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Paternity Suit Raises Doubts About DNA Tests

Va. Judge Rejects Results, Questions Lab Work in Case of D.C. Hair Salon Owner

By Tom Jackman
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Washington hairdresser Andre Chreky gladly agreed to a DNA test when a former employee hit him with a paternity suit.

The claim was absurd, Chreky said he remembers thinking. He had stopped dating the woman years before she gave birth to the boy, now a teenager. This would all be over soon. DNA doesn't lie.

The results were back in a month, on a two-page report from Laboratory Corp. of America, or LabCorp, one of the largest paternity testers in the country and the state of Virginia's exclusive contractor: "The probability of paternity is 99.99 percent."

"It's crazy," Chreky, 50, who lives with his wife and two children in Great Falls, recalled saying. "We need to take this to battle."

The fight lasted two years. When it ended in May, Fairfax County Circuit Court Judge David T. Stitt not only ruled in Chreky's favor, but also raised serious questions about the reliability of DNA testing during a time when it is relied on to prove paternity, guilt, innocence and more.

"I thought LabCorp's performance was shoddy," Stitt said at a hearing in May after ruling that the state did not prove Chreky was the father. "I think something unfair happened in this case, where a citizen was put to the greatest extent to defend himself against what really has turned out to be a moving target as far as where LabCorp is concerned. . . . I'm concerned about what level of oversight is being exercised by the commonwealth of LabCorp's work."

The state is not appealing Stitt's ruling.

LabCorp handles more than 100,000 DNA paternity tests for many public and private clients every year, including Montgomery, Prince George's, Howard and Anne Arundel counties in Maryland. (The District handles its own DNA testing.) But evidence at Chreky's trial showed that the company has only five people reviewing the data and making paternity determinations -- with one supervisor testifying that he issues an average of one paternity report every four minutes during a 10-hour shift.

DNA experts say Chreky's case underscores a growing problem in the burgeoning field of DNA testing: People make mistakes, and people collect the DNA samples and perform the analysis. So, they say, although DNA is as reliable as ever as a definitive science, the people reading and analyzing that science are imperfect. And the volume of DNA testing keeps rising.

The ruling in Chreky's case came as Virginia Gov. Mark R. Warner (D) ordered a review of DNA testing at the state's criminal forensic lab after an audit detected human error in an analysis of a death row inmate's case.

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Laurence D. Mueller, an evolutionary biology professor at the University of California-Irvine who has been tracking lab errors in DNA cases for years, said DNA labs "use techniques that have been automated, like Hostess Twinkies on an assembly line. Most of the time, the Twinkies are fine. But once in a while, you see a bad one."

The bad ones, some biologists say, are coming more frequently.

On Friday, the state of Illinois fired its DNA lab, Fairfax County-based Bode Technology, for failing to detect semen in 11 out of 51 rape cases. State police said the errors had not wrongly freed or convicted anyone, but they said they would have to reanalyze evidence in 1,200 rape cases.

At a July murder trial in Michigan, prosecutors acknowledged that a DNA test on evidence from 1969 matched someone who would have been 4 years old at the time of the slaying and couldn't possibly have been involved. Additional tests led to a second man, who was convicted.

In Las Vegas in 2001, a man spent a year in jail after being wrongly accused of committing two sexual assaults in the 1990s. Investigators later found that his DNA sample had been switched with another inmate's.

Human error "has always existed in all of the forensic sciences," said William M. Shields, a professor at the State University of New York in Syracuse who has testified in numerous DNA cases. "It exists in all the sciences."

Brad Smith, a LabCorp spokesman, said criticism from the judge in Chreky's case appeared to be the result of "some good lawyering on the challenge side."

"We are confident that we reported the correct results and that we followed appropriate procedures and good science," he said.

Smith added that he had worked in the identity and paternity testing field since 1982 and that "we've never had a result like this and or a [judge's] statement like this."

Nathaniel L. Young Jr., director of the Virginia Division of Child Support Enforcement, which pursued Chreky's paternity, said in a statement that he could not comment on the case, but he said procedures are under review.

* * *

In the late 1990s, Andre Chreky already was a star hairstylist with his own salon. But he reached new heights after he was profiled in Washingtonian magazine and it became known that his clients included first lady Laura Bush. Soon after, Chreky said, a former receptionist began showing up at his shop on K Street NW, demanding money.

"You have a child," the woman, Adele Doudaklian, 43, of Gaithersburg, told him -- a teenage son he had never met. He ordered her out.

Doudaklian did not return phone calls to her home. Chreky said he dated her several times in the early 1980s but stopped long before Doudaklian's son, Andrew Lucas, was born in March 1986.

When the paternity action was brought in early 2003, Chreky said, he thought the DNA test would end the whole episode.

Instead, Chreky was ordered to pay \$1,715 a month in child support, plus health insurance premiums, after LabCorp's report said he was the father. By the time Lucas turned 18, Chreky had paid \$25,000. (Even after

he won the case, Virginia law did not allow him to get the money back.)

Chreký pleaded his case to the Virginia Division of Child Support Enforcement and then in an appeal to Fairfax Juvenile and Domestic Relations Court. But LabCorp's "99.99 percent" finding was too tough to overcome. In fact, under Virginia law, 98 percent is automatic proof of paternity.

This spring, his case landed in Fairfax County Circuit Court in a full-blown trial. Douglas S. Levy, one of Chreký's attorneys, said Chreký offered to take another DNA test before his trial. But the state rejected the offer, he said.

So Chreký's attorneys hammered LabCorp's experts, mostly about what the lawyers saw as two errors on the lab report. The director of LabCorp's DNA identification testing division, Gary M. Stuhlmiller, said in a sworn report that he had arrived at his conclusions after comparing Chreký's DNA with a database of the Moroccan population. Chreký is a native of Morocco.

But at trial, Stuhlmiller acknowledged that LabCorp did not have a Moroccan database.

Stuhlmiller's report also listed 11 columns of numbers. But at trial, Stuhlmiller acknowledged that 13 tests were run, not 11. He said two were "not reportable" because they did not work properly.

Mueller, who testified on Chreký's behalf, said LabCorp should have simply rerun the tests. Instead, LabCorp omitted the two remaining columns from its report. Stuhlmiller's report did not mention the omitted tests, which he acknowledged could have precluded Chreký as the father.

And then there was Stuhlmiller's workload. He told the judge he personally reviewed 30,000 paternity cases a year, working 10 hours a day with no lunch break, 40 weeks a year, with time away for training and vacation. "And that would be 15 [reports] an hour, is that right?" Chreký's lead attorney, Glenn C. Lewis, asked him.

"Correct," Stuhlmiller answered.

Stuhlmiller declined to comment, but Smith, the LabCorp spokesman, said focusing on Stuhlmiller ignored the time spent by other lab personnel compiling the data. "I don't think it's a fair representation of the amount of time or care that we spent to make sure that was a fair review," Smith said.

LabCorp has performed Virginia's paternity testing since 2001 and charges the state \$39.50 per test, or about \$120 per case. State statistics show LabCorp was paid \$797,000 last year and did almost 20,000 tests. LabCorp began paternity testing in 14 of Maryland's 24 jurisdictions in October and had performed about 6,000 tests through July.

Stitt found LabCorp's "99.99 percent" report "not statistically valid." Combining that with his distrust of Doudaklian's testimony, Stitt ruled that the state had "failed to prove by clear and convincing evidence that Andre Chreký is the father of Andrew Lucas."

How could a judge discard a seemingly definitive DNA report? Experts said it was virtually unheard of.

But Mueller pointed to a number of incidents of lab error in recent years, including allegations of problems with crime labs in Houston and Richmond.

Crime labs in Philadelphia and Minnesota were later discovered to have sent out "false matches."

"It's a terribly important issue," Mueller said. "People involved in doing these techniques make mistakes that are not involved with technology. . . . Until you get humans out of the system, these things can happen."

Chreky is no scientist. He said he just knew that this was something he needed to fight. Most people don't have the means to contest a "99.99 percent" finding. His wife, Serena, said the couple spent more than \$200,000 to fight the case.

Chreky said he spent much of the past three years overwhelmed with anxiety about the case. "I've been getting up at 3:30, sleeping a couple of hours a night," he said. "I tried to keep busy. You don't want to think about it."

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