

EX PARTE) No. 99-11-06435-CR-2
) IN THE DISTRICT COURT
LARRY RAY SWEARINGEN) 9TH JUDICIAL DISTRICT
(WR-53,613-04)) MONTGOMERY COUNTY, TEXAS

STATEMENT OF LLOYD WHITE, M.D.

1. My name is Dr. Lloyd White. I am a physician licensed to practice medicine in the State of Texas. I am certified by the American Board of Pathology in Anatomical, Clinical and Forensic Pathology. I have served as the State Medical Examiner for Mississippi and the Chief Medical Examiner of Nueces County, Texas. I am presently a Deputy Medical Examiner for Tarrant County Texas. I have testified for the defense and for the prosecution in numerous cases.

2. I have reviewed the autopsy report on the body of Melissa Trotter by Dr. Joye M. Carter. I have reviewed several autopsy and crime scene photos depicting the body of Ms. Trotter. I have also reviewed Dr. Carter's trial testimony in *State v. Swearingen*. I am also aware of Dr. Emilio Sanchez's criticism and revision of Dr. Carter's testimony regarding vaginal bruising in this case.

3. At several critical junctures, Dr. Carter's testimony is not only questionable, it is without support in the medical literature. In fact, it is contrary to what is taught and should be practiced in forensic pathology.

4. In the first place, Dr. Carter testified that the date of death in this case was 25 days prior to recovery of the body. She based her opinion on the "appearance" of the body during autopsy, primarily on evidence of faunal and floral activity and growth, but also on the degree of decomposition of internal organs. Pathologists cannot accurately estimate a post mortem interval with the precision that Dr. Carter indicated she was capable of. Pathological estimates of the time of death, using the type of evidence on which Dr. Carter relied, cannot be made with confidence after a body has been left unprotected for far less time than 25 days. A pathologist could only estimate a relatively broad range of weeks or even months during which Ms. Trotter died.

5. Moreover, Dr. Carter's description of internal organs conflicts remarkably with the post mortem interval of 25 days she estimated, and suggests a date of death much closer to the January 2, 1999 date on which the body was recovered. For example, the pancreas, due to digestive enzymes which it produces, liquefies almost entirely within a day or so of death, sometimes within hours. However, Dr. Carter reports that the pancreas was intact. Autolysis of the spleen occurs relatively quickly, well before 25 days after death absent refrigeration. However, Dr. Carter also reports that the spleen was intact. Indeed, she describes the capsular surface as "red brown, dull and smooth," which is a description appropriate to a recently deceased individual.

6. In the second place, Dr. Carter's diagnosis of bruises antedating death is without foundation. Dr. Emilio Sanchez's determination that the evidence did not support even a tentative diagnosis of vaginal bruising in my view is correct.

7. Dr. Carter's testimony that a diagnosis of a bruise to Ms. Trotter's face due to trauma could not be ruled out based on differences of decomposition caused by insect activity is misleading. First, the insects in question are attracted to wounds - cuts and abrasions - not to bruising. Second, the insects lay their eggs in oral cavities and the maggots migrate as they grow and feed. Given these circumstances, a pathologist cannot suggest with any integrity that a bruise antedating death could be responsible for the pattern of decomposition seen in photos of Ms. Trotter's head and neck region. Even a tentative diagnosis of bruising is not warranted under these conditions.

8. Dr. Carter also testified that vaginal bruising would resolve within three days of death. (Here it appears that Dr. Carter - and the Court, apparently - simply assumed a vaginal bruise was present.) However, it is simply not true that bruises generally resolve so quickly. It is well known that they may take weeks to resolve and that specific colors may disappear then reappear without intervening trauma.

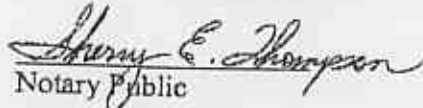
9. My understanding is that the forensic pathological evidence in this case played an important role in the conviction for murder, and particularly in the conviction for felony rape and kidnapping that resulted in this crime being charged as a capital case.

10. Unfortunately, the conviction in this case rests upon misleading forensic pathological testimony.



Lloyd White, M.D.

Before me appeared Lloyd White, who being deposed on his oath, stated on this 29th Day of March, 2007, that the foregoing affidavit testimony was, to the best of his knowledge, true and correct.


Notary Public

My commission expires: 05/24/08

