

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D20-752

PERCY ALLEN STUCKS,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Petition for Writ of Prohibition—Original Jurisdiction.

September 21, 2020

PER CURIAM.

Percy Allen Stucks has filed a pro se petition for writ of prohibition seeking review of the trial court's "Order Denying Defendant's Motion to Dismiss Pursuant to Florida Statutes 776.032 Justifiable Use of Force 'Stand Your Ground.'" In case number 1D18-1460, this Court dismissed an identical petition as unauthorized pursuant to *Logan v. State*, 846 So. 2d 472 (Fla. 2003) (holding that, generally, a criminal defendant has no right to partially represent himself and, at the same time, be partially represented by counsel). When Stucks filed an original petition for writ of prohibition directly in the Florida Supreme Court, the supreme court likewise dismissed his case based on *Logan*. *Stucks v. State*, No. SC19-2067, 2020 WL 639398 (Fla. Feb. 11, 2020).

Nothing in the current record has changed in regard to Stucks' pro se petition. Stucks still retains counsel below to represent him in his criminal case; nothing in his petition indicates he sought, or would be seeking, to discharge counsel in that proceeding as required by *Logan*. 846 So. 2d at 474. Therefore, in light of the decisions from this Court and our supreme court, we dismiss the petition with prejudice as being barred by the doctrine of res judicata. *See Fla. Dep't of Transp. v. Juliano*, 801 So. 2d 101 (Fla. 2001); *Hyland v. Inch*, 291 So. 3d 1024 (Fla. 1st DCA 2020).

DISMISSED.

RAY, C.J., and BILBREY and JAY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Percy Allen Stucks, pro se, Petitioner.

Ashley Moody, Attorney General, and Daren L. Shippy, Assistant Attorney General, Tallahassee, for Respondent.

Supreme Court of Florida

FRIDAY, JANUARY 29, 2021

CASE NO.: SC20-1573

Lower Tribunal No(s):

1D20-752; 162016CF006391AXXXMA

PERCY ALLEN STUCKS

vs. STATE OF FLORIDA

Petitioner(s)

Respondent(s)

This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. *See* Fla. R. App. P. 9.330(d)(2).

POLSTON, LAWSON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur.

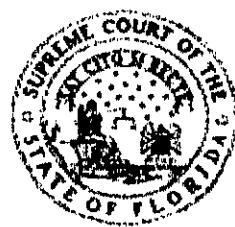
A True Copy

Test:



John A. Tomasino

Clerk, Supreme Court



dl

Served:

DAREN L. SHIPPY
PERCY ALLEN STUCKS
GILBERT LEE FELTEL JR.
HON. KRISTINA SAMUELS, CLERK

Exhibit #3

Exhibit(1)
A-1

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 16-2016-CF-6391-AXXX

DIVISION: CR-B

STATE OF FLORIDA

v.

PERCY ALLEN STUCKS,
Defendant.

ORDER DENYING DEFENDANT'S MOTION TO DISMISS PURSUANT TO FLORIDA
STATUTES 776.032 JUSTIFIABLE USE OF FORCE "STAND YOUR GROUND"

THIS CAUSE came before the Court on the Defendant's Motion to Dismiss ("Motion") filed on February 21, 2018. The Florida Legislature enacted Stand Your Ground in 2005. Stand Your Ground significantly modified the common law right of self-defense by abolishing the well-established duty to retreat before using deadly force, and bestowing immunity from prosecution on a defendant who acts in lawful self-defense. While Florida law has long recognized that a defendant may argue as an affirmative defense at trial that his use of force was legally justified, section 776.032 contemplates that a defendant who establishes entitlement to the statutory immunity will not be subjected to trial. Dennis v. State, 51 So. 3d 456, 462 (Fla. 2010).

In the instant case, Defendant, Percy Stucks, shot and killed his girlfriend/live-in roommate, Dorelle D. Davis ("Davis") in their home on July 8, 2016¹. The Defendant was charged by Information with one count of Second Degree Murder and one count of

¹ The date of the alleged crime was July 8, 2016. The effective date of the amendment creating subsection 776.032(4) of the 2017 SYG Law was June 9, 2017. That subsection provides:

(4) In a criminal prosecution, once a prima facie claim of self-defense immunity from criminal prosecution has been raised by the defendant at a pretrial immunity hearing, the burden of proof by clear and convincing evidence is on the party seeking to overcome the immunity from criminal prosecution provided in section [776.032(1)].

Tampering with Evidence. The instant Motion seeks to dismiss the murder charge, based on the Defendant arguing the killing of Davis was justified under Florida's "Stand Your Ground" laws.

Section 776.032(1), Florida Statutes, provides in relevant part:

A person who uses force as permitted in ... F 776.012 ... is justified in using such force and is immune from criminal prosecution ... for the use of such force. ... As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.

Section 776.012, Florida Statutes, provides in relevant part:

(2) A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.

The Court held an evidentiary hearing on March 5th, 2018 to consider whether the Defendant could show an entitlement to immunity. To succeed on a "Stand Your Ground" Motion, the Defendant must prove by a preponderance of the evidence that the shooting of Davis was in response to a reasonable belief it was necessary to do so to prevent imminent death or great bodily harm to him or another. See, Brotherick v. State, 170 So.3d 766 (Fla.2015); State v. Vino, 100 So. 3d 716, 717 (Fla. 3d DCA 2012) This Court must apply an objective standard in determining whether Defendant's belief of imminent death or great bodily harm was reasonable. Mobley v. State, 132 So. 3d 1160, 1164-65 (Fla. 3d DCA 2014); see also Chaffin v. State, 121 So. 3d 608, 612 (Fla. 4th DCA 2013) (applying objective standard to defendant's self-defense claim in murder case). This analysis entails asking whether, based on the circumstances as they appeared to the defendant when he acted, a reasonable and prudent person situated in the same circumstances and knowing what the Defendant knew, would have used the same force as did the defendant. Mobley, 132 So. 3d at 1164-65 (emphasis added).

In reviewing a "Stand Your Ground" Motion, even when there are no other witnesses to the events besides the Defendant, the court is not required to accept the Defendant's testimony in support of his Motion as true. See, Leasure v. State, 105 So.3d 5, 14 (Fla. 2d DCA 2012). The court may "consider the probability or improbability of the Defendant's credibility in light of the circumstances established by other evidence." See, Early v. State, 223 So. 3d 1023, 1025-26 (Fla. 1st DCA 2017). In a motion to dismiss for immunity under section 776.032, Florida Statutes, "[t]he trial court's factual findings are entitled to deference and must be supported by competent substantial evidence." Joseph v. State, 103 So.3d 227, 229 (Fla. 4th DCA 2012). "The trial court's legal conclusions are reviewed *de novo*." *Id.* at 230. State v. Chavers, 230 So. 3d 35, 37 (Fla. 4th DCA 2017) A denial of immunity does not preclude a claim of self-defense as an affirmative defense at trial. State v. Chavers, 230 So. 3d 35, 39 (Fla. 4th DCA 2017)(citations omitted)

FINDINGS OF FACT:

During the evidentiary hearing, the Court heard the testimony of Percy Stucks, Alphonso Walker, James Small, Detective E. Wells, Detective M. Chizik and the Associate Medical Examiner. The Court observed the demeanor of the witnesses and made judgments of credibility. The Court has carefully considered the Defendant's motion, all the exhibits in evidence [Attached Ex. A], and arguments presented at the hearing on March 5, 2018 and finds as follows:

The Defendant testified that he had a relationship with Davis that predated her killing by over a year. He testified he would help her to move and that he would spend nights with her at her request for her protection. The Defendant went into detail about Davis' history of drugs and mental illness and that she had in the past thrown household items at him and he would leave. He specifically detailed an evening where Davis threw a vase and vacuum at him and punched him in the mouth. She then pulled a knife and chased him. He claimed he had heard the next day she was arrested for fighting with her landlord. He testified Davis got a voluntary commitment to Wekiva Springs where he visited her numerous times. Despite these incidents, each time he would continue their relationship. He would continue to go and stay with Davis after class in the evening.

In late May or early June 2016, the Defendant moved into a room in Eaverson Street. Defendant testified Davis asked to move in with him and he refused. On the day of the killing, Friday, July 8, 2016, Davis happened to be staying with him. The Defendant had worked until 4:30 p.m. and arrived home at approximately 5:30 p.m. at which time he found Davis impaired. Davis was slurring her speech. He saw a crack pipe, and a syringe and an argument ensued where Davis threw college text books at him, hitting him in the nose and causing it to bleed "hard". He claimed she was unreasonable and he could not calm her down. She grabbed a regular kitchen knife and swiped wildly and missed. When she took another swipe he realized she was not going to stop, he grabbed for his gun in his bag with both hands, racked the firearm, and on her third swipe he pushed her off with his left hand and the gun which was in his right hand went off. Davis was hit and fell to the ground. The Defendant testified he put all the drug paraphernalia in a box and left it on the bed. He panicked and fled by driving to Tallahassee, where he got a room and proceeded to drink all night. The next day, at 11:00 a.m. he called the landlord, Reverend Walker, ("Walker") and asked him to unlock the room. From Tallahassee, the Defendant went to Pensacola where he testified his truck broke down. The following Monday he returned to Jacksonville, went to the room and saw the body of Davis with blood everywhere.

During the day he had a meeting with Walker, where he was questioned about why a woman was in his room and where she went. Later that night he returned to the scene and proceeded to clean the crime scene and dispose of the body. The Defendant then fled to Georgia to look for work.

The Defendant was confronted by police in Georgia and he gave an interview where he was videotaped. During the hearing, the Defendant testified he was impaired by drugs and alcohol when he talked to the police on July 12, 2016. Therefore, he did not remember much of what was said. He did admit on cross examination that on July 11, 2016 at approximately 2:30 a.m., he went to Walgreens to purchase cleaning supplies to clean the crime scene; that he used the comforter to wrap Davis's body; that he used the rug in the house to move Davis's body; that he buried her and covered her with the rug, with leaves and limbs. Defendant specifically denied that Davis ever lived there or paid him rent.

The landlord, Reverend Alphonso Walker ("Walker"), testified that he rented the room to the Defendant and to Davis. He confirmed that Davis lived with the Defendant in the room at 1322 Eaverson Street. He testified that on July 9, 2016 he received a text from the Defendant "when get a chance can you unlock my room I lost my key". [State Ex. 1y] Walker continued to detail the conversation back and forth via text where Defendant alternates between claiming to be at work, in the Southside area, then in Miami. The Defendant repeatedly denies knowing what is going on when questioned why the woman in the room won't answer his knock. [State Ex. 1z-1dd] Walker testified that he did not look in the room and never thought for a moment that the person was dead. On July 11, 2016, Walker went to the room and saw that the Defendant had moved his clothes, and the woman was not present so he reached out to question the Defendant as to what was going on. The Defendant and Walker agreed to meet. When asked specifically what had happened, Defendant continued to deny knowledge of anything. The next day, Walker went to the house, saw the carpet gone and the blood trail on the porch, on the threshold of the door, and bloody drag marks in the hallway. He called the police. Walker testified, at no time in his contact with the Defendant from July 9, 2016 through July 11, 2016, did the Defendant appear impaired by alcohol or drugs.

The Court heard the testimony of James Small who was also a tenant in the home at Eaverson Street. He also confirmed that Davis lived in the room with the Defendant. He further testified that the Defendant was very protective and possessive about Davis and all the men knew not to talk to Davis. He testified about seeing the Defendant with cleaning gloves, rags and bleach, cleaning blood. He confronted the Defendant who told him he had argued with Davis because she wanted to see other people. The Defendant was trying to convince him to convince Walker not to call the police and to let the Defendant take care of it. Small testified he did in fact notify the landlord, who then called the police.

The Court further heard from crime scene technician, Detective Wells, regarding the scene, the trail of blood, the bloody foot print, the diagram of the room where Davis was killed, and all the crime scene photos. [State Ex. 1a-1bbb] Significantly, she testified that there was no evidence of drugs, drug paraphernalia (despite finding the

empty wooden box on the bed), or a knife found at the scene. Detective Wells testified as to the size and dimensions of the room and the unlikelihood that the events could have transpired as detailed by the Defendant in the small confines of the room. Had Davis swung around three times as described by the Defendant, in the location described by the Defendant, and consistent with the blood location, she would have knocked over multiple items from the dresser. There was no evidence of such disarray. She further testified that upon locating the Defendant in Georgia, the Defendant's loaded gun and a gun cleaning kit were recovered from the hotel room in Georgia.

The Court heard from Detective Chizik regarding video surveillance of the Defendant purchasing the cleaning supplies in Walgreens at 2:30 a.m. [State's Ex. 2]. Further, he detailed the use of cell tower information to locate the Defendant at a hotel in Georgia. Upon being confronted at the hotel in Georgia, the Defendant initially refused to go with police but after a thirty minute conversation with the Defendant, Detective Chizik convinced him to come out of the hotel room. The Defendant gave a videotaped interview which the Court viewed which was introduced in evidence. [State's Ex. 3] The Defendant was mirandized and asked regarding the events in question. Detective Chizik testified the Defendant was not impaired and he did not smell of alcohol. Further, the Court made observations of the Defendant's demeanor during the interview and noted that the Defendant did not appear impaired. Upon being questioned the Defendant told detectives he had just woken up and was not under the influence of anything. He admitted in the interview that Davis lived with him and was paying him rent. He stated they lived together and that at one point he had been the one to move out. The Defendant told the detectives initially that on that Friday, they had argued because Davis had said she met someone else and he could leave. The Defendant in this first version claimed he grabbed his stuff and left going to Pensacola. He claimed he lost his keys so he asked his landlord to check on his room and his landlord told him a girl was lying on the ground. The Defendant said he thought Davis was still mad at him. When he came back to the room on Sunday, he saw the blood, grabbed his stuff and left again. The Court notes that the Defendant did not talk about Davis being violent or on drugs. It was actually the detective who first mentioned the victim's drinking and drugs. For most of the interview, the Defendant denies any knowledge of what

happened. He claimed he always had great respect for Davis and that she was the first person to make him kiss. The Defendant then invokes his right to counsel but after some time reinitiates contact with police and agrees to talk. Finally, the Defendant states Davis was mad at him because he was always working and she wanted him to spend more time with her; that she had other people who wanted to spend time with her. He said she had a temper and had "spells". That she had been drinking and grabbed a kitchen knife. He told detectives he told her he had a gun and to calm down. Then he fired a shot to get her off. He admitted that Davis never tried to stab him; that she was just holding up the knife. He stated that Davis never took him seriously and "never respect nothing I did". He stated it was around three minutes from the time she grabbed the knife to when he shot her. After the shooting, he stated he panicked, took her clothes, the knife and left. Subsequently, he admitted cleaning the room and disposing of her body. The Court further observed photos of the Defendant taken by detectives. There are no injuries to his hands, his arms or significantly to his face.

The Court observed the surveillance video of the Defendant in Walgreens on July 11, 2016 at 2:26 a.m. purchasing the cleaning items which he used to clean the crime scene. The Court notes the entire transaction takes approximately three minutes. The Defendant brings items to the counter and, by all appearances, punches in his phone number or rewards number then pays in cash. He goes back to buy garbage bags and once again punches in his phone number or Walgreens card number and pays again in cash. At no point in the video does the Defendant appear impaired, frightened, and despondent or any of the other emotions to which he testified.

The associate medical examiner testified regarding the autopsy. Davis was killed by a gunshot wound to the back of the head. The path of the bullet was back to front and left to right and upwards. Due to the decomposition, he could not testify regarding the distance from the shooter. Tissue samples were tested and the liver came back positive for very low concentrations of alcohol and marijuana. Due to decomposition, the results and the levels are not reliable. There was no cocaine in the body.

A-1

EVIDENCE LIST

STATE V. PERCY STUCKS
162016CF6391

ID	EVIDENCE	EVID #
A1	Photo of blue house on Eaverson St	1a
A2	Still photo of Defendant coming in door of Walgreens	1b
A3	Still Photo of Defendant with basket coming into Walgreens	1c
A4	Still photo, profile of Defendant in Walgreens	1d
A5	Photo of wooded area at night	1e
A6	Photo of trash, carpet	1f
A7	Photo, close-up of trash, carpet	1g
A8	Photo, close-up of trash and carpet from other angle	1h
A9	Photo of carpet being removed	1i
A10	Photo of foot, bedspread covering body	1j
A11	Photo of deceased victim	1k
A12	Photo of Defendant, taken July 12-13, 2016	1l
A13	Photo of Defendant's right hand	1m
A14	Photo of Defendant's left hand	1n
A15	Photo of Defendant's right arm	1o
A16	Photo of Defendant's left arm	1p
A17	Photo of Defendant's chin	1q
A18	Photo of Defendant's right side of face	1r
A19	Photo of Defendant's left side of face	1s
A20	Photo of front porch	1t
A21	Photo of hallway of blue house	1u

EXHIBIT 1A

Exhibit #1

A-1

ID	EVIDENCE	EVID #
A22	Photo of bathroom	1v
A23	Photo of hallway, blood spots marked	1w
A24	Photo of hallway, evidence placards 1-7	1x
A25-A35	Photos of Cell phone with text messages	1y-1ii
A36	Diagram of house and street	1jj
A37	Diagram of house	1kk
A38	Photo of boot print, Ev. 5	1ll
A39	Photo of receipt on bathroom floor	1mm
A40	Photo of Receipt from Walgreens	1nn
A41	Photo, close-up of Walgreens receipt	1oo
A42	Photo of bedroom from door	1pp
A43	Photo of floor to entrance of bedroom	1qq
A44	Photo of bed	1rr
A45	Photo of dresser with bleach bottle	1ss
A46	Photo of chair with box of garbage bags	1tt
A47	Photo of bucket with dirty Brillo pads	1uu
A48	Photo of floor, coagulated blood	1vv
A49	Photo of floor, coagulated blood (Duplicate/mistake)	1ww
A50	Photo of large knife under bed	1xx
A51	Photo from hotel, gun cleaning kit and laptop bag	1yy
A52	Photo, close-up of laptop bag contents	1zz
A53	Photo of gun	1aaa
A54	Photo of swab from gun	1bbb
A55	ME Photo: gunshot wound to back of head	1ccc
A56	ME Photo: close-up of gunshot wound to back of head	1ddd

Exhibit #1

A-1

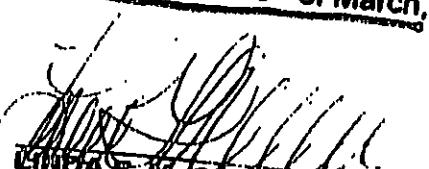
Exhibit #1

CONCLUSIONS:

After reviewing the totality of the testimonial and physical evidence presented to the Court, the Court finds the Defendant has failed to meet his burden. At best, the shooting was accidental. The Court finds, however, that the evidence is beyond clear and convincing to support the charge of second degree murder. The Defendant's multiple and varied versions of the events, as well as his actions subsequent to the shooting tend to discredit the credibility of his claim of self-defense. They appear to show a deliberate attempt to establish an alibi. The Court finds it significant that the first mention of alcohol and drug usage of Davis came from the police and not the Defendant. Upon observing the Defendant's demeanor in the video and when testifying, the Court does not find credible any contention that the Defendant acted because he was in fear and felt it was necessary to prevent imminent death or great bodily harm. Finally, Davis was shot in the back of the head and the Defendant's explanation for this point of entry is totally incredible, and not consistent with any theory that she was in the process of attacking the Defendant. Defendant remains free to raise the defense of "Stand Your Ground" at trial.

Accordingly, it is hereby, ORDERED and ADJUDGED that Defendant's Motion to Dismiss is DENIED.

DONE in Chambers at Jacksonville, Duval County, Florida this 15th of March, 2018.


LINDA F. McALION
Circuit Judge

Copies to:

Office of the State Attorney
Division CR-B

Nah-deh Simmons, Esquire
Attorney for Defendant

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First Appearance:	Continued:	Continued:	Continued:
Continued:	Continued:	Continued:	Continued:

2016 CF 006391



Arrest And Booking Report
Jacksonville Sheriff's Office
Jacksonville Florida

ADLT **FELONY**

Yr: 2016 Inc #453875	Amend #
Prev Juv Jail #	
Jail # 2016018775	7/19/2016 13:31 File Direct: YES
JSO ID #	Court: Circuit
SSN	OBTS #

Arresting Agency: Jacksonville Sheriff's Office

Route To:

Day/Date/Time Arrested: Tuesday 7/19/2016 12:50

CLERK COPY

Name: STUCKS, PERCY ALLEN JR

Aliases:

Nickname(s):

Arrestee's Home Address: 1322 EAVERSON ST Apt./Lot #:

Sub-Sector: M3

City: JACKSONVILLE State: FLORIDA Zip: 32209

Taz: 120 Crossstreet:

OC deployed prior to/during Arrest: NO

DOB: 11/14/1985 Age: 30

Height: 6' 2" Weight (lbs): 170

Race: BLACK Ethnicity: NOT OF HISPANIC ORIGIN Sex: Male

Eye Color: BROWN Hair Color: BLACK Complexion: MEDIUM Build: Medium

ECD Usage: NOT APPLICABLE

RTR written related to this incident? NO RTR Incident Yr: RTR Incident#

Is an Offense a hate crime? NO Is an Offense a dating violence crime? NO Required to register as a sex offender? NO

Suspect invoke Miranda? NO Arrestee needs ADA Consideration? NO Arrestee Confessed? YES Miranda Rights Given? YES

Disability or Special Consideration:

Accommodations Requested:

Driver's License # S320-661-85-414-0 State: FLORIDA Subject's Resident Type: CITY

ORIGINAL

Hm Phone # Bus. Phone # Phone Ext.

Cell Phone # (904)-680-8631 Cell Phone Provider METRO PCS E-mail

Is Vagrant? NO

Arrest Made On: OV

Subject's Residence Status: RESIDENT Armed With: HANDGUN (DISCHARGED)

Distinguishing Marks: CROSS ON RIGHT SHOULDER

Employer: Place of Birth: JACKSONVILLE DUVAL FLORIDA UNITED STATES Country of Citizenship: UNITED STATES

School Last Attended: FSCJ

US Citizen: YES

Domestic Violence Involved: NO

Children under 18 Present:

If No is it Domestic Related: NO

Day/Date/Time of Incident-From: Friday 7/8/2016 00:00

Day/Date/Time of Incident-To: Tuesday 7/12/2016 00:00

Incident Address: 1322 EAVERSON ST Apt./Lot #:

Sub-Sector: M3

City: JACKSONVILLE State: FLORIDA Zip: 32209

Taz: 120 Crossstreet:

Offense Location Type: Residence-Home Interviewed by: D.K. SCOTT Interviewer ID: 7714

Where Arrested: 501 BAY ST E Apt./Lot #:

Sub-Sector: A3

City: JACKSONVILLE State: FLORIDA Zip: 32202

Taz: 97 Crossstreet:

Involved in Traffic Accident: NO

Injuries from Accident:

Is Incident Gang Related: NO

Is Arrestee a Gang member? NO

JUL 20 2016

Statute or Ordinance Number(s): #1

7/19/2016-12:55

Statute No: 782.04 Degree: CF UCR Code: 090A Attempt Code: Commit

MURDER

Citation #

SA#

Warrant Type: NO Warrant Available

Jax Control #

Warrant/Case #

ADLT STUCKS, PERCY ALLEN JR

ARREST REPORT

Page 1 of 3

Jail # 2016018775

ADLT

Exhibit #4

1450: I emailed an exigent request form to T-Mobile, requesting location and phone records for the cell phone of Percy Stucks (suspect).

1500: I called T-Mobile and spoke with Megan, who advised that she will send information in reference to the above phone to my email.

1511: I received the first of numerous emails from T-Mobile. All emails showed that the suspect's phone was stationary, at the Scottish Inn (3888 Highway 17), in Richmond Hills, Georgia.

1555: At the request of Detective Scott, Detective Edwards and I arrived at 2161 Kings Rd. (Dollar General) and conducted an interview of John O'Neal (witness #1). The witness stated that he is a crack cocaine addict and generally buys his drugs from a black male he knows only as "Smoke". The witness stated that "Smoke" sells his drugs from a yellow house, which is next door to this crime scene. The witness stated that he was at the above house on 07-11-16, and overheard "Smoke" speaking with another unknown black male. The witness stated that "Smoke" said that a female was saying that he sold her bad drugs and she was going to report "Smoke" to the Police. The witness stated that "Smoke" then stated that he was going to get the female "fucked up".

1630: I emailed the cell site and verbatim phone records that I received from T-Mobile to C. Rivera (Crime Analysis Unit). I requested that the above information be mapped and an attempt made to identify people that the suspect spoke with.

1800: I received the above information and forwarded it to Detective Edwards for follow-up investigation.

Note: Detective Scott and I travelled to Richmond Hills, Georgia and made contact with the suspect at the Scottish Inn. The suspect agreed to come with Detective Scott and me to the Richmond Hills Police Station and speak with us in reference to this incident.

Note: During the above interview, the suspect invoked his Constitutional Right to an attorney. Detective Scott and I immediately terminated questioning and departed the interview room. At 2338 (07-12-16), the suspect asked to use the restroom. I escorted the suspect to the restroom and then back to the room where he was interviewed. When we returned the suspect asked me if I would sit down and talk to him. I explained to the suspect that he requested to speak with an attorney and that I could not speak with him anymore. The suspect told me that he did not want to look like a monster and again asked if I could sit down and speak with him. I asked the suspect if he wanted to speak without an attorney present and he replied "Yes". I then left the room, advised Detective Scott of the suspect's statements. Moments later, Detective Scott and I returned to the interview room, and again advised the suspect of his Constitutional Rights by a standard rights form. The suspect again stated that he understood and signed the rights form, at which time Detective Scott and I continued the interview in reference to this incident.

Note: This concluded my independent investigative efforts in this case. Refer to Detective Scott's Supplement Report for any further involvement by me in this case.

CASE STATUS

Cleared by Arrest, over 18, by Detective.

Clearance Status: CASE NOT CLEARED	Clearance Code: NOT APPLICABLE	Date case was cleared:	Number of Cases Cleared
Case Not Cleared Type: CASE NOT CLEARED (DETECTIVE FOLLOW-UP)			

CRIME ANALYSIS

Aggravated Assault/Murder: ARGUMENT

Type of Weapon: HANDGUN (DISCHARGED)

Forced Entry: NOT APPLICABLE Structure Occupancy Code: NOT APPLICABLE

Number of Premises Entered:

Location Type: Residence-Home

Incident Occurred Inside this Location Incident Occurred In the Parking Lot at this Location: No

Number of Vehicles Recovered:

Number of Arrested:

School Name: School Number:

MISCELLANEOUS:

Is Offense Related to Domestic Violence: No If yes, were Children under 18 Present: No If No Is a Domestic Related: NO

Is there additional information included on a continuation report: No Are there other pertinent Reports: No

1-4
Exhibit #5

44
IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

VS.

CASE NO.: 16-2019-CF-6391

PERCY ALLEN STUCKS,

Defendant.

MOTION TO COMPEL ADDITIONAL DISCOVERY

Percy Allen Stucks, the Respondent, pro se, moves this honorable court to order the State of Florida to furnish the Respondent's counsel with the following:

- 1. State witness James Small's Florida Criminal records*
- 2. Ms. Dorelle Davis' Autopsy Report*
- 3. Ms. Dorelle Davis' Wikivia Springs Mental Health Resource Center records from January 01, 2016- July 01, 2016*
- 4. Walgreen photos from July 2016*

Exhibit #6
Exhibit #13
4A 354

5. *Ms. Dorelle Davis' Criminal records from Florida and Pennsylvania*
6. *State witness Alphonso Walker's Florida Criminal records*
7. *JSO Evidence Technician S. Wells' Problematic Officer Division records*
8. *JSO Detective M.P. Chizik's Problematic Officer Division records*
9. *State witness John Oneal's sworn affidavit*
10. *State witness John Oneal's Florida Criminal records*

WHEREFORE, the Respondent respectfully requests this court to grant the foregoing Motion to Compel, and as good grounds therefor states that discovery pursuant to Fla. R. Juv. P. 8.060 was properly demanded on 03-04-2020

Respectfully Submitted,
/s/ Percy Allen Stucks
Percy Allen Stucks, Appellant, Pro se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered to the Office of the State Attorney, 311 West Monroe Street, Jacksonville, FL 32202 and to the Duval County Clerk of Court, 501 West Adams Street, Jacksonville, FL 32202 on this 13th day of April 2020. P.S.

Exhibit #6
Exhibit #13
4A351

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

VS.

CASE NO.: 16-2016-CF-006391

DIVISION: CR-B

PERCY ALLEN STUCKS,

Defendant.

SWORN MOTION TO DISMISS

Comes now, the Defendant, Percy Allen Stucks, *pro se* and pursuant to Rule 3.190(c)(4) of the Florida Rules of Criminal Procedure, moves this Honorable Court to dismiss the Information in the above-styled cause, and as grounds in support thereof alleges that there are no material facts in dispute and the undisputed facts do not establish a *prima facie* case of guilt against the defendant.

Exhibit #7
Exhibit #19
P.S.

The undisputed facts upon which this motion is based are as follows:

1. The State has failed to provide the sworn affidavit of State Witness John O'Neal. See Exhibit 1.
2. The State has failed to provide the body camera video; of State Witness John O'Neal. See Exhibit 1.
3. The State has failed to provide the depositions of State Witness John O'Neal. See Exhibit 1.
4. According to STATE OF FLORIDA v. DEBRA DEE WEINBERG, no. SD00-1339. Feb. 9, 2001, "Investigating officer was not a material witness and thus information charging with obtaining a controlled substance by fraud could not be based solely on Officer's affidavit, where officer simply collected evidence in form of altered prescription, which doctor's office verbally verified has been altered; only doctor and pharmacist, not officer, were material witnesses."
5. According to Florida Rule of Procedure 3.140; "information charging the commission of a felony shall be signed by the state attorney, or a designated assistant state attorney, under oath stating his or her good faith in instituting the prosecution and certifying that he or she has received testimony under oath from the material witness or witnesses for the offense.

Exhibit # 7
Exhibit # 14

6. Assistant State Attorney Erin Perry never received a sworn affidavit from State Witness John O'Neal; before filing charges. See Exhibit 1.

Wherefore, the defendant requests this court dismiss the Information in the above-styled cause.

Respectfully submitted and served,

/s/ Percy Stucks

Percy Allen Stucks, Defendant, Pro se

Jail No.: 2016018775

500 East Adams Street

Jacksonville, FL 32202

The Within named person (Affidavit), Percy Allen Stucks , who is a resident of Duval County, Florida, Personally appeared before me, the undersigned Notary Public, and makes the above six (6) statements he own sworn statement under oath, and personally acknowledges the facts set forth are true and correct to the best of his knowledge.
P.S.

Exhibit # 7

Dated this 17 day of January, 2020.

/s/ Perry Stuckey Signature
of affidavit

State of Florida, County of Duval subscribed and sworn to, or affirmed, before
me this 17 day of January, 2020, by Type of Identification,

Constance R. Barahona
Notary Public

Signature of
My commission expires

SEAL

CONSTANCE R. BARAHONA
Notary Public, State of Florida
My Comm. Expires 09/27/2023
Commission No. GG359730

Exhibit # 7

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the Duval Clerk of Court, 501 West Adams Street, Jacksonville, FL 32202 and to Assistant State Attorney Tonya Patterson-Barge, 311 W. Monroe Street, Jacksonville, FL 32202, on January 5, 2021.

/s/ Percy Stucks

Percy Allen Stucks, Defendant, Pro se

Exhibit #7

S.A. CASE NO.: 16CF042158AD

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL
CIRCUIT IN AND FOR DUVAL COUNTY, FLORIDA**

STATE OF FLORIDA

vs.

PERCY ALLEN STUCKS, JR.

Spring Term, in the year two thousand sixteen

CLERK NO.: 162016CF006391AXXMA

DIVISION: CRB

INFORMATION FOR:

1) MURDER IN THE SECOND DEGREE
2) TAMPERING WITH EVIDENCE

IN THE NAME OF AND BY AUTHORITY OF THE STATE OF FLORIDA, ANGELA B. COREY, State Attorney for the Fourth Judicial Circuit of the State of Florida, In and for Duval County, charges that:

COUNT.1

PERCY ALLEN STUCKS, JR. on or between July 8, 2016 and July 12, 2016, in the County of Duval and the State of Florida, did unlawfully and by an act imminently dangerous to another, and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, kill Dorelle D. Davis, a human being, by shooting the said Dorelle D. Davis, and during the commission of the aforementioned Second Degree Murder, the said PERCY ALLEN STUCKS, JR. did carry, display, use, threaten to use or attempt to use a firearm and did actually possess and discharge a firearm and as a result of the discharge, death or great bodily harm was inflicted upon any person, contrary to the provisions of Sections 782.04(2), 775.087(1) and 775.087(2)(a)3, Florida Statutes.

COUNT 2

PERCY ALLEN STUCKS, JR. on or between July 8, 2016 and July 12, 2016, in the County of Duval and the State of Florida, knowing that a criminal trial, proceeding or investigation by a duly constituted prosecuting authority, law enforcement agency or grand jury of this state, was pending or about to be instituted, did, alter, destroy, conceal or remove any record, document or thing, to-wit: the body of Dorelle D. Davis, with the purpose to impair its verity or availability in such proceeding or investigation, contrary to the provisions of Section 918.13(1)(a), Florida Statutes.

ANGELA B. COREY, STATE ATTORNEY
FOURTH JUDICIAL CIRCUIT

By: and do le pratt
Assistant State Attorney
Fourth Judicial Circuit of Florida, in and for Duval County

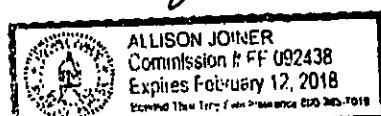
STATE OF FLORIDA }
COUNTY OF DUVAL }

Bernardo de la Rionda, Par No. 365841

Personally appeared before me, _____, Assistant State Attorney, for the Fourth Judicial Circuit of the State of Florida, in and for Duval County, who is personally known to me, and who being first duly sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to as true, and which, if true, would constitute the offense therein charged, and that this prosecution is instituted in good faith, and hereby certifies that testimony under oath has been received from the material witness(es) for the offense.

Sworn to and subscribed before me this 9 day of August, 2016.

By: Allison Jones



Appendix 1

1 IN THE CIRCUIT COURT OF THE
2 FOURTH JUDICIAL CIRCUIT, IN AND
3 FOR DUVAL COUNTY, FLORIDA

4 CASE NO: 16-2016-CF-006391

5 DIVISION: CR-B

6 STATE OF FLORIDA

7 - vs -

8 PERCY STUCKS,

9 Defendant.

10 STATE OF FLORIDA)

11 COUNTY OF DUVAL)

12 Deposition of **JAMES SMALL**, at the Office of the State
13 Attorney, 311 W. Monroe Street, Room 9, Jacksonville, Duval
14 County, Florida, on Wednesday, January 24th, 2018, before
15 Kelly C. Foster, Court Reporter and a Notary Public in and
16 for the State of Florida at Large.

17
18
19
20
21
22
23 OFFICIAL REPORTERS, INC.
24 201 EAST ADAMS STREET
25 JACKSONVILLE, FL 32202
 (904) 358-2090

depos taken by Anthony Barney.

Exhibit # 9

1 APPEARANCES:

2 ERIN PERRY, Esquire,

3 Assistant State Attorney,

4 Appearing on behalf of the State of Florida.

5 ANTHONY BARNEY, Esquire,

6 Law Office of Anthony K. Barney, P.A.,

7 Appearing on behalf of the Defendant.

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1 I N D E X
2

3 WITNESS:

4 **JAMES SMALL**

5 DIRECT EXAMINATION BY MR. BARNEY	4
6 CROSS EXAMINATION BY MS. PERRY	22
7 REDIRECT EXAMINATION BY MR. BARNEY	31
8 RECROSS EXAMINATION BY MS. PERRY	35

9 N O E X H I B I T S
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Exhibit #10

STIPULATIONS

2 It was stipulated and agreed by and between counsel
3 for the respective parties, and by the witness, that the
4 reading and signing of the deposition be waived; that
5 notice of filing of said deposition be waived.

JAMES SMALL,

8 having been produced and first duly sworn as a witness,
9 testified as follows:

10 MR. BARNEY: For the record, I am Anthony Barney.

11 I'm here on behalf of Attorney Nah-Deh Simmons. He's
12 in trial in Flagler County today. We're here on the
13 case of State versus Percy Stucks.

14 And if y'all would take a second to introduce
15 yourselves.

16 MS. PERRY: Erin Perry for the State.

17 THE WITNESS: James Small.

DIRECT EXAMINATION

19 BY MR. BARNEY:

20 Q Mr. Small, spell your name.

21 A J-a-m-e-s S-m-a-l-l.

22 Q And what's your date of birth?

23 A 9/18/78.

24 Q '78?

25 A 1978

1 Q And where were you born?

2 A Here. Duval County, Jacksonville, Florida.

3 Q Jacksonville. Do you recall the hospital?

4 A At the time it was University Medical Center.

5 Q Over there on 8th Street?

6 A Yeah. That's it.

7 Q And let me back up a second and give you a little
8 intro. We're not going to be in here too long. I don't
9 have that many questions to ask you, but if at any time
10 during this depo you need to take a break, go to the
11 restroom, anything, just say so and we'll make it happen,
12 okay?

13 A Uh-huh.

14 Q If I ask you, you have to answer out loud.

15 A Yes, sir.

16 Q If I ask you anything you don't understand, don't
17 answer it. Just ask me to clarify the question between
18 myself and your attorney some kind of way, and we'll make
19 sure you understand. You have to answer out loud.

20 A Yes, sir.

21 Q What is your current address?

22 A 1322 Eaverson Street, E-a-v-e-r-s-o-n.

23 Q And that's in 32204?

24 A 32209.

25 Q 32209. How long have you lived there?

1 A About two years.

2 Q Two years.

3 A Yes, sir. Two years.

4 Q Is that the same mailing address?

5 A Yes, sir.

6 Q Where did you live before that?

7 A 3242 Phyllis Street.

8 Q Phyllis?

9 A Yeah.

10 Q And that's P-h-y-l-i-s or l-l-i-s?

11 A L-l-i-s.

12 Q And what ZIP is that in?

13 A 32205.

14 Q And you do understand that you are listed as a
15 witness in this matter?

16 A Yes, sir.

17 Q Tell me, how do you know Mr. Percy Stucks?

18 A Roommate.

19 Q And that's a roommate at the Eaverson Street
20 address?

21 A Yes.

22 Q How long were you-all roommates?

23 A I'm going to say maybe a month.

24 Q One month. Did you know his phone number?

25 A At the end I did.

7

1 Q At the end?

2 A Because, you know, what happened at the house.

3 Q Okay.

4 A What took place.

5 Q Tell me, what do you mean by at the end?

6 A I guess when he was texting me.

7 Q How did you -- how did you get his number?

8 A I -- I -- I recall we had issues with the -- with

9 the house, and we was trying to get in contact with the

10 owner of the house.

11 Q Do you recall when that was?

12 A In that month time. Within 30 days.

13 Q Within that month. Do you recall who gave you

14 his number?

15 A He did.

16 Q Did -- did you and Mr. Stucks ever hang out

17 together, go out together, eat, et cetera?

18 A No. He was a strange cat. No, sir.

19 Q What did you say the first time?

20 A It was kind of strange. He kept to himself.

21 Q He kept to himself?

22 A Uh-huh.

23 Q And I think you said you were at that Eaverson

24 Street address, for how long was it? Two years?

25 A I'm going to say two years.

9
Exhibit #11
T

1 ~~Q~~ Two years.

2 A A little over two years, I'm going to say that.

3 Q Do you recall the month and date you moved into
4 that address?

5 A The month was between March -- the end of March,
6 beginning of April. The beginning of April.

7 Q Beginning of April?

8 A Yes, sir.

9 Q What year?

10 ~~Q~~ 2016.

11 Q How many other people lived at that Eaverson
12 Street address?

13 A Two more other people, a couple.

14 Q Another couple? Okay. So it was you, Mr. Stucks
15 and a couple?

16 A Excuse me?

17 Q I'm sorry, am I correct, it was you living there
18 with Mr. Stucks and another couple?

19 ~~Q~~ Yeah. Two more other people.

20 Q What were their names?

21 A I don't know. I can't make it up. I don't know
22 their names. I can't recall.

23 Q What were their genders?

24 ~~Q~~ You know, woman and man.

25 Q Describe them for me.

1 A The boy, he about five-six, low cut.
2 Q Low cut?
3 A Like yours.
4 Q Would you guess his age.
5 A Between 30 and 35.
6 Q Race?
7 A African-American.
8 Q And what about the woman?
9 A She African-American.
10 Q Okay.
11 A Between 25, 30, five-six, five-seven, probably
12 about 180, 190 pounds.
13 Q And what would you guess the weight of the male?
14 A 170 pounds.
15 Q Would you happen to have their phone numbers?
16 A No. But I see -- I see him.
17 Q You see him?
18 A Yes.
19 Q Where do you see him?
20 A Out, you know, in the town going out. Nightlife.
21 Q When was the last time you saw him?
22 A To be truthful with you, about two weeks ago.
23 Q Two weeks ago?
24 A A little over two weeks ago.
25 Q Where did you see him?

9
Exhibit # 60

1 A In the neighborhood.

2 Q In the Eaverson neighborhood?

3 A Uh-huh. Yes, sir.

4 Q Did you talk with him?

5 A We spoke.

6 Q If you recall, exactly what did you say to him?

7 A Hey, how you doing? What's going on, you know,

8 stuff like that.

9 Q And did he respond?

10 A Excuse me?

11 Q Did he respond?

12 A Everything cool, everything good. Still working.

13 It was less than a minute conversation.

14 Q Do you know where he's living now?

15 A No, sir.

16 Q Do you know where he's working now?

17 A No, sir.

18 Q Do you know where he was working during the time

19 y'all were living together?

20 A He was working with the manager who was the

21 manager over the house -- the property.

22 Q So he was working there on-site?

23 A Other projects.

24 Q At other projects?

25 A Yes.

1 Q And that -- that female that lived there, have
2 you seen her?

3 A I haven't seen -- they're a couple. I see him
4 more.

5 Q You see him more?

6 A Yeah. I never really see her.

7 Q Have you seen her at all?

8 A After they recently like moved out?

9 Q Yes.

10 A No, sir.

11 Q So you said you see him more, which would suggest
12 that you have seen her some. Have you seen her at all?

13 A Probably from like the beginning when they moved
14 out of the residence, so that -- you know, since all that
15 stuff happened.

16 Q Okay.

17 A They ain't -- they ain't the murderers, so -- I
18 thought we were going to be talking about him.

19 Q When was the last time you saw her?

20 A Who, his --

21 Q The female.

22 A The fiancee?

23 Q Yes.

24 A A little -- a couple days after they moved up out
25 the residence.

9
Exhibit #10

1 Q Have you been convicted of a crime?
2 A Yes.
3 Q Give me the crime and when you were convicted.
4 A You want all of them?
5 Q If you want to take a second to --
6 A You want all of them?
7 Q Yes.
8 ~~A~~ I can't recall all of them, sir.
9 Q Whatever you can recall.
10 ~~A~~ Sale of crack cocaine, resisting arrest without
11 violence.
12 Q Without violence?
13 A (Nods head.)
14 MS. PERRY: Is that a yes? You just have to
15 answer out loud. Without violence?
16 THE WITNESS: Yeah. Without violence.
17 Q Okay.
18 A That's all I recall.
19 Q The sale of crack cocaine, when did that happen?
20 When was the conviction?
21 A 1999. No, I'm sorry -- yes, 1999.
22 Q 1999?
23 A Yeah, January of '99.
24 Q And what about the resisting without violence?
25 A I can't recall about that one.

1 Q That sale of crack cocaine, that January '99, was
2 that the only one?

3 A Since then I've been on a lot of serious drugs,
4 so I couldn't -- I think so. There might be other ones,
5 too.

6 Q There may be other ones?

7 A Yeah. I would have to check back.

8 Q Now, you say you've been on a lot of serious
9 drugs. Was that since this conviction or before the
10 conviction?

11 A Before '99.

12 Q Before the '99 con- --

13 A Before I caught that charge, yeah. I wasn't on
14 like crack cocaine or heroin or nothing, it was just
15 marijuana.

16 Q It was only marijuana?

17 A Yeah. Marijuana. No crack, no cocaine, no
18 heroin, nothing like that.

19 Q Have you -- have you used any --

20 A I don't do drugs.

21 Q Excuse me?

22 A I don't do drugs.

23 Q You don't do drugs. So nothing since the
24 January '99 conviction?

25 A Uh-huh.

9
Exhibit #100

1 MS. PERRY: Is that a yes?

2 THE WITNESS: Yes.

3 A Yes, sir. I'm thinking you're supposed to ask me
4 questions about what's his name, Percy Stucks.

5 MS. PERRY: He's going to get to that. He's just
6 building up to that, I think.

7 THE WITNESS: Okay.

8 Q Did you know any of Mr. Stucks's family members?

9 A No. Not personally, no.

10 Q Did you ever meet any of them?

11 ~~A~~ A No. I -- I think he said he had a brother, an
12 older brother.

13 Q But you never met any of them?

14 A Never laid eyes on none of his family.

15 Q Were you working during the time of this
16 incident?

17 A Yes, sir.

18 ~~A~~ Q Where were you working?

19 ~~A~~ A Waste Pro.

20 Q Waste Pro?

21 A Yeah.

22 ~~A~~ Q You have an address for them?

23 A Not offhand, no, sir.

24 Q You still employed there?

25 A Yes, sir.

1 Q When did you start with them?

2 A 2006.

3 Q So 2006 to the present?

4 A Yes.

5 Q And you worked there consistently or did you take
6 any time off?

7 A No. Vacation, days off, just regular job.

8 Q Do you know if Mr. Percy Stucks was employed
9 during this time?

10 A What he told me.

11 Q What he told you?

12 A Uh-huh.

13 Q That means yes or no?

14 ~~A~~ Yes. What I'm saying is that's what he told me,
15 that he was working. I don't know that, whether it was
16 true or not.

17 Q Do you know where he was working?

18 A No, sir. He said communications or something.

19 Something about sitting down, answering phones.

20 Q But you don't know where it was?

21 A No, sir.

22 Q Okay.

23 A If he told me, I don't remember.

24 Q Mr. Small, are you married?

25 A No, sir.

9
Exhibit #10

1 Q Have you ever been married?
2 A No, sir.
3 Q Do you have children?
4 A No, sir.
5 Q Did you know the alleged victim in this case?
6 A Did I know her?
7 Q Yes, sir.
8 A Like personally?
9 Q Yes.
10 A No. I never -- no.
11 Q Did you know her -- did you have any kind of
12 relationship with her? Have you ever, ever talked with her
13 before?
14 A No, sir. No, sir. You couldn't talk to her.
15 Q You could not talk to her?
16 A No.
17 Q Why could you not talk to her?
18 A I told you he was a strange man, he -- I guess he
19 didn't want anybody talking to her or like really being
20 around her. We had to share a kitchen and a bathroom, so
21 once they outside they room, we really don't go around
22 there, so we never really -- I never really said two, three
23 words to her.
24 Q Did she ever talk to you?
25 A No, sir.

1 Q Did you ever initiate any contact with any
2 authorities about this matter?

3 A Nobody ain't talk to me, is that what you're
4 asking me?

5 Q That may be a bad question. Did you ever start a
6 conversation with the authorities, whether it was by phone,
7 e-mail --

8 A Did I talk to the police officer?

9 Q Yes. Did you ever pick up the phone and call
10 anybody? Did you start the conversation, initiate contact
11 with anyone -- with any authorities?

12 A No, not until they came and talked to me
13 recently, the homicide detectives.

14 Q So they initiated the conversation, you didn't
15 initiate it?

16 A No, I didn't reach out -- I didn't reach out to
17 them.

18 Q You didn't reach out to them?

19 A Yeah. I'm supposed to tell the truth, right?

20 Q I'm just making sure you understand my question,
21 because if you don't -- do you understand what I mean by
22 the word initiate?

23 A Did I call them?

24 Q Correct.

25 A They called me -- or they came and seen me.

9
Exhibit #8

1 Q They came to see you?

2 A Yes, sir.

3 Q Have you discussed this case with anyone other

4 than the state attorney or any state attorney?

5 A (Shakes head.)

6 Q You have to answer out loud.

7 A No, sir.

8 Q So only the state attorney and the authorities?

9 A Yes, sir.

10 Q You ever provide the victim with drugs?

11 A No. That's what he's saying?

12 Q Excuse me?

13 A That's what he said?

14 Q I'm just asking questions.

15 A Oh. Yes, sir.

16 Q Were you ever romantically involved with the

17 victim?

18 A No, sir. No, sir.

19 Q The young lady that was living with you that you

20 described as five-six to five-seven, 25-30,

21 African-American, were you ever romantically involved with

22 her?

23 A (Shakes head.)

24 Q You have to answer out loud?

25 A No, sir. Everyone was just roommates.

1 MR. BARNEY: Give me about two seconds. I think
2 I'm done.

3 ~~X~~ THE WITNESS: Okay. Why he ain't go to jail yet?

4 MS. PERRY: I'll talk to you later.

5 THE WITNESS: Whatever I say, you typing up? Oh,
6 sorry.

7 MR. BARNEY: Can I see that report one more time?

8 MS. PERRY: Yes, sir. Uh-huh. I was going to
9 ask some follow-up based on that.

10 THE WITNESS: I'm going to --

11 MS. PERRY: Off-the-record.

12 (Off-the-record discussion.)

13 MS. PERRY: Back on the record.

14 BY MR. BARNEY:

15 Q Just one more question. Mr. Small, do you have a
16 nickname or a street name?

17 A (Shakes head.)

18 Q You have to answer out loud.

19 ~~X~~ A Do I have a nickname or a street name?

20 Q Yes, sir.

21 ~~X~~ A No, sir.

22 Q Do you know who Big Dog is?

23 ~~X~~ A No, sir. I couldn't tell you.

24 Q Have you ever heard anyone refer to anyone as Big
25 Dog?

9
Exhibit #

1 A There wasn't nobody named Big Dog that stay in
2 our household.

3 Q So the answer is no, you've never heard of anyone
4 refer to anyone as Big Dog?

5 A That's a common -- you know, a common name in my
6 neighborhood. I couldn't tell you, no.

7 Q So the answer is no?

8 A No.

9 Q Has anyone ever referred to you as Big Dog?

10 A They always -- they always call me by my name.

11 Q Always by your name?

12 A Uh-huh.

13 MR. BARNEY: I don't have any further questions
14 at this time.

15 MS. PERRY: I have a few.

16 CROSS EXAMINATION

17 BY MS. PERRY:

18 Q So Pastor Alphonse Walker, you know him, correct?

19 A Uh-huh. Yes, ma'am.

20 Q Is that your landlord?

21 A No. He used to be a manager over the house.

22 Q So he's the manager, not the landlord, so to
23 speak?

24 A He's not the manager no more.

25 Q He was at the time, though?

1 A At the time he was.

2 Q Would you know if he called you Big Dog? Do you
3 know if that was a nickname he had for you?

4 A (Shakes head.)

5 Q You don't know? Just answer it out loud.

6 A No. No, ma'am.

7 Q And -- but you know Pastor Walker, correct?

8 A Yes.

9 Q I'm just going to clarify a couple of questions
10 that were asked kind of in a roundabout way before. You
11 had text message conversations with Mr. Stucks; is that
12 right?

13 A Yes, ma'am.

14 Q Did you also at some other time talk to
15 Mr. Stucks about what happened between him and the girl,
16 the victim, in the house?

17 A Yes, ma'am.

18 Q Do you recall what he told you?

19 A In -- personally -- like in the house?

20 Q Yes. To the best of your recollection, do you
21 recall Mr. Stucks telling you -- actually, do you recall
22 seeing Mr. Stucks cleaning up the blood in the house?

23 A I seen the blood in the -- in the room.

24 Q You saw the blood in the bedroom?

25 A Uh-huh.

9
Exhibit #

1 Q Is that a yes?

2 A Yes.

3 Q And did you at some point see him there cleaning
4 it up?

5 A When I woke up early that morning around about
6 three --

7 Q In the morning?

8 A -- four in the morning, I witnessed the blood
9 with my eyes.

10 Q Where did you see the blood?

11 A In his room.

12 Q Did you see it all over the room? Well, where
13 did you see the blood in the room?

14 A On the floor.

15 Q On the floor. Did you see Mr. Stucks there at
16 the time?

17 A I seen blood, I seen -- I seen brains. There was
18 a lot of stuff on the floor.

19 Q You saw brains on the floor?

20 A Yeah. And that's when I called the manager.

21 Q You called Pastor Walker?

22 A Yeah. And that's when he told me, oh, he
23 probably killed that girl, because he said he walked in the
24 room before I did, and she -- she was laying on the floor.

25 Q That's what Pastor Walker told you?

1 ~~A~~ A Yeah. She was laying on the floor.

2 MR. BARNEY: Object as to hearsay.

3 Q Did --

4 A She wasn't moving, and he felt like she was drunk
5 over -- you know, drinking and stuff.

6 Q Because she wasn't moving?

7 A Yeah. Like she was laying on the floor drunk.

8 Q Did you at some point after that talk to Percy?

9 A When?

10 Q Did y'all ever have a conversation where he told
11 you that he shot her in the head one time? That it was an
12 accident, that he accidentally shot her in the head one
13 time?

14 MR. BARNEY: Object to form.

15 ~~A~~ A I'm going to tell the truth.

16 Q Yes. I want the truth.

17 ~~A~~ A Because I'm trying to remember --

18 Q I understand.

19 ~~A~~ A -- you know what I'm saying, what he told me. He
20 was being real open. I don't remember what he actually
21 told me. I think I asked him what happened, I asked him,
22 and he said he got upset because she wanted to leave.

23 Q He got upset because she wanted to leave; is that
24 what you said?

25 ~~A~~ A That's what he told me.

9
Exhibit # 10

1 Q Okay.

2 ~~A~~ He told me he got upset because she wanted to see
3 other people.

4 Q And then what happened?

5 A I asked him did he kill her.

6 Q And what did he say?

7 A I'm going to tell the truth.

8 Q That's fine.

9 A It happened so long ago, and I'm trying to kind
10 of like -- it's coming back to me.

11 Q I promise I want the truth, too.

12 A I asked him was it an accident.

13 Q Do you remember what he said?

14 ~~A~~ He actually said he shot her in the head.

15 Q He didn't actually say that?

16 ~~A~~ He just said it was an accident. He agreed when
17 I asked him, was it an accident.

18 Q Okay.

19 ~~A~~ And he agreed with me, and I told him, you know
20 how relationships is, sometimes they don't work out.

21 Q Do you recall any other part of that
22 conversation? Was there anything else?

23 A About the cleaning of the blood, yeah.

24 Q What did he say about that? Or what did you say?

25 ~~A~~ I told him we wasn't going to let him clean the

1 blood up, because the manager, he wanted to make sure y'all
2 see everything --

3 Q Right.

4 A -- what was going on. He basically post a -- he
5 post an eviction, you know, trying -- told him he couldn't
6 come back to the house, and he will have his things -- you
7 know, his personal things somewhere else at another
8 property. So at three o'clock that night, he came in
9 unpronounced, and that's when he cleaned -- he started
10 cleaning up. He cleaned -- he -- when I woke up, he
11 already cleaned the blood up. He had blood, boots -- we
12 had a -- we had a carpet that go halfway through the house,
13 and I don't know -- I don't know -- oh, when he killed her
14 that night, he went across in this field across from us and
15 he shot in the air a couple times. I don't know why, but
16 that's what he did.

17 Q How did you know that?

18 A Someone seen him do it.

19 Q You heard that from somebody or did you --

20 A A neighbor next door.

21 Q A neighbor. And you mentioned the carpet in the
22 hallway, but you didn't -- was it missing after the night?

23 A Yeah. When I noticed the carpet was missing --
24 he asked me -- he drugged it up out of there, because you
25 see blood marks on the floor. So when I realized the

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Exhibit #

1 carpet was gone and I was standing at the front door, the
2 door frame at the bottom, you could see blood, like
3 somebody been dragging something and the house smelled like
4 bleach.

5 Q Strong bleach odor?

~~6~~ A Yeah. But the blood in the room was still in
7 there. He wanted us to let him clean the blood up.

8 Q And you stopped him?

9 A We didn't let him.

10 Q You didn't let him?

11 A He came in the house unpronounced, and we didn't
12 know he was in there and that's when we went -- I got up
13 and I see him in the room, and everything was smelling like
14 bleach. He had big boots, big -- big boots -- shoes on and
15 rubber gloves.

16 ~~Q~~ What kind of rubber gloves, like doctor gloves
17 or --

18 A Thick rubber gloves that you clean toilets.

19 Q Like the yellow --

20 ~~A~~ Yeah. All the way up, and that's when I got
21 frightened. I told him he had to go. Yeah. And then
22 that's when we had the conversations on the -- on the text.

23 Q Okay.

24 A He was telling us not to call the police and all
25 that stuff.

1 Q When you went --

2 MR. BARNEY: I'm sorry, I didn't hear that last
3 part.

4 THE WITNESS: He was telling -- trying to
5 convince me to convince the manager, the preacher, not
6 to call the police at the time.

7 BY MS. PERRY:

8 Q Now, you mentioned before you called him a
9 strange -- a strange cat? I forgot how you --

10 A Strange man, dude, whatever.

11 Q Strange man. And you mentioned that he didn't
12 like y'all talking to the girl?

13 A No. We never said nothing to the girl. It's the
14 -- how am I going to say it? The -- the tension he used to
15 bring when we used to walk in the kitchen and she in the
16 kitchen with him, you know.

17 Q Describe that for me, if you could. You said
18 there was tension whenever you came -- what did it make you
19 feel?

20 A It made me and the couple in there feel
21 uncomfortable. Okay. Like when they in the kitchen or the
22 bathroom, we give them their space, because, you know, he
23 probably like protective. Like really into her like that,
24 I guess.

25 Q He probably what?

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Exhibit #

1 A Like was really into her like that. He didn't
2 want nobody around her.

3 Q He didn't want anybody talking to her or around
4 her, is that was the vibe you got?

5 A Yeah. So we just give him and her they little
6 space.

7 MS. PERRY: All right. I don't have any -- oh,
8 one more question.

9 ~~Q You were arrested recently -- while this -- you~~
10 ~~don't know how long this case has been pending, I don't~~
11 ~~think, but were you arrested recently?~~

12 A Uh-huh.

13 ~~Q He asked you about convictions, but let's talk~~
14 ~~about just arrests. What were you arrested for recently?~~
15 ~~If you can recall. Do you recall being arrested for~~
16 ~~possession of a firearm by a convicted felon or -- I forgot~~
17 ~~what the charges were.~~

18 A That's what they accused me of, yeah.

19 Q Do you recall -- were those charges, are they
20 still pending or dropped?

21 A I think they're dismissed.

22 Q And have you and I ever talked about those
23 charges prior to today and the fact that this was going to
24 come up in the deposition?

25 A What was fixing to come up in the deposition?

1 Q This -- the fact that I told you it was going to
2 come up. We had a conversation before coming in here
3 today.

4 A About the charges?

5 Q Yeah. They're going to ask you about convictions
6 and charges.

7 A Yes.

8 Q Other than that conversation, have you and I ever
9 talked about your charges?

10 A Unh-unh.

11 Q Is that a no?

12 A No, ma'am.

13 MS. PERRY: All right. I have no further
14 questions.

15 MR. BARNEY: Just a few follow-ups.

16 REDIRECT EXAMINATION

17 BY MR. BARNEY:

18 Q Counsel asked you whether or not he wanted you to
19 talk to the alleged victim. You said the vibe was that he
20 didn't want you to talk with her?

21 A He didn't want nobody to conversate with her.

22 ~~Q~~ Did he ever tell you not to talk with her?

23 ~~A~~ No.

24 Q You mentioned that when you woke up he had
25 already cleaned the blood. Did you see him cleaning blood?

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Exhibit #10
T

1 A To tell you the truth, he was just wrapping it
2 up.

3 Q So when you woke up you saw him wrapping up
4 blood?

5 A He was just finishing it up.

6 Q Tell me what you saw.

7 A The very first time, when I opened the door?

8 Q No. When you woke --

9 A When I seen him at that door when I woke up, and
10 he ain't supposed to be in the house?

11 Q Tell me what you saw when you woke up.

12 A Him in the room. I heard something, and the room
13 where the victim supposed to got murdered in it, he was in
14 there with big boots and gloves. The reason he couldn't
15 clean everything up, because we got him -- we told him to
16 leave.

17 Q So just --

18 A There was blood in the house, correct?

19 MS. PERRY: Just --

20 A I mean --

21 Q I just want to know what you observed when you
22 woke up.

23 A I walked past the room, went in the bathroom,
24 came out, I heard something in the victim room and he was
25 in there.

1 Q So you heard something in there and you saw him.
2 in there when --

3 A When he opened the door.

4 Q Let me complete the question. You heard someone
5 in there, and you saw him in there with boots and gloves?

6 A Yeah.

7 Q You also mentioned that --

8 A The reason they had blood --

9 Q Wait a minute.

10 A We told him to leave, he couldn't really clean up
11 everything. He cleaned up probably about 95 percent of
12 that stuff, man, and there was still stuff left over on his
13 boots and stuff like that. That's why he -- we told him he
14 had to go. It's not happening. And that's why they seen
15 boot marks.

16 Q Before you go, let me say this, when we go back
17 later to read this transcript, it's going to be difficult
18 for her if we're talking all over each other.

19 A Oh, okay.

20 Q That's why I want to complete the question --

21 A Complete the question.

22 Q -- and then let you answer.

23 A All right.

24 X Q You mentioned he went across the street, and I
25 think you indicated he shot in the air.

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Exhibit #

1 ~~A~~ A Uh-huh.

2 Q You didn't see that, did you?

3 A No, sir.

4 Q Counsel asked you several questions and I lost
5 count of the number of times you said I think, I think,
6 think.

7 A Think what?

8 Q So my question -- she was asking you about what
9 happened, and you said, I'm going to tell the truth, and
10 then you said, I think, so let me just ask you this
11 question, by your own statements since it was a long time
12 ago, are you having any problems at all recalling what
13 happened, recalling any facts?

14 A Unh-unh. It come back to my remembrance. I got
15 it now.

16 Q You have it now?

17 A Yeah.

18 Q When you say you have it now, was there any time
19 you didn't have it?

20 A I had it from the beginning, but when she was
21 asking me questions -- whatever she asked me, I was for
22 real, 100 percent sure that's what we talked about, and
23 that's what I seen.

24 Q And one final question, when was the -- are you
25 under any kind of medication today that would have impaired

1 your judgment, any kind of --

2 A (Shakes head.)

3 Q You have to answer out loud.

4 A No, sir.

5 Q Are you on any kind of prescription medication?

6 A No, sir.

7 Q Have you had any kind of -- or ingested any kind
8 of drugs -- street drugs, marijuana, meth, crack cocaine,
9 anything?

10 A No, sir.

11 MR. BARNEY: I don't have any other questions.

12 MS. PERRY: One more question based on those
13 questions.

14 RECROSS EXAMINATION

15 BY MS. PERRY:

16 Q We do need to ask you, too, have you been
17 promised anything or coerced or been threatened in any way
18 to give any sort of statement today?

19 A No, sir -- no, ma'am.

20 MR. BARNEY: And that's by Counsel or anyone.

21 THE WITNESS: Excuse me?

22 MR. BARNEY: Has anyone made any promises to you
23 to give testimony here today?

24 THE WITNESS: No, sir.

25 MR. BARNEY: And one final note on the -- we were

Exhibit #9
T

1 talking about your ID. Would you be able to provide
2 that to Counsel?

3 THE WITNESS: I can fax it.

4 MS. PERRY: Yeah. We can do that. I have no
5 further questions.

6 THE WITNESS: Okay.

7 MS. PERRY: Would you like to read or waive?

8 THE WITNESS: Waive that.

9 (Witness excused.)

10 (Deposition concluded at 4:05 p.m.)

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1 C E R T I F I C A T E

2 STATE OF FLORIDA)

3 COUNTY OF DUVAL)

4 I, Kelly C. Foster, Court Reporter and Notary Public
5 in and for the State of Florida at Large, do hereby certify
6 that I was authorized to and did stenographically report
7 the deposition of **JAMES SMALL**; that a review of the
8 transcript was not requested; and that the transcript is a
9 true and correct record of my stenographic notes.

10 I further certify that I am not a relative,
11 employee, attorney or counsel of any of the parties, nor am
12 I a relative or employee of any of the parties' attorney or
13 counsel connected with the action, nor am I financially
14 interested in the action.

15

16 DATED this 18th day of July, 2018.

17

18 /S/ KELLY C. FOSTER
19 KELLY C. FOSTER
20 Court Reporter

21

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23

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Exhibit #10

1 C E R T I F I C A T E O F O A T H

2 STATE OF FLORIDA)

3 COUNTY OF DUVAL)

4 I, the undersigned authority, certify that **JAMES**
5 **SMALL** personally appeared before me and was duly sworn.6 WITNESS my hand and official seal this
7 18th day of July, 2018.

8

9

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12

/S/ KELLY C. FOSTER13 KELLY C. FOSTER
Notary Public, State of Florida

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1 IN THE CIRCUIT COURT, FOURTH
2 JUDICIAL CIRCUIT, IN AND FOR DUVAL
3 COUNTY, FLORIDA

4 CASE NO.: 16-2016-CF-006391

5 DIVISION: CR-B

6

7 STATE OF FLORIDA

8 -vs-

9 PERCY STUCKS,

10 Defendant.

11

12 STATE OF FLORIDA)

13 COUNTY OF DUVAL)

14

15 Deposition of SHANNON MURPHY and THOMAS PULLEY, at the
16 State Attorney's Office, Ed Austin Building, 311 West Monroe
17 Street, Jacksonville, Florida 32202, on April 20, 2017, at
18 3:00 p.m., before Angela Sass, Florida Professional Reporter
19 and Notary Public in and for the State of Florida at Large.

20

21

22

23

24 OFFICIAL REPORTERS, INC.
25 421 WEST CHURCH STREET, SUITE 701
 JACKSONVILLE, FL 32202
 (904) 358-2090

10
Exhibit #5

1 APPEARANCES:

2 ERIN PERRY, Esquire
3 Assistant State Attorney
311 West Monroe Street
Jacksonville, Florida 32202

4 Appearng on behalf of the State of Florida

5 DEBRA BILLARD, Esquire
6 Assistant Public Defender
407 North Laura Street
Jacksonville, Florida 32202

8 Appearng on behalf of the Defendant

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Exhibit
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I N D E X

2

3 WITNESS:

PAGE

4 SHANNON MURPHY

5 DIRECT EXAMINATION BY MS. BILLARD

4

6 CROSS-EXAMINATION BY MS. PERRY

9

7 THOMAS PULLEY

8 DIRECT EXAMINATION BY MS. BILLARD

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N O E X H I B I T S

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Exhibit # 10

1 Q Okay. Ms. Murphy, my name is Debra Billard. I
2 was appointed to represent Percy Stucks. And the reason
3 we're taking your deposition is you were listed as a witness
4 on discovery. And it was my understanding that there were
5 emails exchanged between you and Mr. Stucks, and then you
6 advised before we started that he actually worked for the VA
7 for a short time?

8 A Correct.

9 Q Could you just tell me about your contacts with
10 him and your knowledge of him and his case?

11 A Sure. He was what we call a work-study. So he
12 was actually in the voc rehab program, going to school.

13 So what they can do while they're going to
14 school -- if they want to get some job experience, we'll let
15 them do what's called a work-study program.

16 So he worked for us, I want to say, for about six
17 months. He did just admin work up front: answered the phone,
18 met veterans when they came in, would take them back to their
19 counselors, general filings, just admin work.

20 Q And did you have a personal relationship with him?

21 A A professional relationship with him.

22 Q What kind of a worker was he? Was he good?

23 A He was great. We -- he was always on time. He
24 was extremely courteous. He showed up for work when he was
25 asked to. He was pleasant when he answered the phone. He

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Exhibit #10

1 (The deposition began at 3:15 p.m.)

2 SHANNON MURPHY,

3 having been produced and first duly sworn as a witness, was
4 examined and testified as follows:

5 THE WITNESS: Yes.

6 DIRECT EXAMINATION

7 BY MS. BILLARD:

8 Q Can you please state your full name?

9 A Shannon Lynn Murphy.

10 Q And where are you employed, Ms. Murphy?

11 A The Department of Veterans Affairs.

12 Q How long have you worked there?

13 A Since 2004.

14 Q And what is your job title?

15 A I'm the supervisory vocational rehabilitation
16 counselor.

17 Q And what exactly do you do on a day-to-day basis?

18 A We have a staff of 12 counselors in the office, so
19 I manage them. I also manage our Gainesville and Tallahassee
20 voc rehab offices, and that would also include management of
21 the front office staff.

22 Q And where is your office in Jacksonville located?

23 A It's 7825 Baymeadows Way.

24 Q Okay. And what is your date of birth?

25 A 5/27/1970.

EXhibit # 18

1 was pleasant to people up front. No problems. No problems
2 with him whatsoever.

3 Q Did you ever have any conversations with him about
4 his personal life or his girlfriend or anything like that?

5 A I did not, no. I do know that his voc rehab
6 counselor, who is the one that the emails were given to, did
7 have a couple of those conversations.

8 Q What is that person's name?

9 A Her name is Amanda Hart, H-a-r-t.

10 Q And does she still work there?

11 A She does.

12 Q Okay. Good.

13 Now, was he receiving disability? Do you know?

14 A In order to be -- I cannot speak to that. But in
15 order to be in the voc rehab program, he has to have been
16 given a disability rating by the Department of Veterans.

17 Q And can you just explain what -- is it like a
18 percentage? How does the disability rating work?

19 A So what they'll do is they'll put in -- and I'm
20 not a rater. I don't work on that side. But my general
21 knowledge of this is that the veteran will put in a claim and
22 put in medical documentation to support that claim. And
23 depending on what disabilities they're claiming -- it could
24 be anything. It could be mental health, it could be
25 physical, it could be loss of limb, any of those things --

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Exhibit # 10

1 then each of those disabilities are granted a percentage
2 depending on their severity, and then they're paid on that
3 percentage. So he could have several disabilities; he could
4 have one. But in order to be part of the voc rehab program,
5 he has to have been given at least a 10 percent disability.

6 Q Okay. Do you know off the top of your head what
7 the time period was that he worked for your office? And if
8 you don't, that's fine.

9 A Well, I know when this happened, he was still
10 employed with us. Because he all of the sudden did not show
11 up to work. So I believe that was in June of last year, so
12 he was still with us in June. I believe it was June. It
13 might have been July. But I think that was the time frame.

14 Why the emails were released was because they were
15 a little bit odd, the emails that were exchanged between him
16 and his counselor in the couple of weeks leading up to -- to
17 the incident -- the murder. I don't know what you guys call
18 it.

19 That's why she brought them to my attention, and I
20 thought that we probably needed to send those up to general
21 counsel and get those released.

22 Q Do you recall the content of the emails or what
23 was odd about them?

24 A He just -- he talked a good bit -- and, again, not
25 having them in front of me, I don't want to -- this is just

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Exhibit

1 carpet and threw her in the garbage and then went to Georgia.

2 That's kind of the gist of what we know.

3 Q Okay. So what was on the news, basically, is what
4 you know?

5 A Basically, what was on the news is all we know.

6 So -- but, again, I do know that Belen had spoken
7 to him about his relationship with her.

8 Q You said "Belen." Is that Amanda?

9 A Belen is Amanda. I'm sorry. She goes by Belen.

10 THE COURT REPORTER: Can you spell that for me?

11 THE WITNESS: B-e-l-e-n.

12 THE COURT REPORTER: B-e-l-e-n. Thank you.

13 THE WITNESS: And that's what she goes by. She
14 doesn't go by Amanda, but her real name is Amanda -- or
15 her given name.

16 MS. PERRY: I have no further questions.

17 Would you like to read or waive?

18 We can go off the record. I didn't explain this
19 to her yet.

20 (An off-the-record conversation was had.)

21 MS. PERRY: Would you like to read or waive?

22 THE WITNESS: I can waive that.

23 (Witness excused.)

24 (The deposition concluded at 3:23 p.m.)

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Exhibit #12