

## Declaration of Werner U. Spitz, M.D.

### **Introduction**

My name is Dr. Werner U. Spitz. I am a medical doctor, Professor of Pathology at Wayne State University School of Medicine in Detroit, Michigan, Adjunct Professor of Chemistry and teaching toxicology at the University of Windsor in Canada, and a forensic pathologist and toxicologist consultant. I have been a forensic pathologist for longer than 52 years. During my career, I have served as the Chief Medical Examiner for Macomb County, MI, the Chief Medical Examiner for Wayne County, MI, and the Deputy Chief Medical Examiner for the State of Maryland in Baltimore.

I have published, edited, and authored a textbook entitled "Medicolegal Investigation of Death," now in its fourth edition, which is considered to be the leading authority on forensic pathology. I also have published 94 scientific articles in medical journals. I have testified numerous times at various federal, state, and probate courts in the United States and abroad. I also have testified in numerous high-profile cases, including the Mary Jo Kopechne case at Chappaquiddic, MA involving Senator Ted Kennedy, the California Night Stalker case, the Preppy Murder Trial in New York, and the wrongful death suit against O.J. Simpson. I have testified before the United States House of Representatives regarding the assassination of President John F. Kennedy, as well as the assassination of Martin Luther King, Jr. I am board-certified in anatomic and forensic pathology and have instructed pathologists to become forensic pathologists at Medical Examiner's Offices in both Maryland and Michigan. As such, during my 52 years as a pathologist, I have either performed or supervised nearly 60,000 autopsies.

I was asked to evaluate the death of Ms. Michelle Moore-Bosko ("Ms. Bosko"). Ms. Bosko's body was discovered on July 8, 1997 at 5:03 pm EST. An autopsy was performed on July 9, 1997 at 8:30 am. At the time of her demise, she was 18 years old, 5 feet, 5 inches tall, and weighed 110 lbs. She suffered a number of injuries, including stab wounds on the left side of her chest and bruises on her neck and in her genital area. She also had blood in her mouth. There were no injuries to her fingernails. In connection with my evaluation, I have reviewed the autopsy report, police reports, photographs of Ms. Bosko, and statements made by Danial Williams ("Williams"), Joseph Dick ("Dick"), Derek Tice ("Tice"), and Omar Ballard ("Ballard").

As a result of my evaluation, of a significant amount of record evidence in this matter, including the autopsy notes, the crime scene video, pictures of Ms. Bosko taken by the authorities, statements of the petitioners, and statements of Omar Ballard, I have come to the conclusion that the wounds suffered by Ms. Bosko were inflicted by a single perpetrator and were not inflicted by multiple people.

### **Stab Wounds**

Ms. Bosko suffered four stab wounds, one that was quite superficial and three that were deeper and penetrated the left lung. All three stab wounds that penetrated the lung were in the same direction, approximately 5 inches in depth, and within close proximity of each other. The fourth stab wound was clustered with the other three stabs wounds, but was perpendicular and superficial. A photograph taken during the autopsy of Ms. Bosko's lung where the pathologist placed probes indicates that the stab wound tracks were exactly parallel. Ms. Bosko also suffered four or five superficial wounds that did not penetrate the upper layer of the skin,

referred to herein as "jab wounds." These jab wounds were made by a pointed object, most likely the same instrument because they were clustered in the exact same location.

The location of these stab and jab wounds centered over a total area of 2 ¾ inches by 2 inches are all located inward of the left breast. The clustering and directionality of the wounds are consistent with that of a single individual. It is extraordinarily unlikely that more than one person could have produced these wounds and even less likely that several people produced these wounds. Consequently, I firmly believe that these wounds were made by a single individual.

### **Neck Injuries**

The neck injuries are superficial, consisting of bruises and scrapes. These injuries are consistent with a single person struggling with the victim. There was obvious evidence of strangulation considering that Ms. Bosko's face was covered with dense pinpoint hemorrhages (petechiae). She had abrasions on her neck, a bruise in the front of her neck, an approximately quarter inch circular bruise on the left side of her lower jaw, and had scratches and abrasions that are patterned on the front and left side of her neck. This latter pattern is consistent with the stitching weave of her T-shirt. None of the wounds on her neck were caused by a knife-point or knife blade. The injuries on the left side and front of her neck are consistent with her having been strangled by somebody tightening her T-shirt from behind. Some of the superficial wounds were made by the rubbing of another object such as a necklace. It was reported that Ms. Bosko was found wearing a black T-shirt and a gold tone necklace. Considering the neck injuries and the presence of blood in the chest cavity, I cannot determine whether strangulation or stabbing was the cause of death. It is possible that either one or a combination of both was the cause of death.

### **Genital Injuries**

The bruises in Ms. Bosko's genital area suggest forcible penetration. The vaginal injuries consist of three or four superficial bruises and one laceration. These injuries imply rape. There is evidence that Ms. Bosko's assailant ejaculated. Ms. Bosko's vaginal injuries are consistent with a single rapist.

The records indicate that DNA specimens were taken from Williams, Dick, Tice, and Ballard for analysis. The DNA taken from Williams, Dick, and Tice did not match the DNA found on Ms. Bosko. The sole positive DNA match was taken from Omar Ballard. It is highly unusual to have multiple offenders penetrate a victim without a positive DNA match from multiple suspects. Moreover, it is not possible for the presence of one individual's DNA to contaminate the DNA of another person. Therefore, it is highly implausible that more than one individual forcibly penetrated Ms. Bosko.

### **Other Evidence**

In addition, I find the prosecution and detective's theory that multiple offenders were involved in Ms. Bosko's rape and murder very difficult to believe considering that Mr. Wayne Brian, the Norfolk Police Crime Scene Investigator, took fingerprint specimens throughout Ms. Bosko's apartment but found no fingerprints of anyone other than that of Ms. Bosko and her husband. I also find strange the allegations of forcible entry into the apartment. For example, one individual stated that the door was broken into with a claw-hammer, when, according to Mr. Brian, there was no such evidence. In totality, as a medical examiner, I have grave concerns with the diversity of the statements made by Williams, Dick, and Tice describing what transpired because their statements were materially and substantially at odds with the evidence at the crime scene and what was discovered during Ms. Bosko's autopsy.

#### Statements Made by Danial J. Williams

According to the statements made by Danial Williams that I have reviewed, he claims to have hit Ms. Bosko in the face with his fist. However, neither the autopsy nor the photographs indicate such an injury occurred. A blow to the face made by a fist would be expected to cause an area of bruising and even knuckle imprints. The pictures do not demonstrate this. The single small, perfectly-round bruise on Ms. Bosko's lower jaw is inconsistent with what would result from a punch to the face. Williams also stated that he used a flat-soled shoe to hit Ms. Bosko. There was no indication of such an injury resulting from such an attack in the autopsy report or on the photographs of Ms. Bosko.

#### Statements Made by Joseph Jesse Dick, Jr.

Dick stated that he slapped Ms. Bosko in the face twice and that he grabbed her in the back of the neck. He also stated that he covered her mouth to prevent her from screaming. There is no physical evidence that Ms. Bosko was slapped. The bruise on her left lower jaw is perfectly round, which is unlikely to have been caused by a slap, but more likely from pressure. There is no evidence of any bruising or other type of injury at the back of the neck. There is also no evidence indicating that Dick covered her mouth to prevent Ms. Bosko from screaming. When a hand is placed over the mouth in this way, it is usually forceful enough to tear the delicate lining of the lips where they are pressed against the teeth, especially in the case of a young person whose teeth are fairly sharp. There was no evidence of any such tears of Ms. Bosko's lips.

Furthermore, Dick stated that Ms. Bosko's forearms and arms were held down while she was being raped. If Ms. Bosko's arms and forearms were held down in such fashion you would expect to see bruises, particularly several bruises because of the number of individuals

implicated. However, neither the autopsy nor the photographs indicate any injuries or bruising on Ms. Bosko's forearms or arms from such restraint.

#### Statements Made by Derek Elliot Tice

Tice told the police that six young men stabbed Ms. Bosko by passing the knife from one individual to the next. As I indicated earlier, this theory does not make any sense because there were only four stab wounds clustered in a very small diameter, three of which had perfectly parallel wound tracks in the exact same direction, indicating that the wounds were the result of a quickly-repeated series of stabs, delivered over the course of a few seconds, by a single perpetrator who maintained the same position over Ms. Bosko when he delivered the stabs.

The statements made by Danial Williams, Joseph Jesse Dick, Jr., and Derek Tice are largely incompatible with each other and inconsistent with the evidence.

#### Statements Made by Omar Ballard

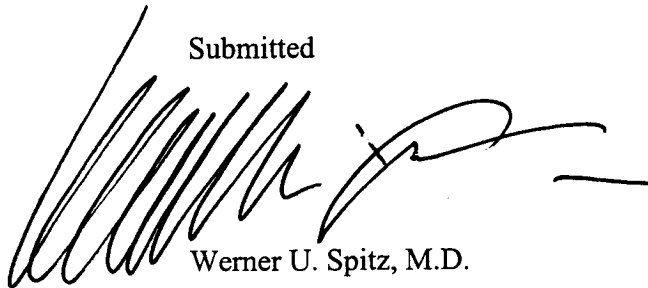
Omar Ballard told the police that he stabbed Ms. Bosko once plus two or three more times and that she was moaning when he left at approximately two-thirty or three o'clock in the morning. Ms. Bosko's stab wounds are consistent with this account. Ballard also stated that he subsequently choked her. Ms. Bosko's neck injuries are consistent with this statement. Overall, the statements given by Omar Ballard to the police are consistent with the autopsy report and the photographs.

#### Conclusion

In my opinion, Ms. Bosko's stab wounds are consistent with having been inflicted by a single person. In fact, I have seen no evidence supporting the contention that Ms. Bosko was stabbed by more than one individual. It is also my opinion that Ms. Bosko's neck injuries are

consistent with having been inflicted by one person. The strangulation injuries most likely occurred in the process of an altercation involving the same incident by the same person who caused the stab wounds. After evaluating all of the evidence, it is my opinion that the injuries on Ms. Bosko's neck, left side of her chest, and genital injuries are all consistent with a single offender and inconsistent with multiple offenders. From a forensic pathology perspective, the entire record in this matter is wholly inconsistent with a conclusion that multiple offenders raped and murdered Ms. Bosko. It is my opinion that the entirety of the injuries and the circumstances at the scene indicate to a reasonable degree of certainty that a single assailant raped and murdered Michelle Moore-Bosko.

Submitted



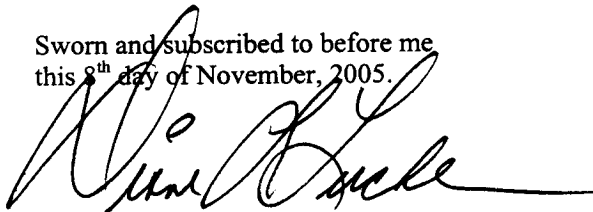
Werner U. Spitz, M.D.

On this 8<sup>th</sup> day of November, 2005  
before me personally appeared

**Werner U. Spitz, M.D.**

To me known to be the person who  
executed the forgoing instrument, and  
acknowledged that he executed the  
same as his fee act and deed.

Sworn and subscribed to before me  
this 8<sup>th</sup> day of November, 2005.



Diane L. Lucke, Notary Public  
County of Monroe, State of Michigan  
Acting in Macomb County  
My Commission Expires: October 20, 2011