

AFFIDAVIT OF DR. LEE TRIMBLE

1. My name is Lee Trimble. I am a retired member of the Cleveland Police Department in Cleveland, Ohio. After my retirement, I earned a Ph.D. from John Jay College of Criminal Justice. I reside at 757 Sea View Drive, Wilmington, New York.
2. I grew up in Staten Island, New York, and attended Kent State University in Ohio on a basketball scholarship. I earned a B.A. in Psychology from Kent State. After graduation, I joined the Cleveland Police Department. As a member of the Cleveland Police Department, I received training in criminal investigation, interrogation, and arrest procedures; community policing; firearms use and safety; and cultural awareness and implicit bias.
3. After two years on the job, I was promoted to the rank of detective. During my five years as a detective, I investigated a wide range of violent crimes, including homicides, robberies, kidnappings, and burglaries. After solving a high-profile murder case, I earned a series of promotions. I served as a sergeant for two years, lieutenant for three years, and captain for eight years. During my time on the police force, I conducted or supervised the investigation of approximately 575 criminal cases.
4. I retired from the Cleveland Police Department after 20 years—that was when I was able to start collecting my pension. After I retired, I moved back to New York and enrolled in a Ph.D. program at John Jay College of Criminal Justice. The program included courses on criminology, forensic science, social justice, and terrorism.
5. Two years ago, I received my Ph.D. in Criminal Justice from John Jay. My doctoral dissertation involved a study of best practices in community policing. My paper proposed policies to improve relations between the police force and the community and also discussed ways to shield police departments from frivolous lawsuits and civilian complaints. Randy Corbett, a teacher at John Jay, was my dissertation advisor for a few months. But after several meetings, it became clear that we had very different philosophies about community policing. While I believe there is some merit in the “broken windows” approach to reducing crime, Corbett had other ideas. So I found a new advisor and parted ways with Corbett.

6. After I received my Ph.D., I began doing consulting work for local government entities and private organizations. I've testified as an expert on police practices in 15 civil trials in which a police department or a local government was sued—I was a witness for the plaintiff in six cases and for the defendant in nine cases. Corbett and I have been adversaries at trial about five times. In those cases, I was the expert for the defense and Corbett testified for the plaintiff.
7. In 2016, the Town of Wilmington engaged me to review the propriety of the police conduct in the case of *People v. Robin Berkman*. To conduct this review, I evaluated the complete record of the case, including the trial transcript, police investigative file, and the investigation conducted by the Actual Innocence Association. My rate is \$250 per hour for case review and \$300 per hour for court appearances. So far, on this case, I've spent 23 hours in case review.
8. After conducting a thorough review of the record, it is my expert opinion that there was sufficient probable cause for the arrest and prosecution of Robin Berkman.
9. Based on the facts known by Detective Leslie Smith at the time of Robin Berkman's arrest, it was reasonable for Detective Smith to believe that Robin Berkman was the perpetrator of the December 17, 2011 robbery of the Lucky Convenience Store in Wilmington. Detective Smith learned from an informant that a person named "Robin" was involved in the robbery. Detective Smith used this lead to identify Robin Berkman, a resident of Wilmington, as a possible suspect. During a non-custodial interrogation, Berkman disclosed to Detective Smith certain information that was not otherwise publicly available, specifically the type of the weapon and the specific pieces of jewelry taken from the owner of the convenience store during the robbery.
10. In addition to Berkman's statement describing the weapon and jewelry, Berkman further self-incriminated during a polygraph examination. Berkman revealed details about how the crime was committed and how the perpetrator could have avoided detection by the store's security system. This information also had not been made publicly available.
11. At the conclusion of the polygraph examination, Berkman made additional inculpatory statements. Crying uncontrollably, Berkman apologized for the injury suffered by the owner of the convenience store owner and repeatedly said, "I'm sorry, I'm sorry."

12. The totality of the circumstances, including Berkman's inculpatory statements and unusual interest in the case, gave Detective Smith sufficient probable cause to arrest and prosecute Robin Berkman for the December 17, 2011 robbery of the Lucky Convenience Store.
13. It is my opinion that Detective Smith conducted an adequate and proper investigation, even though Detective Smith probably could have made further inquiry as to whether Robin Carmichael had been involved in the robbery. Although there was evidence pointing to another possible suspect, that fact does not vitiate that there was probable cause for Robin Berkman's prosecution. The information known to Detective Smith at the time of the arrest provided a good faith basis for bringing a case against Berkman.

Dated: September 26, 2016

I affirm the veracity of the foregoing statement.

Lee Trimble, Ph.D.

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