

At a Term of the Supreme Court of  
the State of New York held for the  
County of Schenectady, New York at  
Chambers in the Village of  
Cooperstown, New York on the  
*13* day of March, 2015

PRESENT: HON. MICHAEL V. COCCOMA  
SUPREME COURT JUSTICE

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF SCHENECTADY

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THE PEOPLE OF THE STATE OF NEW YORK

-against-

JOHN WAKEFIELD

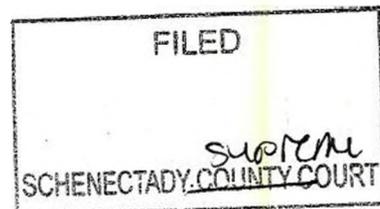
Defendant  
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**DECISION AND ORDER**

Indictment No. A-812-29

Notwithstanding the fact that the Court has already ruled on the Defendant's right to the Cybergenetics TrueAllele Casework's source code (see Decision and Order dated February 9, 2015 at pages 6 - 7), and ignoring the timeliness issue, the Court will address this Motion on the merits.

The Defendant argues that the TrueAllele Casework System is an expert system which interpreted DNA data in this case, drew inferences from it, and reached the conclusions directly connecting Mr. Wakefield to the crime with which he has been charged. To begin with, such an argument ignores the human element, to wit: the analyst. Secondly, the DNA results from Cybergenetics TrueAllele Casework is not a hearsay statement by an individual against the



Defendant - it is a scientific report generated from the source code. Thirdly, and more importantly, the Defendant has not forfeited his right to confrontation since he will have an opportunity to cross-examine not only the analyst, but the scientist who developed the software.

Simply put, the Defendant's Crawford argument is misplaced. The source code is not a witness, it is not testimonial in nature, and it is not "a surrogate for accusatory in-court testimony." It is only the software that drives a computer program that analyzes DNA with the input and assistance of an analyst. And the Cybergenetics TrueAllele Casework report does not accuse anyone, it simply computes a match likelihood ratio using a probabilistic model.

Accordingly, the Motion to allow the Defendant's expert access to the Cybergenetics TrueAllele Casework source code is DENIED once again.

THIS SHALL CONSTITUTE THE DECISION AND ORDER OF THE COURT.

Dated: March 13, 2015  
at Cooperstown, New York

ENTER

  
Hon. Michael V. Cocco  
Supreme Court Justice

To: John Wakefield  
Frederick Rench, Esq.  
Catherine Bonventre, Esq.  
Peter H. Willis, ADA, Schenectady County District Attorney's Office  
Clerk of the Court

The documents upon which this Decision and Order is based have been filed in the Office of the Schenectady County Clerk:

1. Memorandum of Law dated March 10, 2015
2. Letter from Peter H. Willis, Assistant District Attorney, dated March 13, 2015 showing copy to Defendant.