

FILED
 U.S. DISTRICT COURT
 EASTERN DISTRICT OF LA
 2001 MAY 14 AM 10:15
 LORETTA G. WHYTE
 CLERK

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA
 VERSUS
 SYDNEY JOSEPH

* CRIMINAL ACTION
 * NO. 99-238
 * SECTION "N"

ORDER AND REASONS

Before the Court is defendant Sydney Joseph's Motion for a Daubert Hearing on the Admissibility of Expert Testimony on Latent Fingerprint Identification. The Court does not find that an evidentiary hearing is necessary. For the following reasons, the defendant's motion is DENIED; and the Government's fingerprint evidence may be admitted at trial.

BACKGROUND

On May 4, 2001 the defendant, Sydney Joseph, filed a motion challenging the admissibility of the Government's latent fingerprint evidence on the grounds that the science underlying fingerprint analysis has recently been called into question. Joseph requested an evidentiary hearing to determine what method the Government's fingerprint technician used. However,

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pursuant to this Court's order,¹ the Government has made additional documentation on the methodology issue available to the defendant. The defendant has had access to this information, and he has not submitted any further support for holding an evidentiary hearing. Accordingly, the Court will dispose of this matter on the briefs.

LAW AND ANALYSIS

In Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), the Supreme Court stated that when a trial court is "faced with a proffer of expert testimony, the trial judge must determine at the outset, pursuant to Rule 104(a), whether the expert is proposing to testify to (1) scientific knowledge that (2) will assist the trier of fact to understand or determine a fact in issue." Id. at 592. In determining whether certain expert evidence properly satisfies the "scientific knowledge" prong of the Daubert test, the Court held that trial courts may consider (1) whether the theory or technique used by the expert can be, and has been, tested; (2) whether the theory or technique has been subjected to peer review and publication; (3) the known or potential rate of error of the method used; and (4) the degree of the method's or conclusion's acceptance within the relevant scientific community. Id. at 593-94.

In the case at bar, Joseph questions whether the Government's fingerprint evidence is scientific knowledge. The Court concludes that it is. Joseph's challenge is based on the uncertainty of whether the Government's fingerprint technician used the 8-point *Galton* method or the ridgeology school of analysis, and suggests that one of these methods may be inferior to the other. However, fingerprint analysis has been tested and proven to be a reliable science over

¹ Rec. Doc. No. 32.

decades of use for judicial purposes; and fingerprint technicians utilizing both the *Galton* and ridgeology techniques follow established principles and use scientific methods that are recognized in their particular field. In addition, the defendant has not provided any evidence that either of these techniques are no longer generally accepted within the relevant scientific community. Accordingly, the Court finds that the Government's fingerprint analysis satisfies Daubert's "scientific knowledge" test.

The second prong of the Daubert test is whether the evidence will "assist the trier of fact to understand or determine a fact in issue." Id. at 592. The Court finds that an analysis of the defendant's fingerprints and the fingerprints found at the various crime scenes will assist the jury in determining the identity of the perpetrator of the bank robberies, a key fact in issue.

Finally, the Court notes that the defendant will undoubtedly subject the Government's fingerprint technician to vigorous cross-examination, which will reveal any weaknesses in her method. In addition, the Court will allow the defendant to retain a competing fingerprint analyst, and the Court orders that the defendant be provided funds for this purpose.

New Orleans, Louisiana, this 14 day of May, 2001.



EDITH BROWN CLEMENT
UNITED STATES DISTRICT JUDGE