

Michael Komorn

From: Aaron [REDACTED]
Sent: Friday, October 22, 2010 8:39 PM
To: Michael Komorn
Subject: [REDACTED] CONFIRMATION BIAS !!!
Attachments: confirmation_bias.doc

Take a look at the attached study on the scientific principle of confirmation bias in criminal investigations. Send it to Dr. Ebner and have him look at it, may need him to testify on the scientific principle of confirmation bias.

Basically, Confirmation bias is a phenomenon wherein decision makers have been shown to actively seek out and assign more weight to evidence that confirms their hypothesis, and ignore or underweigh evidence that could disconfirm their hypothesis.

This can be used to impeach Officer Kenyon's entire investigation, without having to attack him personally. And he basically handed us the argument. This is how I see us making the argument.

CROSS EXAM OF OFFICER KENYON (when we finish the cross-exam on monday)

Q. Officer Kenyon, just to make sure we are all on the same page after the weekend break, Im going to ask a few questions to refresh us on where we left off.

Q. You testified on friday that you first became under the belief that [REDACTED] was intoxicated after you observed her car in the parking lot at popa joes and observing her car leaving the parking lot, correct?

Q. And you told us that you followed her to verify your belief that she was intoxicated, correct?

Q. So before you approached her vehicle in her drive way, you believed that she was intoxicated?

Q. Then you conducted the a few field sobriety tests to support you belief that she was intoxicated, correct?

Q. And then to build your case, you wrote down all of the evidence that you thought would support your case, correct?

Q. But you did not write down anything that you observed that is consistent with her being sober, did you? (such as not swerving, standing straight, talking clearly, etc)

Q. During your training on intoxication, do you recall your instructors discussing or cautioning you about a term "confirmation bias?"

A. he will say no.

Q. Perhaps they used a different term. Confirmation bias refers to the tendency for people to favor information that confirms their preconceptions or hypotheses regardless of whether the information is true. As a result, people gather evidence and recall information from memory selectively, and interpret it in a biased way. Do you remember your teachers telling you about this?

He will say no, but the idea is in the jury's head.

DIRECT EXAM OF DR. EBNER

Q. are you familiar with the term confirmation bias?

Q. will you explain the term?

Q. Are you aware of studies suggesting that it effects criminal investigations? (he should discuss the attached article)

Q. give him a hypo like the following: If an officer approached a vehicle with the preconceived idea that the driver was drunk, in your scientific expert opinion how could that effect the officer's interpretation of the field sobriety tests?