

COMMONWEALTH OF KENTUCKY
27TH JUDICIAL CIRCUIT
LAUREL CIRCUIT COURT
INDICTMENT NO. 89-CR-0024

RONNIE LEE BOWLING

MOVANT

VS.

MOTION TO SUPPLEMENT

COMMONWEALTH OF KENTUCKY

RESPONDENT

* * * * *

Comes, Movant, by counsel, and hereby requests the ability to supplement the record with the attached press release from the Federal Bureau of Investigations (FBI). On September 1, 2005, the FBI announced that they would no longer be conducting comparative bullet lead analysis (CBLA), a process that they had been doing since the "early 1980's." Release, ¶ 1. This was a direct consequence of the National Research Council's (NRC) review of the field. *Id.*, ¶ 2. Although the FBI does not disavow previous testing, the FBI did say that the significant reason for discontinuing future testing was that "neither scientists nor bullet lead manufacturers are able to definitively attest to the significance of an association made between bullets in the course of a bullet lead examination." *Id.*, ¶ 5. The release then noted the lack of "relative probative value" of CBLA results. *Id.*

The issuance of the press release, in and of itself, would be an event that would qualify Movant for the relief he has previously requested under CR 60.02(f), CR 60.02(b) and RCr 10.02/10.06. Movant thus asserts that the FBI's release of this release gives this Court an alternate basis for jurisdiction over his previously tendered claims.

The FBI also announced that they would be sending letters to the agencies that have

received positive results since 1996 explaining this change of policy. Id., ¶ 6. This would not include the Laurel Commonwealth Attorney's Office because the bullets in Movant's case were tested in 1989. After contacting the FBI, Movant learned that the FBI's decision for only sending letters in the post-1996 cases was for three reasons. First, it was due to records keeping limitations. Second, it was due to a desire for some sort of cut-off. Third, the actual technique evaluated in the NRC report was first used by the FBI in 1996. However, it should be noted that the technology employed by the FBI had advanced over the years. The protocols utilized for the testing of the bullets in Movant's case were less sophisticated than the recently discontinued ones. The 1996 technique was supposed to be an improvement in that it compared more variables.¹

Wherefore, Movant requests that this Court enter the attached Order.

Respectfully Submitted,

SUSAN M. J. MARTIN
Assistant Public Advocate
Department of Public Advocacy
100 Walnut Street
Owensboro, Kentucky 42301
(270) 687-7030

DAVID HARSHAW
Assistant Public Advocate
Department of Public Advocacy
207 Parker Drive, Ste. 1
LaGrange, Kentucky 40031
(502) 222-6682

COUNSEL FOR RONNIE LEE BOWLING

¹ To cover the pre-1996 cases, the FBI decided to send copies of the letter to the National Innocence Project and to the National Association of Criminal Defense Lawyers. The letter is basically the press release in letter form.