



Judge to Allow Fingerprint Testimony By: JoAnn Loviglio

A federal judge who previously barred fingerprint testimony has changed his mind and will allow experts in a capital case to testify about prints lifted from a crime scene.

Judge Louis H. Pollak reversed himself Wednesday, two weeks after a hearing on the accuracy of fingerprint analysis, in a ruling that was carefully watched by prosecutors and defense attorneys.

"In short, I have changed my mind," Pollak said after a lengthy courtroom explanation of his 59-page opinion.

Pollak's initial ruling, 91 years after fingerprint evidence was first admitted in an American courtroom, had challenged the infallibility of fingerprints as a crime-solving tool.

Since the first conviction on fingerprint evidence in 1911 in the United States, the system used in much of the world has changed little. A person's fingerprint is classified by its arches, loops, and whorls, then compared to "latent" crime-scene fingerprints at various points.

In his earlier ruling on Jan. 7 — believed to be the first of its kind — Pollak ruled that experts could testify about crime-scene prints and compare them to a defendant's, but could not declare them a definite match.

At Wednesday's hearing, the government presented data on long-

secret FBI (news - web sites) fingerprint examiner proficiency tests in the hopes of addressing Pollak's conclusion that the accuracy of fingerprint analysis had never been adequately tested.

Defense attorneys also presented experts who testified that the proficiency exams appear to be crafted to ensure the test-taker's success. Pollak did not disagree with that assessment, but said it wasn't enough to forbid the testimony.

Among other factors cited in his January opinion, Pollak said that, unlike DNA evidence, fingerprint evidence has not been scientifically tested, its error rate has not been calculated, and there are no standards for what constitutes a match. He did not dispute that each individual's fingerprints are unique, but said that interpreting smeared, partial crime scene prints is not infallible.

But Pollak concluded Wednesday that though the FBI tests are not challenging and need improvement, there was no evidence that the error rate for certified FBI fingerprint examiners is "unacceptably high."

He also said that one of his initial concerns had been that the United States and England had inconsistent standards — the U.S. does not require a minimum number of points to declare a match.

When he wrote his original opinion, he said he wasn't aware that

the standards in England had recently changed. England, which until recently had specific criteria for matching — like a fingerprint ridge splitting into two or the contours of individual ridges — now is like the United States in that it no longer requires a specific number of points to match up before experts can conclude the prints came from the same person.

"We're grateful to Judge Pollak for giving us the opportunity to reopen the record and address some of the concerns that he raised," U.S. Attorney Patrick Meehan said. "This will enable us to move forward with this prosecution."

The rulings stem from a death-penalty murder case slated to begin Monday. Prosecutors have accused three men — Carlos Ivan Llera-Plaza, 32, Wilfredo Martinez Acosta, 23, and Victor Rodriguez, 34 — of operating a multimillion-dollar Philadelphia drug ring linked to four murders.

If convicted, the defendants would be the first in the Eastern District of Pennsylvania to face the federal death penalty since it was brought back in 1988.

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