

# RESEARCH GUIDE

## DNA EVIDENCE USED IN TRIAL COURT

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The research guide below indicates how most courts use DNA results in cases and how different judges ruled on the use of DNA as evidence in court trials. The purpose of this guide is to present several methods used by different court systems across the United States. Consult Westlaw, the digest, and other legal databases for current case law. The intent of this guide is to provide a mere research aim; it is not comprehensive. There are three sections; Periodical Articles, Government Documents and Cases. The period is from 1980 to 1999.

### **Periodical Articles**

Berdan, Kathleen W. "The Admissibility of DNA Evidence: Minnesota No Longer Stands Alone." 20 William Mitchell Law Review. Fall '94.1063-1107.

This article reviews federal courts and states that have ruled on the admissibility of forensic DNA evidence. Appellate Courts in three federal jurisdictions and 27 state jurisdictions, admit both DNA test results and the statistical probability calculations in a case.

Brienza, Julie. "DNA Evidence Allowed In Post-Death Paternity Suit." 32 Trial. Jan 1996. 87.

This article describes how a New York judge admitted DNA tests into evidence in a paternity case under certain circumstances. It also discusses how this certain judge persuaded the state legislature to drastically change the states paternity laws dealing with DNA evidence.

Carrabino, Lisa. "The Admissibility of DNA Typing And Statistical Probability Evidence." 29 Suffolk University Law Review. Summer 1995. 473-514.

Discusses admissibility standards in Rhode Island.

Girgenti, Richard H. and Herkenham, M. Dawn. "The Future Admissibility of DNA Evidence in New York Court." 211 New York Law Journal. April 1994. 1.

Discusses the establishment of the foundation of the Frye tests in regards to the reliability of the RFLP techniques and protocol of laboratory procedure in finding a "match".

Kaye, D. H. "Bible Reading: DNA Evidence in Arizona." 28 Arizona State Law Journal. November 1995. 1035-1077.

Discusses the problem of the scientific opinion not having been reviewed prior to a hearing.

Kohn, Alan. "DNA Test Held Inconclusive in Paternity Suit." 202 New York Law Journal. October 1989. 9.

Discusses a case where DNA results were considered inconclusive at 99.993 percent positive probability.

Martin, Michael. "Admissibility of DNA Identification Evidence." 212 New York Law Journal. August 1994. 3.

Discusses the admissibility of novel scientific evidence in the court system.

Pratt, Deborah Isenberg. "Admissibility of DNA in Criminal Cases: A Colorado Primer." 24 Colorado Lawyer. October 1995. 2333-2336.

Suggest that the Frye tests should be conducted in trial courts and the courts should take notice of the RFLP analysis.

Porch, D. Scott. "Evidence: When the Tennessee Supreme Court Meets PCR-Method DNA Analysis, It's Love at First Sight." (Case Note) 28 The University of Memphis Law Review. Summer 1998. 1239-1257.

Examines the admissibility of the PCR-method in evidence without expert testimony.

Scheck, Barry C. "DNA and *Daubert*. " 17 Criminal Law Review. 1995.315-353.

This article illustrates the Supreme Courts new analytic framework for the admissibility of scientific evidence to the facts of a court case.

Spencer, Gary. "Counsel Barred in DNA Case." 211 New York Law Journal. January 1994. 1.

This article investigates a DNA case in which two defense specialists try to make motion to the New York Court of Appeals to substitute as counsel in place of an ineffective counsel.

Warren, Daniel. "DNA 'Fingerprint' Typing And Testing In Civil And Criminal Litigation: Celebrated Technology Runs Into Problems And Sends Lawyers Scurrying To Medical School." 7 Maine Bar Journal. March 1992. 90-96.

This article shows the major breakthrough of DNA "fingerprint" typing. The article entails how DNA evidence is becoming more involved in various cases such as rape, murder and civil paternity matters.

Wright, Eric E. "Blood Ties: Scientific Advances and Recent Case Law Have Removed the Last Barriers to the Admissibility of DNA Evidence. 18 Los Angeles Lawyer. May 1995. 28.

The aforementioned article reveals that the criticism received by forensic DNA evidence are essentially not commendable. The article demonstrates how court recognizes the true purpose of DNA evidence in cases and rejection of DNA evidence in cases.

Yee, Yale H. "Criminal DNA Data Banks: Revolution for Law Enforcement or Threat to Individual Privacy?" 22 American Journal of Criminal Law. 1994-1995. 461-490.

This article reviews the admissibility of DNA and whether it is plausible to use DNA fingerprint evidence. It also investigates current state laws on criminal data banks of DNA fingerprint identification.

---. "Admissibility Issues of Forensic DNA Evidence." 44 University of Kansas Law Review. November 1995. 141-173.

Discusses the basic theories of DNA technology and the various issues surrounding its scientific evidence. It also explores admissibility issues and analyzes tests that better address DNA evidence.

### **Government Documents**

---. "Forensic DNA Analysis: Issues." 32 Criminal Justice Information Policy. June 1991. 91-455.

(GPO J 29.9/8:F 76)

Focuses primarily on the privacy and confidentiality issues raised by DNA testing for identification purposes. The article also discusses how technology and testing from DNA can operate in a manner consistent with applicable legal principles.

United States. Congress. House. Committee on the Judiciary. Subcommittee on Crime. "Minor and Miscellaneous Bills:Hearing Before the Subcommittee on the Judiciary, House of Representatives, One Hundred Fourth Congress, First Session." 1996. 98-100.

(GPO Y 4.J 89/1:104-40) microfiche

Explains the DNA Identification Grants Improvement Act. Discusses how this will increase DNA testing programs thereby taking pressure off the FBI and the states as well.

United States. Congress. Senate. Committee on the Judiciary. Subcommittee on the Constitution.  
"DNA Identification: Hearing Before the Subcommittee on the Judiciary, United States Senate, One Hundred First Congress, First Session, on Genetic Testing as a Means of Criminal Investigation, March 15, 1989."224. United States. Congress. Senate. March 1989. 90-391.

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Discusses the ramifications of DNA used in the legal profession.

### **Cases**

Barnes v. State, 704 So.2d 487 (Ala.Crim.App., 1997)

Brooks v. State, 695 So.2d 176 (Ala.Crim.App., 1996)

Danzey v. State, 703 So.2d 1019 (Ala.Crim.App., 1997)

Dubose v. State, 662 So.2d 1189 (Ala., 1995)

Dubose v. State, 662 So.2d 1156 (Ala. Crim. App., 1993)

Ex parte Hutcherson, 677 So.2d 1205 (Ala., 1996)

Ex parte Perry, 586 So.2d 242, 59 USLW 2693 (Ala., 1991)

Gaston v. State, 581 So.2d 548 (Ala.Crim.App., 1991)

Lightfoot v. McDonald, 587 So.2d 936 (Ala., 1991)

Maples v. State, 1991 WL 171220 (Ala.Crim.App., 1999)

Padget v. State, 668 So.2d 78 (Ala.Crim.App., 1995)

Payne v. State, 683 So.2d 440 (Ala.Crim.App., 1995)

Perry v. State, 606 So.2d 224 (Ala.Crim.App., 1992)

Reeves v. State, 591 So.2d 566 (Ala.Crim.App., 1991)

Saffold v. State, 627 So.2d 1107 (Ala.Crim.App., 1993)

Seritt v. State, 647 So.2d 1 (Ala.Crim.App., 1994)

Smith v. State, 677 So.2d 1240 (Ala.Crim.App., 1995)

State v. Van Reed, 673 So.2d 857 (Ala.Crim.App., 1996)

Turner v. State, 1996 WL 187768 (Ala.Crim.App., 1996)

Turner v. State, 1998 WL 12625 (Ala. 1998)

Womack v. State, 555 So.2d 299 (Ala.Crim.App., 1989)

Yelder v. State, 630 So.2d 92 (Ala.Crim.App., 1991)