

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

HENRY W. SKINNER

Petitioner,

vs.

DIRECTOR TDCJ-ID GARY
JOHNSON, et al

Respondents.

* NO. 2:99-CV-45

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* Amarillo, Texas

* November 18, 2005

COPY

EVIDENTIARY HEARING
BEFORE HON. CLINTON E. AVERITTE
U. S. MAGISTRATE
(VOL. III)

APPEARANCES:

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Proceedings recorded by electronic sound recording,
transcript produced by transcription service.

1 of 2001, were you still the DA in 2001 when that report
2 came in?

3 A Apparently I was. I don't remember what the
4 election date was. I either went out the end of 2000 or
5 2001.

6 Q Now in your investigation into the case did you
7 ever receive or learn of any medical evidence
8 establishing that Twila Busby had been sexually
9 assaulted?

10 A In the investigation of her murder?

11 Q Right.

12 A No.

13 Q And in fact, didn't Dr. Peacock -- Dr. Peacock was
14 the medical examiner, correct?

15 A That's correct.

16 Q And Dr. Peacock testified at trial that there was
17 no evidence of sexual assault; is that --

18 A That's my recollection. That's also my
19 recollection of the autopsy protocol.

20 MS. HAYES: May I approach, Your Honor?

21 THE COURT: You may.

22 Q (By Ms. Hayes) I've handed you Respondent's 27.
23 Can you identify what that document is?

24 A It's a copy of Dr. Elizabeth Peacock's autopsy
25 protocol on the body of Twila Busby.

1 Q Does that appear to be a complete copy of the
2 autopsy protocol, at least of the evidence by page
3 numbering?

4 A Yeah, it does.

5 MS. HAYES: I'd move for the admission of
6 Respondent's 27.

7 MR. OWEN: No objection.

8 THE COURT: Admitted.

9 MS. HAYES: And for the court's convenience,
10 that record is also part of the trial record. Some of
11 the exhibits we have are also part of the record and
12 we'll point that out where it's possible.

13 THE COURT: All right.

14 Q (By Ms. Hayes) Would you look at Page 2 of the
15 autopsy protocol, first paragraph?

16 A Yes, ma'am.

17 Q Is there information in that first paragraph that
18 also backs up the finding that there was no sexual
19 assault?

20 A Yes.

21 Q Could you explain what that information is for the
22 court?

23 A It remarks here that back and buttocks are
24 unremarkable.

25 THE COURT: What about the very last part

1 saying no trauma to the sexual organs?

2 A What paragraph are you referring to?

3 Q (By Ms. Hayes) That's it. I think the Judge has
4 seen the point. We're good to (inaudible) the autopsy.

5 Let's talk about the DNA testing. There came
6 a time in 2000 that you decided to submit evidence for
7 some additional DNA testing; is that correct?

8 A Yes.

9 Q Did there also come a time when Mr. Skinner's
10 attorneys contacted your office about DNA testing?

11 A Yes.

12 Q Now not talking about all the specifics of any
13 contact or things that were necessarily said, do you
14 remember whether there were letters sent to your office
15 from Mr. Skinner's attorneys regarding DNA testing?

16 A I remember letters, yes.

17 Q Now in the material that was sent for DNA testing,
18 did you actually submit or do you remember submitting
19 hair from Twila Busby's right hand?

20 A Yes.

21 Q Why did you decide to send hair to be tested?

22 A It seems to me -- it's been a long time -- it seems
23 to me that that was the big hue and cry of the day from
24 those folks who had gathered around the defendant
25 Skinner. They were complaining about the fact that we