

## Experts fault job done by police lab tech, boss

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Serowik

The Cleveland police lab technician whose testimony in 1988 helped send an innocent man to prison for 13 years was poorly trained, even more poorly supervised and despite findings that one expert has dismissed as "scientific fraud" was never called to account for his errors.

Joseph Serowik's flawed analytical techniques have showed up so frequently in a sampling of other cases that questions are now being raised about more than 100 cases in which he has testified since his hiring as a civilian scientific examiner in 1987.

Those conclusions, contained in expert opinions, along with hours of deposition testimony prompted the city last week to settle a federal lawsuit filed by Michael Green, who was wrongfully convicted of rape in 1988. Green was released from prison in 2001 after DNA testing proved that he was not the rapist.

As part of a settlement of his lawsuit, the city agreed to pay Green and his attorneys \$1.6 million and to review work performed by Serowik and some of his colleagues over the last 17 years.

Serowik and Victor Kovacic, the longtime head of the crime lab, were suspended without pay last week until the city completes its "forensic audit" of the lab's work.

Serowik declined to comment. Kovacic could not be reached.

During questioning by Green's attorneys in February, Kovacic acknowledged that the Cleveland Police Department had never investigated the mistakes made in the case or whether there were fundamental problems in how the crime lab analyzed evidence.

But Edward Blake, a pioneer in the use of DNA for criminal investigations who was hired by Green's attorneys, concluded that Serowik "intentionally fabricated false evidence against Green, testified at Mr. Green's trial with a reckless disregard for the truth, and committed scientific fraud."

Blake wrote that Serowik turned a washcloth into incriminating evidence against Green by making assumptions that had no scientific basis.

Serowik told jurors that the man who used the washcloth to wipe himself after raping a cancer patient in May 1988 at the Cleveland Clinic Hotel had the same blood type as Green's. Serowik also testified that the semen on the washcloth could have been left by only 16 percent of the male population.

Without his faulty assumptions, Blake wrote, Serowik should have concluded that no man could have been excluded as a possible source of the semen on the washcloth, rendering it meaningless in the Green prosecution.

Serowik also testified that a hair found on the washcloth shared similarities with hair taken from Green's head, and went on to say that the likelihood they came from two different people was about 1 in 40,000.

But another expert hired by Green's attorneys said Serowik should not have made that assertion because hair analyses aren't precise enough to calculate probabilities.

In addition, Serowik admitted that he had no idea what part of the body the hair came from, making any comparisons scientifically improper.

Determining the part of the body a hair comes from is not only essential, it's easy to do, wrote Max M. Houck, director of the Forensic Science Initiative and a professor at West Virginia University.

With proper training, he wrote, it's about as difficult as distinguishing a Volkswagen from a Cadillac.

The fact that Serowik apparently couldn't do it, together with his misuse and misstatement of statistics, led Houck to conclude that "Joseph Serowik demonstrates a fundamental lack of knowledge about conducting forensic hair examinations.

"Mr. Serowik was allowed to conduct hair examinations without proper education, training, supervision, or protocols," Houck wrote. "He conducted these examinations in numerous cases, repeatedly made the same mistakes, and did not seek any training by qualified experts in forensic hair examinations."

Houck and Blake pointed out that Serowik was supervised by someone who knew even less about the scientific disciplines involved than he did.

And yet it was Kovacic, the lab supervisor, who oversaw and signed off on the hair analysis in the Green case.

A retired police officer who has headed the Cleveland crime lab since 1985, Kovacic acknowledged in February that he had no expertise in either hair analysis or serology (the study of bodily fluids) and that his technicians could have made up their findings and he wouldn't have known the difference.

It was a "gross deviation from accepted practice" to have an inexperienced serologist supervised by someone with no experience or training in the field, Blake wrote in his report.

Had a qualified supervisor reviewed the body-fluid analysis before the Green trial, Blake wrote, Serowik's "misconduct would have been readily apparent."

Serowik admitted in February that, for the purposes of his testimony in the Green trial, he assumed that the bodily fluids in the washcloth formed a "neat" stain meaning that all of it came from the rapist.

But because the rapist had used the rag to wipe his penis after raping the victim, Green's attorneys and experts argued in the lawsuit that the stain was at least as likely to be mixed meaning that it contained vaginal fluid from the victim as well. The experts also stated that, in rape cases, forensic technicians must assume that such stains are mixed unless they can prove otherwise.

But because the victim and Green shared the same blood type, there was no way for Serowik to determine scientifically whether any part of a mixed stain could have come from Green even assuming he was the rapist.

As it turned out, however, the real rapist who came forward and confessed after a series of Plain Dealer stories chronicled Green's ordeal had a different blood type that would not have shown up in his semen.

That means that all of the blood-type indicators that Serowik detected in the washcloth in 1988 had actually come from the victim.

During his February deposition, Kovacic acknowledged that Serowik had told him before Green's trial that the stain on the washcloth was likely a mixture of fluids from both the rapist and victim.

"Did you have any discussions with him about what that mixed stain meant in connection with his results?" asked Nick Brustin, one of Green's attorneys.

"Only that it complicated matters," Kovacic replied.

During his deposition, Serowik said he thought it was in "the realm of possibility" that only the rapist's fluids were on the washcloth because it never touched the victim's body.

"Was it appropriate in 1988, based upon your understanding of accepted protocols for testifying, to testify about what

might be in the realm of possibility?" Brustin asked Serowik.

"No," Serowik replied.

Green's attorneys sought lab reports for 10 rape cases that Serowik worked on before the case that led to Green's false conviction. Serowik made similar assumptions in most of those cases, attorneys say.

Brustin said yesterday in a telephone interview from New York City that he would not be surprised if there were others who were wrongfully convicted because of Serowik's lab work.

"Based on what we've seen, there were extremely similar problems in the forensics in other cases," Brustin said. "Quite literally, the same errors were made in the other cases that were made in Michael's."

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### **Abstract (Document Summary)**

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