

COUNTY OF MOBILE
STATE OF ALABAMA

AFFIDAVIT OF LEROY RIDDICK, M.D.

BEFORE ME, the undersigned Notary, personally came and appeared DR. LEROY RIDDICK, M.D. who, being duly sworn and deposed, said that:

1. My name is LeRoy Riddick. I am licensed to practice medicine in the State of Alabama and have been certified by the American Board of Pathology in Forensic Pathology (1998 and 1976) and Anatomical Pathology (1974). I am currently an Adjunct Professor of Pathology at the University of South Alabama College of Medicine (1990 – present).

2. I have worked as a forensic pathologist for most of my professional career from 1974 until the present. I have conducted approximately 7,500 autopsies.

3. I graduated from the New Jersey College of Medicine and Dentistry in 1969; the following year I did an internship in internal medicine at the Martland Medical Center in Newark, New Jersey- the teaching hospital for College of Medicine. From 1970 to 1974 I did my residency in Anatomic Pathology at the New York Hospital-Cornell University Medical Center in Manhattan. I spent most of my last year at the Office of the Chief Medical Examiner in New York City. After successfully completing my Board Examination in Anatomic Pathology, I accepted a position as Deputy Medical Examiner in the District of Columbia, where I worked for almost five years.

4. In 1979, I accepted employment as a Forensic Pathologist for the Alabama Department of Forensic Sciences in the Mobile, Alabama Division, where I worked with

various titles until my retirement in 2006. My primary duties involved death investigation with all its aspects. I also served as Coroner of Mobile County, Alabama, from 1982 to 1987, when the system was changed to a Medical Examiner System; from then until 2006 I served as both a State Medical Examiner and the Mobile County Medical Examiner.

5. I became Laboratory Director for the Full Service Region IV Forensic Laboratory of Alabama Department of Forensic Sciences, in 1985. As director, I administered the section heads for Drug Chemistry, Firearms, DNA analysis, Toxicology, Trace Evidence including Laser Fingerprint Examiner, a position I relinquished in 2005.

6. I am a member of the National Association of Medical Examiners for which I served as chair on the Committee for Standard for Pathology Assistant. I am the recipient of the National Association of Medical Examiners Award for Outstanding Service to Death Investigation. I am a fellow of the American Academy of Forensic Sciences and recipient of The Milton Halpern Award for Outstanding Service to Pathology-Biology.

7. I have worked in academia as a Clinical Associate Professor of Pathology at the George Washington School of Medicine (1974-1979), and the University Of South Alabama College Of Medicine (1979-1990). As a faculty member I was elected into the Alpha Omega Alpha Honorary Medical Society. I received the Outstanding Alumnus Award from the University of South Alabama College of Medicine.

8. I am the author or co-author of numerous academic publications, abstracts, and presentations and have held national and international appointments. (*See attached Curriculum Vitae of Dr. LeRoy Riddick*).

9. I have testified and been qualified as an expert in forensic pathology on approximately 500 occasions by the following courts:

- a. United States District Court, Mobile, Alabama.
- b. United States District Court, Washington D.C.
- c. United States District Court, New Orleans, LA.
- d. The Circuit Court of Northern Virginia, Fairfax, VA.
- e. The First, Twelfth, Thirteenth, Twenty-first, Twenty-eighth, and Thirty-fifth Judicial Circuit Courts of Alabama.
- f. The Second, Fourth, Tenth, and Nineteenth Judicial Circuit Courts of Mississippi.
- g. The Circuit Court of Lafayette Parish Louisiana.
- h. The Circuit Court of Caddo Parish, Louisiana.
- i. The Circuit Court of Licking County, Ohio.

10. I have been retained by Assistant State Public Defender Kimberly Rigby of the Office of the Ohio Public Defender and asked to review the death investigation performed in the case of Ronald J. Lally to determine any deficiencies in the autopsy and to assess whether counsel for the defense would have benefited from the services of a forensic pathologist.

11. I have reviewed the following materials:

- a. Autopsy report on Ronald J. Lally;
- b. Photographs (Back and white Xerox copies of poor condition) of the autopsy;

- c. Multiple copies of color photographs of suspects and victim and autopsy;
- d. Photographs (Back and white Xerox copies of poor condition) of the crime scene;
- e. Trial testimony of Coroner, Heather Neilson Raaf, M.D.;
- f. Trial testimony of Crime Laboratory Technician, Linda Luke
- g. Synopsis of The State's Theory of the Case.

12. The autopsy and Cause of Death

The autopsy was performed at The Coroner's Office, Cuyahoga County, Ohio by Heather Neilson Raaf, M.D., a qualified pathologist. The autopsy report is detailed, comprehensive and professional. The total effect of several injuries, "gunshot wound of the head and multiple blunt impact injuries to the head with skeletal, soft tissue and brain injuries" was considered the cause of death. This is a common and accepted practice in such cases in which none of the injuries alone were sufficient to cause the death.

However, one part of the theory of how Mr. Lally was killed does not stand close scrutiny – namely that he was shot and then beaten. He was shot in the mouth with avulsion of death and lacerations of the cheek, tongue and membranes of the oral cavity, which will bleed profusely. His upper airway contained some blood; but there was no blood in his lower airway and none in his lungs or stomach. If he were alive during the beating, which had to have taken some minutes, he would have sucked blood into his lungs and swallowed some into his stomach. Neither of those organs had any blood. In addition, a lot of blood was beneath his face and his mouth, which would be the case if that injury was one of the last ones to be inflicted. Moreover, a witness testified that

Lally shouted out "You shot me in the head"; by that time he had a mouth full of blood and teeth. Making this statement would have been nearly impossible.

13. Time of Death

Estimating of the postmortem interval time between the infliction of injuries and the demise of the victim is always important in a homicide. In this case it was critical; the body was outside, the body had no identification, and both the infliction of the injuries to the body and the body being at the site were not witnessed.

The body was partially frozen when it arrived at the coroner's office. The rectal temperature was 70 degrees Fahrenheit; on the basis of that and using a protocol (there are several; the one used was not listed), Dr. Raaf estimated the time of death as occurring eight and half hours prior to 12:30 pm, when the body arrived at the coroner's office, plus or minus three hours, which would have put the earliest time at just past midnight. She opined that the death occurred past midnight, and the latest around 8:30 am. The problem with this interval of time is that the maintenance crew that entered the cemetery at 7:15 am and did not see a body, and this fact was not brought up at the trial.

Dr. Raaf admitted that making the estimate was difficult due to the freezing weather. I am certain it was. No protocols exist for determining the rate of body cooling after death where the starting point maybe below freezing. Moreover, if the theory is that Mr. Lally was killed elsewhere and dumped there; no evidence of how long he lived prior to being left there is submitted. So either the estimated time was not based upon how long he was alive prior to being dumped, or he was killed there and the estimation was based on that which runs counter to the idea that he was killed and then left outside. The other modalities that were available in 1994 to estimate the time of death were analysis of

the potassium level in the vitreous humor and utilizing the gastric contents to estimate the rate of digestion. The former method might have been very useful because the cold temperature would slow circulation and the breakdown of cells in the eye, the source of the potassium and the fact with all the liquid blood, the body had not been there long.

14. There was no testimony about the mechanism producing the blunt force injuries, that is, the instrument that inflicted all the abrasions and bruises on his head, face, torso and extremities. Dr. Raaf indicated that it was a broad object, but did not specify what type. When asked if the injuries were consistent with being stomped and/or being run over by car, she answered in the affirmative. But on cross examination, she acknowledged that she only said they were consistent, but were not definite. In my opinion, the injuries certainly indicate an assault; Mr. Lally's hands had bruises suggesting that he struck something or somebody. The injuries to his face, head and brain could have been caused by fists and or feet. The same is true of the abrasions on his chest and abdomen. Certainly the large abrasion on the right side of his chest could have come from being struck by some portion of a car. Finally, several of the abrasions on the head (face), neck, chest, arms and leg could have been caused by his being dragged or pulled on the ground by a person, car or other object.

15. Last, the automobile that allegedly Mr. Lally was driving in, and which allegedly was used to run over him, was the source of the blood, in the webbing, which the Crime Laboratory Technician matched to a specimen from Mr. Lally. It is unfortunate that other parts of the vehicle, the under carriage for instance were not examine to determine if there was any blood or damage there to corroborate the

statements that Mr. Lally was run over three times. Such evidence might have been on the vehicle a year later.

16. Conclusion: The autopsy, the documentation of the injuries, was most professional. The State's theory about how the homicide occurred was not substantiated by the findings and interpretation of the autopsy. Consultations with a forensic pathologist and a crime scene investigator who knows about motor vehicles would have assisted the defense in undermining the State's theory.


DR. LEROY RIDDICK

Sworn to and subscribed before me, Notary,

this 22nd day of June, 2012.


NOTARY PUBLIC