

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 8

DANE COUNTY

STATE OF WISCONSIN,

Leonard Pozner

Plaintiff,

v.

CASE NO. 2018-CV-003122

James Fetzer et al,

Defendant.

**AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

STATE OF WISCONSIN

)

)ss.

COUNTY OF DANE

)

I, Alan L. Friedman, Ph.D., being first duly sworn, on oath deposes and states as follows:

1. I have a Ph.D. in Molecular Genetics and Cell Biology, granted in 1985 by the University of Chicago, Division of Biological Sciences and Pritzker School of Medicine.
2. I have testified as an expert in Forensic DNA and Biology in seventy-five (75) cases. Forty-nine (49) of these have been in Wisconsin courts and the remainder have been in course in Illinois, Louisiana, Kentucky, Ohio and Maryland, Texas, Florida, Michigan, Minnesota and United States Federal courts.
3. I am a current member of the Criminalistics section of the American Academy of Forensic Science, International Society for Forensic Genetics, the Midwestern Association of Forensic Science and the American Association for the Advancement of Science.

4. I am currently the president of Helix Biotech, Inc. (DBA Helix Consulting) at 6650 W State St, Suite 327, Milwaukee, WI 53213. From 1996—2008, I was the laboratory director of Helix Biotech, Inc, a paternity and criminal forensic DNA laboratory, in Milwaukee, WI.
5. A copy of my CV is attached as Exhibit A to the Affidavit.
6. Biological samples containing DNA were collected from Leonard Pozner (Alleged Father 1) and Veronique Patricia De La Rosa (Mother).
7. A biological sample from Noah Samuel Pozner (M.E. Case No. 12-17604) was provided by the Office of the Chief Medical Examiner, 11 Shuttle Road, Farmington, CT 06032.
8. An affidavit establishing chain of custody for the DNA samples is attached as Exhibit B to this affidavit.
9. These samples were DNA profiled by Independent Forensics DNA Testing & Technologies, 500 Waters Edge, Suite 210, Lombard, IL 60148, a laboratory accredited for parentage testing by the American Association of Blood Banks (AABB) and ANSI (American National Standards) ISO/IEC 17025 forensic accreditation.
10. The results of the DNA analysis are attached as Exhibit C to this affidavit.
11. Leonard Pozner cannot be excluded as the biological father of Noah Samuel Pozner. The combined probability of paternity (genetic odds in favor of paternity), compared to a random, unrelated man of the same race, is over 672 million (672,722,851). The probability of paternity, assuming a 50% prior probability, is over 99.99%.
12. The testing evaluated 18 DNA locations, or loci. One of those is the amelogenin gene, reflected in Ex. C as "AMEL". That gene allows one to determine if the sample was taken from a male or a female. Ex. C shows data in the "X" column for the "Mother" sample, but no data in her "Y" column. That is to be expected for a sample from a female. Ex. C shows both an "X" and "Y" column for the "Child" and "Alleged Father." That is to be expected for males, who have both an X and Y chromosome. Thus, I can state with a reasonable degree of scientific certainty that Noah Samuel Pozner, the child from whom the medical examiner's office took its sample, was a male.
13. In my expert opinion, Leonard Pozner is, to a reasonable degree of scientific certainty, the biological father of Noah Samuel Pozner.

14. I have read the foregoing affidavit and acknowledge the contents thereof and affirm under penalty of perjury I truthfully executed the same for the purposes therein expressed.

DATED this 29 day of April 2019.

Alan Friedman  
ALAN L. FRIEDMAN, Ph.D.

Subscribed and sworn to before me this 29 day of April 2019 by Alan L. Friedman, Ph.D.

My commission expires: 04/14/2023.

(SEAL)



Debra Tritschler  
Notary Public

Wisconsin  
Milwaukee County



# Exhibit A: CV

## Curriculum Vitae

***Alan L. Friedman, Ph.D.******Forensic DNA, Biology & Molecular Genetics***

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**Education**

Ph.D. 1985	Molecular Genetics and Cell Biology	University of Chicago, Division of Biological Sciences, Pritzker School of Medicine
M.A. 1979	Biology	Humboldt State University
B.A. 1977	Botany	Humboldt State University

**Experience**

Currently:	Helix Consulting 6650 W State St. Suite 387 Milwaukee, WI 53213 (414) 395-3460 (414) 253-6950 fax
March 1996-October 2008	Laboratory Director and President Helix Biotech, Inc. 2821 N 4th St. Milwaukee, WI 53212
August 1987-June 1995	Assistant Professor Department of Biology Marquette University Milwaukee, WI 53233
January 1985- August 1987	Postdoctoral Research Associate University of Wisconsin-Madison

**Professional Affiliations**

Midwestern Association of Forensic Scientists  
International Society for Forensic Genetics  
American Academy of Forensic Sciences  
American Association for the Advancement of Science

**Fellowships and Honors**

1982-1985	Pre-doctoral Trainee, National Institute of Health Training Grant in Molecular and Cellular Biology, University of Chicago
1980-1981	Pre-doctoral Fellow, C.L. and F.K. Hutchinson Fund for Graduate Study, University of Chicago
1979	Scholarship, Marine Biological Laboratory, Woods Hole, MA

## Forensic Seminars Presented

*DNA Evidence in the Wisconsin Courts.* Milwaukee Public Defenders Regional Training Program. Marquette University Law School, June 21, 1996.

*DNA Evidence and The Innocence Defendant.* Wisconsin State Public Defenders Conference; Hilton Hotel, Milwaukee, WI November 1, 1996.

*Ethics and DNA Evidence in the Criminal Justice System.* Biotechnology and Ethics, UW-Milwaukee, March 11, 1997.

*Collecting and Preserving DNA for the Crime Scene Investigator.* Wisconsin State Public Defenders Conference; Hilton Hotel, Milwaukee, WI November 13, 1998.

The Future of DNA, Science in the Courtroom for the 21<sup>st</sup> Century: Examining the Actual Policies and Practices of Forensic DNA. DePaul University Center for Law and Science, Chicago, IL. May 14, 1999.

*The DNA Expert Examined: Expert Witnesses and Forensic Science in the Courtroom.* DuPage County Bar Association, Wheaton, IL. Sponsored by the Illinois Criminal Justice Information Authority. October 29, 1999.

*Forensic DNA and Biology: A lecture and laboratory course.* Naif Arab Academy for Security Sciences, Riyadh, Saudi Arabia. April 1-15, 2000.

*An Introduction to Forensic DNA.* A lecture to a 3<sup>rd</sup> year class at DePaul University Law School. January 23, 2001.

*Paternity Testing in Criminal Cases.* Sponsored by the Cook County Public Defender and DePaul University Center for Law and Science, Chicago, IL. May 9-11, 2002.

*DNA in the Criminal Courts.* A lecture to the graduate course in DNA Sequencing. December 11, 2002.

*The Role of the Independent DNA Consultant.* Minnesota Institute of Legal Education course *DNA Evidence.* Hyatt Regency, Minneapolis, MN. February 26, 2003.

*The Trials of Steven Avery.* Annual meeting of the Professional Association of Wisconsin Investigators. Green Bay, WI. April 22, 2010.

*CSI for the Defense: The Role of Forensic Science Experts in the Criminal Justice System.* McNair Scholars Program, Marian University, Fond du Lac, WI. February 9, 2011.

*The ABCs of DNA: A Primer. A Day With the Experts in Criminal Defense.* State Bar of Wisconsin, Madison, WI. June 13, 2014.

*The ABCs of DNA: A Primer.* Federal Defender Conference, Rockford, IL. June 19, 2014.

Forensic DNA: How Low Can You Go? Wisconsin Association of Criminal Defense Lawyers CLE course. Olympia Conference Center, Oconomowoc, WI. September 16, 2016.

## Forensic Continuing Education

*DNA Forensics: Science, Practice and Future.* Ranajit Chakraborty, Organizer. Santa Fe, New Mexico. April 21-27, 1996.

Third Annual National Conference on *The Future of DNA: Implications for the Criminal Justice System.* US Dept. Justice. Chicago, IL May 21-22, 1998.

*STR's by Capillary Electrophoresis.* Sponsored by the Midwestern Association of Forensic Scientists and the Illinois State Police. Chicago, IL March 10-12, 1999.

*DNA Typing with STR's,* Promega Workshop. Madison, WI. September 21-22, 1999.

## Forensic Continuing Education *cont.*

*Criminalistics: An Introduction to Forensics*. Richard Saferstein, Ph.D., DePaul University Law School. Chicago, IL September 23-24, 1999.

*The Eleventh International Symposium on Human Identification*. This conference included a mini-symposium on paternity. Biloxi, MS. October 10-13, 2000.

*Forensic MAFS STR Symposium on Mixture Issues and New Technology*. Oak Brook, IL. April 22-24, 2002.

*Applied Biosystems' Annual User Forum on Forensic DNA*. American Academy of Forensic Science meeting. Hyatt Regency, Chicago, IL February 19, 2003.

*American Academy of Forensic Science Annual Meeting* February 17-20, 2004; Dallas, TX

*Forensic Human Mitochondrial DNA Analysis*. American Academy of Forensic Science Annual Meeting. Dallas, TX. February 16, 2004.

*Advanced Topics in STR DNA Analysis*. American Academy of Forensic Science Annual Meeting. Seattle, WA. February 20, 2006.

*Biological Stain Identification and Microscopy of Biological Substances* MAFS Biology Workshop. May 15-17, 2006.

*GeneMapper ID Software Training*. Applied Biosystems -Web-Based Training August 14, 2006.

*DNA Mixture Interpretation Workshop and Webcast*. National Institute of Science and Technology, Office of Law Enforcement Standards and Applied Genetics Group. April 12, 2013.

*Probabilistic Genotyping & Software Programs*. National Institute of Science and Technology. Office of Law Enforcement Standards and Applied Genetics Group. Webinar- May 28, 2014.

*Softgenetics GeneMarker HID: A User's Perspective*. Jessica Seifarth, Technical Training and Support Specialist, Promega Corporation. Webinar- April 20, 2016.

*Y-Screening and Direct Amplification of Sexual Assault Evidence Kit Samples*. Technical Training and Support Specialist, Promega Corporation. Webinar- October 31, 2016.

*Probabilistic Genotyping: Theory and Implementation*. Midwestern Association of Forensic Scientists, Sheraton Milwaukee Brookfield Hotel. April 24-27, 2017.

## Forensic Publications

Friedman, Alan (1997) *New Approaches and Technologies in Criminal Forensic DNA Typing*. Forensic Examiner **6 (5&6):23-25**.

Friedman, Alan (1999) *Forensic DNA Profiling in the 21<sup>st</sup> Century*. International Journal of Offender Therapy and Comparative Criminology. **43 (2):168-179**.

## Court Testimony

Accepted by the court as an expert in Forensic DNA and Biology in the following cases:

July 15, 1997 *Toliver v. Cisco*; Case No. 91 D 68071; Chicago, IL; Testimony in a paternity case.

June 25, 1998 *State of Louisiana v. Jesse Hoffman*; 22nd JDC; No. 26537 "H", Covington, Louisiana; Testimony in a capital homicide.

December 22, 1998 *Commonwealth of Kentucky v. Danny Odom*; Hickman, KY;  
Testimony in a sexual assault of a minor case

Helix Consulting, 6650 W State St., Suite 327, Milwaukee, WI 53202  
[info@forensicDNAconsultant.com](mailto:info@forensicDNAconsultant.com) voice 414-395-3460 fax 414-253-6950

**Court Testimony cont.**

- January 14, 1999 State of Wisconsin v. Ernest Halford; State of Wisconsin Circuit Court, Washburn County; Case No. 98-CF-41; Testimony in a homicide case.
- March 11, 1999 Wyatt v. Armah, Milwaukee County Circuit Court, Case No. 97PA004546, Testimony in a paternity case.
- March 14, 1999 Ohio v. Norman Spencer II, Circuit Court, Franklin County, OH; Testimony in a sexual assault of a minor case.
- July 27, 1999 Commonwealth of Kentucky v. Danny Odom; Hickman, KY; Testimony in the retrial of a sexual assault of a minor case
- November 10, 1999 Illinois v. Aureliuse Piper; Kankakee, IL; ASA Case No. 97-CF-750; Testimony in a triple homicide.
- February 18, 2000 Wisconsin v. Albert Black, Milwaukee County Case No. 99CF-001444; Testimony in a sexual assault case.
- April 28, 2000 Illinois v. Abel Colin, Cook Co. Case No. 95 CR 6687; DNA testing and testimony in a sexual assault case.
- November 17, 2000 Illinois v. James Piggues, Freeport, IL 98 CF 480, Testified as an expert on DNA, serology and microscopy in a homicide case.
- May 31, 2001 Wisconsin v. Dathon Branch, LaCrosse, WI Case No. 00 CF 768, Second degree sexual assault.
- July 10, 2001 Illinois v. Aureliuse Piper; Kankakee, IL; Case No. 97-CF-750; Testimony in the retrial on charges of triple homicide.
- August 8, 2001 Illinois v. John Regan; Maywood, IL Agency Case No. 995614; ISP Crime Lab No. W99-003812; Testing and testimony in sexual assault case.
- February 13, 2002 Wisconsin v. Steven E. Jaschob, Dane County, WI. Case No. 01-CF-802; Testing and testimony in sexual assault case.
- February 22-25 2002 Illinois v. Leon Knox, Winnebago County, IL. Testimony in a sexual assault case.
- May 21-23, 2002 Maryland v. Eugene Winder, Baltimore County, MD. Pretrial testimony in triple homicide case.
- August 29, 2002 Wisconsin v. Richard Moeck. Lacrosse County, WI. Post-conviction hearing in a sexual assault case.
- March 14, 2002 Wisconsin v. Keith Williams. Kenosha County, WI. Testimony in a sexual assault case.
- September 1, 2004 Wisconsin v. Tramaine Hughes. Case No. 04 CF 000571 Milwaukee County, WI. Testimony in a sexual assault case.
- May 19, 2005 Wisconsin v. Kevin Zarm, Marathon County Case No. 03-CF-767 and 03-CF-642. Testimony on wildlife DNA in an Arson and robbery case
- June 30, 2005 Wisconsin v. Patrick R. Boenigk. Dane County Case No. 03-CF-326. Post-conviction expert testimony in sexual assault case.
- August 10-11, 2005 Maryland v. Adan Canela Baltimore County Case No. 104176020-031. Expert testimony for defense in homicide of three children.



**Court Testimony cont**

- October 26, 2005 Maryland v. Eric Hamby Frederick County Case No. 04-35,591. Expert testimony for defense in sexual assault case.
- December 1, 2005 Maryland v. Robert Lee Myer, Baltimore Co. Case No. 04CR4726. Expert testimony for defense in sexual assault of a minor case..
- January 13, 2006 Texas v. Christopher George, Fort Bend Co. Juvenile Case. Expert testimony in sexual assault case.
- March 20, 2006 Wisconsin v. Richard E. Dinger, Dodge Co. 05 CF 284. Testimony at DNA admissibility hearing
- April 18, 2006 Florida v. Mark Daigle. Twelfth Judicial Circuit, Sarasota County. Case No.97-17452 F; Post-conviction testimony in sexual battery case..
- September 15, 2006 Maryland v. Danny Hoskins, Case No. K-00-307. Post-conviction testimony in homicide case.
- March 15, 2007 Wisconsin v. Robert Taggart; Racine County Case No. 05-CF-1335. Serology, DNA testing and testimony in a vehicular homicide case.
- April 12, 2007 Wisconsin v. Robert Leatherberry; Sheboygan County, WI Sexual assault
- April 26, 2007 Wisconsin v. Johnny L. Sally; Portage County Case No. 05 CF 247; Sexual assault of a minor.
- August 29-30, 2007 Wisconsin v. Charles L Williams; Kenosha County Case No. 2006 CF 000265.
- September 13, 2007 Wisconsin v. Ronald O. Sugden, Iowa County Circuit Court Case No.: 06-CF-36.
- January 30, 2008 Wisconsin v. Tom Garcia, Waukesha County Circuit Court Case No.: 2006-CF001337 Assault and Battery
- May 2, 2008 Michigan v. Charles Curtis Merriman, 33<sup>rd</sup> Circuit Court for Charlevoix County. Homicide.
- May 27, 2008 Wisconsin v. Vincent Tanner, Assault by prisoner. Milwaukee County Case 08-CF-1348.
- June 17, 2008 Wisconsin v. Craig D. Miller, Brown County Case No.: 2007-CF-001236.
- September 9, 2008 Wisconsin v. Ryan A. Mueller, Sheboygan County Case No: 07-CR-112
- November 6, 2008 United States v. Pao Xiong, US Eastern District of Wisconsin Federal Court Case No. 07 CR 112
- January 9, 2009 Wisconsin v. Troy Cameron; Kenosha County Case No.: 2004-CF-86 and 2005-CF-163
- December 1, 2009 Wisconsin v. Al-Noor Govani, Milwaukee county Case No.: 2008-CF-001853
- March 10, 2010 Wisconsin v. Terry Triblett. Milwaukee county case No.: 09JV513A. Juvenile with a gun.

**Court Testimony cont.**

- December 22, 2010 *Wisconsin v. Frank Rich*. Chippewa County case No.: 08-CF-455. Sexual assault of a minor; Y-STR case.
- January 8, 2011 *Wisconsin v. State of WI v. Raul Ponce-Rocha*. Homicide. Marathon County Case No. 09-CF-299.
- February 18, 2011 *State of WI v. James Emerson*. Post conviction hearing in homicide. Marathon County. Case No. 07-CF-357
- May 19, 2011 *State of WI v. David Lewis*. Homicide. Milwaukee County No. 09-CF-002893
- August 22, 2011 *State of Wisconsin v. Ronald L Williams*, Sheboygan County Case No: 2010CF000486
- March 8, 2012 *State of Wisconsin v. Jeffrey L. McCarroll*. Dane County Case 11-CF-360
- March 15, 2012 *State of Wisconsin v. Chad W. Magolski*. Homicide. Waupaca County Case 11-CF-87.
- March 28, 2012 *State of Wisconsin v. Chad W. Magolski*. Homicide. Waupaca County Case 11-CF-87.
- December 6, 2012 *State of Wisconsin v. Sammy S. Cooper*. Sexual Assault. Juneau County 2011CF000105
- January 11, 2013 *State of Wisconsin v. Aaron Alexander-Robinson*. Milwaukee County Juvenile Case No.: 12JV599
- January 9, 2014 *State of Wisconsin v. Chad W. Magolski*. Homicide. Waupaca County Case 11-CF-87. Appellate hearing.
- May 20, 2014 *State of Wisconsin v. Javin Wilson*. Rock County Case 2012-CF.977, Aggravated Battery.
- March 17, 2015 *State of Wisconsin v. Lance D. Smith*. Dane County Case No. 14 CF 272. Felon with a gun.
- March 17, 2015 *State of Wisconsin v. Margaret Rae Youngblood*. Dane County 2014-CF-001738. Felon with a gun.
- August 14, 2015 *State of Wisconsin v. Lamonte W. Moore*. Milwaukee County Case: 15-CF-2107. Homicide.
- October 15, 2015 *State of Wisconsin v. State v. Jeffrey L. Borneman*. Marquette County case No.13CF42 Sexual assault of a minor
- November 4, 2015 *State of Wisconsin v. Darwin Davis*, Shawano County Case No: 12-CF-316 Sexual assault of a minor.
- April 6, 2016 *State of Wisconsin v. Gregory Murry*. Racine County Case No. 2015-CF-000304. Sexual assault of a minor.
- July 15, 2016 *State of Wisconsin v. Hector Rafael Rodriguez*. Milwaukee County 15-CF-2094. Sexual assault of a minor.
- December 15, 2016 *United States v. Donovan Cross*. US District Court for the Northern District of Iowa. Possession of a firearm or ammunition by a prohibited person
- February 17, 2016 *State of Wisconsin v. Gregory Murry*. Retrial of Racine County Case No. 2015-CF-000304. Sexual assault of a minor
- February 20, 2017 *State of Michigan v. Gregory Ilander*. Menominee County Case No. 2015-003769-FC. Open murder.
- April 13, 2017. *State of Wisconsin v. Rodney Frazier*. Dane County Case No. 2015-CF-58. Sexual assault.

**Court Testimony** *cont.*

May 26, 2017 State of Minnesota v. Derek Lamont Johnson, Anoka County Case No. 02-CR-15-407. DNA on a drug baggie.

November 1, 2017 State of WI v. Jeffrey W Koepsel Jr., Milwaukee County Case No. 2016-CF-003976. Sexual assault.

March 1, 2018 State of WI v. Rodney E Frazier. Dane County Case No. 2015-CF000058. 1<sup>st</sup> degree child sex assault.

May 17, 2018 State of WI v. Alex Wouts, Dodge County Case 2016-CF-000142. Sexual assault by Correctional Staff.

May 23, 2018 State of WI v. Abel Hernandez-Lopez. Dane County case 2016-CF-001666. Sexual assault of a minor.

July 12, 2018 State of WI v. Shawn Harper, Dane County Cases 2016-CF-2244 and 2017-CF-1552.

November 1, 2018 State of IL v. Nathan King. Williamson County. Sexual assault of a minor.

February 12, 2019 United States v. Cameron Battiste, Northern District of Illinois, Chicago. 17 CR 220

# Exhibit B: Chain of Custody



# Exhibit C: DNA Testing Results



500 WATERS EDGE  
SUITE 210  
LOMBARD, IL 60148  
TEL (866) 434-2400  
FAX (708) 978-5115  
WWW.IFI-TEST.COM

Case #: L-39115

Case Description: Pozner

Report Date: 4/22/2019

Sample #	Interest	Name	Race	Sample Collected	Sample Received
105062	AF1	Leonard Pozner	Caucasian	4/12/2019	4/17/2019
105063	C1	Noah Samuel Pozner (M.E. Case No. 12-17604)		12/15/2012	4/12/2019
105064	M	Veronique Patricia De La Rosa	Caucasian	4/12/2019	4/17/2019

  

STR System	Mother	Child	Alleged Father	MI	PI
AMEL	X	X	X		
CSF1PO	11	10	10	1.66	1.82
D10S1248	14	15	14	1.27	3.76
D12S391	21	17.3	17.3	3.61	24.04
D13S317	8	10	10	4.33	1.66
D16S539	11	11	11	1.82	1.82
D18S51	12	16	14	4.08	4.08
D1S1656	13	16	16	1.84	10.62
D21S11	30	29	29	2.76	2.33
D2S441	10	12	11	5.31	2.07
D3S1358	17	15	15	1.21	2.01
D5S818	11	11	12	1.37	3.13
D7S820	8	9	12	1.62	7.33
D8S1179	13	14	12	0.79	3.42
FGA	19	21	21	1.63	3.07
SE33	19	29.2	18	4.51	8.87
TH01	9	9.3	6	0.81	2.27
TPOX	8	8	8	1.48	0.67

Veronique Patricia De La Rosa cannot be excluded as the mother of Noah Samuel Pozner (M.E. Case No. 12-17604). The combined maternity index (genetic odds in favor of maternity) of the alleged mother, compared to a random, unrelated individual of the same race, is 124,875. The probability of maternity, assuming a 50% prior chance, is 99.99%.

Leonard Pozner cannot be excluded as the father of Noah Samuel Pozner (M.E. Case No. 12-17604). The combined paternity index (genetic odds in favor of paternity) of the alleged father, compared to a random, unrelated man of the same race, is 672,722,851. The probability of paternity, assuming a 50% prior chance, is 99.99%.

I hereby certify that the above testing was conducted according to currently accepted American Association of Blood Banks Standards for Relationship Testing Laboratories and that the results and conclusions were verified by me and are correct as reported.



Karl A. Reich, Ph.D., Chief Scientific Officer  
Alexander Sinelnikov, Ph.D., Laboratory Director

STATE OF ILLINOIS  
COUNTY OF DUPAGE

Sworn to and subscribed before me on  
the 22<sup>nd</sup> day of April, 2019



Allan Suyosa Notary Public  
My commission expires March 30, 2022

