

UNITED STATES DISTRICT COURT

FILED
U.S. DIST COURT
MIDDLE DIST. OF LA

MIDDLE DISTRICT OF LOUISIANA

2005 FEB 18 P 4: 05

SHANNON KOHLER

SIGN _____
BY DEPUTY CLERK

VERSUS

NUMBER CV 03-857
DIVISION D-M-2

PAT ENGLADE, ELMER LITCHFIELD,
DETECTIVE CHRISTOPHER JOHNSON,
CITY OF BATON ROUGE, and PARISH OF
EAST BATON ROUGE

MOTION FOR NEW TRIAL OR AMENDMENT OF JUDGMENT
RULE 59 (a) AND RULE 59 (e) FEDERAL RULES OF CIVIL PROCEDURE

Comes now Shannon Kohler through undersigned counsel and moves for new trial and/or amendment of the judgment entered February 8, 2005, dismissing his suit, on the following grounds:

1. Plaintiff sued for damages in part because after being threatened with public exposure for not "voluntarily" submitting to a swabbing for DNA testing, Defendant Johnson caused the November 14, 2002 affidavit, warrant and return to be filed in the East Baton Rouge Public records on November 18, 2002. Plaintiff was the only victim of DNA testing to be identified, and that same day he was described on television and the next day, November 19, 2002, identified in the Baton Rouge Advocate as a suspect in three rape-murders who would not "voluntarily" give a DNA sample. The Court's February 5, 2005 Ruling on Motion for Summary Judgment did not discuss nor dispose of that claim.

JJB

2. The Court's Ruling discussed Defendant Johnson's excuses for concealing from Judge Anderson, the warrant judge, the fact that the killer left a size 10-11 bloody Rawlings shoeprint, and that Johnson knew Shannon Kohler wore size 13 or 14. Johnson referred to what "an experienced" homicide detective would have thought or done. The test in qualified immunity cases is what a "reasonably well trained" officer would have done. He produced no competent expert evidence on that subject. Negating his statements are the actions of his employers, who on September 5, 2002 released publicly photographs of the Rawlings shoe and shoeprint. The Court is requested to take judicial notice of the Multi Agency Homicide Task Force internet website at <http://www.brgov.com/TaskForce/default.asp>, pursuant to Federal Rule of Evidence 201, (b) (1) and (2), and (d). A copy of relevant portions is attached as **Exhibit A**.
3. When Johnson publicly identified Shannon Kohler, a white man, on November 18, 2002 and television and newspapers broadcast the story on November 19, 2002, it was a green light to Derrick Todd Lee, a black man and the serial killer. It was a signal the hounds were still chasing a white rabbit. Two days later, Lee murdered Trineisha Dene Colomb in Lafayette Parish. While the hounds were still chasing white rabbits, he also murdered Carrie Yoder. In a January 23, 2003 press release, the Task Force asked for public help in finding the serial killer of Miss Colomb. They described a size 10-11 Adidas shoeprint as having been found at the scene of her murder. Website, *PRESS RELEASE* and *PHYSICAL EVIDENCE*. The black serial

killer had changed shoe brands, but he still wasn't wearing size 14. Granted Johnson may not have known this, but it shows the Task Force powers that be were still giving a lot more attention and publicity to the size 10-11 shoes than Johnson would have us believe was warranted. To his employer, size was still important. Johnson was not aware of the killer's shoe brand change from Rawlings to Adidas when he concealed Mr. Kohler's size 14 from Judge Anderson, but if he was more than a message carrier, he should have been aware of the critical importance of shoe size when he gave his affidavit in support of Defendants' motion for summary judgment. All this relates to the totality of circumstances. If totality can confirm probable cause, it can also disprove it. For example, the totality includes the fact that Shannon Kohler's DNA proved his innocence, fact barely mentioned by the Task Force, and ignored by Johnson.

4. The Court's ruling ignores the most glaring proof Johnson did not have probable cause to request a warrant, whether the warrant for the seizure of the body of Shannon Kohler is considered an arrest warrant or a search warrant. If there was probable cause to search him for DNA evidence, it can only be because there was probable cause to believe he was the murderer. Failure to arrest him demonstrates either the grossest incompetence of Christopher Johnson, or he didn't believe he had probable cause for a warrant. Further, if there was probable cause to arrest and search Mr. Kohler, it was doubly incompetent not to search his home and vehicle for weapons, bloody clothing, including the bloody size 10-11 shoes, and items stolen from the victims.

Website, *JANUARY 23, 2003 RELEASE*, Evidence missing from victims' homes, (links to victims Green, Pace and Kinamore.) A DNA test of the killer, without arrest and further search, would have led instantly to destruction of any other evidence. This triple incompetence disposes of qualified immunity.

5. The Court has discussed and dismissed plaintiff's claims against Chief of Police Pat Englade. His liability was addressed in Johnson's affidavit, in which he claims the filing of the Kohler warrant documents in the public records and the resulting fulfilling of the public exposure threat was in accordance with Baton Rouge City Police procedures. This is also sufficient to make the City of Baton Rouge responsible.
6. In addition to damages, plaintiff also asked for a mandatory injunction to compel return of items seized, and removal of his DNA from databases. These were also not addressed in the Court's ruling.

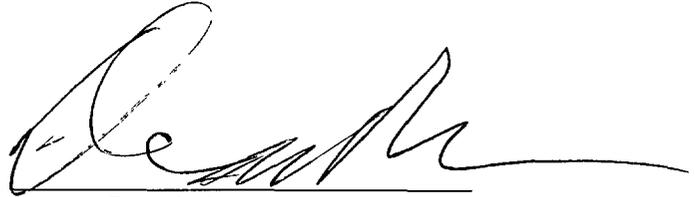
CONCLUSION

The consequences of Johnson's deadly incompetence and vindictiveness should not be immunity.

Wherefore Shannon Kohler prays for hearing, for oral argument, and for a new trial, and reversal of the dismissal of his suit for damages against Christopher Johnson for his arrest and search, for his invasion of privacy by intentional publicity, and for removal of all DNA records from any databases to which they have been sent.

He further prays the dismissal of Pat Englade and the City of Baton Rouge be reversed.

By Attorney:

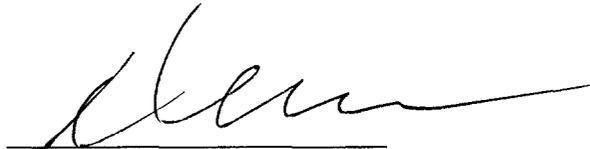


Dennis R. Whalen LABN 13,389
854 Main Street
Baton Rouge, LA 70802
Tel: (225) 336-2098
Fax: (225) 336-0365

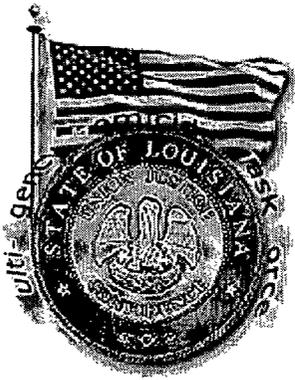
CERTIFICATE OF SERVICE

I certify a copy of this motion has been mailed this 18th of February, 2005 to
opposing counsel:

Mr. James L. Hilburn, Esq.
10500 Coursey Blvd., 2nd Floor
Baton Rouge, LA 70816



Dennis R. Whalen



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Response to Primetime Special

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Task Force Experience

The Multi-Agency Task Force is comprised of a group of agency heads, teams of investigators, analysts, and support staff with over 875 years of law enforcement experience. This is a group dedicated to the resolution of the unsolved serial killer cases.

Administrators: 229 years

Coordinators: 139 years

Team Leaders: 69 years

Investigative Team: 360 years

Research and Analysis: 56 years

Support Staff: 25 years

The Task Force is comprised of highly-trained investigators with years of cumulative experience working hundreds of actual cases including complex and serial homicides, and serial rapist cases (sexual assault investigations). Their experience also includes utilizing the most up-to-date investigative techniques for major cases, major case management, and crime scene expertise. These investigators have experience working with local, state, federal, and international law enforcement agencies and personnel.

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VICTIM TIMELINE

• **September 23, 2001**
Gina Wilson Green last seen.

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• **September 24, 2001**

Gina Wilson Green's body discovered within her residence.

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• **May 31, 2002**

Charlotte Murray Pace last seen.

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• **May 31, 2002**

Charlotte Murray Pace's body discovered within her residence.

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• **July 12, 2002**

Pamela P. Kinamore last seen at her Denham Springs business.

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• **July 16, 2002**

Pamela P. Kinamore's body discovered at Whiskey Bay.

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• **November 21, 2002**

Trineisha Dene Colomb last seen.

• **November 24, 2002**

Trineisha Dene Colomb's body discovered in wooded area, Scott, LA.

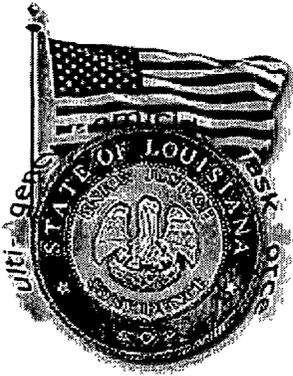
- **March 3, 2003**

Carrie Lynn Yoder last seen.

- **March 13, 2003**

Carrie Lynn Yoder's body discovered at Whiskey Bay.

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Multi-Agency Homicide Task Force January 23, 2003

Since the Multi-Agency Homicide Task Force was formed in August 2002, it has been committed to releasing available information to the public, which may assist us in locating the person responsible for the four homicides currently under investigation. Today, the Task Force is releasing another important piece of information that may lead us to the killer.

This item is a sample of a shoe that investigators believe may have been worn by the person responsible for the Trineisha Dene Colomb homicide, which occurred in November 2002. The Task Force has developed evidence from the crime scene that indicates that the shoe is an Adidas brand; the imprint on the bottom of the shoe is the same for both the Give-N-Go or Buzzer Beater model, size 10 to 11. These shoes come in various color accents, as shown on the handout. The shoe is designed for basketball, but could be worn for other purposes. The Give-N-Go model can be purchased in Lafayette at Academy Sports and Shoe Carnival stores. The Give-N-Go style is also available in Baton Rouge at J.C. Penny and Sports Academy as well as the J.C. Penny in Metairie. Adidas representatives have stated that this shoe was manufactured in 2002 and is still being produced and sold at a cost of approximately \$44. As you can see, we have only been able to obtain one actual sample of the shoe, but due to circumstances beyond our control, the Task Force has had difficulties acquiring shoe samples as well as photographs of the various models of the shoes.

Again, the Task Force is asking for the public's assistance. We are asking the citizens of Lafayette and Baton Rouge to think back, and add this important piece of new information to the recently released profile, as well as the "person of interest"

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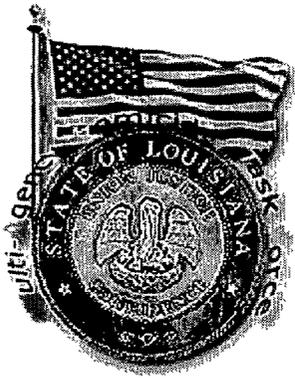
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sketch.

*ANYONE WITH ANY INFORMATION REGARDING THESE
FOUR HOMICIDES IS URGED TO CONTACT THE TASK
FORCE ON THE TOLL FREE TIP LINE*

1-866-389-3310.



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Investigative Evidence

PHYSICAL EVIDENCE
EYEWITNESS INFORMATION

APPREHENDED: Derrick Todd Lee Poster

APPREHENDED: Derrick Todd Lee Wanted Poster

Arrest Warrant for Derrick Todd Lee

PHYSICAL EVIDENCE

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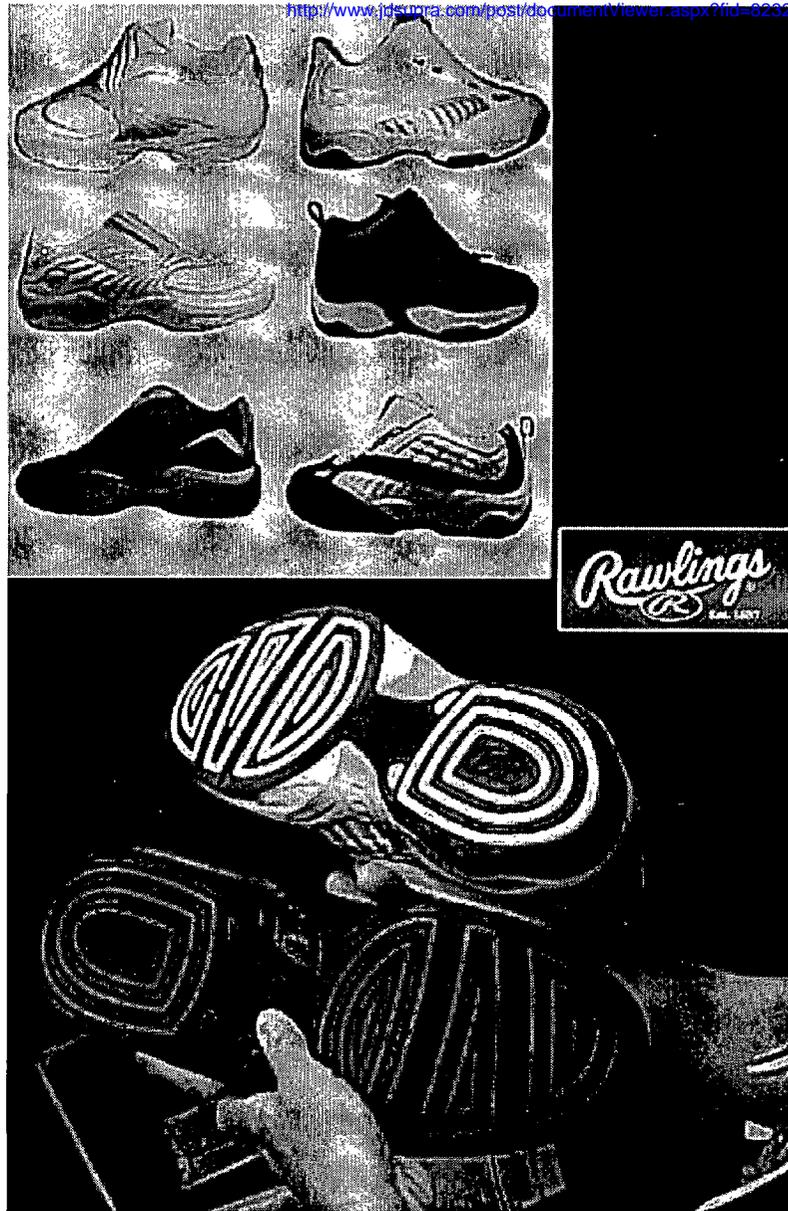
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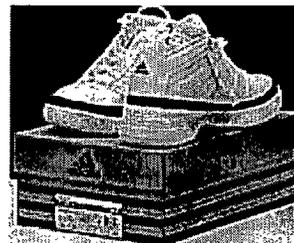


SEPTEMBER 5, 2002 RELEASE

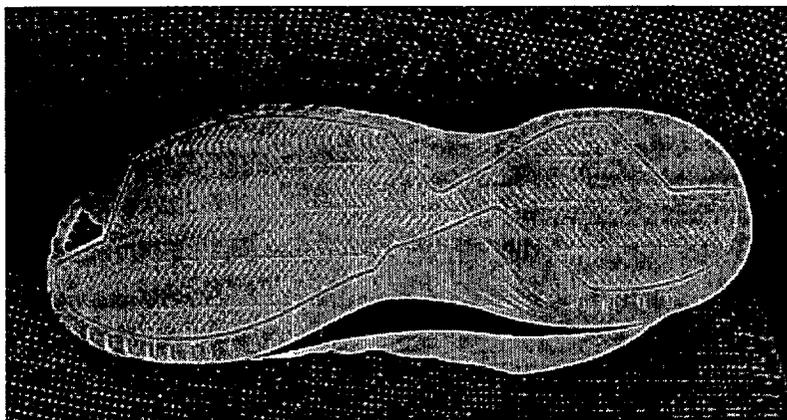
Buzzer Beater Tread



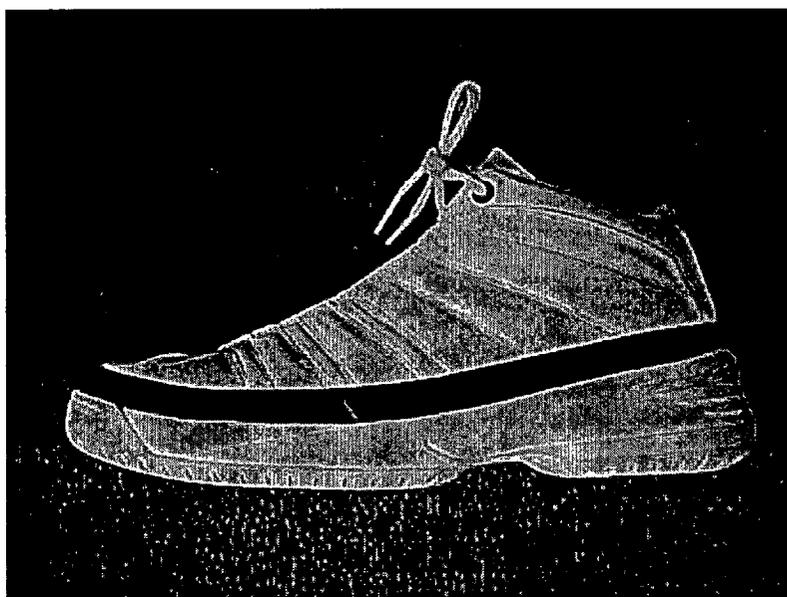
Give-N-Go Tread



JANUARY 23, 2003 RELEASE



JANUARY 23, 2003 RELEASE



JANUARY 23, 2003 RELEASE

Evidence missing from victims' homes

Green

Pace

Kinamore

Colomb

Yoder

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