

**UNITED STATES V. WALTER JOHNSON  
A/K/A AJENE KIBWE KIGOZI**

**Criminal No. F-7618-01  
Appeal No.**

**EXPERT TESTIMONY**

**OF**

**JONATHAN POPE  
Expert in Ballistics and Firearm Examination**

**ON**

**TUESDAY, APRIL 22, 2003**

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION

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UNITED STATES OF AMERICA	:	Criminal Action No.
	:	
V.	:	
	:	
WALTER JOHNSON,	:	F7618-01
	:	
Defendant.	:	
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Washington, D.C.  
Tuesday, April 22, 2003

The above-entitled action came on for a jury trial before the Honorable Patricia Broderick, Associate Judge, in Courtroom Number 112, commencing at approximately 9:55 a.m.

THIS TRANSCRIPT REPRESENTS THE PRODUCT OF AN OFFICIAL COURT REPORTER, ENGAGED BY THE COURT, WHO HAS PERSONALLY CERTIFIED THAT IT REPRESENTS THE TESTIMONY AND PROCEEDINGS OF THE CASE AS RECORDED.

APPEARANCES:

On behalf of the Government:

JOHN CARLIN, Esquire  
BEN FRIEDMAN, Esquire  
Assistant United States Attorney

On behalf of the Defendant:

KENNETH ROBINSON, Esquire  
Washington, D.C.

DIANNE PIRFO  
OFFICIAL COURT REPORTER  
Telephone 879-1031

APR 23 11 00 AM '03

1 MR. FRIEDMAN: Yes, Your Honor. The government  
2 calls Jonathan Pope.

3 Thereupon,

4 JONATHAN POPE,  
5 having been called as a witness for and on behalf of the  
6 Government, and having been first duly sworn by the  
7 Deputy Clerk, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. FRIEDMAN:

10 Q Good morning.

11 A Good morning.

12 Q Could you please state your name and spell it  
13 for the court reporter.

14 A My name is Jonathan Pope, J-O-N-A-T-H-A-N, last  
15 name P-O-P-E.

16 Q Where are you employed, Mr. Pope?

17 A I'm currently employed by the metropolitan  
18 police department, firearms examination section.

19 Q Do you have a rank?

20 A No, I'm a civilian.

21 Q Okay, and what does that mean?

22 A I'm not a sworn officer.

23 Q What is your current duty assignment?

24 A My current duties include performing  
25 functional, microscopic and chemical examinations on

1 firearms and firearms related evidence, which also  
2 includes serial number restorations on guns, gunshot  
3 residue, chemical tests, shot pattern tests from shotgun,  
4 computer forensic imaging, lectures and also training.

5 Q How long have you been doing this?

6 A Approximately eight years.

7 Q And what kind of education do you have in this  
8 area?

9 A A two-year specialized training course in  
10 firearms examination, which is the national standard to  
11 be certified as a firearms examiner. It's a two-year  
12 course and there's a lot of advanced training after that  
13 course.

14 Q And you mentioned lectures. What kind of  
15 lectures have you given in this area?

16 A In firearms identification relation, in  
17 relation to attorneys or criminal investigators, homicide  
18 schools and various other law enforcement agencies,  
19 domestic, in the U.S. and also international police  
20 agencies.

21 MR. ROBINSON: Your Honor, we're willing to  
22 stipulate if counsel wants to. It's up to him.

23 MR. FRIEDMAN: That's fine, Your Honor. I  
24 would ask that this witness be qualified as an expert in  
25 ballistics and firearms examination.

1 THE COURT: You have no objection?

2 MR. ROBINSON: So stipulate.

3 THE COURT: All right. All right, ladies and  
4 gentlemen, the same instruction I gave you about experts  
5 the last time applies this time. As I said, experts are  
6 not -- people are not ordinarily allowed to testify as to  
7 opinions or conclusions, but there is an exception for  
8 expert witnesses. Experts are allowed to give opinions  
9 or conclusions, because they have become expert in some  
10 art, science, profession or calling and they may then  
11 give their opinions or conclusions and the reasons for  
12 their opinions.

13 In this case I'm going to permit Mr. Pope to  
14 testify as an expert concerning ballistics and firearms  
15 examinations. You are not bound by an expert's opinion.  
16 If you find the opinion is not based on sufficient  
17 education or experience, that the reasons supporting the  
18 opinion are not sound or that the opinion is outweighed  
19 by other evidence, you may completely or partially  
20 disregard the opinion. In other words, give the opinion  
21 the weight you think it deserves after you consider it  
22 along with all the other evidence.

23 BY MR. FRIEDMAN:

24 Q Mr. Pope, as part of your duties, did you  
25 examine ballistics evidence in a case In Re: Paris

1 Edward Lynch with a federal examination, I'm sorry, a  
2 firearm examination number of 0200187-JP?

3 A Yes.

4 Q I'm handing you what has already been  
5 introduced into evidence as Government's Exhibits 21,  
6 through 25, 27 through 31, and 35. Do you recognize  
7 those items?

8 A Yes.

9 Q What are those items?

10 A They are cartridge cases and copper bullet  
11 jackets and lead cores.

12 Q Okay. How did you receive those items?

13 A I received them through the crime scene search  
14 office, which subsequently gave it to my evidence  
15 coordinator and then to me.

16 Q And what kind of examination did you perform on  
17 these items?

18 A Firearms examination examinations. Basically  
19 what, the examinations are broken down into two parts,  
20 class characteristics and individual characteristics.  
21 The class characteristics of certain items in firearms  
22 relegate these items into certain groups, meaning that  
23 the manufacturer predetermined these particular items  
24 across the board. So you have the caliber of that  
25 particular item, you have the size of that particular

1 item and you have the actual manufacturer of that item.  
2 Those are class characteristics.

3 Individual characteristics are things that are  
4 left on the item, like a cartridge case or a bullet from  
5 the actual gun. The marks that a gun leaves on these  
6 items are individual characteristics. They are like a  
7 fingerprint. So those are the examinations that I  
8 performed.

9 Q Okay. You mentioned caliber. Did you come to  
10 a conclusion about what caliber this ballistic evidence  
11 was?

12 A Yes caliber 45 auto ammunition.

13 Q And how were you able to determine that?

14 A As far as the cartridge cases, which looks like  
15 this, the caliber is stamped on the back of the item.

16 Q And what about the bullets and other fragments  
17 that you have there?

18 A The caliber is determined on bullets by the  
19 weight and the diameter, the distance around the bottom,  
20 the diameter of the particular item.

21 Q And you mentioned a size and manufacturer.  
22 Were you able to determine anything about the size and  
23 manufacturer based on these ballistics evidence?

24 A Well, the size would be just that they were  
25 consistent with 45 caliber, yes.

1 Q And what about the manufacturer?

2 A That they were consistent with Winchester  
3 brand.

4 Q Okay. Did these pieces of evidence have  
5 individual characteristics as you described them?

6 A Yes.

7 Q And how did you go about examining those  
8 individual characteristics?

9 A The tool that is used in the firearm  
10 examination discipline is a comparison microscope. It is  
11 a microscope with two lenses that has fine adjustments  
12 that merge two stages together. So you place one item on  
13 one stage and another item on another stage and you can  
14 merge those two items together to see if they are  
15 consistent.

16 The individual characteristics are breach face  
17 marks, firing pin impression and chamber marks. What  
18 happens in a cycle fire, of discharging of a weapon is  
19 once the trigger is pulled, an internal portion called a  
20 hammer goes forward and hits an internal tool called a  
21 firing pin, and it's kind of shaped like my finger, kind  
22 of long. The firing pin is under spring tension and it  
23 goes forward and it hits the back of this cartridge case  
24 in the center. The center portion is called a primer.  
25 It's like a button and it acts as an igniter to the

1 powder, which pushes the bullet, which is the external  
2 portion of the cartridge case, it pushes the bullet out  
3 of the cartridge.

4           When the firearm, when the trigger is pulled  
5 and the firing pin goes forward and hits the primer, it  
6 causes a firing pin impression. That is an individual  
7 characteristic. It's like a fingerprint. The little  
8 scratches that that firing pin makes is only exclusive to  
9 that gun. That gun can only make that scratch.

10           There's another tool inside the firearm called  
11 an extractor. The extractor is kind of shaped like my  
12 hand. It goes forward and it grabs the bottom part of  
13 this rim and it pulls that cartridge case to the rear of  
14 the firearm. Once it rests on the rear of the firearm  
15 there's another portion of that firearm called a breach  
16 face. The hot metal of that breach face impresses on the  
17 softer metal, which is lead of the primer and it makes  
18 another mark called a breach face mark and that's also  
19 exclusive to only that gun, just like a fingerprint.

20           So unless that gun fires, those marks are only  
21 exclusive to that particular firearm. Those are the  
22 individual characteristics. These particular items did  
23 have those individual characteristics and they were  
24 consistent.

25           Q     Okay. Were you able to determine whether the

1 ballistics evidence that you have come from one gun or  
2 more than one gun?

3 A That they came from one gun.

4 Q And how were you able to determine that?

5 A Examining those breach face marks and those  
6 firing pin impression marks.

7 Q Okay. So all of the evidence that you have  
8 before you signifies that it came from one gun. Is that  
9 right?

10 A That is correct.

11 Q And were you able to determine a type of gun  
12 that it might have come from?

13 A Yes, a 45 caliber semiautomatic pistol.

14 Q How were you able to determine that it came  
15 from a semiautomatic pistol?

16 A With the cartridge cases that extractor is only  
17 exclusive to the semiautomatic pistol. The difference  
18 between, one of the differences between a pistol and a  
19 revolver, which is like the western guns, is that the  
20 cartridge ammunition is automatically extracted, because  
21 of that tool that pulls it out, and ejected. There's  
22 another tool inside of it called an ejector. So it pulls  
23 that cartridge case back and the ejector kicks it out of  
24 the ejection port, which is just a hole on the side of  
25 the firearm.

1           Those two marks on a cartridge case tell me  
2 that a semiautomatic pistol fired that particular item.  
3 A revolver would not have those marks. Because it does  
4 not automatically come out of a revolver, one has to  
5 manually hit the extractor rod and then dump the  
6 cartridge cases out. So a semiautomatic pistol has  
7 extractor and ejector marks and these items have those  
8 marks.

9           Q     I'm showing defense counsel what has been  
10 marked as Government's Exhibit Number 51 for  
11 identification.

12           MR. ROBINSON: No objection, Your Honor.

13           BY MR. FRIEDMAN:

14           Q     I'm handing you, Mr. Pope, what has been marked  
15 as Government's Exhibit Number 51 for identification.  
16 What is that?

17           A     This is a certificate of no record of a license  
18 to carry a pistol.

19           Q     Okay, and is that a certified copy?

20           A     This is, yes.

21           Q     How are you able to tell that?

22           A     It has a raised seal.

23           Q     All right.

24           MR. FRIEDMAN: Your Honor, at this time I would  
25 seek to introduce Government's Exhibit Number 51 into

1 evidence.

2 MR. ROBINSON: No objection.

3 THE COURT: It will be entered.

4 BY MR. FRIEDMAN:

5 Q What is that document? I mean what does it  
6 indicate?

7 A It indicates that Mr. Walter Ellsworth Johnson  
8 has no record of a license to carry a pistol.

9 Q Okay, and what date, as of what date is that  
10 mark?

11 A November 23rd of 2001.

12 Q And, I'm sorry, could you actually just read  
13 this small portion of this document?

14 A "This is to certify that the records of the  
15 metropolitan police department relating to the issuance  
16 of licenses to carry a pistol are in my custody and  
17 control pursuant to the above quoted directive of the  
18 chief of police of which I certify the foregoing is a  
19 true and accurate copy and state that a diligent search  
20 has been made of those records for information concerning  
21 the following described person."

22 Q And who is that person?

23 A Mr. Walter Ellsworth Johnson.

24 Q And does it give other identifying information  
25 on that?

1 wants to recall this witness, they are more than welcome  
2 to, but at this point there's absolutely no evidence of  
3 any prior murder to suggest that this is relevant in any  
4 way.

5 MR. ROBINSON: It's relevant in any case,  
6 generally speaking if the government has a weapon that's  
7 recovered and available from an accused and the weapon  
8 has been tested and it matches another shooting with that  
9 weapon they seek to put that into evidence, it is  
10 relevant, and particularly the time line, since there's  
11 an issue here as to whether Mr. Johnson was on the  
12 street.

13 THE COURT: Is this a test you could have  
14 requested too?

15 MR. ROBINSON: No, we never ask to do test  
16 fire --

17 THE COURT: But you could have requested the  
18 test?

19 MR. ROBINSON: I guess I could have. On our  
20 budget I doubt that I would. I could have brought my  
21 calendar to court today, which I didn't, and I got in  
22 trouble in another courtroom for that, but sometimes we  
23 don't do what we should do.

24 THE COURT: Do you need to call another  
25 courtroom and tell them that you are here?

1 MR. ROBINSON: No, I just am trying to set  
2 something in front of Judge Bayly and had everything on  
3 my calendar, so we ad libed, but I mean it's not life or  
4 death. I think it's a fair question.

5 THE COURT: I'm going to allow you to ask it  
6 and when he says no, I think you need to move on.

7 MR. ROBINSON: That's it right there.

8 MR. FRIEDMAN: Your Honor, the only other, I  
9 want to make it clear that he did test these  
10 ballistics against the --

11 THE COURT REPORTER: I'm sorry, can you speak  
12 in the mike.

13 MR. FRIEDMAN: Oh, I'm sorry, against the gun  
14 found in the decedent's car and I don't want that  
15 evidence to come out through this witness. I purposely  
16 didn't ask him any questions about that.

17 MR. ROBINSON: But I purposely, in the first  
18 place that was a 9-millimeter, so it couldn't be tested,  
19 it wouldn't make any sense to test these 45 casings  
20 against the 9-millimeter, but I specifically told him  
21 don't mention any names of cases. I just said did you  
22 test it in this --

23 THE COURT: All right. Ask him if he tested it  
24 against any other 45 caliber.

25 MR. ROBINSON: Okay.

1 (Close bench conference).

2 BY MR. ROBINSON:

3 Q Mr. Pope, when you have shell casings, such as  
4 you have tested in this case for a 45 semiautomatic  
5 weapon, you made the decision in this case in your expert  
6 opinion, did you not, that all appeared more likely than  
7 not that they were fired from the same weapon?

8 A That is correct.

9 Q All right, and you have the capability, do you  
10 not, to take that information that they were fired from  
11 the same weapon and if you have evidence from the use of  
12 the same handgun, a 45 caliber semiautomatic in other  
13 cases that are either solved or not solved, to see if it  
14 matches any of the ballistics in another case on  
15 investigation, do you not?

16 A That happens in a computer imaging system, yes,  
17 but not physically on a microscope, no.

18 Q Right, but that's something that you get  
19 involved in as far as tracking all of that ballistic  
20 evidence, correct? It can be done by the lab?

21 A It can be done.

22 Q And was that done in this case?

23 A It was not.

24 MR. ROBINSON: Okay. Thank you. That's all.

25 THE COURT: Anything else?

