

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE  
FILED SUPERIOR COURT DIVISION  
01 CRS 24821

2017 MAR -3 P 2:48

STATE OF NORTH CAROLINA,

vs.

MICHAEL IVER PETERSON,

**Defendant.**

DURHAM COUNTY, N.C.  
BY: [Signature]

MOTION FOR ORDER ALLOWING  
) TRANSPORT OF MICROSLIDE TO  
) EXPERT FOR INSPECTION AND  
) TESTING

NOW COMES the Defendant, *Michael Iver Peterson*, by and through his undersigned counsel, David S. Rudolf, and hereby moves this Court for an order allowing the microslide described below to be transported to Dr. Carla J. Dove, at the Smithsonian Institution in Washington D.C. for inspection, examination, and testing. In support of this motion, the defendant shows the Court as follows:

1. Although Mr. Peterson has entered an *Alford* plea to the crime of voluntary manslaughter, this plea has not put an end to the question that has loomed over this case from the beginning: what caused the unusual wounds to Kathleen Peterson’s scalp that led to her death from loss of blood. It clearly was not, as the State initially argued at Mr. Peterson’s trial, the “missing blow poke.” That blow poke was found by the defense and entered into evidence at the trial.

2. Although Mr. Peterson does not know how those wounds were inflicted on his wife’s scalp, and believes that the most likely cause were several falls on the steep stairway where she was found, others have suggested that the wounds resemble the talons of a raptor. See Exhibit A. These individuals include several raptor experts who have examined photographs of

the wounds at the request of friends of Mr. Peterson, and people who have seen or experienced attacks by raptors. Indeed, an actual raptor attack in Fuquay-Varina was captured on video some time after the trial, and it is well established that raptors were known to live in the woods by the Peterson house.

3. These experts and individuals have hypothesized that Kathleen could have been attacked by a raptor when she went outside late that night to put up some Christmas decorations on her lawn. The raptor, which hunts late at night, could have mistaken the decorations for prey, and attacked Mrs. Peterson head (as shown in the Fuquay video), digging its three talons into the back of her scalp. See Exhibit B showing the shape of the scalp wounds. Mrs. Peterson would have had to struggle with the raptor to free herself from its talons, and then ran back into her house bleeding from the scalp wounds inflicted.

4. Although this hypothesis has been scoffed at and made into a joke by those who believe in Mr. Peterson's guilt, it is supported by some of the physical evidence found at the scene. First, some drops of blood were found on the walkway leading to the front door, and a bloody handprint was found on the frame of the outside door. Second, some strands of Kathleen Peterson's head hair, broken off as if pulled out of her scalp with the root balls attached, were found in her hands. Finally, some twigs and two feather fragments were found in blood in Mrs. Peterson's hair. The Durham Police collected this evidence.

5. Analyzing this evidence, SBI Agent J.A. Gregory identified microscopic feather fragments in Mrs. Peterson's hair. Agent Gregory preserved these microscopic feathers on a microslide, which is currently in the possession of the Durham County Clerk of Superior Court. See Exhibit C. This microslide is numbered 35-3-2 and is contained within box 83-E of the evidence pertaining to *State v. Michael Iver Peterson*. To date, there has been no identification of

the source of these feather fragments. The existence of this evidence was never explained during Mr. Peterson's trial.

6. In order to determine whether the raptor hypothesis has any potential validity, and to determine whether the wounds found on Mrs. Peterson's scalp could possibly have been caused by a raptor, Mr. Peterson wishes to have tested, at his family's expense, the feather fragments collected as evidence by the Durham Police from the scene and contained on microslide 35-3-2 in the possession of the Durham County Clerk.

7. Mr. Peterson has identified an expert, Dr. Carla J. Dove, who is willing to examine and attempt to identify the feather(s) contained on the microslide. Dr. Dove is a well-recognized expert who serves as the Program Manager of the Division of Birds at the Smithsonian Institution in Washington D.C. She conducts specialized research in the microscopic identification of feathers. She has twenty-five years of experience. A copy of her CV is attached as Exhibit D.

8. Dr. Dove has been shown a photograph of the microslide referenced above, and was able to determine that two feather fragments were present. She was unable, however, to determine from the photographs whether the feathers were deposited by a raptor. See Exhibit E.

9. The Defendant therefore seeks an order allowing the physical microslide containing the feather fragments to be transported at Mr. Peterson's expense to Dr. Dove at the Smithsonian Institution by secure means, maintaining the integrity of the chain of custody, so that Dr. Dove can inspect, examine, and test the feather fragments and see if she is able to determine whether the fragments were deposited by a raptor.

10. There is no comparable expert with Dr. Dove's level of expertise and experience located in North Carolina.

11. In light of Mr. Peterson's Alford plea, the State cannot be prejudiced by the examination of the feathers by Dr. Dove.

**WHEREFORE**, the Defendant, Michael Iver Peterson, respectfully requests that this Court issue an order allowing microslide numbered 35-3-2 in box 83-E to be produced to Dr. Dove at the Smithsonian Institution in Washington, D.C., provided that (a) microslide 35-3-2 from box 83-E be maintained and transported under chain of custody control; (b) the defendant will be responsible for all payments associated with the transportation and the inspection, examination, and testing of this item; and (c) upon completion of the inspection, examination, and testing by Dr. Dove, the microslide will be returned to the Durham County District Attorney's office, again under a chain of custody and control.

This the 2<sup>nd</sup> day of March, 2017.

By: 

**David S. Rudolf**

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Attorney for Michael Iver Peterson

**Certificate of Service**

This shall certify that a copy of the foregoing *Motion for Production of Microslide with Feathers and Permission to Transport Said Microslide to Defense Expert for Inspection, Examination, and Testing* was this day served upon the District Attorney by the following method:

- depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care, custody, and control of the United States Postal Service, properly addressed to Office of the District Attorney;
- by personally serving the Office of the District Attorney via hand delivery (*Assistant District Attorney James Dornfried*);
- by transmitting a copy via facsimile transmittal to the Office of the District Attorney; and/or
- by depositing a copy in the box for the Office of the District Attorney maintained by the Clerk of Superior Court.

This the 2<sup>nd</sup> day of March, 2017.

By: 

**David S. Rudolf**

Attorney at Law

State Bar No.: 8587

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