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**IN THE CROWN COURT
AT OXFORD**

OCC Ref: T20107052

Combined Court Centre
St Aldates
Oxford OX1 1TL

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Tuesday, 29th June, 2010

Before:

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HIS HONOUR JUDGE P. ECCLES, QC

REGINA

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- v -

MEL BROUGHTON

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MR NEIL MOORE and MR IAN HOPE appeared on behalf of the PROSECUTION

MR DAVID BENTLEY and MR PETER LOWNDS appeared on behalf of the
DEFENDANT

F

VOIR DIRE - EVIDENCE OF MARK PERLIN

AND

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RULING RELATING TO HIS EVIDENCE

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(TRANSCRIPTION FROM TAPE BY MARTEN WALSH CHERER LIMITED,
1ST FLOOR, QUALITY HOUSE, 6-9 QUALITY COURT,
CHANCERY LANE, LONDON WC2A 1HP
TELEPHONE NO: 020 7067 2900. SHORTHAND WRITERS TO THE COURT)

RULING

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JUDGE ECCLES: I can say that having listened to all the evidence that when I come to give my reasons it may well be that I will find that this evidence is capable of being admitted in evidence in the United Kingdom, but I am very firmly of the view that in this particular trial it ought to be excluded and not put before the jury, for reasons which I will give.

It seems to me that it may well be that for the future, Dr Perlin's evidence is something that will go in before juries in United Kingdom trials. For myself, I would think that those responsible for having brought Dr Perlin and his TrueAllele system to the United Kingdom should consider carefully the benefits of (A) finding a way in which this material could be also submitted to the Forensic Science Regulator so that the same process can be gone through in the United Kingdom as is going through in New York so that if it is relied on in other cases there do not have to be gateway admissible arguments as there have been here, and indeed in future cases were this argument to be rerun I fancy that it would in fact involve a much more detailed exploration of all of those 75 papers in Dr Perlin's own report, and it seems to me that whether or not anybody cares to do so, there being at the moment a consultation on the admissibility of expert evidence, it still remains a very helpful debate for those in the Law Commission to know that there will still be lively arguments about the weight to be given to the judge's ability to assess reliability as against the judge's ability to assess widespread recognition of a system, there being, with respect to the Court of Appeal, still not very much guidance as to the proportionate weight to be given to those two aspects, and indeed the Court of

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Appeal still on some occasions refer simply to reliability and on other occasions to both acceptance and reliability.

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But whatever that may be, my ruling in this case will be that I exercise my discretion that in this case the jury are not in a position, in my judgment, fairly to evaluate the significance of it.

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I certify that the above is a true and accurate transcript to the best of my skill and ability.

Alison Brewer - Court Transcriber

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3rd May 2011

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