

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

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INDICTMENT # 18-9-4511-58

v.

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LASHUMBIA D. SESSION

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ORDER ALLOWING TRUEALLELE DNA RESULTS

This matter came before the Court for a hearing on June 24, 2020 and December 2, 2021.¹ After considering the evidence presented and argument by counsel, the Court hereby FINDS and ORDERS as follows:

Prior to the hearing, the State filed two Bench Briefs in Support of the Admissibility of TrueAllele, which incorporated several Orders entered in other jurisdictions.

At the hearing, the State presented the testimony of two GBI Crime Lab scientists, Emily Schmidt and Ashley Hinkle. Both were qualified and accepted by the Court as expert witnesses in the fields of forensic biology, forensic DNA analysis and probabilistic genotyping through the use of TrueAllele.

Ms. Schmidt testified that TrueAllele is the brand name of a computer program designed by a company called Cybergeneics. It is premised on the concept of probabilistic genotyping, which involves a system that analyzes evidence and arrives at proposed outcomes of how that evidence came to be and provides probabilities associated with the likelihood of those outcomes.

There are at least a dozen other probabilistic genotyping software programs used by various law enforcement agencies, including the FBI. TrueAllele is used by the GBI Crime Lab when DNA testing shows that there is more than one human contributor to a DNA evidence sample. If the initial DNA testing (which is done in the same manner for decades) indicates that

the DNA evidence sample contains only one human contributor, then a comparison may be done with the known DNA sample and the TrueAllele program is not needed nor used. On the other hand, if the initial DNA testing contains more than one human contributor, the existing data can be analyzed by the TrueAllele computer program, in an attempt to “unmix” the samples, so that a comparison can be done with the known DNA sample. The TrueAllele probabilistic genotyping computer program is based upon widely accepted and long-standing mathematical and statistical theorems, in conjunction with scientific knowledge about DNA and genetics.

Ms. Schmidt testified extensively about her years of research concerning TrueAllele’s reliability and the GBI Crime Lab’s validation of TrueAllele. She personally conducted multiple validation tests prior to the GBI Crime Lab allowing the use of TrueAllele. She testified that there were eight published independent peer reviewed scientific articles and thirty-one non-published studies, all attesting to the validity of TrueAllele. She further stated that TrueAllele complies with the recommendations of the Scientific Working Group on DNA Analysis Methods (SWGDM), which is a federal regulatory body for all DNA labs.

As of December 2021, the GBI Crime Lab has issued about 600 TrueAllele reports and Georgia courts have admitted TrueAllele reports approximately 60 times. In fourteen different states, including Georgia, TrueAllele reports have been admitted into evidence, after opposition, a total of 33 times. No court in the United States has disallowed TrueAllele results due to a finding of unreliability. In Georgia alone, there have been nine hearings contesting the admission of TrueAllele results, all pursuant to the standard established in Harper v. State, 249 Ga. 519 (1982), and each time the respective court allowed the admission of this evidence. In fact, there have been two courts in Georgia that have taken judicial notice as to the admissibility of TrueAllele results.

¹ The hearing was delayed due to the COVID-19 pandemic.

Ms. Schmidt testified that the concept of probabilistic genotyping is widely accepted in the forensic community and that the GBI Crime Lab's use of TrueAllele employs procedures that are reliable, reproducible and are generally accepted in the scientific community.

Ashley Hinkle testified that she ran certain data (germane to this hearing) through the TrueAllele program. The data came from the initial DNA testing of a sock left at an alleged crime scene. The results of the TrueAllele computer processing of said data were admitted into evidence in the form of a GBI Crime Lab report marked as State's Exhibit # 6. The results concluded that the sock contained DNA from at least three individuals. A DNA match was identified between the sock DNA and the known DNA of Lashumbia Session. There also was a DNA match identified between the sock DNA and the known DNA of Mykia Wilson.²

Ms. Hinkle testified that the TrueAllele results in this case were peer-reviewed by another GBI Crime Lab scientist (as is the policy of the GBI Crime Lab). She stated that she ran the TrueAllele program in this case pursuant to GBI Crime Lab policies and procedures. She further testified that the procedures she used were generally accepted in the scientific community, and were reliable, reproducible and based on valid scientific theory.

The Court notes that the applicable standard for admission of this type of scientific evidence is the Harper standard. See Harper v. State, 249 Ga. 519 (1982) and Jones v. State, 299 Ga. 40, 42 (2016). Harper states that the trial court must determine whether the procedure or technique has reached a scientific stage of verifiable certainty. The Georgia Supreme Court further described the Harper admissibility test in Walsh v. State, 303 Ga. 276, 280 (2017). Walsh states the trial court must find that the underlying general scientific principles and techniques are valid and capable of producing reliable results and that the person conducting the test/procedure substantially performed it in acceptable manner.

The Court also notes that the Harper case specifically allows the trial court to “base its determination on exhibits, treatises or the rationale of cases in other jurisdictions.” 249 Ga. 519 at 525. In that regard, the Court has considered the six Georgia Superior Court orders (attached to the State’s bench briefs filed September 6, 2019 and October 31, 2019) all allowing admission of TrueAllele results, after Harper hearings. As further support for its findings in this case, the Court incorporates the reasoning and conclusions set forth in the State’s Bench Briefs as well as the attached order from the other Georgia courts.

Although the Court declined to take judicial notice that TrueAllele DNA Analysis has reached a scientific stage of verifiable certainty, the Court FINDS that the TrueAllele computer program, as used by the GBI Crime Lab, satisfies the Harper standard. TrueAllele’s method of probabilistic genotyping has reached a scientific stage of verifiable certainty. The Court further finds that Ashley Hinkle performed the TrueAllele procedure in the instant case in an acceptable manner.

Therefore, the Court hereby GRANTS the State’s request to use the TrueAllele results performed in this case at trial.

SO ORDERED, this 30th day of December 2021.



Kimberly A. Childs, Judge
Superior Court, Cobb Judicial Circuit

² Mykia Wilson is a co-defendant in this case who pled guilty on August 28, 2019.

Prepared by:
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Cobb Judicial Circuit

CERTIFICATE OF SERVICE

This is to certify that the Court has served all counsel / parties in this matter with a copy of this Order as follows:

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Dated: December 30, 2021

/s/ Court Staff