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Scientific Report in the Case of
R v Omar BENGUIT

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12th of July 2011

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QUALIFICATIONS AND EXPERIENCE

- 1.1 I hold a Bachelor of Science degree with honours and a Bachelor of Theology degree. I am a chartered biologist with the Society of Biology, and a member of the Academy of Experts. From 1998 to 2004 I worked as a senior forensic scientist at the Chepstow laboratory of the Forensic Science Service. From 2004 onwards I have been employed as a consultant forensic scientist and a senior lecturer in forensic science. My field of expertise relevant to this case is the examination of biological evidence, including the examination of hairs.

CIRCUMSTANCES

- 2.1 From information provided to me I understand it is alleged that on the 31st of January 2005 Omar Benguit was convicted of the murder of Miss Jong Ok-Shin. Police attending the scene of the fatal assault upon Jong Ok-Shin recovered a small bundle of hairs, item designation AM34, that had been found nearby.
- 2.2 On the 29th of June 2011 Danilo Restivo was convicted of the murder of Heather Barnett. I understand it has been established that Mr Restivo would collect head hair from women. This hair was, on occasion, cut by him from the women who he sat behind on public transport. Mr Restivo stated that he had an interest with hair since he was a teenager and that he liked touching and smelling it and then threw it away in the street.
- 2.3 *My report is based on information received. If any of this information is incorrect, or if any new information is considered relevant, I may have to reappraise my findings. It is best if this is done before a trial.*

PURPOSE OF EXAMINATION

- 3.1 I have been asked by Mr Benguit's family to examine the clump of hairs recovered from the scene of the fatal assault upon Jong Ok-Shin. In particular, I have been asked to evaluate whether there is any evidence to show that the hairs had been cut, to comment on the general condition of the hairs and to state whether the hairs appeared to be human in origin. I have also been asked to comment on the possibility that DNA analysis could be undertaken in order to obtain a DNA profile from someone who may have handled the hairs.

EXAMINATION OF HAIRS

- 4.1 On the 12th of July 2011 I attended the Dorset Constabulary police station in Bournemouth. I was accompanied by Mr Benguit's barrister Mr Ragveer Chand and by his assistant Mr Shaan Obaray.
- 4.2 The hairs were packaged in a self sealed clear polythene bag which was sealed with clear tape at the top. An exhibit label was attached. This label recorded that this item, designation AM34, had been recovered outside 223 Malmesbury Park Road at 0700 hours on the 12th of July 2002. Before examining the hairs I was informed by Mr Chand that the Criminal Cases Review Commission had requested that the hairs should not be taken out of their packaging.
- 4.3 Visible inside the bag was a small clump of light brown hairs. Also present in the bag were a few dried pieces of apparent grass and some dried dark coloured debris. Despite the presence of this

debris the hairs themselves were quite clean; no debris appeared to have adhered to the hairs.

- 4.4 The hairs were microscopically examined by me. They were light brown and appeared to be human head hairs. My examinations were necessarily limited due to the presence of the plastic material of the bag and the inability to manipulate individual hairs that were part of the clump in the bag. Nevertheless, I was able to determine that some of the ends of the hairs had been cut. Some of the ends of the hairs had root material on them, indicating that they had not been cut. None of the examined hair roots had any significant amount of skin / sheath material attached to them or the characteristic shape of root that are sometimes associated with hair that had been forcibly pulled from a person's scalp. In my opinion the hairs that had root material may have fallen naturally from a person's head. One of the hairs had been partially damaged on alternate sides, the areas of damage being approximately 0.7 millimetres apart. In my opinion this is in keeping with that particular hair having been gripped by an object such as a pair of scissors.

SUMMARY AND EVALUATION

- 5.1 The hairs appeared to be light brown head hairs of human origin.
- 5.2 The absence of any adhering debris and the generally clean condition of the hairs indicates that they had not been on the ground for any considerable length of time. I cannot exclude the possibility that they may have been deposited at the scene relatively shortly before they were located by the police.

- 5.3 If the hairs had been cut from someone, several of the hairs may nevertheless have root material attached as it is possible that when cut hair is pulled away from a person, hairs that had naturally fallen from the scalp may also be present in the hair gripped by the person who removed the hair. If the hairs in the clump had fallen naturally, it is likely that one end of each of the hairs could show signs of having been cut. Therefore, the presence of cut ends on hairs in the clump does not of itself suggest that the hairs as a whole had been cut. In order to further investigate this possibility I recommend that the hairs be examined in more detail in laboratory conditions. In such conditions individual hairs could be removed from the clump in order to determine whether or not they had been cut at both ends.
- 5.3 With regard to the possibility of DNA analysis, in most circumstances if a person simply handles hairs it is unlikely that significant amounts of DNA would be transferred to the hairs. However, if a person had repeatedly handled a clump of hairs there exists the possibility that DNA may have been transferred from him onto the hairs in quantities that may be detectable. If the person had body fluid on their hands while handling the hairs (e.g. such as saliva, nasal secretions or semen), the probability of detectable amounts of DNA being transferred would be significantly increased. Any amount of DNA from the handler, however, should be assumed to be very small prior to analysis. Therefore, any DNA analysis is likely to involve a highly sensitive technique such as one of the various low template DNA analysis techniques used by the major UK forensic science providers. In order to reduce the amount of DNA from the donor of the hairs any investigating scientist may consider cutting any root material

off and thereafter analysing the remaining hair shafts. Y-STR DNA analysis, which specifically targets DNA of male origin, may be considered; though it should be borne in mind that the evidential significance of any Y-STR match is much less than even a relatively partial, or incomplete, standard DNA profile. I suggest that as there may be DNA evidence present on the hairs that could be of use in a future criminal investigation, the CCRC could liaise with the police and their currently contracted forensic science provider with regard to the possibility of DNA analysis.

DATES UNAVAILABLE FOR COURT ATTENDANCE

I am not available to attend court on the following dates:

July 14th, 15th, 21st,

August 3rd – 15th,

September 2nd, 15th, 16th.

DECLARATION

I, Nigel John Hodge, understand that my duty is to help the court to achieve the overriding objective by giving independent assistance by way of objective, unbiased opinion on matters within my expertise, both in preparing reports and giving oral evidence. I understand that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied with and will continue to comply with that duty.

I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of this case.

I know of no conflict of interest of any kind, other than any which I have disclosed in my report.

I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence.

I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in the circumstances which affect the details of my report.

I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.

I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.

I have not, without forming an independent view, included or excluded anything which has been suggested to me by others, including my instructing lawyers.

I will notify those instructing me immediately and confirm in writing if for any reason my existing report requires any correction or qualification.

I understand that:

my report will form the evidence to be given under oath or affirmation;

the court may at any stage direct a discussion to take place between experts;

the court may direct that, following a discussion between the experts, a statement should be prepared showing those issues which are agreed and those issues which are not agreed, together with a summary of the reasons for disagreeing;

I may be required to attend court to be cross-examined on my report by a cross-examiner assisted by an expert;

I am likely to be the subject of public adverse criticism by the judge if the court concludes that I have not taken reasonable care in trying to meet the standards set out above.

I have read part 33 of the Criminal Procedure rules and I have complied with its requirements.

I confirm that I have acted in accordance with the Code of Practice for Experts.

STATEMENT OF TRUTH

I confirm that the contents of this report are true to the best of my knowledge and belief and that I make this report knowing that, if it is tendered in evidence, I would be liable to prosecution if I have wilfully stated anything which I know to be false or that I do not believe to be true.

Nigel Hodge
12th of July 2011