

12-21-2021

Dear Sir / Madame:

If by chance, I like to bring this truth to your attention. Asking of you to investigate the facts etc in my case where I was not treated like a human at my trial in 1989.

I had a Hearing September 2, 2020. on my case, at Perry Correctional Institution with the Honorable Deandrea G. Benjamin, my two lawyers Susan Friedman, ESQ. T. Micah Leddy ESQ. Attorneys for the defendant. Now my lawyer said the Court Reporter put the wrong date for the hearing on the transcript. The Court Reporter did change the date from September 2, 2020 to November 2, 2020. The hearing was held September 2, 2020.

Ms Friedman she represent Shepard closing this case and in order for the lab to do any kind of testing moving forward and any of comparison, they would need a DNA sample from the victim and from Mr. Shepard to determine whether or not he cannot be excluded from this mixture. Shepard will take DNA test. The victim shall by law take DNA test to end Mr. Shepard wrongful incarceration.

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S.C. SUPREME COURT

Please give your legal expertise in this matter. S.C. law is about facts not to be speculate what is fact in DNA Test results.

ENCLOSE is a copy of the HEARING that closed my case. Also a copy of the INNOCENCE PROJECT Forensic Analytical Crime Lab Results. Please respond back. I am asking for help etc.

Sincerely,

Ricky J. Shepard  
Ricky J. Shepard #55575  
PCI - 3A105  
430 Oaklawn Road  
Pelzer S.C. 29669

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S.C. SUPREME COURT

# LEDDY LAW FIRM, LLC

1522 LADY STREET, SUITE B  
COLUMBIA, SOUTH CAROLINA, 29201

T. MICAH LEDDY

(803) 779-9966 (o)  
(803) 753-0837 (f)

September 27, 2021

**Privileged & Confidential:**

**LEGAL MAIL**

Mr. Ricky Shepard #155575  
Perry Correctional Institution  
Q2B 105  
430 Oaklawn Road  
Pelzer, SC 29669

Re: Transcript

Dear Mr. Shepard:

I am enclosing a copy of the transcript provided by the court reporter for your hearing on September 2, 2020. The court reporter originally put the wrong date for the hearing on the transcript, but I had her correct it and the corrected copy is enclosed, however her certificate still states that it was from a hearing on November 2, 2020. If you would like to contact the court reporter, you can write to her at this address:

Keshia Reed  
Circuit Court Reporter  
PO Box 12190  
Florence, SC 29504-2190

If you have any questions, please feel free to call or write. Your file remains closed and no further work will be done.

Very truly yours,



T. Micah Leddy

VIA U.S. CERTIFIED MAIL

cc: Susan Friedman, Esq. (email attachment)

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**S.C. SUPREME COURT**

STATE OF SOUTH CAROLINA  
COUNTY OF KERSHAW

) COURT OF GENERAL SESSIONS  
) 1988-GS-28-00496  
) 1988-GS-28-00085  
) 1988-GS-28-00086  
)  
)  
)

State of South Carolina  
vs.  
Ricky Shepard

) TRANSCRIPT OF RECORD  
)  
)  
) September 2, 2020  
) WebEx  
)

DEFENDANT)

B E F O R E:

THE HONORABLE DEANDREA G. BENJAMIN.

A P P E A R A N C E S:

DAN GOLDBERG, Assistant Solicitor  
Attorney for the State

SUSAN FRIEDMAN, ESQ.  
T. MICAH LEDDY, ESQ.  
Attorneys for the Defendant

KESHIA REED  
Official Court Reporter

I N D E X

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(WHEREUPON, no witnesses were called.)

1 THE COURT: Yes, sir, Mr. Goldberg.

2 MR. GOLDBERG: Thank you, Your Honor. Please  
3 the Court. Mr. Shepard, can you hear us?

4 THE DEFENDANT: Yes.

5 MR. GOLDBERG: Okay. Please the Court, Your  
6 Honor. Dan Goldberg for the State. This is State vs.  
7 Ricky Shepard indictment number 1988-GS-28-496 as well 85  
8 and 86. This is a Kershaw County case. This is a --  
9 pursuant to a motion under the post-conviction DNA testing  
10 statute 17-28-10. Judge, just a little background of how  
11 we got here, back on January the 19th of 1989, the  
12 defendant was convicted of CSC first two counts as well as  
13 kidnapping. He was sentenced to life in prison and two  
14 consecutive 30 year sentences.

15 A brief factual resuscitation shows that the  
16 victim in the case a Tina Evans was attacked while in a  
17 phone booth off Highway 1 in Kershaw County. She was  
18 grabbed from behind. Her shirt and brazier were ripped  
19 off, ultimately drug into the woods where she was sexually  
20 assaulted. She was able to escape and make contact with  
21 law enforcement where she provided a description of the  
22 subject, Mr. Shepard was located a short time later and  
23 the victim identified him as the perpetrator. The  
24 defendant maintained his innocence throughout the  
25 investigation and the trial until he was -- as I stated

1 convicted.

2 In December of 2002 while he was serving his  
3 sentence according to records filed, the defendant reached  
4 out to the Innocence Project for assistance. And in 2010,  
5 they officially accepted the case. Specifically according  
6 to the filings in the case, they were seeking DNA testing  
7 on a number of items of clothing and evidence with Kershaw  
8 County Clerk of Court to include the victim's brazier.

9 On April the 12th of 2018 this court, your  
10 Honor, issued an order granting DNA testing and  
11 specifically stating and quote that the defendant  
12 demonstrated by a preponderance of the evidence that the  
13 brazier and underwear not been tested for DNA and that the  
14 DNA goes to his claim, the defendant's claim of  
15 misidentification as the perpetrator of the assault.  
16 Testing results could produce new evidence that has  
17 potential to alter the result of its conviction and it's  
18 hereby ordered that DNA testing be conducted on the bra  
19 worn by the victim on the night of the attack.

20 On September the 18th of 2019, this court issued  
21 another order in conjunction with myself and Ms. Freeman  
22 issuing an order dictating that the brazier be sent for  
23 testing at the FACL, that's the Forensic Analytical Crime  
24 Lab in California, which is a private lab that was  
25 specifically chosen by the defense for testing. The order

1 states that if the FACL is able to obtain a usable profile  
2 then they would compare it to the defendant's buccal swab  
3 and go from there.

4 The analysis was conducted and the FACL  
5 indicated that in testing the victim's bra there were no  
6 profiles eligible for entrance into CODIS. So put another  
7 way, there was a mixture of profile that was developed  
8 with the mixture of a female and a male with further  
9 conclusions could not be made based on that. And so it's  
10 the State's position that the entire point of this  
11 proceeding was that the defense was hopeful obviously that  
12 another profile be eligible for CODIS would be located on  
13 the brazier. And if it had, then that profile could have  
14 potentially led to another suspect in the case. However,  
15 since no CODIS eligible profile was located on this  
16 evidence, there's no further analysis or testing to  
17 perform. So it's the State's position that this matter  
18 should be concluded at this time with no change to  
19 Mr. Shepard's current custody status, no change to his  
20 convictions or sentences.

21 Under 17-28-100, the statute states that if the  
22 results of the testing are inconclusive, the Court may  
23 allow for additional DNA testing if appropriate or they  
24 may dismiss the application altogether. So in light of  
25 what's been presented, it's the State's position that

1 additional DNA testing would be fruitless. It's our  
2 request that based upon the inconclusive results from FACL  
3 that the matter respectfully be dismissed at this time.  
4 Thank you.

5 THE COURT: Thank you.

6 Ms. Friedman or Mr. Leddy.

7 MS. FRIEDMAN: Thank you, your Honor. May it  
8 please the Court. Susan Friedman from the Innocence  
9 Project for Mr. Ricky Shepard. The State's resuscitation  
10 of the facts are correct. We move forward with DNA  
11 testing after an order was issued -- a subsequent order  
12 was issued in 2019. At that point we had -- it had been  
13 determined that the State had lost all of the evidence in  
14 this case including the victim's rape kit and the only  
15 evidence that was left to do DNA testing was the victim's  
16 brazier in light of the description by the victim of how  
17 she was attacked, that she -- her bra had been ripped  
18 off from the back of her.

19 We were hopeful that we would be -- well to find  
20 DNA evidence and preferably a CODIS eligible profile. We  
21 would be able to upload and identify an alternative  
22 suspect. The lab, I think, now which correctly stated was  
23 selected by defense counsel, performed testing and what  
24 they concluded is that the DNA on the bra is a mixture of  
25 at least two individuals including at least one male

1 because the bra is owned by the victim in this case  
2 presumably that DNA -- one of the contributors to the DNA  
3 on the bra is the victim herself. However, in order for  
4 the lab to do any kind of testing moving forward and any  
5 kind of comparison, they would need a DNA sample from the  
6 victim and from Mr. Shepard to determine whether or not he  
7 cannot be excluded from this mixture. Unfortunately at  
8 this juncture due to the nature of CODIS at this point,  
9 none of these profiles are eligible for upload, which  
10 means that we would not be able to identify a specific  
11 individual. You know, obviously hopefully in the future  
12 at some point, the perimeters around CODIS would change,  
13 but as of today, the DNA evidence in this case was not  
14 suitable for upload. And so without a DNA sample from the  
15 victim and from Mr. Shepard no further analysis can be  
16 done about whether or not Mr. Shepard can be excluded from  
17 the DNA evidence obtained from the victim's brazier.

18 THE COURT: All right. Thank you.

19 Mr. Leddy, anything you want to add?

20 MR. LEDDY: No, your Honor. Thank you.

21 THE COURT: All right. So what are we -- are we  
22 dismissing the -- what are we doing here for purposes of  
23 procedurally today?

24 MR. GOLDBERG: Judge, I believe procedurally  
25 speaking, it's the State's position that the matter is

1 effectively per the statute that the application is  
2 dismissed. I would think based upon Ms. Friedman's  
3 resuscitation a moment ago if some additional information  
4 would come to light at some point in the future perhaps  
5 they can seek to reapply and it could be revisited  
6 depending upon what information that might be, but at this  
7 time based on the information, it's the State's position  
8 that the application should be dismissed.

9 THE COURT: Ms. Friedman.

10 MS. FRIEDMAN: Without the victim's DNA sample,  
11 we cannot move forward. So without compelling the State  
12 to obtain her DNA sample, there is no further testing. We  
13 can reach a conclusion about whether or not Mr. Shepard is  
14 included on this DNA sample, but without the victim's  
15 reference sample, we can't move forward.

16 THE COURT: All right. So the application is to  
17 be dismissed or obviously I think under the statute he has  
18 a right to refile should additional information be  
19 provided, is that correct?

20 MR. GOLDBERG: I believe so, Your Honor.

21 MS. FRIEDMAN: Yes, Your Honor.

22 THE COURT: All right. And someone's explain  
23 all this to Mr. Shepard?

24 MS. FRIEDMAN: Yes, I have had three phone calls  
25 with Mr. Shepard and have written a letter explaining all

1 of this to him.

2 THE COURT: All right, Thank you.

3 MR. GOLDBERG: Thank you, Your Honor.

4 MS. FRIEDMAN: Thank you, Judge.

5 END OF REQUESTED TRANSCRIPT

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**INNOCENCE  
PROJECT**

**Interim Executive Director**  
Meryl Schwartz, Esq.

**Co-Founders & Special Counsel**  
Barry C. Scheck, Esq.  
Peter J. Neufeld, Esq.

June 4, 2020

**LEGAL MAIL**

*Ricky Shepard, #00155575  
Perry Correctional Institution  
430 Oaklawn Rd  
Pelzer, SC 29669*

*Dear Mr. Shepard,*

*I am writing in response to the letter you sent to us dated April 8<sup>th</sup>. On January 24, 2020, we had a legal phone call with you during which time we explained that unfortunately the Innocence Project would be closing your case. As we explained, the DNA results in your case are not CODIS eligible and therefore we would not be able to seek relief for you in court. I know it was disappointing to hear this news and I'm sorry. I am enclosing a copy of the letter we sent to you on February 24, 2020 that explains the basis for our decision. On May 27, 2020, we sent you the lab report with the testing conclusions; we are including the laboratory report here as well. If you have any other questions regarding this letter, please write to us at the following address:*

*Robyn Trent Jefferson  
P.O. Box 8258  
Glenridge, NJ 07028*

*Please take care and be safe and healthy.*

*Sincerely,*



*Susan Friedman  
Staff Attorney*

*Encl.*

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**S.C. SUPREME COURT**

**INNOCENCE  
PROJECT**

**Executive Director**  
Maddy deLone, Esq.

**Deputy Executive Director**  
Meryl Schwartz, Esq.

**Co-Founders & Special Counsel**  
Barry C. Scheck, Esq.  
Peter J. Neufeld, Esq.

February 21, 2020

**ATTORNEY-CLIENT MAIL**

Ricky Shepard, #00155575  
Perry Correctional Institution  
430 Oaklawn Rd  
Pelzer, SC 29669

Dear Mr. Shepard,

I am writing to follow up on our phone call about the results from the testing that was conducted on the evidence in your case. As you know, the Innocence Project accepts cases where DNA testing on evidence can prove someone's innocence. On August 1, 2012, the Innocence Project sought the State's consent to conduct DNA testing on the evidence collected in connection with your case and requested the State's assistance in determining the location of that evidence. On August 21, 2012, the Assistant Solicitor's Office informed the Innocence Project by letter that they had diligently attempted to find the rape kit, and concluded that the South Carolina Law Enforcement Division (SLED) returned the evidence from your case to the Kershaw County Sheriff's Office, which was no longer in possession of the rape kit.

In a letter from the Kershaw Office of Clerk of Court dated September 24, 2012, the Clerk notified us that they had several evidence items in their possession. On November 13, 2013, there was oral argument on the DNA testing motion filed on December 18, 2012. At that hearing, the State informed us that they had the victim's bra, a pair of white socks, a pair of yellow underwear, a pair of brown corduroy pants, a white striped shirt, a pair of white and green tennis shoes, and a black baseball cap. At that time, the Judge ordered that the Kershaw County Sheriff's Office re-inventory their evidence room and provide affidavits as to whether any additional evidence can be located. On January 30, 2014, the State provided affidavits stating that both the evidence maintained at the Kershaw County Sheriff's Office and all archived property that the Sheriff's Office maintains at an off-site location were searched and that no evidence pertaining to your case was found.

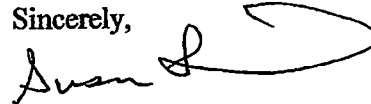
On August 1, 2017, another hearing was held about post-conviction DNA testing and the Innocence Project argued that the Court should order DNA testing on the victim's bra. On April 23, 2018, the Court ordered the requested testing. On September 16, 2019, the Court ordered that the evidence be transferred to a private laboratory for testing. Testing indicated that there is an insufficient amount of male DNA on the victim's bra to produce a profile that can be uploaded to CODIS. Thus, there is no potential for us to identify the source of the DNA on the victim's bra which we would need to do to argue that you are entitled to relief.

As we discussed on our phone call, if the rape kit is found in your case, please contact us.

We will be sending you case documents that you can retain for your records. Unless you tell us in writing within the next thirty days to send them somewhere else, they will be sent directly to you at your facility.

It has been a pleasure working on your case and we wish things could have turned out differently. Thank you for your patience and strength throughout this difficult process.

Sincerely,



Susan Friedman  
Staff Attorney

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**S.C. SUPREME COURT**



**Forensic Analytical™  
Crime Lab**

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**Summary Laboratory Report**

Susan Friedman, Esq. Innocence Project 40 Worth Street, Suite 701 New York, NY 10013	Report Date: February 21, 2020 FACL Case #: 20190302 Client #: 19560 Client Case #: 1988-GS-496;1989-GS-28-85 & 86
---	---

**Case Name: South Carolina v. Ricky Shepard**

**Report Type: Physical Evidence Examination and DNA Analysis**

---

**Background and Purpose of Examination**

The following background information is taken from a Statement of Facts letter provided by Susan Friedman, Staff Attorney at the Innocence Project and counsel for Ricky Shepard, on October 8, 2019:

This is a sexual assault involving Tina Evans and the convicted defendant, Ricky Shepard. On the evening of October 3, 1988, Evans placed a call to her boyfriend at a phone booth at Brown's Diner, a restaurant off Highway 1 in Kershaw County, South Carolina. While on the phone, a man approached Evans and tried to engage her in conversation. Evans attempted to avoid the man, during which time he attacked her. As Evans tried to escape, the man grabbed her from behind, ripping off both her shirt and bra, and continued to physically assault Evans. The man dragged Evans into the woods where he vaginally and orally raped her. Evans convinced the man to take her home. After Evans put her panties and shorts back on, they both exited the woods towards the highway. It was then Evans spotted a police car and ran toward it, and the perpetrator fled the scene. Kershaw County Sheriff's Office deputies collected from the crime scene Evans' bra, a black shirt (that did not belong to Evans), and a hat. Approximately three hours after the incident, a rape kit which included body orifice swabs was collected from Evans. The rape kit specimens were examined by the South Carolina Law Enforcement Division Department of Forensics chemical analyst Nancy Skraba. Skraba reported the presence of acid phosphatase activity, a presumptive indication of the presence of semen, on the rape kit swabs (vaginal, vulval, and cervical). Skraba

also examined clothing recovered from Evans but did not detect the presence of blood or semen. Further testing of the clothing ceased; however, it is unknown if any additional testing was performed on the rape kit specimens. Ricky Shepard was ultimately convicted for the sexual assault on Tina Evans.

Defense counsel requested Forensic Analytical Crime Lab (FACL) examine the Evans bra collected from the crime scene in an attempt to determine whether Ricky Shepard can be eliminated as the source of any biology recovered from the bra. The Evans rape kit could not be located at this time.

### **Items of Physical Evidence**

The following items of physical evidence were received from Janet Hasty on September 20, 2019 via UPS courier:

1. Subject's clothing collected from jail: brown corduroy pants [#1-1], striped polo shirt [#1-2], yellow briefs [#1-3], and socks [#1-4]. (Documented but not further examined)
2. Shepard shoes. (Documented but not further examined)
3. Clothing
  - 3-1. Bra.
  - 3-2. Black polo. (Documented but not further examined)
  - 3-3. Black hat. (Documented but not further examined)

### **Evidence Examination Summary**

#### **#3-1 Tina Evans Bra**

A soiled, off-white colored lacy satin bra [#3-1] collected from Tina Evans was submitted for examination. The bra, brand unknown and size 38C, appeared moderately worn and was previously sampled. Blood was not detected with *ortho*-toluidine and hydrogen peroxide, a sensitive presumptive test, in two dark red deposits on the wings of the bra. The entire bra fluoresced when viewed with high intensity (450 nm) filtered light. Acid phosphatase activity was not detected in a slightly more fluorescent area tested on the bra strap. In an attempt to collect biology from the assailant, the bra straps and wings were swabbed. Microscopic examination of the bra swabs cellular debris revealed a low level of nucleated epithelial cells and numerous skin cells. All of the

DNA recovered from the bra swabs was employed in an autosomal (Investigator 24plex) STR analysis. The result of this analysis is described below.

### Genetic Analysis of DNA

Autosomal short tandem repeat (STR) genes are amplified using the polymerase chain reaction [PCR] and subsequently typed. These genes include the STR genes provided as the commercial reagent kit **Investigator 24plex OS** [TH01, D3S1358, vWA, D21S11, TPOX, D1S1656, D12S391, SE33, D10S1248, D22S1045, D19S433, D8S1179, D2S1338, D2S441, D18S51, FGA, D16S539, CSF1PO, D13S317, D5S818, and D7S820], and DYS391, a Y chromosome STR, and amelogenin, a sex-linked gene that allows gender determination.

Genetic analysis of the specimens in this case involved the following essential steps:

1. Epithelial cell material was digested with SDS and proteinase K.
2. DNA was extracted from sample digests with an EZ1 Advanced XL robot. The samples were concentrated using Microcon molecular filters.
3. The various genes described above were amplified using the Polymerase Chain Reaction [PCR].
4. The STR genes and amelogenin were typed using capillary electrophoresis.

### Summary of DNA Analysis Results<sup>1</sup>

#### **#3-1A Bra swabs**

1. The trace DNA recovered from the bra swabs [#3-1A] was determined to be a mixture of at least two contributors<sup>2</sup>, of whom at least one is male. The #3-1A bra swabs DNA profile is not eligible for submission to CODIS.
2. This result may be interpreted with STRmix probabilistic genotyping software. Reference specimens for Tina Evans and Ricky Shepard may be submitted for comparison to the

<sup>1</sup> A 12 allele (69 rfu) at the D18S51 locus was detected in the negative amplification control amplified simultaneously with the evidence and evidence blank samples. The presence of this adventitious allele, not present in the evidence extraction blank, does not affect the interpretation of the result from the evidence sample. This finding is mentioned in this report only in the spirit of full disclosure. The negative amplification control electropherogram is provided in Appendix 1.

<sup>2</sup> Several allele peaks were detected below the analytical threshold, suggesting that there are at least two DNA contributors to the #3-1A bra swabs result.

STRmix interpretation results. The electropherogram documenting the Investigator 24plex analysis result is provided in Appendix 1.

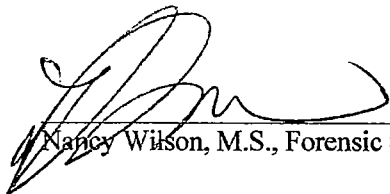
A more comprehensive report including illustrated photographs of the physical evidence can be prepared upon request.

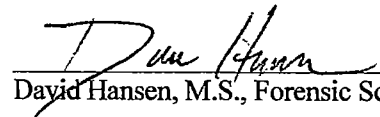
### Disposition of Evidence

All evidence items will be returned to the submitting agency.

Prepared by:

Reviewed by:

  
Nancy Wilson, M.S., Forensic Scientist<sup>3</sup>

  
David Hansen, M.S., Forensic Scientist<sup>4</sup>

The testing described and documented herein was completed in compliance with the accreditation requirements of the current ISO/IEC 17025 standard, ANSI National Accreditation Board (ANAB), and FBI Quality Assurance Standards as defined by the ANAB Forensic Testing Certificate and Scope of Accreditation (AT-1641).

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**S.C. SUPREME COURT**

<sup>3</sup> Lab analyses conducted by and report written by Nancy Wilson.

<sup>4</sup> Report reviewed by and technical review of lab analyses by David Hansen.

Forensic Analytical Crime Lab

3777 Depot Road, Suite 403 Hayward, California 94545-2761 Telephone: 510/266-8100 www.facrimeiab.com Fax: 510/887-4451

## Appendix 1

### Electropherograms

documenting the

TH01, D3S1358, vWA, D21S11, TPOX, DYS391, D1S1656, D12S391, SE33,  
D10S1248, D22S1045, D19S433, D8S1179, D2S1338, D2S441, D18S51, FGA,  
D16S539, CSF1PO, D13S317, D5S818, and D7S820 (24plex) Analyses

#3-1A. Bra Swabs

Negative Amplification Control (TE)

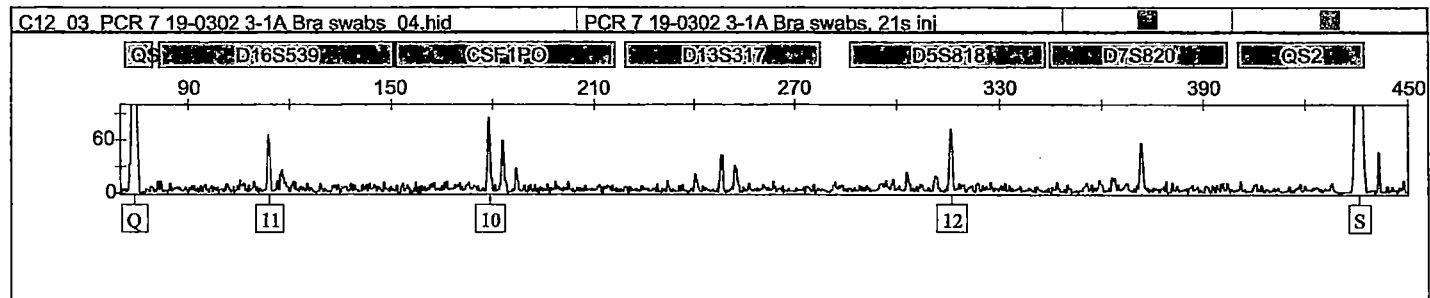
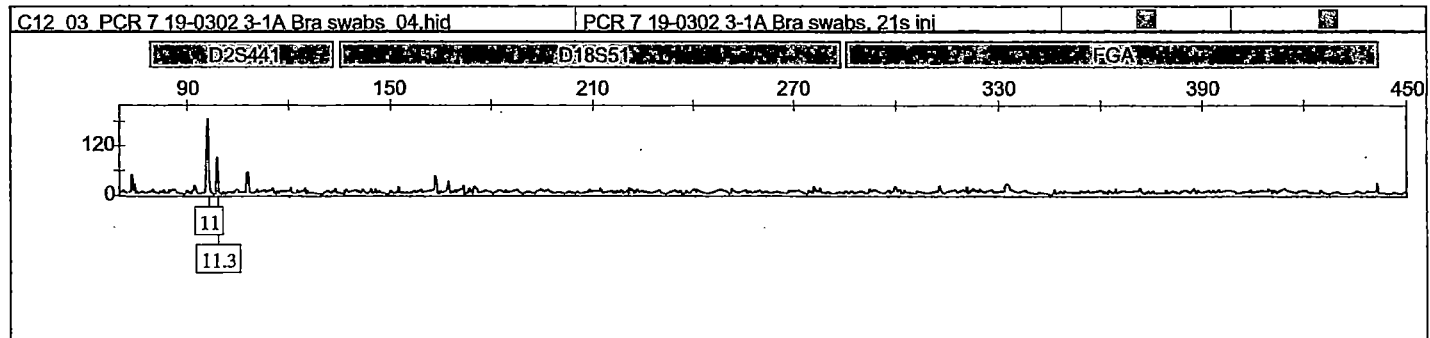
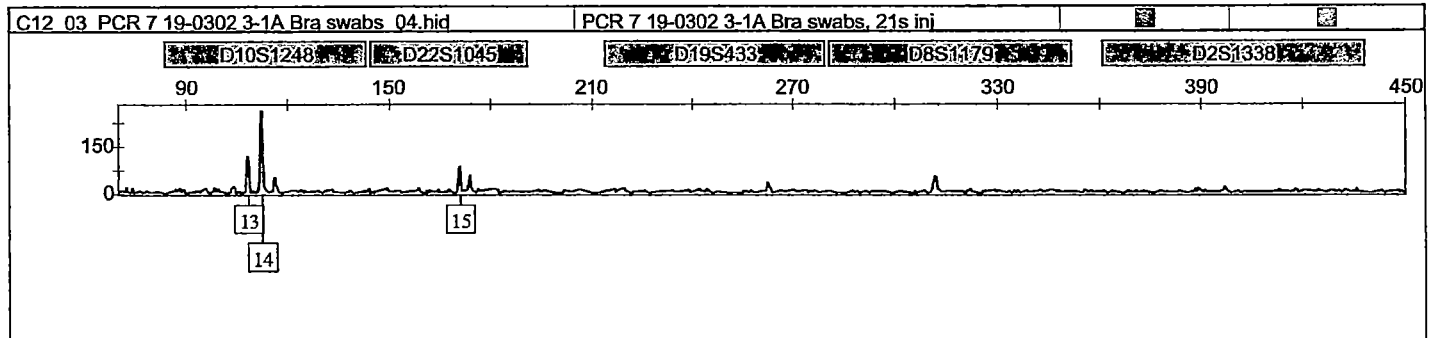
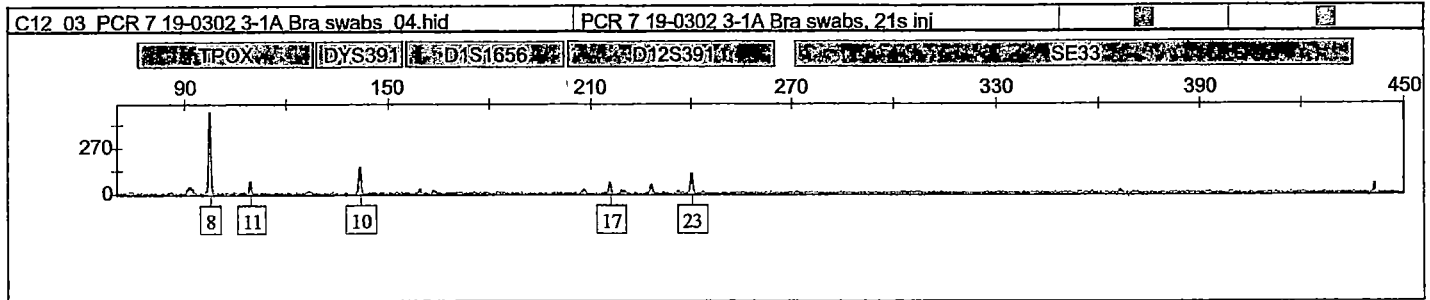
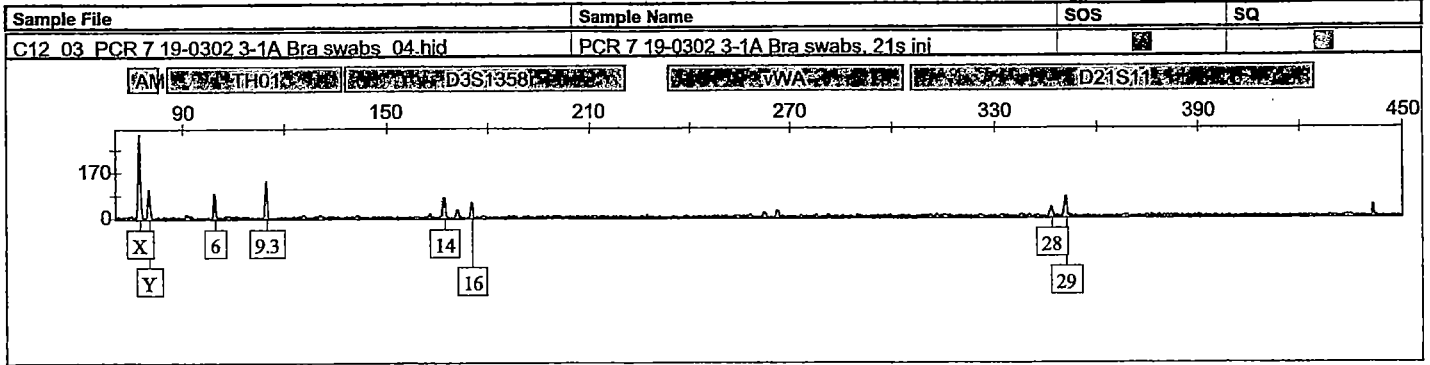
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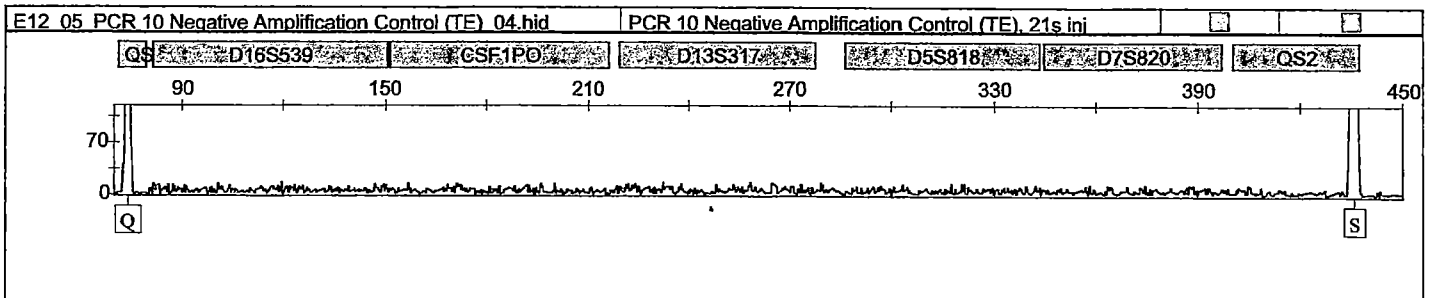
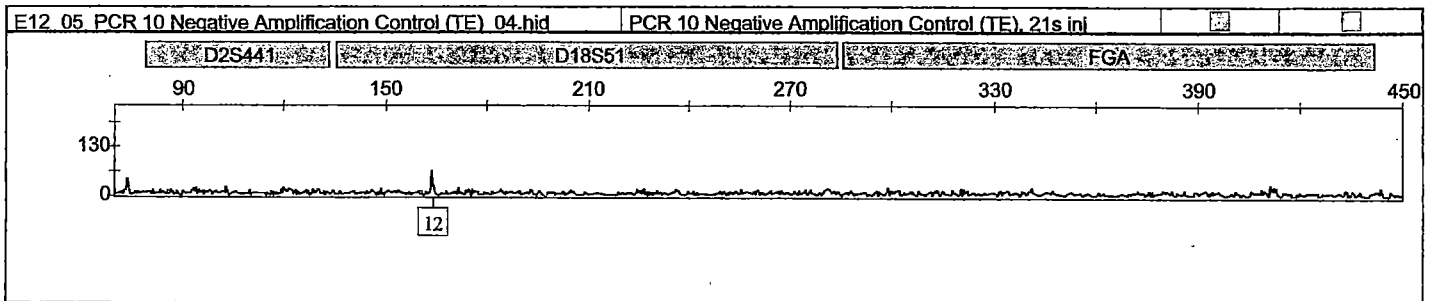
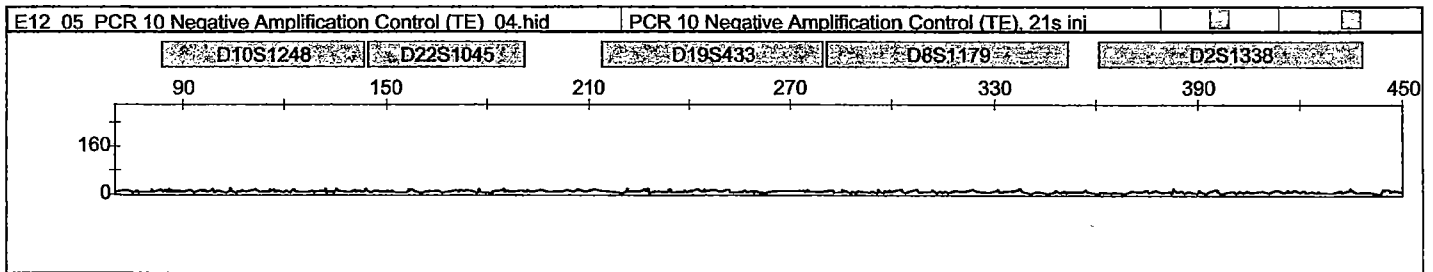
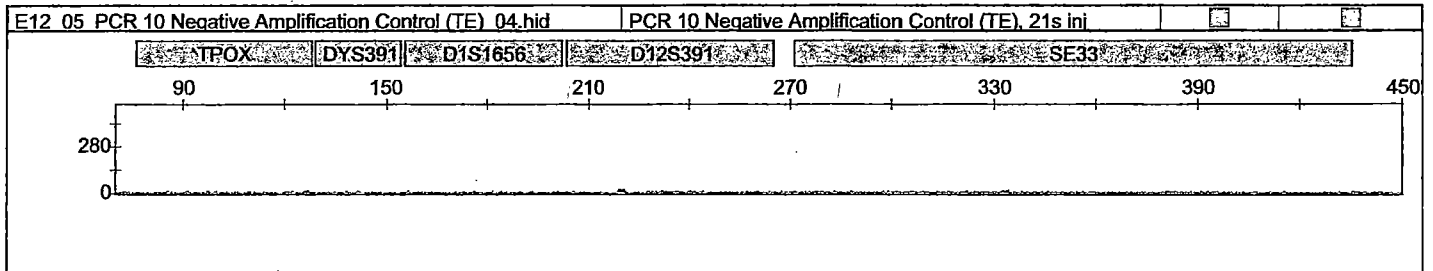
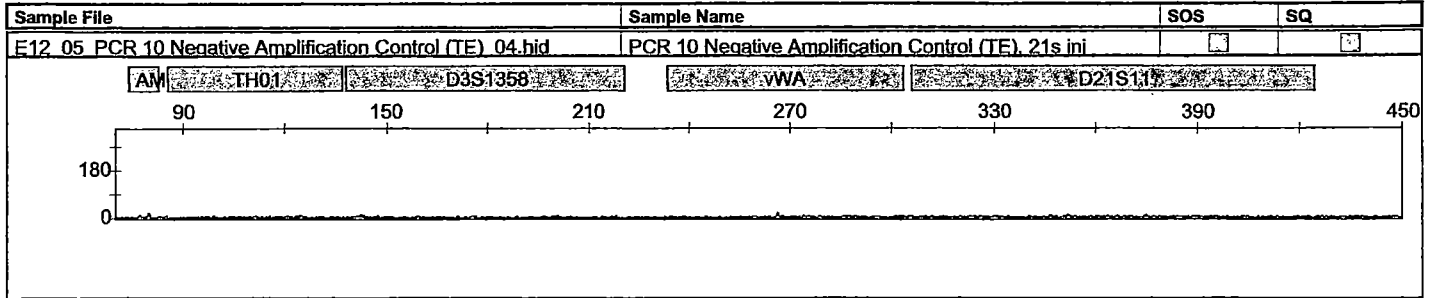
**S.C. SUPREME COURT**



# #3-1A. Bra Swabs



# Negative Amplification Control (TE)



Ricky J. Shepard #155575-3A105  
Perry Correctional Institution  
430 Oaklawn Road  
Pelzer, S.C. 29669

DEC 21 2021  
MAILROOM

South Carolina Court Administration  
1015 Sumter Street, Suite 200  
Columbia, S.C. 29201

THE DEPARTMENT OF CORRECTIONS HAS  
NOT OPENED THIS ITEM, THEREFORE,  
THE DEPARTMENT DOES NOT ASSUME  
RESPONSIBILITY FOR ITS WRITTEN CONTENTS.  
S.C. DEPARTMENT OF CORRECTIONS