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STATEMENT REGARDING THE DISMISSAL OF THE INDICTMENTS AGAINST RODNEY ARIC MAXWELL IN CONNECTION WITH THE MURDER OF LAUREN WHITENER

Lauren Whitener was savagely murdered and her home set on fire on July 5, 2019, in Lake Bridgeport, Texas. Today, with the 271st District Attorney's Office in Wise County having dismissed all indictments accusing Aric Maxwell of being involved in her death, two things are clear: Aric's life has been ruined by those false allegations, and Lauren's killer continues to roam the streets. For that, people need to be held accountable.

Just over one year ago on September 6, 2019, and without any evidence except that which pointed to his innocence, Aric Maxwell was arrested and accused by the Wise County Sheriff's Office (WCSO) for the capital murder of Lauren Whitener during the course of arson. The charges were based on guesswork, speculation, and flat out fantasy. Incredibly, the affidavits used to obtain the arrest warrants contained not only critical omissions but also falsehoods and lies which deceived our district judge who signed the warrants. Today's dismissal simply confirms what I knew from the start: It was a charge, devoid of any evidence, brought against an innocent man who was serving as a scapegoat when the crime could not be solved.

Once arrested, I was confident that the Wise County District Attorney's Office would right that wrong and stop the case in its tracks. I've held that very office. I would have rejected the case outright and summarily sent it back to the WCSO. I even told Aric that very thing as his court appointed lawyer when I spoke to him from behind plexiglass at the Wise County Jail last Fall.

To my shock and astonishment, not only did the D.A.'s office not reject the case, but the prosecutor expanded and increased the charges that the WCSO had presented to him. He convinced a grand jury to not only indict Aric for Lauren's murder in the course of arson but to also add the specific details of having done so while raping her and kidnapping her. And not satisfied with that, the prosecutor double-downed by adding other charges. He created another indictment for the attempted murder of the couple who slept next door to Lauren in the same duplex on the basis that, according to the him, Aric intended for them to die when the fire was set. Not stopping there, yet another and sensational indictment was added alleging the attempted capital murder of the unborn child of that couple. Bonds were set on all three indictments totaling \$850,000. A conviction for capital murder carries with it an automatic

sentence of life in prison without parole. Let that sink in. Less than one year ago, it was the ultimate desire of the prosecutor to see that Aric die in prison.

Today, Aric has been cleared of all of those charges as all three indictments against him have been dismissed. Yet a killer still roams the streets of Wise County or North Texas or elsewhere. His exact whereabouts are unknown because his identity is unknown. And his identity is unknown because of the enormous amount of time and manpower which were wasted by the WCSO and D.A.'s Office in pursuing the false allegations and the smear of an innocent man.

If all of that was not shocking or horrifying enough, there's more. The killer who is out there is not some imaginary or speculative person: *Law enforcement in Wise County knows his DNA profile*. They've got it. More astonishingly, they have known of his profile for almost a year, ever since it was revealed in a DNA report dated September 19, 2019. That report, prepared by Southwestern Institute of Forensic Sciences at Dallas (SWIFS), detailed the results of its DNA analysis of the sperm cells found during the sexual assault exam which was part of Lauren's autopsy. For anyone who cared to read the DNA report and understand its meaning, *and I am now convinced no one did*, it laid out the DNA profile of the killer. And, as incredible as it may sound, no one noticed that the report excluded Aric Maxwell as the source of that profile.

Let me be clear: The dismissals today are not the result of some "newly discovered evidence." The indictments were dismissed because of a DNA test in September of 2019 that the powers at be did not apparently understand until now.

The exact timeline of events makes this entire case even more unbelievable. Aric was arrested while those DNA test results were still being processed and, thus, not known. The WCSO's office, in a hurry to make an arrest and announce to the public it had "solved" an open murder case, inexcusably did not even care to wait for those results and arrested Aric on September 6, 2019. But once those results were received after Aric's arrest, they still didn't care to read or understand them. And later, even when armed with the DNA results which had been received and implicated someone else, the District Attorney's office picked up where the WCSO left off and still sought and obtained the indictments against Aric on November 20, 2019.

It's all so jaw-dropping incredible.

How could this possibly happen? At the micro-level, it is simply the astonishing fact that no one in Wise County possessed the ability to read a DNA report. On the macro level, it can only be explained as a combination of indifference, arrogance, tunnel vision, a needless and extreme rush to judgment, and a reckless disregard for not only justice but for common decency. Life-altering decisions were allowed to be made by those who should not have had the authority to do so.

This is now an ugly chapter in Wise County criminal justice history as DNA evidence has cleared an innocent man who had been wrongfully targeted by investigators and prosecutors. It is a shocking failure at all levels. A failure which has not only destroyed a man's life but perhaps has also obliterated any chance to bring justice to Lauren's killer -- if they can find him.

Because it is so amazing, let me talk a moment about that SWIFS DNA report and how it was simply ignored.

If those who are responsible for this miscarriage of justice did not understand that the SWIFS report of September 19th was telling them that the vicious murderer of Lauren was not Aric Maxwell, and clearly they did not, that lack of understanding is inexcusable because at least two people tried to explain it to them. One was a forensic scientist at a private DNA firm who Wise County has paid thousands of dollars to. The other person was me.

The SWIFS report's meaning should have become crystal clear to the WCSO when their own private DNA expert from Pure Gold Forensics in California, Ms. Suzanna Ryan, sent the Sheriff's Office an email on December 20, 2019, which alerted them to the real killer's existence based upon her review of the SWIFS report. In that email, Ms. Ryan wrote, with a sense of urgency no less, that the swab of DNA collected by SWIFS be transferred from that entity to Pure Gold so her lab could even further refine the DNA profile of the killer. Once done, she wanted to upload the results she knew she would have to CODIS so that the perpetrator, if his profile was already stored in that criminal database, could be identified. And since she already had Aric's DNA profile in her files as a result of him voluntarily providing the WCSO a buccal swab, she was able to specifically tell them that the DNA profile from the sperm cells extracted by SWIFS did not belong to Aric.

My interpretation of the profile is that it is consistent with Whitener, plus an unknown male plus a possible third, trace level contributor. I believe the foreign male contributor can be determined and that all male references tested to date are eliminated as possible contributors to this profile.

(Excerpt from Pure Gold email)

One would think that the bombshell email would have triggered an immediate, if not panicked, response from the WCSO and the swab would have been sent to Pure Gold on the very next day. And one would even think that steps would have been taken to release Aric from the Wise County Jail. Amazingly, nothing was done and the email was ignored.

Once a copy of that email was released to me on March 5, 2019, as part of a mountain of digital discovery from the D.A.'s office in this case which was almost 1 terabyte in size, I immediately filed with the district court a Request directed to the D.A.'s office begging them and the Sheriff's office to do exactly what their expert at Pure Gold had told them to do: Transfer the swab containing the DNA from SWIFS to Pure Gold so the lab could further refine the results of SWIFS and then upload the DNA profile to CODIS. As I wrote in that court filing, "The

importance of this being done, not only to this case *but to the safety of the public as a whole*, cannot be understated.”

If those in charge did not understand the original SWIFS DNA report, or if they somehow did not understand the Pure Gold email explaining it to them on December 20, 2019, then certainly my pleading filed on March 11, 2020 would explain to them the travesty of justice in this case which had unfolded. It was obvious a killer was out there. The *Wise County Messenger* astutely recognized the seriousness of this development with a front page story in its March 14th edition.

WISE COUNTY

DNA evidence in murder case to be re-analyzed

BY BRIAN KNOX
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A review of the DNA evidence in the capital murder case against Rodney Maxwell shows a partial DNA profile of the person who may have killed Lauren Whitener, and it is not Maxwell, according to his attorney.

Wednesday, Maxwell's attorney, Barry Green, filed a motion to have DNA evidence collected from Whitener re-analyzed, and he wants the newly-discovered DNA profile uploaded to the Combined DNA Index System, or CODIS. CODIS is a national database that stores DNA profiles taken from people who

have been arrested or convicted or collected as forensic evidence at crime scenes to help investigators generate leads in unsolved cases, Green pointed out.

Last month, Green filed a motion requesting investigators turn over 36 items that could be potential evidence in

the case against Maxwell, who has been charged with capital murder for the July 5, 2019, death of 32-year-old Whitener, who was his Lake Bridgeport neighbor.



MAXWELL

In the new motion filed Wednesday, Green says as part of the requested discovery information he received last week, prosecutors provided an email dated Dec. 20, 2019, to a Wise County Sheriff's Office investigator from a third party crime lab investigators used to

See Motion on page 9A

But, again, no one at the courthouse seemed to realize the seriousness of the situation.

Almost three months later, with Aric now finally out of jail after a bond reduction, I inquired to the D.A.'s Office as to the status of the requested DNA testing and its (hopeful) uploading to CODIS. This was done by a formal discovery request filed on June 1, 2020, and in a telephone conversation on the following day. I learned then that the swab had not even been sent to Pure Gold from SWIFS but, I was told, steps were finally being taken to do so. And instead of a discussion of an innocent man having been arrested and charged, I was alerted that the trial date for Aric would probably be moved from its scheduled September trial date to early 2021 because of the case backlog caused by the COVID-19 pandemic. I shook my head in astonishment because I knew what was coming.

And what was coming happened today.

Today, finally, the charges against Aric were dismissed -- charges which should have never been brought in the first place. I can only presume that Pure Gold has finally explained in an easy-to-read official report what it had already tried to explain in the email of December 20, 2019: A murderer is on the loose. (I have not been provided with any new reports from Pure Gold. However, it has been represented to me that the DNA profile from the sperm cells has been uploaded to CODIS but that no successful match was found.)

But make no mistake about this bone-chilling fact: If the DNA evidence did not exist, there is no doubt Aric would have been forced by prosecutors to stand trial for capital murder where they would have begged a Wise County jury to convict him and, thus, automatically

banish him to the hell of a Texas prison until his last breath was taken. That should terrify you. It certainly horrifies me.

A mere arrest ruins lives. An indictment ruins lives. Those with the responsibility of making those decisions should only do so after overturning every stone, understanding what is underneath, and then, and only then, searching their souls and asking themselves, “Am I sure -- *am I absolutely sure* -- that I’m right?” That wasn’t done here. As a result, Aric Maxwell’s name and the words “accused capital murderer” are forever fused together. A dismissal today doesn’t magically bring his reputation back.

But let’s not lose sight of the other damage this fiasco has produced. Lauren Whitener was brutally stabbed to death and her body and home were set on fire. The person who did this is out there. He is in the shadows, amongst us.

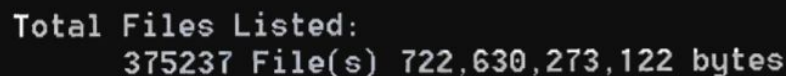
It didn’t have to be this way.

Everyone involved in this train wreck -- and there are many -- owes Aric Maxwell, the citizens of Wise County, and especially the family and friends of Lauren Whitener an apology. Those who have sworn to protect our community have failed you.

Endnotes

- After almost 6 months in jail, Aric was released on February 28, 2020 after his total bond amounts were reduced by the district judge from \$855,000 to \$250,000. The D.A.’s office opposed the reduction. (The detailed Motion for Bond Reduction, which contains a great deal of background facts, is [here](#).) Most bonding companies charge a fee of 10% to 20%. Aric’s father spent almost all, if not all, of his life savings to arrange for his son to be bonded out of the Wise County Jail.
- My formal Request filed with the district court trying to convince the D.A.’s office that the SWIFS report was a bombshell is [here](#). The email from Pure Gold which tried to do the same is [here](#).
- The original indictments, including the one alleging the attempted murder of an unborn child, are [here](#).
- A short video showing the last interrogation of Aric and his arrest is [here](#).
- A video compilation from six days after the murder where he predicted DNA would exonerate him is [here](#).
- There is no chance the DNA from the sperm cells had been left days before Lauren’s murder and at a time unrelated to the killing. Ms. Ryan from Pure Old specifically stated that the sperm cells found during the autopsy were, at the latest, only 24-36 hours old -- a time frame that law enforcement knows matches up perfectly with the time frame of Lauren’s murder in the early morning hours of July 5, 2019.
- Aric’s legal name is Rodney Aric Maxwell but obviously goes by Aric. He is 39 years old.

- Aric was cooperative with law enforcement from the start. He agreed to two recorded interviews on July 5, 2019, three recorded interviews on July 11, 2019 (which last over 12 hours combined), two recorded interviews on August 15, 2019, and a final recorded interview on September 6, 2019. He never asked for a lawyer. He voluntarily provided his fingerprints and DNA. He never once refused to speak with law enforcement on the multiple occasions they contacted him by phone.
- Aric's home was searched and ransacked by the WCSO on two occasions: July 11, 2019 and July 18, 2019, and his car was searched on July 12, 2019 when a secret tracking device was placed on that vehicle as well. Multiple swabs were taken in an effort to find Lauren's DNA in his home and car. Subsequent lab results failed to identify Lauren's blood or DNA in either place.
- Aric is indigent. I was court appointed to represent him although I had voluntarily removed myself from the official appointment list over a decade ago. The district judge's office contacted me on September 10, 2019, to ask if I would be interested in accepting this particular case. In contemplating my answer, I obtained [the affidavits](#) that were used to obtain the arrest warrants for Aric, was stunned at the lack of facts and the lack of preparation and professionalism that went into them, and then agreed to take the case. I was officially appointed on September 12, 2019. My personal notes from that time read, "I want this case."
- After receiving the discovery of a 100+ page offense report November 26, 2019, I next received a portable hard drive consisting of almost 1 terabyte of data on December 17, 2019 which contained over 375,000 individual digital files. It was almost overwhelming. A single digital file itself could, and often did, contain hundreds if not thousands of pages. Multiple cell phone dumps and social media histories accounted for many of the files. I did an old school scan of the first portable drive of discovery upon its receipt to get an understanding of what I was dealing with. I was so stunned at what I saw I took a screenshot of it:



Total Files Listed:
375237 File(s) 722,630,273,122 bytes

- Despite the large amount of digital discovery provided, there were many things I knew existed but have never received. My most recent Motion for Discovery setting forth a detailed list of those items is [here](#).
- To my knowledge, every single person who was in any way connected with this case as a possible suspect has been scientifically excluded as a contributor to the unknown DNA profile first identified by SWIFS.
- A producer for *Dateline NBC* has contacted me on multiple occasions about the case, one time in person at my office, and has expressed a keen interest in it. Aric and I plan to fully cooperate with them and others.
- I want to thank [Dr. Robert Benjamin](#) of the University of North Texas who donated his time to review the SWIFS DNA report for me. I contacted him from out of the blue by email and he responded within 30 minutes with his thoughts. I asked him to bill me and

he refused. (And thanks to Melody Lanier of the Fort Worth law firm of Varghese Summersett for directing me to him.)

- Special thanks to Fort Worth lawyer and good friend Kevin Clark for his insights and being prepared to try this case with me.