

THE STATE OF TEXAS                    )(            IN THE DISTRICT COURT OF  
V.    )(            HARRIS COUNTY, TEXAS  
WILLIAM DARIN IRVAN                 )(            180<sup>th</sup> JUDICIAL DISTRICT

**MOTION TO COMPEL THE STATE TO ALLOW EVIDENCE IN THEIR  
SOLE POSSESSION TO BE SUBJECTED TO FORENSIC TESTING AT THE  
EXPENSE AND DIRECTION OF THE DEFENDANT**

TO THE HONORABLE JUDGE OF SAID COURT:

The undersigned attorney, James Leitner, has employed the services of forensic DNA consultant Karin Scalise<sup>1</sup>. She along with the attorney and his investigator<sup>2</sup> has reviewed the entire case file obtained via open records request from Assistant District Attorney Brian Rose. She has further been allowed to have access to all of the files of the undersigned attorney and have access to all of his and his investigator's knowledge and findings of this case. The State, pursuant to orders of this court, has made available the evidence that is in the sole possession of the State, for visual review by the defense team. After review of this evidence, and after being advised by the defense team of their writ strategy in this case she has advised the defense team that the following forensic testing

---

<sup>1</sup>A list of Karin Scalise's education and work experience is attached hereto as Exhibit "A"

<sup>2</sup>The investigator in this case is Brian Benken who is also a licensed attorney in the State of Texas.

needs to be conducted by the defense to further their claims.<sup>3</sup> These suggestions includes:

1. Fingernail scrapings from the left and right hand of the victim. This evidence is in the possession of the Harris County Sheriff's Department and it was visually inspected by the defense team on July 6, 2005, at the Harris County Sheriff's Office on Lockwood Street in Houston, Harris County, Texas. It is the belief of the defense team that these fingernail scrapings would produce epithelial (skin cells) from her attacker "killer". This evidence was collected by agents of the State, and has remained in the State's sole possession since this crime was committed. To our knowledge, and what has been represented to us, this evidence has never been subjected to SDTR DNA analysis and we wish to conduct the same at Orchid Cellmark Lab-Dallas, Texas.

2. One hair from the victim's left hand fingernail scrapings which remains intact with a root and is stored at the Harris County Sheriff's Office property room on Lockwood Street in Houston, Harris County, Texas. To our knowledge, and what has been represented to us, this evidence has never been subjected to SDTR DNA analysis and we wish to conduct the same at Orchid Cellmark Lab-Dallas, Texas.

3. One hair that was recovered from the knife presumed to have been used to stab the victim in this case. Karin Scalise is also a hair analyst, and she did not believe that this hair was a hair from the victim in this case. To our knowledge, and what has been represented to us, this evidence has never been subjected to SDTR DNA analysis and we

---

<sup>3</sup>A copy of the letter informing the attorney of her suggestions is attached hereto as exhibit "B"