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December 16, 2010

The Honorable Lee F. Satterfield, Chief Judge
Superior Court of the District of Columbia
500 Indiana Avenue, N.W., Suite 3500
Washington, D.C. 20001

The Honorable Fred B. Ugast, Senior Judge
Superior Court of the District of Columbia
500 Indiana Avenue, N.W., Suite 2440
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Dear Chief Judge Satterfield and Judge Ugast:

The United States has rejected the Public Defender Service's call for an audit of cases prosecuted by the United States Attorney for the District of Columbia in which the testimony of FBI hair examiners played a significant role in obtaining a conviction for a serious offense.

In a November 15, 2010, letter from Michael T. Ambrosino and Patricia A. Riley, both Special Counsels to the United States Attorney for the District of Columbia, the government launches a fusillade of attacks against the Public Defender Service – it misconceives the nature of hair evidence, misunderstands its role in Donald Gates' wrongful conviction, misinterprets the National Research Council of the National Academy of Sciences report on this and other subjects, etc. – and a full-throttled defense of microscopic hair analysis as supposedly practiced by the Federal Bureau of Investigation for forty years. Before responding point-by-point to the government's inaccurate claims, a word must be said about the manner in which it has chosen to debate these issues.

The starting point must be the exoneration of Donald Eugene Gates. In his motion to vacate his convictions, Mr. Gates described the role of the FBI's analysis of pubic hair left by the perpetrator in securing his conviction and detailed problems with the purported science of hair microscopy and with the particular analyst, Michael Malone. He also uncovered the failure of the United States to disclose to Mr. Gates that the Office of Inspector General had raised alarms about Mr. Malone's credibility as early as 1997. On December 15, 2009, Judge Ugast expressed his shock at what had transpired and called for an investigation of all cases in which FBI forensic analysts named in the

OIG report testified in order to make certain that no other innocent victims of such testimony remained in custody.

The government presented its preliminary report to the Court on March 12, 2010, in the form of a private letter addressed to Chief Judge Satterfield, with copies to Judge Ugast and undersigned counsel. In letters in response, I called for greater transparency, public access, and the appointment of a judge to preside over the investigation. I also called for a broader investigation to include all serious cases in which FBI hair comparison evidence played a role in securing a conviction. The government then responded with two more letters to the Court.

I believe that a debate on matters of such public importance should not take place behind closed doors or in private correspondence. Therefore, with the permission of Mr. Gates, this letter, and all previous letters in this matter will be filed on the public docket in the case of *United States v. Donald E. Gates,* F-6602-81.

I. The request for an audit of serious cases prosecuted by the United States Attorney for the District of Columbia where FBI hair testimony played a role in securing the conviction is not "massive" or "unprecedented."

In June 1991, James Driskell was convicted in Winnipeg, Manitoba of the murder of Penny Harder, a crime he did not commit. Critical to the Crown's case against him were hairs in his van which the Canadian forensic examiner testified were consistent with the decedent's hair. In 2002, mitochondrial DNA analysis proved that the hairs from the van originated from three different individuals, none of whom was Penny Harder.[1] In November 2003, Mr. Driskell was released from prison. He had been wrongfully convicted.[2]

At the urging of the Manitoba Deputy Minister of Justice, an audit was then conducted of all homicide cases in the last fifteen years in which microscopic hair comparison testimony contributed to a conviction. A committee was formed made up of members of the provincial Department of Justice, the defense bar, the police and an independent scientific expert. Its "over-arching goal" was "to actively seek out any possible miscarriages of justice that may have resulted from a reliance on hair comparison evidence."[3]

Of the over one hundred homicide cases reviewed, two were identified that met the committee's criteria. In both cases, the hair evidence, which at trial had been described as consistent with the defendant's hair, was subjected to mitochondrial DNA analysis. In both cases, DNA testing demonstrated that hairs from the crime scene did not come from the defendants.[4] In November

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[1] The Honorable Patrick J. LeSage, Commissioner, *Report of the Commission of Inquiry into Certain Aspects of the Trial and Conviction of James Driskell,* at 158 (Jan. 2007).

[2] *Id.* at 1.

[3] *Forensic Evidence Review Committee Final Report,* Submitted to Mr. Bruce MacFarlane, Deputy Attorney General, Manitoba Justice, at 1 (August 19, 2004). The review was subsequently expanded to sexual assault and robbery cases.

[4] *Id.* at 20.

2005, Kyle Wayne Unger, who had been convicted of murder in 1990, was released from prison.[5] He too, had been wrongfully convicted.[6]

The Manitoba experience not only demonstrates that such audits, done in partnership with the defense, are feasible. It also shows that they can lead to the identification and exoneration of others wrongfully convicted based, in part, on hair comparison evidence.

I have attempted to review PDS cases where FBI microscopic hair analysis contributed to convictions. Through contacts with PDS attorneys and alumni, a word search of the PDS appellate brief bank, and by other means, I have identified two more cases in which the government relied upon unfounded FBI hair comparison testimony nearly identical to the testimony that helped wrongfully convict Donald Gates.

Nothing appears to prevent the United States Attorney's Office of the District of Columbia from participating in a similar review of its cases other than the will to do so.

II. It is not a "misconception" that hair evidence is a "pseudo-science" that has been recently discredited and should only be used in conjunction with DNA evidence.

The government writes that "PDS's request is based upon the misconception that hair and fiber evidence is a 'pseudo-science' that has been recently discredited or can be used only in conjunction with DNA evidence. PDS is mistaken."[7] In fact, it is the government that is wrong. First, forensic DNA testing has discredited the government's reliance on, and exaggerated claims about the reliability and probative value of, microscopic hair comparison as a means of inculpating a defendant. In 1996, the Department of Justice's National Institute of Justice examined the causes of the wrongful convictions of the first 28 people exonerated by DNA. A remarkable 21.4 % of the cases had relied on microscopic hair analysis.[8] Subsequent studies have only confirmed the role of hair microscopy in wrongful convictions.[9]

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[5] *Driskell Commission Report* at 181.

[6] Province of Manitoba Press Release (October 23, 2009) ("[T]he Crown has brought homicide proceedings against Kyle Unger to an end and he has been acquitted of all charges related to the murder of Brigitte Grenier. … 'The Crown brought the case to court and called no evidence, bringing it to a conclusion.' … Hair evidence at the trial, which was scientifically accepted at the time, has been disproved by DNA testing and the jailhouse informant used at the time would not be asked to testify using today's standards.").

[7] Nov. 15, 2010, letter at 1.

[8] Edward Connors, et al., *Convicted by Juries, Exonerated by Science: Case Studies in the Use of DNA Evidence to Establish Innocence After Trial,* U.S. Dept. Of Justice, National Institute of Justice , at 17-18 (June 1996) (identifying six of 28 cases which relied on hair analysis).

[9] A study of the trial transcripts of persons who were later exonerated by DNA evidence showed that microscopic hair comparison analysis played a role in 65 of the 137 trials examined. Brandon L. Garrett and Peter J. Neufeld, *Invalid Forensic Science Testimony and Wrongful Conviction,* 95 Va. L. R. 1, 47 (2009).

In 2002, the FBI conducted a study to assess the performance of microscopic hair analyses. Human hair examinations in the FBI Laboratory that were subjected to both a microscopic comparison and to mtDNA analysis between 1996 and 2000 were reviewed.[10] The results demonstrated that in 9 of 80 cases, or 11.25%, in which FBI hair examiners concluded that the questioned hairs could have come from the suspect, mtDNA conclusively demonstrated that they could *not* have come from the suspect.[11] The FBI report concluded: "Based upon the existing literature and the results of this study, when possible it is recommended that both microscopic and mtDNA analysis be used for analyzing hair evidence."[12] Max Houck, an author of the FBI study, engaged in the following exchange with a Stanford professor of chemical engineering at a session of the NRC forensic science committee:

> "Suppose your son or daughter was accused of a crime, and someone came on the stand and gave their qualifications as a hair examiner, and made an association based on microscopic examination, and that led to the conviction of your child. Would you feel that justice had been served?"
>
> After an awkward pause, Houck said "Not unless there was mtDNA as well."[13]

Nor is it wrong to characterize hair microscopy as "pseudo-science." It is concededly subjective. Even the same examiner may describe the *same* hair differently on different days.[14] There are no standards for how many features of the known and questioned hairs must agree before the examiner may declare a "match."[15] As Professor Giannelli has stated, "This lack of standards along with the subjective nature of the analysis, removes the technique from the realm of science."[16] There are no known error rates. There are no population studies. The National Research Council Report states, "No scientifically accepted statistics exist about the frequency

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[10] Max M. Houck & Bruce Budowle, *Correlation of Microscopic and Mitochondrial DNA Hairs Comparisons*, 47 J. Forensic Sci. 1, 2 (Sept. 2002).

[11] *Id.* at 3.

[12] *Id.* at 4.

[13] Jeffrey Toobin, *The CSI Effect*, The New Yorker, at 4 (May 5, 2007).

[14] Cary T. Oien, *Forensic Hair Comparison: Background Information for Interpretation*, 11 Forensic Sci. 1, 14 (April 2009) ("[D]ifferent examiners are likely to describe hairs in different ways. Finally, the same examiner may vary his or description of the same hair on different days."); *Driskell Commission Report* at 161 ("[I]t was widely recognized at the time that microscopic hair comparisons are highly subjective, and that different examiners sometimes disagree.").

[15] National Research Council, National Academy of Sciences, *Strengthening Forensic Science in the United States: A Path Forward*, ("NRC Report") at 160 (2009).

[16] Paul C. Giannelli, *Microscopic Hair Comparisons: A Cautionary Tale*, 46 No. 3 Criminal Law Bulletin Art 7, at 2 (Summer 2010).

with which particular characteristics of hair are distributed in the population."[17] Thus, "there is not and never has been any statistical basis for hair comparison."[18]

III. It is not true that microscopic hair analysis remains in use in criminal trials to convict defendants "throughout the industrialized world."

The United States writes that "[t]o this day, hair and fiber evidence continues to provide useful information to finders of fact in criminal trials throughout the industrialized world."[19] The pertinent question is not whether hair analysis can provide useful information – it can, for instance, exclude a suspect – but whether it can reliably *include* a defendant. The verdict is that it cannot. One leading forensic science handbook states: "In an exclusionary mode, hair is a rather good form of evidence. If the evidence hair is blond, straight, and 12 inches long, it may be emphatically eliminated as having originated from a person whose exemplar hair is black, curly, and two inches long. In an inclusionary mode, however, hair is a miserable form of evidence."[20]

Undersigned counsel has not conducted a study of the entire "industrialized world." But it is certain that at least one large member of that world no longer relies on microscopic hair comparison evidence. The Royal Canadian Mounted Police Forensic Laboratory Services [FLS] conducted its last microscopic hair comparison in April 2002.[21] In 1998, the public inquiry into the wrongful conviction of Guy Paul Morin, another Canadian against whom hair testimony had been presented, concluded that microscopic hair analysis, though useful for investigative purposes or to exclude, "is unlikely to have sufficient probative value to justify its reception at a criminal trial" as circumstantial evidence of guilt.[22] The public inquiry into the wrongful conviction of James Driskell reached the same conclusion.[23]

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[17] NRC Report at 160.

[18] Garrett and Neufeld, 95 Va. L.R. at 52.

[19] Nov. 15, 2010, letter at 1.

[20] Richard A. Bisbing, *Forensic identification subspecialities – Hair evidence*, 4 Modern Sci. Evidence §30:48 (David L. Faigman, et al, ed.) (2010-2011 edition).

[21] Douglas M. Lucas, *Report on Forensic Science Matters to the Commission of Inquiry re: James Driskell*, at 24 (August 17, 2006) ("Hair examinations at FLS are now restricted to determining whether they are of human or animal origin; if human whether they possess a root sheath suitable for DNA analysis; and if suitable, the body area of origin.").

[22] The Honorable Fred Kaufmann, *The Commission on Proceedings Involving Guy Paul Morin*, at 324 (1998).

[23] *Driskell Commission Report*, at 179, 180.

Other countries never placed as much faith in microscopic analysis as the United States did. For instance, British and Australian forensic laboratories "perceived [hair comparison evidence as having] lower evidential value compared with the United States."[24]

IV. PDS has not "misinterpreted the significance of the NRC report." Instead, it is the United States that has been publicly criticized for "blatant misstatement of the truth."[25]

The United States writes that "PDS appears to be under the impression" that the NRC Report "somehow supports reexamination of every case in which the FBI analyzed hair" evidence.[26] It asserts: "Far from discrediting the science of hair and fiber examination, or the FBI's practice of that science, the NRC simply reiterates principles that the FBI has accepted and practiced for 40 years." [27] The United States adds, "[t]his is not the first occasion on which PDS has misinterpreted the significance of the NRC Report. Since the report was issued, PDS has repeatedly cited the report as a basis to suppress fingerprint identification…."[28]

This latter attack is as unwarranted as it is unseemly, for it is the United States that the Honorable Harry T. Edwards, the co-chair of the Committee on Identifying the Needs of the Forensic Science Community that issued the landmark NRC Report, condemned in the strongest possible language for misstating its meaning. In his speech to this Court, Judge Edwards quoted the government's opposition to PDS's motion challenging the admissibility of fingerprint evidence, a pleading on which Mr. Ambrosino is listed as counsel, as follows:

> [T]he NRC Forensic Science Report does not support the conclusion that fingerprint evidence is inadmissible under the *Frye* calculus. In fact, the Honorable Harry T. Edwards, Co-chair for the NRC Forensic Science Report, has stated on the public record that the report is not intended to affect the admissibility of any forensic evidence.[29]

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[24] J. M. Taupin, *Forensic Hair Morphology Comparison – a Dying Art or Junk Science?* 44 Science & Justice Vol. 95, 98 (April 2004).

[25] The Honorable Harry T. Edwards, *The National Academy of Sciences Report on Forensic Sciences: What it Means for the Bench and Bar,* Presentation at the Superior Court of the District of Columbia Conference on the Role of the Court in an Age of Developing Science & Technology, at 4 (May 6, 2010).

[26] Nov. 15, 2010, letter at 2.

[27] *Id.*

[28] *Id.* at 2, n.2.

[29] Edwards, at 4,, citing Government's Opposition to Defendant's Motion to Exclude Testimony Concerning Latent Fingerprint Evidence at 3, *United States v. Titus Faison,* 2008-CTF-16636 (Feb. 19, 2010).

Judge Edwards took strong exception to Mr. Ambrosino's claim, calling it "utterly absurd." He stated: "This is a blatant misstatement of the truth. I have never said that the Committee's Report is 'not intended to affect the admissibility of forensic evidence,' and I have never publicly addressed the '*Frye*' calculus. To the degree that I have commented on the effect of the Report on admissibility determinations, I have said something quite close to the opposite of what these briefs assert." He continued, "I most certainly never said, or even suggested, that judges should not take into account the new information provided by the Report in assessing the validity and reliability of forensic evidence while making admissibility determinations. Claims to the contrary are without basis in fact and utterly absurd."[30]

Judge Edwards then used hair microscopy to illustrate the "quite obvious" proposition that, "if a particular forensic methodology or practice, once thought to be scientifically valid, has been revealed to lack validation or reliability, no prosecutor would offer evidence derived from that discipline without taking the new information into account and no judge would continue to admit such evidence without considering the new information regarding the scientific validity and reliability of its source." With respect to hair comparison evidence, Judge Edwards stated:

> The information amassed by the Committee regarding hair comparison provides a noteworthy example of such new data. The Committee's Report states that "testimony linking microscopic hair analysis with particular defendants is highly unreliable." We now know that hair comparisons without mitochondrial DNA are highly questionable. A number of people whose convictions were based in part on faulty hair comparisons have been exonerated by DNA testing. An FBI publication reviewed by the Committee stated that subsequent DNA testing proved that hairs did not match in 11% of cases in which hair examiners previously declared two hairs to be "similar." Surely this new data on hair comparisons would be highly relevant under existing law in any judge's assessment of the admissibility of such evidence.[31]

Thus, it cannot be said that the NRC Report does not discredit the "science" of hair microscopy. Nor can it be said that the Report lends no support to the call for an audit of serious cases prosecuted by the United States Attorney for the District of Columbia where, in the pre-DNA era, a technique so lacking in scientific validity and reliability was used to convict.

V. The FBI has provided false and exaggerated hair comparison testimony for 40 years.

The United States writes that "PDS erroneously suggests that the case of Donald Gates serves as a reason for reviewing all cases in which hair and fiber evidence played a role. However, PDS overlooks the fact that in Gates's case, FBI Examiner Michael Malone … offered unfounded

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[30] *Id.*, at 4-5.

[31] *Id.* at 6 (footnotes omitted).

testimony at trial that exaggerated the probative value of the hair match."[32] This is not true. I did not "overlook" the fact that Mr. Malone gave unfounded testimony: instead I recognized that Malone was not alone in giving such testimony. In fact, FBI agents have given similarly unfounded testimony in cases across the United States spanning the forty years that the government claims that the FBI hewed to a protocol that foreclosed such testimony.

In Mr. Gates' case, Agent Malone offered probability testimony in the form of personal experience – two instances out of 10,000 cases – and a conclusion – "highly unlikely" – that no science supported. The testimony which the United States now concedes was unfounded was described in the government's brief as follows:

> Malone explained that while a hair match differs from a fingerprint match in that it cannot be said that a hair comes from one person to the exclusion of all others, it is nonetheless "highly unlikely" that the hair found on the victim came from someone other than appellant. Malone indicated that in approximately 10,000 hair examinations he had performed over an eight year period, there were only two instances in which hairs from two different people were so similar that he could not differentiate them. [33]

FBI Trace Evidence Unit Chief Oien has acknowledged: "Given that useful statistical data are not generated…one must accept…the answer to the question, what is the probability of a coincidental match between the questioned hair and the known sample? is we do not know."[34] But FBI hair examiners have not said "we do not know" when asked the meaning of their purported hair matches. Instead, they have offered the same kind of false and misleading statistical support that Agent Malone offered.

In *Thompson v. State*, Special Agent H. Michael Warren testified that "in his seven years of conducting hair comparisons, he had never found head hairs from two different people, even twins, that exhibited the same characteristics."[35] Special Agent Chester Blythe testified that he had failed to distinguish between different people only once in 1500 cases.[36] Special Agent James Hilverda testified that "with my experience in examining about probably in excess of 2,000 cases, that I have seen only on a couple of occasions I have seen hair from two different individuals I could not distinguish[.]"[37] Special Agent Andrew Pedolak claimed that he compared evidence samples to his own hair "in excess of 25,000 hair examinations, and I have

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[32] Nov. 15, 2010, letter at 2, n.3.

[33] *Donald E. Gates v. United States*, No. 82-1529, Gov't Brief at 8-9 (transcript citations and footnotes omitted) (Jan. 1984).

[34] Oien, *Forensic Hair Comparison*, at 14.

[35] 539 A.2d 1052, 1054 (Del. 1988).

[36] *Bivins v. State*, 433 N.E.2d 387, 389-390 (Ind. 1982).

[37] *United States v. Massey*, 594 F.2d 676, 679 (8th Cir. 1979).

yet to find either a head hair or a pubic hair that matches my own."[38] In Tennessee, an FBI special agent testified in a capital case that "there is only one chance out of 4,500 or 5,000 that the unknown hair came from a different individual."[39]

As Garrett and Neufeld make clear, "[a]ll analyst testimony … stating that a crime scene hair was 'highly likely' to have come, 'very probably' came, or did come from the defendant violates the basic scientific criterion that expressions of probability must be supported by data."[40] And yet, like Michael Malone's unfounded testimony that it was highly unlikely anyone other than Donald Gates left the pubic hair on Catherine Schilling, FBI hair analysts have offered similar unfounded probability conclusions in cases across the country. For example, in *State v. Stouffer*, a capital case, FBI Agent Oakes testified that "it was possible, though extremely rare, for someone else to have hair that would be indistinguishable from that of the defendant."[41] In *Vaught v. State,* another capital case, the Court wrote, "The analysis by the Federal Bureau of Investigation regarding a comparison of hairs found on the victim's jacket and on a green mask which was used during the murder/robbery with a hair sample from the defendant's head concluded that it was only a remote possibility that the hairs on the jacket and on the mask could have come from any other person than the defendant."[42] In Oklahoma, the FBI agent described the probability that it was someone other than the defendant's hair as "most unlikely."[43] Conversely, in Delaware, Agent Warren described it as "highly probable" that the questioned hair was the defendant's;[44] while in Rhode Island, it was said to be "a reasonable probability."[45]

These are just a sampling of cases in which FBI agents provided "unfounded testimony at trial that exaggerated the probative value of the hair match," just as the government has conceded Mr. Malone did in Mr. Gates' case. They offered this testimony notwithstanding the boiler-plate assertion usually contained in their written reports that hair was not a "positive means of identification."[46]

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[38] *People v. Campbell*, 516 N.E.2d 1364, 1369 (Ill. App. 4 Dist. 1987).

[39] *State v. Melson*, 638 S.W.2d 342, 349 (Tenn. 1982).

[40] Garrett & Neufeld, 95 U. Va. L. R. at 19.

[41] 721 A.2d 207, 209 n.1 (Md. 1998).

[42] 420 So.2d 147, 150 (Fla. 1982).

[43] *Wyatt v. State*, 491 P.2d 1098, 1100 (Okl.Cr. 1971).

[44] *Thompson v. State*, 539 A.2d at 1054.

[45] *State v. Earley*, 373 A.2d 162,165 (R.I. 1977).

[46] Such language was described as optional in the FBI's 1977 hair microscopy manual. John W. Hicks, Special Agent, *Microscopy of Hairs: A Practical Guide and Manual*, Federal Bureau of Investigation, U.S. Department of Justice, at 41 (Jan. 1977).

VI. The United States Attorney for the District of Columbia has elicited and championed unfounded FBI hair comparison testimony for decades.

In testimony sponsored by the United States Attorney for the District of Columbia in 2006, long after the DNA revolution had undermined confidence in purported hair matches, former Special Agent Warren testified that during his tenure as an FBI hair analyst between 1981 and 1985, "I can say that of the 5,000 cases that I examined I never found two known samples that I couldn't tell apart."[47] He described the significance of this experience as follows: "I'm not saying that there's not another hair out there that could match that sample from Mr. Martin. I can't say that for sure because I haven't seen all the hairs in the world."[48]

In 2009, before the results of DNA analysis conclusively demonstrated Mr. Gates' innocence, the United States touted the FBI hair testimony. At the hearing on Mr. Gates' Motion to Commence Post-Conviction DNA Testing, the prosecutor argued, "I just don't think you can ignore the fact that he comes before the Court as a person who was convicted with all of the evidence before the Court and *including a microscopically indistinguishable pubic hair*."[49]

Both Mr. Gates and Mr. Martin have had their cases resolved. More troubling are the two cases that PDS has uncovered in the wake of Mr. Gates' exoneration. In both, Assistant United States Attorneys elicited and argued unfounded, unscientific and exaggerated FBI hair testimony to convict the defendants of the most serious offenses. In neither case was the hair examiner Michael Malone.

In one case[50], Special Agent James Hilverda claimed that a head hair in a stocking mask abandoned near the scene of an armed robbery and murder was identical to the defendant's hair in all microscopic characteristics. He provided unfounded testimony, exaggerating the probative value of this purported match: he testified that he had conducted "probably tens of thousands" of exams, and "only on very rare occasions have I seen hairs of two individuals that show the same characteristics." The prosecutor then argued in his rebuttal closing that the chance that the hair was left by someone other than the defendant was perhaps "*one … in ten million*."

In a second case, Special Agent Myron T. Scholberg testified that a head hair found on the sexual assault victim's night gown was microscopically like the defendant's head hair. He, too, provided unfounded statistical testimony exaggerating the significance of this purported match. According to the government's brief on appeal, "This was significant because it is a very rare phenomenon; only eight or ten times in the past ten years, while performing thousands of analyses, had Scholberg reported that he could not distinguish even microscopically between two or three known samples."

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[47] *United States v. Kevin Martin,* F-6679-82, Motions Hearing Transcript at 29 (July 17, 2006).

[48] *Id.* at 43.

[49] *Donald E. Gates v. United States,* F-6602-81, Status Hearing Transcript at 20 (Nov. 3, 2009) (emphasis added).

[50] Neither case will be identified by name until the investigation is complete.

These cases may represent miscarriages of justice every bit as devastating as the miscarriage of justice in Mr. Gates' case. Only with an audit of all cases in which the United States Attorney's Office relied on FBI hair comparison testimony to secure convictions for serious crimes can the true scope of the problem be known.

December 18, 2010, will mark the one year anniversary of Mr. Gates' exoneration. That date should not pass without action by this Court. It is past time to name a judge to oversee the investigation called for by Judge Ugast last December. It is past time to allow the Public Defender Service to participate in the investigation. In light of the foregoing, the investigation must include all cases in which the government relied on FBI hair comparison testimony to secure a conviction for a serious offense to ensure that no other innocent victims of such testimony remain in custody.

Respectfully submitted,

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cc: The Honorable Russell Canan
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