

PROFFER OF FACTS

Had this case gone to trial the Government's evidence would have shown beyond a reasonable doubt that on September 21, 2013, at approximately 12:41 a.m., members of the Metropolitan Police Department were on patrol in the 5300 block of Georgia Avenue, NW, and observed a witness, herein identified as W-1, and a male, later identified as Timothy Benjamin ("the decedent"), sitting on a small covered porch next to 5301 Georgia Avenue, NW. The officers stopped to investigate and observed that Mr. Benjamin was unconscious. The officers radioed for assistance and members of the District of Columbia Emergency Medical Services (EMS) unit responded to the scene and transported the decedent to Washington Hospital Center's MedStar unit where the decedent was rushed into emergency surgery. All life-saving efforts failed and the decedent was pronounced dead at approximately 2:25 a.m. The decedent's remains were subsequently transported to the Office of the Chief Medical Examiner where an autopsy was performed. The cause of death was determined to be multiple sharp force injuries and the manner of death was ruled a homicide.

Subsequent investigation revealed that in the early morning hours of September 21, 2013, the decedent, the defendant, and W-1 had been walking together in an alley that runs parallel to the 5300 block of Georgia Avenue, NW. The defendant and the decedent began to argue about who would be taking W-1 home. W-1 told the defendant and the decedent that it had decided it was going home with the defendant. The defendant and the decedent continued to argue, with the decedent telling the defendant to "put his hands up." W-1 heard scuffling behind it and turned to observe the defendant striking the decedent multiple times about his body. The decedent had his hands in a defensive position and repeatedly told the defendant "get the fuck off me." W-1 did not see the decedent strike the defendant at any time.

W-1 intervened and told the defendant to stop hitting the decedent. When the defendant ceased striking the decedent, W-1 observed that the decedent was bleeding. W-1 and the defendant moved the decedent to a covered entrance on the side of 5301 Georgia Avenue, NW, and laid him down. W-1 observed the defendant close a black handled knife and put the knife into his pants pocket. W-1 asked the defendant what he had done and the defendant replied words to the effect of, "I poked him up." This statement was captured on the 911 call that W-1 was attempting to make from the decedent's phone. The defendant encouraged W-1 to leave the area with him, but W-1 insisted on staying with the decedent. The defendant then left the area.

The defendant's actions in stabbing the victim were intentional and voluntary. At the time that the defendant stabbed the victim, he was not acting in reasonable self-defense. Assuming the defendant had a claim of self-defense, his actions in stabbing the victim, who was not armed, were unreasonable and excessive.

Case: 2013 CF1 017199
00049972860
Dkt: CRMPROF

DEFENDANT'S ACKNOWLEDGMENT

I have read and discussed the Government's Proffer of Facts with my attorney, Brandi Harden, Esquire. I agree, and acknowledge by my signature that this Proffer of Facts is true and correct.

Date: 10/25/13

Marvin Moore

MARVIN MOORE

DEFENDANT

Date: 10/24/13

Brandi Harden

BRANDI HARDEN, Esq.

Attorney for Marvin Moore

DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING

My attorney has discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing and/or independent DNA testing. I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up DNA testing and/or independent DNA testing, of any biological materials in this case. I further state that I am fully satisfied with the services my attorney has provided to me and am fully satisfied with the explanation my attorney has provided me concerning the terms of the plea offer, the potential evidentiary value of DNA evidence in this case, and the consequences of waiving and giving up DNA testing in this case and pleading guilty.

Date: 10/25/13

x Marvin Moore
MARVIN MOORE
DEFENDANT

Date: 10/24/11

Brandi Harden
BRANDI HARDEN, ESQ.
Attorney for Marvin Moore