RACE _____
SUSPECT(S) Avery, Steven AGE 32 SEX M RACE W _____ SEX _____ RACE _____
AGE _____ SEX _____ RACE _____

FORENSIC IDENTIFICATION

RBL CASE #	SAMPLE / EVIDENCE SUBMITTED		
	INCLUDE DATE(S) OF SAMPLE COLLECTION & ANY BLOOD TRANSFUSION HISTORY FOR EACH		
004-983 0001 S.A 01/04/96	1. <u>Steven Avery</u>	TEST SUBSTRATE LABEL # HERE	5.
PLACE ACCESSIONING LABEL #2 HERE	2.	TEST SUBSTRATE LABEL # HERE	6.
PLACE ACCESSIONING LABEL #3 HERE	3.	TEST SUBSTRATE LABEL # HERE	7.
PLACE ACCESSIONING LABEL #4 HERE	4.	TEST SUBSTRATE LABEL # HERE	8.

CHAIN OF CUSTODY

PURPOSE	RELEASED BY	DATE	RECEIVED BY	DATE
RELEASE SAMPLES FOR SHIPMENT	PRINT SIGN		PRINT SIGN	
<u>Return</u>	PRINT <u>Lab Corp (MCC)</u> SIGN <u>Meghan E. Clewett</u>	<u>1-4-96</u>	PRINT <u>Lab Corp (MCC)</u> SIGN <u>Meghan E. Clewett</u>	<u>1-4-96</u>
	PRINT SIGN		PRINT SIGN	
	PRINT SIGN		PRINT SIGN	
	PRINT SIGN		PRINT SIGN	

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above that the specimen has been examined, handled and analyzed.

(PRINT) CERTIFYING SCIENTIST'S NAME _____ SIGNATURE OF CERTIFYING SCIENTIST _____

EXHIBIT
2

FORENSIC IDENTITY

EVIDENCE INVENTORY

CASE #: 95-624

INITIALS: DW

DATE: 1-5-96

DATE	DESCRIPTION
	Rec'd via Fed Ex A/B # 80584384 one (1) sealed D.S.E cont 200 Form, case paperwork and one (1) sealed w/ evidence tape I/D "M. Krainz, 1-2-96" white box. Tape seal on box looks like it was broken in transit when box was slightly crushed. Box cont one styrofoam tube
S.A.	mailer sealed w/ evidence tape (intact). Cont one (1) low pipe tube, labeled "Avery, Steven, 172987" consumed (2ml) for bld spot card.

EXHIBIT
3

COPY



To Whom it May Concern:

Enclosed you will find evidence that your agency submitted to the Forensic Identity Unit at Roche Biomedical Laboratories for analysis (RBL Case # F95-624). Please reference your agency file # WI v. Avery.

If you have any questions, please call Anita Matthews at 1-800-533-0567, ext. 7753 or Meghan Clement at ext. 7761.

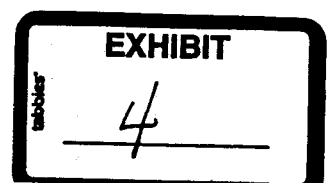
Sincerely,

Meghan Clement
Assistant Director Forensic ID

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

JUN 6 1996

CLERK OF CIRCUIT COURT





Roche Biomedical Laboratories

A Member of the Roche Group



FOR CRIMINAL INVESTIGATIONS

Form 206

TYPE OF OFFENSE _____
DATE OF OFFENSE _____
AGENCY CASE # _____
COURT DATE 1 _____
ADD. COURT DATE(S) _____

COPY

ACCOUNT NO.

95-624

CASE DESCRIPTION / ANALYSIS REQUESTED

VICTIM(S) _____ AGE _____ SEX _____ RACE _____ REFERENCE SPECIMENS _____ SEX _____ RACE _____
SUSPECT(S) Avery, Steven AGE 32 SEX M RACE W SEX _____ RACE _____
AGE _____ SEX _____ RACE _____ SEX _____ RACE _____

FORENSIC IDENTITY-DNA

Table with 4 columns: RBL CASE #, SAMPLE / EVIDENCE SUBMITTED, PLACE ACCESSIONING LABEL #1-4 HERE, PLACE ACCESSIONING LABEL #5-8 HERE. Includes handwritten entry '1. Steven Avery'.

CHAIN OF CUSTODY

Table with 5 columns: PURPOSE, RELEASED BY, DATE, RECEIVED BY, DATE. Includes handwritten entries for 'Return' and signatures of Lab Corp (MEC) and Meghan E. Clement.

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt and analyzed.

COPY

FOR CRIMINAL INVESTIGATIONS
 TYPE OF OFFENSE _____
 DATE OF OFFENSE _____
 AGENCY CASE # _____
 COURT DATE 1 _____
 ADD. COURT DATE(S) _____

ACCOUNT NO. 95-624 (Sub)

CASE DESCRIPTION / ANALYSIS REQUESTED

See attached Stipulation and Order

VICTIM(S) Penny Beerstein AGE 36 SEX F RACE W REFERENCE SPECIMENS _____ SEX _____ RACE _____
 (age as of 7/29/85) AGE _____ SEX _____ RACE _____ SEX _____ RACE _____
 SUSPECT(S) Steven A. Avery AGE 23 SEX M RACE W _____ SEX _____ RACE _____
 (age as of 7/29/85) AGE _____ SEX _____ RACE _____

FORENSIC IDENTITY DNA

RBL CASE #	SAMPLE / EVIDENCE SUBMITTED		
	INCLUDE DATE(S) OF SAMPLE COLLECTION & ANY BLOOD TRANSFUSION HISTORY FOR EACH		
PLACE ACCESSIONING LABEL #1 HERE	1. <u>Pubic Hair Unknown collected 7/29/85</u>	PLACE ACCESSIONING LABEL #5 HERE	5. _____
PLACE ACCESSIONING LABEL #2 HERE	2. _____	PLACE ACCESSIONING LABEL #6 HERE	6. _____
PLACE ACCESSIONING LABEL #3 HERE	3. _____	PLACE ACCESSIONING LABEL #7 HERE	7. _____
PLACE ACCESSIONING LABEL #4 HERE	4. _____	PLACE ACCESSIONING LABEL #8 HERE	8. _____

CHAIN OF CUSTODY

PURPOSE	RELEASED BY	DATE	RECEIVED BY	DATE
RELEASE SAMPLES FOR SHIPMENT	PRINT <u>Shirley Wilda</u> SIGN <u>Shirley Wilda</u>	<u>9/30/86</u>	PRINT <u>Lab Cap (mcc)</u> SIGN <u>Mighon & Clenet</u>	<u>2-1^o</u>
<u>Return</u>	PRINT <u>Lab Cap (mcc)</u> SIGN <u>Mighon & Clenet</u>	<u>10-4-86</u>	PRINT _____ SIGN _____	
	PRINT _____ SIGN _____		PRINT _____ SIGN _____	
	PRINT _____ SIGN _____		PRINT _____ SIGN _____	

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt and analyzed.

COPY

FOR CRIMINAL INVESTIGATION

TYPE OF OFFENSE _____
DATE OF OFFENSE _____
AGENCY CASE # _____
COURT DATE 1 _____
ADD. COURT DATE(S) _____

ACCOUNT NO. 95-624

CASE DESCRIPTION / ANALYSIS REQUESTED

See enclosed Court Order (blood standard of Steven A. Avery collected and forwarded separately)

VICTIM(S) Penny Beernstein AGE 36 SEX F RACE W REFERENCE _____ SEX _____ RACE _____
(age of 7/29/85) AGE _____ SEX _____ RACE _____ SPECIMENS _____ SEX _____ RACE _____
SUSPECT(S) Steven A. Avery AGE 23 SEX M RACE W _____ SEX _____ RACE _____
(age as of 7/29/85) AGE _____ SEX _____ RACE _____

FORENSIC IDENTITY DNA

RBL CASE #	SAMPLE / EVIDENCE SUBMITTED	
	INCLUDE DATE(S) OF SAMPLE COLLECTION & ANY BLOOD TRANSFUSION HISTORY FOR EACH	
PLACE ACCESSIONING LABEL #1 HERE <u>VIC</u>	1. <u>Blood standard from victim collected 7/29/85</u>	PLACE ACCESSIONING LABEL #5 HERE
PLACE ACCESSIONING LABEL #2 HERE	2. <u>Pubic Hair "unknown" collected 7/29/85 - to follow</u>	PLACE ACCESSIONING LABEL #6 HERE
PLACE ACCESSIONING LABEL #3 HERE	3. <u>Fingernail scrapings collected 7/29/85</u>	PLACE ACCESSIONING LABEL #7 HERE
PLACE ACCESSIONING LABEL #4 HERE	4. _____	PLACE ACCESSIONING LABEL #8 HERE

CHAIN OF CUSTODY

PURPOSE	RELEASED BY	DATE	RECEIVED BY	DATE
RELEASE SAMPLES FOR SHIPMENT	PRINT Robert R. Henak SIGN _____		PRINT Lab Corp (MEC) SIGN <u>Meghan E. Clewett</u>	<u>1-5-9</u>
<u>Return</u>	PRINT <u>Lab Corp (MEC)</u> SIGN <u>Meghan E. Clewett</u>	<u>6-4-95</u>	PRINT _____ SIGN _____	
	PRINT _____ SIGN _____		PRINT _____ SIGN _____	
	PRINT _____ SIGN _____		PRINT _____ SIGN _____	

I certify that the specimen identified by this accession number is the same specimen that bears the identification number set forth above, that the specimen has been examined upon receipt, handled and analyzed.