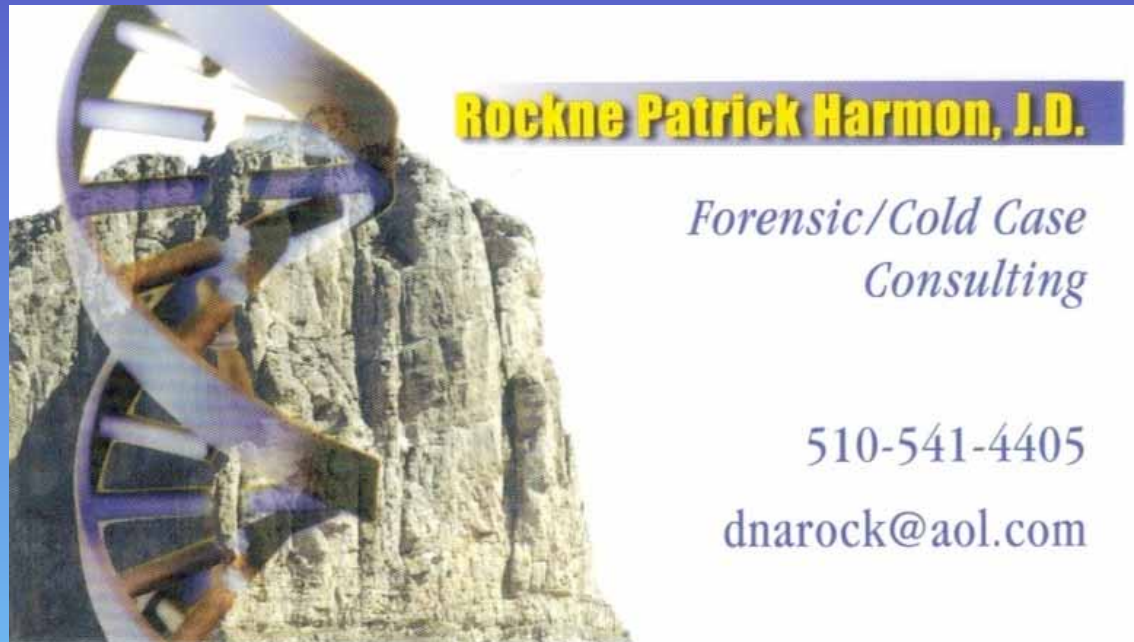


# Trace Symposium- Daubert Exercise

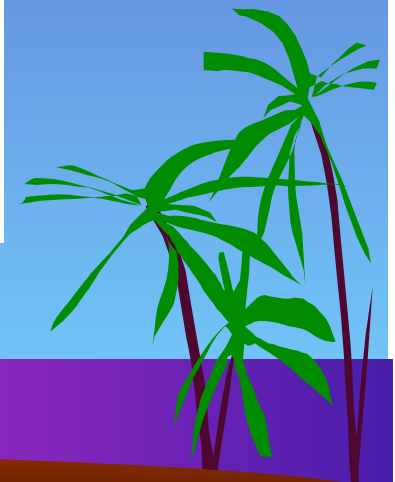
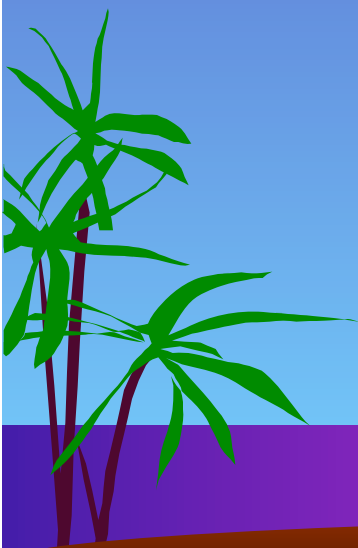
A business card for Rockne Patrick Harmon, J.D. The card features a background image of a DNA double helix structure on the left and a rocky cliff face on the right. The text on the card is as follows:

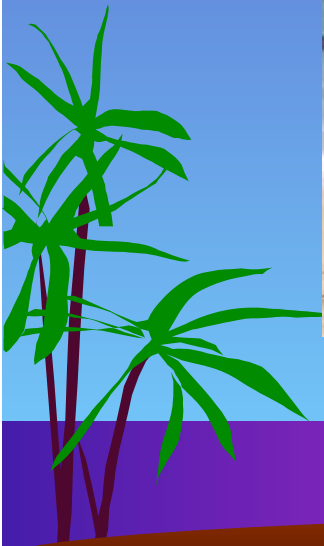
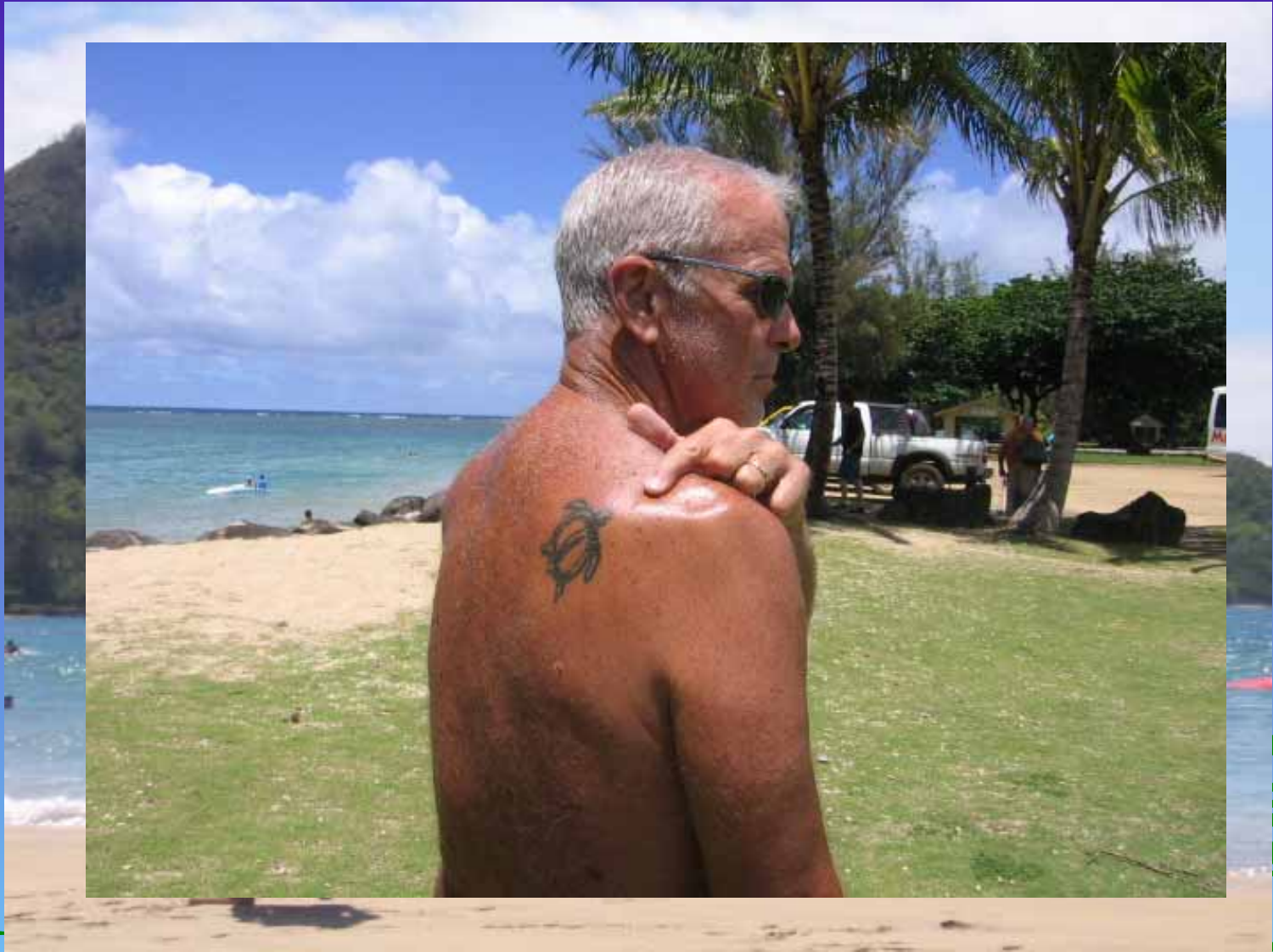
**Rockne Patrick Harmon, J.D.**

*Forensic/Cold Case  
Consulting*

510-541-4405

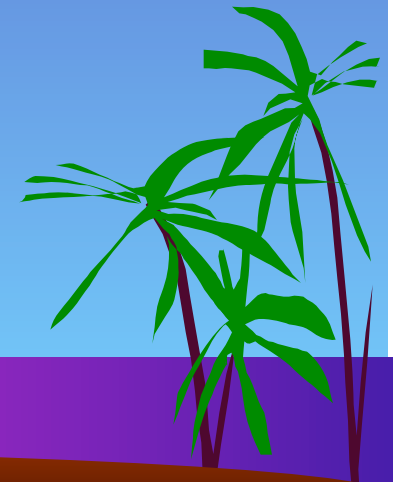
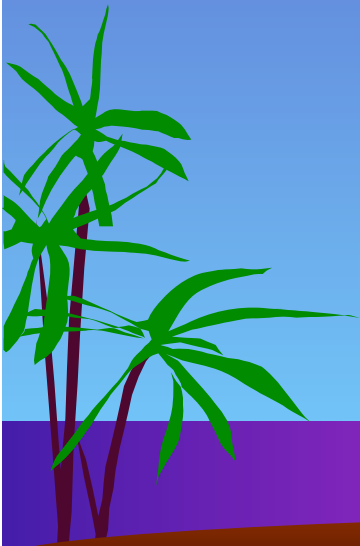
dnarock@aol.com



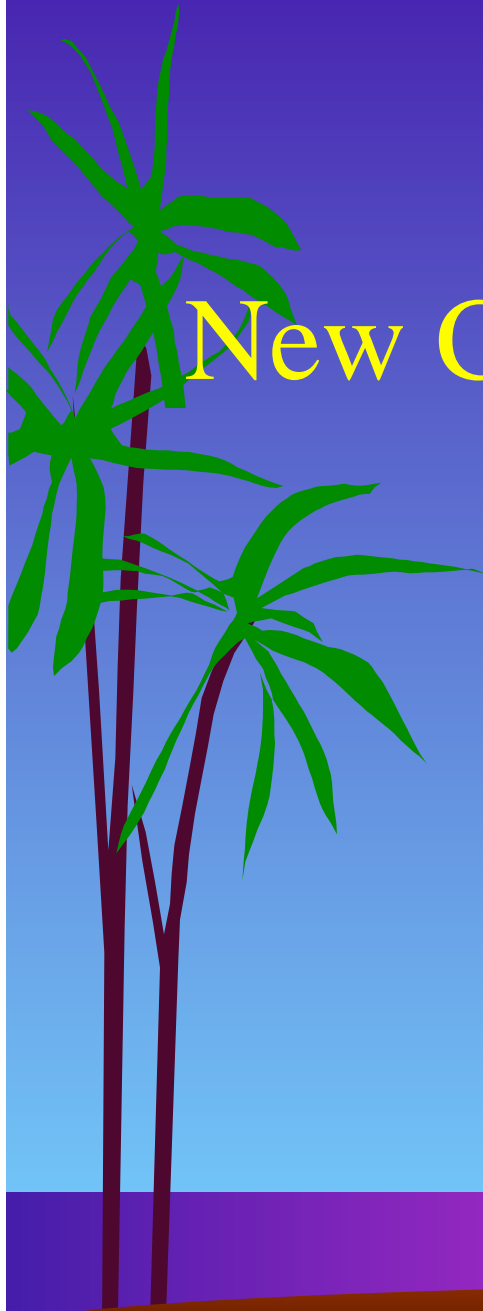


# Overview

- ▲ Materials online - Briefs-Williams  
Generic Daubert
- ▲ Daubert vs. Frye
- ▲ Daubert exercise
- ▲ Melendez-Diaz

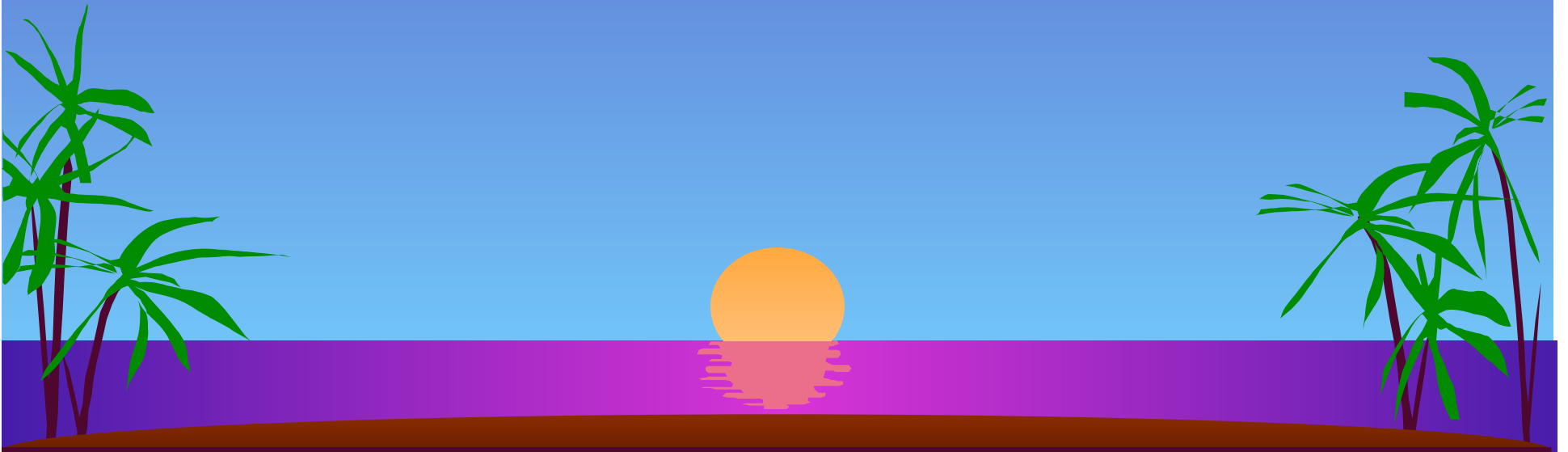


# New Challenges to Old Evidence



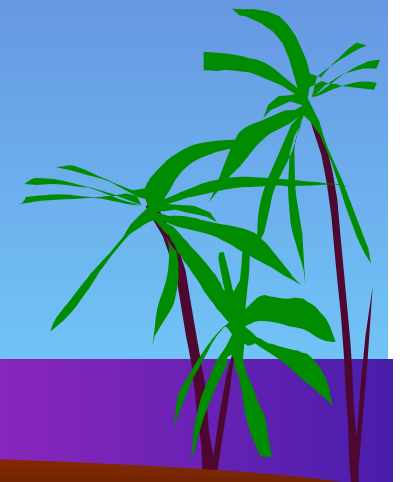
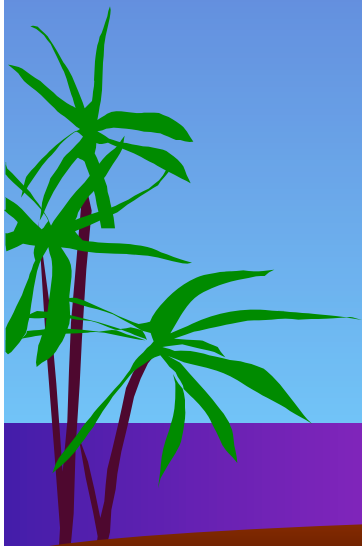
# Recent Challenges

- ▲ Fingerprints
- ▲ Handwriting
- ▲ Firearms



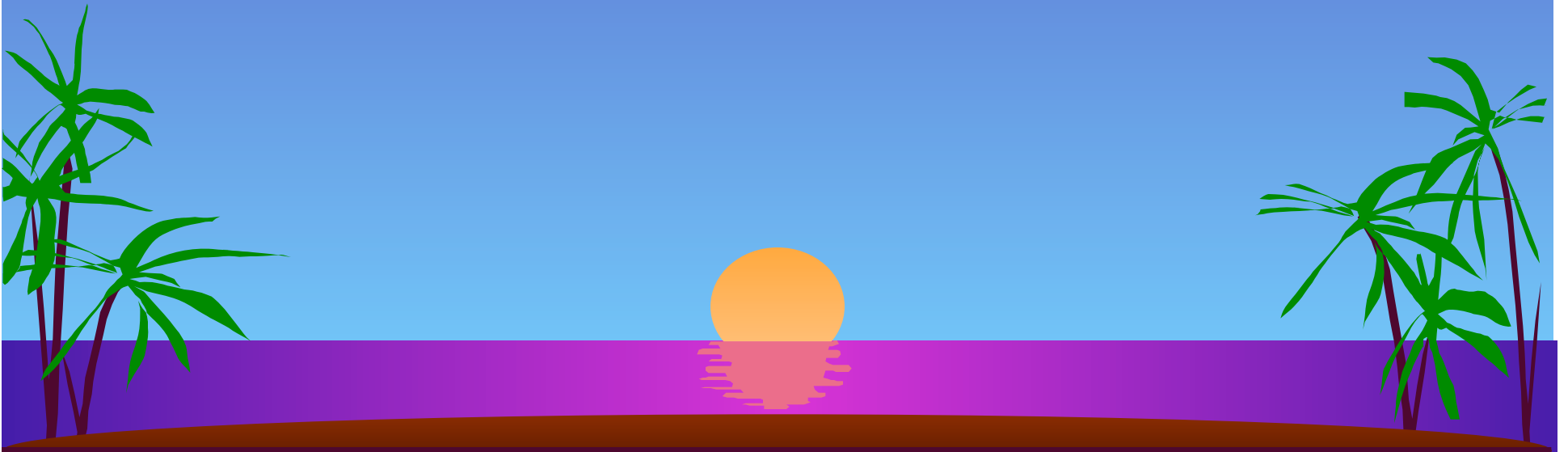
# Bases for Challenge- Daubert

- ▲ Testability
- ▲ Peer review
- ▲ Error rate/Standards
- ▲ General acceptance



# Bases for Challenge - Issues

- ▲ Never scientifically validated
- ▲ Scientists should never accepted in the first place
- ▲ Error rate unknown



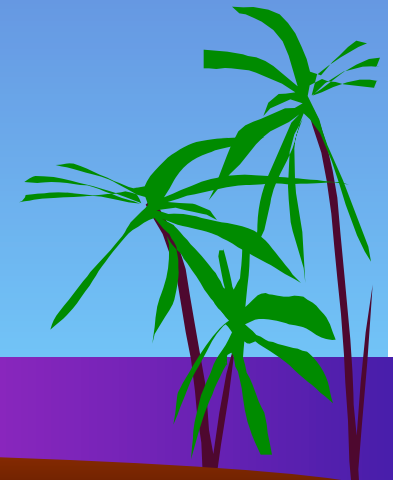
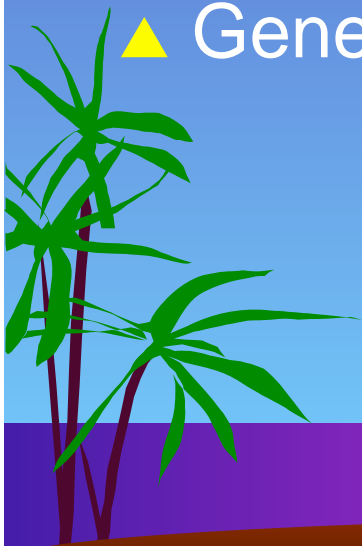
# Daubert-Frye Compared

## Daubert

- ▲ Testability
- ▲ Peer review
- ▲ Error rate/Standards
- ▲ General acceptance

## Frye

- ▲ General acceptance





# People v. Kelly (1976) 17 Cal.3d

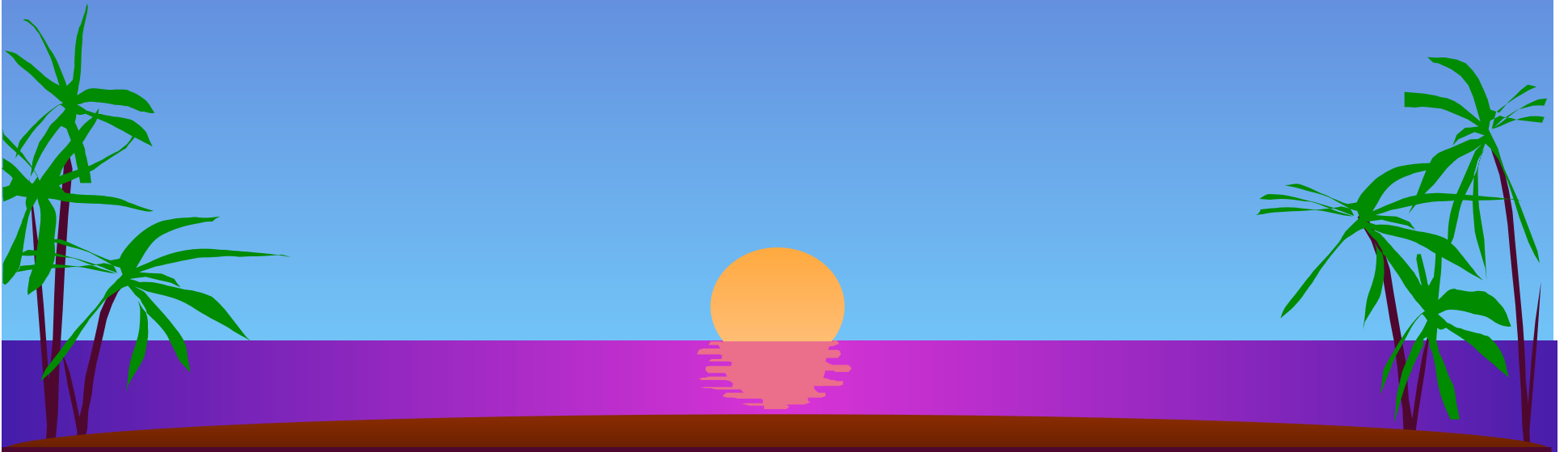
24

- ▲ "...once a trial court has admitted evidence based upon a new scientific technique, and that decision is affirmed on appeal by a published appellate decision, the precedent so established may control subsequent trials, at least until new evidence is presented reflecting a **change in the attitude** of the scientific community."



# Bases for Challenge - Issues

- ▲ Never scientifically validated
- ▲ Scientists should never accepted in the first place
- ▲ Error rate unknown



# Melendez-Diaz

In short, under our decision in *Crawford the analysts* affidavits were testimonial statements, and the analysts Were witnesses for purposes of the Sixth Amendment.

We turn now to the various legal arguments raised by respondent and the dissent.

