

No. 99-11-06435-CR-(2)

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EX PARTE

§ IN THE DISTRICT COURT OF  
§ MONTGOMERY COUNTY, TEXAS

BY *Sandy Adposito*  
DEPUTY

LARRY RAY SWEARINGEN § 9TH JUDICIAL DISTRICT

**AFFIDAVIT OF JERALD D. CROW**

My name is Jerald D. Crow. I am over the age of 18 and have personal knowledge of the facts stated herein.

I have been ordered by the Court to provide an affidavit addressing the following question:

**WHAT OTHER EVIDENCE WAS KNOWN TO TRIAL COUNSEL THAT WOULD HAVE DISSUADED COUNSEL FROM ALLOCATING RESOURCES TO THE INVESTIGATION OF ENTOMOLOGICAL EVIDENCE?**

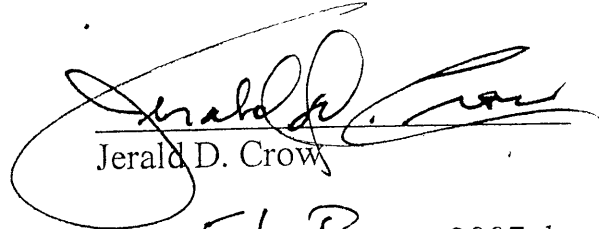
Contrary to Appellant's contention, my co-counsel and I interviewed Dr. Joye Carter regarding facts revealed in the autopsy. That interview took place on or about December 9, 1999 in Dr. Carter's office in Houston, Texas. Time and date of death were discussed with Dr. Carter. Dr. Carter opined that Melissa Trotter had died on the date of her disappearance. Dr. Carter further opined that Ms. Trotter had died within about 4 hours of having eaten her last meal due the state of the digestion of the food removed from Ms. Trotter's stomach during the autopsy. Jonathan Lavergne, an employee of the school cafeteria, had provided a written statement during the investigation which identified food consumed by Ms. Trotter at about 2:00 p.m. on the day of her disappearance. Some of the contents of Ms. Trotter's stomach removed during the autopsy matched the food that she ate in the school cafeteria.

Dr. Lede, our pathologist, confirmed the findings of Dr. Carter regarding the date and time of death. Neither pathologist mentioned nor suggested that entomological evidence be considered as a means of establishing date and time of death because there was no dispute as to date and time of death.


As I have previously stated, I was not familiar with science of entomology at the time of the preparation and trial of Mr. Swearingen's case. The existence of entomological evidence in Mr. Swearingen's case was not recognized by me nor

called to my attention by the State or any other expert or professional.

My review of the state's evidence revealed a strong circumstantial case against Mr. Swearingen for the homicide of Ms. Trotter. Strategically speaking, I believed that the best plan of attack was to challenge the evidence of the underlying felonies of sexual assault and kidnaping.

  
Jerald D. Crow

SUBSCRIBED AND SWORN to before me on Feb 8, 2007, by  
Jerald D. Crow.

  
Notary Public/State of Texas

