

Lake Waco murders to return to court after decades

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A decades-old crime known as the Lake Waco triple murders will soon be back in the court system.

Local attorney Walter M. Reaves Jr. said he will file a motion this week asking a Waco judge to order DNA testing on evidence from the 1982 case. Reaves' aim is to exonerate the last living defendant, Anthony Melendez.

Melendez, now age 52, was sentenced to two life prison terms after he pleaded guilty to participating in the murder of three teenage victims. He has since recanted, saying he falsely confessed because his attorneys told him he would almost certainly get the death penalty if he went to trial.

Reaves and his partner in the exoneration effort, author Fredric Dannen, had pursued DNA testing in the case on their own, using a private California laboratory. But the testing is mired in a dispute involving that lab.

Reaves said the motion, if granted, will give the exoneration effort access to court procedures that could help move the testing forward. The motion does not ask the state to pay for or perform the testing.

The issue at the heart of the testing dispute is the lab's contention that biological samples it extracted from the evidence and other key elements of testing are its work product.

Based on that, the lab is refusing to cooperate with a request from Dannen and Reaves that the testing be transferred to another lab that might be able to get better results using a different testing method.

The disagreement has delayed the testing for several years.

"The one thing (Melendez) has going for him in this is that, as the clock continues to tick, the science has become more exacting," Dannen said.

The primary prosecutor in the case, Vic Feazell, and the main investigator, Truman Simons, maintain the testing is a waste of time. They are confident the right men were convicted, as are the majority of the victims' family members.

Feazell and Simons also take issue with the validity of test results on the old

evidence. They note it was stored in an area that was not air-conditioned and contend the chain of custody has not been adequately preserved.

But Reaves and Dannen are confident DNA testing will prove the case was flawed.

Previously, they were reticent about their work. This spring, after the lab dispute became public, Reaves would only confirm a pair of shoelaces used to tie up one of the victims had been submitted for DNA testing.

But the Tribune-Herald subsequently used Texas' public information law to obtain more than 200 pages of records, which show the DNA testing is much greater in scope than previously known. That prompted the men to further discuss their work.

Besides the shoestrings, beer cans found at the crime scene, material from under one victim's fingernails and hairs found on the victim's bodies have undergone DNA testing, according to documents from the Tarrant County Medical Examiner's Office. The office has acted as a clearinghouse for the testing.

In addition, Dannen has obtained DNA samples from several alternate suspects.

All told, about \$30,000 was spent on forensic testing and other investigative activities since the effort began in 1999. But results are scant.

Some of the testing yielded no results at all. Other tests yielded promising biological material.

But because of the lab dispute, the testing has not gotten to the stage of ruling out or identifying perpetrators.

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Dannen, who has written extensively about organized crime, became involved in the case in the late 1990s as he researched capital punishment. David Wayne Spence, one of the defendants in the triple murders, was executed in 1997.

As part of his work, Dannen delved into the 1986 rape and murder of Spence's mother, Juanita White. The case caught his eye because the types of evidence used were similar to those in the lake murders.

Dannen became convinced the wrong men were convicted in the White case and

teamed up with Reaves to free Calvin Washington, who was serving a life prison sentence for the crime. DNA testing paid for by Dannen exonerated Washington, and he was released from prison in July 2001.

That shifted Dannen's focus, including that of his book, from Spence and the issue of capital punishment to Melendez, he said. Reaves agreed to represent Melendez pro bono.

Dannen obtained evidence in the triple-murder case from Fort Worth attorney David Chapman, who had been a special prosecutor in the 1993 retrial of one of the defendants, Muneer Deeb. Chapman took possession of the evidence after the retrial because Tarrant County didn't have enough space to store it.

Chapman handed over the evidence even though he thinks Deeb and the other defendants were guilty. His job as a prosecutor is to seek the truth, he explained.

'Judgment calls'

"So much of the law is about judgment calls," said Chapman, who is 64 years old and practicing law in Karnes City in south Texas. "I thought about this a long time and made the judgment call that it was the right thing to do in these circumstances."

In September 1999, Chapman gave the evidence to a Tarrant County lab employee as Dannen documented the exchange with photographs.

"It may have changed hands a lot," Dannen said of the evidence. "But we can prove it was never in the hands of anyone interested in trying to influence the outcome of the testing."

Testing done by the Tarrant County lab about a decade ago on two beer cans found at the crime scene yielded no useful results.

Similarly, mitochondrial DNA analysis done by a Pennsylvania lab on hairs found on the bodies did not offer anything fruitful. Because mitochondrial analysis is expensive, only 10 percent of the 77 hairs in evidence could be tested.

Everything else Dannen hoped to DNA test was sent to a Richmond, Calif., lab. It is headed by Edward Blake, whose DNA work has led to a number of exonerations. At the time, Blake was a national leader in post-conviction DNA testing.

Dannen was eager for the lab to test terry cloth strips and shoelaces used to tie

up the victims because a perpetrator would have touched them. Testing on the terry cloth strips did indeed yield a “tremendous amount of biology,” he said.

But because the strips were soaked in the victims’ blood, trying to isolate a perpetrator profile was too difficult, at least with the testing methods available at the time, Dannen said. If the samples could be re-tested with more advanced methods, he said he is optimistic useful results could be obtained.

Similarly, Blake’s lab tried to extract a sample from the shoelaces but was unable because of the amount of dirt on them, Dannen said. He is confident another lab, using a test Blake’s lab doesn’t perform, could get a usable extract.

“In effect, those shoelaces have never been tested,” Dannen said.

After that series of disappointments, Dannen and Reaves met in 2008 with a scientist from Blake’s lab and decided to pursue Y-STR testing on the shoelaces. That testing method zeroes in on male DNA by examining the Y chromosome.

Funding for tests

Dannen received \$4,500 for the test from an innocence project at the University of Texas School of Law in Austin. For the previous testing, about half of the money came out of Dannen’s pocket, he said. The rest came from a few other sources, including the national Innocence Project and the NAACP Legal Defense and Educational Fund.

Shortly after the UT money was sent to Blake’s lab in April 2009, an attorney involved with the UT project proposed moving the testing to another lab. Blake’s lab is not accredited by any professional organization, and the attorney thought the exoneration effort would be helped by using a lab that is.

The lab declined to send the shoelaces elsewhere based on the work product claim.

“All they’ve done is moved the biology from the physical evidence itself into the test tube,” Dannen said. “How do you make the argument that’s their property?”

But the lab persisted, so Dannen asked it to stop work on the case. That also halted work on fingernail clippings from victim Jill Montgomery, Dannen said.

The lab had previously determined male DNA was present underneath Montgomery’s fingernails, Dannen said. Because she had defensive wounds, it’s reasonable to assume the material is from a perpetrator, he said.

But the work was only partially complete. It has not been compared to any known samples, such as those from Melendez or other defendants, Dannen said.

Blake has recently returned most of the evidence to the Tarrant County lab. But he has retained key pieces, including extracts, Reaves said.

Tarrant County lab personnel reviewed the evidence, with the hope some of it could still yield usable samples.

“Their opinion is he’s kept all the stuff we could do anything with,” Reaves said.

Reaves said he has not ruled out the possibility of filing a civil suit against Blake’s lab, but that would likely drag out the matter further.

Blake declined to comment for this story.

Jill Spriggs, president-elect of the American Society of Crime Laboratory Directors, said the work product argument is indefensible and she has never heard any DNA scientist make such a claim.

“The evidence holds the truth,” said Spriggs, who is chief of the Bureau of Forensic Services at the California Department of Justice. “Why would you want to hold something back that could possibly give you the truth?”

John Collins, the society’s executive director, agreed.

“It’s the property of the criminal justice system and we should do what we have to do to allow the evidence to speak,” said Collins, who is director of the forensic science division of the Michigan State Police.

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Dannen and Reaves hope the testing will not only exclude the men convicted in the crime but also identify the perpetrators.

The file from the Tarrant County lab indicates Dannen obtained DNA samples from Terry “Tab” Harper, an early suspect in the case, and three other men mentioned in police reports.

Harper’s sample came from blood drawn as part of his autopsy. The other samples are from people who are alive.

Dannen refused to discuss the samples from the other men besides Harper. But he did say he thinks three people participated in the crime, and he has biological samples from all three.

Simons, the investigator, said people shouldn't put any stock in Dannen's theories.

"Mr. Dannen is full of crap," said Simons, who now works as a private investigator.

Victim Jill Montgomery's mother, Nancy Wiser, also remains convinced the right people were prosecuted. She said there was more than enough evidence to prove the defendants' guilt, she said.

"Until somebody can show me something definitive that's different, I still think the jury got it right," Wiser said.

No matter what DNA testing shows, Dannen said he will make the results public.

"All interested parties in this should be sitting back, saying 'Bring it on,' " he said.

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Case summary of the Lake Waco murders

A 1982 crime commonly known as the Lake Waco triple murders shook the community and grabbed national attention.

The three victims were high school students. Jill Montgomery and Raylene Rice, both 17, lived in Waxahachie. Kenneth Franks, 18, was from Waco.

Montgomery and Franks had attended the Methodist Children's Home together. Rice, a friend of Montgomery, drove her to Waco the day of the murders so she could collect her last paycheck and school records.

The teens were stabbed a total of 47 times. The girls were sexually assaulted and left nude. Their bodies were found at Lake Waco's Speegleville Park.

Authorities said the murders were the result of a botched murder-for-hire

scheme.

They thought the co-owner of a local convenience store, Muneer Deeb, paid to have a teen named Gayle Kelley killed in order to collect on a life insurance policy for which he was the beneficiary.

Kelley also lived at the Methodist home, located near Deeb's store, and had planned to start working there.

But officials thought the person Deeb hired to carry out the job, David Wayne Spence, bungled it. Spence mistook Montgomery for Kelley while driving around the lake's Koehne Park. Rice and Franks were killed because they were in the wrong place at the wrong time, authorities contended.

Helping Spence carry out the murders were brothers Anthony and Gilbert Melendez, officials said.

Spence received two death sentences and was executed in 1997.

Deeb was also sentenced to death. But he was acquitted and released from death row after a retrial in 1993. He died six years later from cancer.

The Melendez brothers pleaded guilty and each got two life prison terms. Gilbert Melendez died in prison in 1998 of complications from HIV.

That leaves Anthony Melendez, now 52, as the only living defendant.

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