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7 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
8 **IN AND FOR THE COUNTY OF CLARK**

9 STATE OF WASHINGTON,)
10 Plaintiff,) ORDER ON DEFENDANTS
11 v.) MOTION TO EXCLUDE
12) FIREARM IDENTIFICATION
13 DAYLAN ERIN BERG,) NO. 09-1-00761-6
14)
15 JEFFREY SCOTT REED,) NO. 09-1-00762-4
16)
17 Defendants)

18 On May 24, 2010 the Court heard further argument on defense motion to exclude firearm
19 identification evidence. The Court having considered arguments of counsel, the testimony of
20 various witnesses and many documents presented on the admissibility under Washington's Frye
21 Standard and ER 702, the Court makes the following ruling,

22 IT IS HEREBY ORDERED, ADJUDGED and DECREED there is sufficient evidence to
23 meet the standard required for admissibility of scientific evidence in the State of Washington;
24 Frye Standard and ER 702; State v. Copeland, 130 Wn.2d 244 and State v. Bander, 150 Wn.
25 App. 690. However, evidence of firearm identification shall be limited to the expert testifying as
26 to his opinion based on a reasonable degree of certainty in the ballistic field. There is insufficient
27 database for the firearm expert to testify all other pistols are excluded. The expert cannot advise
of any statistical evidence or present probabilities of a match.

ORDER ON DEFENDANT'S MOTION
TO EXCLUDE FIREARM IDENTIFICATION - 1

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2 DATED this 25 day of May, 2010

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5 JUDGE ROBERT LEWIS

6 Presented by:

7
8 JAMES J. SOWDER WSBA# 9072
9 Attorney for Defendant

10 Service accepted and consent to entry,
11 Notice of presentation waived.

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13 MICHAEL R. FOISTER WSBA # 6545
14 Attorney for Co-Defendant

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16 DENNIS M. HUNTER WSBA# 6734
17 Chief Criminal Deputy Prosecutor

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ORDER ON DEFENDANT'S MOTION
TO EXCLUDE FIREARM IDENTIFICATION - 2

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