

Exhibit 'E'

WR-53,613

EX PARTE)

No. 99-11-06435-CR

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IN THE DISTRICT COURT

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LARRY RAY SWEARINGEN)

9TH JUDICIAL DISTRICT

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MONTGOMERY COUNTY, TEXAS

STATEMENT OF DR. JAMES J. ARENDS

My name is James J. Arends Ph.D, consulting Entomologist. I have been asked to provide an opinion in this case based on the following: The pathological examination of Melissa Trotter's body ("Autopsy"), conducted by former Chief Harris County, Texas, Medical Examiner, Joye M. Carter; and the entomological report provided to Mr. Swearingen's counsel by Dael Morris, and temperature data derived, according to the report, by the National Oceanic and Atmospheric Administration (NOAA) for Conroe, Texas covering the period December 8, 1998, to January 2, 1999. I have also conferred with federal habeas counsel for Mr. Swearingen regarding basic circumstances of the offense, including the date the State maintains Ms. Trotter disappeared, and the testimony provided by Dr. Carter, based on her gross observations of fungal growth and insect activity, dating Ms. Trotter's death and exposure in the San Jacinto National Forest at 25 days before autopsy. From counsel, I also learned that Mr. Swearingen was incarcerated beginning on December 11, 1998, and has been continuously confined since that time.

Melissa Trotter's body according to the autopsy was recovered in January 2, 1999, from the San Jacinto National Forest, located in Southeast Texas, near Conroe, Texas. Dr. Carter did not provide a date of death in her autopsy report, but apparently testified that fungal growth and insect activity, in her opinion, indicated that Ms. Trotter had been dead for 25 days, which put her death exactly on the December 8, 1998, the date she was last seen by state witnesses.

The autopsy report contains several remarkable observations that indicate a date of death later than December 11, 1998. Dr. Carter description of internal organs indicates substantially less autolization than would be expected if Ms. Trotter had been dead under temperature conditions indicated by the Conroe, TX data. The weight in grams for internal organs in Dr. Carter's reports indicate only a reduction in weight due to dehydration of only 30 percent, which again indicates exposure in the San Jacinto Forest

after December 11, 1998. By autopsy, there is also a remarkable absence of animal activity, which is unlikely in a corpse exposed for 22 days in the environment where it was found. Finally, Ms. Morris identified a single species of blow fly, *C. Cadeverina*, from the insect material collected from the evidence in this case, whereas a body exposed outdoors for the length of time that the State maintains would in all probability exhibit colonization by several species.

The entomological report identifies *C. Cadeverina* as the blow fly specie in all samples Ms. Morris subjected to DNA testing. Review of the scientific literature on this species shows it is primarily a northern species, but its range extends throughout the area in which the body was found. It is also active and prevalent in the under fall conditions such as those represented in the Conroe temperature data for December 1998.

It is my forensic entomological opinion, based on the information that I have been presented, that the temperature conditions for December 1998, and the developmental stages of fly larvae and pupae reported by Ms. Morris that Ms. Trotter's body was exposed and colonized by blow flies after December 11, 1998. It is also my opinion, based on the information that I have been presented, that if death occurred before December 11, 1998, the body would have to have been covered and stored in such a way as to prevent fly colonization and inhibit autolization.

Signed this 19th day of January 19, 2007.

By:


James J. Arends