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# Metro

## FBI review may help inmate

**Bullet-lead match now questionable**

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 The Courier-Journal

Attorneys for a Kentucky death-row inmate say they hope an FBI review of convictions won through now-discredited bullet-lead matches may help their client win a new trial.

Ronnie Lee Bowling was convicted of the execution-style slayings of two gas-station attendants about a month apart in Laurel County in 1989.

The conviction was based in part on the testimony of an FBI examiner who said some of the bullets recovered from the bodies matched cartridges found in Bowling's mobile home and those he used in another crime.

The FBI stopped conducting bullet-lead analysis two years ago after the National Academy of Sci-

ences concluded in 2004 that it was unreliable and potentially misleading.

But The Washington Post and "60 Minutes" jointly reported last month that the FBI lab failed to alert defendants and courts about the flaws. In response, the Justice Department and FBI said Nov. 17 that they will review every conviction based on bullet-lead matching.

Attorneys for Bowling said they hope that announcement — and the results of the review — could influence the Kentucky Supreme

Court, which is already considering Bowling's request for a new trial based on a National Academy of Science panel's findings.

"This definitely could be said," J. Vincent Aprile II, who represents Bowling in a pending federal court appeal.

David Harshaw, an assistant public defender who is co-counsel for Bowling in the state Supreme Court case, said the Justice Department and FBI review will be

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helpful for inmates without lawyers, but it could benefit Bowling if it concludes that the testimony against him was inaccurate.

Corey Bellamy, a spokesman for the Kentucky attorney general's office, said it doesn't comment on pending appeals of capital convictions. But in a brief filed with the Supreme Court, prosecutors say there was more than enough evidence to convict Bowling without the bullet-lead analysis testimony.

The Post and "60 Minutes" identified at least 250 cases nationwide in which bullet-lead analysis was introduced, including three convictions in Kentucky.

One of those convictions, of Shane Ragland, was reversed on other grounds by the Kentucky Supreme Court.

After that ruling, Ragland admitted in August that he killed University of Kentucky football player Trent DiGiuro but was set free in a deal in which he pleaded guilty to manslaughter in exchange for time served.

Bullet-lead matching also figured in the Bullitt County murder conviction of Michael

St. Clair, but it hasn't been raised on appeal. St. Clair is serving four sentences of life without parole for murder convictions in Oklahoma.

The Justice Department announced that with the help of the Innocence Project in New York, it will identify all cases in which bullet-lead matches led to convictions, then ask prosecutors to submit transcripts of all testimony in which FBI lab examiners testified on the matches.

The transcripts will be scrutinized to determine whether the testimony exceeded the limits of science or was misinterpreted. The department will then inform prosecutors of any testimony deemed to be flawed.

The Justice Department said prosecutors would be obligated by ethics rules to inform defendants or the courts of any problematic testimony deemed material to a verdict, the department said.

Jackie Steele, an assistant commonwealth's attorney in Laurel County, said his office hasn't received a transcript request from the Justice Department.

There were no eyewitnesses or direct physical evidence that tied Bowling to the murders of Ronald L. Smith or Marvin

Hensley. But FBI Special Agent Donald Hasekost testified that tests showed some of the .38-caliber bullets recovered from both bodies — and from bullets in an attempted murder at a third station in Rockcastle County — came from the same batch of lead and that they matched cartridges found in Bowling's home.

Hasekost told the jury he'd never seen a bullet match in crimes that weren't related.

Former Commonwealth's Attorney Tom Handy, who won Bowling's conviction and has since retired, conceded in a 2005 interview that the bullet evidence was important to his case.

But Handy said stronger evidence came from the owner of the Rockcastle County station, who testified that three days after Hensley was murdered, Bowling came into his station and opened fire, then fled, leading police on a 32-mile chase that ended with his capture outside his Clay County home.

State police later found a gun along the road and determined, through traditional ballistics testing, that it was the same weapon used in the murders.

Bowling claimed that he hadn't shot at the owner of the

### BULLET-LEAD ANALYSIS

The FBI did bullet-lead analysis in cases where no weapon was found or where bullets were so badly mangled that traditional ballistics testing was impossible.

Bullets from the crime scene were tested for trace amounts of seven elements, including arsenic and tin, and the same test was conducted on bullets linked to the suspect. If bullet lead from both sets was found to contain the same amounts of those elements, FBI examiners historically concluded that the samples came from the same batch of lead, and some examiners went so far as to testify that the bullets came from the same box.

But researchers who went to lead smelters found that different samples from the same batch sometimes had different compositions, and that samples from different batches sometimes had the same composition. In other words, a bullet match might be a coincidence.

third station and that the gun wasn't his.

Even if Bowling isn't granted a new trial, Aprile said the unusual Justice Department review could persuade the governor not to sign a warrant for his execution.

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