

NJ Fingerprint Ruling Shows Forensic Reliability Isn't Static

By **John Pease, Steven Strauss and Bryan Goff** (August 21, 2026, 2:23 PM EDT)

In a landmark, unanimous decision issued June 29 in *State of New Jersey v. Lee*, the New Jersey Supreme Court ordered a hearing to evaluate the admissibility and reliability of fingerprint evidence under the state's current standards governing expert testimony.[1]

The court also directed further proceedings to determine whether additional safeguards, including revised jury instructions, should govern the use of fingerprint evidence in future criminal trials.

The decision represents one of the most significant judicial examinations of fingerprint evidence in decades. Rather than assuming the reliability of fingerprint evidence based solely on long-standing judicial acceptance in courts for more than 100 years, the court concluded that meaningful developments in forensic science warranted a renewed assessment of fingerprint evidence and how it is presented to a jury in the context of modern admissibility standards.

The decision reinforces that scientific reliability is not fixed by historical precedent. The ruling has significant implications for prosecutors, defense counsel, expert witnesses and organizations that rely on forensic evidence, and it may influence how other state and federal courts across the country evaluate challenges to fingerprint evidence and other types of forensic evidence as scientific understanding continues to evolve.

Background

French Lee, the defendant in *State v. Lee*, was convicted of two counts of burglary of a pizza shop. The sole evidence linking him to the crimes was latent fingerprint analysis. Before trial, defense counsel from the New Jersey Office of the Public Defender challenged the admissibility of the fingerprint evidence, citing a 2009 National Academy of Sciences report and a 2016 President's Council of Advisors on Science and Technology report, both of which highlighted concerns regarding the reliability, subjectivity and error rates of fingerprint analysis.

The state relied on more than 100 years of judicial acceptance of fingerprint evidence under the Frye standard, emphasizing its history in New Jersey and federal courts. The trial court admitted the evidence



John Pease



Steven Strauss



Bryan Goff

without a pretrial hearing, leading the Appellate Division on April 4, 2025, to reverse and mandate a reliability hearing at the urging of the defendant and amici.

The New Jersey Supreme Court's review followed this reversal and addressed evolving standards for forensic evidence.

"Until 2023," the court wrote, it "relied on the Frye standard to assess reliability in criminal cases," which "focused on general acceptance within the field of the proposed expert testimony."

It noted that the "current inquiry to assess reliability in criminal cases was established" by the its 2023 decision in *State v. Olenowski*,^[2] "which invites courts to consider a non-exclusive list of factors known as the 'Daubert factors,' derived from" the U.S. Supreme Court's 1993 decision in *Daubert v. Merrell Dow Pharmaceuticals Inc.*^[3]

The *Olenowski* decision, the court continued, "declined to disturb rulings based on the Frye standard but noted that when 'the scientific reliability underlying the evidence has changed,' evidence that had previously been approved should be evaluated under the revised standard."

The court went on to note that the parties and amici, including the Innocence Project, identified

a series of substantive concerns about the reliability of fingerprint evidence, including whether the analysis is repeatable among examiners, the subjective nature of the discipline, the absence of objective measures or a uniform set of guidelines to establish an identification, recently identified error rates, assumptions about whether fingerprints are unique and do not change, confirmation bias, and the lack of empirical testing.

They argued that scientific understanding of fingerprint evidence had continued to evolve and that long-standing judicial acceptance should not be viewed as a substitute for current scientific validity. They urged the court to consider procedural safeguards, including meaningful voir dire regarding potential juror bias toward forensic evidence, appropriate limitations on the presentation of fingerprint evidence and expert testimony, and revised jury instructions addressing the limitations and risks associated with fingerprint analysis.

Reinforcing the Trial Court's Gatekeeping Function

The New Jersey Supreme Court, in a unanimous opinion by Chief Justice Stuart Rabner, reaffirmed the trial court's obligation to act as a gatekeeper for expert testimony, ensuring that only scientifically reliable evidence is presented to juries.

The court found that the issues raised by defendant and amici presented legitimate questions about the reliability of fingerprint evidence and warranted a full plenary hearing.

The court ordered the appointment of a special adjudicator— retired Appellate Division Chief Judge Carmen Messano — to conduct a hearing "to determine (1) whether the fingerprint evidence presented at trial satisfies the requirements of *Olenowski* I; (2) if it does, whether any limitations or guardrails should apply to the admission of fingerprint evidence; and (3) if so, what those limitations or guardrails should be," including whether revised model jury charges are necessary.

In doing so, the decision underscores that admissibility is not a static determination. Rather, courts must

remain attentive to developments in scientific research and evaluate whether previously accepted methodologies continue to satisfy applicable reliability standards.

In practical terms, the decision illustrates how the analytical framework established in *Olenowski* may be applied to forensic disciplines that historically received little judicial examination under New Jersey's prior Frye admissibility standard.

Broader Implications Beyond This Case

The decision's wider significance lies in its emphasis on process rather than outcome. Rather than announcing a new rule regarding fingerprint evidence, the court ordered subsequent proceedings before a special adjudicator to examine the reliability of fingerprint evidence, circumstances under which it may be properly admitted, and jury instructions regarding its use and consideration by the jury. The decision reaffirmed that trial judges should consider whether meaningful advances in contemporary science raise legitimate questions about the limitations of an established forensic methodology.

That approach may have practical consequences well beyond this particular case. Parties challenging or defending various types of forensic techniques and evidence may benefit from increased attention to scientific literature, empirical research and evolving professional standards when litigating admissibility issues.

In acting as a gatekeeper for the jury's consideration of scientific evidence, trial courts may increasingly be expected to conduct more detailed admissibility hearings when litigants identify substantial developments in the relevant scientific field.

For prosecutors, this may require more robust evidentiary records supporting the reliability of forensic techniques. Defense counsel may view the decision as encouraging renewed scrutiny of forensic disciplines that have traditionally been admitted with relatively limited examination.

The decision also suggests that judicial oversight of forensic evidence should extend beyond admissibility itself to the manner in which forensic opinions are presented at trial, including potential limitations on expert testimony and the use of enhanced jury instructions addressing balanced consideration of the evidence.

Conclusion

This decision aligns with a shifting trend in New Jersey's approach to the admissibility of forensic evidence. Rather than treating the admissibility of fingerprint evidence as settled by decades of judicial acceptance, the New Jersey Supreme Court emphasized that courts must evaluate scientific reliability under current evidentiary standards based on meaningful developments in the underlying science.

In doing so, the court reaffirmed the trial judge's role as gatekeeper and underscored that the admissibility of expert testimony is an ongoing inquiry, not a one-time determination. As scientific understanding continues to evolve, increased attention to the methodologies underlying forensic evidence may be warranted, particularly where advances in the relevant field call long-standing assumptions into question.

The full impact of the decision will become more clear once the special adjudicator's proceedings conclude, but its broader significance lies in its directive for trial courts to evaluate the admissibility of

forensic disciplines as scientific understanding continues to develop.

For practitioners, the decision serves as a reminder that historical acceptance alone may not be sufficient to establish admissibility where contemporary scientific evidence warrants renewed examination.

John J. Pease III is a partner at Morgan Lewis & Bockius LLP. He previously served as an assistant U.S. attorney and chief of the Government and Healthcare Fraud Section at the U.S. Attorney's Office for the Eastern District of Pennsylvania.

Steven Strauss is an associate at Morgan Lewis.

Bryan P. Goff is of counsel at the firm.

Disclosure: Morgan Lewis represented the Innocence Project as amicus curiae in State v. Lee. The firm was not involved in representing any party to the underlying criminal prosecution.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] State of New Jersey v. Lee, A-6 Sept. Term 2025 (090662), 358 A.3d 296 (N.J. 2026).

[2] State v. Olenowski, 253 N.J. 133, 151-52 (2023).

[3] Daubert v. Merrell Dow Pharmaceuticals Inc., 509 US 579, 593-94 (1993).