

Commentary on: Page M, Taylor J, Blenkin M. Forensic identification science evidence since *Daubert*: Part II—judicial reasoning in decisions to exclude forensic identification evidence on grounds of reliability. *J Forensic Sci* 2011;56(4):913–7.

Sir,

I am in agreement with many of the arguments raised in the discussion of the validity of the forensic sciences as presented by Page et al. (1) in this paper on forensic evidence. I must object, however, to the frequent repeating of my misrepresented testimony in the *Ramirez* case, as stated on page 915:

In *Ramirez v. State*, testimony that the knife-mark identification technique used was *infallible* and that it was *impossible to make a false positive identification* using this particular technique also went against admission of the evidence. The judge noted that such a statement could not be made where there were no data on error rate available to verify such a claim.

Those supposed quotes, as repeated in the Florida Supreme Court's decision, are not from my testimony, but from the defense counsel's characterization thereof. I have never testified to the

infallibility of any technique. A defense expert raised the issue that no validation studies had been conducted on the media used to recreate the stab marks made by the knife and replicate the marks on the cartilage (true, but not an unusual practice in 1983). In response, I countered that using an unsuitable media *could not create a false positive identification*. These are manifestly different statements.

Furthermore, Florida's guidelines for the acceptance of expert testimony follow the *Frye* standard, with acceptance in the relevant field as a measure of validity. The techniques used in *Ramirez* were identical to those used in a prior case, published by Rao and Hart (2), and subsequently presented at the Association of Firearm and Tool Mark Examiners annual meeting.

References

1. Page M, Taylor J, Blenkin M. Forensic identification science evidence since *Daubert*: Part II—judicial reasoning in decisions to exclude forensic identification evidence on grounds of reliability. *J Forensic Sci* 2011;56(4):913–7.
2. Rao VJ, Hart R. Tool mark determination in cartilage of stabbing victim. *J Forensic Sci* 1983;28(3):794–9.

Robert P. Hart,¹ B.S.

¹911 Copper Stone Circle, Chesapeake, VA.

E-mail: Hart6314@aol.com