



SHERIFF'S OFFICE - BROWARD COUNTY, FLORIDA
Investigative Action Report



Case: PB90-5464

Zone:

Offense: HOMICIDE

CONTACT INFORMATION:

VICTIM:

Pamela Albertson
 W/F 12/25/1957
 (Deceased)

WITNESSES-LAW ENFORCEMENT:

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 Broward Sheriff's Office
 Homicide Unit
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NARRATIVE:

On the morning of February 20, 1990, the victim, a female groom named Pamela Albertson at the Pompano Harness Track, failed to show up for work. Security guards at the track went to the victim's room in a dormitory near the track where the victim and other female grooms lived. After opening the locked door, (which was padlocked from the inside) the security guards found the victim's body on the floor of her room. She was wearing only blue jeans and a T-shirt. A tank top shirt was found lying on the floor.

Investigation into the murder quickly led to the questioning of Robert Hayes a subject who also worked at the horse track with the victim.

Witness testimony from co-workers Joan Schmidt placed Hayes at the murder scene speaking to the victim the night before. Schmidt stated that she saw a man, whom she later identified as Hayes, at the door of the victim's room at about 8:45 on the evening of the murder. Schmidt stated that she heard the victim telling Hayes that she was going into her room to go to sleep and that [Hayes] was not going to come in.

Another witness co-worker Clyde Tate stated that he knew of an altercation between Hayes and the victim one month before the homicide. In addition many coworkers told detectives that the victim Pamela Albertson feared Robert Hayes due to his past harassing actions.

Other coworkers provided various statements that Hayes made after his arrest about the

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victim being strangled and that Hayes sexually harassed the victim before in the past.

A female groom named Debbie Lesko was interviewed and stated that she was attacked by Hayes approximately eighteen months prior to this offense at a racetrack in New Jersey. Lesko testified that she and Hayes had gone out for dinner, then to a bar for drinks, and then to her dormitory room where they talked. Lesko stated that, while they were so engaged, Hayes attacked her, got her down on the floor on her stomach, and proceeded to choke her. Lesko finally got him to release her and allow her to go to the rest room down the hall. Lesko called a security officer and Hayes was arrested for simple assault. The charge was later dropped and there was no evidence that the incident was a sexual assault.

Detectives interviewed another coworker named Ann Santariello who told Pompano detectives about another death of a female groomer that had occurred at Vernon Downs Race Track in New York in 1987 that she felt was suspicious. The incident was determined to be the death of Leslie Dickenson which was ruled a suicide.

In 1987, Dickenson was a horse groom living and working at Vernon Downs, a harness track about 35 miles east of Syracuse. On August 14 of that year, she was found hanging in her apartment at the grooms' quarters of the race track. She was covered in blood and had multiple stab wounds to her wrists and neck. Her death was ruled a suicide. Hayes was determined to have also a groom at Vernon Downs and an acquaintance of Dickenson's.

The original finding in the case on 08/15/1987 by Pathologist Neville Harper of the Rome Hospital and Murphy Memorial Department of Pathology was that Dickenson slit her wrists and

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throat, set the room on fire and then hanged herself.

New York Police decided to reopen the case after they met with police in Pompano Beach to discuss the similarities of the murder of Albertson and their Dickenson's suicide.

Robert Hayes in his statement in reference to Pamela Albertson originally told the police that he last saw the victim around 5:30 on the evening of the murder. Later, after being confronted with the statement of the other co-workers eyewitness who had seen Hayes with the victim later in the evening, Hayes changed his story and admitted speaking to the victim after 5:30 p.m.; however, he denied ever going into the victim's room. Hayes admitted that he had once had sex with the victim some two to three months earlier.

The Broward County Medical Examiner's Office Doctor Stephen Nelson determined that the victim Pamela Albertson was killed by manual strangulation and explained that she had bruises on both sides of her head and her upper lip. The autopsy found no bruising to the vaginal or anal area and that the victim had several light brown hair clutched in one of her hands.

This hair evidence suggested that someone else could have possibly perpetrated the crime since they were determined to be Caucasian and inconsistent with Hayes' hair, as he was African-American.

The hairs found in the victim's hands were originally examined by Howard Seiden in the Broward County Crime Lab in 1992 to compare to hairs taken from the victim Pamela Albertson. It should be noted that DNA testing had not yet been developed in 1992. Seiden was unable to offer

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an opinion on the two hairs samples.

The same hairs were then sent to Professor Walter Rowe a forensic expert at George Washington University who concluded that the hairs found in the victim's hands were removed by force. Professor Rowe found no similarities between the victim's hairs and the hairs recovered from her hand.

DNA tests conducted on a vaginal swab taken from the victim, as well as on samples cut from the tank top found on the floor of the victim's room revealed that seminal fluid was present on the tank top but not on the vaginal swab. Additionally, no seminal fluid was found on the victim's blue jeans.

The DNA samples on both items were first sent to Cell Mark Laboratories who refused to test the vaginal swabs because they contained no visible sperm.

The samples were then sent to Life Codes, a DNA testing company in 1990. Forensic Scientist Joanne Squeglia determined that she performed DNA testing on samples taken from the victim, the defendant, the vaginal swab, and the tank top. During the time of the testing (1990) DNA was not held to the same standards as today to protect against contamination, etc. The testing on the vaginal swab produced a seven-band DNA match with the blood sample taken from the defendant Robert Hayes and that testing on the tank top sample produced a three-band match.

On 02/20/1990 Robert Hayes was arrested for the murder of Pamela Albertson and on

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03/22/90 Robert Hayes was indicted on a count of First-Degree Murder for the murder of Pamela Albertson.

On 11/15/1990 the body of Leslie Dickenson was exhumed by the Oneida County Sheriff's Office and a second autopsy was performed by Doctor Erik Mitchell. Doctor Erik Mitchell ruled Dickenson's death a homicide due to blunt force trauma, incised wounds and hanging. A rape kit was conducted on the victim but DNA testing at the time (sent to Life Codes) was unable to determine a profile from an identified semen seen on the swab. The Oneida County District Attorney's Office declined to present the case to a Grand Jury due to lack of evidence.

On 10/29/91 after a trial the jury found Hayes guilty of first-degree murder and the judge sentenced him to death on 06/05/1992 for the murder of Pamela Albertson.

On 06/11/92, Hayes then brought his conviction to appeal in which he raises multiple claims of error during the trial. Those issues being the following:

(1) Whether error was committed in admitting collateral crime evidence under the Williams Rule involving the New Jersey Lesko case.

(2) Whether the DNA test results were unreliable because of the laboratory procedures employed at the time. In this appeal on DNA it was argued that the DNA results were fallacious due to the unreliable means by which they were tested. Holding DNA testing, or any new scientific principle, up to the highest standards of credibility, the Florida Supreme Court insisted that the evidence or expert testimony in question must assist the jury in determining the fact in an issue,

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must pass the dictates of the Frye test established in *Frye v. United States*¹¹, and must be presented by a qualified expert on the subject.

(3) Whether a prosecution witness was erroneously allowed to present hearsay evidence of a statement of the victim's and to give her opinion that Hayes committed this offense and that the victim feared Robert Hayes.

(4) Whether the prosecution was improperly allowed, over objection, to place the burden on Hayes to do certain scientific testing.

In examining the issues of the Hayes' case, the Florida Supreme Court found that the unreliable technique of "**band-shifting**" was used to explain the DNA test results in terms of the probability that Hayes left the semen found on the tank top. The Florida Supreme Court ruled that the "band-shifting" method employed in the Hayes case was inadmissible as a matter of law, and, as such, the tank top was erroneously admitted as evidence.

The Florida Supreme Court ruled that the prosecution presenting evidence that Hayes attacked another female co-worker at a track in New Jersey was deemed that the admittance of collateral crime evidence as in error.. The prosecution sought to show the similarities between that attack and the murder of Pamela Albertson; however, the Florida Supreme Court ruled that there were "**insufficient points of similarity to the instant offense to warrant admitting evidence of the previous attack.**"

In the third issue presented to the Florida Supreme Court the admittance of hearsay

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evidence regarding the victim's supposed fear of him. The Florida Supreme Court agreed, and found that the trial court erred in allowing the hearsay testimony.

In the fourth matter brought up in appeal was the prosecution's elicitation of testimony concerning the defense's failure to request various tests of evidence. The Florida Supreme Court found error as allowing such testimony insinuated that the burden of proof lied with the defense.


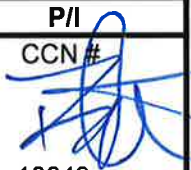
On 06/02/95, the Florida Supreme Court reversed Hayes' conviction, vacated his Death Sentence and remanded for retrial.

The high court did, however, rule that the DNA found in Albertson's vagina was properly tested and could be presented as credible evidence in Robert Hayes' retrial.

On retrial, a new "person of interest" was developed by Robert Hayes's defense attorney Barbara Heyer. That person was Scott Nicolas a fellow groomsman who worked with both Pamela Albertson and Leslie Dickenson at the time of their deaths.

At the time of the trial Scott Nicholas was in prison in Ohio for kidnapping and raping two women at the Lebanon Fairgrounds in Ohio. Under cross examination Nicholas contradicted his original statement that he gave detectives in 1990 in reference to being with Pamela Albertson on the day of her murder. Though no testing has ever occurred to date, Scott Nicholas' hair is similar in color to the hairs found in the victim's hand.

The State during the second Pamela Albertson's murder trial presented evidence of Hayes'

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DNA found in the victim's vagina. However, the defense challenged this evidence with other evidence that hairs inconsistent with Hayes' were found clutched in the victim's hand and expert DNA testimony that many thought was questionable.

On 07/16/97 Robert Hayes was acquitted in a second trial for the murder of Pamela Albertson.

In 1999 and 2001 the DNA evidence on the Leslie Dickenson case was sent to both the New York State Police Laboratory and Cell Mark Laboratories for further testing with no new results. In 2003 the samples were again sent to the New York State Police Laboratory where they were able to determine a profile from the non-sperm fraction portion. That DNA profile was determine to be a mixture of a female and male profile. The male profile was determined to be inconsistent with the known DNA of Robert Hayes.

In 2003 years after being released from custody Robert Hayes was indicted in Oneida County for the second degree murder of Leslie Dickenson and arrested.

On November 17, 2004, in the second day of trial, 17 years after the murder under the advice of Counsel Hayes pleaded guilty to lesser charges in connection with Dickenson's death. Robert Hayes is currently serving a 15-45 year sentence in New York for manslaughter, burglary, and attempted arson. He is eligible for parole on 08/06/2018.

In 2016 this detective became involved in the Pamela Albertson's murder case after Robert

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Hayes's defense attorney Barbara Heyer (through the Broward County State Attorney's Office) filed a request to view the evidence remaining in the custody of the Broward County Sheriff's Office. Heyer was assisting Robert Hayes Innocence Project attorneys on Robert Hayes New York murder case.

In 2020 this detective was again contacted in reference to the listed case by Broward County State Attorney Arielle Demby Berger, Senior Supervising Attorney Conviction Review Unit. Berger stated that she was working with both Robert Hayes Innocence Project attorneys and attorneys from the Conviction Review Unit in New York State. This detective was requested to reopen the Pamela Albertson's murder case to test the hairs found in the victim's hands and retest other DNA evidence under DNA technology not available in the 1990s.

This detective was able to locate micro slides from the rape kit taken at Pamela Albertson's autopsy in 1990. These micro slides had remained in the Broward County Medical Examiner's possession and never been tested in any manner since 1990. Other items located that had never been tested for DNA were cuttings from the victim's fingernails and the hairs found in the victim's hand.

The hairs recovered in the victim's hands in 1990 were also located in evidence by this detective. These hairs had been microscopically examined in the 1990s but never tested for DNA. This detective also located in evidence hairs taken from the victim after her death to be used to help establish her DNA profile.

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Additionally found in the returned evidence from the Broward County Clerk of the Courts was found hairs taken from Scott Nickolas by the Lebanon Police Department in Ohio. These hairs were obtained by Attorney Barbara Heyer as part of her defense of Robert Hayes.

All the listed evidence was sent to Alan Keel the DNA Lab Director at Forensic Analytical Crime Lab in Hayward, California.



DNA testing was assigned to Analyst Dave Hansen who visually confirmed that out of the seven hairs collected from the victim's hand four of them appeared to have anagen roots. Analyst Dave Hansen also concluded that the anal and vaginal swabs collected at the time of the victim's autopsy showed signs of sperm in the cell debris.

DNA testing on the victim's vaginal swabs confirmed that sperm fraction DNA matched that of Robert Hayes.

DNA testing on the victim's fingernails revealed that no YSTR results were obtained from the Pamela Albertson fingernail clipping wash specimens.

No DNA was found on any of the items tested that matched Scott Nickolas.

Of the seven hairs found in the victim's hands only two of the hairs yielded DNA results. Those results were consistent with the hairs being the victim's hairs.

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The new testing done by DNA Forensic Analytical Crime Lab confirmed many of the original prosecutions claims as to the hairs found in the victim's hands being her own hairs and refuted the defenses claims that the hairs belonged to the "real killer".

The DNA testing done by DNA Forensic Analytical Crime Lab on the victim's rape kits slides which matched Robert Hayes sperm faction DNA also contradicted Hayes claim that he had not had sex with the victim for months.

Since Robert Hayes could not be reprosecuted at the State level for the victim's murder contact was made with United States Federal Prosecutor Francis Viamontes to see if Robert Hayes could be prosecuted federal for any charges related to the victim's murder.

Federal Prosecutor Francis Viamontes advised that the Federal Government could only prosecute Robert Hayes if the murder met certain criteria none of which met the facts of the listed murder.

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