

1 IN THE CIRCUIT COURT, SEVENTH
2 JUDICIAL CIRCUIT, IN AND FOR
3 FLAGLER COUNTY, FLORIDA

4 CASE NO.: 2018-CF-58

5 STATE OF FLORIDA
6
7 SENTENCE - APPEAL
8 vs.

9 MICHAEL CUMMINGS,
10
11 Defendant.

12 * * * * *

13 TRANSCRIPT OF PROCEEDINGS
14 BEFORE THE HONORABLE TERENCE R. PERKINS,
15 CIRCUIT COURT JUDGE

16 (STENOGRAPHICALLY TRANSCRIBED VIA DIGITAL RECORDING)

17 * * * * *

18 DATE TAKEN: DECEMBER 20, 2019

19 TIME: AUDIO BEGINS AT 8:58 A.M.
20 AUDIO ENDS AT 10:15 A.M.

21 PLACE: KIM C. HAMMOND JUSTICE CENTER
22 1769 EAST MOODY BOULEVARD
23 BUNNELL, FLORIDA

24 STENOGRAPHICALLY
25 TRANSCRIBED BY: DEBBIE A. Siner, RPR,
COURT REPORTER

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34
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1 APPEARANCES:

2
3 MARK JOHNSON, ESQUIRE
4 Assistant State Attorney
5 1769 East Moody Boulevard, Third Floor
6 Bunnell, Florida 32110
7 (386) 313-4300

8 Attorney for State of Florida

9 JOSHUA T. MOSLEY, ESQUIRE
10 Assistant Public Defender
11 1769 East Moody Boulevard, Room 332
12 Bunnell, Florida 32110
13 (386) 313-4545

14 and

15 MATTHEW PHILLIPS, ESQUIRE
16 Assistant Public Defender
17 251 North Ridgewood Avenue
18 Daytona Beach, Florida 32114
19 (386) 239-7730

20 Attorneys for Defendant

21 ALSO PRESENT:

22 MICHAEL CUMMINGS, DEFENDANT
23
24
25

1 C O N T E N T S

2 STATE'S WITNESS:

3 TESTIMONY OF DR. DEANNA OLESKE

4 Direct Examination by Mr. Johnson 10
 5 Cross Examination by Mr. Mosley 35

6 VICTIM IMPACT STATEMENT OF SHANNON MCQUEEN 40

7 VICTIM IMPACT STATEMENT OF VICTORIA MARTIN 44

8 STATEMENT OF THE DEFENDANT 48

9 CLOSING ARGUMENT BY Mr. Johnson 54

10 CLOSING ARGUMENT BY Mr. Mosley 55

11 REBUTTAL ARGUMENT BY Mr. Johnson 57

12 SENTENCE 57

13 CERTIFICATE OF REPORTER 61

14 * * * * *

15 INDEX OF EXHIBITS

16 EXHIBITS IN EVIDENCE

17 State of Florida's Number 1 15

18 State of Florida's Number 2 44

19 State of Florida's Number 3 46

20 State of Florida's Number 4 47

21

22

23

24

25

1 P R O C E E D I N G S

2 (Audio begins a 8:58 a.m.)

3 MR. JOHNSON: Just so you know, Judge, Mr. Mosley
4 just stepped out.

5 MR. PHILLIPS: Yeah. He's going to be right back
6 in just a moment, Your Honor. There is something we can
7 point out to you if you want to go ahead and get
8 started.

9 THE COURT: You want to get started without him?

10 MR. PHILLIPS: Well, it's nothing -- I don't know
11 if Your Honor's had a chance to read the presentence
12 investigation report.

13 THE COURT: I have.

14 MR. PHILLIPS: We just got it this morning.

15 THE COURT: Right. That's why I was giving you
16 extra time.

17 MR. PHILLIPS: Thank you. And there was just one
18 issue, the -- or the main one was the way that
19 Mr. Cummings' prior encounter with law enforcement was
20 described back in 2000. We just wanted to emphasize to
21 you that both offenses there that are listed as taking
22 place in Holly Hill, Florida, it's the same event. It
23 just initially got charged by the Holly Hill Police
24 Department and then it got transferred to federal court
25 and prosecuted in the federal court.

1 THE COURT: Okay.

2 MR. PHILLIPS: So they're kind -- they've kind of
3 been mixed together. And the other is, you know, we
4 had -- we just have the information what Mr. Cummings
5 was able to tell us what he recalled about the
6 investigation and the prosecution and his punishment
7 there of 36 months probation. He doesn't recall
8 anything to do with extortion or threats. And he also
9 doesn't remember anything about carrying a concealed
10 weapon, carrying a concealed firearm. What he does
11 recall is the way that it's noted on the score sheet
12 that's been prepared by Mr. Johnson where it's described
13 as -- I don't want to misstate it, Mr. Mosley --

14 MR. MOSLEY: It's an unlawful use of a two-way
15 communication device, Judge.

16 MR. PHILLIPS: There you go. So we certainly
17 wouldn't want you to somehow impact your decision making
18 here today, first off, that you would think that he got
19 arrested for these offense twice. This was only one
20 case, one prosecution.

21 And, again, we would emphasize what ultimately he,
22 you know, was punished for was this unlawful use of a
23 two-way communication device, and it didn't involve
24 extortion, carrying concealed firearms or weapons or,
25 you know, even the more serious term of drug

1 trafficking.

2 And we'd note that he was ultimately -- the
3 sentence imposed by the federal judge was 36 months
4 probation with 12 months of house arrest; is that how
5 you remember it, Mr. Cummings?

6 THE DEFENDANT: Yes, sir.

7 MR. PHILLIPS: So I think -- Mr. Mosley, I just
8 wanted to get started while you were -- that was the
9 main thing I think we thought was wrong with the PSI.
10 There might have been something else. No.

11 THE COURT: So with regard to the Holly Hill case,
12 the 2000 case, that would have been scored on the score
13 sheet?

14 MR. PHILLIPS: Right. The way it's on the score
15 sheet is reflected correctly.

16 THE COURT: Okay.

17 MR. PHILLIPS: So we don't have a dispute with
18 that.

19 THE COURT: Just want to make sure. So the score
20 is correct?

21 MR. PHILLIPS: Right. It was just more when we
22 were reading the PSI this morning that immediately
23 jumped out to Mr. Cummings like, wait a minute, I don't
24 know anything about a concealed weapon or extortion, you
25 know, this -- you know, the way he's described it to us

1 all along is consistent with the way it's reflected on
2 the score sheet.

3 THE COURT: Okay.

4 MR. PHILLIPS: I just wanted to point that out to
5 Your Honor --

6 THE COURT: Thank you.

7 MR. PHILLIPS: -- so again somehow we're just
8 concerned it might impact your decision making, and we
9 wanted you to have the clear picture of what happened
10 then.

11 THE COURT: Okay. Thank you. Mr. Johnson, you
12 agree?

13 MR. JOHNSON: Well, Your Honor, I have -- I didn't
14 get a copy of the PSI so I didn't get a chance to read
15 that. I can tell you that I've reached out to --

16 THE COURT: Here.

17 MR. JOHNSON: -- Frank Talbot with U.S. Attorney's
18 Office to find out can I get a clarification on the
19 federal case, and the way I put it on the score sheet is
20 the information he communicated to me was basically what
21 the plea was to. So beyond that what the details of
22 that case is I'm not aware, so...

23 THE COURT: Well, I don't -- I don't think that
24 there's any contention by the Defense that you scored it
25 improperly. I think they agree that the score sheet is

1 correct.

2 MR. JOHNSON: So they're an officer of the court,
3 and I'll take them at their word, Your Honor.

4 THE COURT: Okay. I still have access to obviously
5 my password and all of that to Volusia, so, I mean, I
6 can look at the case if it becomes an issue.

7 MR. JOHNSON: Yes, Your Honor. I'm prepared to get
8 started. I don't want to delay the Court.

9 THE COURT: Okay. All right. So give me one
10 second.

11 All right. Lisa, why don't you go ahead and call
12 the case, please.

13 THE CLERK: State of Florida versus Michael
14 Cummings, 18-CF-58.

15 THE COURT: All right. Let me start by having
16 counsel make their appearance on the record.

17 MR. JOHNSON: Mark Johnson, State Attorney's
18 Office.

19 MR. MOSLEY: Josh Mosley and Matthew Phillips on
20 behalf of Mr. Cummings.

21 THE COURT: All right. Good morning. Welcome.

22 MR. MOSLEY: Good morning, sir.

23 MR. PHILLIPS: Good morning, Your Honor.

24 THE COURT: We're here for sentencing, we all
25 agree?

1 MR. MOSLEY: We are prepared.

2 THE COURT: And we've all received, except for
3 Mr. Johnson, I guess, the PSI. And certainly the
4 Defense had an opportunity to review that.

5 MR. MOSLEY: We did. We reviewed it this morning.
6 Thank you.

7 THE COURT: And the score sheet as well?

8 MR. MOSLEY: Yes.

9 THE COURT: And with regard to -- other than the
10 corrections, Mr. Phillips, that you pointed out this
11 morning on the PSI, otherwise correct?

12 MR. MOSLEY: We do not take -- yeah, we don't have
13 an objection or exceptions to anything else other than
14 what we pointed out.

15 THE COURT: All right. And the same on the score
16 sheet, the score is correct?

17 MR. MOSLEY: It does appear to be, yes.

18 THE COURT: Okay. Very good. Thank you.

19 I also want to note for the record Mr. Cummings has
20 joined us here in open court this morning.

21 Good morning, Mr. Cummings.

22 THE DEFENDANT: Good morning.

23 THE COURT: All right. Ready, Mr. Johnson?

24 MR. JOHNSON: Yes, Your Honor. At this time the
25 State calls Dr. Deanna Oleske.

1 THE WITNESS: Good morning.

2 THE CLERK: If you'd raise your right hand.

3 Do you swear or affirm that the testimony you're
4 about to give is the truth, the whole truth, and nothing
5 but the truth so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Thank you.

8 THE COURT: Good morning.

9 THE WITNESS: Good morning.

10 THE COURT: You may proceed.

11 MR. JOHNSON: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. JOHNSON:

14 Q Good morning. Could you please state your name for
15 the record.

16 A My name is Dr. Deanna Oleske.

17 Q And how are you employed?

18 A I'm currently employed as the associate medical
19 examiner for district 23 in St. Augustine, Florida.

20 Q And that office also covers Flagler County; is that
21 correct?

22 A Correct. We cover St. Johns, Flagler, and Putnam
23 Counties.

24 Q How long have you been employed there at the
25 medical examiner's office?

1 A For approximately three years.

2 Q All right. Can you just briefly, very briefly kind
3 of talk about your education and experience as it relates to
4 the field that you currently work in.

5 A Sure. After I obtained my bachelor's degree, I
6 went to a four-year medical school at Wayne State in Detroit.
7 After I went to medical school and became a doctor, I did
8 residency training in Houston in pathology. And after that I
9 did a one-year fellowship in forensic pathology also in
10 Houston. And then I came to Florida.

11 Q Okay. So what are your duties as associate medical
12 examiner there in that office?

13 A My duties as the associate medical examiner in the
14 office is to perform autopsies, write reports, give expert
15 testimony, and attend scenes, and determine jurisdiction on
16 cases.

17 Q Are you a duly licensed physician in the State of
18 Florida?

19 A I am.

20 Q Are you Board certified in any fields?

21 A I am. I'm Board certified in both anatomic
22 pathology, which is a like clinical hospital based pathology,
23 and forensic pathology.

24 Q And approximately how many autopsies have you
25 performed in your career?

1 A Approximately 1500.

2 Q Dr. Oleske, were you working at the medical
3 examiner's office in St. Augustine on January the 11th of
4 2018?

5 A Yes.

6 Q All right. And on that particular date were you
7 notified of a death that had occurred in Flagler County?

8 A Yes.

9 Q And how were you notified of that?

10 A The on-call investigator, Kenneth Moore, gave me a
11 phone call to let me know about the death.

12 Q And once you were notified of this, what did you
13 do?

14 A I briefly discussed it with my chief medical
15 examiner, Dr. Predrag Bulic, and we elected to go down to
16 Flagler to attend the scene for ourselves.

17 Q Okay. You didn't wait for the body to come to you,
18 you actually went to the scene to view the body as it was
19 found?

20 A That is correct.

21 Q All right. And when you spoke to Investigator
22 Moore with your office, what information did you receive
23 concerning the death?

24 A Investigator Moore called me and said that the
25 story that he received prior to coming out was that

1 Ms. Cummings had fallen in the shower and that she had been
2 attempted to be resuscitated and she was now on the bed.
3 When Investigator Moore called me, he expressed to me that
4 this is not consistent with what he is seeing, the story of
5 the fall. And I said at that point I elected to go to
6 Flagler County myself to see.

7 Q Okay. And so you and the chief medical examiner,
8 Dr. Bulic, drove to Flagler County to the scene?

9 A Yes.

10 Q All right. And what did you do when you got there?

11 A When I got to the scene, I went in through the
12 front door, past the kitchen to the front bedroom where
13 Ms. Cummings was faced upright on a mattress in a bedroom. I
14 noticed that there were -- there was a dog and there was a
15 lot of syringe needles, and they were everywhere, and that
16 the carpet was soaking wet.

17 Q And once you entered the home, where did you go?
18 Where did you wind up?

19 A So as I was going down the hallway, I ended up in
20 that front bedroom with Ms. Cummings. And I noted that her
21 hair was wet and that she -- there was some blood on the
22 sheets next to her, and that she had a lot of bruising on
23 her.

24 Q Okay. Were photographs taken as she appeared to
25 you at that particular point in time?

1 A Photographs were taken shortly before that by
2 Investigator Moore.

3 Q Okay. And you've seen those photographs?

4 A Yes.

5 Q And do they appear to be consistent with what you
6 observed at that moment in time?

7 A Correct.

8 Q All right. You also wound up eventually taking --
9 doing the autopsy on Faith Cummings, correct?

10 A Yes.

11 Q All right. And were photographs taken during the
12 autopsy?

13 A Yes.

14 MR. JOHNSON: Your Honor, may I approach the
15 witness?

16 THE COURT: Yes.

17 BY MR. JOHNSON:

18 Q Dr. Oleske, I'm showing you what's been marked for
19 identification purposes as State's Exhibit "A"; can you take
20 a look at that and tell me if you recognize that?

21 A Yes.

22 Q And what are those?

23 A This is a scene photograph of Ms. Cummings at
24 the -- on top of the mattress.

25 Q Okay. And all of the other photographs in that

1 exhibit do you recognize those?

2 A Yes.

3 Q And what are those?

4 A These are photographs that were taken during the
5 autopsy.

6 Q And are these fair and accurate photographs of
7 Faith Cummings as she appeared to you at the scene as well as
8 during the course of your autopsy?

9 A Yes.

10 Q And when did that autopsy take place?

11 A The autopsy took place the next day, January 12th,
12 2018, beginning at 10:05.

13 Q Thank you, ma'am.

14 MR. JOHNSON: Your Honor, at this time I'd offer
15 State's Exhibit "A" into evidence.

16 THE COURT: Any objection?

17 MR. MOSLEY: No. But for clarification I do
18 believe some of the slides were prepared not by Dr.
19 Oleske, but by Anna Cox.

20 THE WITNESS: No.

21 MR. MOSLEY: Okay. All right. Then, no, still no
22 objection.

23 THE COURT: Okay. Be received in as State's
24 Exhibit 1.

25 (State of Florida's Exhibit No. 1 was received into

1 evidence.)

2 MR. JOHNSON: May I begin to publish, Judge?

3 THE COURT: You may.

4 MR. JOHNSON: Thank you.

5 BY MR. JOHNSON:

6 Q All right. Dr. Oleske, I'm showing you what's
7 photograph A on what is now into evidence as State's Exhibit
8 1; can you tell -- can you tell us what we're -- is this
9 Faith Cummings as she appeared to you on that day --

10 A Yes.

11 Q -- at the scene?

12 A Yes.

13 Q So what did you do when you got into the bedroom
14 and you saw Faith Cummings in this condition?

15 A Well, I had -- I donned booties and gloves and I
16 did a physical examination of her. I looked at her hands. I
17 looked and palpated around her scalp because there was blood,
18 I wasn't sure where it was coming from. As I was going --

19 Q What was the purpose of doing that?

20 A I wanted to see -- I wanted to see where the blood
21 was coming from that was on the bed next to her, make sure
22 that there is no other injuries that I can't see through her
23 hair.

24 Q Okay. And did you find any like penetrating head
25 trauma, such as a bullet wound or anything like that?

1 A I found a small laceration and a syringe entangled
2 in her hair.

3 Q Okay. And what did you do with the syringe you
4 found entangled in her hair?

5 A I left it in place until the next day.

6 Q All right. Once you had a chance to get to the
7 scene and view the body in that condition knowing the
8 information that had been given to you before about she had
9 fallen in the shower, did the injuries as they appeared to
10 you at that time appear to be consistent with that story?

11 A No.

12 Q Okay. What -- was the -- was the body of Faith
13 Cummings eventually transported to the medical examiner's
14 office for the -- to perform an autopsy?

15 A Yes. We put brown paper bags on her hands at the
16 scene to ensure that the evidence could be preserved, and she
17 was transported to the medical examiner's office in a locked
18 body transport bag.

19 Q Okay. Let me ask you this: During the course
20 of -- as you kind of began to prep for the autopsy, did you
21 become aware of any medical conditions that Faith Cummings
22 might have had?

23 A I became aware that she had a specific disease
24 called Moyamoya syndrome of which she had surgery for ten
25 years prior.

1 Q Can you kind of describe that just briefly.

2 A Briefly Moyamoya means a wisp of smoke. It's a
3 vascular disease or a disease of the blood vessels,
4 specifically in the brain, and it causes strokes. So in
5 order to prevent further or new strokes they do a small
6 surgery to make sure that the blood vessels remain open, and
7 they also put them on a lifetime of some blood thinners.

8 Q Okay. And even with that information that you had
9 did the injuries on Faith Cummings as she appeared to you
10 appear to be consistent with the story that she had fallen in
11 the bathtub?

12 A No.

13 Q So when you -- when you got to the medical
14 examiner's office and performed the autopsy on the following
15 day, what type of injuries -- and I think we've already seen
16 some of those, what type of injuries overall did you observe
17 to the body of Faith Cummings?

18 A They're blunt force injuries as well as evidence of
19 manual strangulation.

20 Q Okay. Let's talk a little bit first about the
21 blunt force injuries. Let me go to photograph B on State's
22 Exhibit 1, and we'll just kind of walk through some of these,
23 Dr. Oleske. Can you tell us what we're looking at here in
24 photograph B.

25 A In photograph B we are looking at a head shot of

1 Ms. Cummings. And you can see that she has a small
2 laceration to the bridge of her nose. Her right eye is
3 diffusely swollen. She has another bruise over her left
4 eyelid as well as several bruises over the left side of her
5 face and over -- left side of her face and neck and the right
6 side of her neck.

7 Q Okay. Dr. Oleske, are we talking about multiple
8 contusions to both sides of her face?

9 A Correct. Yes.

10 Q Photograph C, what do we see here?

11 A Photograph C is the top of her head looking down,
12 and we can see a small abrasion to the right side of her
13 forehead with diffuse surrounding contusion or bruise.

14 Q Okay. You talked about the laceration to her nose,
15 what was the internal condition of her nose?

16 A She had facial -- she had nasal bone fractures.

17 Q So basically her nose was broken?

18 A Correct.

19 Q Photograph D?

20 A Photograph D is the left side of her face. You can
21 see the bruise over her left eyelid. You can also see some
22 blood coming out of her ear, as well as bruising to the left
23 side of her face below her chin.

24 Q Photograph E?

25 A Photograph E is showing a profile view of the right

1 side of her face showing bruising over the right eye and
2 forehead. Her right ear is swollen, and multiple bruises
3 over the right side of her neck.

4 Q Going to photograph F, what part of her body is
5 this?

6 A This is over the top of her head. It is a small
7 superficial laceration.

8 Q All right. Now, was her -- the hair removed so you
9 could get a better look at any injuries to her head?

10 A Yes.

11 Q All right. Take you to photograph G, what do we
12 see here?

13 A So this is the back of Ms. Cummings' head after we
14 had shaved it. There are at least five distinct or separate
15 bruises over the back of her head over the right -- right
16 back of her head and left.

17 Q And then photograph H?

18 A Photograph H once again you can see blood in her
19 ear. You can see that her left ear is swollen, and that
20 she's got bruising behind her left ear.

21 Q Photograph I, what do we see here?

22 A This is her right ear. She also had bruising
23 behind her right ear.

24 Q And then going to photograph J, I think you
25 mentioned a syringe before; is that what we see here?

1 A Yeah. It was deeply entangled in her hair.

2 Q And was the syringe that was found entangled in her
3 hair, did that appear similar to the syringes that you found
4 kind of strowed about the house when you first entered?

5 A Yes.

6 Q Did you -- in addition to making external
7 observations of Faith Cummings' body, did you also conduct an
8 internal examination specifically of her head area?

9 A Yes.

10 Q Can you tell us what you found in terms of internal
11 injuries.

12 A Okay. For her head, so I noted that she had facial
13 bone fractures -- sorry, nasal bone fractures. And when we
14 reflected her scalp she had diffuse bruising all underneath
15 the back of her scalp.

16 After that I observed -- we opened up the skull
17 case to take a look at the brain, and she had a one and a
18 half centimeter thick hemorrhage, called a subdural
19 hemorrhage or a clot of blood over the right side of the
20 brain.

21 Q Now, to lay people, they may not know what that --
22 you know, what the significance of that is, can you kind of
23 explain the significance of that amount of hemorrhaging on
24 the brain.

25 A Sure. When you have that much blood over the brain

1 it compresses the brain and then that can be deadly or
2 lethal, especially that thick.

3 Q And what type of force would it take to cause that
4 type of injury to the brain?

5 A Significant blunt force.

6 Q All right. Did she also have any skull fractures?

7 A Yeah. She had a fracture at the base of her left
8 side of her skull, which is likely representative of why
9 there was blood in her ear. Yeah.

10 Q And moving on to the other parts of Faith Cummings'
11 body, I want to take you to photograph K, and we'll try to
12 move quickly through some of these, can you tell us what we
13 see here.

14 A Photograph K is looking down over from the top of
15 her left shoulder.

16 Q Photograph L?

17 A Photograph L are multiple bruises over her upper
18 chest.

19 Q Photograph M?

20 A Photograph M are multiple separate bruises and very
21 small circular abrasions over the center of her chest.

22 Q Going to photograph N, what do we see here?

23 A Photograph N, this is her back, her head's to the
24 left and her feet are to the right, you can see multiple
25 linear abrasions or scratches over her back as well as

1 several bruises, such as the one above her right buttock.

2 Q And were you able -- did you reach any kind of
3 opinion as to a possible cause of these types of injuries?

4 A These injuries looked consistent with a doorway or
5 corner of a doorway, for example, because of the spacing or
6 the pattern, such as you see at the top, there's a faint --
7 two faint bands going in parallel to the thicker band at the
8 top of the photograph.

9 Q And as you testified earlier about your internal
10 findings with Faith Cummings' head area, did you also conduct
11 an internal examination of the torso area of Faith Cummings?

12 A I did.

13 Q And what internal injuries did you observe?

14 A There was diffuse soft tissue injury underlying her
15 chest as well as over her abdomen and over her pelvic region.
16 She had multiple bilateral rib fractures, meaning that her
17 ribs were fractured in more than one place on both sides.
18 And she also had bruising to the -- in our bodies, in our
19 intestines we have fat surrounding our intestines, and it's
20 called the mesentery, and she had bruises over her mesentery.

21 Q In terms of the rib fractures, how many of her ribs
22 were fractured?

23 A She specifically had the right anterior third
24 through sixth ribs with surrounding hemorrhage, which means
25 that she was alive at the time of those injuries. And in

1 addition to that -- the anterior, she had right lateral rib
2 fractures, so we have rib fractures in the front and rib
3 fractures on the side, which were the second through seventh
4 ribs.

5 On the left she had left anterior rib fractures,
6 meaning it's in the front, from the third through sixth. And
7 then also more fractures for the left lateral, second through
8 eighth ribs.

9 Q So maybe not all of her ribs, but most of her ribs?

10 A Nearly -- nearly all, yeah.

11 Q Okay. Now, was -- were those rib fractures
12 consistent with someone performing chest compressions as a
13 part of CPR?

14 A No.

15 Q Okay. Can you explain -- can you explain that.
16 What in your opinion were those injuries consistent with?

17 A So while you can have rib fractures during CPR,
18 her -- she's young, and her bone quality is actually very,
19 very good. Elderly people when they do CPR they break lots
20 of ribs because their bones are more frail. And generally
21 there's a pattern to them where they're just on the anterior
22 side. And you can have, of course, multiple rib fractures
23 from CPR. The fact that she has not just anterior but she
24 also has lateral rib fractures is what makes it inconsistent
25 with CPR. It looks more like a steering wheel or crush

1 injury than it did from CPR.

2 Q Thank you. Now, kind of moving down, there were
3 other injuries to the lower parts of Faith Cummings' body; is
4 that correct?

5 A Yes.

6 Q Okay. I'm going to go to photograph O here, can
7 you tell us what we see in this photograph.

8 A So this is a photograph of her upper thighs. And
9 Mr. Johnson blacked out her vagina, or her external labia,
10 which were diffusely swollen and bruised. These -- these are
11 multiple bruises that kind of have a linear pattern to them
12 also on the sides of her legs, and they're all within the
13 insides of her legs.

14 Q And the part that's -- the part that's blacked out
15 there, you briefly described, how serious of the bruising was
16 it to that area?

17 A It was substantial. Very -- it was swollen and it
18 was enlarged and bruised.

19 Q All right. Moving to photograph P, this is her
20 left leg; is that correct?

21 A Yes.

22 Q All right. And I'll just move quickly through some
23 of these. Photograph Q, that's her right leg?

24 A Yes.

25 Q Going to photograph R, this is Faith Cummings' left

1 arm?

2 A Uh-huh.

3 Q Was there anything of significance to the bruising
4 that you observed to, particularly in this photograph, her
5 left arm?

6 A This photograph of her left arm you can actually
7 see at the top of the -- the top photograph towards her thumb
8 side you can see several multiple circular contusions as well
9 as diffuse swelling and bruising of the back of her left arm
10 as well as multiple other circular kind of types of
11 contusions over her left upper arm.

12 Q And circular contusions, what are those consistent
13 with?

14 A Finger -- fingers.

15 Q All right. And photograph S, this is her left
16 hand?

17 A Yes, this is the left hand. We take all sides and
18 all views of the left hand and the fingernails to see if
19 there's any broken fingernails. And in this case I don't
20 believe she had any broken fingernails, but we collected
21 evidence from underneath her nails. And the bruising over
22 the back of her left hand is kind of like a defensive trying
23 to shield herself type injury.

24 Q All right. Moving to photograph T, this is Faith
25 Cummings' right arm?

1 A Yes. The right arm shows very similar injuries to
2 the left arm with multiple circular contusions.

3 Q All right. And then photograph U, her right hand?

4 A Photograph U, her right hand, you can see on the
5 top left photograph surrounding the thumb some dry blood, and
6 her fingernails were all intact in this hand, too. And
7 her -- back of her hand, as you can see in the upper right
8 photograph, is diffusely bruised. Notably she does not have
9 any abrasions over her knuckles, it's just bruised.

10 Q When you say diffusely bruised, what does that
11 mean?

12 A That means it -- that there were probably more
13 than -- this represents more than one injury, and that they
14 kind of -- because she's on blood thinners they probably bled
15 together.

16 Q Now, you had indicated earlier that in addition to
17 blunt force injuries that you observed you also observed
18 evidence of manual strangulation; is that correct?

19 A That is correct.

20 Q All right. I'd like to talk about some of those.
21 Going to photograph V --

22 A Uh-huh.

23 Q -- again, we're looking at the photograph of Faith
24 Cummings' neck area, what do we see there that indicated to
25 you evidence of manual strangulation?

1 A So if we can go back a little bit, prior to the --
2 when I did the autopsy, what indicated to me that this is
3 probably a manual strangulation is that there's multiple
4 circular small fingerprint size contusions on her neck. And
5 you could also see over the right side of her neck these
6 three linear scratches. And that to me was highly suggestive
7 and the stigmata of a manual strangulation. So at this point
8 I swabbed her neck for DNA.

9 Q All right. And photograph W, anything different we
10 see here than we saw in the previous photograph?

11 A Yes. So in this photograph we can see that there's
12 those circular smaller contusions on her right side of her
13 neck. And then you see a larger bruise over the left side of
14 her neck. And once again these represent probably
15 fingerprints or finger related.

16 Q So photograph X?

17 A Photograph X is the lateral right side of the neck
18 once again showing multiple sets of bruises.

19 Q And photograph Y?

20 A Photograph Y is also showing the left -- sorry, the
21 previous photograph was the right side of her neck.
22 Photograph Y is showing the left side of her neck. You can
23 see a large bruise underneath her left side of her chin and
24 was (indiscernible).

25 Q And then photograph Z, what do we see here in

1 particular?

2 A So other stigmata that indicate manual
3 strangulation that I'm looking for are small pinpoint
4 hemorrhages called petechial hemorrhages. They are very
5 spar -- like they almost -- they're about the size of a grain
6 of sand, and it's from increased vascular pressure from
7 compression in the neck. They rupture and that causes
8 petechial hemorrhages. Over the left side of the face you
9 can see that she has petechial hemorrhages on her cheek. She
10 also had another place that's indicative -- did you --

11 Q Yeah.

12 A All right.

13 Q Going to photograph A, do we see more of those
14 petechial hemorrhages?

15 A So photograph AA is when I'm starting to look in
16 the eye mucosa to see these petechial hemorrhages, and, yeah,
17 she had -- yeah, she had petechial hemorrhages over both
18 sides of the eyes with the left side being more prominent
19 than the right.

20 Q Okay. And then photograph BB, this is the same
21 eye; is that correct?

22 A Yes. And you can see those small red dots.

23 Q And this is on the kind of inner upper eyelid; is
24 that correct?

25 A Yes.

1 Q And then photograph CC?

2 A Photograph CC is a little bit more obvious with
3 these red slash purple dots representing the petechial
4 hemorrhages.

5 Q Photograph DD?

6 A Yes, the same with more of those red circular dots
7 indicative of petechial hemorrhages.

8 Q Then EE?

9 A EE is a little bit blurry, but she -- another place
10 to look for petechial hemorrhages is in the oral mucosa, and
11 she has -- we can see two small red dots in the oral mucosa
12 here.

13 Q All right. Now, did you do anything in particular
14 with regard to your internal examination to sort of go
15 further and determine to what extent she may have -- Faith
16 Cummings may have been strangled?

17 A So what I did is a very thorough layer by layer
18 dissection of her neck. I lift up muscles individually.
19 I -- and I take my time and I photograph as I go along. As I
20 was doing that I noted that there's multiple muscles that are
21 in the neck that are -- that had hemorrhage or blood, and as
22 I continued to reflect up the layers of the neck is when I
23 get to the hard tissues of the neck that make up your
24 voicebox.

25 Q All right. And are there specific bones in the

1 neck that you look at to determine if there's any injury that
2 might be indicative of manual strangulation?

3 A Yes. There is -- there are three main bones, I'm
4 going to call them hard tissues, so there's a hyoid bone, and
5 then there's a thyroid cartilage and cricoid cartilage. And
6 this is a schematic about where they're located in the neck.
7 On me the hyoid bone is right below your chin, and then the
8 thyroid cartilage is on men it's easier to find, it's their
9 Adam's apple.

10 Q And for the record we're looking at photograph FF,
11 the schematic you're talking about?

12 A Yes.

13 Q And moving over to photograph GG, what do we see
14 here?

15 A Photograph GG is the day of the autopsy of -- the
16 top U-shaped structure is the hyoid bone. The bottom
17 structure is the thyroid cartilage still attached to the
18 cricoid cartilage and a part of the trachea.

19 Q Okay. And what we see there on the right side of
20 that, this slide is the actual hyoid, thyroid and cricoid
21 cartilage of Faith Cummings; is that correct?

22 A Yes.

23 Q And then going over to HH, what do we see here?

24 A So in HH I took these photographs after preserving
25 this (indiscernible), so that's why the color's a little bit

1 different. You can see over the left -- sorry, the left
2 superior thyroid horn, which is over the right side of the
3 photographs, you can see the purplish discoloration and you
4 can see a complete fracture.

5 Q All right. And then moving over to photograph II,
6 what is this and what did you see?

7 A This is the hyoid bone, and you can see where the
8 circles are a -- it's slightly subtle, but it's there, red,
9 brown hemorrhage or discoloration over the bone. And these
10 represent the -- the left photograph represents a complete
11 fracture, and the right most photograph represents an
12 incomplete fracture. And these fractures are on both sides
13 of the hyoid bone.

14 Q Now, did you do anything in particular with
15 these -- these -- the hyoid, thyroid, and cricoid cartilages?

16 A Yes. I sent these neck structures to a forensic
17 anthropologist, Heather Walsh-Haney, for her analysis and
18 expert opinion.

19 Q And did she communicate to you her findings?

20 A Yes. Her findings are consistent with my findings.

21 Q Okay. Photograph JJ, what do we see in this
22 photograph?

23 A So photograph JJ is Heather's photo -- sorry, Dr.
24 Walsh-Haney's photograph. You can see -- and what she does
25 since she studies hard tissue she removes all of the soft

1 tissues, these tissues are now cleaned without any soft
2 tissue over them. So over the left most photograph is that
3 U-shaped hyoid bone. The yellow circles are all representing
4 complete fractures. So we have a complete fracture of the
5 right side of the hyoid bone. The green circle represents an
6 incomplete fracture of the left side of the hyoid bone.
7 There's also a complete fracture over the right superior
8 thyroid horn, which is represented by the yellow circle in
9 the middle. She -- and I also agreed that the purple circle
10 represents something called -- it's an anatomical variant,
11 it's a small bone -- bony structure of cartilage that's not
12 fused. And that's just the way that she was born, so that's
13 not a fracture, and that's the reason why it looks different.
14 And then finally over the right, the cricoid cartilage, which
15 is the lowest most in the -- your voicebox, and it has a blue
16 circle, which indicates postmortem cuts that I made when I
17 sent this to her.

18 Q Okay. And then photograph KK is simply an x-ray of
19 those same neck structures; is that correct?

20 A Exactly. And you can see in that purple very
21 clearly that that's not a fracture, that that's just an
22 anatomical variant.

23 Q Dr. Oleske, your autopsy and your -- the
24 confirmation from Dr. Heather Walsh-Haney, with regard to the
25 fact that both the hyoid and the thyroid bone structures were

1 broken, what significance do you -- if any, did you make from
2 that?

3 A So because I'm responsible for not just the
4 external -- the internal findings, I'm also responsible for
5 the external findings, so when I put this together based on
6 where the hyoid bone is in your neck versus where your
7 thyroid cartilage is in your neck this, if you superimpose
8 the injuries on her neck, is consistent with at least twice
9 of being manually strangled in two different positions. At
10 least twice, yes.

11 Q How long does it take to strangle someone?

12 A Three to seven minutes.

13 Q Did you -- did you determine -- did you come to an
14 opinion within a reasonable degree of medical certainty
15 concerning the cause of Faith Cummings' death?

16 A Yes.

17 Q And what was that?

18 A The cause of her death was blunt force trauma of
19 the head with asphyxiation.

20 Q And did you come to an opinion concerning the
21 manner of death?

22 A Yes. The manner of death was homicide.

23 MR. JOHNSON: No further questions, Your Honor.

24 THE COURT: All right. Mr. Mosley, questions?

25 MR. MOSLEY: Thank you, sir.

1 CROSS EXAMINATION

2 BY MR. MOSLEY:

3 Q Good morning.

4 A Good morning.

5 Q The thyroid cartilage and the hyoid, they're not
6 very far apart on the neck structure, are they?

7 A The hyoid bone is actually buried underneath your
8 mandible, and about, what is that, an inch and a half, two
9 inches down is where your thyroid cartilage is.

10 Q So someone's hand could theoretically touch both?

11 A You could not touch both on the same side.

12 Q Let's talk about the Moyamoya. You said that that
13 produced strokes in her?

14 A Yes.

15 Q And that led to her being on blood thinners, right?

16 A Yes.

17 Q And potentially excessive bleeding because of blood
18 thinners?

19 A Yes -- or not excessive bleeding, excessive
20 bruising.

21 Q Excessive bruising. What about internally, like in
22 the head and things like that because the Moyamoya can
23 actually shrink the connectors to the brain, right?

24 A In this case, yes. So...

25 Q So -- I'm sorry.

1 A Let me finish, please. Thank you. So her right
2 side of her brain was smaller than her left side of the brain
3 because she's had strokes, so she lost some volume on the
4 right side of the brain. Because of that she has more space
5 within her head to grow a bigger clot.

6 Q And being on blood thinners, you described at one
7 point that many of the bruises could have run together?

8 A Yes.

9 Q So honestly how many bruises there are it could be
10 difficult to tell because the bruises could expand into other
11 ones?

12 A Like the back of the hands likely represents more
13 than one injury, yes.

14 Q Could the injuries have been consistent if she is
15 lying in a tub or if she's on a ground and somebody's picking
16 her up?

17 A No.

18 Q How so? I mean, they're -- you described them as
19 fingertip contusions, right?

20 A Correct.

21 Q Okay.

22 A So you can explain for some of those -- some of, as
23 if somebody's trying to pick her up out of the tub, but you
24 cannot explain the diffuse injuries to the back of her hands.

25 Q I was just asking about some of them --

1 A Okay.

2 Q -- could be from trying to pick her up?

3 A Yes.

4 Q I mean, she's a large woman, right? Did she weigh
5 a lot?

6 A I would not call 180 pounds a large woman.

7 Q Okay. But dead weight picking her up given that
8 she's on blood thinners can result in bruising?

9 A If she's still alive it can cause some bruising,
10 yes.

11 Q And the rib injuries you described as being a
12 possible crush injury?

13 A Yes.

14 Q Could that be from falling on her?

15 A No. There is -- a ground level fall would not
16 produce those injuries.

17 Q Could it be from jumping on her?

18 A If somebody was jumping on her?

19 Q Sure.

20 A Yes.

21 Q The hyoid and the thyroid in and of themselves, are
22 those fatal injuries if those bones are broken or fractured?

23 A No, but they represent what had occurred.

24 MR. MOSLEY: Judge, may I have one moment?

25 THE COURT: You may.

1 (Brief pause.)

2 MR. MOSLEY: Thank you, Dr. Oleske.

3 THE COURT: Redirect?

4 MR. JOHNSON: No redirect.

5 THE COURT: All right. Doctor, you may step down.

6 Thank you.

7 THE WITNESS: Thank you.

8 MR. JOHNSON: She can be excused.

9 THE COURT: Okay. And you're excused from any
10 subpoena.

11 THE WITNESS: Thank you.

12 (Witness excused.)

13 MR. JOHNSON: Your Honor, that's all I have in
14 terms of evidence. I do have some folks that would like
15 to make a victim impact statement.

16 THE COURT: Okay.

17 MR. JOHNSON: The Defense and I have agreed there's
18 at least one person who's attending today by Zoom or
19 kind of video conference feed.

20 THE COURT: Okay.

21 MR. JOHNSON: They've been sort of watching the
22 proceedings. She would like to make a victim impact
23 statement, but I need a couple of minutes to readjust
24 and plug that into our system.

25 THE COURT: That would be fine. Before we do

1 that --

2 MR. MOSLEY: We don't have objection, he's correct.

3 THE COURT: Okay. Is there anything that -- any
4 additional evidence that the Defense wishes to offer
5 before we get into the impact statements?

6 MR. MOSLEY: No, sir.

7 THE COURT: Okay. All right.

8 MR. JOHNSON: Thank you, Judge.

9 THE COURT: Sure. Take your time.

10 MR. MOSLEY: Judge, while he's setting up, I had
11 filed character reference letters on behalf of
12 Mr. Cummings; did you get those?

13 THE COURT: I did. And I reviewed them.

14 MR. MOSLEY: Thank you, sir.

15 THE COURT: I didn't review it til this morning,
16 but I did see them.

17 MR. MOSLEY: That's okay. If not, I was going to
18 pass up a copy.

19 (Brief pause.)

20 THE COURT: I had it turned off up here.

21 MR. JOHNSON: Trying to change these --

22 THE COURT: You see the three dots, click on that,
23 see where it says pin video?

24 MR. JOHNSON: Yes, sir.

25 THE COURT: Try that.

1 MR. JOHNSON: There we go. Thank you, Judge.

2 THE COURT: Uh-huh. And she's on mute.

3 MR. JOHNSON: All right. Ms. McQueen, can you take
4 your thing off mute.

5 MS. MCQUEEN: Okay. I'm here.

6 MR. JOHNSON: All right. May I proceed, Your
7 Honor?

8 THE COURT: You may.

9 MR. JOHNSON: Okay. Can you please introduce
10 yourself to the Court.

11 MS. MCQUEEN: My name is Shannon McQueen. I am
12 Faith Cummings' daughter.

13 MR. JOHNSON: All right. And, Ms. McQueen, you
14 have a victim impact statement that you would like to
15 share with the Court today?

16 MS. MCQUEEN: I do, yes.

17 MR. JOHNSON: Okay. You can proceed whenever
18 you're ready.

19 MS. MCQUEEN: Okay. Thank you, Judge Perkins, for
20 allowing me to address the Court. It is very important
21 for me to convey how the murder of my mother has
22 affected me every single day since.

23 When I was born, my mother wrote me a letter about
24 the hopes for my future. She wrote about how she hoped
25 that I would be popular, successful, and find all the

1 happiness I wanted in this life. I found success and
2 finished college and moved out of my hometown all
3 because I knew that this was what she wanted for me.
4 One thing that I had until January 11th was the drive
5 and motivation to ensure that I had happiness in this
6 life.

7 Every single day since the murder of my mom I have
8 questioned every single decision I have made. I've
9 questioned every single relationship I have in my life.
10 I struggle every day with what feels like an inability
11 to connect with anyone new because who would want to
12 make a friend who is in constant emotional distress like
13 I am, even almost two years later. I feel as though
14 I've lost myself, and every day I struggle to find who I
15 used to be or who I will become without my mother.
16 Every single day I think about who I -- about how I
17 would call my mom and ask her advice, even on the
18 smallest things. She was who I called when I went to
19 the grocery store just so I wasn't alone, who I would
20 call when I was walking by myself because I knew she was
21 the one who cared the most about me. Even being
22 2000 miles away I still talked to her every chance I got
23 because she was my person. If I decide to have a child,
24 they are now deprived of who would be their only living
25 grandparent. Not only am I deprived of her love, all

1 her grandchildren are now without their loving
2 grandmother. If there was nothing else, she always had
3 unfathomable love for her children and grandchildren.
4 And now all of us must go on without this. For me this
5 feels constantly like my heart was ripped out of my
6 chest and like I'll never get the sense of wholeness
7 again.

8 With the way that she was stolen from us, I don't
9 believe I'll ever find a sense of closure, or I -- and I
10 will continue to struggle every day with the fact that I
11 no longer have my mother with me because of the actions
12 of a selfish person. She was the -- she was the drive
13 and motivation in my life. I succeeded in my life
14 because I knew that she was proud of me.

15 I hope that the Court can give someone who would
16 steal such love from my life and all her children and
17 grandchildren's lives the fullest punishment with the
18 Court's ability. Nothing will bring her back to us, but
19 nothing -- but knowing personally that someone that
20 would do this could never steal anyone else's lives the
21 way that they have to us would help me begin to rebuild
22 my life. All that I want is to be able to rebuild myself
23 and spread the same love that my mother, Faith McQueen,
24 brought to all of our lives.

25 That's all I have. Thank you.

1 THE COURT: Okay. Thank you.

2 MR. JOHNSON: Your Honor, she actually had this in
3 writing, I believe that was State's Exhibit "B", and we
4 would enter that into evidence with the Court's
5 permission.

6 THE COURT: Any objection?

7 MR. MOSLEY: There were some changes from the
8 writing, so we would ask to rely on what was changed.

9 MR. JOHNSON: No objection to that.

10 THE COURT: Okay. Well, I haven't read the
11 writing, but I listened --

12 MR. MOSLEY: Yes, sir.

13 THE COURT: -- to the statement that Ms. McQueen
14 gave. What she doesn't know is she can't see me, but
15 she's on my computer monitor right here. So she doesn't
16 know that because she can't see the configuration.
17 She's probably looking at the ceiling through your
18 computer. But what you should know is you are on my --
19 my bench about two feet from where I'm sitting.

20 MR. JOHNSON: Thank you, Judge. And we also
21 have --

22 THE CLERK: It's accepted?

23 MR. JOHNSON: I (indiscernible).

24 THE COURT: Okay. This can be received as State's
25 2.

1 (State of Florida's Exhibit No. 2 was received into
2 evidence.)

3 MR. JOHNSON: I also have another victim impact
4 statement from another victim's daughter.

5 THE COURT: Okay. So does Ms. McQueen want to
6 continue to observe the proceedings through the Zoom
7 connection, or what's the intent?

8 MS. MCQUEEN: (Inaudible response.)

9 THE COURT: She said yes, she wants to observe.

10 MR. JOHNSON: Okay. And if I could, I'll just
11 reposition so she can see you.

12 THE COURT: All right.

13 MR. JOHNSON: All right, ma'am, could you please
14 introduce yourself to the Court.

15 MS. MARTIN: My name's Victoria Martin. I'm Faith
16 Cummings' youngest daughter.

17 MR. JOHNSON: And where do you live?

18 MS. MARTIN: I live right in Volusia County, Ormond
19 Beach.

20 MR. JOHNSON: And do you have a victim impact
21 statement you would like to share with the Court?

22 MS. MARTIN: Yes, I do.

23 MR. JOHNSON: All right. Go ahead.

24 MS. MARTIN: I appreciate the ability to address
25 the Court, Judge Perkins. If there is anything that I

1 miss most about my mother, it's that no matter what she
2 was -- she was the best grandmother to my children that
3 I could ever imagine. My oldest child asks me where's
4 his grandma at and why she isn't here for him anymore,
5 and because of him being so young he wouldn't be able to
6 comprehend the reason his grandmother is dead. My
7 youngest -- my youngest and my unborn child will never
8 get to meet their grandmother who would have loved them
9 with all of her heart. She will never get to see them
10 grow and become the adults that she would have loved
11 to -- that she would have loved even more than any of us
12 could imagine. Birthdays, graduations, promotions, and
13 every other important life event will now happen without
14 their grandmother. It hurts my heart every single day
15 when I think about how my children now have to grow up
16 without her.

17 Every day I go through my life with an emotional
18 strain knowing I no longer have my mother when I need
19 her, when I'm having my good times and my bad times,
20 when I need advice or even just that person I could vent
21 to, now I can't call her. She was my rock, who I looked
22 for -- towards for every aspect in my life, especially
23 when it came down to motherly advice on how to handle
24 situations with my kids. I needed her here with me, and
25 without her here it is hard for me to keep everything

1 together on a daily basis. I feel every day that I have
2 a huge hole in my heart that can never be filled because
3 she was so selfishly stolen away from us. From my
4 children who no longer have their grandmother, from me
5 and my sisters who no longer have a mother, from family,
6 from every single person she touched with the unending
7 love than radiated from her. My mother was that person
8 that would give her shirt off her back if you needed it,
9 and with that being said I feel like -- I feel that
10 giving her murderer the life sentence would give me a
11 little bit of closure on this whole traumatic event that
12 has taken over my life for the past two years.

13 I want to thank the Court for allowing me to speak.

14 THE COURT: Thank you.

15 MR. JOHNSON: And I would offer her statement,
16 Judge, in as -- which has been previously marked as
17 State's Exhibit "D".

18 THE COURT: Any objection?

19 MR. MOSLEY: No.

20 THE COURT: State's 3.

21 (State of Florida's Exhibit No. 3 was received into
22 evidence.)

23 MR. JOHNSON: Judge, I also have a third one from
24 an individual by the name of Stephanie Costa. It's
25 right now marked as State's Exhibit "C", I'd offer it

1 into evidence. She did not wish to speak, but I'd offer
2 that to the Court for its consideration.

3 MR. MOSLEY: Can I see it?

4 (Brief pause.)

5 THE COURT: Any objection?

6 MR. MOSLEY: No, sir.

7 THE COURT: Be received in as State's Exhibit 4.

8 (State of Florida's Exhibit No. 4 was received into
9 evidence.)

10 THE COURT: Lisa, can I have the exhibits, please.

11 THE CLERK: Yes, sir.

12 MR. JOHNSON: That's all the State has at this
13 time.

14 THE COURT: Okay. Thank you. All right. How
15 about from the Defense?

16 MR. MOSLEY: Mr. Cummings wishes to address the
17 Court, Your Honor.

18 THE COURT: Okay. He can do it from there, that's
19 fine, or do you want him up at the podium? Whichever
20 you want.

21 MR. MOSLEY: Which one would you prefer?

22 THE DEFENDANT: (Indiscernible.)

23 THE CLERK: Do we need to swear him in?

24 THE COURT: I'm not sure. Let's ask. Is he going
25 to provide a statement under oath or --

1 MR. MOSLEY: He is going to provide a statement.

2 THE COURT: All right. If you could go ahead and
3 swear him, please.

4 THE CLERK: Please raise your right hand.

5 Do you swear or affirm that the testimony you're
6 about to give is the truth, the whole truth, and nothing
7 but the truth so help you God?

8 THE DEFENDANT: Yes.

9 THE CLERK: Thank you.

10 MR. MOSLEY: Go ahead and introduce yourself to the
11 Court, please.

12 THE DEFENDANT: Michael Cummings.

13 MR. MOSLEY: Mr. Cummings, have you prepared a
14 statement for the Court today?

15 THE DEFENDANT: Not particularly, just kind of --

16 MR. MOSLEY: But you want to address the Court?

17 THE DEFENDANT: I'd like to address the Court.

18 MR. MOSLEY: Okay. Go ahead.

19 THE DEFENDANT: First off, for a little background,
20 Faith and I got together in 1997 and we ended up moving
21 in together sometime in '98, and that's when she started
22 with the headaches and the medical conditions. And then
23 '99 she had a major stroke, which she was working for
24 EVAC, 911 operator. She ended up losing that job
25 because she had her stroke. Then it was up to me to

1 work two jobs to take care of everybody. That went on
2 for a good ten years. We never really had any problems.
3 We had a good relationship. We took care of each other.

4 And I'll skip forward. When -- we ended up moving
5 to Palm Coast. My brother passed away on June 21st in
6 '97. That started --

7 MR. PHILLIPS: You mean 2017.

8 THE DEFENDANT: Or 2017. What am I thinking, I'm
9 sorry. That started me into a withdrawal kind of, I
10 started drinking a little bit, and just depression
11 started. Then that went on for a good six months. I
12 think that's what drove Faith away from me. Then I
13 found out day after Thanksgiving that she was -- she
14 spent time at a hotel with another guy. That was
15 torture. We kind of argued about it a little bit. And
16 I just wanted to get through the holidays, kind of
17 squash it and get through the holidays with the family
18 and all the stuff that we had planned through the
19 holidays, just get it over with.

20 After the holidays it was that January that I
21 checked her cellphone. I checked -- I was in her email,
22 and I probably shouldn't have been, I checked her
23 deleted messages and found that she had a dating site
24 that was set up for spouses that kind of cheat on each
25 other, I guess you could say. And I went into her

1 stuff, and I checked it all out and found out she had a
2 dating thing going on. I don't know if she was just
3 dabbling or what she was doing, but it kind of started
4 an argument. It definitely started an argument.

5 She went to work. I started drinking. Just
6 stewing and drinking. I drank a lot that night. And --
7 over half a bottle of Jameson I drank, which I've never
8 drank like that before in my life. And when she got off
9 work, she made me another drink when she got off work, I
10 think she was just trying to send me on to bed because
11 she knew I was stewing and she knew I was upset, and she
12 knew that it was pretty much going to be over between us
13 at that point.

14 As heartbroken as I was it just -- I went in the
15 bathroom and got sick and she -- I ranted on Facebook
16 that night while she was at work about my relationship,
17 and while I was in the bathroom getting sick she was on
18 Facebook, she read it. She was furious. She came into
19 the -- into the bedroom and into the master bath and
20 just started throwing things at me, and just it turned
21 into just fury. I was blacking out. It was just -- I
22 don't -- it was like a bad dream. We fought back and
23 forth like children. I would have never expected it to
24 go that far.

25 And -- excuse me. And I remember trying to do CPR

1 that morning and calling 911. And I was still
2 unreasonable when the police showed up. I was so drunk.
3 I was so intoxicated. I'm pretty sure I wasn't making
4 any sense. I saw some video from the police officers,
5 and that wasn't me. Just -- I saw myself, and it just
6 wasn't me.

7 And I'm -- I just can't explain how sorry I am for
8 the whole thing. Just sorry for the kids. I'm
9 heartbroken, especially over Shannon and Tori. I know
10 what they're going through. It's heartbreaking. And
11 I'll never -- I'll never live it down. Faith is -- I
12 think about her every day. I cry every day. I dream
13 about her every night. And I'm just never going to be
14 over it. I know the kids are never going to be over it.
15 And I'm just -- I just regret it so bad, regret every
16 bit of it. And I'm extremely sorry. There's no -- I
17 know it's not going to bring her back. I just don't
18 know what else to say. If I could change it, I would,
19 but I'm just so sorry that it even happened. I'm sorry
20 that it even escalated to that point where she and I --
21 I don't know what else to say. I just -- I feel bad for
22 Shannon and Tori. And I just hope they can find a way
23 to get through it. Hope they can find a way to maybe
24 talk to me one day. I just hope -- I just hope they can
25 get through it. I hope they can be good parents to

1 their kids. And I'm so sorry that they lost their
2 mother. That's all I can think of.

3 MR. PHILLIPS: There might be one thing I can ask
4 you, Mr. Cummings, because what Mr. Mosley and I was
5 involved with, you've expressed a lot of remorse, too,
6 during the time we've worked with you preparing your
7 case for trial, and then you decided not to have a
8 trial; can you describe your thought process to Judge
9 Perkins about how your remorse and, you know, the loss
10 tied in with that decision making.

11 THE DEFENDANT: I just feel responsible. I feel
12 like I was irresponsible by drinking and fighting with
13 her, and just the whole arguing. And I feel like I'm
14 responsible. It's -- it was definitely something I
15 don't want to relive, but I do in my head every day I
16 relive it, but I think I should assume responsibility
17 for it.

18 MR. PHILLIPS: And that led you to your decision to
19 enter the plea to second degree murder and --

20 THE DEFENDANT: Yes.

21 MR. PHILLIPS: -- present yourself to Judge Perkins
22 for sentencing?

23 THE DEFENDANT: Yes. I don't want to waste
24 everybody's time with a week-long trial and all that.
25 It's --

1 MR. PHILLIPS: Well, and of course your trial
2 wouldn't be a waste of time, but I think also you were
3 concerned about the young ladies and how it would impact
4 them; is that correct?

5 THE DEFENDANT: Yes. I didn't want to put Shannon
6 and Tori through all that, through every day of just --
7 I know they've been through a lot, and they're going to
8 continue to suffer. And I don't want them to go through
9 it. I want them to start healing.

10 MR. PHILLIPS: Okay. Well, thank you, sir.
11 I think that's the main point I wanted to get
12 across to you, Your Honor.

13 THE COURT: Okay. Any other questions?

14 MR. MOSLEY: Nothing for us.

15 THE COURT: Any questions from the State?

16 MR. JOHNSON: No, Your Honor.

17 THE COURT: All right. Thank you.

18 MR. PHILLIPS: Well, thank you, Your Honor.

19 THE COURT: Any additional evidence or testimony?

20 MR. MOSLEY: No, sir. Other than the character
21 letters that were submitted ahead of time.

22 THE COURT: Which I've reviewed, thank you.
23 Rebuttal evidence, testimony?

24 MR. JOHNSON: No rebuttal evidence, Your Honor.

25 THE COURT: Just argument?

1 MR. JOHNSON: Yes, sir.

2 THE COURT: All right. You may start whenever
3 you're ready, Mr. Johnson.

4 MR. JOHNSON: Thank you, Your Honor. Your Honor,
5 as you can see, we gave the Court an idea of
6 basically -- not an idea, laid it out what happened, how
7 brutal a murder this was. We felt -- I know that it
8 probably was a bit tedious at times, we felt that was
9 extremely important for the Court to see and to
10 understand. This was not -- while this may have started
11 as an argument and a dispute between a husband and a
12 wife, it extended into something much, much, much more
13 than that.

14 As you saw from the photographs and testimony of
15 Dr. Oleske, she was brutally beaten in the entire -- her
16 entire body, and that wasn't enough. The Defendant
17 strangled her not once but twice. And as Dr. Oleske
18 says, it takes three to seven minutes to strangle
19 someone.

20 While we appreciate the fact that a trial was
21 spared, the fact of the matter is what was done cannot
22 be undone. And regardless of what the circumstances
23 were that led up to those events, the Defendant must be
24 held responsible for that. A young woman lost her life
25 because he decided that he was angry, angry at her

1 cheating on him, according to him. Those are his words.
2 That's what he felt. That was his motivation here. Not
3 only is a young woman dead, but children don't have
4 their mother, and grandchildren don't have their
5 grandmother as a result of the Defendant's actions.

6 And so, Your Honor, our agreement was, you know, a
7 plea to second degree murder. We think that that was
8 appropriate for a plea in this particular case with a
9 range of 30 years to life. And given the utter
10 brutality of this particular murder, this is not simply
11 push somebody down, they hit their head on a -- hit
12 their head on something and they died as a result of
13 that. This went on for some time. And because of sheer
14 brutality of this particular murder we believe that the
15 only appropriate sentence in this particular case is
16 life in prison, we would ask the Court to sentence the
17 Defendant to that term of years. Thank you.

18 THE COURT: Thank you. All right. Mr. Mosley?

19 MR. MOSLEY: Thank you, sir. Mr. Cummings isn't
20 entering a plea and sparing a trial because he thinks
21 it's going to bring Faith back. He knows it's not. He
22 has lived with this for over 600 days since he was
23 arrested. He's aware fully that he's affected not only
24 his life, he knows extremely well that his family,
25 Faith's family are going to live with this as well.

1 But this is a situation in which rage led to her
2 death. We are not here to say that he did not cause
3 that death. He's accepted that it was him. He doesn't
4 have much of a memory of that night from the alcohol,
5 but from the evidence, from the police video he does
6 accept responsibility. He does know that it was him.
7 And he is remorseful for that. He will pay for this
8 case for the rest of his life knowing what he's done.

9 So far two years of his life have been spent in the
10 Flagler County Jail, and we know at least the next 28 of
11 them will be in the Department of Corrections. But he's
12 not a singular incident. No one is ever a singular
13 incident on this. This isn't a man with a violent
14 history that for his entire life he's been beating up
15 every person, every female that he's encountered. He
16 lost control that night. He was drunk. He may have
17 been on other things. And it led to a violent, violent
18 act. But the marriage wasn't always like that.

19 And the family letters that we've submitted, his
20 mother talks about him as a son. His friends, Lea and
21 Doug, talk about how he's impacted their lives in a
22 positive way. His demeanor, his calm demeanor in a
23 field that is rampant with alcoholism, with drug use,
24 with violent tendencies, they have seen nothing but good
25 things from him.

1 I will say from our perspective he has been
2 extremely calm. While I may not always have been calm
3 with him, or Mr. Phillips may not have always been calm
4 with him, he has remained steadfast. And this was an
5 isolated incident that went horribly wrong. It was a
6 horrible death, and we are not going to take away from
7 that. But we do ask for some form of compassion and
8 that he not have to spend the rest of his life for -- or
9 the rest of his life in the Department of Corrections
10 for a one drunken night that got out of hand. And I do
11 hope that you will take his remorse into account. So we
12 would ask you to consider the 30 years that is the low
13 end of this.

14 THE COURT: Thank you. Response?

15 MR. JOHNSON: Just very briefly, Judge. I know a
16 lot of emphasis is put on the fact that alcohol was
17 involved, that was a decision that the Defendant made.

18 THE COURT: We all know what Florida law says.

19 MR. JOHNSON: That's correct, Judge. Thank you.

20 (Brief pause.)

21 THE COURT: All right. Thank you for the
22 presentations. Thank you for the information that you
23 provided to me before today's sentencing. Thank you for
24 the hard work on both sides that brought us to this
25 point.

1 Since that point, since the time that I took the
2 plea in this case, I was reading everything I could
3 about the case that was provided to me, so I did read
4 all of the letters. I was paying close attention in
5 that regard partially because I believe that Faith
6 Cummings deserves nothing less than that, and so does
7 the Defendant, Michael Cummings. And also because it
8 reflected the hard work that you put into the case to
9 get us to this point.

10 I was looking desperately for something I could
11 find to say to the family of Faith Cummings that would
12 provide any comfort or relief to them. I don't know
13 what to say. I don't think there is anything I can say
14 other than what I hope is through today's process I can
15 bring you some closure so that you can move on with your
16 life and put this in hopefully the best perspective that
17 you can.

18 In fairness to Mr. Cummings, I certainly understand
19 that he contends that this is not a fair representation
20 of who he was. That may be true. That through his
21 history, even his history with Ms. Cummings, that this
22 was an isolated event. And that may be true. But it is
23 as brutal and as senseless an act as one could imagine.
24 This wasn't an immediate knee-jerk reaction to some
25 anger. This was a prolonged violent act.

1 All right. Based on then the plea form that was
2 entered, Mr. Cummings, I adjudicate you guilty of the
3 second degree murder of Faith Cummings. I sentence you
4 to life in prison. While I believe that is the
5 appropriate sentence under these circumstances, I
6 certainly receive no joy in doing that. And obviously
7 any additional matters regarding cost and things like
8 that will be assessed.

9 All right. Mr. Cummings, I know you entered a
10 plea, and it was an agreed plea in that regard, and I
11 want you to know that I did consider that. I did
12 consider that I believe that you have sincere remorse
13 now for what was done. Understanding all of that you
14 need to understand that you have the absolute right to
15 appeal my sentence. If you can't afford a lawyer, I
16 would appoint one for you. Your appeal has to be in
17 writing, and it has to be filed in 30 days. If you have
18 questions about that, you ask Mr. Phillips or
19 Mr. Mosley, they can give you additional information.

20 Anything further from the State?

21 MR. JOHNSON: No, Your Honor.

22 THE COURT: Anything further from the Defense?

23 MR. PHILLIPS: No.

24 MR. MOSLEY: No, Judge.

25 THE COURT: All right. We are adjourned. Thank

1 you.

2 (Audio ends at 10:15 a.m.)

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1 CERTIFICATE OF REPORTER

2

3 STATE OF FLORIDA)

4 COUNTY OF VOLUSIA)

5

6 I, DEBBIE A. Siner, RPR, do hereby certify
7 that the foregoing pages constitute a true and
8 complete transcript of the proceedings transcribed
9 via digital recording by me to the best of my
10 ability in the aforementioned cause at the time and
11 place herein set forth.

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

18 Witness my hand this 12th day of March,
19 2020.

20

21 S/DEBBIE A. Siner, RPR
22 Volusia Reporting Company
23 432 South Beach Street
Daytona Beach, Florida 32114
Telephone: (386) 255-2150

24

25

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