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Avoiding Cognitive Bias and Following the Science

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Lydell Grant

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● “He looked very determined, which is the reason I have no problem recognizing his face because I’ve never seen a look like that on anyone’s face”
-Witness B.W.

● “Well when I first see it my eyes go straight to number two, but I did not make my decision at that time. I looked at every photo and then I made a conclusion that number two was the guy”
-Witness C.W.

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● “You don’t forget stuff like that”
- Witness D.W. (describing recognizing suspect’s face)

● “I’m certain, I was hesitant yesterday because, I mean, it’s been two years and it looks like he’s gained a little weight and he’s wearing glasses”
-Witness A.V. (on his previous day’s inability to ID Grant)

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● “Oh, I made sure I seen who it was”
-Witness A.G.


● “At first I was not (able to make an identification), but then I just really thought about it and I tried to picture it back in my mind and the guy that stuck out the most was the one I picked”
-Witness L. M.

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PROSECUTOR/EXPERT


13.1	13.2	13.3	13.4	13.5	13.6	13.7	13.8	13.9	14.0	14.1	14.2	14.3	14.4	14.5	14.6	14.7	14.8	14.9	15.0
13.1	13.2	13.3	13.4	13.5	13.6	13.7	13.8	13.9	14.0	14.1	14.2	14.3	14.4	14.5	14.6	14.7	14.8	14.9	15.0
13.1	13.2	13.3	13.4	13.5	13.6	13.7	13.8	13.9	14.0	14.1	14.2	14.3	14.4	14.5	14.6	14.7	14.8	14.9	15.0
13.1	13.2	13.3	13.4	13.5	13.6	13.7	13.8	13.9	14.0	14.1	14.2	14.3	14.4	14.5	14.6	14.7	14.8	14.9	15.0

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No conclusions will be made regarding Lydell Grant as a possible contributor to this DNA mixture

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[PROSECUTOR] It says: No conclusions will be made regarding Lydell Grant as a possible contributor to this DNA mixture. What does that mean?

[EXPERT] It means that with a mixture now we're dealing with a lot more information. And when I sit down and look at the mixture and compare it to Lydell, I was not able to make a clear determination if he was a contributing individual to that mixture. I could not make a conclusion.

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• The trial court shall order the District Clerk to forward a copy of Jermarico Carter's videotaped interview with the Houston Police Department. The District Clerk shall forward a copy within thirty days from the date of this order. Any extensions of time must be requested by the trial court and obtained from this Court.
Filed: April 1, 2020

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• On April 1, 2020, we directed the trial court to order the Harris County District Clerk to forward a copy of Jermarico Carter's videotaped interview with the Houston Police Department. We believe that the record should be further developed.
• The trial court is the appropriate forum for findings of fact. TEX. CODE CRIM. PROC. art. 11.07, § 3(d). The trial court shall order the District Clerk to forward photographs, if available, of Jermarico Carter taken shortly before or after 2010, the year of the offense.

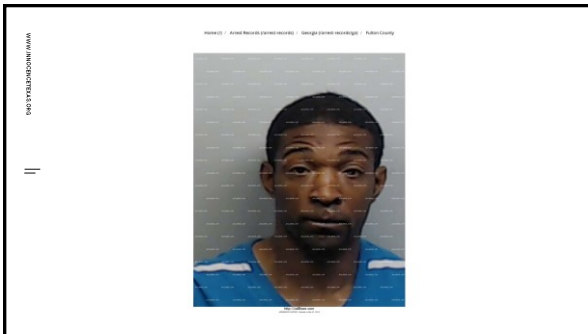
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• The trial court shall also order the witnesses, if available, who identified Applicant in a photospread and at trial to respond in affidavits to Applicant's actual innocence claim. In developing the record, the trial court may use any means set out in Article 11.07, § 3(d).

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CAUSE NO. 12886-C

EX PARTE	X	IN THE DISTRICT COURT
	X	351 ST JUDICIAL DISTRICT
LYDELL GRANT	X	HARRIS COUNTY, TEXAS
Applicant		

UNSWORN DECLARATION OF ANDREW VU

"My name is Andrew Vu. I am of sound mind and over eighteen years of age, and am legally qualified to make this declaration.

In December of 2012, I testified at the identification suppression hearing and the jury trial of Lydell Grant for the murder of Adam Schoerhorn that occurred on December 10, 2010. I was an eyewitness to the stabbing that happened in the parking lot of the Blur nightclub that evening.

On August 10, 2020, I was advised by prosecutors from the Harris County District Attorney's Office (HCDAO) that retesting of DNA evidence taken from under Mr. Schoerhorn's fingernails during his autopsy led to a different suspect, who has now admitted to being the person who stabbed Mr. Schoerhorn. The prosecutors told me the HCDAO now believes Lydell Grant to be innocent of the murder and they intend to prosecute the new suspect for that crime. They said the Texas Court of Criminal Appeals


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wanted them to ask me my thoughts on the subject of Mr. Grant's actual innocence.

I previously had heard something about Mr. Grant's case on the news and believed he had already been released from prison. One of the prosecutors explained to me that he was out on a certain type of bond because of the new evidence.

To be honest, the day the police officers came to me with the lineup and asked me to pick someone, I told them I didn't see the guy, but they said to look again, because he was in there and three other people had already picked him. I picked Mr. Grant, even though I did not really feel he was the guy. However, I talked to my co-workers afterward, and they were all sure Mr. Grant was the person, so I agreed. Because my co-workers believed it was Mr. Grant, I thought I was the one making a mistake.


I wrote my identification on the back of the photo spread. I did not tell the trial prosecutors about why I chose Lydell Grant, because that was a long time later.


Andrew Vu

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My name is Andrew Vu, and I am over eighteen years of age. I am a U.S. citizen and reside within the United States. I declare under penalty of perjury that all information in the foregoing statement concerning my testimony at the murder trial of Lydell Grant and subsequent events is true and correct. Due to present conditions under the COVID-19 global pandemic, I do not have ready access to a notary public and instead offer this unsworn declaration.

Signed this the 12th day of August, 2020.


Andrew Vu

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