

IN THE
MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,)	
)	
Respondent,)	
)	
vs.)	No. WD84656
)	
JAMES ADDIE,)	
)	
Appellant.)	

APPEAL TO THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT
FROM THE CIRCUIT COURT OF COLE COUNTY, MISSOURI
NINETEENTH JUDICIAL CIRCUIT, DIVISION ONE
THE HONORABLE JON E. BEETEM, JUDGE

APPELLANT’S BRIEF

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JURISDICTIONAL STATEMENT

Appellant, James Addie, was convicted following a jury trial in the Circuit Court of Cole County, of murder in the first degree, Section 565.020, and armed criminal action, Section 571.015. RSMo 2016. The Honorable Jon E. Beetem sentenced appellant to life without the possibility of parole and a consecutive term of ten years imprisonment.

STATEMENT OF FACTS

One night in April, 2018, Glen McSparren was driving with his daughter on a gravel road in rural Monroe County (Tr. 355-356). He came to a low water crossing where two cars were stopped (Tr. 379-380). According to McSparren, that location is a popular hangout, but quite remote (Tr. 384-385).

One of the cars, a “bigger, four-door, dark-colored grandma car,” drove toward McSparren, and McSparren asked if someone was stuck (Tr. 380-381, 383). An older white male got out and told McSparren, “I don’t know where they are at, it is going to be awhile” (Tr. 381-382). McSparren backed out of the gravel road, and took the main highway to his destination (Tr. 382).

McSparren decided to return on the gravel road to “check on things” (Tr. 382-383). When he got to the low water crossing, only the one car remained – not the “grandma car” (Tr. 383). McSparren saw a body lying in front of the car in his headlights (Tr. 378). He called 911 and waited for the police (Tr. 378, 383).

The sheriff of Monroe County responded with other authorities, including Highway Patrol officers (Tr. 353-358). The woman was identified through documents in her car and in her purse as Molly Watson (Tr. 415-417). She had died of a single tight contact gunshot wound to the head (Tr. 786).

In Molly’s car were items related to an upcoming wedding, as well as a marriage license in the names of Molly Watson and James Addie (Tr. 415-416). Sheriff Colston did an internet search and found Molly’s and James’ wedding registry and other information that allowed them to locate James (Tr. 372). Sheriff Colston went with a group of officers to make a death notification to James at his home in Mexico, Missouri (Tr. 372-374).

Another officer, investigator Linneman, went to Molly’s parents’ home to notify them and get a positive identification of Molly (Tr. 475). He looked for Molly’s phone because it had not been located at the scene (Tr. 476). Ultimately, Linneman had the cellular company “ping” the phone and it was located several miles from her body (Tr. 476-479).

Highway Patrol investigator Nathan Shinkle took a tire casting at the scene of a “good high quality” impression of a tire from another car using plaster and water (Tr. 389-391).

A sheriff’s deputy found a white shirt lying in a different road, but near the scene, and collected that (Tr. 426-429). There was blood on the shirt; a later DNA analysis showed it to be Molly’s blood (Tr. 440-445). An empty .22 caliber ammunition box was found along the road (Tr. 481-483). No shell casings were found at the scene (Tr. 504).

At Molly’s home, investigators found other wedding preparations – seating charts, wedding attire and jewelry, and plans for a Cancun vacation with the departure date in early May (Tr. 484-492). A photo album contained photos of Molly and James on an earlier Disney vacation (Tr. 493-496). Her home also contained pictures of James and greeting cards from him with messages such as “you are the love of my life” (Tr. 498-501).

The officers who went to James’ home to notify him of Molly’s death were invited into the house by James (Tr. 584-585). They were introduced to James’ wife, Melanie Addie (Tr. 585, 625). They sat down, and James told the officers that he and Molly worked together at Moberly Correctional Center (Tr. 586). They had been in a relationship for seven years, and were due to be married on April 29 (Tr. 586). James had been married to his current wife for 22 years – she was not aware of the affair (Tr. 586-587). When asked how he planned to marry Molly, James said “I got myself involved in something I shouldn’t have” (Tr. 586).

James told the officers that the wedding planning had been going on a little over a year (Tr. 587). He communicated with Molly using a second cell phone that his wife did not know about (Tr. 587). The officers took custody of that phone as well as James’ primary phone (Tr. 588-591). James said that he had gone to visit a friend that evening, but the friend, Jamie Lunsford, was not home (Tr. 592). He left about 7:00 p.m. and returned home around 8:25; he was driving

his maroon Mercury (Tr. 592-593). He gave consent for the officers to look at the Mercury (Tr. 595).

The Mercury was in the garage – it had the hood up and had a large amount of dust inside and out (Tr. 599-601). The officers took pictures of the car, as well as the tire tread, and tested the inside of the car for gunshot residue (Tr. 595, 604).¹ In a later search of James’ house, officers seized a gun, ammunition, a photo album containing a picture of James and Molly, and a white t-shirt that matched the one found at the scene (Tr. 625). Melanie Addie later turned over a third matching t-shirt to the officers (Tr. 625).

James was taken into custody that night (Tr. 637). He was charged with murder in the first degree and armed criminal action (D2). Venue was changed to Cole County (D1P6). Defense counsel filed a motion in limine to exclude evidence of tire track evidence pursuant to Section 490.065, arguing that it was not a proper subject for expert testimony (D8). A hearing was held on that motion (Tr. 57).

James Crafton testified at the pretrial hearing that he is a criminalist for the Missouri State Highway Patrol Laboratory in the firearm and tool mark section (Tr. 58). He has a subspecialty in “impression” – he said that he could examine tires and footwear to determine if a particular impression was made by a particular tire or footwear (Tr. 61). He testified that in his opinion, impression examination is a science because it has been tested through the scientific method, peer reviewed, and shown to be reliable and repeatable (Tr. 61-62).

When Crafton examines an impression, he examines class characteristics – general features from the manufacturer, subclass characteristics – such as an air bubble trapped in the making of a sole of a shoe, and individual characteristics –

¹ One particle of gunshot residue was found in the car (Tr. 769-770). The white t-shirt from the scene also had gunshot residue on it (Tr. 770).

wear and tear, abrasions, or other similar patterns (Tr. 62-63). He makes an identification and then an elimination (Tr. 64). The conclusion can be inconclusive or unsuitable (Tr. 64-66). The methods are considered to be reasonably reliable in the scientific community (Tr. 69). His lab is accredited (Tr. 75).

Crafton testified that a research study showed a false positive rate of .49 percent and a false negative rate of 15.6 percent as to footwear impressions, but there is no similar study for tire impressions (Tr. 70-71, 83). Crafton has examined 30-50 tires and made two or three identifications (Tr. 75). He takes an annual proficiency test; when he completed his training, he earned 100 percent on both a competency test and a proficiency test (Tr. 74-75). Crafton testified that he had matched a tire to a tire impression in this case and another examiner verified it (Tr. 78-81).

At the end of the hearing, the trial court found that the witness and the opinion met the standards of Section 490.065.2, and Crafton would be allowed to testify (Tr. 98). The case went to trial on April 23, 2021, before a jury and the Honorable Jon E. Beetem (Tr. 116).

At the trial, the Randolph County Recorder testified that Molly had come into his office two days before the homicide to apply for a marriage license (Tr. 508-510). James joined her there, and the recorder issued the marriage license (Tr. 511, 524). On the application, both James and Molly listed that they were divorced (Tr. 523).

An event planner testified that she met with Molly in January before the April wedding date (Tr. 533-534). The date of the wedding was to be April 29 (Tr. 560). A week before the wedding, they would have had a final meeting, but the event planner conveyed that she and Molly were having trouble getting that scheduled (Tr. 539-540). Molly told the event planner that James was not able to show up because his ex-wife had died that weekend, and also that James had not yet called his guests to verify numbers (Tr. 563-565). James dropped off

decorations and made a \$4000 payment to the event planner on April 27 – the event planner asked him if he was excited about the wedding, and he said she was “driving him crazy” (Tr. 572-573). The planner testified that the last time she met with Molly and James, they were touching hands (Tr. 575).

In April 2018, Emma Addie was seventeen years old – James and Melanie Addie were her parents (Tr. 643). Emma testified that on the evening of April 27, her father said he was going to meet a friend and left the house (Tr. 646). Her mother went to bed a couple of hours later, and Emma was still up doing homework when her father got home around 10:00 p.m. (Tr. 646). According to Emma, he normally only parked his car in the garage in the winter or if he was working on it, and only parked it with the hood up if he was working on it (Tr. 647).

Emma said she was watching the clock that night because her homework had an online deadline (Tr. 648). When her father came in, he asked Emma why she was still up, and she said she was turning in homework (Tr. 649). Emma later heard him running the washing machine and taking a bath or shower; neither were unusual (Tr. 649, 657-658).

Emma testified that the white t-shirt was one she had printed for her graphic design class – she printed three or four, and her father took one to the garage to use as a rag because the alignment was flawed (Tr. 651-653).

Melanie Addie married James in 1995; they had divorced by the time of James’ trial (Tr. 660-661). At the time of the incident, they had no plans to divorce (Tr. 662). Melanie went to work that day and then met James for supper in town (Tr. 662-663). She went home and James was there, as they had been in separate cars (Tr. 663-664). Neither Melanie nor Emma went out again that evening, but James went back out around 7:00, saying that he was going to a friend’s house (Tr. 664-665). Melanie went to sleep about 7:30 on the couch, and was awakened by the police coming to the house at 2:30 a.m. (Tr. 667-668).

Melanie testified that she knew about trips James took to Florida and to Mexico, but she thought they were for work, not trips with Molly (Tr. 672-674). She later found boxes of items belonging to Molly in her garage, as well as a photo album containing pictures of Molly (Tr. 671-672).

James Luntsford was the friend who James said he was visiting that night (Tr. 592). He testified that they were coworkers who talked about gardening (Tr. 688). He said they did not have plans to meet that night, although at one time, they had discussed James' coming to pick up an avocado tree (Tr. 689, 691). He did not see James or hear from him, as he was out at a restaurant (Tr. 690-691).

Two informant witnesses testified against James (Tr. 693, 703). Richard Painter said that he was in jail with James, and when he and another inmate were wondering why James had a \$500,000 bond, James told them, "I put someone face down in a ditch" (Tr. 693-695). However, Painter admitted that in his statement to law enforcement, he said he was not sure what he heard because the showers and television were really loud (Tr. 698-699). Bryce Hendren, the other informant witness, said that he heard the same thing, and that he and Painter had discussed what they heard (Tr. 704, 707).

Patrick Sublette was a computer and phone forensics examiner with the Highway Patrol (Tr. 717-718). He examined James' two phones and Molly's phone (Tr. 719). James' phone that he used for Molly had only her contact information saved (Tr. 723-729). The two phones communicated by texts and phone calls several times a day (Tr. 736-738). Molly's iPhone had an application called DriveSense that charted her path on the evening of April 27 (Tr. 738-741). Her phone also showed searches on April 26 for obituary notices for Melanie Shepherd and Melanie Addie in Paris, Mexico, and Columbia (Tr. 745).

There was a phone call from Molly to James on the night of April 27 at 8:30 which lasted twenty-two minutes (Tr. 748). From 9:30 to 11:00, James texted Molly several times but she did not respond (Tr. 750-751). He also called her phone four times (Tr. 751-752).

James Crafton, the firearm and tool mark examiner who testified pretrial, testified that his conclusion was that the tire mark at the scene was the rear passenger tire from James' car (Tr. 818, 822).

The jury found James guilty of murder in the first degree and armed criminal action (Tr. 894, D23, D24). After a penalty phase, they recommended twenty years imprisonment for armed criminal action (Tr. 909, D24). On July 12, 2021, the Honorable Jon E. Beetem sentenced James to life without the possibility of parole and a consecutive term of ten years in prison (Tr. 915, 920, D28). Notice of appeal was filed July 13, 2021 (D30).

POINT RELIED ON

The trial court abused its discretion in overruling defense counsel’s objections to the testimony of James Crafton, following a motion to exclude his testimony, because admission of the testimony violated Section 490.065 and James Addie’s rights to due process, guaranteed by the Fourteenth Amendment to the United States Constitution, and Article I, Section 10 of the Missouri Constitution, in that Crafton’s expert testimony was not shown to be the product of reliable principles and methods.

Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993);

State Board of Registration for the Healing Arts v. McDonagh,

123 S.W.3d 146, (Mo. banc 2004);

Fourteenth Amendment to the United States Constitution;

Article I, Section 10 of the Missouri Constitution; and

Section 490.065.

ARGUMENT

The trial court abused its discretion in overruling defense counsel’s objections to the testimony of James Crafton, following a motion to exclude his testimony, because admission of the testimony violated Section 490.065 and James Addie’s rights to due process, guaranteed by the Fourteenth Amendment to the United States Constitution, and Article I, Section 10 of the Missouri Constitution, in that Crafton’s expert testimony was not shown to be the product of reliable principles and methods.

Standard of review

A trial court’s decision to admit expert testimony is reviewed for an abuse of discretion. *M.S. v. Yeargin*, 11 S.W.3d 604, 618 (Mo. App., E.D. 1999) An appellate court will reverse the trial court’s ruling if it is so arbitrary and unreasonable that it shocks the sense of justice and indicates a lack of careful consideration. *Id.*

Facts

Defense counsel filed a motion in limine to exclude evidence of tire track evidence pursuant to Section 490.065, arguing that it was not a proper subject for expert testimony (D8). A hearing was held on that motion (Tr. 57).

James Crafton testified at the pretrial hearing that he is a criminalist for the Missouri State Highway Patrol Laboratory in the firearm and tool mark section (Tr. 58). He has a subspecialty in “impression” – he said that he could examine tires and footwear to determine if a particular impression was made by a particular tire or footwear (Tr. 61). He testified that in his opinion, impression examination is a science because it has been tested through the scientific method, peer reviewed, and shown to be reliable and repeatable (Tr. 61-62).

When Crafton examines an impression, he examines class characteristics – general features from the manufacturer, subclass characteristics – such as an air

bubble trapped in the making of a sole of a shoe, and individual characteristics – wear and tear, abrasions, or other similar patterns (Tr. 62-63). He makes an identification and then an elimination (Tr. 64). The conclusion can be inconclusive or unsuitable (Tr. 64-66). The methods are considered to be reasonably reliable in the scientific community (Tr. 69). His lab is accredited (Tr. 75).

Crafton testified that a research study showed a false positive rate of .49 percent and a false negative rate of 15.6 percent as to footwear impressions, but there is no similar study for tire impressions (Tr. 70-71, 83). Crafton has examined 30-50 tires and made two or three identifications (Tr. 75). He takes an annual proficiency test; when he completed his training, he earned 100 percent on both a competency test and a proficiency test (Tr. 74-75). Crafton testified that he had matched a tire to a tire impression in this case and another examiner verified it (Tr. 78-81).

At the end of the hearing, the trial court found that the witness and the opinion met the standards of Section 490.065.2, and Crafton would be allowed to testify (Tr. 98). At trial, Crafton testified that his conclusion was that the tire mark at the scene was the rear passenger tire from James' car (Tr. 818, 822).

Analysis

Section 490.065 provides that in criminal cases, a witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if: (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data, (c) the testimony is the product of reliable principles and methods, and the expert has reliably applied the principles and methods to the facts of the case. Section 490.065.2(1). This statute permits admission of such opinion testimony only upon compliance with two conditions: first, that the specific facts and data

are the type reasonably relied upon by experts in the field; and second, “[t]he court must also independently assess their reliability.” *State Board of Registration for the Healing Arts v. McDonagh*, 123 S.W.3d 146, 156 (Mo. banc 2004).²

The statute has essentially codified the *Daubert* test. *Daubert*, 509 U.S. 579. Under *Daubert*, the trial court considers the following factors in assessing the reliability of expert testimony:

- (1) whether a theory or technique can be and has been tested; (2) whether the theory or technique has been subjected to peer review and publication;
- (3) whether, with respect to a particular technique, there is a high known or potential rate of error and whether there are standards controlling the technique's operation; and (4) whether the theory or technique enjoys general acceptance within the relevant scientific, technical, or other specialized community.

Daubert, 509 U.S. at 592-594.

Appellant has not found a case specifically dealing with tire impressions under Section 490.065 or *Daubert*. But according to Crofton’s own testimony, the “science” of tire tread impressions does not meet the test, since the only research study he cited applied to footwear impressions, but there is no similar study for tire impressions (Tr. 70-71, 83). Furthermore, Crofton’s testimony was particularly prejudicial. The tire track testimony was one of the only pieces of direct evidence in this otherwise almost entirely circumstantial case.

When a state court admits evidence that is so unduly prejudicial that it renders the trial fundamentally unfair, the Due Process Clause of the Fourteenth Amendment to the United States Constitution provides a mechanism for relief. *Lisenba v. California*, 314 U.S. 219 (1961). For all of these reasons, this Court should reverse James’ convictions and remand this case for a new, fair, trial.

² In *McDonagh*, the Missouri Supreme Court held that Section 490.065 controlled the admissibility of expert testimony in civil cases. The legislature extended the reach of the statute to criminal cases in 2017. *State v. Carter*, 559 S.W.3d 92, 93, n.3 (Mo. App., W.D. 2018).

CONCLUSION

For the reasons presented, appellant respectfully requests that this Court reverse his convictions and remand for a new trial.

Respectfully submitted,

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Certificate of Compliance and Service

I, Ellen H. Flottman, hereby certify to the following. The attached brief complies with the limitations contained in Rule 84.06(b) and Special Rule 360. The brief was completed using Microsoft Word, Office 2010, in Times New Roman size 13-point font. Excluding the cover page, the table of authorities, the signature block, this certificate of compliance and service, and appendix, the brief contains 3,534 words, which does not exceed the 15,500 words allowed for an appellant’s brief.

On this 7th day of February, 2022, an electronic copy of Appellant’s Brief was placed for delivery through the Missouri e-Filing System to Evan Buchheim, Assistant Attorney General, at Evan.Buchheim@ago.mo.gov.

/s/ Ellen H. Flottman

Ellen H. Flottman