

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3078-21T1
INDICTMENT NO. 21-01-0035-I

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

FRANCISCO ARTEAGA,

Defendant-Appellant.

: CRIMINAL ACTION

: On Leave to Appeal Granted From
: an Interlocutory Order
: of the Superior Court of
: New Jersey, Law Division,
: Hudson County.

: Sat Below:

: Hon. Mitzy Galis-Menendez, J.S.C.

**BRIEF OF AMICUS CURIAE DR. GARY L. WELLS, PH.D. IN
SUPPORT OF DEFENDANT-APPELLANT FRANCISCO ARTEAGA**

On the Brief:

Thomas E. Redburn, Jr.

(Attorney ID: 033661995)

Maya Ginsburg

(Attorney ID: 902622012)

Lowenstein Sandler LLP

One Lowenstein Drive

Roseland, NJ 07068

tredburn@lowenstein.com

mginsburg@lowenstein.com

Phone: (212) 419-5873

Facsimile: (973) 597-2400

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
PRELIMINARY STATEMENT	1
INTEREST OF <u>AMICUS CURIAE</u>	4
STATEMENT OF FACTS AND PROCEDURAL HISTORY	5
ARGUMENT	6
THE DISCOVERY SOUGHT BY DEFENDANT IS HIGHLY RELEVANT TO THE RELIABILITY OF THE EYEWITNESS IDENTIFICATIONS IN THIS CASE AND THE DEFENDANT’S ABILITY TO MOUNT A COMPLETE DEFENSE	6
CONCLUSION	18

TABLE OF AUTHORITIES

	Page(s)
Cases	
<u>In re A.B.</u> , 219 N.J. 542 (2014)	6
<u>Ake v. Oklahoma</u> , 470 U.S. 68 (1985)	6
<u>Crane v. Kentucky</u> , 476 U.S. 683 (1986)	6
<u>State v. Garron</u> , 177 N.J. 147 (2003)	6
<u>State v. Henderson</u> , 208 N.J. 208 (2011)	<i>passim</i>
<u>State v. Pickett</u> , 466 N.J. Super. 270 (App. Div. 2021)	6, 18
<u>State v. Romero</u> , 191 N.J. 59 (2007)	8
<u>State ex rel. W.C.</u> , 85 N.J. 218 (1981)	6
New Jersey Rules of Court	
Rule 3:13-3	6

Other Authorities

- Adams Eyes Expansion of Highly-Controversial Police Surveillance Technology, Politico (Feb. 8, 2022), <https://www.politico.com/news/2022/02/08/adams-police-surveillance-technology-00006230#:~:text=New%20York-,Adams%20eyes%20expansion%20of%20highly%20controversial%20police%20surveillance%20technology,tied%20to%20the%20controversial%20software>.....2
- A.M. Smith et al., Mistaken Eyewitness Identification Rates Increase When Either Witnessing or Testing Conditions Get Worse, 43 L. & Hum. Behav. 358 (2019) 11, 14
- B. Garrett, Convicting the Innocent: Where Criminal Prosecutions Go Wrong (2011).....11
- Brian L. Cutler & Steven D. Penrod, Mistaken Identification: The Eyewitness, Psychology, and the Law (1995).....8
- Gary L. Wells et al., Eyewitness Identification: Bayesian Information Gain, Base-Rate Effect-Equivalency Curves, and Reasonable Suspicion, 39 L. & Hum. Behav. 99 (2015).....10, 11, 12
- Gary L. Wells et al., Policy and Procedure Recommendations for the Collection and Preservation of Eyewitness Identification Evidence, 44 L. & Hum. Behav. 3 (2020).....*passim*
- G.L. Wells, Eyewitness Identification: Systemic Reforms, 2006 Wis. L. Rev. 615 (2006).....12
- Gary L. Wells et al., The Selection of Distractors for Eyewitness Lineups, 78 J. Applied Psych. 835 (1993).....5
- Gary L. Wells, The Psychology of Lineup Identifications, 14 J. Applied Soc. Psych. 89 (1984).....5
- Gary L. Wells, What Do We Know About Eyewitness Identification?, 48 Am. Psych. 553 (1993)5

J.T. Wixted & G.L. Wells, <u>The Relationship Between Eyewitness Confidence and Identification Accuracy: A New Synthesis</u> , 18 <u>Psych. Sci. Pub. Int.</u> 10 (2017)	15
Kashmir Hill, <u>Wrongfully Accused by an Algorithm</u> , The New York Times (June 24, 2020), https://www.nytimes.com/2020/06/24/technology/facial- recognition-arrest.html	2

PRELIMINARY STATEMENT

This appeal brings before this Court for the first time some of the implications of using facial recognition technology as a law enforcement tool in New Jersey. Many commentators and citizens have raised significant concerns that government use of facial recognition technology – and the often widespread means of government surveillance that go with it – pose a threat to civil liberties and freedom of expression and association. In response to these criticisms, government actors and law enforcement officials have emphasized the purported benefits of facial recognition technology in apprehending violent criminals, solving cold cases and keeping our streets safe.

Such benefits, however, are illusory if utilizing the technology leads to putting innocent persons in jail instead of guilty ones. Real world events have called the reliability of facial recognition technology into serious question. Indeed, several high profile incidents have already occurred where innocent persons were arrested as a result of a facial recognition “match.” Michael Oliver and Robert Julian-Borchak Williams were both arrested in 2019 by the Detroit Police for theft-related offenses after being misidentified through facial recognition, and later released with all charges dropped. Adams Eyes Expansion of Highly-Controversial Police Surveillance Technology, Politico (Feb. 8,

2022); Kashmir Hill, Wrongfully Accused by an Algorithm, The New York Times (June 24, 2020). Closer to home, Politico reported in February of this year that New Jersey resident Nijeer Parks was falsely accused of stealing candy and attempting to assault a police officer with a car, then arrested and jailed for ten days because of a misidentification from facial recognition. Adams Eyes Expansion of Highly-Controversial Police Surveillance Technology, supra. And, the NYPD – the same law enforcement agency whose facial recognition technology was employed by the West New York Police Department in this case – reported five misidentifications from facial recognition between 2011 and 2017. Id.

Significantly, in one of these documented instances of misidentification – that of Mr. Williams – an eyewitness to the crime identified the suspect as the perpetrator before he was arrested. After getting a “match” to Mr. Williams’s driver’s license photo from the facial recognition software, the police included Mr. Williams’s picture in a photo array and showed the array to an eyewitness, who positively (and quite mistakenly) identified Mr. Williams as the thief. Hill, supra. This raises the question of what relationship exists between the mismatch returned by the facial recognition software and the eyewitness’s unreliable identification of an innocent person from a photo array. The question is of great

public importance given the increasing use of facial recognition in criminal investigations and the Supreme Court's recognition "that eyewitness misidentification is the leading cause of wrongful convictions across the country." State v. Henderson, 208 N.J. 208, 218 (2011).

The Williams case, in particular, is a cautionary tale about the potential abuses of facial recognition software as well as the potential unreliability of an eyewitness identification from a photo array when the sole basis for including the suspect in the array is a purported facial recognition match. Social science research reveals that one of the most important determinants of the reliability of an eyewitness identification from a photo array is the probability that the array contains the actual culprit who committed the crime. If facial recognition (for whatever reason) does a poor job of matching the source photo to an image of the actual perpetrator, yet law enforcement uses facial recognition results as the sole basis for including an image of the suspect in a photo array, the risk the subsequent eyewitness identification will be mistaken is quite high. For that reason and the others discussed herein, the discovery sought by Defendant below is highly relevant and, indeed, critical to ensuring Defendant receives a fair trial and that an innocent person is not sent to prison for a crime he did not commit.

INTEREST OF AMICUS CURIAE

Amicus curiae Dr. Gary L. Wells, Ph.D. is a Distinguished Professor in the Psychology Department and the Wendy and Mark Stavish Chair in the Social Sciences at Iowa State University. He received his Doctorate in Experimental Social Psychology from The Ohio State University in 1977. For much of his forty-five year career, Dr. Wells's research has focused on the reliability of eyewitness identification; he has published more than 100 articles in that field. His recent work has focused on such issues as (1) the system and estimator variables that affect eyewitness reliability, (2) ways in which the structure of lineups impacts eyewitness identification, (3) factors that lead eyewitnesses to develop false confidence in their memories, (4) statistical analyses of available data on eyewitness identification, and (5) how extraneous information can bias the conclusions reached by forensic examiners.

Dr. Wells has also appeared as a testifying expert on identification-related issues. Indeed, Dr. Wells testified extensively about the state of scientific research on eyewitness identification during the Special Master proceedings in Henderson. 208 N.J. at 229 (noting Dr. Wells was called as a witness by the Innocence Project). In the course of its landmark opinion that revised the legal framework governing eyewitness identification testimony in the New Jersey

criminal justice system, the Supreme Court repeatedly cited to Dr. Wells's testimony, as well as to numerous articles he authored or co-authored. See, e.g., id. at 235 (quoting Gary L. Wells, The Psychology of Lineup Identifications, 14 J. Applied Soc. Psych. 89, 92 (1984) and Gary L. Wells, What Do We Know About Eyewitness Identification?, 48 Am. Psych. 553, 560 (1993)); id. at 251-52 (citing Dr. Wells's testimony on the minimum number of fillers for a lineup) (also citing Gary L. Wells et al., The Selection of Distractors for Eyewitness Lineups, 78 J. Applied Psych. 835, 842 (1993)).

Dr. Wells respectfully submits this brief to address the implications that use of facial recognition software has for the reliability of eyewitness identifications, and to explain why the Defendant in this case should be granted access to the information he seeks about the West New York Police Department's use of facial recognition technology in the course of its investigation of the underlying robbery.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Amicus adopts the Statement of Facts and Procedural History in Mr. Arteaga's supplemental brief before this Court. See Def.-Appellant's App. Div. Suppl. Br. 3-10.

ARGUMENT

THE DISCOVERY SOUGHT BY DEFENDANT IS HIGHLY RELEVANT TO THE RELIABILITY OF THE EYEWITNESS IDENTIFICATIONS IN THIS CASE AND THE DEFENDANT'S ABILITY TO MOUNT A COMPLETE DEFENSE

Criminal defendants have a constitutional right to a “meaningful opportunity to present a complete defense.” State v. Garron, 177 N.J. 147, 168 (2003) (quoting Crane v. Kentucky, 476 U.S. 683, 690 (1986)). To protect that right and ensure the defendant receives a fair trial, New Jersey has adopted an “open-file approach to pretrial discovery in criminal matters.” State v. Pickett, 466 N.J. Super. 270, 303-04 (App. Div. 2021) (cleaned up). Indeed, “‘when justice so requires[,]’” New Jersey courts have power to order discovery beyond that automatically provided for by Rule 3:13-3 after a defendant establishes a need for the material. In re A.B., 219 N.J. 542, 555 (2014) (quoting State ex rel. W.C., 85 N.J. 218, 221 (1981)). “A criminal trial where the defendant does not have ‘access to the raw materials integral to the building of an effective defense’ is fundamentally unfair.” Id. at 556 (quoting Ake v. Oklahoma, 470 U.S. 68, 77 (1985)).

Defendant established a need for the discovery sought here concerning the reliability and use of facial recognition technology in the investigation of the underlying robbery. That is because a direct link exists between the use of facial

recognition results as the sole basis for focusing on Defendant as the suspected robber and the reliability of the two eyewitness identifications of Defendant from a subsequent photo array. In light of developments over the last decade in social science research on eyewitness identifications, the circumstances of this case cast suspicion on the reliability of those identifications given the lack of any evidence the facial recognition results provided a valid basis for suspecting Defendant is the actual robber. Without a sound evidentiary basis for including Defendant in the photo array, the social science literature tells us that a substantial risk of mistaken identification exists. Thus, Defendant should be permitted to obtain discovery concerning the reliability of the facial recognition technology that produced the “possible match” to his photo and how that technology was used in this case. Such discovery is essential to Defendant receiving a fair trial and to minimizing the likelihood of sending an innocent person to prison.

In order to delineate the relationship between the use of potentially faulty facial recognition technology to construct a photo array and the reliability of the identification produced by the eyewitness reviewing that array, it is useful to review some of what we already know about eyewitness testimony from social science research and judicial developments.

To begin, it is by now well-established that the risk of mistaken identification in criminal cases is very real. As our Supreme Court recognized back in 2011, “[i]t has been estimated that approximately 7,500 of every 1.5 million annual convictions for serious offenses may be based on misidentifications.” Henderson, 208 N.J. at 231-32 (quoting State v. Romero, 191 N.J. 59, 74 (2007) (citing Brian L. Cutler & Steven D. Penrod, Mistaken Identification: The Eyewitness, Psychology, and the Law 7 (1995))). Studies and experiments have repeatedly “revealed alarming rates at which witnesses chose innocent fillers out of police lineups.” Id. at 233. Human memory is “malleable” and subject to dilution and distortion by numerous system and estimator variables that lead to eyewitnesses identifying innocent persons as perpetrators. Id. at 247. As the Special Master in Henderson concluded,

[T]he information ultimately offered as “memory” can be distorted, contaminated and even falsely imagined. The witness does not perceive all that a videotape would disclose, but rather get[s] the gist of things and constructs a “memory” on bits of information . . . and what seems plausible. The witness does not encode all the information that a videotape does; memory rapidly and continuously decays; retained memory can be unknowingly contaminated by post-event information; [and] the witness’s retrieval of stored “memory” can be impaired and distorted by a variety of factors, including suggestive interviewing and identification procedures conducted by law enforcement personnel.

Id. at 246 (cleaned up). The Supreme Court concluded that “[t]he science abundantly demonstrates the many vagaries of memory encoding, storage, and retrieval; the malleability of memory; the contaminating effects of extrinsic information; the influence of police interview techniques and identification procedures; and the many other factors that bear on the reliability of eyewitness identifications.” Id. at 283. This scientific evidence led the Court to substantially reform the way pretrial identification procedures are conducted in New Jersey so as to reduce the likelihood of mistaken identification.

Social scientific knowledge about the factors that affect the reliability of eyewitness identification has continued to advance since Henderson was decided in 2011. Post-Henderson scholarship has concluded that one of – if not the – most important factors in the reliability of a witness’s identification in a lineup or photo array is the “base rate,” which means “the rate for which the suspect in the lineup is guilty versus innocent.” Gary L. Wells et al., Policy and Procedure Recommendations for the Collection and Preservation of Eyewitness Identification Evidence, 44 L. & Hum. Behav. 3, 11 (2020) (“Policy and Procedure”). In other words, the base rate refers to the probability that the actual perpetrator of the crime at issue is included in the lineup or photo array.

There is a robust positive correlation between the base rate and the

reliability of an identification from a photo array. The higher the probability that the actual culprit's picture is in the photo array, then (all else being equal) the higher the probability that the eyewitness will correctly identify the actual culprit (and, conversely, the lower the probability the witness will incorrectly identify an innocent suspect or innocent filler as the perpetrator). Gary L. Wells et al., Eyewitness Identification: Bayesian Information Gain, Base-Rate Effect-Equivalency Curves, and Reasonable Suspicion, 39 L. & Hum. Behav. 99, 115 (2015) ("Eyewitness Identification") (noting "one of the most important conclusions of our entire analysis" is "that even relatively modest increases in the base rate can have more impact on the reliability of eyewitness evidence than do any of the traditional system variables"); Wells, Policy and Procedure, at 11 ("Therefore, low base rates for culprit-present lineups (high base rates for culprit-absent lineups) create fertile ground for mistaken identifications of innocent suspects and reduce the chances of identifying the culprit. Moreover, culprit-absent lineups inflate the rate at which eyewitnesses identify known-innocent fillers, thereby tainting that witness's credibility for any later lineup that might include the culprit." (citing A.M. Smith et al., Mistaken Eyewitness Identification Rates Increase When Either Witnessing or Testing Conditions Get Worse, 43 L. & Hum. Behav. 358 (2019) ("Mistaken Rates")))).

Aside from its intuitive appeal, part of the reason for this phenomenon is that “the mere absence of the culprit from a lineup leads witnesses to set a lower decision criterion” – meaning they lower the degree of similarity between the photos being reviewed and their memory of the perpetrator necessary for them to decide to make a positive identification. Smith, Mistaken Rates, at 366; Wells, Eyewitness Identification, at 115 (“Cases of mistaken identification in which innocence was proven using DNA evidence are rife with examples in which there was little or no evidence to suggest that the person placed in an identification procedure was the culprit.” (citing B. Garrett, Convicting the Innocent: Where Criminal Prosecutions Go Wrong (2011))).

In line with this powerful empirical evidence, the Executive Committee of the American Psychology-Law Society (Division 41 of the American Psychological Association) (the “APA”) included, as part of its nine recommendations for planning, designing and conducting eyewitness identification procedures, that “[t]here should be evidence-based grounds to suspect that an individual is guilty of the specific crime being investigated before including that individual in an identification procedure and that evidence should be documented in writing prior to the lineup.” Wells, Policy and Procedure, at 11; see also Wells, Eyewitness Identification, at 116 (“The

observation that even modest increases in the base rate substantially reduce the chances of mistaken identification and produce substantially higher posterior probabilities of guilt has led to a proposition that there be *reasonable suspicion* before placing an individual into the jeopardy of an identification procedure.” (citing G.L. Wells, Eyewitness Identification: Systemic Reforms, 2006 Wis. L. Rev. 615 (2006))). In other words, “there ought to be some actual evidence indicating that there are reasonable grounds for believing that the suspect is the culprit before placing the suspect in the jeopardy of a lineup.” Wells, Eyewitness Identification, at 116. By requiring such independent evidence before a photo array containing the suspect’s picture is conducted, the probability that the suspect is the actual perpetrator increases, meaning the base rate that the culprit is in the photo array also increases (and the probability that the actual culprit is not in the array decreases). This, in turn, will decrease the likelihood of a mistaken identification when the witness views the photo array. Wells, Policy and Procedure, at 12 (“Every time a culprit-absent lineup is conducted, there exists some probabilistic jeopardy for an innocent suspect. Therefore, minimizing the chances of presenting witnesses with culprit-absent lineups is one way to reduce the problem of wrongful convictions.”). A photo array that includes a suspect for which no such independent evidence of

culpability exists has a lower base rate and is far less likely to produce a reliable eyewitness identification than where independent evidence exists to support the suspect's inclusion in the array.

In the case at bar, there was no independent evidence (physical or otherwise) that linked Defendant to the robbery in West New York. Detectives had the surveillance video footage, which captured an image of the perpetrator, but no evidence to indicate who the person in that footage is. The only basis the detectives had for including Defendant's picture in the photo arrays at issue here consists of the "possible match" retrieved from the NYPD's facial recognition technology. But, for that "possible match" to increase the culprit-present base rate for the array, one must be able to reliably conclude that the purportedly matching image produced by the analyst's use of the facial recognition technology (and its underlying algorithm) *is of the same person* as the man in the surveillance video, as opposed to a person who merely *looks like* that man. If the facial recognition technology is only capable of reliably generating "possible matches" that look like the perpetrator in the surveillance image, as opposed to reliably matching the surveillance image of the perpetrator to another image of that same person, then reliance on the facial recognition results as the sole basis for including a suspect's picture in a photo array will not reduce the

likelihood of a culprit-absent array – and may actually *increase* that likelihood.

That, in turn, will increase the probability that the eyewitness viewing the array will mistakenly identify an innocent person as the perpetrator, given “that the mere absence of the culprit from a lineup leads witnesses to set a lower decision criterion” for making an identification. Smith, Mistaken Rates, at 366. Accordingly, there is, at least in a case like the one at bar where the facial recognition output is the sole basis for law enforcement’s inclusion of a suspect in a photo array, a direct linkage between the reliability of the facial recognition technology’s ability to identify the actual perpetrator and the reliability of the eyewitness identification produced by the subsequent photo array. See Wells, Policy and Procedure, at 13 (concluding that “the evidence supporting the placement of a suspect in an identification procedure must be evaluated for whether it actually provides a nexus between the suspect and the crime witnessed”). Discovery into the reliability of the NYPD’s facial recognition technology used by the West New York Police in this case thus is highly relevant to the reliability of the eyewitness identifications of Defendant as the actual robber that the State intends to introduce at trial.

Furthermore, the use of facial recognition technology in this case is also relevant to the construction of the photo array shown to the two eyewitnesses.

As the Supreme Court noted in Henderson, the police should construct photo arrays and lineups by including a minimum number of fillers resulting in “a lineup comprised of look-alikes.” 208 N.J. at 251-52. Post-Henderson research has clarified that, when a person becomes a suspect based on resemblance to a surveillance image, as is the case with the Defendant here, then “fillers for a lineup need to be chosen based on their similarity to that same composite or surveillance image rather than chosen based on the verbal description given by the eyewitness.” Wells, Policy and Procedure, at 18 (citing J.T. Wixted & G.L. Wells, The Relationship Between Eyewitness Confidence and Identification Accuracy: A New Synthesis, 18 Psych. Sci. Pub. Int. 10 (2017)). If not, “then there is a risk that the suspect will stand out.” Id. The overall objective is to construct “an array of look-alikes” that “forces witnesses to examine their memory” and “serve as a reliable test of the witness’ ability to distinguish the culprit from an innocent person.” Henderson, 208 N.J. at 251.

Here, the surveillance camera footage provided the police in West New York their only lead, and Defendant ended up in a photo array solely because of the purported match to a surveillance image returned by the facial recognition technology. It stands to reason that other images also returned by the facial recognition technology because they were similar to the surveillance image

would have been the most suitable source of filler images for the photo array. Indeed, review of the facial recognition-generated images produced by the State during the proceedings below reveals a number of images that, to the naked human eye, closely resemble the surveillance photo that was run through the facial recognition program: for example, image 761.000 at Da008; images 608.000, 563.000, 704.000, 679.000, 652.000 and 647.000 at Da010; and images 553.000 and 538.000 at Da012.¹ One could argue some of these images more closely resemble the surveillance photo than Defendant's does.

However, even if the police believed Defendant's photo was still the best one to include as the suspect in a photo array, these other facial recognition-generated images would have served as more suitable fillers if the police established their innocence (for example, because they are deceased). Instead, the police used other photos for the arrays that, again to the naked human eye, do not bear anywhere near the same resemblance as some of the facial recognition-generated images do *to the surveillance photo that was the basis for making Defendant a suspect*. (See Def.-Appellant's App. Div. Suppl. Br. Appx. Da134-40.) This generated a significant risk that the Defendant would

¹ Pinpoint citations are to the Appendix to Defendant-Appellant's Supplemental Brief before the Appellate Division.

stand out to eyewitnesses looking for a person who most looks to them like the perpetrator in the surveillance footage. In other words, a less biased photo array could have resulted from use of the facial recognition-generated images as fillers.

The record is silent as to why the West New York Police were not provided these other images for use as fillers, or even as to why Defendant's image was selected as a "possible match" to the surveillance image while other images were not. Defendant should be permitted to explore in discovery the potential resulting bias in the array.

The concerns that warrant providing the discovery sought by Defendant here are heightened by the fact that, as discussed in his Supplemental Brief to this Court, the identification procedures conducted by the West New York Police were far from textbook. (Def.-Appellant's App. Div. Suppl. Br. Db6-7.) The procedures New Jersey has adopted for conducting photo arrays are essential for minimizing the risk of mistaken identifications, and the non-trivial departures from those procedures identified by Defendant make it all the more important for discovery to be afforded so Defendant can explore whether the pre-identification investigation here substantially increased the probability of a culprit-absent photo array.

As this Court recently noted, “[a]s technology proliferates, so does its use in criminal prosecutions.” Pickett, 466 N.J. Super. at 323. In these circumstances, courts “must endeavor to understand new technology” such as facial recognition software “and allow the defense a meaningful opportunity to examine it.” Id. That is all the Defendant here seeks. Given the profound implications that use of facial recognition technology has for the reliability of eyewitness identifications, the Law Division’s decision denying the discovery sought by Defendant concerning the particular species of facial recognition employed in this case should be reversed.

CONCLUSION

The Court should reverse the Law Division’s decision denying the discovery sought by Defendant.

Respectfully Submitted,

Date: September 26, 2022

LOWENSTEIN SANDLER LLP

/s/ Thomas E. Redburn, Jr.

Thomas E. Redburn, Jr.

(Attorney ID: 033661995)

Maya Ginsburg

(Attorney ID: 902622012)

One Lowenstein Drive

Roseland, NJ 07068

tredburn@lowenstein.com

mginsburg@lowenstein.com

Phone: (212) 419-5873
Facsimile: (973) 597-2400

Counsel for Proposed Amicus Curiae
Dr. Gary L. Wells, Ph.D.