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## 2 States to Review Lab Work Of Expert Who Erred on ID

By ADAM LIPTAK

State authorities in Montana and Washington will review the work of a forensic scientist whose testimony was questioned after DNA evidence cleared a Montana man who spent 15 years in prison after being convicted of raping an 8-year-old girl.

An F.B.I. report issued yesterday concluded that the scientist had misidentified the hair samples that were the central evidence in the case.

The scientist, Arnold Melnikoff, testified in 1987 that head and pubic hairs found at the scene of the rape, in Billings, Mont., were indistinguishable from those of the defendant, Jimmy Ray Bromgard.

Little evidence was presented at his trial beyond Mr. Melnikoff's testimony and the victim's statement that she was "about 60 percent, 65 percent sure" that Mr. Bromgard was the man who raped her.

Mr. Melnikoff testified that the chances that either set of hairs found at the scene were not those of Mr. Bromgard were 1 in 100. Since head and pubic hairs look different, he went on, "it's a multiplying effect, it would be 1 chance in 10,000."

In the report issued yesterday, the Federal Bureau of Investigation said that neither hair sample belonged to Mr. Bromgard. The bureau's trace evidence unit concluded that both the head and pubic hair samples were "microscopically dissimilar" to samples provided by Mr. Bromgard at the time. The report added that the head hair sample was similar to that of the victim.

Walter Rowe, a professor of forensic science at George Washington University, said that Mr. Melnikoff's testimony was problematic and that the new evidence was unsettling.

"The 1-in-100 estimate was without any scientific basis," Professor Rowe said. "The multiplying of probabilities was totally fallacious. The most favorable spin you could put on the F.B.I. report is that it appears he was not a competent hair examiner. The less favorable spin you could put on it is that he was lying, that he was fabricating testimony in order to obtain a conviction."

Mr. Melnikoff could not be reached yesterday. His home telephone number is unlisted.

In an interview in September, on the eve of Mr. Bromgard's release, Mr. Melnikoff acknowledged that "there has never been a thorough, proper study where they looked at a large number of samples" that would allow quantification of the kind he used. He said his testimony was based on his experience with many hundreds of hair samples.

"I did my job," Mr. Melnikoff said. "I didn't say it was him exclusively. Hair evidence is class evidence. It's not specific. It's possible by coincidence it could be similar to another person."

Professor Rowe said a comprehensive audit of all of Mr. Melnikoff's work over three decades in two states was needed.

"The audit must extend not only to the hair examinations he conducted," he said, "and not only to him but everyone he trained and every case he ever did."

Mr. Bromgard said the F.B.I. report did not surprise him. "Montana needs to spend the money to open up every case he ever did," he said.

Mr. Melnikoff was the director of Montana's state crime laboratory for almost two decades. For the past 13 years, he has worked as a forensic scientist for the Washington State Police, focusing on drug cases. Last month, he was placed on paid leave while the state conducts a review of about 100 of his cases.

"There were evident problems with his testimony in Montana," said Barry Logan, the director of Washington's Forensic Laboratory Services Bureau. "At this point, we have no basis to believe there has been any misconduct or any problems in any of the cases he did for us here in Washington."

A spokeswoman for the attorney general of Montana said yesterday that some cases would be reviewed as a consequence of the F.B.I. report.

Peter J. Neufeld, a co-director of the Innocence Project at Benjamin N. Cardozo School of Law in Manhattan, which represents Mr. Bromgard, had harsh words for Mr. Melnikoff, saying: "He's a complete quack. He's a complete fraud. He was writing reports saying the hairs matched when they excluded the suspect."

The questions raised about Mr. Melnikoff are reminiscent of those about Joyce Gilchrist, an Oklahoma City Police Department chemist whose work in hundreds of cases is under review. "This conceivably will be the biggest crime lab scandal in the country," Mr. Neufeld said of Mr. Melnikoff's work. "He was the top guy in the state. He was the director of the Montana State Crime Laboratory. That's what makes it different from Gilchrist."

*cited in U.S. v. Olsen, No. 10-36063 archived on March 6, 2014*