

A P P E N D I X 3 1

Appendix 31 is the affidavit of Russell W. Johnson. Because the original is very difficult to read, I provide the typed copy below. The original follows the typed copy for verification purposes.

AFFIDAVIT OF RUSSELL W. JOHNSON

1. My name is Russell W. Johnson and I currently live at 459 McGeorge Dr. Vinton VA 24179. Before retiring from twenty eight years of police investigative work with the Hackensack, New Jersey Police Department I served with the 401st Bombardment Group (Eighth Air Force - England) on B-17's as a Waist Gunner and flew 26 missions over German occupied Europe. I received the following medals: Good Conduct, European-African-Middle Eastern Ribbon with 4 Bronze Stars, Air Medal with 3 Bronze Oak Leaf Clusters, Distinguished Flying Cross (DVC), Distinguished United Badge, Clusters.

2. For twenty three years of my twenty eight years in police work, I was assigned to the Bureau of Criminal Identification (BCI) and Records, specializing in forensic work, especially in the identification of suspects as having been present at a crime scene. This work included identification of fingerprints, tire impressions, foot impressions.

On November 22, 1958 I solved my first crime with a latent fingerprint lifted at a crime scene. Because this was the first time that a crime was solved in this way in the Hackensack Police Department I received a Certificate of Honorable Mention. From that day on I became so interested in the Science of Fingerprints I really taught myself and of course I attended police classes on this subject that were taught by the F.B.I.

Over the course of my career, I have testified in approximately 100 cases as an expert and have worked up exhibits and reports in approximately 1,000 cases. The reason for the small amount of court appearances is simple matter: The attorneys got to know of my expertise and would tell their clients to plead guilty. In addition, I have written in the area of the Science of Fingerprints. A few of my articles include: [sic]

PUBLICATIONS

FINGERPRINT & IDENTIFICATION Institute of Applied Science

August 1967 ... "Fused Fingerprints"

(Use of "Xerox Toner" to bring out latent fingerprints)

Page 2 of affidavit -- Page 360 of Joint Appendix  
December 1967 ... "Watch that Paste"  
(Fluorescent Paste ... Use?)  
December 1971 ... "Frequence of Double Loop Patterns"  
(Frequency of Double Loop Whorls in Thumbs)

RN MAGAZINE

October 1974 ... "The Case of the Nearly Mixed-up Babies"  
(As the Title applies ... a mixed-up Baby)

[sic]

LAW ENFORCEMENT COMMUNICATIONS

April 1975 ... "Fingering the Criminal"  
(A Single Fingerprint File using Key-Sort Cards)

POLICE REVIEW ( England )

September 1977 ... "Self-Help with Fingerprints"  
(An updated version of "Single Fingerprint File")

FINGERPRINT WHORLD

[sic]

July 1979 ... "The Case of the Nearly Mixed-up Babies"  
(A republication of the RN Magazine article)  
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(Using Hospital Records, when all avenues fail)

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October 1984 ... "Fraudulent Fingerprints"  
(Manufactured Fingerprint Evidence)  
March 1985 ... "Solving Those Cold Fingerprint Cases"

Virginia State Pllice TROOPER

Spring 1987 ... "Footprints & Hospital Records"  
(Footing of babies and using Hospital Records in Police work)

Also, while in charge of the BCI, I developed a "Single Fingerprint File" using "Key Sort Card." Later, when we got our computer, I also devised a "Single Fingerpritrn File" for the computer.

3. I was a resident of the Roanoke area in 1990 and followed the trial of Jens Soering in the local Newspaper ... Roanoke

Page 3 of affidavit -- Page 361 of Joint Appendix  
Times and World News. I was so outraged by the indication from jurors that a plastic overlay of the defendant's foot placed on top of a sock covered bloody footprint was the crucial piece of "evidence" leading to their verdict, that I wrote a letter to the editor of the Roanoke Times and World News that was published on July 22, 1990, indicating my opinion

that such "evidence" was of absolutely no value and would not be accepted by forensics scientific community. I felt, and feel, that an injustice might well have been done because the jury had the misimpression that the overlay "proved" or at least made more likely that Jens Soering had been at the scene of crime. I wrote this letter entirely as a disinterested professional with considerable knowledge in the field and I had not contact with either of the parties to the trial, the prosecution or the defense. [sic] [sic]

4. Recently, at the request of defense counsel for Jens Soering, I have been contacted and asked to do two things: one, to examine the actual exhibits which were before the jury and secondly, in light of that to reconsider and elaborate on my opinion as to the probative value of such "evidence."

My original opinion as expressed in the unsolicited letter to the editor is reconfirmed and, if anything, strengthened by a review of the actual exhibits.

4. The print at the crime scene, called LR-3, is a print which appears to be of a sock covered foot in a red liquid (presumably blood) on a wooden flooring. The print is very smeared and indistinct, especially around the toes and heel. Even under a magnifying glass, there are no friction ridges (also called dermal ridges) discernible. Nor are there any abnormalities, such as a missing toe or other distinguishing deformity. In fact there are no distinguishing characteristics whatsoever to make a comparison chart like it is done in comparing fingerprints ... pointing out characteristics so there is 100% certainty that lifted latent fingerprint is the same as the rolled inked impression. [sic] [sic]

5. The most that can be said from such a print is that the person who put it there had a foot with the approximate length of the print. Even this is unclear as the toes and the heel show smearing and movement, making it impossible to get the precise matchup. Any precise measurements (for example between toes or width of ball of foot etc.) are impossible, both because of the poor quality of the print and because the foot was covered (presumably by a sock) which itself could widen the print of the parts of the foot and distort shapes.

31

6. The "overlays" which the Commonwealth's witness Mr. Hallett chose to use were not sock covered, but rather bare foot. While these bare foot impressions of known origin look precise at a distance and of course do show friction ridges, those ridges and precision are not helpful because the print to which they are being compared is devoid of such characteristics.

It is of my belief that these dermal or friction ridges on the overlay [sic] is misleading and implies a degree of precision to the jury that in fact [sic] was not present.

It is also my opinion that a certain degree of the similarity that appears when the overlays are placed on top of the smeared prints comes from the fact that the two prints are not of contrasting color and therefore the shape below "blends" through the transparent overaly and gives the appearance of matching that in fact, upon closer examination of the two prints separately, simply isn't there.

7. I especially examined the overlay that was introduced as the Commonwealth's Exhibit which purports to be an overlay of a bare foot impression of Jens Soering over a photograph of LR-3. This exhibit contains red x's and arrows placed there by the Commonwealth's witness, Mr. hallett. These are completely worthless as far as pointing out any relevant "similarities" in the two prints. For one thing, the arrows merely point to the fact that both specimens have five toes. This is not unusual. Secondly, the dots purport to show the midpoint of the toes on both the overlay and LR-3 is [sic] very misleading.

While the midpoint of the inked impression of Mr. Soering can be found with some degree of certainty (because the inked impression is relatively clear), there is absolutely no way you can find the midpoint of the toes on LR-3 can only be a wild guess. If you have made a guess as to where [sic] to put the midpoint on LR-3, the fact that such dots "match" with those on the Soering print is of no relevance. Nor does the supposed "bump" testified to Mr. Hallett constitute of distinguishing mark of any significance. [sic] Finally, I note that there are arrows along the right arch marked by Mr. Hallett on LR-3, with no attempt to mark any such "distinguishing" marks on the overlay. Also noted the arrow at the bottom of the overlay is presumably his testimony that the "real end" of the overlay is some 3/8" higher

than the print (thus accounting, presumably, for the fact that the Soering print is long than the crime scene print). If he felt the Soering print [sic] was defective in that it gave an inking beyond where the heel actually ended, he

Page 5 of affidavit -- Page 363 of Joint Appendix should have chosen another print (as there were many to choose from, including, for Mr. Soering at least, some sock covered prints).

8. I also examined bare foot print of Elizabeth Haysom, both Commonwealth's Exhibit and other prints contributed by Ms. Haysom and in the custody of the Bedford Circuit Court but not used by Mr. Hallett. I can state that the crime scene print matches in size only with Ms. Haysom's print. Here too, however, the overlay evidence does not prove 100% that the blood impression print on the floor belonged to Ms. Haysom. [sic]

9. A comparison of LR-3 with known prints of Jens Soering provides no evidence whatsoever that Mr. Soering was at the scene of crime. LR-3 is of such poor quality (you cannot even tell where the toes are or end) that it should never have been used to attempt any identification at all. Certainly it does provide any information that points of Mr. Soering and the existence of this print does not provide any basis for saying that it is more likely Mr. Soering's print than Ms. Haysom's or any one of thousands of normal five toed individuals with roughly the same (normal) length of foot. [sic]

Signed - Russell W. Johnson

Notary public's statement - Date: April 14, 1995 - Notary public: Brenda Thomasson - Commission expires: August 31, 1998.

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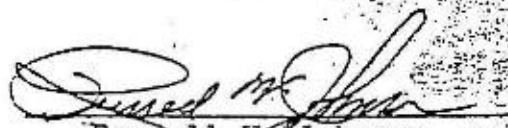
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Russell W. Johnson

I certify that Russell W. Johnson appeared before me this 14<sup>th</sup> Day of ~~March~~ 1995 and subscribed to the above statement under oath. April (BT)

My commission expires: Brenda Thomas (Notary Public)

My Commission Expires August 31, 1998