

Thursday, February 22, 2007

Chain of custody revisited.

The Defendant in *Jones v. State* unsuccessfully challenged chain of custody of DNA evidence. (Image from NASA's website). Several times, I have won drug possession trials in Maryland by successfully challenging the prosecutor's failure to establish that the drugs tested by the testifying chemist were the same items seized by the police. A recent appellate case provides an overview of Maryland chain of custody law: "The proponent of a particular tangible item of evidence must establish its 'chain of custody,' i.e., must 'account for its handling from the time it was seized until it is offered into evidence.' *Lester v. State*, 82 Md. App. 391, 394, 571 A.2d 897 (1990). 'The circumstances surrounding [the] safekeeping [of the item of evidence during that time] need only be proven as a reasonable probability . . . and in most instances is established . . . by responsible parties who can negate a possibility of "tampering" . . . and thus preclude a likelihood that the thing's condition was changed.' *Wagner v. State*, 160 Md. App. 531, 552, 864 A.2d 1037 (2005) (citing *Best v. State*, 79 Md. App. 241, 250, 556 A.2d 701, cert denied, 317 Md. 70, 562 A.2d 718 (1989))." *Jones v. State*, ___ Md. App. ___, 2007 Md. App. LEXIS 8 (Jan. 30, 2007). Jon Katz.

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