

Dog's test may knock cases off track

• Dog handler's credibility questioned after test fails, 1B

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Several pending and past cases in Brevard County, including the first-degree murder conviction of a man sentenced to die, are in question now that a trained scent dog failed a court-ordered test.

Pennsylvania dog handler John Preston and his dog, Bear, failed a recent independent test

to determine the tramer's credibility and the reliability of his canines, according to a dog handling expert who asked not to be identified.

Word of the test results are expected to travel from Brevard to the Florida Supreme Court, where attorneys recently appealed the 1983 conviction of Juan Ramos, who was sentenced to die in Florida's electric chair.

It was the evidence provided by Preston and another German shepherd, Harrass II,

that led to Ramos' conviction, according to Brevard Public Defender James "J.R." Russo.

Based on newspaper accounts of the unsuccessful court-ordered test, Russo said his office has notified appeal attorneys in Tallahassee "to bring this to the court's attention."

The Supreme Court has not yet ruled on whether Ramos should be granted a new trial, Russo said.

On Jan. 25, 1983, jurors found Ramos, then 25, guilty of

stabbing a 27-year-old Cobb housewife 17 times in the chest and neck.

The body of Mary Sue Cobb had been found April 23, 1981, lying on the floor of her home.

There were no fingerprints found in the Cobb house and there were no hairs found on Cobb that matched those of Ramos.

Witnesses said they saw Ramos run from the Cobb

house and a cellmate said Ramos implicated himself in the murder. But the key evidence against Ramos centered on the findings of Harrass II.

Preston said his dog identified Ramos' scent on the murder weapon and on Cobb's blouse.

According to Russo, "the main block of evidence" was provided by the tramer and his dog.

The focus of the scent evidence in the Ramos case had been a rarity, until recently.

In most of the Brevard cases where Preston was used, the tramer and his dogs have supplied prosecutors with supporting evidence — evidence to be used along with fingerprints found at crime scenes and testimony from eyewitnesses.

But in at least two pending cases, both scheduled to go to trial Aug. 20, the scent findings are the primary evidence allegedly tying the suspects to the crimes.

One of those cases is the murder trial of four men accused of killing 89-year-old Irene Allen of Titusville during a suspected botched burglary on Aug. 8, 1983.

Allen died from a lack of oxygen after a washcloth was shoved down her throat.

Preston said his dog, Bear, found the scents of two of the defendants on the washcloth. That evidence, however, was suppressed by Brevard Circuit Judge Gil Goshorn, who said the dog's accuracy in detecting the scents was questionable. And the judge said police failed to videotape the scent test, denying the defendants due process.

Preston also said Bear found the defendants' scents in the victim's home and tracked their escape route six months after the crime occurred. When defense experts said such a feat was impossible, Goshorn ordered the independent tracking tests.

Goshorn has barred court officials from revealing the outcome of the test. The dog expert said Bear failed the test July 20.

Preston and his dog left town before completing a second court-ordered test. Preston couldn't be reached for comment.

The results of the first test are to be presented to jurors in the murder case, according to Goshorn's order.

The only other evidence allegedly linking the four men to the murder is the testimony of three jail inmates. One of those inmates, Leon D. Crawley, has admitted his participation in the 1983 crime but was granted immunity from prosecution in exchange for his testimony.

He is serving time for other crimes.

The other two inmates, added to the state's witness list last week, are Tom Webb and Steve Dalton. Webb, who is being held in the Brevard County Jail, says he overheard defendant Elton Gerald Kimbrough implicating himself in the murder

And Dalton, an inmate at the Semmoole County Jail, said he heard defendant Kenneth Michael Burch, implicating himself and Kimbrough in the crime, according to court records.

The two other defendants in the Allen murder are Samuel Taylor and Warner Gibbs.

A second pending case, where Preston's credibility is expected to be attacked, is the burglary trial of 17-year-old James Elmen.

The evidence allegedly linking Elmen to the Jan. 9 burglary of a Titusville home includes a pair of gloves taken from the house and allegedly found where Elmen lived, the testimony of a man who admitted his participation in the crime and the evidence provided by Preston and Bear.

Preston said Bear tracked Elmen from the burglarized house to the residence where the teen-ager had been living, nearly six months after the burglary took place.

One of the four defense attorneys, who called for the independent tracking test, also is representing Elmen in the burglary case.

Elmen, of Jacksonville, had been accused of a Titusville murder in January.

It was Preston's work in the murder case that convinced Assistant State Attorney Dean Moxley of the dog handler's credibility and the reliability of Bear.

With Bear on a 30-foot leash, Moxley said he watched the dog lead Preston from the victim's home, over sidewalks and streets, to the house where Elmen was staying.

"I believe in John Preston because of the Elmen track," Moxley said. "This test I controlled. And John Preston had as much idea of where to go as the man in the moon."

Although the test was proof to Moxley, it didn't convince a 12-member Brevard jury. Earlier this year, the jury found Elmen innocent of first-degree murder.

In a third trial, also scheduled to begin Aug. 20, Preston and his dog have provided the state with supporting evidence in the case of Wilton Dedge. Dedge is being retried on charges of raping and torturing a Sharpe's teen-ager.

During a 1982 trial, Moxley said Preston's dog tracked Dedge's scent to sheets taken from the victim's bedroom. That testimony, along with the victim's description of her assailant, led to Dedge's conviction.

But more than 18 months after he was sent to prison, a judge with the Fifth District Court of Appeal overturned his conviction. According to the appeal court, the circuit judge should have viewed a videotape of a defense witness' testimony before ruling he was not qualified to testify as an expert on dog tracking.

Dedge's attorney, Mark Horwitz of Orlando, has been gathering information from across the country to attack Preston's credibility in the upcoming trial.