



## DNA evidence in murder case to be re-analyzed

By [Brian Knox](#) / Published on March 14, 2020

A review of the DNA evidence in the capital murder case against Rodney Maxwell shows a partial DNA profile of the person who may have killed Lauren Whitener, and it is not Maxwell, according to his attorney.

Wednesday, Maxwell's attorney, Barry Green, filed a motion to have DNA evidence collected from Whitener re-analyzed, and he wants the newly-discovered DNA profile uploaded to the Combined DNA Index System, or CODIS. CODIS is a national database that stores DNA profiles taken from people who have been arrested or convicted or collected as forensic evidence at crime scenes to help

investigators generate leads in unsolved cases, Green pointed out.

Last month, Green filed a motion requesting investigators turn over 36 items that could be potential evidence in the case against Maxwell, who has been charged with capital murder for the July 5, 2019, death of 32-year-old Whitener, who was his Lake Bridgeport neighbor.

In the new motion filed Wednesday, Green says as part of the requested discovery information he received last week, prosecutors provided an email dated Dec. 20, 2019, to a Wise County Sheriff's Office investigator from a third party crime lab investigators used to analyze DNA evidence in the case.

The email refers to a review the private lab, Pure Gold Forensics in California, performed on the results of a DNA analysis performed by the Southwestern Institute of Forensic Sciences at Dallas, or SWIFS, following Whitener's autopsy. SWIFS conducted a DNA analysis of a swab "obtained from an intimate area of the victim which contained sperm cells," Green said. That information was originally provided from SWIFS to investigators as part of a report dated Sept. 19, 2019.

Green says the analysis provided in the email included information that is key to his client's defense.

"The response to this inquiry...confirmed, or should have confirmed to any recipient, what was known all along: (1) based upon the sperm found in the victim's body, the tested swab revealed a DNA profile of an 'unknown male,' and (2) 'that all male references tested to date are eliminated as possible contributors to this profile.' Those known male DNA references 'tested to date' included Rodney Aric Maxwell," Green wrote in his motion. "If it were not clear before, it was then: Mr. Maxwell had been excluded as the 'foreign male contributor' of the sperm cells."

Green included the email from Pure Gold Forensics as an attachment to his motion. In it, the analyst suggests that the partial DNA profile shown in the report be uploaded to CODIS to see if it matched the known DNA profiles of anyone in the system.

The analyst also suggests the evidence indicates that anal intercourse took place within a 24- to 36-hour time period from the time of the test.

Wise County District Attorney Greg Lowery said Thursday he spoke with the judge about the motion for further testing of the DNA evidence.

"The judge has made us verbally aware he is in agreement, as are we," Lowery said.

An order will be drawn up and signed in the next few days calling for the further DNA testing.

Lowery said his office had previously spoken to investigators with the sheriff's office regarding this specific issue but said SWIFS had refused to turn over the swab since it was their property. He said that's not a problem since the court will simply order the swab be sent to the California lab for further testing.

As for the possibility of having the partial DNA profile of the unknown male uploaded to CODIS, Lowery said that action will also be taken if it is possible.

"If they get a sample that can be uploaded, it will be uploaded," he said. "We'll all agree to that. The state will want it done. The defense will want it done. The judge will want it done."

Green has been critical of the way evidence has been handled in the case, even claiming that evidence incorrectly linked to Maxwell was used in the original probable cause affidavit which led to his arrest, according to information filed in a motion to reduce Maxwell's bond last month.

Specifically, Green claims that the affidavit misstates that a presumption of blood was found on a bottle of lighter fluid found in Maxwell's home, but the evidence actually shows that the lighter fluid bottle received "a negative result" for presumptive blood.

The lighter fluid evidence was key because Whitener's body and home were set on fire following her death to cover up evidence of the crime, investigators have said.

Also, Green pointed out that a single blade of grass located near the halfway point between Maxwell's and Whitener's homes was confirmed to contain Whitener's DNA, but investigators did not include in the affidavit that the lab also found the blade of grass contained a second, unknown person's DNA.

Additionally, last month's motion included a list of items Green said has been collected by investigators that have not been tested for DNA evidence which could point to a different suspect.

Following that motion, Maxwell's bond was reduced, and he was released from jail after posting the lower bond Feb. 28.