##### EXCERPT FROM VOIR DIRE OF DEFENSE EXPERT ON FORENSICS: IMPEACHING QUALIFICATIONS RESULTING IN EXCLUSION OF EXPERT’S TESTIMONY

**CONCEPT:** Discrediting the witness, offered as an expert in forensics, by impeachment and by showing his bias, and that his credentials, qualifications and experience are not adequate.

**Q.** Dr. S., I’m not familiar with your name in the forensic community. I’m going to be asking a series of questions regarding your qualifications in forensics. Your curriculum vitae, is that the document you have in front of you?
**A.** Yes.

**Q.** I will mark that as People’s Exhibit #82. It indicates that your main profession is teaching anatomy at the medical college of W., is that correct?
**A.** That was my chief occupation, yes.

**Q.** Has it changed?
**A.** July 1st, it did, yes.

**Q.** What is your chief occupation since July 1st?
**A.** Doing scientific experiments in a private laboratory, which are being done to promote development of an instrument I patented.

**Q.** Which is?
**A.** Immunology. Different chemicals in blood.

**Q.** It’s not forensic related?
**A.** It could be. It isn’t directly, it could locate A, B, O or genetic markers.

**Q.** When you were associate professor of anatomy, your area of expertise was anatomy, is that correct?
**A.** Yes.

**Q.** And the publications that you mentioned, the 130 or 140 publications dealt more with your work with electron microscopes, is that correct?
**A.** That’s correct

**Q.** You just testified that you have been qualified as an expert 250 times?
**A.** Yes.

**Q.** Is that in forensics or in other areas also?
**A.** That’s in forensics.

**Q.** Do you have a list of cases with you, documenting those 250 cases?
**A.** No, I don’t—
**Q.** You have them listed anywhere?

**A.** I have them on my computer and in a file.

**Q.** Did you bring them with you?
**A.** No.

**Q.** How many times have you testified as a forensic expert in C. County?
**A.** I have no idea. My estimate would be anywhere from 20 to 40.

**Q.** Has a court in C. County found that you were not qualified to testify as an expert?

**A.** I don’t believe so. There may have been a case where I wasn’t qualified in a certain area but not with respect to the entire testimony that I gave, I don’t recall.

**Q.** Sir, do you remember testifying on June 6, 19… before Judge P. N. in the case of the People v. Bobby M.?
**A.** The name is familiar. I don’t remember the specifics.

**Q.** You recall being hired by the defense in the case of the People v. Bobby M.?
**A.** I’m usually hired by the defense, yes.

**Q.** Did you appear in Judge N.’s courtroom on June 6, 19… and were you offered as an expert in crime scene reconstruction?

**A.** It’s possible. I don’t recall the details.

**Q.** That’s just 4 or 5 months ago.

**A.** It’s could be. I have had a lot of cases since then.

**Q.** I’m going to show you a transcript, People’s #83. I will provide a copy to counsel. Exhibit #83 does it say jury trial, People v. Bobby M. and it states the date, June 6, 19…?

**A.** Yes.
**Q.** And it says witness K. S. Is that you?
**A.** That is me.

**Q.** I’m going to leave that with you. Does that refresh your recollection as to whether you testified on June 6, 19…in the courtroom of Judge P. N.?
**A.** Apparently I did, yes.

**Q.** Now do you remember telling the judge that day that you had testified 200 times in the area of shooting reconstruction?
**A.** Yes.

**Q.** And do you remember telling him that you had written 130 or 140 articles but that none had dealt with shooting reconstruction?
**A.** Yes.

**Q.** Can you name, as you sit here today, another case that you testified as an expert in C. County?

**A.** No, I can’t

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**Q.** Now what forensic fields do you consider yourself an expert in?
**A.** I teach forensic science. You would have to be very familiar with all types of evidence. It’s like pieces of a puzzle. You can’t tell what the puzzle is until you put all the evidence together. I do consider myself more expert in the biological type evidence.

**Q.** You have stated on prior occasions that you consider yourself to be a forensic expert in a variety of areas, is that correct?
**A.** That’s correct.

**Q.** You consider yourself an expert in shooting reconstruction?
**A.** I do.

**Q.** Blood splatter?

**A.** Yes.

**Q.** Blood identification?
**A.** Right.

**Q.** Accident reconstruction?
**A.** They are all involved.

**Q.** Accident reconstruction?
**A.** Yes.

**Q.** Head injuries?
**A.** Yes.

**Q.** Forensic pathology?

**A.** Again all considering the human body.

**Q.** Luminol testing?

**A.** Yes.

**Q.** Lung disease?

**A.** That was my earlier area.

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**Q.** I’m asking do you consider yourself an expert?

**A.** Yes.

**Q.** Tool marks?

**A.** Yes.

**Q.** You ever receive any training in tool marks?
**A.** I teach crime lab people tool marks.

**Q.** You receive any training from any lab?

**A.** No.

**Q.** You ever go to a crime scene and look for tool marks or pry marks?

**A.** No, I’m never invited to go to that.

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**Q.** You consider yourself to be an expert in hair comparisons?

**A.** Yes.

**Q.** Have you ever received any formal training in gun shot residue?

**A.** No.

**Q.** Are you a member of any association of firearms and tool mark examiners?

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**Q.** Have you taken any course in crime scene reconstruction?

**A.** No.

**Q.** Have you ever been to a crime scene?

**A.** No, not at a crime scene, no.

**Q.** Have you ever been sent by a police department to process a crime scene?

**A.** No.

**Q.** Have you ever photographed a crime scene?

**A.** No.

**Q.** Have you ever gone to a crime scene while an evidence technician processed that crime

scene?

**A.** No.

**Q.** Have you ever been to a crime scene where a body was present?

**A.** No.

**Q.** Have you ever received any formal training in crime scene processing or physical

evidence collection techniques?

**A.** Only attending seminars and talks at the American Academy.

**Q.** Now the American Academy that’s only a once a year conference, is that correct?

**A.** Yes, a one week conference, yes.

**Q.** When is the last time you went to this one-week conference?

**A.** Two or three years ago.

**Q.** You didn’t go this year, did you?

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**Q.** Have you ever received any formal training in photographing crime scenes?

**A.** No.

**Q.** Have you ever written an article on crime scene reconstruction?

**A.** No.

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**Q.** Have you published any forensic articles this year?

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**Q.** When is the last time you published an article in the area of forensics?

**A.** Probably at least 15 years ago.

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**Q.** So the totality of your training in forensics…is you sometimes go to an annual meeting of the Academy of Forensic Science and you read, is that correct?

**A.** Also background. I have taken courses on hair and blood as part of my training in biology and immunology.

**Q.** How long ago were those courses?

**A.** 1960.

**Q.** Now the American Academy of Forensic Science, which sector do you belong to?

**A.** General section.

**Q.** Are there any subdivisions?

**A.** There are subdivisions.

**Q.** Is there a subdivision in crime scene reconstruction?

**A.** Yes.

**Q.** You belong to that subdivision?

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**Q.** Are you accredited by the American Society of Crime Lab Directors?

**A.** No.

**Q.** Are you a member of the National Association of Luminol –

**A.** No.

**Q.** You just said that you consider -- You consider yourself an expert in luminol?

**A.** Yes.

**Q.** Have you ever received any training from the police department?
**A.** No.

**Q.** Have you received any training for luminol from the FBI?

**A.** No.

**Q.** Have you ever taken any courses on how to luminol an object at a crime scene?

**A.** No.

**Q.** Have you ever been present at a crime scene when somebody else used luminol?

**A.** No.

**Q.** Have you ever asked a law enforcement officer if you could be present the next time they used luminol at a crime scene?

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**Q.** You also indicated that you consider yourself expert in blood splatter, is that correct?

**A.** Yes.

**Q.** Have you ever received any formal training from the State Police Crime Lab in blood splatter?

**A.** No.

**Q.** Have you received any training from the FBI in blood splatter?

**A.** No.

**Q.** The training that you say you received was by attending these lectures at the American Academy of Forensic Science and you read about them?

**A.** And the text books, yes.

**Q.** Have you ever worked in a crime lab doing experiments?

**A.** No.

**Q.** Have you written any articles on blood splatter?

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**Q.** Now I think you indicated before that you consider yourself an expert in forensic

pathology, is that correct?

**A.** Yes.

**Q.** Are you a medical doctor?

**A.** No.

**Q.** To do forensic pathology you have to be a doctor?

**A.** Forensic pathologist is a medical doctor. I don’t consider myself a pathologist. I’m a consultant for forensic pathologists.

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**Q.** You testified you worked strictly for the criminal defense, is that correct?

**A.** Not entirely but yes, 99 percent of the time I would say yes.

**Q.** Did you ever testify for the prosecution?

**A.** Yes.

**Q.** When was the last time you testified for the prosecution?

**A.** Probably 12, 15 years ago.

**THE COURT’S FINDING**

 **THE COURT:** The fact that someone has some knowledge that someone in the public sector may not have doesn’t make somebody an expert. I don’t see that there is any way I can say this man is an expert in blood splatter testimony. Even his manner while testifying seemed disingenuous at times. That’s not the way to instill some confidence that someone is an expert in some kind of field. He appears to be a jack-of-all-trades and master of none. This court will not recognize this man as an expert in the field of blood splatter testimony.

 I don’t believe he’s an expert or that he might be an expert on how the luminol testing is done and know something about it. There was nothing that came forward from this witness stand to indicate he knew anything about the luminol.