

Wisconsin Department of Justice DCI

ACISS Investigative 05-1776/325

Report Date: 12/22/2006

Primary Information

Description:	TERESA MARIE HALBACH: Records Examination Manitowee County Clerk of Courts
Occurrence From:	12/21/2006 00:00
Occurrence To:	12/21/2006 00:00
Dissemination Code:	Agency
Reporting LEO:	Fassbender, Thomas J (Appleton Special Assignments DCI)
Backup LEO:	Strauss, Debra K (Appleton Financial Crimes DCI / Wisconsin Department of Justice DCI)
Approval Status:	Approved
Approved Date:	01/05/2007
Approved By:	Kelly, Carolyn S (Madison Arson DCI)

Related Subjects

<u>Name</u>	<u>Type</u>	<u>Sex</u>	<u>Race</u>	<u>DOB</u>	<u>Relationship</u>
Zigmunt, Lynn	Person	Female	Unknown	---	Company Official
Avery, Steven Allen Sr	Person	Male	White	07/09/1962	Subject of Records

Record Status Information

Record Origination Operator:	Price, Denise (DCI Appleton Field Office)
Record Origination Date:	01/03/2007 13:37
Last Update Operator:	Kelly, Carolyn S (Wisconsin Statewide Intelligence Center DCI)
Last Update Date:	01/05/2007 09:30

Reporting LEO	Date	Supervisor	Date
Fassbender, Thomas J (Appleton Special Assignments DCI)		Kelly, Carolyn S (Madison Arson DCI)	9/12/2016

Narrative begins on the following page.

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On Thursday, December 21, 2006, S/A Thomas J. Fassbender, S/A Debra K. Strauss and Sergeant Bill Tyson, of the Calumet County Sheriff's Department examined records at the Manitowoc County Clerk of Courts office. On said date, they met with Manitowoc County Clerk of Courts, Lynn Zigmunt, who allowed them in her office for the purpose of examining the Steven Avery Sexual Assault files, under Case No: 85-FE-118. Prior to be allowed entry into the Clerk of Courts office area, the investigators signed in.

There were two large plastic containers wherein the files were contained. One of the plastic containers contained primarily, physical pieces of court exhibits that apparently had been entered during the trial. The other one contained primarily, paper records. As a result of their examination, the investigators asked for and received copies of documents. The following is a listing of the copies received:

- Court Record-Criminal, case filing and proceedings information, dated 09/09/1985, to 12/08/2006. In these documents, it was noted that on 11/29/1995, there was a Stipulation and Order to remove exhibits for purposes of physical testing. On 01/04/1996, it was noted that a receipt was signed by Attorney Henak for Receipt of Exhibits: fingernail scrapings (item D 13) and a whole blood sample (item D 15), both from the victim. On 01/29/1996, it was noted that there was a Stipulation and Order for release of a plastic bag marked "C", and for the Clerk of Courts to forward items to Laboratory Corporation of America. On 06/06/1996, it was noted that evidence was returned from the Forensic Identity Unit, at Roche Biomedical Laboratories, that had been submitted for analysis (their case number F95-624). On 05/02/2002, it was noted that there was an Order that the Clerk of Courts should seal above listed evidence and release it to a Sheriff's Deputy for transport to the State Crime Laboratory, in Madison, to be tested. On 05/14/2002, it was noted there was a letter from Judge Hazlewood that indicated there was a problem identifying exhibits because of exhibit stickers having fallen off of the exhibits. On 09/16/2002, it was noted that there was an Amended Order specifying the items to be analyzed, to include head hair, "unknown" pubic hair, pubic combings and fingernail scrapings. It was ordered that any remaining evidence should be returned to the Clerk of Courts, of Manitowoc County, to be preserved. On 09/19/2002, it was noted that the Receipt of Exhibits was turned over to Mike Shallue, Representative of Manitowoc County Sheriff's Department, for transport to the Crime Laboratory - Madison.
- A letter dated June 12, 1995, from Attorney Henak to the Clerk of Courts for Manitowoc County. The letter was essentially a cover letter for Avery's Motion to Remove Exhibits for Purposes of Physical Testing in anticipation of a Motion for Post-Conviction Relief.

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- A letter dated July 21, 1995, from then District Attorney FitzGerald to Attorney Henak, regarding a Motion for an Order, allowing counsel for Avery to remove evidence for scientific testing.
- A Stipulation, RE: State of Wisconsin vs. Steven Avery, under Case No. 85-FE-118. This was a Stipulation between Attorney Henak and then District Attorney FitzGerald, signed November 15 and 27, 1995, pertaining to the release of the items to be sent to Laboratory Corporation of America. On page 1, under item 2, it was indicated that pursuant to standard operating procedures for Laboratory Corporation of America, medical personnel from Fox Lake Correctional Institution, would obtain a DNA sample from Avery and forward said sample as directed by Laboratory Corporation of America. The Stipulation was filed with the Clerk of Courts office on November 29, 1995.
- An Order from Judge Hazlewood pertaining to State of Wisconsin vs. Steven Avery, under Case No. 85-FE-118. In said Order, the Clerk of Courts was directed to release from the court's file fingernail scrapings from the victim, pubic hair and the victim's whole blood sample (item D15) for scientific testing. It was further ordered that the Health Services Unit, at Fox Lake Correctional Institution obtain a DNA sample from Avery, as requested by Laboratory Corporation of America, and that said sample be forwarded as directed to Laboratory Corporation of America. The Order was signed November 29, 1995.
- A letter dated December 6, 1995, from Attorney Henak to Deputy Clerk Wheeler, wherein Attorney Henak requested that a certified copy of the Stipulation and Order be sent to Elaine Wheeler, Health Service Unit Manager at Fox Lake Correctional Institution.
- A letter dated December 12, 1995, from Deputy Clerk Wilda to Attorney Henak. In this letter, Deputy Clerk Wilda indicated she had mailed the Stipulation and Order to Wheeler, at Fox Lake Correctional Institution.
- A letter dated December 12, 1995, from Deputy Clerk Wilda to Wheeler, indicating that enclosed was a Stipulation and Order that the Health Services Unit at Fox Lake Correctional Institution obtain a DNA sample from Avery, as requested by Laboratory Corporation of America, and that said sample be forwarded, as directed to Laboratory Corporation of America.

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- A letter dated December 15, 1995, from Attorney Henak to Deputy Clerk Wilda. In the letter, Attorney Henak indicated he had not received notice that a certified copy of the Stipulation and Order had been sent to Fox Lake as requested. He asked that they be sent to Ms. Wheeler, at Fox Lake Correctional Facility.
- A letter for Attorney Henak's signature, indicating pursuant to court order, exhibits were released from the Avery file by Deputy Clerk Shirley Wilda, to include: fingernail scrapings from the victim (item D 13), pubic hair "unknown" (item C) and victim's whole blood sample (item D15) were released to Attorney Henak. There was also a notation dated 01/04/1996, that the pubic hair "unknown" was not delivered to Attorney Henak on that date. It was noted that Attorney Henak would draft a new Stipulation and Order requesting the 3 slides, assumed to contain the hair samples to be turned over to him for physical testing. A letter signed by Attorney Henak showing the transfer of the scrapings and victims blood on January 4, 1996.
- A letter dated January 5, 1996, from Laboratory Corporation of America to Attorney Henak. Essentially, the letter was mailing instructions for the transport of physical evidence to their laboratory.
- A letter dated January 19, 1996, from Attorney Henak to then District Attorney FitzGerald, RE: a new Stipulation and Order.
- A letter dated January 19, 1996, from Attorney Henak to Deputy Clerk Wilda, RE: the new Stipulation and proposed Order on the additional items that had been discovered in reviewing the exhibits box.
- A Stipulation between then District Attorney FitzGerald and Henak dated January 19 and 24, 1996. The Stipulation pertained to pubic hair unknown and that it was learned after the court order on November 29, 1995 that the items were located in a bag marked item "C", and not contained in exhibit 38. It was stipulated that these items also be sent to LabCorp for testing with the other items previously sent pursuant to the November 29 order.
- An Order pertaining to State of Wisconsin vs. Avery, under Case No. 85-FE-118. This Order was dated January 25, 1996, and it directed the release from the court's file certain items from a bag Marked "C" to be forwarded to Laboratory Corporation of America for purpose of scientific testing.

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- A letter dated January 31, 1996, from Deputy Clerk Shirley Wilda to Attorney Henak, RE: the new Stipulation and Order, signed and dated by Judge Hazlewood on January 25, 1996. Also, in the letter it was noted the exhibits referred to in the Order had been packaged and picked up by Federal Express to be delivered to Laboratory Corporation of America, on that same date.
- A FedEx USA Airbill, showing a date of January 30, 1996, and showing the sender as Clerk of Circuit Court, in Manitowoc, WI, and the receiver as Lab Corp of America. The Tracking No. is 8605817791. The Airbill was stamped received January 31, 1996.
- A Certificate of Analysis from Laboratory Corporation of America, dated March 6, 1996. This certificate showed that it was sent to Shellow, Shellow & Glynn, Attention: Attorney Henak. This Certificate showed that one sealed box contained a blood sample listed as from Steven Avery was received on January 4, 1996, via Federal Express, No. 8605843584. It also showed the receipt of the other evidence, to include blood from the victim, hairs and fingernail scrapings.
- An Affidavit of Attorney Henak, RE: State of Wisconsin vs. Steven Avery, under Case No. 85-FE-118. On page 2, item 5, Attorney Henak indicated that he received a telephone call from Laboratory Corporation of America indicating they had received both exhibits, which he had sent and also, the blood sample drawn from Avery, which had been sent separately by Kettle Moraine Correctional Institution. The Affidavit was signed by Attorney Henak, notarized on April 23, 1996.
- A Notice of Post-Conviction Motion, signed by Attorney Henak and dated April 23, 1996, pertaining to the State of Wisconsin vs. Avery, under Case No. 85-FE-118.
- A Motion for Post-Conviction Relief Pursuant to Wis. Stat. §974.06, regarding State of Wisconsin vs. Steven A. Avery. The motion was dated April 23, 1996, and signed by Attorney Henak. The motion at least in part, pertained to the DNA analysis of items that had been sent to Laboratory Corporation of America, previous to the filing of the motion. On page 2, item 4, it is indicated that by Stipulation and Order, dated November 29, 1995, the court directed the release of fingernail scrapings for DNA testing by Laboratory Corporation of America. Item 5, indicates that Laboratory Corporation of America completed the DNA analysis and issued a Certificate of Analysis on March 6, 1996.

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- A copy of the outside of the envelope utilized by Laboratory Corporation of America to return said items that had been sent to them. It shows that it was returned to the Clerk of Courts, in Manitowoc County, and that enclosed was pubic hair, blood standard from victim, fingernail scrapings and blood standard from Avery. The notation indicated that the items were returned on June 6, 1996.
- A letter from Meghan Clement, at LabCorp, to Whom It May Concern. The letter indicated that enclosed there was evidence (their case #F95-624) pertaining to the State of Wisconsin vs. Avery, that was being returned. It was file stamped, June 6, 1996.
- Three Transmittal forms from Roche Biomedical Laboratories (form 206) pertaining to items that had been sent to them for analysis and received by them in 1996, to include hairs, fingernail scrapings and Avery's blood sample.
- Copies of the fronts of the three specimen envelopes provided by Laboratory Corporation of America, for sending of the items to them by the Clerk of Courts, and Attorney Henak. Included in the copy is the FedEx sticker, showing the date to be delivered by and tracking numbers, as well as notations, dates and initials, believed to be from Laboratory Corporation of America Personnel upon receipt of the envelopes.
- Court notes pertaining to a Motion hearing on July 30, 1996, pertaining to the results from DNA testing. It was noted that Anita Matthews from LabCorp testified having received a box containing a blood sample of Steven Avery, as well as blood from the victim and hairs.
- Court notes pertaining to a Motion on September 8, 1995, to remove exhibits for purposes of physical testing. The court granted the Motion.
- A letter dated September 18, 1996, from Attorney Robert R. Henak to Judge Hazlewood. The letter pertained to Attorney Henak asking for a continuation of the post-conviction hearing scheduled for September 23, 1996.
- Court notes pertaining to a Motion for Post-Conviction Release, on September 23, 1996.
- Court notes pertaining to court appearance on March 22, 2002, RE: Motion for Post-Conviction DNA Testing. This Motion was to request additional testing of the head hair, two pubic hairs, fingernail scrapings and one head hair taken at the hospital.

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- Court notes pertaining to the State of Wisconsin vs. Avery, under Case No. 85-FE-118, RE: court appearance, on April 3, 2002. At this hearing, the court ordered that additional testing shall take place and granted the Motion for such.
- A letter from Judge Hazlewood to FitzGerald and Attorney Lisa Skrzeczkoski, from the University of Wisconsin – Madison, dated May 14, 2002. In the letter, Judge Hazlewood identified a problem with the Steven Avery case file, under Case No. 85-FE-118, in that attempts to identify exhibits to be tested had apparently lost many of the exhibit stickers. He then addressed the need to reconstruct what needs to be tested from other records or transcripts of testimony or crime lab reports.
- A copy of the front of a large manila envelope, having a section of evidence tape on it, showing that it was sealed by initials S.W. and a date of 01/30/1996. There were also handwritten notations on the envelope, indicating that it was opened on June 19, 2002, at FHH's instruction and showing what appeared to be, a signature of then District Attorney FitzGerald, as well as someone from the Innocence Project. There was a notation showing F95-624, with the initials MEC. Also, a notation showing, "Return to Court file.
- A copy of the front of another large manila envelope with various notations on it. At the top of the envelope were the initials "MEC." The top of the envelope was sealed with staples. Next were the notations: "opened per FHH directive on 6-19-02 by" what appeared to be the signature of then District Attorney FitzGerald and an unknown signature from someone from the Innocence Project. The next notation was: "Removed plastic envelope containing one printed envelope marked "fingernail Scrapings" collected from P. Beerstein. Envelope labeled 85-1051, D13, 9/9/85, SLC." Next was written the number F95-624. Next was the notation: "Placed back in envelope is a white envelope labeled "Whole blood sample" 85-1051, Df15, 9-9-85, SLC. Envelope resealed." Then the signature of FitzGerald, 12:20 pm, 6-19-02 and the signature of the Innocence Project person. Upon feeling the envelope, it felt as if there was tube inside the envelope. From the records it was learned that item D15 was a sample of the victim's whole blood.
- A letter dated June 21, 2002, from then District Attorney E. James FitzGerald to Judge Fred H. Hazlewood. In the letter, FitzGerald indicated that on June 19, 2002, he and three members of Wisconsin Innocence Project reviewed two boxes of evidence in the Branch II jury room. At the conclusion of the review, they agreed that they had identified some items for re-testing and agreed that further information was required to identify other items. He also indicated there were

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two large manila envelopes, which on their face contained information pertaining to the two groups of evidence and they remained in the possession of the clerk.

- Excerpts from a report to Shelley Fite, regarding Steven Avery. The excerpts included pages 2 and 3. The excerpts pertained to some background information on Avery, to include work history. In that work history, it was indicated that he did general labor for his father in the Salvage Yard, which included tearing down cars, and running a crusher.
- A copy of the sign-in sheet at the Clerk of Courts office, in Manitowoc County, showing that on 08/10/2006, Laura Ricciardi, examined Case No. 85-FE-118, as well as 85-FE-3, and 82-MD-371.
- A copy of the sign-in sheet at the Clerk of Courts office, in Manitowoc County. Said sheet showed that on 12/06/2006, Attorneys Jerome Buting and Dean Strang, along with Conrad Baetz, examined Case No. 85-FE-118.
- A copy of the sign-in sheet at the Clerk of Courts office, in Manitowoc County, showing that on 12/20/2006, Don Roznowski, examined Case No. 85-FE-118.

The aforementioned copies will be submitted to DCIR.