

# Hearing settled DNA testing in death-penalty case



David Eugene Johnston, a transient, was convicted of the stabbing and strangulation of 84-year-old Mary Hammond at her Ridgewood Street apartment in Orlando. (RICARDO RAMIREZ BUXEDA, ORLANDO SENTINEL / April 24, 2009)

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The legal mess involving DNA testing in a 25-year-old death penalty case was hashed out today in Orange circuit court.

It took a bit of compromise and a North Carolina forensic lab to settle the debate about who would be allowed to test a DNA sample from the victim's nail clippings.

Convicted killer David Johnston's execution may depend on the results, which are expected within the next two weeks.

The Florida Supreme Court delayed Johnston's execution in May so authorities could test DNA samples. This could either clear Johnston or back up his conviction, his attorney, Todd Doss, said.

Johnston was convicted of the 1983 murder of Mary Hammond, an 84-year-old woman who was stabbed and strangled in her Orlando home. Johnston, a transient who worked in the area, had met Hammond days earlier.

Problems arose with the DNA testing in June. A Florida Department of Law Enforcement lab report recommended additional testing with new technology that focuses on male chromosomes.

Both the state and the defense selected their own labs to conduct the testing. Orange Circuit Court Judge Bob Wattles ordered them to share the remaining samples.

But that didn't happen. There were reports of missing samples and accusations of mishandling the DNA. In court documents, both sides were pointing to the other as the problem.

At the hearing this morning, everyone appeared to get along.

Johnston's attorney and the assistant attorney general agreed to have a third lab, LabCorps based in North Carolina, conduct the testing.

Both sides will have the opportunity to have a representative from their initial labs to observe, Wattles ordered.

Another hearing is scheduled on Aug. 17 to review the DNA results and address any other legal issues. Wattles has to send an order such as granting a new trial or denying one to the supreme court by Aug. 19.

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