

BOWLING V. COMMONWEALTH, Case No. 2006-SC-000034-MR
"COMPARITIVE BULLET LEAD ANALYSIS" ("C.B.L.A.")

- 1.) This interview today is about Junk-Science that mislead the Capital Jury at my trial. The junk-science is called, "COMPARITIVE BULLET LEAD ANALYSIS", commonly known as, "CBLA". CBLA is a special branch of Metallurgy that was used by the FBI to link different bullets. There was only one place in the United States that did this kind of bullet testing, it was the FBI Crime Laboratory at Washington, D.C. Now nowhere is this testing done.
- 2.) CBLA analyzes the bullet components to determine its' metal composition. Then, they take that metal composition and compare it to other sets of lead bullets to see if the metal composition matches.
- 3.) ~~The FBI had received a lot of criticism over CBLA testing in the late 80's and the early 90's, so they commissioned the, "NATIONAL RESEARCH COMMISSION" commonly known as NRC to conduct a study of their methods and test results. The NRC did, and took about year and half to complete their study. On Feb. 10, 2004 they released their conclusions in a 113 page report called, "FORENSIC ANALYSIS: WEIGHING BULLET LEAD EVIDENCE". NRC said the CBLA is unreliable and very misleading. They summed up their report on page 113 with, "THE AVAILABLE DATA DO NOT SUPPORT ANY STATEMENT THAT A CRIME BULLET CAME FROM, OR IS LIKELY TO HAVE COME FROM, A PARTICULAR BOX OF AMMUNITION, AND REFERENCES TO "BOXES" OF AMMUNITION IN ANY FORM ARE SERIOUSLY MISLEADING UNDER FEDERAL RULES OF EVIDENCE 403. TESTIMONY THAT THE CRIME BULLET CAME FROM THE DEFENDANT'S BOX OR FROM A BOX MANUFACTURED AT THE SAME TIME, IS ALSO OBJECTIONABLE BECAUSE IT MAY BE UNDERSTOOD AS IMPLYING A SUBSTANTIAL PROBABILITY THAT THE BULLET CAME FROM DEFENDANT'S BOX."~~
- 4.) The FBI took this NRC report as a recommendation and conducted their own study of CBLA, and on Sept. 1, 2005 they released a memo agreeing with NRC and stopped all testing of CBLA.
- 5.) At my trial the prosecutor in his Opening Statement to the Capital Jury spoke in great detail about this CBLA evidence & FBI expert testimony about the results of CBLA. I shall now quote directly from the trial transcripts, page 2561, the prosecutor told the jury, "THIS IS THE STRING THAT TIES ALL MY EVIDENCE TOGETHER." He talks like this for several pages of the trial transcript and this was just in the Opening Statement.
- 6.) The prosecutor's FBI expert that testified he went on and on and on in front of the jury about CBLA, that it took 54 pages worth of trial transcript. The FBI expert made really prejudicial comments to the jury, such as on page 3118 of the trial transcript, he said, "IN MY VIEW THEY ARE THE SAME -- FALL INTO THE SAME COMPOSITION GROUP AND THEREFORE ORIGINATE FROM THE SAME MANUFACTURER'S BATCH OF BULLET LEAD." I mean this guy just did not make "Strong Suggestions" he testified conclusively that these were the same.
- 7.) Then the prosecutor comes back in his Closing Argument, on page 3578 of the trial transcript and says to the jury, "BUT THIS CASE CAN COME DOWN TO, COLD ANALYTICAL FACTS... BY AN F.B.I. AGENT, ... TOLD YOU, THAT HE HAS NEVER SEEN BULLETS OUT OF THE SAME BATCH USED IN UNRELATED CRIMES." The prosecutor goes on and on and on like this in his Closing Argument. Such as on page 3578 of the trial transcript he said, to the jury, "IT GOES WITHOUT DISPUTING, NO ONE HERE COULD QUESTION THE TESTIMONY OF THE EXPERT OF THE FINDINGS OR THE CONCLUSIONS OF THAT EXPERT..." The prosecutor really hammers it in when he told the jury in his Closing summation of his case, on page 3591 of the trial transcript, "THEN YOU HAVE IT ALL TIED TOGETHER THAT IS THE MURDERER. ALL OUT OF THE SAME BATCH." He is telling the jury that Ronnie Bowling was the murderer because all the sets of lead bullets came out of one ammunition box. This is very misleading, and not true.

8.) Now with the fact that CBLA is deemed unreliable and abandoned by the only one place, the FBI, that tested it. This is new evidence that shows how the jury was misled with this CBLA evidence & FBI expert testimony. Several cases around United States have already been reversed and remanded back for a new trial based on this new evidence. As a matter of fact right here in Kentucky has been a case, so far. The Kentucky Supreme Court ruled in Ragland v. Commonwealth, (2006) ("WE CONCLUDE THAT THE ADMISSION OF THE "C.B.L.A." TEST RESULTS AND EXPERT'S OPINIONS ABOUT THOSE RESULTS REQUIRE REVERSAL FOR A NEW TRIAL.") If it is junk-science in Ragland's case then it is junk-science in my case.

9.) Other cases have been overturned based on the new evidence about CBLA evidence such as Clemons v. Maryland (2006). In that case the Court in state of Maryland said, ("THIS CASE PRESENTS US WITH THE TASK OF DETERMINING WHETHER CERTAIN CONCLUSORY ASPECT OF COMPARITIVE BULLET LEAD ANALYSIS ("C.B.L.A.") ARE ADMISSIBLE...WE DETERMINE HERE THAT THE CONCLUSORY ASPECTS OF CBLA ARE NOT GENERALLY ACCEPTED...THEREFORE, WE REVERSE THE DECISION OF THE COURT OF SPECIAL APPEALS, AND REMAND THE CASE TO THE CIRCUIT COURT FOR A NEW TRIAL.")

10.) There is even a United States Supreme court case overturning a case where CBLA was used. It is called, United States v. Mikos (2003)-This case was ruled on at a time when the FBI was still conducting CBLA testing, now they do not conduct CBLA testing. The US Supreme court ruled and said in this case, "THERE IS NO BODY OF DATA TO CORROBORATE THE GOVERNMENT'S EXPERT'S FURTHER OPINION THAT FROM THIS FINDING IT FOLLOWS THAT THE BULLETS MUST OR EVEN LIKELY CAME FROM THE SAME BATCH OR MELT." Now just think this is the United States Supreme Court saying the FBI expert can't do what they did in my case.

11.) Then another case in New Jersey was granted a new trial based on the new evidence about CBLA. It is called, State v. Behn, (2005) That Court's holding was, "DEFENDANT WAS ENTITLED TO NEW TRIAL BASED ON NEWLY DISCOVERED EVIDENCE, WHICH CONSISTED OF STUDIES ON COMPOSITION BULLETS LEAD ANALYSIS (CBLA) THAT HAD NOT YET BEEN DEVELOPED AND COMPLETED PRIOR TO DEFENDANT'S TRIAL." This guy got a new trial, and this was even before the FBI sent out their memo on Sept. 1, 2005 stopping all testing of CBLA.

12.) Then the new evidence about CBLA got another case reversed and remanded back for a new trial. This case is out of Massachusetts. It is Commonwealth v. Lykus (2005). Here is a direct quote from that Court's opinion giving Lykus a new trial, "THE EVIDENCE AGAINST THE DEFENDANT AT TRIAL WAS VERY STRONG, HOWEVER, THE COURT CANNOT SAY THAT BECAUSE THERE WAS SUFFICIENT EVIDENCE OF GUILT AGAINST THE DEFENDANT THAT THE NEWLY DISCOVERED NRC REPORT ON CBLA EVIDENCE SHOULD BE GIVEN LESS WEIGHT. THE NRC REPORT ON CBLA EVIDENCE, IF AVAILABLE TO THE JURY AT THE TIME OF THE DEFENDANT'S TRIAL, ALMOST CERTAINLY WOULD "PROBABLY HAVE BEEN A REAL FACTOR IN THE JURY'S DELIBERATIONS." AS SUCH, THE NRC REPORT ON CBLA EVIDENCE IS PROPERLY CONSIDERED NEW EVIDENCE AND REQUIRES THIS COURT TO GRANT THE DEFENDANT'S MOTION FOR NEW TRIAL." In this guy's case they had a strong case against him, and the court still granted him a new trial on the new evidence about CBLA, and this was even before the FBI released their memo on Sept. 1, 2005 stopping all testing on CBLA.

13.) If CBLA evidence & the FBI testimony was deemed unreliable in these cases, then it is unreliable and misleading in my case, too.

14.) At this time I am seeking a new trial from the Kentucky Supreme court. I have filed briefs with this above information in it. The Attorney General's office filed their brief against me. However, I would like to quote some from the AG's brief about his summation of the state's case/evidence against me, ON page 30 of his brief. He calls the state's case, "CIRCUMSTANTIAL".

15.) If they will grant a new trial in Commonwealth v. Lykus (2005) based on the new evidence about CBLA, when that Court summed up the evidence as "very strong", then surely in a case that is "circumstantial" should a trial be granted.

16.) After my trial, I have obtained other additional evidence that should be weighed in my favor of winning a new trial. Such as I got 3 different Affidavits from 3 of the jurors that heard the case the state put on against me. They said they would have found me not guilty. They were selected off as alternates.

17.) I have other affidavits from other jurors that sat on my case that said had they known the jailhouse informant name of Tim Chappell had lied and received favorable treatment in exchange for his lies against me, this would have changed their verdict. We know Chappell lied and did in fact receive favorable treatment, because I have a sworn affidavit from his attorney at that time, name of Barbara Carnes. The jurors said if they would have known that about Chappell it would've changed their verdict.

18.) I have an affidavit from a guy that was in jail with Tim Chappell that said Chappell told him he was going to make up a story against me just in order to try to help himself get out of trouble in the courts.

19.) I have an eye-witness to one of the crimes that occurred in Laurel County. A Randy Harris testified at an Evidentiary Hearing in a post-conviction hearing he was there the morning that Ronald Smith was allegedly killed/robbed and said he saw a man come running out of the station and that man was not Ronnie Bowling. Harris reported this to the Laurel county Sheriff's department the very next day, after he saw witnesses the crime.

20.) None of this additional evidence was available in front of my jury. All of this should be taken into consideration because it would come into play in front of a new jury. Plus this is a death penalty case. You can be reasonably certain that a Capital Jury is going to listen very carefully to all an FBI expert says about CBLA evidence. This CBLA evidence & FBI expert witness about the results rendered the jury biased and the trial unfair in my case. This case comes down to "Link The Bullets". The prosecutor relied chiefly upon CBLA evidence & FBI expert testimony to link the different sets of lead bullets. The prosecutor called the CBLA evidence & FBI expert testimony his string that ties all his case together. Well that string does not exist anymore. Not only does that string not exist, but I discovered additional evidence that was not presented to my original trial that is favorable to me, all of this should go to grant me a new trial.

EXTRA NOTE: These are my notes that I typed up for an interview with WLEX Ch.18 News out of Lexington, KY. This interview was on June 14th, 2007, Thursday here at Kentucky State Penitentiary. This was aired on TV on Friday, June 15th, 2007 at 6 p.m. news.