

NALE LAW OFFICES LLC
Member, National Academy of Elder Law Attorneys
Member, Maine Council on Aging

John E. Nale, Esq.
Mark J. Nale, Esq.
Matthew J. Nale, Esq.

58 Elm Street
Waterville, ME 04901

(T) 207-660-9191
(F) 207-873-1122
E-mail: info@nalelaw.com
www.nalelaw.com

July 6, 2023

Sarah Bosk, Clerk
Superior Court at Knox County
62 Union St
Rockland, ME 04841

RE: State of Maine v. Dennis Dechaine, KNO-CR-89-126

Dear Sarah:

Enclosed for filing is Dennis Dechaine's Reply to the State's Prehearing Memorandum Regarding Scope of the Evidence with one exhibit attached. We thank you for your assistance in this matter.

Sincerely,

/s/ John E. Nale

John E. Nale, Esq,
ME Bar No. 211

JEN:bc
Enclosure
cc: Donald W. Macomber (w/ encl.)

**STATE OF MAINE
KNOX, s.s.**

**UNIFIED CRIMINAL COURT
LOCATION: ROCKLAND
Docket # KNO-CR-89-126**

**STATE OF MAINE)
)
v.)
)
DENNIS DECHAIINE)**

**DENNIS DECHAIINE’S REPLY
TO THE STATE’S PREHEARING
MEMORANDUM REGARDING
SCOPE OF THE EVIDENCE**

Petitioner, Dennis Dechaine, through the undersigned counsel, submits this reply memorandum in response to the State's position on the scope of the evidence at the hearing. The State takes an excessively narrow view of the evidence, which is inappropriate considering the remedial nature of the statute. The State fails to recognize that "old" trial evidence can be reinterpreted and reimagined in light of the DNA test results without becoming new evidence. The new DNA test results shed new light on the old evidence and are crucial in demonstrating how they would have resulted in a different verdict.

The new DNA test results support the following:

1. The unknown male DNA found under the thumbnail does not match Mr. Dechaine's DNA or blood.

2. Based on the test results provided by SERI Lab, the lab chosen by the State, Mr. Dechaine's DNA does not match any of the 6 objects tested that were used in the commission of the crime.
3. The unknown male DNA from the thumbnail is likely linked to the DNA found on the scarf used to strangle the victim, fulfilling the condition precedent for relevance as implied by the law court in *State v. Dechaine*, 2015 ME 88.
4. When combined with a reasonable reinterpretation of the evidence, both old and new, and the evidence admitted at the hearing regarding the source of the DNA, the DNA evidence would make it probable that a different verdict would result upon a new trial.

The proposed witnesses for the defense will testify to the impact of these test results on the burden of proof for the elements under 15, §213810(C)(1)-(5). The first element requires demonstrating that "the DNA test results, when considered with all the other evidence in the case, old and new, admitted in the hearing conducted under this section... would make it probable that a different verdict would result on a new trial." *Id.* §213810(C)(1).

Although the State seems to limit the scope of this sentence to paragraph 6 in *State v. Dechaine*, 2015 ME 88, it is evident from the opinion that the Law Court is only clarifying the meaning of "all the evidence, old and new." "Old" refers to

evidence that has already been deemed admissible in the trial or post-conviction hearings, including evidence from exhibits and testimonies. "New" refers to any evidence relevant to the DNA testing and **the identity of the DNA source**. Title 15 M.R.S.A. §2138(C)(10), quoted by the Law Court, supports these definitions. Petitioner agrees with the State's interpretation of these definitions, but we differ in their application. The State argues that petitioner cannot reassess through expert witnesses the relative importance of certain pieces of trial evidence in light of the new DNA evidence.

To demonstrate how the new DNA test results would likely lead to a different verdict, petitioner must be allowed to present a different interpretation of the old evidence in response to the insights provided by the new DNA tests. The old evidence remains the same, but petitioner needs the opportunity to reshape it in light of the new test results. Otherwise, we would be unable to explain why the new test results would alter the perception of the old evidence for a second jury or court.

The crime reconstruction, which the State objects to, is solely based on the prosecution's description of the crime during the trial. Dr. Roy testified that the crime involved a ligature strangulation from the front, while the victim was lying on her back at times. The victim's movements during the incident caused blood from her neck wounds to flow onto and stain the right shoulder of her t-shirt.

Although Dr. Roy couldn't determine the exact nature of her movements, it is reasonable to assume that she may have been fighting back. Additionally, there was blood found under the victim's fingernails, and the absence of visible assailant's skin under her fingernails suggests that she may have been digging into her attacker rather than scratching him. Please refer to the report of Rod Englert of Englert Forensic Consultants (the Englert Report) attached hereto for further details.

The crime reconstruction provides insights into the source of the DNA found on the thumbnail, which is permitted under the statute. Considering that the DNA on the thumbnail is a probable inclusion to DNA on the scarf and taking into account the manner in which the crime unfolded, it can be inferred that the unknown DNA from the thumbnail belongs to the true perpetrator. Although the source cannot be identified by name, the available information has been utilized to the fullest extent. The true killer would have had ten dig marks on his body that night, and it is clear that Dennis Dechaine does not match this description. The statute does not require Dechaine to incriminate someone else in order to exonerate himself. The State cannot complain about the source remaining unnamed since it has denied Dechaine's request to compare the sample with major databases.

Attorney Thomas Connolly, Esq. is the most reliable source of evidence on how the new DNA test results reshape the trial evidence. His testimony is based on the adaptation of the old evidence to the new DNA test results.

The State objects to our intention to call Attorney Thomas Connolly, Esq., who defended Dennis Dechaine in 1989, arguing that his proposed testimony does not pertain to the impact of the new DNA test results on identifying the perpetrator. Contrary to the State's claim, Attorney Connolly's knowledge of the trial evidence offers the most effective means to present "all the evidence, old and new," which is a crucial element of petitioner's case. Through his testimony, Attorney Connolly can accurately and articulately summarize and organize the trial record, saving time and effort. He can explain the strengths and weaknesses of the defense in 1989, which are relevant to the central question in 2023: whether the DNA results would have had a decisive effect on a jury. Furthermore, he is in a unique position to clarify how the new DNA test results fill the gaps that arose due to the court's denial of DNA analysis in 1989. Attorney Connolly requested testing in January 1989, believing that the key to identifying the perpetrator lay in the biological matter beneath Sarah Cherry's fingernails. The State would prefer that the court and the parties be limited to the slow and arduous process of reading transcripts, searching for cited passages, and struggling to maintain focus during this time-consuming endeavor.

Regarding our intention to call an experienced Maine trial attorney to provide an opinion on how the new DNA evidence would likely impact a Maine jury, the State dismisses it as sheer speculation and not useful to the court. On the contrary, such expert opinion would meet the requirements of relevance and helpfulness to the decision-maker. According to *State v. Maine*, 2017 ME 25, ¶17, 155 A.3d. 871, 875, expert testimony must meet a threshold level of reliability and be relevant in accordance with Me.R.Evid. 401. It should also assist the trier of fact in understanding the evidence or determining a fact in issue.

Petitioner has the burden of proving that the new DNA test results, along with all the evidence, both old and new, would likely lead to a different verdict, as stated in 15 M.R.S.A. §2138(C)(5). Therefore, demonstrating the effect on a jury is an essential element of petitioner's case. Expert testimony from a reliable witness would increase the likelihood of establishing this consequential fact, making it relevant under Maine Rule of Evidence 401.

Moreover, the expert opinion evidence would be beneficial to the decision-maker because it would provide the court with an alternative perspective against which it can evaluate its own understanding. Unlike in a jury trial, there is no risk that the decision-maker will be confused or misled by the expert opinion. The expert opinion of a respected Maine trial attorney would also offer reassurance to the court that Dennis Dechaine is being afforded every opportunity to present his

case. Petitioner will provide the State with the name of this witness and a report well in advance of the hearing.

The State's attempt to undermine the analysis at the outset by bringing up Dechaine's alleged "multiple" confessions is misguided. If there truly were multiple instances in which Dechaine confessed, as claimed by various deputies and jail guards, one would expect that these law enforcement personnel could have elicited a signed written confession from him at least once. Our Law Court already discounted the alleged confessions, referring to them as "purported confessions that contained no details of the crime." Furthermore, during the trial, when asked by the prosecutor if the Defendant had provided any information about his involvement in the matter, Lead Detective Hendsbee stated that the Defendant denied any involvement and proclaimed, "he did not do it and he never would do such a thing." (T. at 447: 19-20)

Regarding the State's suggestion that "it was never established where the DNA was located on the thumbnail," the trial record and photos confirm that the victim had human blood under all 10 of her fingernails when unearthed. All testing was conducted on DNA extracted from that blood. It is not a question of DNA located on the thumbnail; rather, the prosecution established that the most likely location for the DNA was beneath the thumbnails by emphasizing repeatedly that the outer sides of the fingernails showed no blood. The prosecutor asked Dr. Roy,

"Whereas on the . . . outer side of the fingernails one would not see blood because it's smoother?" Although the medical examiner resisted generalization, the prosecutor sought confirmation that it was not surprising to find no blood on the outside of the fingernails, to which Dr. Roy responded, "I'm not surprised by that, no" (T. 609: 10-15). This establishes the petitioner's contention that the DNA was likely situated under the thumbnails. See also T. at 606: 19-24 & T. at 603: 23 – 604: 2.

Furthermore, the State mentions that "the YSTR profiles on the thumbnail and the scarf do not rise to the level of a match." However, the statute does not require the non-Dechaine profiles to match at the same level. It only necessitates that Dechaine's profile does not match, which is indeed the case. The justice of the statute lies in the fact that it does not demand that the new DNA test results incriminate someone else before they may exonerate Dechaine.

The State attempts to challenge our assertion that the perpetrator would have displayed dig marks on their skin from the victim's fingernails by paraphrasing Dr. Roy's statement that he did not observe any flesh or skin adhering to the fingers indicating that Sarah had scratched her assailant. However, it is important to note that scratching is distinct from digging. Dr. Roy's examination of the fingernails was conducted with the naked eye, and when asked if he found any flesh or skin adhering to the fingers, he responded that he did not see any. The absence of skin

visibly piled up under the nails suggests digging rather than scratching. Dr. Roy agreed with this interpretation during the trial, stating that the absence of such visible skin would indicate digging into oneself or someone else. (T. at 609)

Therefore, the presence of blood under the victim's fingernails, coupled with the lack of visibly piled-up skin, is consistent with the victim digging her assailant rather than scratching him. Both Sarah Cherry and Dennis Dechaine did not have 10 dig marks on their bodies, indicating that the true assailant, who left with 10 dig marks on their face, neck, arms, or hands, is the actual source of the DNA.

The State attempts to undermine our crime reconstruction by arguing that Photo Exhibit #3 merely reflects Dechaine's version of the strangulation process. The State fails to acknowledge that the reconstruction is based on the testimony of prosecution witness. The photo actually represents the most probable manner in which the strangulation occurred, considering that the thumbnail DNA is a probable inclusion to DNA on the scarf. Pertinent old evidence from prosecution witnesses includes the fact that the ligature/scarf was knotted in front, blood was found packed under all ten of the victim's fingernails (but not on the outside), and no visibly scratched-up skin was observed under the nails by the naked eye. Dr. Roy also testified that the asphyxiation likely occurred from the front, affirming this understanding. Defense counsel asked, "That [asphyxiation] would most

probably have been done from the front?" and Dr. Roy responded, "Probably" (T. 591:1-2).

The State challenges our assertion that someone rifled through Dechaine's truck by stating that there was no evidence in any proceeding to support this claim. However, admissible evidence presented during the trial would have allowed a reasonable jury to conclude that someone did, in fact, rifle through the truck. Testimony from Dechaine's neighbor, Mike Hite, revealed that Dechaine habitually left the truck unlocked with the keys inside (T. 1166-68). Dechaine himself testified that initially, he did not believe he took the keys or locked the truck (T. 1243 & 1296), but upon discovering the keys in his pocket, he realized that he must have taken them out of concern that the truck could be easily stolen while he was in the woods shooting up drugs (T. 1297: 12-15). Defendant's Exhibits 7 and 8, which depicted a tampon box and a brown paper bag on the driver's seat, indicated that someone had rummaged through the cluttered mess in the front seat after Dechaine had left the vehicle (T. 632-633 & T. 1296). Detective Hendsbee testified that the truck could be locked without the keys by holding the handle up and pushing the lock down before closing the door (T. 464). As defense counsel argued, the improbability of the insurance estimate and deposit slip, both bearing Dechaine's name and address, randomly falling out of the chaotic mess of 180 or more items in the truck suggested selectivity by someone (T. 1465). Furthermore, a

tracking dog detected a scent trail from the road to the passenger side and then back (T. 1466).

At this juncture, Mr. Dechaine is respectfully requesting two days of this Court's time to hear evidence demonstrating how the DNA test results exonerate him and to explain the origins of the unknown male blood found under all ten of the victim's fingernails, which, once again, would exonerate him.

Dated at Waterville, Maine this 6th day of July 2023.

Respectfully submitted,

/s/ John E. Nale, Esq.

John E. Nale, Esq. (ME Bar No. 211)
58 Elm St
Waterville, ME 04901
Telephone: 207.660.9191
Facsimile: 207.873.1122

/s/ Stuart W. Tisdale, Esq.

Stuart W. Tisdale, Esq. (ME Bar No. 3965)
148 Middle St
Portland, ME 04112
Telephone: 207.415.5378

CERTIFICATE OF SERVICE

I, John E. Nale, Esq., certify that I have sent a copy of this motion to Donald W. Macomber, Assistant Attorney General, by email.

/s/ John E. Nale, Esq.

John E. Nale, Esq. (ME Bar No. 211)
58 Elm St
Waterville, ME 04901
Telephone: 207.660.9191
Facsimile: 207.873.1122

May 12, 2023

Via email: John@NaleLaw.com

Mr. John Nale, Attorney
Nale Law Office
58 Elm Street
Waterville, ME 04901

RE: *ME v. Dennis Dechaine Analysis*

Dear Mr. Nale:

On March 24, 2023, we spoke with you regarding your client Dennis Dechaine. You had requested for me and analyst Melissa Fernandez to review the testimony, crime scene photos, videos, and recent DNA results regarding Mr. Dechaine's case. I, Rod Englert, have over 60 years of combined law enforcement and forensic experience. I retired as a Chief Deputy of the Operations Division, Multnomah County Sheriff's Office in Portland, Oregon in 1995. My expertise is in homicide reconstruction and bloodstain pattern analysis (BPA). I have lectured at over 660 training seminars in 35 states and numerous countries on various subjects within the scope of homicide investigation. I have testified as an expert over 400 times in crime scene reconstruction and BPA in 28 states. Melissa retired as Captain, Union County Sheriff's Office in Elizabeth, New Jersey in 2016 as a member and commander of her agency's Crime Scene Unit for 18 years. She has continued Crime Scene Reconstruction for the past seven years since retiring. She is certified by the International Association of Identification in both Crime Scene Analysis and BPA, teaches forensic courses around the country, and has testified in both criminal and federal proceedings as an expert.

MATERIALS PROVIDED FOR REVIEW:

Video of Scene	Mp4 1133
Video of Dennis Dechaine	Mp4 1132
Video of Press Interview	Mp4 1131
John Henkel	Testimony PDF
Judith Brinkman	Testimony PDF

Mrs. Buttrick	Testimony PDF
Mrs. Henkel	Testimony PDF
Ronald Roy (Chief ME)	Testimony PDF
Photos (scene, evidence, autopsy, Dechaine)	JPG/PDF
Seri Case Notes	PDF

We have analyzed the abduction, sexual assault, and murder of the victim, Sarah Cherry, a 12-year-old girl. It was believed at the time of trial that the blood that was found underneath the victim's fingernails was her own blood. New technology and testing have revealed that there is an unknown male DNA profile present underneath the victim's fingernail. This included unidentified male DNA obtained from multiple items from the scene including identifying matching loci from the scarf and underneath a fingernail to an unknown male DNA profile.

Sometime during the afternoon of July 6, 1988, Sarah Cherry was abducted while babysitting at the property of John and Jennifer Henkel located on Lewis Hill Road in Bowdoin, Maine. Between the time of the abduction and when Sarah's body was located, she was brutally attacked and murdered. Her body was located in a makeshift, above-ground grave, covered with sticks, leaves, and other forest debris. On July 6, during the time of her disappearance and initial search, Dennis Dechaine was looking for where he parked truck after spending time in the same wooded area. The below statements are a critical analysis of the crime, DNA, evidence, and what one would expect to see versus the actual data that has been collected and testified to over the years.

The perpetrator of this crime abducted Sarah Cherry at the residence or on the property of the Henkels. Either Sarah went willingly or unwillingly. If the perpetrator was unknown to Ms. Cherry, it would be more logical to believe unwillingly. She was taken into the woods approximately 500 feet from the road. There is an expectation of debris and/or skin injury such as scratches or abrasions to be present on such person due to: 1. The thickness of brush/woods, and 2. Possibility of resistance from Sarah Cherry. At some point during the attack, Sarah Cherry was gagged and bound. Even with a size differential, there would be an expectation of resistance and therefore evidence of transfer between Sarah Cherry and the perpetrator. This would be evident on the perpetrator's skin and/or clothing. Her hands are bound in front of her and are still viable weapons to be used on whomever was attacking her. This is relevant due to the proximity of her hands to where the scarf was wrapped twice around her face and neck. Sarah Cherry would have had access to the perpetrator's hands, arms or face when looking at the short amount of scarf the perpetrator would have been holding while tying the two knots. Especially the first wrap, which was not around her throat and would not have been a mechanism to cause unconsciousness. DNA and blood evidence present under her nails are physical evidence of this action. There would be corresponding evidence on the receiving end (the

perpetrator) of this defensive action. Sarah Cherry sustained stab wounds to her chest and was also sexually assaulted with branches, which were found inserted in her vagina and rectum. All these actions would have the expectation of evidence transfer (blood, dirt, debris, defensive injuries).

Through the lens of a forensic analyst, what does this mean in context of the evidence of the crime scene, DNA testing, and Dennis Dechaine's person on the day of her abduction?

- a. A forensic analyst takes factual data from the crime scene, evidence, and any other objective sources to perform event analysis. Rather than using testimonial evidence to create the event analysis, the event analysis measures the testimonial evidence as to what may be possible and what can be excluded from possibility.
- b. Sarah Cherry was murdered between the dates of July 6 and July 8, 1988. Sarah was discovered on July 8, 1988. Her death was classified as a homicide by ligature strangulation and multiple stab wounds to both the chest and neck including injury to the left jugular vein. She had evidence of sexual trauma with tree branches being inserted in both her rectum and vagina.
- c. Scene and autopsy pictures indicate that Sarah Cherry did not have extensive decomposition or evidence of insect activity. Chief Medical Examiner Ronald Roy states that since Sarah's body was covered with leafy debris, this would have delayed insect activity (p.557 l. 15-17). Many different insects, including both flying and crawling insects, will actively seek out a body, especially one having open wounds. This is even more relevant considering the homicide occurred in the month of July. Maggot activity would be unhampered in a leafy material (maggots cannot survive in direct sunlight) and negates Dr. Roy's hypothesis to which he testified. Lack of extensive insect evidence indicates that Sarah was deceased in the wooded area for a shorter amount of time than indicated during trial. This time difference could change the event analysis significantly when looking at Dennis Dechaine's whereabouts in the hours sooner to discovery when he was already in police custody.
- d. When looking at the evidence recovered at the scene, there is scant evidence of any of the items coming into contact with Dennis Dechaine and, to the contrary, items that were a part of the criminal activity including the handkerchief to gag Sarah Cherry and branches that were used to sexually assault her not only have no significant DNA matching Dennis Dechaine, but there is also exculpatory evidence of other male DNA being present.
 - i. The rectal stick results (2-1) exclude Dennis being a contributor.
 - ii. The vaginal stick results (1-1) have two loci similar to the rectal stick and none that are dissimilar. Therefore, the contributor of 1-1 and 2-1 could be the same person, but the results of 2-1 would exclude Dennis Dechaine.

- iii. The bra (4-1) would have had to have been manipulated by the perpetrator of the crime. Dennis Dechaine was excluded as a contributor. There is unknown male DNA present on the bra.
- iv. The handkerchief found in Sarah Cherry's mouth would have been inserted by the perpetrator. Dennis Dechaine was excluded as a contributor. There is an unknown male's YSTR DNA present.
- v. The scarf (5-1) has four male contributors and none being a major contributor. Dennis Dechaine or someone of paternal lineage could be a contributor (one in 119 of the general population). If the scarf not only belonged to Dechaine, but he also was the individual tying it during the crime, I may expect to see more conclusive data.
 1. Chief M.E. Roy testified that the scarf was so tightly tied that the diameter of the scarf was reduced down to 3.5", there would be a high expectation of epithelial cells to have been transferred from the person who tied the knot to the ends of the scarf.
 2. Sarah Cherry's wrists were bound in front of her. This is relevant when looking at the DNA evidence that was recovered from her fingernails. There is both partial DNA and partial YSTR DNA profiles recovered from under her fingernails. Dennis Dechaine is excluded from both results. Sarah's hands bound in front of her would not preclude her from fighting off her attacker. There is evidence that her hands were at least partially mobile while in front of her as found. There were fibers from the scarf deposited on them. Chief M.E. Roy testified regarding the wrist binding, "It was moderately tight. It could have been tighter." (p.560 I. 5) She would have been able to dig her nails into her attacker which is an explanation of how blood and DNA were recovered from the left fingernail. It should be noted that although other fingernails were consumed in original lab testing, multiple fingernails have the same appearance of blood underneath them. Those nails were only blood typed (by 1988's standards) which is an *exclusionary* test. There is no forensic evidence from under Sarah Cherry's fingernails including Dennis Dechaine. There is, however, exculpatory evidence in the exclusion of the DNA and YSTR profiles recovered.
 - a. Although only 2 fingernails remained to be re-tested, both results excluded Dennis Dechaine. Evidence does not "just" appear in any one area, especially under the fingernails of a homicide victim. Having a DNA profile that excludes Dennis Dechaine indicates multiple points.
 - i. Dennis Dechaine was not in close contact to the victim's fingernails
 - ii. Another unidentified male may have had interaction (scratching, digging, or other defensive action by the victim) to have DNA under the fingernails of Sarah Cherry.
 - iii. The hypothesis of DNA and/or blood being deposited under Sarah Cherry's fingernails by her causing defensive wounds to her attacker has not been disproven by any testimony or lab report. In fact, male

DNA found underneath the nails (Dechaine excluded) may indicate that she did cause defensive wounds to her attacker. Both exclusionary DNA and lack of injury to Dennis Dechaine exclude him from that hypothetical event.

- iv. On January 27, 1989, Chemist Brinkman has already testified to the exclusion of Dennis Dechaine from the blood under Sarah Cherry's nails.
- v. There are limited ways in which Sarah Cherry would be able to get her own blood under all ten fingernails including her thumbs while her hands were bound. The scarf does not appear to have enough blood saturation (*Figure 1*) for blood to be deposited underneath all ten nails. For that much blood to be embedded underneath all ten fingernails, the scarf would have to be blood-soaked. The scarf's appearance is not indicative of that volume of blood. It is my opinion that blood from the scarf could not have caused the blood seen underneath all ten of Sara Cherry's fingernails.

Figure 1

- vi. With Sarah Cherry's hands in front of her and the existence of foreign male DNA under her fingernails, one mechanism that is possible is that she embedded all ten fingernails into the perpetrator. The person would then have some type of numerous, small injuries to their body, which Dennis Dechaine on the day of the homicide does not.
- b. As an analyst, the State's accusation of lab contamination as a way of discounting relevant evidence is disturbing. That opens Pandora's box of any DNA evidence found within a scene to be allegedly there by contamination only. Without a match to a specific lab worker, the mere statement of contamination to discount evidence is cherry-picking to fit the presence of evidence into a narrative that forces their hypothesis of the events to remain accurate. Scientific Methodology insists that when you receive new information that disproves a hypothesis, one must develop a new hypothesis no matter how inconvenient.

3. The photograph of Dennis Dechaine, which was taken on the day of Sarah Cherry's disappearance, is a relevant item of evidence. In the photograph, Dennis Dechaine is neatly dressed. He has on a light blue t-shirt and green pants. There is no evidence of Dennis Dechaine:
 - a. being in any type of altercation. There are no tears or stretching of materials of his clothing visible in the photograph (*Figure 3,5*).
 - b. picking up substantial amounts of dirt and forest debris to create an above-ground burial site (*Figure 2*) would be evident under a person's fingernails. Although Dennis Dechaine's hands are not visible in the photograph of him, his appearance was noted by the police and there is no testimony or notes that any type of matter was identified to be on his hands or under his fingernails.

Figure 2

- c. having injury to his hands or face (*Figure 2*). Both would have been accessible to Sarah Cherry while someone was gagging and tying a scarf around her face and throat. The ends of the scarf are approximately 8" long putting the perpetrator's hands, arms or face in close proximity to Sarah while tying the knots.
- d. no transfer¹ bloodstains. Intimate contact with a person who has sustained multiple stab wounds and redress them would have an expectation of blood-stain transfer, spatter², or saturation³ staining to the clothing (*Figure 3,5*). Even in a small amount. There are no visible bloodstains on Dennis Dechaine's clothing or person nor were any reported or collected by the police.

¹ transfer stain - A bloodstain resulting from contact between a blood-bearing surface and another surface.

² spatter stain - A bloodstain resulting from an airborne blood drop created when external force is applied to liquid blood.

³ saturation stain - A bloodstain resulting from the accumulation of liquid blood in an absorbent material.

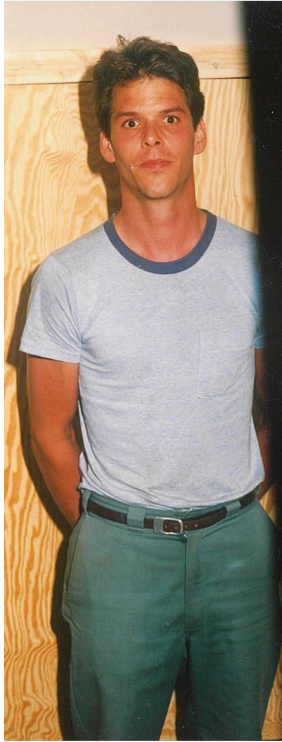


Figure 3



Figure 4

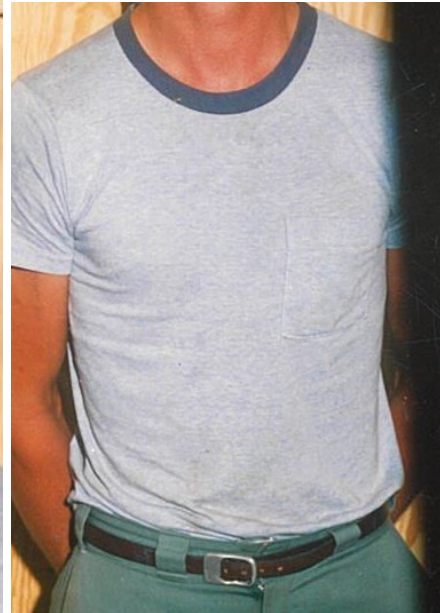


Figure 5

- e. clothing or hair having any debris from burying a person in a substantial amount dirt, leaves, and branches as was found on top of Sarah Cherry's body. An individual who forcible leads a young adult into the woods, reasonably gets on or near the ground to bind and stab them, redresses, and then covers the body with a substantial amount of forest floor debris would be expected to have evidence of these actions on their clothing, arms, face, or hair. When Chief Medical Examiner Roy was asked about the disturbance of the forest floor near the foot end of Sarah's body, he testified, "Well, it appeared that's where the person who covered her was standing. He simply picked the material up and put it onto the body from there."(p.553 l. 23-25) There is no documented or collected evidence from the body or clothing of Dennis Dechaine to indicate he performed any of these actions. Even the Maine Warden, Sgt. William Allen testified that the area, which was approximately 500 feet into the woods, was "quite thick", and "heavily wooded". The hypothesis that one could walk through such an area and further, struggle control of another, and surface bury a person in the same woody debris without *any* debris or dishevelment of their clothing is not a reasonable one.
4. A principle of Crime Scene Reconstruction is Locard's Principle of Exchange. "When two objects come in contact with each other, there will be an exchange of

material between the two.” (Gardner, 2009)⁴ Taking into consideration the blood evidence and debris, there is also the additional fact of Sarah Cherry’s underwear is missing from the scene. The perpetrator of this crime removed Sarah Cherry’s underwear and took them from the scene. This item of clothing was not found to be in possession of Dennis Dechaine, in his vehicle, or ever recovered. Evidence does not merely disappear when a person is taken into custody during a fresh investigation. Also concerning is the lack of transfer evidence such as fingerprints, hairs, and fibers that would link Sarah Cherry to Dennis Dechaine or his vehicle.

5. SERI Lab Reports: September 23, 2022

The DNA report from SERI dated September 22, 2022 does not conclusively prove that Dennis Dechaine was involved in the homicide of Sarah Cherry. In fact, the DNA results include exculpatory data.

- a. YSTR DNA is not as reliable as Autosomal STR. “Profiles based on autosomal STRs provide far stronger statistical power than profiles based on Y-STRs, because autosomal DNA is randomly exchanged between matched pairs of chromosomes in the process of making egg and sperm cells. That’s how, with billions of humans on the planet, no two people who are not identical twins are exactly alike. Profiles based on Y-STRs are statistically weaker because only males have a Y chromosome and all males get theirs from their fathers, so all males in any paternal line have nearly identical Y chromosomes. Given enough Y-STRs, which scientists call loci, a Y-STR profile can offer substantial power to discriminate between individuals, but this type of profile is certainly not as powerful as an autosomal STR profile.”⁵ YSTR DNA is a tool to be used for exclusionary purposes. Its statistical values frequently (as in this case) are too low for any inclusionary value.
- b. Item L88-309CMA2.A.2 Unknown male profile, victim’s left fingernail. Dennis Dechaine is excluded.
- c. Item 14.01.1 YSTR partial profile, victim’s left fingernail. Dennis Dechaine is excluded.
- d. Item 2-1 (vaginal stick) has 4 loci that have a matching allele to Dennis Dechaine. A likelihood ratio of one in 54 males in the general population in the 1980’s would have included approximately 11,250 other males that lived in Maine⁶ and approximately 2.2 million males across the United States⁷. This low statistical probability is not what DNA is utilized for forensic probability.

⁴ Ross, G. (2009). In *Practical Crime Scene Analysis and Reconstruction* (p. 17). essay, CRC Press.

⁵ <https://nij.ojp.gov/topics/articles/what-str-analysis>

⁶ <https://www.census.gov/programs-surveys/popest/data/data-sets.html>

⁷ <https://www.census.gov/programs-surveys/popest/data/data-sets.html>

- e. Item 2-1 (rectal stick) resulted in a YSTR profile. Dennis Dechaine was excluded as the contributor.
- f. Item 3-1 (t-shirt) cannot include or exclude Dennis Dechaine. Without enough genetic information to create a likelihood ratio, this is neither inculpatory nor exculpatory.
- g. Item 4-1 (bra) Dennis Dechaine is excluded as a contributor of the mixture.
- h. Item 5-1 (scarf) has the highest likelihood ratio with one in 119 males being included. Again, based on Maine's population in the mid 1980's, that number still included approximately 4,600 males and 975,000 males across the country.
- i. Item 6-1 (handkerchief) Dennis Dechaine is excluded as a contributor of the mixture.

In conclusion, if this were a recent case, Dennis Dechaine's proximity to the area would be relevant during the initial investigation. However, looking at the totality of the circumstances including Dennis Dechaine's physical appearance when taken into custody and the non-existence of anything indicating he was involved in a physical attack on a person who was: 1. a source of bloodshed, and 2. in a heavily wooded area, a detective would have to apply critical thinking to the circumstance and question the lack of evidence. Once DNA results were available, a prosecutor would be remiss not to question if Dennis Dechaine's proximity was coincidental based on the DNA results and other factors regarding the lack of trace and other evidence. Charges at that point may not be filed and if they were, a secondary hypothesis would certainly have to be presented to the court that explains the lack of Dennis Dechaine's DNA and simultaneously explain the presence of other male DNA.

Exhibits 1-3 - Based on the existing evidence, these still-frame animations exhibit a probable way that the perpetrator was positioned while tying scarf as a ligature and the hand positioning that could have allowed Sarah Cherry to collect an unknown male DNA and/or blood underneath her fingernails.

Mr. John E. Nale
RE: *ME v. Dennis Dechaine Analysis*
May 12, 2023
Page 10

Exhibit 1

Exhibit 2

Mr. John E. Nale
RE: *ME v. Dennis Dechaine Analysis*
May 12, 2023
Page 11

Exhibit 3

A handwritten signature in black ink, appearing to read "Rod Englert". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rod Englert
Englert Forensic Consultants

RE/mf
Attachments