

FILED

APR 13 2018

ANGIE SPARKS, Clerk of District Court
By ~~STEVE EMGE~~ Deputy Clerk

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**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

STATE OF MONTANA,

Plaintiff/Respondent,

v.

FREDDIE JOE LAWRENCE,

Defendant/Petitioner.

Cause No. CDC-1994-215

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER ON PETITION**

Before the Court is the motion of Defendant/Petitioner Freddie Joe Lawrence for immediate release and dismissal with prejudice based upon the results of previously-ordered DNA testing. A hearing on the motion was held on March 9, 2018. This hearing was held jointly with the hearing on a similar motion filed by Paul Kenneth Jenkins in the companion case of *State v. Jenkins*, Lewis and Clark Cause No. CDC-1994-216. The State was represented by Catherine Truman and Mary Cochenour. Defendant Lawrence appeared with his attorneys Toby Cook and Larry Jent. Defendant Jenkins appeared with his

1 attorney Thad Adkins. Dr. Greg Hampikian, Fred Nelson, Division of Criminal
2 Investigation Agents Jeff Vittatoe and John Sullivan, Eileen Nelson, Jeffrey
3 Knapp, and Pamela Lar testified, and exhibits were admitted. David Nelson
4 invoked his Fifth Amendment rights and did not testify. The Court has reviewed
5 the entire trial transcript, and considered the exhibits and testimony presented at
6 the hearing and makes the following:

7 **FINDINGS OF FACT**

8 **Evidence Presented at Trial**

9 1. The victim in this case, Donna Meagher, worked at the Jackson
10 Creek Saloon (JCS) near Montana City. The JCS was owned by her family.

11 2. Meagher worked alone from 10:30 p.m. until closing on the
12 night of January 11, 1994. She did not return home. The next morning, January
13 12, 1994, family members searched for her at the JCS. The door to the saloon
14 was unlocked and the gambling machines were flashing, indicating they had
15 been opened. Little had been disturbed in the saloon except that two chairs were
16 down near a table and all machines were open. The audit tape on the machines
17 indicated they had been opened, apparently with a key, between 1:24 and 1:29
18 a.m. The key to the machines was missing. About \$2,300 in bills was taken
19 from the machines, but the quarters were left in the machines. Quarters were
20 taken from the "shake-a-day" and other gambling jars – approximately \$200 in
21 quarters was missing.

22 3. The last customers left JCS around 12:30 to 12:45 a.m. on
23 January 12. The till had been closed out at 1:11 a.m., and the cash from the till
24 was found in the safe.

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1 4. Meagher's pickup was missing from where it had been parked
2 behind the JCS. It was located across the street behind the Exchange Supper
3 Club. The driver's door was ajar, and the keys were in the ignition.

4 5. Within a few hours, Meagher's body was discovered off
5 Colorado Gulch Road, near Highway 12 West, west of Helena.

6 6. She had been bludgeoned on the Colorado Gulch road, dragged
7 a short way off the road, and bludgeoned further.

8 7. There was blood and blood spatter on the road and in the snow
9 near the body.

10 8. A light rope (item 71) was found in blood on the roadway.

11 9. Some cord or rope was also found on the body around the wrist,
12 neck, knees, and feet.

13 10. One of the investigators, Lewis and Clark Sheriff Department
14 Detective Dick Hammerbacker, testified that he saw two sets of boot prints near
15 the body. The lead investigator for the county, Detective Sam McCormack,
16 testified that he saw only one set of foot prints leading to and from the body.

17 11. The victim's cause of death was ten to twelve blows to the
18 head. The medical examiner opined they were likely inflicted with a crowbar.
19 The piercing blows matched the claw end of a crowbar and would also match the
20 claw of a hammer. Four of the blows were skull-crushing and would have been
21 fatal within minutes. There was also evidence that pressure had been applied to
22 the rope tied around Meagher's neck and wrists. There was no evidence of
23 sexual assault.

24 12. Investigation by forensic specialists from the State Crime Lab
25 revealed that the perpetrator or perpetrators likely wore gloves during the

1 robbery of the JCS. While processing for latent prints, dot impressions left by
2 gloves were found in locations in the bar and on Meagher's vehicle. A
3 cardboard tag for Wells Lamont Hobnob jersey gloves was found in the JCS
4 parking lot near where Donna Meagher had parked her truck. A pair of this
5 same type of glove was purchased for comparison, and the dot impressions left
6 by the comparison gloves were consistent with the impressions left inside the
7 JCS.

8 13. Fiber consistent with the Wells Lamont gloves was also found
9 on the victim's clothing and on the rope (item 71) found on the road. A forensic
10 scientist described this rope as appearing new, not knotted, and fairly clean.

11 14. Meagher's family advertised for information about the
12 homicide, offering a reward of \$4,000 to \$5,000.

13 15. Witnesses testified at trial about various vehicles they had seen
14 near the JCS after 12:00 a.m. on January 12, 1994. One witness, Tracy Butala,
15 testified he drove through the Montana City exit between 12:30 a.m. and 12:45
16 a.m. on the night of the homicide. He saw an older model pickup truck emerge
17 from the JCS parking lot and run a stop sign. It was a green/blue color
18 consistent with the truck owned at that time by Defendant Jenkins. His
19 impression was that it had a light-colored topper on it. In August 1994,
20 Detective McCormack showed Butala a pickup in the impound lot (owned by
21 Jenkins and then by Lawrence) and asked him if it was the truck he saw on
22 January 12. The pickup had been painted black, but Butala testified that it was
23 the truck.

24 16. Kelly Bates was delivering newspapers at Montana City
25 between 1:45 a.m. and 2:00 a.m. on the night of the robbery and homicide. He

1 described seeing an oxidized dark green car with a light top pulling out of the
2 parking lot of the JCS with only its parking lights on. He also saw a very shiny
3 white car in the parking lot of the JCS. His descriptions do not match vehicles
4 owned by Defendant Jenkins or Defendant Lawrence.

5 17. There was also witness testimony about seeing a red Toyota
6 Corolla like one owned by Jenkins on Colorado Gulch the day after Donna
7 Meagher's body was discovered. One witness identified Jenkins as the driver of
8 the car. By contrast, the defense offered significant testimony that the car was
9 not operational at the time.

10 18. Another witness testified that, several days after the homicide,
11 she saw a green Ford Torino, driven by a large man, go slowly by on Colorado
12 Gulch.

13 19. Finally, a woman testified that, probably in late January or
14 February 1994, she saw a well-dressed man rummaging in the ditch on Colorado
15 Gulch about a mile from the highway (and the crime scene) and saw him run
16 across the road, get into a dark-colored sports vehicle and drive away. After
17 seeing Fred Lawrence's picture in the newspaper in October 1994, the witness
18 reported the incident and identified Lawrence as the man.

19 20. Defendant Fred Lawrence was married to the daughter of Judith
20 Knipschield/stepdaughter of Dan Knipschield. Dan Knipschield first implicated
21 Defendant Lawrence in the crimes in early August 1994, while Knipschield was
22 incarcerated in the Jefferson County jail. Knipschield testified at trial he met
23 Jenkins around January 10 or 11, 1993. According to Knipschield, a few weeks
24 after the homicide and while drinking, he was present at Paul Jenkins' trailer
25 when Fred Lawrence told him that "if the woman hadn't been such a damn bitch,

1 she might have been a good piece of ass.”¹ Knipschield testified that Paul
2 Jenkins brought out a toy car and said it came from the bar. In his initial
3 statements, Knipschield told investigators that Paul said the toy car was all they
4 got. At trial, he said the toy car and a little money was all they got. He further
5 testified that Jenkins traded his pickup truck for a Grand Torino passenger car
6 owned by Lawrence prior to Jenkins moving with his family back to Oklahoma.

7 21. The Jenkins family moved back to Oklahoma in early
8 April 1994.

9 22. In June, a few months after the vehicle exchange, Lawrence
10 used cans of spray paint to paint the pickup truck black. The pickup had
11 previously been turquoise-green with a black hood.

12 23. In February 1994, Dan Knipschield told Joe Heffern of the
13 Boulder Police that Undersheriff Tim Campbell had committed the homicide.

14 24. Dan Knipschield testified about wearing a “wire” in an attempt
15 to record admissions made by Defendant Lawrence.

16 25. Investigators taped a recording device to Knipschield’s waist
17 with surgical tape. The recording device was attached by wire to a microphone
18 taped to his shoulder. Knipschield met Lawrence in Basin. While the two were
19 in Basin, the recorder came loose and was seen by Lawrence. Knipschield
20 claimed he convinced Lawrence it was a “prisoner locator” for Knipschield.
21 Knipschield and Lawrence ended up leaving and heading to Knipschield’s
22 property located an hour and a half out of Boulder. Because they were out of
23 range, nothing was recorded.

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¹ Knipschield repeated this statement several times during his testimony.

1 26. When Knipschield returned, investigators did not tell him the
2 recorder did not work. However, Knipschield had been told before he left for
3 the interview that the recorder operated only for a limited range.

4 27. Lawrence and Knipschield had car trouble and walked a few
5 miles. Knipschield testified that, during their walk, Fred Lawrence admitted he
6 and Jenkins killed Donna Meagher. Lawrence indicated they placed Meagher in
7 the pickup truck. Lawrence told Knipschield he was holding the victim, it got to
8 be too much for him, so Jenkins took over for him, and the victim stopped
9 moving while Jenkins was holding her. They dumped the body. Knipschield
10 testified that Lawrence went out one night, possibly in January, to look for a
11 knife apparently connected to the crime. He told Knipschield that he found it
12 and Jenkins made him throw it away in a lake.

13 28. Judith Knipschield testified that, probably in February 1994,
14 Jenkins and Lawrence brought out a toy car and indicated they had been
15 involved in the killing. They said that if the woman hadn't lied about how much
16 money she had, she would still be alive. Judith testified that Lawrence or
17 Jenkins said the woman recognized them.

18 29. Neither Knipschield provided any accurate details about the
19 crime.

20 30. The toy truck did not come from the JCS. No members of the
21 family that owned the JCS recognized the toy. Evidence presented at trial
22 indicated the toy truck was purchased by Paul Jenkins in Oklahoma before he
23 came to Montana.

24 31. Judith and Dan Knipschield also made reports to Butte law
25 enforcement that they had information regarding another individual they

1 believed was involved in a homicide in a Butte pawn shop. This information
2 was never used by authorities in Butte.

3 32. There was evidence presented that the Knipschiolds may have
4 been motivated to make reports against Jenkins and Lawrence and, in the Butte
5 homicide, in an attempt to recover offered rewards.

6 33. Freddie Lawrence was first questioned by investigators on
7 August 31, 1994. He was questioned in an unrecorded interview for
8 approximately 4 to 5 hours and then an hour was recorded. In the recorded
9 portion of the interview,² Lawrence stated that Jenkins was talking about the
10 homicide a few days after it occurred and said the only thing he got of value out
11 of the bar was the toy car and a pair of binoculars. He said that Jimbo³ told him
12 that Jenkins was messing with this “gal” and she was moaning and making noise
13 and Jenkins shut her up. He claimed Jimbo also said they moved her and
14 mentioned a bridge and Jenkins throwing a crow’s foot or crowbar off a bridge.
15 He also indicated that Jenkins left for Oklahoma and left two keys with
16 Lawrence, vaguely described by Lawrence as the kind you use to open pop
17 machines or gas caps. Lawrence mentioned blood, possibly from a deer, in the
18 back of the truck he obtained in the trade from Jenkins. Lawrence stated that he
19 was convinced that Jenkins “killed the girl and robbed the place.” He believed
20 that Jenkins broke in with a crowbar, the woman caught him, and he or Jimbo
21 shut her up. He offered a theory about how he likely would have taken her to

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23 ² Transcripts of the recorded portions of Lawrence’s August 31, 1994 and September 2, 1994
24 interviews were provided to the Lawrence jury to read but not sent to the jury room during
deliberations.

25 ³ James Lee Amos, a developmentally disabled man who lived with the Jenkins family at the
time of the crimes and was found incompetent to testify at trial.

1 the truck or car and gotten rid of the body. He thought Jenkins might have
2 broken into the machines with a crowbar, but stated he (Lawrence) would have
3 found a key and used it. Lawrence indicated that Jimbo told him there was a lot
4 of blood. In the statement, Lawrence indicated that Jenkins told him the only
5 thing of value he got out of the bar was the toy truck. Lawrence also suggested
6 that Jenkins could have strangled the victim with a scarf. Lawrence denied that
7 he was involved in the homicide.

8 34. Lawrence was interviewed again on September 2, 1994. In this
9 interview, Lawrence stated that the information he claimed had come from
10 Jimbo came from Jenkins. He claimed that Jenkins told him the crowbar idea
11 worked – he popped the lock using a crowbar. According to Lawrence, Jenkins
12 said he thought he killed somebody by hitting them in the head with a crowbar.
13 Jenkins indicated he “hit them in the head, there was a lot of blood everywhere,”
14 and he was pretty sure “she” was dead. Lawrence said the rest of his earlier
15 statement was “pretty much BS.”

16 35. Following Dan Knipschild’s statements against Jenkins and
17 Lawrence, and interviews with Defendant Lawrence, authorities traveled to
18 where the Jenkins family had relocated in Oklahoma.

19 36. Paul Jenkins was arrested on September 28, 1994.

20 37. Mary Jenkins was married to Paul Jenkins. Dr. William
21 Stratford, a forensic psychiatrist, evaluated Mary on January 31, 1995. His
22 testing and interview of Mary took around four to four and a half hours. He
23 interviewed her again on February 6, 1995. Stratford diagnosed Mary Jenkins as
24 suffering from dementia, likely Alzheimer’s disease. This is an organic brain
25 disease which affected her memory. In Stratford’s opinion, Mary was at a

1 moderate stage of the disease – on the downhill slide. Mary exhibited real
2 problems with recent memory and some problems with old memory. Persons
3 with this disease are very suggestible. She was at a stage where she could make
4 small talk but could not tell a narrative story. Her memory could be real,
5 distorted or made up.

6 38. Mary was first questioned by law enforcement the day Paul
7 Jenkins was arrested. During her first interview, which lasted between one and
8 two hours, Mary insisted she could not remember anything. This interview was
9 not recorded.

10 39. At the outset of her second interview the next day, Mary was
11 told she could either be a witness or a defendant. According to law enforcement
12 witnesses, she then remembered what occurred. This interview was not
13 recorded.

14 40. In October 1994, Jenkins was interviewed for an hour by Judy
15 Stansberry, an investigator with a district attorney's office in Oklahoma. She
16 provided some assistance with the case at the request of Montana investigators
17 Sam McCormack and Reed Scott. Stansberry tape-recorded this third interview,
18 which reportedly did not contain much information. Stansberry wrote no report
19 about the interview and mailed the tape to investigators in Montana a few weeks
20 before the February 1995 trial. The recording was lost in the mail.

21 41. Investigators Sam McCormack and Reed Scott interviewed
22 Mary Jenkins for approximately two hours on November 9, 1994. Portions of
23 this interview were recorded, the recording was played, and a transcript of the
24 recorded portion was provided to the jury to read while listening to the tape (but
25 did not go to the jury room). At the beginning of the interview, Mary Jenkins

1 denied saying there was a plan to rob the Jackson Creek Saloon, stating, “I don’t
2 know what happened, but I didn’t not say that. . . . You’re putting words in my
3 mouth and I won’t. . . .” At that point the recorder was turned off. When the
4 tape-recording resumes, Detective McCormack states, “We turned the tape off
5 and took a lengthy break to clarify some things here.” From that point forward,
6 McCormack asks leading questions, and Jenkins offers little of substance,
7 generally agreeing with McCormack’s statements or declaring that she does not
8 know or does not remember.

9 42. Stansberry and Sam McCormack also interviewed Mary
10 Jenkins for about an hour and a half on February 6, 1995 (the first day of the
11 trial). They did not record the interview.

12 43. Mary Jenkins testified at trial to being outside the bar, seeing a
13 woman, hearing a slap, and helping Jimbo put her in a car – apparently Fred
14 Lawrence’s car. She said she saw a crowbar in Freddie’s hand at one point. She
15 denied remembering many details and, on cross-examination, denied
16 remembering much of anything.

17 44. Several investigators testified to what they had heard Mary
18 Jenkins say in her many interviews, as prior inconsistent statements.
19 Investigators testified that Mary did not require leading questions when she was
20 not being taped.

21 45. At trial, Lawrence denied ever telling Dan and/or Judith
22 Knipschild he was involved in the homicide and kidnapping at the JCS. He
23 stated that he made the recorded statements to law enforcement because he felt
24 pressured and was trying to protect his family, including the Knipschilds. He
25 denied that Jimbo or Jenkins ever made the statements he had told law

1 enforcement they did. He testified that his statement about the toy truck was
2 merely repeating what he had heard Dan Knipschild say. He gleaned other
3 information about the crimes from the law enforcement officers interviewing
4 him. Lawrence denied that he was involved in the robbery, kidnapping or
5 homicide.

6 46. Jenkins has consistently denied committing the crimes or
7 making statements indicating he committed the crimes.

8 47. No physical evidence was presented tying either Jenkins or
9 Lawrence to the crimes.

10 **Newly Discovered Evidence**

11 48. On August 5, 2015, Defendants Jenkins and Lawrence filed
12 petitions for DNA testing. The State filed a partial response to the petitions on
13 June 9, 2016. A hearing was held on August 2, 2016 to allow the parties to
14 present evidence and argument regarding the items for which testing was
15 contested.

16 49. The parties agreed to test the following items:

- 17 a. ligature found on victim, item # 58;
- 18 b. white rope in road at murder site, possibly soaked with
19 blood, item # 71;
- 20 c. hair from frayed end of folded portion of rope/cord (item
21 # 71), labeled item # 182;
- 22 d. hair from driver's seat of victim's vehicle, item # 13;
- 23 e. hair from driver's floor of victim's vehicle, item # 14;
- 24 f. debris, fingernail scrapings, and fingernail clippings from
25 victim, items # 31 and 32;

- 1 g. cigarette butt found near victim's body, item #72;
- 2 h. hair from dashboard of victim's vehicle, item # 12;
- 3 i. cardboard seat back from Torino, item # 214;
- 4 j. hairs from Torino, item # 270; and
- 5 k. glove tag with Deputy Carlson's fingerprint, item # 11.

6 50. Following the hearing, on September 1, 2016, the Court ordered
7 that the following additional items be subjected to DNA testing: victim's
8 earring (item # 73), pants (item #50), socks (item # 51), shoes (item # 52), pubic
9 hair combings (item # 28), and the smears and swabs from the sexual assault kit
10 (items # 22-27).

11 51. While the petition for DNA was pending and before test results
12 were received, investigators for the Montana Department of Justice became
13 aware of reports to law enforcement in Dillon, Montana, made by Fred Nelson,
14 the nephew of David Nelson. Fred Nelson reported that, in the summer of 1994
15 or possibly 1995, David Nelson had told Fred that David had robbed a casino
16 and killed the casino attendant and left her by the side of a road.

17 52. On March 23, 2016, Fred Nelson was interviewed by
18 Department of Justice investigators Eric McLain and John Sullivan. He repeated
19 the story he said his uncle David Nelson had told him. He provided some detail.
20 According to Fred Nelson, David told him he waited for the woman outside the
21 casino, waiting for her to take out the garbage. When she came out, he grabbed
22 her, took her back in and got money from the casino. He took her with him in
23 his car. He drove out of town and onto a dirt road. It was cold, and she was
24 scared. He told her he had a sweater in the trunk, and he would let her wear the
25 sweater while she walked back to town. They went to the trunk of the car where

1 he grabbed a hammer instead of a sweater. He hit her in the head, and she
2 repeatedly said, "Oh, no." She fell, and he had to physically stand on her head
3 to get the hammer out. He kept hitting her to be certain she was dead and rolled
4 her body off to the side of the road into the willows. He said there were two
5 guys that went to the casino earlier that day, and there was an altercation where
6 one of them was mentally challenged and tried stealing a car from inside the
7 casino cage. They were therefore suspects and got convicted.

8 53. Fred Nelson testified at the court hearing and repeated the story
9 his uncle had told him. He further testified that he had made similar reports of
10 David Nelson's confessions to law enforcement in 1999 when he was facing
11 kidnapping and robbery charges for a crime he committed in Hamilton with
12 David Nelson, in 2005 in a written disclosure statement while at the Treasure
13 State Boot Camp, and in 2016 to Dillon police officers. Dillon police were
14 apparently the first to forward this information to other law enforcement entities.

15 54. Agent Vittatoe of the Department of Justice was able to verify
16 that Fred Nelson reported the David Nelson confessions to authorities in 1999 in
17 Ravalli County and in 2016 in Dillon. The pertinent records from the Treasure
18 State Boot Camp had previously been shredded.

19 55. David Nelson's criminal history prior to 2015 includes the
20 home invasion kidnapping, robbery, and assaults he and Fred Nelson committed,
21 as well as additional burglaries in the western United States.

22 56. David Nelson pled guilty in 2016 to two counts of homicide
23 and a robbery he committed in 2015 in Powell County. At least one of the
24 victims was beaten to death with a hammer.

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1 57. The State did not contest that Fred Nelson had made earlier
2 reports of the Helena homicide as told to him by his uncle.

3 58. When DNA test results were received, there were no results
4 linking Jenkins or Lawrence to the items tested.

5 59. There were also no results linking the items tested to James Lee
6 “Jimbo” Amos.

7 60. The DNA results included one DNA profile of a male from
8 item # 71 – the apparently blood-soaked rope found on the road where the victim
9 was bludgeoned before being dragged off the road.

10 61. The male DNA profile obtained from item # 71 is a match to
11 the DNA of David Nelson.

12 62. Investigators have been unable to establish any connection
13 between David Nelson and Defendant Jenkins or Defendant Lawrence.

14 63. David Nelson’s wife, Eileen Nelson, testified at the hearing.
15 She and David Nelson had been recorded on the prison telephone system
16 discussing the need for her to agree with David on certain things. Eileen
17 testified that David had reminded her about a garage sale. She testified that she
18 remembered a man taking a box of free goods from the garage sale she and
19 David Nelson held in Butte in 1993. Eileen identified Defendant Jenkins as the
20 man, but also later acknowledged that David had first told her he believed
21 Jenkins was the man at the sale. Eileen also blamed Fred Nelson for David
22 Nelson’s legal problems in Ravalli County and insisted that David Nelson’s
23 2015 homicides, including the killing of an 87-year-old woman, were self-
24 defense. She defended David’s use of a ligature around the Deer Lodge victim’s
25 neck after he had killed her – to be certain she was deceased because the victim

1 was so “damaged.” Eileen Nelson also professed to having brain damage and a
2 poor memory.

3 64. Jeffrey Knapp, who was in the Montana State Prison from 1994
4 to 2000, testified that he was a cellmate of Lawrence’s for eight months. Knapp
5 claimed that Lawrence told him yet another version of the homicide – one in
6 which Jenkins and Lawrence were involved. Knapp testified that Lawrence told
7 him that he and Jenkins had been kicked out of the bar and therefore devised a
8 plan to rob it. They confronted Meagher outside the bar and forced her to go
9 back in. Jenkins had keys and emptied the machines. They moved Meagher’s
10 vehicle across the street. They planned to leave Meagher in the wilderness.
11 Paul and Mary Jenkins were in the vehicle with Meagher, and Lawrence was
12 following in a different vehicle. Lawrence told him Jenkins’ vehicle swerved,
13 and then a physical altercation took place between Meagher and Mary Jenkins.
14 Jenkins intervened and hit Meagher with a crowbar.

15 65. Representatives of the prison cast doubt on Knapp’s claim that
16 he and Lawrence were cellmates because they do not believe any prisoners in
17 the unit housing Knapp and Lawrence were “double-bunked.” Knapp
18 previously involved himself in the Barry Beach case. Knapp’s charged conduct
19 included fraud and false reports to law enforcement authorities.

20 66. Finally, Pamela Lar testified that, in 1994 through 1995, she
21 was a clerk at the Hennessey’s department store. She sold a coat to a woman
22 around a month after the Meagher homicide. The woman paid for the coat in
23 quarters and spoke as though she may be “special needs.” After seeing a clip of
24 Mary Jenkins’ testimony on television during the 1995 trial, Lar believed the
25 woman who purchased the coat was Jenkins.

1 From these Findings of Fact, the Court makes the following:

2 **CONCLUSIONS OF LAW**

3 1. The substantive evidence presented against Defendants Jenkins
4 and Lawrence at their trial, held simultaneously before two different juries,
5 consisted primarily of the statements of Mary Jenkins, Dan and Judith
6 Knipschild, and Fred Lawrence. The statements of the Knipschilds contain no
7 accurate detail about the crimes. Mary Jenkins suffered from an organic brain
8 disease. The only existing recorded statement of Mary Jenkins is largely her
9 agreement to a rendition of events laid out by investigators. Fred Lawrence gave
10 statements implicating Jenkins in what logically appears to be an effort to deflect
11 suspicion from himself. The interviews/interrogations of Mary Jenkins and Fred
12 Lawrence, hours of which were not recorded, raise the specter that details
13 originated with investigators rather than the witnesses. Nonetheless, two juries
14 heard the testimony of all witnesses, viewed the evidence, and found that
15 Jenkins and Lawrence were guilty of the charged crimes. The convictions were
16 upheld on appeal and on postconviction relief.

17 2. In September 2016, the Court ordered DNA testing pursuant to
18 Montana Code Annotated § 46-21-110. Subsection 12 of that statute provides:
19 “[i]f the [DNA] test results are favorable to the petitioner, the court shall order a
20 hearing to determine whether there is a reasonable probability that a different
21 outcome at trial could have been reached and after hearing shall make
22 appropriate orders to serve the interests of justice. . . .” The orders can vacate
23 and set aside the judgment, discharge the defendant, or resentence the defendant.
24 Mont. Code Ann. § 46-21-110(12). These remedies are “in addition to any

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1 remedy available” under the postconviction statutes. Mont. Code Ann. § 46-21-
2 110(15).

3 3. The test results were clearly favorable to Defendants Jenkins
4 and Lawrence. No DNA linked to Defendants Jenkins or Lawrence was found.
5 The results from item # 71 matches the DNA of David Nelson – a man known to
6 have committed similar violent kidnappings, robberies, and, in Deer Lodge,
7 homicides.

8 4. The Court also heard the testimony of Fred Nelson detailing
9 confessions made by David Nelson to Fred within months or a year of the
10 crimes. These unrecorded confessions of David Nelson, like the statements of
11 the Knipschields, Mary Jenkins and Freddie Lawrence, are not entirely
12 consistent with the evidence collected at the crime scene. However, Fred Nelson
13 informed authorities of these statements on occasions over a course of years
14 prior to any DNA match. David Nelson’s admissions to Fred Nelson are more
15 consistent with the physical evidence from the crime scene and the DNA results
16 than any other statement offered in these cases.

17 5. The Court cannot reweigh the testimony presented at the trials
18 from a cold transcript. The testimony of Eileen Nelson was heard by this Court
19 and was generally not credible.

20 6. The standard set out in Montana Code Annotated § 46-21-
21 110(12) is met. There is clearly a reasonable probability that a different
22 outcome at trial could have been reached.

23 7. The Court finds this is the proper standard to be applied. A
24 court interprets statutes consistent with the statute’s plain language and will not
25 interpret a statute beyond its plain language if the language is clear and

1 unambiguous. *Hines v. Topher Realty, LLC*, 2018 MT 44, ¶ 15, 390 Mont. 352.
2 In construing a statute, the office of the judge is simply to ascertain and declare
3 what is in terms or in substance contained therein, not to insert what has been
4 omitted or to omit what has been inserted. Mont. Code Ann. § 1-2-101; *State v.*
5 *Stone*, 2017 MT 189, ¶ 21, 388 Mont. 239, 400 P.3d 692.

6 8. Moreover, the Court finds that the new evidence, including the
7 DNA evidence and the statements and testimony of Fred Nelson, far exceeds the
8 standard of a “reasonable probability of a different outcome at trial.” The new
9 evidence is generally inconsistent with the State’s theory of the cases, as
10 presented at trial. The physical evidence, and the statements and testimony of
11 Fred Nelson, support the theory that David Nelson, a known killer, was involved
12 in the robbery, kidnapping and homicide of Donna Meagher.

13 9. Applying the reasoning of the Montana Supreme Court, as set
14 forth in *State v. Marble*, 2015 MT 242, ¶¶ 36-38, 380 Mont. 366, 355 P.3d 742,
15 the Court finds that postconviction relief is warranted under Montana Code
16 Annotated § 46-21-102(2), but that the appropriate relief is not an immediate
17 order vacating the convictions and dismissing the case with prejudice. A new
18 trial for Defendant Lawrence is warranted.

19 **ORDER**

20 For the foregoing reasons, IT IS HEREBY ORDERED:

21 1. The convictions of Freddie Joe Lawrence for robbery,
22 aggravated kidnapping and deliberate homicide are vacated, and a new trial is
23 ordered.

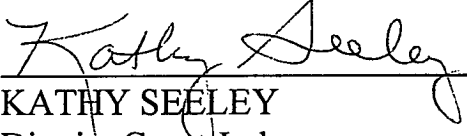
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1 2. Should his current attorneys be unable to continue his
2 representation, the Office of Public Defender shall be appointed to represent
3 Defendant Lawrence.

4 3. Defendant Freddie Joe Lawrence shall be brought before the
5 Court for a status and bail hearing as soon as practicable.

6 DATED this 13 day of April 2018.

7
8 
9 _____
10 KATHY SEELEY
District Court Judge

11 pc: Catherine Truman/ Mary Cochenour, PO Box 201401, Helena MT 59620-
12 1401
13 Larry Mansch/Toby Cook, Montana Innocence Project, PO Box 7607,
14 Missoula MT 59807

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