

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CRIMINAL DIVISION

CASE NO.: 21-01099-CF&21-01513-CF
SECTION: M
JUDGE: PHILLIP FEDERICO

STATE OF FLORIDA,

vs.

CORNELIUS TREVON WHITFIELD (PID: 1566510).

**MOTION TO EXCLUDE LATENT PRINT EXAMINATION/
IDENTIFICATION EVIDENCE**

THE Defendant, Mr. Cornelius Whitfield, by and through undersigned counsel and pursuant to the Sixth and Fourteenth Amendments of the United States Constitution, Article I, sections 9 and 21 of the Florida Constitution, Florida Statutes §90.702 and §90.704 and §90.403, and the principles outlined in *Daubert v. Merrell-Dow Pharms Inc*, 509 US 579 (1993), moves this honourable court to exclude certain fingerprint evidence and testimony of State witnesses KariAnna Baber and Rebecca Monclova Wolf.

The following facts are asserted in support of this motion:

STATEMENT OF FACTS

1. Mr. Whitfield is currently pending trial in two cases: 21-01099-CF and 21-01513-CF.¹
2. In both cases, Mr. Whitfield is accused of numerous counts of first-degree homicide. In Case No. 21-01513-CF, Mr. Whitfield is facing the death penalty as a possible penalty; the State has indicated a desire to use the facts of Case No. 21-01099-CF as an aggravator in the death penalty trial. It is undeniable that Mr. Whitfield's potential legal consequences are the most extreme and terminal as contemplated by our criminal justice system.
3. As to Case No. 21-01099-CF, Mr. Whitfield is accused of the first-degree murder of

¹ Mr. Whitfield has an additional pending case – Case No. 21-08749-CF – a third-degree felony, Introduction of Contraband into a County Detention Facility; he has already served the statutory maximum for that charge awaiting trial on the other charges, and those charges do not bear on the issues presented in this motion.

Darren Barnes, the attempted first-degree murder of Rodney Green, and the armed robbery of Rodney Green. The mechanism of Mr. Barnes' death was a single gunshot wound to the back of his head; a projectile was later recovered from his body. Mr. Green suffered a single gunshot wound to his neck from which a projectile was later extracted by surgeons. Two cartridge casings were discovered in Apartment 113 at the Emerald Cove Apartment Complex, 175 73rd Ave. N., St. Petersburg, FL. Both the two projectiles and the two cartridge casings were impounded into St. Petersburg Police Department's Property and Evidence Unit for further analysis or testing to be determined by the lead investigators on the case. It was later opined that the cartridges and the projectiles were consistent with 45 caliber ammunition.

4. As to Case No. 21-01513-CF, Mr. Whitfield is accused of the first-degree murders of Sallie Whitfield, Patricia Sharpe and Antonio Graham; he is also accused of the attempted first-degree murder of Shirleylene Harilal. The mechanism of death and injury for all were gunshot wounds. Some projectiles were recovered from the decedents' bodies at the Medical Examiner's Office and multiple cartridge casings were found on the scene. Four firearms were discovered in a backpack located on the porch of 2968 Emerson Ave. S., St. Petersburg, FL, the location where these deaths occurred – at least one of the firearms recovered was a 45 caliber.
5. Also alleged to have been discovered in that backpack was a Dell Inspiron laptop computer. That computer was processed for possible forensic evidence by St. Petersburg Police Department (SPPD) Forensic Technician Melissa Huffman who lifted one latent card from the computer's display. That card was submitted to SPPD property and evidence for further analysis by a latent print examiner.
6. Latent fingerprint examination – in the context of forensic work – rests on two premises:
 - a. Fingerprints are imbued with both persistence and uniqueness, meaning that friction ridge patterns on human hands (and feet) are distinct to each individual and form prior to birth remaining completely unchanged over the course of that person's lifetime. *See generally* Jeffrey Barnes, Chapter 1, p. 1-6, "The Fingerprint Sourcebook," National Institute of Justice, July 2011.²
 - b. That a trained examiner can look at friction ridge patterns on a latent (unintentional impression) fingerprint and a standard fingerprint and determine

² Accessed on July 20, 2026, at <https://nij.ojp.gov/library/publications/fingerprint-sourcebook>.

if they were made by the same individual. *Id.* at Chapter 9, John R. Vanderkolk, p. 9-3.

7. SPPD Latent Examiner KariAnna Baber – who was listed by the State as an expert witness – removed the card from property and evidence and conducted the analysis regarding that latent card. Ms. Baber has authored several reports concerning the work that she completed in this case, dating from February 25, 2021, to July 26, 2021. Ms. Baber provided her full file to the State for the purposes of a deposition which occurred on July 16, 2026. That file included her reports and digital renderings of the latent card, side-by-side representations of the latent and standard prints generated by the Automated Fingerprint Identification System (AFIS), as well as side-by-side representations generated by Ms. Baber on SPPD software. Notably, there are several items that were neither generated nor retained for the full file. Those include:
 - a. Complete AFIS documentation including all returns noted for a search together with the search parameters used and the location of the standard used within the number of returns as to analyses done in SPPD Case No. 2021-006023. *See* Deposition of KariAnna Baber, p. 17, ll. 2-15, p. 18, ll. 11-15.
 - b. All work done by the verifier – in SPPD Case No. 2021-006023, Examiner Rebecca Monclova (Wolf).
 - c. The complete AFIS documentation in SPPD Case No. 2021-004037, *See* Deposition of Rebecca Wolf, pp. 4-7.
8. Ultimately, concerning her work in these cases, Ms. Baber opined that there was “enough sufficient agreement” between the latent print (as lifted from the laptop under Case No. 2021-006023) and Mr. Whitfield’s standard fingerprints as returned by AFIS to conclude that there was an identification, or a match, between the two.
9. According to Ms. Baber, to make an identification, an examiner must conclude that there is “sufficient agreement” between the latent and standard print. She explained that this is “...a threshold that you can reach where you have enough and you can say that there's sufficient agreement between the two impressions that there's an identification.” *Id.* at p. 22, ll. 14-16. She also readily admitted that “enough sufficient agreement,” is a subjective conclusion. *Id.* at p. 22, ll. 17-18. The SPPD has no formal policy in their office regarding

the methodology of the latent examiners.³ And Ms. Baber further stated that there is no specific standard policy or practice required by her agency at which an identification conclusion can be made and that there are no requirements regarding the memorialization of conclusions (i.e. documentation of the examiners' work including their notes), that it's just "kind of what you do." *Id.* at p. 23, ll. 1-14, quote at p. 27, ll. 16-19. Each examiner's markings may be in different locations on the subject side-by-side, and the markings themselves may be different in terms of their appearance (i.e. color, icon, direction, etc.) *Id.* at p. 27, ll. 19-25 and p. 28, ll. 1-9. In other words, there is no way to actually replicate the examiner's work.

10. The theory relied upon by Ms. Baber, and the methodology that she and her colleagues employed in Mr. Whitfield's cases fail to meet the stringent requirements for scientific evidence that should be adhered to generally, but certainly even more so in the context of a death penalty case. As such, Ms. Baber's testimony should be excluded from the instant trial.

³ Indeed, a search of SPPD's General Orders from 2021 through 2024 (which would cover the latent examination work done in the instant cases), do not indicate a single formal policy regarding fingerprint analysis/examination.

Memorandum of Law

I. Forensic Testimony Regarding Latent Print Examination Must Meet the Foundational Requirements for Scientific Evidence as per *Daubert* and Florida Statutes §90.702 and §90.704.

Expert opinion must be based on actual knowledge or objective scientific methodology, rather than “subjective belief or unsupported speculation.” *Daubert*, 509 U.S. at 590. The Supreme Court in *Daubert* set forth factors for a court to evaluate in determining the admissibility of scientific or expert testimony:

- (1) whether the expert’s theory or technique can, or has been, tested;
- (2) whether the theory or technique has been subjected to peer review and publication;
- (3) the known or potential rate of error of the technique for a particular scientific technique and the existence and maintenance of standards controlling the technique’s operation; and
- (4) whether the theory or technique is generally accepted in the relevant scientific community.

Id. at 593-94. Of note, no single one of the above factors is necessarily dispositive of admissibility and other factors may be relevant. *See Id.* at 593; *see also Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 149 (1999).

The Court observed that scrutiny is a component of good science, in part because it increases the likelihood that substantive flaws in methodology will be detected. *Daubert*, 509 U.S. at 593-94. “Widespread acceptance can be an important factor in ruling particular evidence admissible, and ‘[a] known technique that has been able to draw only minimal support within community may properly be viewed with skepticism.’” *Id.* at 594. Importantly, “[s]cientific conclusions are subject to perpetual revision,” and “[t]he scientific project is advanced by broad and wide-ranging hypotheses, for those that are incorrect will eventually be shown to be so[.]” *Id.* at 597.

Florida Statute §90.702 codifies *Daubert* in Florida law, and states that expert testimony – i.e. testimony in the form of an opinion – may be permitted only where “scientific, technical or other specialized knowledge will assist the trier of fact in understanding the evidence or in determining a fact in issue” so long as:

- (1) The testimony is based upon sufficient facts or data;
- (2) The testimony is the product of reliable principles and methods; and
- (3) The witness has applied the principles and methods reliably to the facts of the case.

Fl. Stat. §90.702.

This requires the trial judge to act as a gatekeeper in determining whether the proposed expert's testimony "both rests on a reliable foundation and is relevant to the task at hand." *Daubert*, 509 at 597. This 'gatekeeping' role is intended to ensure that the jury does not hear speculative or unreliable testimony under the imprimatur of the appellation of 'expert testimony'. *Kemp v. State*, 280 So.3d 81, 88 (Fla. 4th DCA 2019)(quoting *Rink v. Cheminova*, 400 F.3d 1286, 1295 (11th Cir. 2005)). The purpose of this gatekeeping is to ensure that an expert "employs in the court room the same level of intellectual rigor that characterizes the practice of an expert in the relevant field." *Kumho Tire Co., Ltd. V. Carmichael*, 526 U.S. 137, 152 (1999).

Practically, the trial court must make the following preliminary finding: whether the reasoning or methodology which underpins the expert's testimony is scientifically valid and whether that reasoning or methodology applies to any issues material to the case. *Royal Caribbean Cruises, Ltd. v. Spearman*, 320 So.3d 276, 290 (Fla. 3d DCA 2021)(quoting *Kemp*, 280 So3d. at 88)(quoting *Daubert*, 509 U.S. at 592-93). And the *Daubert* standard for admissibility applies to both the practice as well as the expert themselves – the test "is not the correctness of the expert's conclusions but the soundness of his methodology." *Id.*, 280 So.3d at 89. (quoting *Daubert v. Merrell Dow Pharm., Inc.*, 43 F.3d 1311, 1318 (9th Cir. 1995) ("*Daubert II*"). Critically, the court must "determine the reliability of the opinion, not merely the qualifications of the expert who offers it." *Cristin v. Everglades Correctional Institution*, 310 So.3d 951, 957 (Fla. 3d DCA 2020)(quoting *McClain v. Metabolige Int'l, Inc.*, 401 F3d 1233, 1238 & nn3-4 (11th Cir. 2005)). Where an expert's testimony fails to satisfy all three *Daubert* requirements – as in Fla. Stat. §90.702 – the trial court properly excludes such testimony. *See May v. State*, 326 So.3d 188 (Fla. 1st DCA 2021)(holding that the trial court properly excluded the expert's testimony where the expert did not rely upon sufficient facts, did not use a reliable method and did not apply the method reliably to the facts in the case).

**A. LATENT FINGERPRINT IDENTIFICATION EVIDENCE IS SCIENTIFIC EVIDENCE
AND MUST THEREFORE BE SUBJECT TO THE STRICTURES OF *DAUBERT* AND
FLORIDA STATUTES §90.701 AND §90.702 PRIOR TO ADMISSION**

Florida considers "scientific evidence" to be that which relies upon a scientific principle, theory or discovery – as opposed to evidence based simply upon an expert's personal experience or training. *See Ramirez v. State*, 810 So.2d 836 (Fla. 2001) The primary criterion for determining whether evidence is "scientific evidence" in the legal sense (such that it requires

a *Daubert* foundation) is whether it possesses the potential to influence the trier of fact as a scientific assertion. *See Kemp*, 280 So.3d at 88. In other words, is the factfinder likely to perceive it as science?

Here, the State is seeking to introduce the testimony of Ms. KariAnna Baber and Ms. Rebecca Wolf as experts in the field of forensic latent print examination. In her deposition, Ms. Baber described latent print examination as one of the many fields of forensic sciences, and one for which she has undertaken specialized training and experience. *See* Deposition of Karianna Baber, pp. 5-8. As a purported expert in a specialized field, the jury is likely to view Ms. Baber's and Ms. Wolf's testimony and conclusions as scientific assertions and, therefore, prior to their conclusions being admitted in this trial, the State must show – and this court must conclude – that the theory and methodology utilized by these latent print examiners is scientifically valid.

B. THE ACE-V METHODOLOGY OF LATENT PRINT EXAMINATION EVIDENCE LACKS FOUNDATIONAL VALIDITY

ACE-V refers to the process undertaken by latent print examiners in the field of friction ridge analysis and refers to Analysis, Comparison, Evaluation and Verification.

“A latent print examination using the ACE-V process proceeds as follows: Analysis refers to an initial information gathering phase in which the examiner studies the unknown print to assess the quality and quantity of discriminating detail present. The examiner considers information such as substrate, development method, various levels of ridge detail, and pressure distortions. A separate analysis then occurs with the exemplar print. Comparison is the side-by-side observation of the friction ridge detail in the two prints to determine the agreement or disagreement in the details. In the Evaluation phase, the examiner assesses the agreement or disagreement of the information observed during Analysis and Comparison and forms a conclusion. Verification in some agencies is a review of an examiner's conclusions with knowledge of those conclusions; in other agencies, it is an independent re-examination by a second examiner who does not know the outcome of the first examination.”

National Institute of Standards and Technology (NIST), “Latent Print Examination and Human Factors: Improving the Practice through a Systems Approach,” (2012).⁴.

A seismic shift has occurred in the various forensic disciplines over the past few decades. The advent of sensitive DNA testing has resulted in numerous exonerations, in turn exposing numerous flaws in the criminal system, particularly with areas of forensics that were previously thought to be based upon empirical scientific methods and theories. *See* Sinha, Maneka, *Radically Reimagining Forensic Evidence*, 73 Alabama Law Review 879, 927 (2022); President's Council of

⁴ Available at: www.nist.gov/oles/upload/latent.pdf (last accessed July 23, 2026).

Advisors on Science and Technology, Report to the President, “Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods” (“PCAST Report”), p. 25. American courts face an “unpleasant reality that commonly used forensic techniques can be made to appear admissible by wrapping them in the trappings of science— as laid out by relevant admissibility standards—even when what lies beneath has hardly been established as reliable science.” *Id.* Innocent people have spent thousands of years behind bars in this country because of uncritical and reflexive admission of junk science in criminal cases.

Latent print examination has faced ever-growing scrutiny due to the field’s subjectivity, lack of rigorous error-rate testing and exaggerated claims of absolute uniqueness of an individual’s fingerprint. The crux of many critiques have focused on the inherent lack of objectivity in the examiner’s human interpretation of their work, the fact that there is no statistical starting point regarding a fingerprint’s individuality (in contrast to the method by which DNA analysis is reported), and the examiner’s vulnerability to cognitive bias (especially pronounced when the analyst is given a name and asked for a comparison of that person’s standard prints to a crime scene latent).

More than fifteen years ago, the National Academy of Sciences (“NAS”), funded by the United States Department of Justice, released a watershed report entitled Strengthening Forensic Science in the United States: A Path Forward, which provided the first scientific survey of the foundational validity of many forensic disciplines. Committee on Identifying the Needs of the Forensic Sciences Community, National Research Council, Strengthening Forensic Science in the United States: A Path Forward (Washington, DC: National Academies Press, 2009) (herein after referred to as “NAS Report”).⁵ The foundational theory of friction ridge analysis, or latent print examination, is that a piece of evidence – a pattern left by friction ridges (a latent print) comes from a single unambiguous source. *Id.*, p. 136. Notably, the NAS report found that the methodology used by examiners (ACE-V) specifies neither measurements nor protocols for the examination and that the entirety of the analysis requires subjective assessments. *Id.*, p. 139. This ultimate means that the conclusion of such an examination is not necessarily repeatable from examiner to examiner and a 2006 report showed that experienced examiners did not “necessarily agree with even their own past conclusions when the examination is presented in a different context some time later. *Id.* citing I.E. Dror and D. Charlton, 2006, *Why experts make*

⁵ Available online at <https://www.ojp.gov/pdffiles1/nij/grants/228091.pdf>.

errors, *Journal of Forensic Identification* 56(4):600-616.

Further, in 2016, latent print examination was again addressed at the federal level in a report to the President by his Council of Advisors on Science and Technology, or PCAST.⁶ PCAST was tasked with determining whether additional steps should be taken, “beyond those already taken by the Administration in the aftermath of a highly critical 2009 National Research Council report on the state of the forensic sciences, that could help ensure the validity of forensic evidence used in the Nation’s legal system.”⁷ The report offered recommendations to NIST, the White House, the FBI, the Attorney General, and the judiciary on “actions that could be taken to strengthen forensic science and promote its rigorous use in the courtroom.”⁸

Regarding the ACE-V method of latent print examination, the PCAST report found that the field of latent analysis – in clearly responding to the critiques of the NAS Report – made some progress in modulating subjectivity, noting that the FBI in particular had performed both black-box studies (designed to measure reliability) and white-box studies (focusing on factors affecting examiners’ decision-making). PCAST Report at p. 87-88.

Critical to the instant analysis, PCAST focused on whether the discipline demonstrated both “foundational validity” and “validity as applied.” Foundational validity of ACE-V, a subjective modality, according to PCAST, “can *only* be established through multiple independent black-box studies appropriately designed to assess validity and reliability.” *Id.* at 91 (emphasis in original). Validity as applied requires “that the method has been reliably applied in practice.” *Id.* at 5. As of its publication, the PCAST authors were aware of only two black-box studies on the subject and ultimately concluded that “latent fingerprint analysis is a foundationally valid subjective methodology” based on two recent studies, but emphasized that such evidence in court had to be “accompanied by accurate information about limitations on the reliability of the conclusion.” *Id.*, at 101; quoted by *McCrory v. Alabama*, 144 S.Ct. 2483, 2484 (Mem)(2024).

⁶ President’s Council of Advisors on Science and Technology, Report to the President, “Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods” (“PCAST Report”), located at https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/PCAST/pcast_forensic_science_report_final.pdf (last accessed July 13, 2026).

⁷ The White House Blog, “PCAST Releases Report on Forensic Science in Criminal Courts,” located at <https://obamawhitehouse.archives.gov/blog/2016/09/20/pcast-releases-report-forensic-science-criminal-courts> (last accessed July 13, 2026).

⁸ PCAST Report, located at <https://obamawhitehouse.archives.gov/blog/2016/09/20/pcast-releases-report-forensic-science-criminal-courts> (last accessed July 13, 2026).

C. COURTS HAVE EXCLUDED LATENT PRINT EXAMINATION EVIDENCE AS UNRELIABLE UNDER *DAUBERT*

Several courts throughout the United States (and territories) have excluded latent print examination or examiners from introduction in criminal trials for failing to meet the stringent *Daubert* admissibility requirements for scientific evidence.

In 2001, in *Government of the Virgin Islands v. Jacobs*, No. CRIM. 2001-65, 2001 WL 1735083 (D.V.I. Dec. 28, 2001), in a burglary prosecution in the Territorial Court of the Virgin Islands, the trial court excluded the latent print examination testimony on two separate grounds. First, the court found that the government failed to meet its burden under *Daubert* of establishing that the expert used a reliable methodology. The government's expert disclosure stated only that the latent impression was compared with the known fingerprint of the defendant and that the result was positive — providing no information whatsoever about how the comparison was made, at what level of ridge detail, or the quality and clarity of the impressions. The trial court found it could not assess reliability without this basic information. Second, the court excluded the testimony as a discovery sanction under Rule 16(d)(2) for the government's failure to provide required expert disclosures despite repeated requests and court orders. *Gov't of the Virgin Islands v. Jacobs*, No. CRIM. 2001-65, 2001 WL 1735083 (D.V.I. Dec. 28, 2001). On appeal, the District Court of the Virgin Islands (Appellate Division) affirmed, holding that the court below was virtually compelled to reject the fingerprint identification opinion as unreliable under *Daubert* and *Kumho Tire* given the government's complete failure to establish that its expert used any identifiable methodology. *Gov't of the Virgin Islands v. Jacobs*, No. CRIM. 2001-65, 2001 WL 1735083 (D.V.I. Dec. 28, 2001). The appellate court emphasized that as the proponent of expert testimony, the government bears the burden of establishing by a preponderance of the evidence that the expert's methods were reliable, and that burden was not met.

The following year, in *United States v. Llera Plaza*, 179 F. Supp. 2d 492 (E.D. Pa. Jan. 7, 2002), a federal drug conspiracy and murder prosecution in the Eastern District of Pennsylvania, the court conducted an exhaustive *Daubert* hearing and ultimately issued an opinion partially excluding fingerprint identification testimony. In applying the four *Daubert* factors, the court found that ACE-V failed the first three when evaluated as a *scientific* technique. That court found as follows:

- *Testing (Factor 1)*: The court found that ACE-V had not been adequately tested. The government argued that the "verification" phase of ACE-V constituted *Daubert* testing,

and alternatively that a century of litigation served as a form of adversarial testing. The trial court rejected both prosecution arguments, concluding that neither constituted the kind of empirical, controlled scientific testing that *Daubert* contemplates.

- *Peer Review (Factor 2)*: The court found that ACE-V did not adequately satisfy the peer review criterion. The fingerprint examiner community's internal publications and practices did not constitute the kind of independent scientific peer review that *Daubert* requires.
- *Error Rate and Standards (Factor 3)*: The court found the record unpersuasive as to ACE-V's scientific rate of error, and found that at the critical evaluation stage, ACE-V did not operate under uniformly accepted standards. Specifically, the court noted that the minimum number of Galton points required before a match could be declared varied dramatically by jurisdiction — the United Kingdom required sixteen points, Australia twelve, and Canada had no minimum standard.
- *General Acceptance (Factor 4)*: This was the one factor ACE-V clearly satisfied — it was generally accepted within the American fingerprint examiner community.

More recently, in *United States v. Cloud*, 576 F. Supp. 3d 827 (E.D. Wash. 2021), the Eastern District of Washington excluded the government's specific fingerprint examiner but found the ACE-V methodology itself reliable under *Daubert*. That court analyzed ACE-V and found the methodology sufficiently reliable overall. However, the court did note concerns regarding both the testability and standards prongs of *Daubert*, noting that ACE-V struggled with replicability due to the subjective nature of the examiner's choices of comparison areas and personal assessment of sufficiency and that the methodologies overarching subjectivity prevented the uninitiated from fully understanding how examiners reached conclusions, which weighed against admissibility. Despite finding ACE-V — as a concept reliable — the court excluded Forensic Examiner Watts specifically because she had failed her annual proficiency test in Fall 2020 (falsely excluding a latent print as a match), was removed from casework for approximately a month and a half and required significant supervisor assistance on her second proficiency exam. The court stated it could not in good conscience qualify her as an expert given these recent failures. *United States v. Cloud*, 576 F. Supp. 3d 827 (E.D. Wash. 2021). The government was permitted to proffer a qualified replacement examiner. The court also imposed a requirement that if the replacement examiner testified to an identification, the jury would be informed of the false positive rates from the two black-box studies. *Id.*

II. Testimony By Examiners KariAnna Baber and Rebecca Monclova Wolf Regarding the Latent Print Examination Evidence at Issue Should be Excluded for Their Failure to Meet Reliability Requirements

At issue in the instant cause is whether Ms. Baber and Ms. Wolf should be permitted to offer opinions on the identification of certain fingerprint evidence. Such testimony should be prohibited for the simple failure of both examiners to adequately demonstrate that they meet the standards required under *Daubert* for admissibility.

An expert's opinion is inadmissible where it is apparent that such testimony is based on insufficient data. *Dempsey v. Shell Oil Co.*, 589 So.2d 373, 380 (Fla. 4th DCA 1991). *See also Centex–Rooney Constr. Co., Inc. v. Martin County*, 706 So.2d 20 (Fla. 4th DCA 1997). This principle arises from Fla. Stat. §90.705(2), which states in part: “If the party establishes prima facie evidence that the expert does not have a sufficient basis for the opinion, the opinions and inferences of the expert are inadmissible unless the party offering the testimony establishes the underlying facts or data.” Where a party seeks to introduce otherwise inadmissible evidence before a jury by using an expert's testimony as a conduit for that evidence, the trial court is correct to exclude its admission. *Doctors Co. v. State, Dept. of Ins.*, 940 So.2d 466, 470 (Fla. 1st DCA 2006). “An expert's opinion testimony is inadmissible if it is grounded on speculation, conjecture, or incorrect assumptions.” *Id.* (citing *All Am. Pool Surface, Inc. v. Jordan*, 870 So.2d 885, 886 (Fla. 3d DCA 2004)). Expert opinion testimony will not be admissible unless such testimony is applicable to the evidence in the trial. *Riggins v. Mariner Boat Works, Inc.*, 545 So.2d 430, 432 (Fla. 2d DCA 1989). Further, Florida courts have held that it is only inadvertent or unavoidable consumption of testing material that does not trigger a constitutional violation. *Gordon v. State*, 863 So.2d 1215, 1220 (Fla. 2003) *citing State v. T.L.W.*, 457 So.2d 566 (Fla. 2d DCA 1984).

The analysis done by Ms. Baber and Ms. Wolf stand in stark contrast to that contemplated by the law in this State. The theory rests upon subjective principles and practices which have not been borne out in the empirical studies required for a scientific discipline as discussed at length above. And the inability to now check the examiners' work in AFIS renders the examinations unreliable and unrepeatable contrary to scientific precepts. *Contra Hooks v. State*, 956 So.2d 215 (Fla. 4th DCA 2007)(the unavoidable consumption of evidence during DNA testing – when done in good faith – does not violate due process). More specifically, work was either not retained or destroyed: the AFIS data which underpins the initial identification process was not kept, and Ms. Baber proffered that Ms. Wolf – at the time of this case – was not in the practice of retaining her verification work rendering it impossible for the examinations to be replicated or repeated or tested in any meaningful way.

III. THE LATENT PRINT EXAMINATION EVIDENCE WOULD CONFUSE AND MISLEAD THE JURY AND SHOULD BE EXCLUDED UNDER FLORIDA STATUTE §90.403

A trial results in a “binding legal judgment—often of great consequence—about a particular set of events in the past.” *Daubert*, 509 U.S. at 597. The rules of evidence apply with equal force to questions of admissibility in criminal cases, where the consequence at stake is a wrongful conviction and attendant sentence.⁹ Although “[vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but admissible evidence,” *id.* at 596, sometimes, clear effective presentation to the jury will be impossible.

In addition to the requirements specific to expert testimony, a court must also serve as gatekeeper of relevant evidence. For evidence to be admissible, it must be relevant. Fla. Stat. §90.402. Evidence is relevant if it tends to make any fact of consequences any more or less likely than without such evidence. Fla. Stat. §90.401. Even if relevant, the court should exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. Fla. Stat. §90.403. Courts have determined that firearm and toolmarks examination evidence are inadmissible on this basis.

The overarching concern is that latent print examination evidence is presented to jurors as relevant and probative of whether a particular latent fingerprint left at a crime scene can be “matched” to a particular individual. In the abstract, such evidence could provide a link connecting Cornelius Whitfield to a first-degree homicide and attempted homicide (and ultimately to three first-degree homicides and an attempted homicide). However, when presented as scientific evidence, the ACE-V evidence – which is entirely subjective by its nature and by its practice at the St. Petersburg Police Department – impairs, rather than helps, the truth finding process because it presents as scientific a conclusion that, in reality, is a subjective judgment of the examiner based only on the examiner’s training and experience and not on any objective standards of criteria. *See* above critiques from the NAS and PCAST Reports. Thus, when latent print examination evidence is presented to jurors cloaked with the aura of reliability of science – even though it is not actually derived from science – it creates a danger of unfair prejudice and misleading the jury.

⁹ For a survey of jurisprudential trends in the denial of criminal defendants’ post-*Daubert* challenges to prosecution evidence, *see* Risinger, *Navigating Expert Reliability: Are Criminal Standards of Certainty Being Left on the Dock?* 64 Albany L Rev 99, 125-28 (2000).

Even if this court finds that Ms. Baber and Ms. Wolf might somehow meet the strictures of *Daubert* under Fla. Stat. §90.702, an expert witness' testimony – just like all other evidence – remains subject to the requirements of §§90.401 and 90.402 and is always subject to the balancing test set forth in §90.403. *Ramirez v. State*, 810 So. 2d 836 (Fla. 2001). While all relevant evidence is admissible except as provided by law, relevant evidence should be excluded if it is unreliable under the balancing test in §90.403, or the probative value of such evidence is substantially outweighed by the danger of unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence. §90.403, Fla. Stat. (2022).

Here, there is a concern that the inherent bolstering of evidence that is accompanied by the tag of 'expert testimony' would permit opinions to be laid before the jury that would serve to unfairly prejudice Mr. Whitfield. There are significant problems with the collection and collation of data in this case owing to the examiners' failures in the best practices of record keeping (i.e. AFIS search criteria, AFIS search returns, retention of AFIS images, retention of verification work, any benchnotes whatsoever, etc.). In specific, Mr. Whitfield is charged with first degree premeditated homicide, attempted first degree homicide and armed robbery in the instant case – all three of these charges carry life imprisonment minimum mandatories¹⁰, and the State has indicated that any qualifying conviction will be used as an aggravating factor at his death penalty trial for which Mr. Whitfield faces the death penalty three times over regarding the three first degree homicides with which he is charged. The consequences of admitting impermissible testimony could not be more grave for Mr. Whitfield. This underpins the danger of permitting Ms. Baber and Ms. Wolf to testify as to conclusions about "matches" or "identifications" between evidence discovered in the course of the investigation and the standard fingerprints of Mr. Whitfield. Such testimony would undoubtedly mislead the jury as to their role, which is to determine whether the State proved beyond a reasonable doubt that Mr. Whitfield is guilty solely of the crimes charged in Case No. 21-01099-CF without the improper influence of the impression that these latent print examiners' supposed expertise brings.

WHEREFORE, the defendant, Mr. Cornelius Whitfield, hereby requests that this honourable court GRANT his Motion to Exclude Latent Print Examination Evidence and to enter an Order to that effect.

¹⁰ The life imprisonment minimum mandatory applies to Mr. Whitfield because of career criminal enhancements as under Fla. Stat. §775.082.

NOTICE OF HEARING

YOU ARE NOTIFIED that the above will be heard before the Honorable Phillip Federico, County Justice Center, 14250 49th Street North, Clearwater, Fl 33762, on _____, 2026, at **8.30am**.

I do certify that a copy hereof has been furnished by email/physical delivery to Thomas Koskinas, Theodora Taktikos-Danzig and Anthony Bradlow, Assistant State Attorneys at the Office of the State Attorney, County Justice Center, Clearwater, Florida, on July 24, 2026.

Julia Seifer-Smith

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