

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

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: STATE OF MARYLAND :
: :
: v. : Criminal No. 102676
: :
: JOHN ALLEN MUHAMMAD, :
: :
: Defendant. :
: :
-----x

Rockville, Maryland

May 5, 2006

WHEREUPON, the proceedings in the above-entitled
matter commenced

BEFORE: THE HONORABLE JAMES L. RYAN, JUDGE

APPEARANCES:

FOR THE STATE:

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VIVEK CHOPRA, Esq.
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FOR THE DEFENDANT:

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I N D E X

| <u>WITNESSES</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|----------------------------|---------------|--------------|-----------------|----------------|
| <u>For the State:</u> | | | | |
| Ola Martin | 7 | -- | -- | -- |
| Kimberly Sadelson | 13 | 21 | -- | -- |
| Eber Albanez | 23 | 30 | -- | -- |
| Officer Alan Felsen | 32 | 43 | -- | -- |
| Brock Cline | 46 | -- | -- | -- |
| David McGill | 57 | 72 | -- | -- |
| Det. Mark Poole | 78 | 88 | -- | -- |
| Det. Sean Thielke | 91 | 99 | -- | -- |
| Victoria Snider | 100 | -- | -- | -- |
| Gary Huss | 108 | 119 | 121 | 121 |
| Ernest Parker | 124 | 134 | 136 | -- |
| Cpl. Augustine Anastasi | 136 | 148 | -- | -- |
| Dennis Roach | 150 | 160 | 161 | -- |
| Kimberly Clements | 162 | 178 | -- | -- |
| Portia Burch | 183 | 194 | 196 | 197 |

For the Defendant:

(None)

| <u>EXHIBITS</u> | <u>MARKED</u> | <u>RECEIVED</u> |
|-----------------------|---------------|-----------------|
| <u>For the State:</u> | | |
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1 Thanks.

2 THE WITNESS: Thanks.

3 THE COURT: Thanks.

4 MS. WINFREE: The State calls Kimberly Clements.

5 THE CLERK: Please raise your right hand.

6 KIMBERLY CLEMENTS

7 called as a witness on behalf of the State of Maryland, having
8 been first duly sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. WINFREE:

11 Q Good afternoon.

12 A Good afternoon.

13 Q Could you please identify yourself and spell both
14 your first and last names?

15 A Sure. My name is Kimberly Clements, K-I-M-B-E-R-L-Y,
16 Clements is C-L-E-M-E-N-T-S.

17 Q And Clements is your married name? Is that correct?

18 A It is.

19 Q And what was your maiden name?

20 A My maiden name was Dunn, D-U-N-N.

21 Q And how are you employed, Ms. Clements?

22 A I'm a forensic specialist with Montgomery County
23 Police.

24 Q How long have you had that job?

25 A For five years.

1 Q And can you tell the jury what you do in that
2 capacity?

3 A Our job is to respond to crime scenes as well as
4 process evidence that is sent in to us. Make photo arrays and
5 develop latent prints, that sort of thing.

6 Q Do you have any specialized training?

7 A I do. I have, sorry, my educational background is in
8 physics and biology. I have a bachelors degree in that. And I
9 have a master's in forensic molecular biology. And I also have
10 a, taken a number of training, specialized training classes in
11 various aspects of forensic science.

12 Q I'm going to direct your attention to Thursday,
13 October the 3rd of 2002. Were you asked to respond to a crime
14 scene at Fitzgerald Auto Mall in Rockville, Maryland?

15 A Yes, I was.

16 Q Do you remember about what time you got there?

17 A It was, I believe it was about 9:21 in the morning.

18 Q And what did you observe when you got there?

19 A There was an area of the street had been taped off
20 with yellow crime scene tape, a push-style lawnmower had run
21 off the curb, at a location there on Huff Court, which is the
22 road that runs up behind Fitzgerald Auto Mall. And there was
23 also a blood trail that led down from the lawnmower area down
24 the sidewalk and up into the rear parking lot of the auto
25 dealership.

1 Q Now, was the victim still on the scene when you
2 arrived?

3 A No, he had been transported.

4 Q And what did you do when you got there?

5 A The first aspect of our job is to document everything
6 as we find it, so I photographed the scene as I found it.

7 Q And then what did you do?

8 A I also ran a videotape of the scene. And then I
9 called out our collision reconstruction unit to assist me in
10 preparing a sketch of the scene as we found it. After that, I
11 proceeded to search the scene.

12 Q And what were you searching for?

13 A Any evidence of the injury that may have, or the
14 weapon or what may have caused the injury to this gentleman;
15 any evidence that might have been left by the suspect. Just
16 anything that could point us in the direction as to what
17 happened.

18 Q Now at this point in time, had you learned how the
19 victim had been injured?

20 A Yes.

21 Q And what did you know at that point, or what had you
22 been told?

23 A Actually, even before I arrived at the scene, when I
24 was sent out, I was told that a man who had been cutting his
25 grass had been shot.

1 Q Had been shot?

2 A Yes.

3 Q And so what specifically were you looking for?

4 A I was looking for any kind of expended rounds from a
5 firearm, any kind of fragments from a bullet that may of, you
6 know, hit somewhere else and fragmented or may have exited the
7 victim's body, or just any, you know, tire marks, shoe
8 impressions, anything that the suspect may have left behind.

9 Q Did you find anything of that sort?

10 A I did collect a number of cigarette butts. I did not
11 find any kind of projectile fragments, any bullet fragments. I
12 did not find any cartridge casings. I did photograph some tire
13 impressions and I picked up just some, you know, miscellaneous
14 items that were in the area that I did not know if they had
15 relevance or not at the time.

16 Q So you collected those in case they might prove
17 relevant in the future?

18 A Yes.

19 Q Now if you would look behind you to State's Exhibit
20 No. 20, and there's a laser pointer there, if you could just
21 show us, just generally circle the areas that you searched.

22 A Okay.

23 Q Do you recognize this by the way?

24 A I do.

25 Q Okay. If you could use that and show us where you

1 were searching.

2 A This cross street here that runs down the center of
3 the diagram is Huff Court and the parking lot also, just kind
4 of above the center of that road is the White Flint parking, I
5 beg your pardon, Fitzgerald Auto Mall parking lot.

6 Q And for the record, you just circled those, all of
7 those aisles of parked cars, between where it says Fitzgerald
8 Auto and Huff Court?

9 A Yes.

10 Q Okay.

11 A There is an entryway into that back parking lot for
12 Fitzgerald that enters on to Huff Court and there's a, a set of
13 gates there. The victim's clothing, which had been cut off by
14 the paramedics, was found in the parking lot up here, the
15 Fitzgerald Auto Mall parking lot. And the blood trail ran, you
16 know, through that gate and down the sidewalk and the lawnmower
17 was, maybe 15 or 20 feet down the sidewalk and just half on and
18 half off the sidewalk. Initially, the scene tape ran from this
19 white building here on Huff Court across the way, and then also
20 across from this building, which I believe is the FDA building
21 across, so it was blocking off most of Huff Court.

22 After I had arrived there, we actually expanded that
23 scene so the entire Huff Court was cut off to through traffic.

24 Q And where did you search for projectiles or shell
25 casings?

1 A The initial report I had been given is that this
2 gentleman was shot in the front. We knew he was, I knew from
3 looking at the evidence that he was facing this way and he
4 actually ran in the direction he was facing.

5 Q Well now, when you say this way, are you talking
6 about --

7 A I'm sorry.

8 Q -- from Huff Court looking towards Nicholson Lane?

9 A Yes. He was on Huff Court and he was looking facing
10 down towards Nicholson Lane, and he, after being hit, he ran in
11 that same direction and up into the parking lot. Because I
12 thought he had been shot from the front initially, I searched
13 the parking lot of the FDA building and also the sidewalks up
14 and down Huff Court.

15 Q And those are the areas that you've indicated that
16 are opposite Fitzgerald Mall on the other side of Huff Court?
17 Is that right?

18 A Yes. I believe that building is the FDA building,
19 down in this bottom right hand corner.

20 Q And you said, did you, you initially searched there
21 because you had heard that he'd been shot in the chest. Did
22 you ultimately get different information?

23 A Yes. After the detective came back from the
24 hospital, I became aware that this gentleman had actually, Mr.
25 Buchanan had been shot in the back, at which point, then I

1 searched, the sidewalks go up and down Huff Court, up to where
2 the mall entrance is and also the parking lot here, which is, I
3 guess, opposite the White Flint Mall.

4 MS. WINFREE: Your Honor, may I approach the witness?

5 THE COURT: Sure.

6 BY MS. WINFREE:

7 Q Ms. Clements, if you would take a look at State's
8 Exhibit No. 23 and tell me if you recognize that?

9 A It's a diagram of the crime scene.

10 Q And does it accurately reflect where the various
11 observations that you made that you've testified about?

12 A It is not to scale, but otherwise, yes, it's
13 accurate.

14 MS. WINFREE: Your Honor, at this time we'd move the
15 admission of Exhibit 23.

16 THE COURT: I'll receive it.

17 UNIDENTIFIED SPEAKER: Excuse me, counsel, what was
18 that exhibit number?

19 MS. WINFREE: I'm sorry. It's 21.

20 (The diagram marked for identification as
21 State's Exhibit No. 21 was received in
22 evidence.)

23 UNIDENTIFIED SPEAKER: 21.

24 MS. WINFREE: I beg your pardon.

25 THE COURT: Thank you, Joe.

1 BY MS. WINFREE:

2 Q I'm going to ask you, if using that laser pointer
3 again, if you can show us where the victim's, I'm sorry, where
4 the lawnmower was when you arrived?

5 A Okay. Here again we're looking at Huff Court with
6 the bottom part of the picture being the White Flint Mall
7 parking lot. The lawnmower was just above the center of the
8 diagram here, along the sidewalk on Huff Court.

9 Q Now, can you see the two, are there two gates, two
10 entrances into the parking lot from Huff Court?

11 A Yes. There are two gates at this entryway here to
12 get into the auto mall parking lot.

13 Q And so is the lawnmower between those two gates?

14 A No, I'm sorry. It is down, further down the sidewalk
15 where these parked cars are located.

16 Q No, but I mean, just for purposes of the record, that
17 area is midway or somewhere between those two gates. Am I
18 making myself clear?

19 A Where the lawnmower was found?

20 Q Yes.

21 A The lawnmower was found on the same sidewalk
22 approaching those two gates.

23 Q Well, there's a gate, there's a gate at the top, is
24 there not?

25 A Yes, where Mr. Buchanan went into the parking lot.

1 Q That would be here --

2 A Yes.

3 Q -- at the top. And there's also a gate down here.

4 Is that correct?

5 A Yes, I'm sorry.

6 Q And I was just trying to indicate that it was at a
7 point between those two gates.

8 A Yes, I'm sorry. I, if I could explain. There is,
9 there are actually a set of gates here to enter that mall, but
10 they were chained shut and the lawnmower was indeed located on
11 the sidewalk between the two sets of gates.

12 Q Now, you indicated that you observed a blood trail.
13 Can you show us, does this diagram show where the trail of
14 blood was?

15 A It does.

16 Q And can you, just using the laser pointer, show us
17 where that was?

18 A Sure. The blood trail started in the same area where
19 the lawnmower was found. There was actually blood found on
20 these vehicles as well. And the trail went just right down the
21 sidewalk up the little elevated road into the parking lot for
22 Fitzgerald and continued up in front of these cars that were
23 parked there to the point where we found Mr. Buchanan had
24 collapsed.

25 THE COURT: You can keep that if you want.

1 MS. WINFREE: Thank you, Your Honor.

2 BY MS. WINFREE:

3 Q Now in any of those areas, did you find any
4 projectiles or fragments or shell casings?

5 A We did not.

6 MS. WINFREE: Your Honor, may I approach the witness?

7 THE COURT: Sure.

8 BY MS. WINFREE:

9 Q I'm going to show you State's Exhibits 23, 24, 25,
10 26, 27, 28, 29, 30, 31, 32 and 33. Now, I believe at this
11 point, State's Exhibits 23 and 33 are already in evidence, but
12 if you would take at those and tell me if you recognize those.

13 A These are all prints of the photographs that morning
14 at the crime scene.

15 MS. WINFREE: Your Honor, at this time, we'd move the
16 admission of Exhibits 24 through 32.

17 THE COURT: All right, ma'am, I'll receive them.

18 (The photographs marked for identification
19 as State's Exhibit Nos. 24 through 32 were
20 received in evidence.)

21 MS. WINFREE: Thank you, Your Honor.

22 BY MS. WINFREE:

23 Q This is Exhibit 23. And what is that?

24 A This is a view looking down the sidewalk on Huff
25 Court towards Nicholson and it shows where we found the

1 lawnmower at rest halfway off the curb.

2 Q This is State's Exhibit 24. What are these, these
3 red things?

4 A These, they actually started out life as soccer
5 cones, but I use them now to mark blood trails or other related
6 patterns of evidence. So what I have done here is marked the
7 blood trail, which I found starting at the lawnmower, or the
8 resting place of the lawnmower, and going up towards the, the
9 gates for the parking lot.

10 Q And these are numbered sequentially?

11 A They are.

12 Q State's Exhibit 25. What does that show?

13 A This is, would be a blood droplet that is close to
14 the, where the lawnmower was found and you can see that there
15 are actually a couple of round blood droplets in the photo.

16 Q And are these approximately here and here?

17 A Yes.

18 Q This is State's Exhibit 26. It's hard to see with
19 this glare. And what is this showing? What's the shadow cast
20 here?

21 A The shadow is cast by a car that's parked on, along
22 the sidewalk there. This picture is depicting, well this is
23 cone number 2, so it is the next series I photographed in that
24 blood trail. And there are actually two linear patterns of
25 blood visible in that picture.

1 Q Is that what we're looking at here?

2 A Yes. And then there's another one at the top to the
3 right of the number 2.

4 Q And this is 27. Does it show that closer up?

5 A Yes.

6 Q The second one that you were just describing?

7 A Yes.

8 Q This is State's Exhibit 28. What was this, Ms.
9 Clements?

10 A This is a vehicle that was parked very close to the
11 area where Mr. Buchanan was actually shot. And what we found
12 on the trunk of this vehicle was what appeared to be a blood
13 handprint.

14 Q And this is State's Exhibit 29. Again, this is a
15 little hard to see, but what are we looking at here?

16 A It is difficult to see because it's a dark, dark
17 colored blood on a dark colored vehicle. But what we're
18 looking at here are a couple areas of blood on the trunk area
19 and the --

20 Q Are those here?

21 A Yes.

22 Q And here?

23 A Yes. The trunk or the quarter panel and the spoiler
24 of the car.

25 Q This is State's Exhibit 30. What are these?

1 A These would be items or the locations three or four
2 in that blood trail and they are indicating some more blood
3 spatter areas within that, that trail.

4 Q And this is State's Exhibit 31. What is this?

5 A These are more blood droplets that are found in that
6 cluster that I have marked number 3.

7 Q State's Exhibit 32.

8 A These are also blood droplets that are marked with
9 the cluster marked number 4.

10 Q And were these on the outside of the fence or on the
11 inside of the fence?

12 A These are on the sidewalk outside the parking lot.

13 Q Did you take photographs with cones of the blood
14 trail that went into the parking lot?

15 A I did. I'm sorry, with cones?

16 Q Yes.

17 A Yes.

18 Q But what we're looking at is on the sidewalk on the
19 outside?

20 A That's correct.

21 Q And this is State's Exhibit 33. What does this
22 depict?

23 A This is where Mr. Buchanan finally collapsed in the
24 parking lot. These are his items of clothing that were cut off
25 him by the paramedics in order to try to save his life.

1 Q Now these items that are marked six and seven, are
2 these items of his clothing?

3 A Yes.

4 Q And did you collect those and take them with you?

5 A I did.

6 Q Now, in an effort to recover any bullet fragment or
7 shell casing, did you use any, any special equipment to try to
8 find anything?

9 A Yes. We did use the metal detector to try to find
10 any sort of metallic fragments that might be a projectile or a
11 shell casing and we didn't find anything.

12 MS. WINFREE: Your Honor, I'm wondering, since it's
13 very difficult to see the colors of this, if we could just pass
14 these around while she's continuing with her testimony.

15 THE COURT: Sure.

16 Ladies and gentlemen, just pass them around to each
17 other and when they get, when they come around back to you,
18 sir, Joanna will come and pick them up.

19 BY MS. WINFREE:

20 Q And do you recall, Ms. Clements, about what time it
21 was that you left the scene?

22 A I believe it was about quarter until 3:00 in the
23 afternoon.

24 Q And did there come a point later in time that you
25 examined the items of clothing that you had collected from the

1 scene?

2 A Yes, I did.

3 Q And could you tell us what were those items. I know
4 we've looked at the numbers 6 and 7, but what were in 6 and 7?
5 What were the types of clothing?

6 A May I refer to my notes?

7 THE COURT: May you what?

8 MS. WINFREE: She wants to refer to her notes, Your
9 Honor.

10 THE COURT: Oh certainly, sure.

11 THE WITNESS: Okay, thank you.

12 The item that was marked item 6 was a pair of shorts
13 with a belt that belonged to the victim. Item 7 were two
14 shirts Mr. Buchanan had on, a t-shirt and, I believe, like a
15 button down shirt over the top of it that morning. And then,
16 Item 8 was his ball cap.

17 BY MS. WINFREE:

18 Q His ball cap?

19 A Yes, ma'am.

20 Q Now you said that, at a later point, you actually
21 looked at his clothing to look for something else?

22 A Yes, I did.

23 Q Do you remember when that was?

24 A I believe, yeah, it, this occurred on a Thursday
25 morning and I know it was the following week, I believe it was

1 maybe five or six days later.

2 Q And what did you find, if anything?

3 A I found a number of very, very small fragments of
4 what I believe to be a bullet or projectile.

5 Q Were they lead fragments from your observation?

6 A I beg your pardon?

7 Q Lead fragments.

8 A They were certainly metallic, yes.

9 Q Metallic.

10 A Yes.

11 Q And what did you do with those items?

12 A I packaged them up so that they could be analyzed by
13 a firearms examiner.

14 Q And when you say you packaged them up, could you
15 describe to the jurors what you did?

16 A Sure. They were just basically removed by hand from
17 the material and placed in appropriate evidence packaging,
18 which in this case was an envelope and sealed up.

19 Q And you said that when you sealed them up, what did
20 you do with them then?

21 A They were, I believe they were turned over to the
22 detectives so they could be taken to the HEF lab for
23 examination.

24 MS. WINFREE: May I approach, Your Honor?

25 THE COURT: Sure.

1 BY MS. WINFREE:

2 Q This is State's Exhibit 37. Do you recognize that?

3 A Yes. This is the packaging that I have labeled the
4 suspected projectile fragments and located from the victim's
5 shirt previously collected as Item CS-07.

6 Q And does it have your married name on there or your
7 maiden name?

8 A This has my maiden name and I.D. number.

9 Q And was it in a sealed condition when after you
10 finished doing your work with it?

11 A After I packaged it, I sealed it with evidence tape
12 and initialed across the tape and also dated when it was
13 sealed.

14 Q Now, was the date, what is the date reflected on
15 there with your initials?

16 A The date reflected is 10-11-02.

17 Q And is that the date, pardon me, that you recovered
18 them from the clothing?

19 A Yes.

20 MS. WINFREE: Your Honor, at this time we move
21 Exhibit 37 into evidence.

22 THE COURT: Yes, ma'am. I'll receive it.

23 (The item marked for identification as
24 State's Exhibit No. 37 was received in
25 evidence.)

1 MS. WINFREE: And I have no further questions for Ms.
2 Clements at this time.

3 THE COURT: All right. Mr. Muhammad.

4 MR. MUHAMMAD: Yes. -

5 CROSS-EXAMINATION

6 BY MR. MUHAMMAD:

7 Q Ma'am, you said you're a crime scene detective?

8 A I'm a forensic specialist.

9 Q Okay, forensic.

10 A Yes, sir.

11 Q And you mentioned something about a video in the
12 area?

13 A Yes.

14 Q You wouldn't happen to have that with you? Would
15 you?

16 A I don't, I don't have possession of any of the
17 evidence from this case, but I do know that it exists.

18 Q Okay. Were you also privy to videos from
19 surveillance cameras in the area?

20 A I did not recover any kind of videos from
21 surveillance cameras in the area.

22 Q Okay. And you also mentioned the cigarette butts.
23 Were they fresh cigarette butts or did they have a name on
24 them?

25 A As you can imagine, the streets are full of old

1 cigarette butts. When we're collecting cigarette, we try to
2 look for ones that don't looked aged by weather conditions or
3 if they've been run over by cars or something like that. So to
4 answer Mr. Muhammad's question, they appeared to be relatively
5 recently deposited. I would say within the past, at least
6 within the past day or two.

7 Q Okay. Can you point to where you found them on that
8 location?

9 A Yes, sir.

10 Q Please.

11 THE WITNESS: Actually, Your Honor, it'd be better to
12 use the photo. I don't think that this map shows where I found
13 the --

14 MS. WINFREE: You want the photo or that big diagram?
15 Will this work?

16 THE WITNESS: Either one.

17 MS. WINFREE: Will this work? Do you want that, that
18 aerial behind you? Is that better?

19 THE WITNESS: I think it, I could --

20 MS. WINFREE: Just take a look behind you and see and
21 tell us --

22 THE WITNESS: Sure.

23 MS. WINFREE: -- if that one's going to work better.

24 THE WITNESS: I think the aerial would be a better
25 view. Okay.

1 BY MR. MUHAMMAD:

2 Q Go ahead, ma'am.

3 A Okay. The majority of the cigarette butts were found
4 in the updated parking lot. These were collected when I was
5 searching the area thinking --

6 Q Excuse me, ma'am. I just wanted to know where they
7 are. Can you show me where they are?

8 A Sure. The FDA parking lot where the cigarette butts
9 were found is this area right here, just below the yellow sign
10 that says "Huff Court."

11 Q Okay. Did you find cigarette butts anywhere else?

12 A Yes. There was also a cigarette butt found. I have
13 it listed as on -- Two were found actually on the ground at
14 the southern driveway leading to the back lot of Fitzgerald
15 Automotive.

16 Q Can you point out where that's located, ma'am?

17 A Yes. Those would be the locked gates I referred to.
18 Just here, this southern entrance.

19 Q Okay. Is that area the same area where allegedly Mr.
20 James B., I mean, Buchanan was shot?

21 A He was cutting the grass in that same general area,
22 yes.

23 Q In the same general area?

24 A Uh-huh, yes.

25 Q You wouldn't happen to know the brand of those

ta

1 cigarettes? Would you?

2 A I do have them listed.

3 Q You do?

4 A Yes.

5 Q What's --

6 A All of the, all of the cigarette butts that were
7 collected are listed as Marlboro brand. Some of them had gold
8 print, some of them had green print, and some had blue and gray
9 print.

10 Q Do you have the name designated from where you found
11 them are? Where you found the cigarette butts, do you have
12 them designated, the name of them, where you found them?

13 A I'm sorry. The name of the cigarette butt?

14 Q Yeah. Where they was located.

15 A Yes.

16 Q Okay. Can you tell me the ones that were
17 (unintelligible), by Mr. James Buchanan? The name of that
18 cigarette butt.

19 A Okay. Those are both Marlboro's. One was, one had a
20 tan filter and one was a white filter with green ink.

21 Q Okay. Thank you. One more question, ma'am. To your
22 knowledge, did anyone retrieve any videotaping of the areas,
23 from the buildings and stuff like that?

24 A I don't know.

25 Q Okay. Thank you.

√ Digitally signed by Tina Ammon

DIGITALLY SIGNED CERTIFICATE

DEPOSITION SERVICES, INC. hereby certifies that the foregoing pages represent an accurate transcript of the duplicated electronic sound recording of the proceedings in the Circuit Court for Montgomery County in the matter of:

Criminal No. 102676

STATE OF MARYLAND

v.

JOHN ALLEN MUHAMMAD

By:

Tina Ammon

Tina Ammon
Transcriber

