

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

State of Minnesota,

Case Type: Criminal  
Judge Tamara Garcia

Plaintiff,

Court File No. 27-CR-17-22829

v.

Darrell Bruce Rea,

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW IN  
SUPPORT OF GUILTY  
VERDICT**

Defendant.

The above-entitled matter came before the Honorable Tamara Garcia on January 31, 2019 at the Hennepin County Government Center for a Court Trial on Stipulated Evidence.

### APPEARANCES

Darren Borg, Assistant Hennepin County Attorney, appeared on behalf of the State of Minnesota.

Gregory Rendon & Ethan Scrivner, Assistant Public Defenders, appeared on behalf of Darrell Rea, Defendant, who was present.

Upon the evidence adduced, the arguments of counsel, and all files, records and proceedings herein, the Court makes the following:

### PROCEDURAL POSTURE

1. Defendant was charged with one count of Murder in the Second Degree in violation of Minn. Stat. § 609.19, subd. 1(1) for the death of L.A.M.
2. On January 18, 2019, Defendant waived his right to a jury trial and agreed to submit the matter to this Court on a body of stipulated evidence pursuant to Minn. R. Crim. Pro. 26.01, subd. 3. The parties returned on January 31 and submitted 120 exhibits<sup>1</sup> for the Court to consider. These exhibits are labeled CRT 1-120 in the Court's record. The State submitted its closing argument on March 4, 2019. Defendant submitted his closing argument on April 9, 2019. The State submitted its rebuttal on April 22, 2019. The Court took the matter under advisement at that time.

<sup>1</sup> CRT 120 was actually offered two weeks later on February 14, 2019. The parties initially intended to offer a summary of an interview of Defendant as CRT 120, as was indicated on the record on January 31, however, they ultimately agreed to offer a redacted transcript of the interview instead.

3. After reviewing all of the evidence and having considered the arguments of counsel, this Court rendered its verdict finding Defendant guilty of the charge of Murder in the Second Degree on May 1, 2019. This memorandum details the Court's findings of fact and conclusions of law in support of that guilty verdict. In citing to exhibits, the Court follows the same manner of citation used by the parties in their briefs; cited page numbers refer to the sequential page number of the actual exhibit, regardless of any page number indicated on the document itself.

### FINDINGS OF FACT

1. L.A.M., a seventeen-year old girl, was murdered in the early morning hours of April 2, 1983. Her body was found brutally beaten near the Soo Line Railroad tracks in Minneapolis at approximately 10:25 a.m. At the time, Police were unable to identify any plausible suspect and the murder remained un-charged and unsolved. Almost 30 years later, on March 8, 2013, a "cold-hit" DNA match occurred that connected semen left in L.A.M.'s vagina and rectum to blood left on the victim of a 1988 assault. This DNA match ultimately led to the identification of Defendant as a suspect in L.A.M.'s murder. During the course of their investigation, police spoke with a number of potential witnesses, some who knew L.A.M. or were with her the night before her death, and some who knew Defendant at the time of L.A.M.'s murder and after. Investigators also spoke with Defendant on a number of occasions. Additional DNA testing was conducted on items of L.A.M.'s clothing. Defendant could not be excluded as a contributor to any DNA mixture and was a match for all identifiable male profiles. The evidence, though circumstantial, all points to the conclusion that Defendant killed L.A.M. and leaves no room for other rational theories inconsistent with his guilt.

#### L.A.M.

2. In early April 1983, L.A.M. was just two months shy of her eighteenth birthday, which would have occurred on May 27, 1983.<sup>2</sup> She was white with wavy, shoulder-length brown hair and blue eyes.<sup>3</sup> She was approximately 5'4" and 138 pounds.<sup>4</sup>
3. L.A.M. was sexually active, in that she had sex with her boyfriends, but those who knew her did not report that she would have sex with strangers.<sup>5</sup> She had been raped by a biker named "Tank" about a year before her death,<sup>6</sup> but police were able to rule him out as a suspect in her murder.<sup>7</sup> At the time of her death, L.A.M. was dating Doug Welch<sup>8</sup>

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<sup>2</sup> Exhibits 1, 2 & 4.

<sup>3</sup> Exhibit 1 at 2, Exhibit 4 at 5, Exhibit 73, and Exhibit 78.

<sup>4</sup> Exhibit 4 at 5.

<sup>5</sup> Exhibit 2 at 17 & 19.

<sup>6</sup> Exhibit 1 at 17.

<sup>7</sup> *Id.* at 19.

<sup>8</sup> The police reports refer to L.A.M.'s boyfriend in various places as Doug Welch or Doug Welsh and also by the nickname "Fro." For the sake of consistency, the Court utilizes the spelling Welch, which is the spelling used most frequently in the reports.

(Welch), a twenty-two year old who had recently moved to Iowa.<sup>9</sup> No one was aware of any other boyfriends for L.A.M. at the time of her death.<sup>10</sup>

4. L.A.M. was known to drink alcohol and smoke cigarettes<sup>11</sup>, but there was no indication from any of her friends or relatives that she was involved with drugs.<sup>12</sup> She was also known to hitchhike.<sup>13</sup> Friends had tried to talk with her about hitchhiking, but L.A.M. did not worry about it.<sup>14</sup>
5. Juvenile records showed that L.A.M. had been arrested with another girl on September 25, 1980 for lurking with intent to commit prostitution.<sup>15</sup> After giving the police a false name, she was released and never returned to court on that charge.<sup>16</sup> A couple of weeks later, on October 6, 1980, L.A.M. was arrested again, this time for theft, at which point her true identity was discovered.<sup>17</sup> Records showed that at the time of the theft arrest, L.A.M. admitted to the lurking charge, but denied having a pimp.<sup>18</sup> However, despite this arrest, L.A.M.'s friends and family denied that she was a prostitute.<sup>19</sup>

### **Final Hours of L.A.M.'s life**

6. On the evening of April 1, 1983, L.A.M. attended a house party at 3159 Russell Ave. N. in Minneapolis with her brother Lee (Lee),<sup>20</sup> and a number of their friends.<sup>21</sup> This residence often had parties on the weekends.<sup>22</sup> Most of the people who attended were known to one another, though occasionally an outsider or two would show up.<sup>23</sup> Some of L.A.M.'s friends in attendance the night before her death included, Holly Cornell (Cornell), Laurie Pantze<sup>24</sup> (L. Pantze), Jack Bretto<sup>25</sup> (Bretto), Joni Jacobson (Jacobson), Charlene Pulley<sup>26</sup> (Pulley), and Barry Pederson (Pederson).<sup>27</sup> The house belonged to Pulley,<sup>28</sup> though at the time Pederson was living there as well.<sup>29</sup> Party-goers estimated there were about twenty people total in attendance.<sup>30</sup> The people at the party were

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<sup>9</sup> Exhibit 1 at 16.

<sup>10</sup> *Id.* at 17-18.

<sup>11</sup> Exhibit 1 at 17-18

<sup>12</sup> *Id.* at 19.

<sup>13</sup> *Id.* at 17 & 19, and Exhibit 2 at 17 & 19.

<sup>14</sup> Exhibit 2 at 19.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Exhibit 2 at 17 & 19.

<sup>20</sup> Lee's full name is Harlan Leroy. He is occasionally referred to as "Harlan" in Exhibit 2.

<sup>21</sup> Exhibit 1 at 7 & 11, and Exhibit 4 at 26.

<sup>22</sup> Exhibit 2 at 29.

<sup>23</sup> *Id.* at 30.

<sup>24</sup> Laurie Pantze later changed her name to Laurie Van Pelt, and is referred to as such in Exhibit 2.

<sup>25</sup> Jack Bretto's given name is John and also went by the name Robert, but is most frequently referred to as "Jack."

<sup>26</sup> Charlene Pulley later changed her name to Charlene Kuhn, and is referred to as such in Exhibit 2.

<sup>27</sup> Exhibit 1 at 11 and Exhibit 2 at 28-29.

<sup>28</sup> *Id.*

<sup>29</sup> Exhibit 2 at 28.

<sup>30</sup> Exhibit 1 at 11.

between the ages of approximately 17 and 23.<sup>31</sup> At the time of the party, the known ages of some of the party-goers were as follows: Lee was 19,<sup>32</sup> Cornell was 20,<sup>33</sup> Pantze was 18,<sup>34</sup> Bretto was 18,<sup>35</sup> and Pederson was 21.<sup>36</sup> No one recalled Defendant attending the party<sup>37</sup> and Defendant himself did not claim to have been in attendance.<sup>38</sup>

7. L.A.M. was known to exchange clothes with her girlfriends, and did so while at this party.<sup>39</sup> According to Cornell, L.A.M. arrived at the party in a purple outfit, but changed into dark blue jeans and a purple shirt.<sup>40</sup> Pederson recalled she was wearing a pair of faded Calvin Klein or Jordache jeans she had borrowed from Pulley.<sup>41</sup> Over the shirt she wore a brown/rust colored suede waist-length jacket that had buttons down the front and a tie strap.<sup>42</sup> While at the party, L.A.M. spent the majority of her time with Cornell.<sup>43</sup>
8. Around 1 a.m., L.A.M. left the party with her brother and her brother's girlfriend, Jacobson, to go to another party.<sup>44</sup> While outside of the second residence, they ran into other friends, including Bretto and a number of females. L.A.M. left with Bretto and together, they returned to the party at 3159 Russell Ave. N.<sup>45</sup>
9. Sometime between 1:00 a.m. and 2:30 a.m.<sup>46</sup>, L.A.M. left 3159 Russell Ave. N. with Bretto.<sup>47</sup> Together they went to a gas station for soda and hung out for a bit.<sup>48</sup> Bretto then took L.A.M. to her home, located at 1120 37<sup>th</sup> Ave. N. in Minneapolis, dropping her off between 1:30 a.m. and 2:30 a.m.<sup>49</sup> Bretto watched L.A.M. enter her home.<sup>50</sup> Bretto reported that L.A.M. was "kind of drunk" at the time he dropped her off.<sup>51</sup> Bretto thought she was wearing a pink sweater at the time he dropped her off.<sup>52</sup> Bretto recalled seeing L.A.M. actually enter her home.<sup>53</sup>

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<sup>31</sup> Exhibit 2 at 31.

<sup>32</sup> Exhibit 2 at 17.

<sup>33</sup> Exhibit 1 at 11.

<sup>34</sup> *Id.* at 18.

<sup>35</sup> Exhibit 2 at 35.

<sup>36</sup> Exhibit 2 at 28.

<sup>37</sup> L.A.M.'s friends and family who also attended the party did not recognize Defendant. Exhibit 2 at 17, 19, 30 & 38.

<sup>38</sup> Exhibit 120.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Exhibit 2 at 29.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> Exhibit 1 at 7 & 11, and Exhibit 4 at 26.

<sup>45</sup> Exhibit 1 at 11.

<sup>46</sup> Bretto puts the time they left earlier, some of the other witnesses recalled their leaving after 2 a.m.

<sup>47</sup> Exhibit 1 at 11, and Exhibit 2 at 29 & 36.

<sup>48</sup> *Id.* at 36.

<sup>49</sup> Exhibit 1 at 17-18, and Exhibit 2 at 36.

<sup>50</sup> *Id.* at 36.

<sup>51</sup> Exhibit 1 at 18.

<sup>52</sup> Exhibit 2 at 36.

<sup>53</sup> *Id.*

10. At approximately 2:30 a.m. L.A.M. was heard in her room by her mother, Mrs. Mesedahl<sup>54</sup>, and was seen in the residence by Lee.<sup>55</sup> Lee did not notice what L.A.M. was wearing.<sup>56</sup> Shortly thereafter, L.A.M.'s mother and brother went to sleep.<sup>57</sup> A couple of hours later, at approximately 4:15 a.m., Mrs. Mesedahl awoke and found that L.A.M. had left the house.<sup>58</sup> Lee did not hear L.A.M. leave the house.<sup>59</sup> L.A.M. never returned home.
11. At 3:00 a.m., L.A.M. rang Henrietta (Ms. Anton) and Joseph Anton's (Mr. Anton) doorbell at 3218 Bryant Ave. N.<sup>60</sup> This address is approximately 7 blocks from L.A.M.'s home at 1120 37<sup>th</sup> Ave N.<sup>61</sup> Ms. Anton went to the door and spoke with L.A.M.<sup>62</sup> L.A.M. was looking for her boyfriend, Welch, who was the grandson of Mr. and Ms. Anton.<sup>63</sup> L.A.M. had told Cornell that, after the party she intended on calling Welch, who was then living in Iowa, but was in town on the evening of April 1.<sup>64</sup>
12. When L.A.M. appeared at the Anton home asking to see Welch, Welch asked his grandmother to tell L.A.M. that he was not home, which she did.<sup>65</sup> L.A.M. then asked if she could come inside to get warm, but Ms. Anton turned her away.<sup>66</sup> The night of April 1 into the early morning of April 2 was cold, with overnight temperatures around 37° F, and a wind chill of approximately 20°F.<sup>67</sup> Ms. Anton noted that at the time, L.A.M. was wearing a jacket.<sup>68</sup> Ms. Anton reported that L.A.M. was only at her door for a minute or two.<sup>69</sup> This was the last time anyone reported seeing L.A.M. alive.
13. Both Mr. and Ms. Anton were able to verify the time L.A.M. rang their doorbell.<sup>70</sup> Ms. Anton recalled actually speaking with L.A.M. and Mr. Anton was able to recall the time the doorbell rang because he had been up ill most of the night.<sup>71</sup> Subsequent investigation into Welch revealed that he had spent the entire evening at his grandparents' home, as verified by both Mr. and Ms. Anton.<sup>72</sup> Officers noted that Welch had "no trauma on him" at the time police interviewed him on April 3, 1983.<sup>73</sup> Some

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<sup>54</sup> Exhibit 1 at 7, and Exhibit 4 at 26.

<sup>55</sup> Exhibit 1 at 11.

<sup>56</sup> *Id.*

<sup>57</sup> Exhibit 1 at 11.

<sup>58</sup> *Id.* at 7, and Exhibit 4 at 26

<sup>59</sup> Exhibit 1 at 11.

<sup>60</sup> *Id.* at 16, and Exhibit 2 at 18.

<sup>61</sup> Exhibit 1 at 17.

<sup>62</sup> *Id.* at 16.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*, and Exhibit 2 at 18.

<sup>67</sup> Exhibit 4 at 5.

<sup>68</sup> Exhibit 1 at 16.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

witnesses reported that Welch had been abusive toward L.A.M. in the past.<sup>74</sup> Officers verified that Welch's vehicle had remained where it was parked from the previous Thursday until April 3 and that Welch did not have access to any other vehicles.<sup>75</sup>

### **Discovery of L.A.M.'s body and Crime Scene Investigation**

14. About seven hours after L.A.M. was last seen alive, her body was found by railroad workers at approximately 10:25 a.m.<sup>76</sup> Officers responded to the scene and by 10:50 a.m., the investigation was fully underway.<sup>77</sup> The railroad workers were identified as Sid<sup>78</sup> Pace (Pace) and Len Siegler (Siegler).<sup>79</sup> Pace and Siegler informed officers that they saw L.A.M.'s body at approximately 10:30 a.m. while switching cars in the yard.<sup>80</sup> They reported that they had checked the body to see if she was still alive, but otherwise had not moved her.<sup>81</sup> When they checked L.A.M., they discovered that she was cold and rigid.<sup>82</sup> Officers later determined that neither Pace nor Siegler had worked in that area on April 1.<sup>83</sup>
  
15. L.A.M. was found alongside a set of railroad tracks between 28<sup>th</sup> and 30<sup>th</sup> Ave. N., and between Pacific Ave. and 2<sup>nd</sup> St.<sup>84</sup> Her body was east of the Williams Steel building, an industrial building that fronted 2<sup>nd</sup> St. and extended from 28<sup>th</sup> to 30<sup>th</sup> Ave.<sup>85</sup> She lay about five feet east of one set of railroad tracks, with an additional pair of parallel tracks running further to the east.<sup>86</sup> L.A.M. was face down in a pool of blood with her head pointed north and her feet to the south.<sup>87</sup> A second pool of blood was located directly east of L.A.M.'s head, leading officers to the conclusion that she had been beaten while face up and then flipped over.<sup>88</sup> Officers observed bone and brain within this second pool of blood.<sup>89</sup> On the tracks near L.A.M.'s body was a gondola type train car, which appeared to have been there for over 24 hours.<sup>90</sup> Blood was splattered on the bottom of the gondola car, from the ground level and up approximately two to three feet.<sup>91</sup>

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<sup>74</sup> *Id.* at 18.

<sup>75</sup> *Id.* at 16-17.

<sup>76</sup> *Id.* at 2 & 9.

<sup>77</sup> *Id.* at 2.

<sup>78</sup> Also noted as "Syd".

<sup>79</sup> *Id.* at 9-10.

<sup>80</sup> *Id.* at 10.

<sup>81</sup> *Id.* at 9.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*, and Exhibits 5-20, 44, 48, 57-58, & 62.

<sup>85</sup> Exhibit 1 at 2, and Exhibits 13 & 62.

<sup>86</sup> Exhibit 1 at 2, and Exhibits 8-9, 13-14, & 62.

<sup>87</sup> Exhibit 1 at 2, and Exhibits 11-20, 56-59, & 63-65.

<sup>88</sup> Exhibit 1 at 3, and Exhibits 11-20, 58-59 & 63.

<sup>89</sup> Exhibit 1 at 3, and Exhibits 60-61.

<sup>90</sup> Exhibit 1 at 2.

<sup>91</sup> *Id.* at 3, and Exhibits 17, 21, & 66-70.

16. L.A.M.'s body was cold to the touch.<sup>92</sup> The morning was still cool, approximately 42°F.<sup>93</sup> L.A.M. was dressed in a blue velour V-neck top with tie strings at the neck and an elastic waistband.<sup>94</sup> Her top was pulled up to her mid-back, exposing her torso.<sup>95</sup> She was wearing blue cloth pants with belt loops, but no belt.<sup>96</sup> She was not wearing a jacket or shoes, but was wearing white tube socks.<sup>97</sup> She was not wearing any jewelry and had no identification on her.<sup>98</sup> The back of her pants, from the knees down were dirty, especially at the bottom of the legs.<sup>99</sup> The heels of her socks were also dirty.<sup>100</sup>
17. A parking lot is located between the industrial building and the railroad tracks closest to L.A.M.'s body.<sup>101</sup> The edge of the parking lot is approximately five feet from this railroad track.<sup>102</sup> Officers observed tire tracks that ran through the parking lot and over a pile of dirt within the lot.<sup>103</sup> These tracks suggested that a vehicle drove into the lot and parked immediately to the west of the train tracks, with the trunk closest to the tracks.<sup>104</sup> Police believed that the tire that drove over the pile of dirt was the rear left tire.<sup>105</sup> Near the tracks were foot impressions.<sup>106</sup> These foot impressions began about three feet from the edge of the parking lot closest to the railroad tracks.<sup>107</sup> There also appeared to be drag marks through the dirt alongside and over the railroad tracks.<sup>108</sup> From this evidence, officers concluded that L.A.M. was driven to the location, removed from the vehicle, and dragged through the dirt and over the tracks to where her body was found. There, she was laid on her back, struck multiple times in her face and head, and then rolled over.
18. According to Lee, L.A.M.'s jacket and cowboy boots were missing, along with a brown leather purse.<sup>109</sup>

### **L.A.M.'s Injuries and the Medical Examiner's Findings**

19. Dr. Ned Austin (Dr. Austin), at the time, a resident pathologist in the medical examiner's office, performed the autopsy on L.A.M.'s body at approximately 1:00 p.m. on April 2, 1983.<sup>110</sup> An external examination of L.A.M.'s body at the time of the autopsy showed

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<sup>92</sup> Exhibit 4 at 5.

<sup>93</sup> Exhibit 1 at 2.

<sup>94</sup> *Id.* at 2, and Exhibits 10-20, 55-59, & 63-65.

<sup>95</sup> Exhibit 1 at 2, and Exhibits 10-16, 18-20, 55-57, 59, & 63-65.

<sup>96</sup> Exhibit 1 at 2, and Exhibits 8-16, 18-20, 54-57, 59, 63 & 65.

<sup>97</sup> Exhibit 1 at 2, and Exhibits 8-16, 18-20, 51, 54-57, 59, & 63.

<sup>98</sup> Exhibit 1 at 2.

<sup>99</sup> *Id.* at 3, and Exhibits 12 & 54-56

<sup>100</sup> Exhibit 1 at 3, and Exhibits 51 & 54-56.

<sup>101</sup> Exhibit 1 at 2, and Exhibits 8, 11, 18-20, 38, & 42-43.

<sup>102</sup> Exhibit 1 at 2.

<sup>103</sup> Exhibit 1 at 2, and Exhibits 38-42.

<sup>104</sup> Exhibit 1 at 2.

<sup>105</sup> *Id.* at 2.

<sup>106</sup> *Id.* at 3, and Exhibits 40-41, 45-47, & 52-53.

<sup>107</sup> Exhibit 1 at 2.

<sup>108</sup> *Id.* at 3, and Exhibits 44-51.

<sup>109</sup> Exhibit 1 at 18.

<sup>110</sup> Exhibit 3 at 1-2.

faint reddish-blue lividity, which was present diffusely and was not fixed.<sup>111</sup> Rigor mortis was present irregularly throughout her body.<sup>112</sup> Rigor in her legs and lower extremities was fairly well-set, whereas rigor was not developed in her upper extremities.<sup>113</sup> L.A.M.'s body was cool to the touch and her liver temperature measured 78°F before her abdominal cavity was opened.<sup>114</sup> Dr. Austin, opined that L.A.M. had been dead for as many as ten hours before the discovery of her body.<sup>115</sup> This would place the earliest time of death around 12:25 a.m.

20. L.A.M. suffered extensive traumatic injuries to her head and face. Before being cleaned, L.A.M.'s face was covered in blood, as well as dirt, grass and other debris from the murder site.<sup>116</sup> There was also blood on her velour top, especially noticeable on L.A.M.'s left shoulder.<sup>117</sup> There were three, roughly parallel, gaping lacerations on her right to middle forehead.<sup>118</sup> The first laceration began at L.A.M.'s right eyebrow, extended toward the top of her head and was angled toward the middle of her face.<sup>119</sup> This laceration was over 12 cm long and was 3 cm wide at its widest point.<sup>120</sup> This laceration extended through the periosteum of the cranium and involved numerous comminuted fractures of the cranial vault.<sup>121</sup> There were two small lacerations immediately to the left of the largest laceration and they ran roughly parallel to that larger laceration.<sup>122</sup> The two smaller lacerations measured 3 cm and 2 cm in length respectively.<sup>123</sup> There was another small laceration located on the left side of L.A.M.'s scalp.<sup>124</sup> This laceration measured 3 cm by 1 cm.<sup>125</sup>
21. L.A.M.'s right eye was ruptured and had extensive purplish-red discoloration in the soft-tissues surrounding the right eye socket.<sup>126</sup> There were a pair of linear abrasions just below her right eye.<sup>127</sup>
22. There were numerous palpable fractures to L.A.M.'s nose.<sup>128</sup> There was a large, gaping laceration extending from the bridge of her nose, along the right side of her nose and

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<sup>111</sup> *Id.* at 3.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> Exhibit 1 at 3.

<sup>116</sup> Exhibits 23, 26, 27, 29, & 30.

<sup>117</sup> Exhibits 23, 27, & 28.

<sup>118</sup> Exhibit 3 at 4, and Exhibits 32, 33, & 34.

<sup>119</sup> Exhibit 3 at 4.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*, and Exhibit 32.

<sup>125</sup> Exhibit 3 at 4.

<sup>126</sup> *Id.*, and Exhibits 33 & 34.

<sup>127</sup> Exhibit 3 at 4, and Exhibits 33 & 34.

<sup>128</sup> Exhibit 3 at 4.



ending in her oral cavity where her right lateral incisor was.<sup>129</sup> This laceration measured 6 cm by 1.5 cm.<sup>130</sup>

23. L.A.M.'s suffered extensive traumatic dental and bony injuries to and within her mouth.<sup>131</sup> There were numerous lacerations and contusions of the oral cavity and periorbital soft tissues.<sup>132</sup> Immediately below her lower lip was a horizontal laceration, that measured 2 cm by 0.5 cm.<sup>133</sup> L.A.M.'s right middle incisor was broken and her right lateral incisor was missing.<sup>134</sup> She also suffered numerous dental fractures in her mandibular jaw and fractures involving the right side of her maxilla and right and left mandible.<sup>135</sup>
24. L.A.M. also suffered extensive traumatic injuries to the contents of her cranium and her cranial vault.<sup>136</sup> There were multiple comminuted skull fractures to both her right and left frontal bones, as well as to the inferior portion of the base of her skull.<sup>137</sup> In fact, the injuries were so extensive that Dr. Austin noted a "near total destruction of the frontal one-third of the cranial vault bilaterally."<sup>138</sup> Both sides of her frontal lobe suffered extensive contusion and laceration.<sup>139</sup> Additionally, the majority of the frontal lobes of her brain were missing.<sup>140</sup> There was diffuse bleeding between the brain and the tissue covering the brain.<sup>141</sup> Dr. Austin noted what appeared to be active bleeding within the brain substance in response to the traumatic contusions.<sup>142</sup>
25. Dr. Austin also found signs of strangulation. There were a pair of linear abrasions on L.A.M.'s neck on the right side, under her jaw.<sup>143</sup> These abrasions merged with a large contusion on the right and front of L.A.M.'s neck.<sup>144</sup> The linear abrasions were approximately 1.7 cm in length and were approximately 7 mm apart.<sup>145</sup> An internal examination of L.A.M.'s neck showed no significant hemorrhage within the strap muscles and the hyoid bone, cricoid and thyroid cartilages were intact.<sup>146</sup> There was, however, a small amount of hemorrhaging on the right lobe of the thyroid gland and between the right lobe of the thyroid gland and the esophagus, and several small

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<sup>129</sup> *Id.*, and Exhibits 33 & 34.

<sup>130</sup> Exhibit 3 at 4.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*, and Exhibits 33 & 36.

<sup>134</sup> Exhibit 3 at 4, and Exhibit 36.

<sup>135</sup> Exhibit 3 at 4.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.* at 7.

<sup>139</sup> *Id.* at 4.

<sup>140</sup> *Id.* at 7.

<sup>141</sup> *Id.* at 4.

<sup>142</sup> *Id.* at 4-5.

<sup>143</sup> *Id.* at 5, and Exhibits 33 & 37.

<sup>144</sup> Exhibit 3 at 5, and Exhibits 33 & 37.

<sup>145</sup> Exhibit 3 at 5.

<sup>146</sup> *Id.*

petechial-like hemorrhages on the front right surface of the thyroid cartilage.<sup>147</sup> There were also petechial hemorrhages in her left eye.<sup>148</sup>

26. Dr. Austin opined that L.A.M. had suffered multiple blows from a blunt object to her face and head, which resulted in the extensive traumatic injury to the cranial vault and its contents as well as the multiple fractures to her facial bones.<sup>149</sup> Based upon the configuration of the lacerations on L.A.M.'s face and head, Dr. Austin believed she had been struck repeatedly with the same blunt object and that the amount of bleeding suggested the wounds occurred either just before or at the same time as her death.<sup>150</sup> Dr. Austin further opined that L.A.M. had probably suffered manual strangulation resulting in the contusion on the front and right neck, the petechial hemorrhage on the front surface of her thyroid cartilage and the right lobe of the thyroid.<sup>151</sup> Dr. Austin opined that this strangulation likely resulted in unconsciousness, but not death.<sup>152</sup>
27. As a part of the autopsy, a toxicology examination was done on a sample of L.A.M.'s blood. The results showed an alcohol concentration of 0.05% and was negative for any sedatives.<sup>153</sup> The autopsy also revealed that L.A.M.'s vagina and anus were positive for sperm and seminal fluid, and there was semen in both her vagina and rectum.<sup>154</sup> L.A.M.'s pubic hair was also positive for seminal fluid.<sup>155</sup> Dr. Austin noted that the semen in L.A.M.'s pubic hair was still wet.<sup>156 157</sup> It was Dr. Austin's opinion that L.A.M. had had sex, or been raped shortly before her death.<sup>158</sup> Both vaginal and rectal swabs were collected as evidence.<sup>159</sup>
28. The Hennepin County Medical Examiner (M.E.), Dr. John Coe, classified her death as a homicide and found the primary cause of death to be cerebral contusions and lacerations due to multiple blows to her face and head.<sup>160</sup> Other significant conditions noted were contusions of the superficial and deep structures of L.A.M.'s neck.<sup>161</sup>

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<sup>147</sup> *Id.*

<sup>148</sup> *Id.* at 3.

<sup>149</sup> *Id.* at 7.

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> Exhibit 1 at 19.

<sup>153</sup> Exhibit 3 at 1.

<sup>154</sup> Exhibit 1 at 19 and Exhibit 4 at 9.

<sup>155</sup> *Id.*

<sup>156</sup> Defendant takes issue with the description of the semen being wet and describes it as inadmissible hearsay. First, Defendant has stipulated to this evidence, and thus its admissibility under the Rules of Evidence is irrelevant. Second, in the M.E.'s report it is noted that seminal *fluid* was present in L.A.M.'s pubic hair. The term "fluid" indicates wetness. If what was observed was not wet, the Court would expect the M.E. to have used a different term, or to have modified that term to "dried seminal fluid."

<sup>157</sup> Exhibit 1 at 19.

<sup>158</sup> *Id.*

<sup>159</sup> Exhibit 4 at 7.

<sup>160</sup> Exhibit 3 at 1.

<sup>161</sup> *Id.*

### Identification of L.A.M.'s Body, and Subsequent Media Coverage

29. L.A.M.'s mother discovered she was missing around 4:15 a.m. on April 2.<sup>162</sup> Her family contacted Pulley and Pederson to let them know L.A.M. was missing later that same day.<sup>163</sup>
30. Because L.A.M. came in with no identification, her body needed to be identified. The M.E. released information to the press about the unidentified body and included a clothing description.<sup>164</sup> The M.E. received three phone calls on April 2 about possible missing persons who might be the decedent.<sup>165</sup> The third call, which came in at approximately 7:50 p.m. was from L.A.M.'s mother, Ms. Mesedahl.<sup>166</sup> Ms. Mesedahl provided information that her missing daughter, L.A.M., had a tattoo of a heart on her upper back.<sup>167</sup> The M.E.'s office verified that the body did in fact have a small, "home-made" heart tattoo on the right shoulder area.<sup>168</sup> The M.E. called Ms. Mesedahl back and requested additional information.<sup>169</sup> Ms. Mesedahl asked if she and her family could come down and ID the clothes and tattoo.<sup>170</sup>
31. L.A.M.'s family arrived at the M.E.'s office at approximately 8:05 p.m.<sup>171</sup> They were able to positively ID L.A.M.'s clothing and her tattoo.<sup>172</sup> They also provided the name and address of L.A.M.'s dentist.<sup>173</sup> The M.E. compared the dental films provided by the dentist and were able to confirm the decedent's identity as L.A.M. the next day.<sup>174</sup>
32. In a separate attempt to identify L.A.M., police ran a fingerprint card from L.A.M. obtained at the morgue, through the computer system on April 2.<sup>175</sup> The first possible match was listed as L.A.J. with a 1962 date of birth.<sup>176</sup> Police verified that the prints for L.A.J. were the same as the then unidentified decedent.<sup>177</sup> L.A.J. had been booked on September 24, 1980 and her description closely matched that of L.A.M.<sup>178</sup> Upon learning that the decedent had been positively identified by family as L.A.M., officers determined that L.A.M. had been booked under a false name and with a false date of birth.<sup>179</sup>

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<sup>162</sup> Exhibit 1 at 7, and Exhibit 4 at 26.

<sup>163</sup> Exhibit 2 at 29.

<sup>164</sup> Exhibit 1 at 7.

<sup>165</sup> Exhibit 4 at 26.

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*, and Exhibit 1 at 7.

<sup>175</sup> Exhibit 1 at 7.

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.* See also *supra* Finding of Fact 5.

33. T.V. news coverage, either the day L.A.M. was discovered or the day after, included a report that the body of a young female had been found in north Minneapolis.<sup>180</sup> The news report gave the general location of where the body was found.<sup>181</sup> At least one subsequent story ran shortly after L.A.M. was identified.<sup>182</sup> In their later investigation, police discovered at least two news stories that had run in the Star Tribune regarding L.A.M.'s murder.<sup>183</sup> One was dated April 5, 1983.<sup>184</sup> The other was undated, but appeared to have been written shortly after the murder.<sup>185</sup>
34. L.A.M.'s brother, Lee, at some point around the time of her death, told his friend Pederson about the injuries L.A.M. had sustained and that she had been beaten with a blunt instrument.<sup>186</sup> Though no one could say so definitively, it was possible that L.A.M.'s death and the manner of her death was discussed among those who knew her.<sup>187</sup>

### 1988 Assault of B.A.B.

35. In the early morning hours of June 13, 1988, B.A.B., a white, 23 year old female with brown hair, was walking in the area of Blaisdell and Lake Street in Minneapolis.<sup>188</sup> B.A.B. was described as a small woman, and one witness thought she was a juvenile because of her size.<sup>189</sup> B.A.B. was a known prostitute.<sup>190</sup> She had been smoking cocaine and then decided to walk to White Castle to get something to eat.<sup>191</sup> Shortly before 5 a.m., she accepted a ride from Defendant,<sup>192</sup> who was driving a 1970s silver Chevy station wagon with a maroon or red interior.<sup>193</sup> B.A.B. remembered that the ashtray was missing from the vehicle's dashboard.<sup>194</sup> Defendant stopped at a Super America and Rainbow Foods to get some smaller change, as he told B.A.B. he only had \$50 and \$100 bills on him.<sup>195</sup> After going into the store, Defendant came out with smaller denominations.<sup>196</sup>

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<sup>180</sup> Exhibit 2 at 29-30. Pederson recalled the news story regarding L.A.M.'s body being discovered running on Sunday, April 3, however by all accounts, L.A.M. had already been identified late on April 2. It is possible Pederson had confused the date of this report with the subsequent coverage identifying L.A.M. as the victim.

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> *Id.* at 44-45.

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> *Id.* at 30-31.

<sup>187</sup> *Id.* at 32.

<sup>188</sup> Exhibit 89 at 1 and Exhibits 92-94.

<sup>189</sup> Exhibit 89 at 15.

<sup>190</sup> Exhibit 89 at 6

<sup>191</sup> *Id.* at 3 & 18.

<sup>192</sup> Defendant was identified through subsequent DNA testing. *See infra* Finding of Fact 50. The Court refers to the suspect in B.A.B.'s case as Defendant, for clarity.

<sup>193</sup> *Id.* at 1, 3-4

<sup>194</sup> *Id.* at 4 & 19.

<sup>195</sup> *Id.* at 3, 6, & 18.

<sup>196</sup> *Id.* at 3.

36. Defendant then drove B.A.B. to a parking lot somewhere off of 28<sup>th</sup> or 29<sup>th</sup> Street.<sup>197</sup> It was later determined that this parking lot was adjacent to grain elevators that then existed at 28<sup>th</sup> St. and Grand Ave.<sup>198</sup> The area was near some railroad tracks and there were piles of dirt and silos present.<sup>199</sup>
37. While in the parking lot, Defendant and B.A.B. engaged in sexual intercourse.<sup>200</sup> The sexual contact was initially consensual with Defendant paying B.A.B. for sexual services.<sup>201</sup> However, at one point, B.A.B. tried to end the sexual contact, but Defendant continued.<sup>202</sup> At that point, Defendant started strangling B.A.B. by grabbing her to continue the sexual intercourse.<sup>203</sup> Defendant told B.A.B., “I wanna fuck you.”<sup>204</sup> Defendant pulled B.A.B. to the floor of the front seat of his car.<sup>205</sup> He removed B.A.B.’s shoes and her blue jeans.<sup>206</sup>
38. Defendant eventually stopped having vaginal sex with B.A.B. and then ordered her to flip onto her front.<sup>207</sup> B.A.B. believed that Defendant was going to penetrate her again from behind.<sup>208</sup> Instead, Defendant produced what was either a handle-less ice pick or some sort of awl and started gouging B.A.B. with this implement.<sup>209</sup> Defendant gouged B.A.B. several times in several different areas of her body.<sup>210</sup> Defendant then stabbed B.A.B. in the back of her head near the base of her skull with the implement.<sup>211</sup> B.A.B. could feel Defendant attempting to sever her spinal cord.<sup>212</sup> B.A.B. feigned unconsciousness and pretended to be dead in order to get Defendant to stop the assault.<sup>213</sup> He covered her with a carpet and told her, “You better not move or I’ll kill you.”<sup>214</sup>
39. Defendant drove his car while B.A.B. lay on the floor pretending to be dead.<sup>215</sup> B.A.B. felt the vehicle start to turn and attempted to escape, resulting in a struggle with Defendant in which B.A.B. started to kick Defendant in the chest and face.<sup>216</sup> This caused Defendant to crash his vehicle into a tree at 27<sup>th</sup> Street and Bryant Ave. S.<sup>217</sup> After the crash, B.A.B. attempted to escape the vehicle, while Defendant tried to grab her

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<sup>197</sup> *Id.* at 1, 3 & 24.

<sup>198</sup> *Id.* at 5.

<sup>199</sup> *Id.* at 1, 3

<sup>200</sup> *Id.* at 1

<sup>201</sup> *Id.* at 6, 18, 27.

<sup>202</sup> *Id.* at 18.

<sup>203</sup> *Id.* at 1, 3, 6, 18, 24, & 27.

<sup>204</sup> *Id.* at 3.

<sup>205</sup> *Id.*

<sup>206</sup> *Id.*

<sup>207</sup> *Id.* at 3 & 18.

<sup>208</sup> *Id.* at 3 & 18.

<sup>209</sup> *Id.* at 1-3.

<sup>210</sup> *Id.* at 3, 18, & 27.

<sup>211</sup> *Id.* at 6, 18 & 24.

<sup>212</sup> *Id.* at 18.

<sup>213</sup> *Id.* at 6, 18, & 27.

<sup>214</sup> *Id.* at 3, 6, & 18.

<sup>215</sup> *Id.* at 1, 18, & 27.

<sup>216</sup> *Id.* at 6, 18, 24, & 27-28.

<sup>217</sup> *Id.* at 2, 4, & 18.

and keep her in the vehicle.<sup>218</sup> However, when witnesses began looking out of the windows of their dwellings, Defendant pushed B.A.B. out of the car and drove off toward the east.<sup>219</sup> B.A.B. noticed that Defendant's face was bloody from when he smashed into the car's dashboard during the crash.<sup>220</sup> B.A.B.'s jeans, purse, and tennis shoes were left in Defendant's vehicle.<sup>221</sup>

40. B.A.B. was disoriented and began running and screaming for help.<sup>222</sup> Two witnesses, K.W. and J.S., who are husband and wife, came out of their home to assist her.<sup>223</sup> They brought blankets and were able to quiet B.A.B.<sup>224</sup> The implement that Defendant used to stab B.A.B. was still stuck in the back of her head.<sup>225</sup> B.A.B. removed this from her head and later gave it to police.<sup>226</sup>
41. During their investigation, officers observed skid marks leading to the tree into which Defendant had crashed.<sup>227</sup> Observable damage was done to the tree.<sup>228</sup> There were also possible blood drops on the gutter near where B.A.B. was pushed from the vehicle, what appeared to be a homemade club, and debris from the car crash.<sup>229</sup> It was believed the front bumper of the vehicle was damaged in the crash.<sup>230</sup>
42. A physical and sexual examination of B.A.B. occurred at HCMC around 8:30 a.m.<sup>231</sup> Semen was observed in her vagina.<sup>232</sup> B.A.B. had a number of abrasions and thin lacerations on her upper back, reddened areas and abrasions on her neck, especially on the left side; a 4-inch, thin laceration on her upper left arm; scratch marks on her upper right arm; a long thin laceration on her right thigh; a large, red "road rash"-type abrasion on her left hip; and a puncture wound to the nape of her neck along the hair line.<sup>233</sup>
43. A semen sample was taken from B.A.B.'s vagina, as well as a sample of human blood found on her shirt.<sup>234</sup> The blood on B.A.B.'s shirt was determined not to belong to B.A.B. and was believed to belong to her assailant.<sup>235</sup>

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<sup>218</sup> *Id.* at 2, 4, & 18.

<sup>219</sup> *Id.* at 2 & 4.

<sup>220</sup> *Id.* at 18 & 28.

<sup>221</sup> *Id.* at 4.

<sup>222</sup> *Id.* at 2,

<sup>223</sup> *Id.* at 1-2.

<sup>224</sup> *Id.* at 2.

<sup>225</sup> *Id.*

<sup>226</sup> *Id.* and Exhibits 116-118.

<sup>227</sup> Exhibit 89 at 5, and Exhibits 104-106

<sup>228</sup> Exhibits 108-111.

<sup>229</sup> Exhibit 89 at 5 and Exhibits 107 & 111-114.

<sup>230</sup> Exhibit 89 at 4 & 24.

<sup>231</sup> Exhibit 90 at 2.

<sup>232</sup> *Id.*

<sup>233</sup> *Id.* at 6-7, and Exhibits 91-103.

<sup>234</sup> Exhibit 119 at 3.

<sup>235</sup> Exhibit 89 at 23 and Exhibit 119 at 3.

44. Not long after the incident, on June 28, 1988, officers arrested another individual as a suspect in the assault of B.A.B.<sup>236</sup> Though B.A.B. initially identified this man as her assailant, blood and DNA testing would later rule him out.<sup>237</sup>
45. In 1993, Defendant was identified as a possible suspect in the assault of B.A.B.<sup>238</sup> Officers learned, that on June 16, 1988, only three days after the assault on B.A.B., Defendant reported that his 1978 station wagon had been involved in a hit-and-run accident.<sup>239</sup> Police spoke with Defendant's step-daughters, N.C. and M.C., to see if they recalled anything about this accident. N.C. recalled the hit-and-run and told officers that M.C. had witnessed this accident. N.C. then reported that before the hit-and-run, Defendant had been hiding the car from her mother, Defendant's wife, and that it was already heavily damaged before the hit-and-run accident occurred.<sup>240</sup> N.C. reported that she discovered the vehicle as she was walking home from Bottineau Park, and later, N.C. took officers to the location just east of 23<sup>rd</sup> and California.<sup>241</sup> N.C. also reported that when she asked Defendant how the car had been damaged, he told her that he had fallen asleep and hit a tree, but that she should not say anything to anyone about it.<sup>242</sup> She recalled that the vehicle had damage to the front right portion of the vehicle and the passenger side door.<sup>243</sup> According to N.C., Defendant never drove that car again.<sup>244</sup>
46. Defendant's other step-daughter, M.C., reported that she had witnessed the hit and run accident involving Defendant's station wagon; and that the damage from that accident had been done to the driver's side door.<sup>245</sup>
47. When Defendant was questioned in 1993 about the accident with his station wagon, Defendant told officers that the vehicle had been damaged when he crashed into a tree in a suicide attempt on E. River Rd.<sup>246</sup> He reported that a tow truck just happened to come along from Willy's Towing and the tow truck driver dropped the car off behind a business, which was the location where N.C. later saw it hidden.<sup>247</sup> Defendant stated he got a ride home from a friend after the accident.<sup>248</sup> Once N.C. discovered the vehicle, Defendant moved it to another location, near 19<sup>th</sup> and Washington Ave, which was in front of his home, where it was involved in the hit and run witnessed by M.C.<sup>249</sup> When pressed to show officers where on E. River Rd. he had crashed his car, Defendant stated he

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<sup>236</sup> Exhibit 89 at 6-7.

<sup>237</sup> *Id.* at 8 & 19 and Exhibit 119 at 3 & 9-10.

<sup>238</sup> Exhibit 89 at 21.

<sup>239</sup> *Id.* at 26 & 28

<sup>240</sup> *Id.* at 29.

<sup>241</sup> *Id.* at 29 and 31.

<sup>242</sup> *Id.* at 29.

<sup>243</sup> *Id.*

<sup>244</sup> *Id.*

<sup>245</sup> *Id.* at 31.

<sup>246</sup> *Id.* at 33 & 35.

<sup>247</sup> *Id.* at 33 & 35.

<sup>248</sup> *Id.* at 33 & 35.

<sup>249</sup> *Id.* at 33 & 35.

couldn't remember the exact location.<sup>250</sup> During the same interview, Defendant stated he wasn't there and did not assault B.A.B.<sup>251</sup>

48. It is worth noting that the area where N.C. saw the damaged station wagon and Defendant reported leaving the damaged station wagon, 23<sup>rd</sup>-25th Ave and California, is located directly across the river from where L.A.M.'s body was found.<sup>252</sup>
49. The owner of Willy's Towing denied that anyone from his company towed Defendant's vehicle as Defendant had claimed.<sup>253</sup> The owner explained that he would not have taken a tow as described by Defendant and neither would any of his employees.<sup>254</sup>
50. Police obtained a search warrant in 1993 for a sample of Defendant's blood and saliva.<sup>255</sup> Blood-type testing showed that Defendant was a possible source for the blood found on B.A.B.'s shirt.<sup>256</sup> Additionally, testing showed that only 1.3% of the general population shares Defendant's blood group.<sup>257</sup> DNA testing showed that the blood contained a predominant male profile that matched Defendant.<sup>258</sup> Defendant's DNA profile was not entered into any DNA databases as he was never charged or convicted of anything in connection with the assault of B.A.B. Additionally, the DNA from the blood evidence left on B.A.B. was not entered into any DNA databases until 2013.<sup>259</sup>

### **Cold Hit and Further DNA Testing**

51. In March 2008, the BCA received a number of items related to L.A.M.'s case for DNA testing.<sup>260</sup> Among those items were a known saliva swab from L.A.M., vaginal and rectal swabs from L.A.M., and pubic hair combings from L.A.M.<sup>261</sup> In its initial report, the BCA noted that semen was identified in both the vaginal and rectal swabs, but not in the known saliva sample, and that saliva was not detected in the vaginal swab.<sup>262</sup> Initial DNA testing of the semen found in L.A.M.'s vagina and her rectum returned an unidentified male profile.<sup>263</sup> No match for this profile was found in the Minnesota DNA databases.<sup>264</sup> The profile was entered into the Minnesota DNA databases and the

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<sup>250</sup> *Id.* at 33 & 36.

<sup>251</sup> *Id.* at 33 & 35-36.

<sup>252</sup> *See* Exhibit 83, which has the location L.A.M.'s body was discovered circled. Directly across from this location on the map provided is the intersection of 22<sup>nd</sup> Ave and California St.

<sup>253</sup> Exhibit 89 at 38.

<sup>254</sup> *Id.*

<sup>255</sup> *Id.* at 32.

<sup>256</sup> *Id.* at 39 and Exhibit 119 at 7.

<sup>257</sup> Exhibit 89 at 39 and Exhibit 119 at 7

<sup>258</sup> Exhibit 89 at 40 and Exhibit 119 at 9-10 & 17.

<sup>259</sup> Exhibit 2 at 16 and Exhibit 71 at 5-6.

<sup>260</sup> Exhibit 2 at 16, and Exhibit 71 at 1.

<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

<sup>263</sup> *Id.* at 2.

<sup>264</sup> *Id.*



National DNA Index System (NDIS), so that comparisons could continue to be made as more DNA profiles were entered into those databases.<sup>265</sup>

52. In March 2013, the unknown male profile in L.A.M.'s BCA file matched the male DNA profile from the blood on B.A.B.'s shirt, which was known to be a match to Defendant's DNA.<sup>266</sup> Following this match, the BCA ran a number of subsequent tests on DNA found on items of L.A.M.'s clothing in 2014, 2015, 2017<sup>267</sup> and 2018.<sup>268</sup> The BCA found semen on several areas on L.A.M.'s shirt, pants, and underwear.<sup>269</sup> All of this testing showed that anytime a female DNA profile was identified, that profile matched L.A.M.<sup>270</sup> Anytime a male DNA profile was identified, that profile matched Defendant, including Y-chromosomal testing done on an area from L.A.M.'s pant leg.<sup>271</sup>
53. Defendant could not be excluded as a contributor from any DNA mixture where there was sufficient genetic material for testing.<sup>272</sup> The majority of these DNA mixtures were for two or more individuals.<sup>273</sup> Of those "two or more" mixtures, a mixture of Defendant and L.A.M.'s DNA cannot be excluded from two areas on L.A.M.'s pants and two more on L.A.M.'s underwear, but 97.4%-99.98% of the general population can be excluded from those mixtures.<sup>274</sup> One mixture from L.A.M.'s pants includes a major profile, which matches L.A.M.<sup>275</sup> Defendant cannot be excluded from the remainder, but 99.5% of the general population can be.<sup>276</sup> There are four additional, "two or more" mixtures from L.A.M.'s pants, where neither Defendant nor L.A.M. can be excluded, with exclusion rates ranging from 78.3% to 99.1%.<sup>277</sup> L.A.M. is excluded as a contributor to one, "two or more" mixture found on her underwear.<sup>278</sup> Defendant cannot be excluded from this mixture, but 99.94% of the general population can be.<sup>279</sup> The final mixture found on L.A.M.'s pants is a mixture of three or more individuals, neither Defendant nor L.A.M. can be excluded as contributors, but 24.3% of the general population can be excluded.<sup>280</sup>

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<sup>265</sup> *Id.*

<sup>266</sup> *Id.* at 5.

<sup>267</sup> In an *Order* issued by this Court on January 19, 2018, all DNA testing of Defendant's known sample, taken in connection to B.A.B.'s case, done in L.A.M.'s case was suppressed. At the same time, the Court issued an order requiring Defendant to provide a new DNA sample for testing. However, in spite of this *Order* granting Defendant's motion to suppress, Defendant has agreed that the Court can now consider this evidence in determining his guilt, as it has been submitted via stipulation.

<sup>268</sup> *See* Exhibit 71 generally.

<sup>269</sup> *Id.* at 7-8

<sup>270</sup> *Id.* at 10 & 23.

<sup>271</sup> *Id.* at 10-11, 16, 23, 31-34.

<sup>272</sup> *Id.* at 10-12, 16, 23-24, 32-34.

<sup>273</sup> The Court understands this term to mean that given the variety of DNA markers in the mixture, at least two individuals' DNA must be present, but it is scientifically possible, though perhaps not always probable, that more DNA profiles might be present.

<sup>274</sup> *Id.* at 10-12.

<sup>275</sup> *Id.* at 23.

<sup>276</sup> *Id.* at 23.

<sup>277</sup> *Id.* at 23-24.

<sup>278</sup> *Id.* at 11.

<sup>279</sup> *Id.*

<sup>280</sup> *Id.* at 24

54. DNA testing done in 2018 confirmed all of the previously found results.<sup>281</sup>

### Investigation into Defendant

55. Investigation into Defendant as a suspect in L.A.M.'s murder began in 2013, shortly after the initial DNA match.<sup>282</sup> Officers spoke to a number of people who knew Defendant, spoke with Defendant on multiple occasions and executed several search warrants.

56. L.A.M.'s friends and family were shown a photograph of Defendant from around the time of L.A.M.'s murder, and none recognized Defendant or recalled his name.<sup>283</sup> L. Pantze reported that she knew all of L.A.M.'s boyfriends and Defendant was not one of them.<sup>284</sup>

57. In 1983, Defendant was twenty-eight and lived at 1829 University Ave NE.<sup>285</sup> This address is located directly across the river from the location where L.A.M. was found.<sup>286</sup> Defendant's ex-wife reported that around that time Defendant drove a green station wagon, a "hopped up" Chevy Nova, a big black F-250 truck, and a Pontiac Firebird.<sup>287</sup> It is unclear which of these vehicles Defendant would have been driving at the time L.A.M. was murdered. Defendant's ex-wife also reported that Defendant's shoe size is a men's 8½.<sup>288</sup> Defendant's ex-wife recalled that Defendant would frequently go out late at night and not return home until morning, staying out all night without telling her where he had gone.<sup>289</sup>

58. Officers also spoke with a number of Defendant's friends and people with whom he had lived over the years. When officers approached M.J.C., with whom Defendant lived from 1998 through 2002, M.J.C.'s response was, "Did he kill someone?"<sup>290</sup> She also told officers that Defendant would talk about the perfect murder, which involved cutting someone up and either placing them in the river or burying them in concrete.<sup>291</sup>

59. Investigators spoke with Defendant on a number of occasions. On the first occasion, on October 28, 2014, officers spoke with Defendant at his home.<sup>292</sup> During this conversation, Defendant was shown a series of five photographs, one of which was

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<sup>281</sup> *Id.* at 30-35.

<sup>282</sup> Exhibit 2 at 16.

<sup>283</sup> *Id.* at 16-17.

<sup>284</sup> *Id.* at 17.

<sup>285</sup> *Id.* at 2 and 12.

<sup>286</sup> See Exhibits 82 & 83. University Ave is noted as Highway 47 on Exhibit 82.

<sup>287</sup> Exhibit 2 at 12.

<sup>288</sup> *Id.*

<sup>289</sup> *Id.*

<sup>290</sup> *Id.* at 14.

<sup>291</sup> *Id.*

<sup>292</sup> *Id.* at 18.

L.A.M.<sup>293</sup> The pictures included the name of each girl.<sup>294</sup> Defendant stated he did not recognize any of these women, including L.A.M.<sup>295</sup>

60. Officers interviewed Defendant while in custody on March 6, 2015.<sup>296</sup> When questioned about the 1988 assault of B.A.B., Defendant denied any involvement.<sup>297</sup> Defendant did acknowledge that B.A.B. may have looked familiar.<sup>298</sup> However, Defendant never provided an explanation for why his blood was on her shirt, and in fact adamantly denied that his blood was there, despite the forensic evidence.<sup>299</sup> He mentioned Lake Street as an area where he knew he could pick up a prostitute.<sup>300</sup> Defendant denied that he had told officers in 1993 that he was attempting to commit suicide when he crashed his car into a tree.<sup>301</sup>
61. With regard to the murder of L.A.M., Defendant once again denied recognizing her picture, denied remembering the crime scene, and claimed the only way his DNA could be on the victim was if they had had sex.<sup>302</sup> Defendant admitted to using prostitutes and estimated he did so at least 50 times, stopping the practice somewhere in his thirties.<sup>303</sup> He also admitted to having one-night stands with strangers.<sup>304</sup> Defendant stated that prostitutes were out at all hours.<sup>305</sup> Defendant stated he would not use a condom with these women and would ejaculate inside of them.<sup>306</sup> Defendant also admitted to picking up hitchhikers.<sup>307</sup> Defendant generally denied ever having raped anyone, but admitted that he had gotten into fights with women “usually after” the sex.<sup>308</sup> Defendant admitted that he grew up with the mentality that if someone hurts you, you hurt them back.<sup>309</sup>
62. Defendant was interviewed again on September 11, 2017 following his arrest on the complaint in this matter.<sup>310</sup> Defendant was shown photos of L.A.M., some of which included the injuries to her head.<sup>311</sup> Defendant denied knowing L.A.M. and claimed not to remember having any contact with her.<sup>312</sup> He told officers that if his DNA was on her, it would be from sex.<sup>313</sup> Defendant stated that he would have sex with prostitutes or one-

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<sup>293</sup> *Id.*

<sup>294</sup> *Id.*

<sup>295</sup> *Id.*

<sup>296</sup> *Id.* at 20 and Exhibit 120.

<sup>297</sup> Exhibit 2 at 21 and Exhibit 120 at 19 & 27.

<sup>298</sup> Exhibit 2 at 21 and Exhibit 120 at 33.

<sup>299</sup> Exhibit 2 at 21 and Exhibit 120 at 11 & 18.

<sup>300</sup> Exhibit 120 at 23.

<sup>301</sup> *Id.* at 59.

<sup>302</sup> Exhibit 2 at 21 and Exhibit 120 at 5, 14-15, 29-30, 65, & 77-80.

<sup>303</sup> Exhibit 2 at 21 and Exhibit 120 at 13, 19, 23, 31-32, 37-38, 52, & 74-75

<sup>304</sup> Exhibit 120 at 9.

<sup>305</sup> *Id.* at 32-33.

<sup>306</sup> Exhibit 2 at 21 and Exhibit 120 at 31.

<sup>307</sup> Exhibit 2 at 21 and Exhibit 120 at 75.

<sup>308</sup> Exhibit 120 at 27.

<sup>309</sup> *Id.* at 28.

<sup>310</sup> Exhibit 2 at 34.

<sup>311</sup> *Id.*

<sup>312</sup> *Id.*

<sup>313</sup> *Id.*

night stands either in his car or at their apartment/home if they had one or at his apartment or home.<sup>314</sup> Officers showed Defendant two maps of the area where L.A.M. was found and Defendant acknowledged living in that area.<sup>315</sup> Defendant could not remember what kind of car he was driving at the time of L.A.M.'s murder.<sup>316</sup>

63. On October 16, 2017, one of Defendant's close friends, J.K. was asked if he recognized L.A.M.<sup>317</sup> J.K. stated he did not recognize her, but also said he had brain damage and memory problems.<sup>318</sup>

**Alternative Perpetrator: C.J.M.<sup>319</sup>**

64. Defendant has proposed two alternative perpetrators. The Court outlines the evidence against both of them. First, C.J.M., who officers pulled over in the area near where L.A.M.'s body was found shortly after the police had cleared the scene.
65. One of the officers who responded to the scene of L.A.M.'s murder was Officer Robert Jansen.<sup>320</sup> After the homicide unit had left the scene, Officer Jansen returned and observed a black over yellow 1973, 2-door, Dodge Dart driving southbound in the parking lot, where officer believed L.A.M.'s murderer had parked his vehicle.<sup>321</sup> Officer Jensen initiated a traffic stop and identified the driver as C.J.M.<sup>322</sup> The vehicle was registered to a S.D., who C.J.M. reported was his girlfriend.<sup>323</sup>
66. Officer Jansen told C.J.M. that he was in the area because of a homicide and asked C.J.M. to speak with him after reading him his *Miranda* rights.<sup>324</sup> When asked, C.J.M. indicated that he was in the area because his girlfriend's brother told him about a job in the area.<sup>325</sup> C.J.M. could not name the business he was looking for, nor could he give an address.<sup>326</sup> C.J.M. told Officer Jansen that he had been home with his girlfriend and her brother the previous evening (April 1) and had only left for a brief time to pick up a pizza around 6 p.m.<sup>327</sup> C.J.M. also told Officer Jansen that just prior to driving to the parking lot, he had dropped his daughter and her friend at Target and was on his way home, but wanted to check out the area where the potential job might be.<sup>328</sup>

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<sup>314</sup> *Id.*

<sup>315</sup> *Id.* and Exhibits 82-83.

<sup>316</sup> Exhibit 2 at 34.

<sup>317</sup> *Id.* at 44.

<sup>318</sup> *Id.*

<sup>319</sup> Neither alternative perpetrator was ever charged with anything in connection to this murder. Because of this and the fact that the Court ultimately concludes that the evidence linking either one to L.A.M.'s murder is insufficient to raise a reasonable doubt as to Defendant's guilt, the Court refers to these men by their initials.

<sup>320</sup> Exhibit 1 at 12.

<sup>321</sup> *Id.*

<sup>322</sup> *Id.*

<sup>323</sup> *Id.*

<sup>324</sup> *Id.*

<sup>325</sup> *Id.*

<sup>326</sup> *Id.*

<sup>327</sup> *Id.*

<sup>328</sup> *Id.*

67. In his report, Officer Jansen noted that C.J.M. appeared tired and possibly hungover, remarking that his eyes were very bloodshot.<sup>329</sup> Officer Jansen believed C.J.M. was suspicious given his vague reasons for being in the area and Officer Jansen's perception that C.J.M. did not react in an expected manner to being told police had just discovered a dead body, specifically that he did not appear interested.<sup>330</sup> There is no evidence that police ever followed up with C.J.M. as he is not mentioned in any of the other reports.

#### **Alternative Perpetrator: R.A.R.**

68. The second alternative perpetrator offered by Defendant is R.A.R. R.A.R. initially confessed to the murder, though there were significant conflicts between the details of R.A.R.'s confession and the facts of L.A.M.'s case.

69. On February 18, 1984, R.A.R. walked into the Homicide Office of the Minneapolis Police Department and told officers he wanted to confess to L.A.M.'s murder.<sup>331</sup> Lt. Lundberg, after unsuccessfully attempting to reach the officers assigned to L.A.M.'s case, read R.A.R. his rights per *Miranda* and then interviewed him<sup>332</sup> regarding the murder of L.A.M.<sup>333</sup> During this interview, R.A.R.'s story changed a number of times.

70. R.A.R. told Lt. Lundberg that about a week prior to the murder, R.A.R. had attended a party with L.A.M. and during that party, R.A.R.'s leather jacket had been stolen.<sup>334</sup> R.A.R. believed L.A.M. knew who had taken his jacket, but when confronted would not tell.<sup>335</sup> R.A.R. stated that on the evening of April 1, 1983, he walked to L.A.M.'s house from his house and found L.A.M. outside, they then walked to the location of the murder where he killed her.<sup>336</sup>

71. Because this information did not fit with police reports suggesting L.A.M. was driven to the murder scene, Lt. Lundberg questioned R.A.R. again about how he got to L.A.M.'s house.<sup>337</sup> R.A.R. changed his story and said he drove his old green Chevy and reached her house at 7:00 p.m. on the evening of April 1.<sup>338</sup> They then drove to the parking lot near the murder scene where R.A.R. questioned L.A.M. about the jacket.<sup>339</sup> R.A.R. then said that he punched L.A.M. into unconsciousness before dragging her about 70 yards to

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<sup>329</sup> *Id.*

<sup>330</sup> *Id.*

<sup>331</sup> *Id.* at 13-14.

<sup>332</sup> R.A.R.'s interview occurred more than ten years prior to the Minnesota Supreme Court's decision in *State v. Scales*, requiring that all custodial interviews be recorded. 518 N.W.2d 587 (Minn. 1994). As such, the only documentation of R.A.R.'s confession available to the Court is Lt. Lundberg's summary, which does not include with any specificity what questions R.A.R. was asked to illicit his responses.

<sup>333</sup> *Id.* at 14.

<sup>334</sup> *Id.*

<sup>335</sup> *Id.*

<sup>336</sup> *Id.*

<sup>337</sup> *Id.*

<sup>338</sup> *Id.*

<sup>339</sup> *Id.*

the weeds by the tracks.<sup>340</sup> He stated he went back to his car to retrieve a tire iron, which he used to beat L.A.M. to death.<sup>341</sup>

72. R.A.R. stated he washed the tire iron off in the river and that it was now in his garage.<sup>342</sup> When asked if he took anything from L.A.M., R.A.R. stated he took her rabbit fur, her purse, which contained some rings, and some articles of clothing, but he could not recall what those were.<sup>343</sup> R.A.R. stated that he threw the items he took from L.A.M. into the river.<sup>344</sup> R.A.R. denied ever strangling L.A.M.<sup>345</sup> R.A.R. stated that after the murder he went home and arrived there at approximately 8:30 p.m. in the evening of April 1.<sup>346</sup>
73. Given the apparent discrepancy in time (i.e. reports that L.A.M. was alive long after 8:30 p.m. on April 1, 1983), Lt. Lundberg asked R.A.R., “what would you think if I told you someone saw her alive and well and uninjured about 6 hours, or at about 3 am the following morning, after the time you stated you killed her?”<sup>347</sup> R.A.R. replied “well then I guess I didn’t kill her, did I?”<sup>348</sup> When pressed as to whether or not he killed L.A.M., he stated that he did not know, he had been on a lot of drugs at the time and he was not very clear on it.<sup>349</sup>
74. Lt. Lundberg noted that R.A.R. appeared to be under the influence during their interview, remarking that his speech was slurred and he was nodding off.<sup>350</sup> Lt. Lundberg believed R.A.R. was high on some narcotic.<sup>351</sup> R.A.R. was placed under arrest, with the hope that he could be interviewed after he had sobered up.<sup>352</sup> Among the items taken from R.A.R. at the time of his arrest was a green, waist-length jacket that appeared to have blood stains on the lining.<sup>353</sup> When asked if he was wearing that jacket at the time of the murder, R.A.R. first replied “yes,” then “no.”<sup>354</sup> It does not appear police ever pursued R.A.R. as a legitimate suspect in this matter. He was not spoken to again about this case, nor were witnesses questioned about his story until after Defendant had been identified as a suspect.
75. On October 15, 2014, Sgt. Karakostas interviewed R.A.R.<sup>355</sup> R.A.R. stated that he confessed to killing L.A.M. in 1984 because at the time he was homeless and had

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<sup>340</sup> *Id.*

<sup>341</sup> *Id.*

<sup>342</sup> *Id.*

<sup>343</sup> *Id.*

<sup>344</sup> *Id.*

<sup>345</sup> *Id.*

<sup>346</sup> *Id.*

<sup>347</sup> *Id.*

<sup>348</sup> *Id.*

<sup>349</sup> *Id.*

<sup>350</sup> *Id.*

<sup>351</sup> *Id.*

<sup>352</sup> *Id.*

<sup>353</sup> *Id.* at 15.

<sup>354</sup> *Id.*

<sup>355</sup> *Id.* at 17-18.

nowhere else to go.<sup>356</sup> R.A.R. further reported that he had only seen L.A.M. on two occasions.<sup>357</sup> R.A.R. said that he was at the party L.A.M. attended the night before her murder, but he had been kicked out around 9:30 p.m.<sup>358</sup> He stated he had never had sex with L.A.M. nor had he had any other sort of physical contact with her.<sup>359</sup> R.A.R. did not recognize L.A.M.'s photo when he was shown it amidst an array of other photos of young women.<sup>360</sup> R.A.R. did not recognize Defendant's photo or anyone else in the photo with Defendant.<sup>361</sup>

76. R.A.R. agreed to provide a DNA sample for testing in this case, and provided the sample immediately following his interview with Sgt. Karakostas on October 15, 2014.<sup>362</sup> DNA testing was performed on R.A.R.'s sample and compared with the evidence in this case. Four reports were generated on 1) December 14, 2014,<sup>363</sup> 2) October 14, 2015,<sup>364</sup> 3) March 9, 2017,<sup>365</sup> and 4) March 12, 2017.<sup>366</sup> R.A.R. was not a match to any identifiable DNA profiles and was excluded from all DNA mixtures where sufficient genetic material was present for comparison.<sup>367</sup>

77. Pulley, who owned the house which hosted the party L.A.M. attended on her final evening, remembered R.A.R. as a neighbor.<sup>368</sup> Pederson, who also lived at the address remembered R.A.R.'s name and his brother Ricky, but did not recognize R.A.R.'s photograph.<sup>369</sup> Pederson did not recall any of R.A.R.'s story about a missing jacket, a fight at any of their parties or R.A.R. being kicked out of a party.<sup>370</sup> Bretto, who was friends with L.A.M. at the time of her murder and drove her home from the party, was unsure if he recalled R.A.R.'s name.<sup>371</sup>

## CONCLUSIONS OF LAW

1. In order to find Defendant guilty of Murder in the Second Degree, the Court must find the following elements proven beyond a reasonable doubt:
  - a. First, the death of L.A.M. must be proven.
  - b. Second, the defendant caused the death of L.A.M.

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<sup>356</sup> *Id.* at 18.

<sup>357</sup> *Id.*

<sup>358</sup> *Id.*

<sup>359</sup> *Id.*

<sup>360</sup> *Id.* & Exhibits 73-77.

<sup>361</sup> Exhibit 2 at 18, and Exhibit 72.

<sup>362</sup> Exhibit 2 at 18.

<sup>363</sup> Exhibit 71 at 13-14.

<sup>364</sup> *Id.* at 18-19.

<sup>365</sup> *Id.* at 26-27.

<sup>366</sup> *Id.* at 28-29.

<sup>367</sup> *Id.* at 14, 18, & 26-29.

<sup>368</sup> Exhibit 2 at 19.

<sup>369</sup> *Id.* at 31.

<sup>370</sup> *Id.*

<sup>371</sup> *Id.* at 37.

- c. Third, the defendant acted with the intent to kill L.A.M. To find the defendant had an “intent to kill,” it is necessary to find the defendant acted with the purpose of causing death, or believed the act would have that result. It is not necessary that the defendant's act be premeditated.
- d. Fourth, the defendant's act took place on or about April 2, 1983 in Hennepin County.<sup>372</sup>

Defendant’s arguments center on the second element; that is whether or not Defendant was the person who caused L.A.M.’s death. Because of that, the Court will briefly address the other three elements first, before focusing the majority of its analysis on element two.

### **Element 1: The Death of L.A.M.**

2. First, there is no question that the death of L.A.M. has been proven beyond a reasonable doubt. All of the evidence supports this conclusion and Defendant does not contest that L.A.M. is in fact deceased.
3. L.A.M.’s body was found on the morning of April 2, 1983. She had suffered multiple blows to her head and face, which had caused a portion of her skull to cave in and had caused substantial loss of blood. When found, her body was cold to the touch and Dr. Austin opined she had been dead for as many as ten hours prior to the discovery of her body. Her body was later identified through multiple means. Her parents identified her via her clothing and a tattoo on her right shoulder. Police were able to identify her by matching her fingerprints to a fingerprint card from a previous arrest where she had used a false name. Dental records confirmed the identification. Based upon this evidence, the death of L.A.M. has been proven beyond a reasonable doubt.

### **Element 3: Intent to Kill**

4. Next, it is clear that someone intentionally killed L.A.M. Based upon the evidence, the Court concludes that L.A.M. was first rendered unconscious, then dragged to a place beside the railroad tracks. There she was brutally beaten to her death. There is no evidence at the scene, which would suggest that her killer acted in self-defense or that she was killed accidentally.
5. The injuries L.A.M. suffered evidenced extreme violence. Her right eye was obliterated and portions of her skull caved in. She suffered numerous fractures to the bones in her face and to her teeth. There were gaping holes in her face where she was struck. Blood from the blows to her head was spattered upon nearby train cars and bone and brain were observed in the pools of blood where she was beaten. These injuries were inflicted upon L.A.M. as she lay on her back, most likely unconscious, and were the result of at least half a dozen blows.
6. The sheer violence necessary to cause her injuries, coupled with the fact that L.A.M. was almost certainly unconscious or barely conscious when those injuries were inflicted,

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<sup>372</sup> Minn. CRIMJIG 11.25.



compel only one conclusion, that the person who struck those blows did so with the intent to kill her. L.A.M.'s killer struck her, and kept striking her, despite the fact that she could not resist and the fact that the blows were causing extreme damage to L.A.M.'s face and head. There can be no doubt that L.A.M.'s killer caused her death intentionally. Therefore, this element has been proven beyond a reasonable doubt.

#### **Element 4: Venue**

7. The evidence also supports the conclusion that L.A.M.'s murder occurred on April 2, 1983 in Hennepin County. L.A.M. attended a party with her brother and others on the night of April 1, 1983 into the early morning hours of April 2, 1983. L.A.M.'s mother and her brother both reported hearing or seeing her in their home around 2:30 a.m. on April 2, 1983. L.A.M. was last seen alive around 3:00 a.m. by Ms. Anton on April 2, 1983, when L.A.M. went to Ms. Anton's house to see her boyfriend. L.A.M.'s mother noticed that L.A.M. was missing at 4:15 a.m. and she never returned home after that. Several hours later, railroad workers discovered L.A.M.'s body at around 10:25 a.m. on April 2, 1983. Therefore, it is clear that L.A.M. was killed between 3:00 a.m. and 10:25 a.m. on April 2, 1983.
8. Additionally, the Court concludes that L.A.M. was killed at the location where her body was found. Dr. Austin concluded that the strangulation marks were consistent with causing unconsciousness but not death, and opined that she was alive at the time she was beaten. There is no accompanying blood trail alongside the drag marks, rather there were two pools of blood at the scene, one under L.A.M.'s head and the other in close proximity to her head. There was also blood spatter found on the nearby train cars. Based upon this evidence, the Court concludes that L.A.M. was taken to the area near the railroad tracks alive. She was beaten while lying on her back, and then flipped over and left lying on her stomach. This beating resulted in her death. L.A.M.'s body was found between 28<sup>th</sup> Ave. N. & 30<sup>th</sup> Ave N., and Pacific Ave & 2<sup>nd</sup> St. in Minneapolis, Hennepin County, Minnesota. Therefore, the Court finds beyond a reasonable doubt that L.A.M.'s murder occurred on or about April 2, 1983 in Hennepin County, Minnesota.

#### **Element 2: Defendant Caused L.A.M.'s Death**

9. The Court now turns to the contested element of the offense, whether or not Defendant was the person who killed L.A.M. Because there is no direct evidence as to the identity of L.A.M.'s killer, the Court first considers the circumstances that have been proven and then considers whether those circumstances are consistent with a verdict of guilty and inconsistent with any rational hypothesis except that of guilt.<sup>373</sup> The Court looks to the evidence as a whole, rather than pieces in isolation, in determining whether or not any hypotheses inconsistent with guilt are rational.<sup>374</sup> In reaching the conclusion that Defendant is guilty, the timing of certain events and the DNA evidence were crucial.

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<sup>373</sup> *State v. Harris*, 895 N.W.2d 592, 598 (Minn. 2107) (upholding the separate standard of review for verdicts based upon circumstantial evidence).

<sup>374</sup> *State v. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002).

### **Timing of L.A.M.'s Death:**

10. First, the Court considered the timing of L.A.M.'s murder. It is clear from all of the evidence that L.A.M. was killed on April 2, 1983 sometime between 3 a.m., when she was last seen alive at the home of her boyfriend's grandparents, and 10:25 a.m. when her body was discovered. These two times provide a time frame of approximately seven and a half hours during which L.A.M.'s murder must have occurred. However, additional facts lead the Court to conclude that the actual time of her death was much closer to 3 a.m. than to 10:25 a.m.
11. At 10:25 a.m., L.A.M.'s body was already stiff and cool to the touch, and by the time of her autopsy her core temperature had dropped almost 20°F. Dr. Austin estimated her time of death to be as early as ten hours before the discovery of her body, meaning it could have been as early as 12:30 a.m. The time L.A.M. was last reported seen alive, 3 a.m., is already two and a half hours past this earliest estimate. Thus, the probability that L.A.M. was still alive even a few of hours later is highly unlikely.
12. Common sense supports this conclusion, as it is much more likely someone would have seen or heard something suspicious if the murder had happened during daylight hours. Moreover, if L.A.M. had been murdered closer to 10 a.m. than to 3 a.m., the Court would expect that someone would have reported seeing L.A.M. somewhere during that time. However, in spite of decades' worth of investigation, no subsequent sightings were ever reported.
13. Finally, the distance between where L.A.M. was last seen and where her body was discovered is not far,<sup>375</sup> and the evidence supports the conclusion that she arrived there by vehicle. Common sense dictates that to have only traveled such a short distance indicates that not much time passed between when she left the Antons' house and when she arrived at the location of her murder.
14. For these reasons, the Court concludes that the time frame from when L.A.M. was last seen to when she was murdered is actually relatively short, a few of hours after 3 a.m. at the most.

### **Sexual Penetration by Defendant**

15. Between the time when she was last seen and the time she was murdered, Defendant sexually penetrated<sup>376</sup> L.A.M. both vaginally and anally.<sup>377</sup> That Defendant sexually

<sup>375</sup> Both locations are observable on Exhibit 83, which is a close-up of the location where the murder occurred.

<sup>376</sup> The Court believes it is highly unlikely sexual contact between Defendant and L.A.M. was consensual.

However, whether or not Defendant sexually assaulted L.A.M. is immaterial to whether or not he ultimately killed her. The Court does not base any of its ultimate conclusions as to Defendant's guilt on the presumption that Defendant sexually assaulted L.A.M. As such, the Court attempts to use language describing the sexual interaction that does not imply consent or a lack thereof.

<sup>377</sup> Defendant takes issue with the conclusion that anal penetration occurred, arguing that the positive results on the anal swab could have come from semen on the outside of the anus. This assumes details of a procedure not provided in the body of evidence. Additionally, the swab is referred to as a "rectal swab" not an "anal swab," the

penetrated L.A.M. cannot be disputed. Sperm cells left in L.A.M.'s vagina and her rectum were a match to Defendant's DNA. Additionally, semen found on her shirt, her pants, and her underwear were also either a match to Defendant's DNA or were mixtures of DNA, from which Defendant could not be excluded, but large portions of the world population could.

16. In his interview with investigators, Defendant admitted that if his DNA was on a person it was mostly likely because he had had sex with that person. Defendant also admitted to using prostitutes on at least 50 occasions and having had one-night-stands with strangers. He admitted that the sex sometimes occurred in his car. While there is no evidence that L.A.M. was acting as a prostitute when she encountered Defendant, these admissions do support the conclusion that Defendant had a sexual encounter with L.A.M.
17. The timing of when Defendant had sexual contact with L.A.M. is important to determining whether or not he was responsible for her death. As such, the Court has carefully examined the timeline along with the other evidence and concluded that Defendant did not have sexual intercourse with L.A.M. prior to 3 a.m. on April 2, 1983.
18. L.A.M.'s friends and her brother all indicated that L.A.M. would have sex with her boyfriends, but not random men. None of her friends, nor her brother recognized Defendant. L. Pantze, in particular, indicated she knew all of L.A.M.'s boyfriends, but did not recognize Defendant. Defendant maintained that he did not recognize L.A.M., and did not claim that he was ever in a relationship with L.A.M. More importantly, the semen found in L.A.M.'s pubic hairs was still wet, leading Dr. Austin to the conclusion that L.A.M. had sex shortly before she was murdered. Given all of this, the Court concludes that Defendant's semen, found in and on L.A.M., was not deposited there any time prior to the party L.A.M. attended on April 1.
19. Defendant's DNA was found not just inside L.A.M.'s body, but on her clothing as well, including on her pants and underwear. L.A.M. had switched her clothing a number of times between April 1 and April 2, including at the house party and most likely again when she arrived home. The presence of Defendant's DNA on L.A.M.'s clothing, particularly as the major profile on the bottom right pant leg, compels the conclusion that Defendant was with L.A.M. after she put on those pants, which could not have been prior to the house party on April 1.
20. L.A.M.'s time on the evening of April 1 and into the morning of April 2 is well-accounted for. Multiple witnesses remembered her going to a party, leaving the party for a time with her brother, returning with Bretto, and Bretto took her home between 1:30 a.m. and 2:30 a.m. Both her mother and her brother recall either hearing or seeing her in the house at 2:30 a.m. There is no evidence that L.A.M. wandered off by herself while she was at the house party. No one recognized Defendant, or remembered him attending the party with L.A.M. that night. Rather, it appears that the persons attending this party were a small group of friends or acquaintances who attended parties at this location on

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Court assumes the term "rectal" was used because it came from the interior rectum, not the outer anus. Regardless, the finding that L.A.M. was penetrated anally is unimportant to the Court's ultimate conclusion on guilt.

multiple occasions. Additionally, the party-goers were all in their late-teens to early-twenties. It is not reasonable to believe that no one noticed or remembered Defendant, a twenty-eight-year old stranger, being at the party or that he and L.A.M. spent time together. Almost certainly if L.A.M. had spent time with an older stranger at the party the night before she was murdered, that information would have come out almost immediately. Thus, the Court concludes it is not possible that Defendant sexually penetrated L.A.M. prior to 2:30 a.m. when she was heard in her home.

21. At 3 a.m., only 30 minutes after she was heard in her home, L.A.M. appeared at her boyfriend's grandparents' house and rang the doorbell. L.A.M. had to travel approximately 7 city blocks in those 30 minutes and likely changed her clothing in that time as well, as her clothing at death was not the same as that worn when leaving the party. Given the hour, that L.A.M. was cold enough to ask Ms. Anton to come in and get warm, and that no one ever came forward to indicate they gave L.A.M. a ride, the Court concludes that it is highly likely L.A.M. walked the majority of that distance. Additionally, even if L.A.M. had gotten a ride to her boyfriend's house, 30 minutes is simply too short of a time for L.A.M. to have left her house, met up with Defendant, gone somewhere to have sexual intercourse and then arrive at her boyfriend's house. Moreover, the Court finds the suggestion that L.A.M. met and had sex with a random man, while enroute to her boyfriend's house to be completely unreasonable. Therefore, the Court concludes that Defendant did not have sexual contact with L.A.M. between 2:30 and 3 a.m. on April 2, 1983.
22. Finally, the evidence does not support a conclusion that Defendant had sex with L.A.M.'s body after she was deceased. L.A.M.'s body was discovered at the location where she was murdered. She was wearing pants and underwear when her body was discovered. No dirt, leaves, or other debris were found on her buttocks or in her pubic hair to suggest that her pants were removed at the murder scene to allow for sexual intercourse and then replaced. No evidence left at the scene suggests that sexual intercourse happened outside, next to the railroad car, where L.A.M. was bludgeoned. Thus, the Court concludes that Defendant did not sexually penetrate L.A.M.'s body after she was already deceased.
23. Having eliminated all other time frames as impossible, the Court concludes that Defendant must have sexually penetrated L.A.M. between 3 a.m. and the time of her murder, a very short time frame.<sup>378</sup>
24. Moreover, this conclusion is consistent with the facts that Defendant admitted to picking up hitchhikers and that L.A.M. was known to hitchhike. Given that when L.A.M. left her boyfriend's house, it was 3 a.m. on a night with temperatures in the 30's and a 20° wind chill, she was cold, and she was approximately 7 blocks from home, it is not unreasonable to believe that she may have hitchhiked or that she gladly accepted a ride from a stranger to get out of the cold. It follows that Defendant either offered her a ride or picked her up while hitchhiking. Also given that no one ever reported seeing L.A.M. in any sort of public place after 3 a.m., the hitchhiking/ride scenario is the most likely

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<sup>378</sup> *Supra* at Conclusion of Law 14.

way Defendant and L.A.M. initially encountered one another. That they then went somewhere where the sexual penetration occurred explains why the semen found in L.A.M.'s pubic hair was still wet at the time her body was examined and is supported by Dr. Austin's conclusion that the sexual act occurred shortly before L.A.M.'s death.

25. Additionally, it fits with all of the facts to conclude that Defendant sexually penetrated L.A.M. in his vehicle. Defendant told officers that he would typically have sex either at his or his partner's home or in his vehicle. Defendant and L.A.M. did not go to her home to have sex, as her parents were there. There is no evidence L.A.M. ever returned home again in the time between when she left to go to her boyfriend's house and the time her mother noticed she was missing. There was also very little time for her to have returned home, had sex with a stranger and left again before her mother noticed she was missing. Finally, if they had had sex at L.A.M.'s home, the question would become, why did she leave again? Conversely, it is unlikely Defendant would have taken L.A.M. to his home, where he lived with his wife and kids, to have sex. The only location left is in Defendant's car.

### **DNA Evidence**

26. The DNA evidence in this case is compelling. Defendant acknowledges in his interview that if his DNA is present, it is because he had sex with the person.<sup>379</sup> All identifiable DNA profiles are attributable to either L.A.M. or Defendant and Defendant cannot be excluded from a single DNA mixture suitable for comparison. A number of these mixtures, given the exclusion rates, are almost certainly made up of Defendant and L.A.M. exclusively. Much of the DNA comes from semen left in and on L.A.M., semen that was still wet in her pubic hair at the time her body was discovered. Additionally, Defendant's DNA was on items of clothing, namely L.A.M.'s pants, which she was not wearing before she left her house sometime after 2:30 a.m. Based on this DNA evidence, specifically the wetness of the semen and the fact that Defendant's DNA was on L.A.M.'s pants, the Court concludes that Defendant was with L.A.M. shortly before her death.

### **Missing Boots and Jacket**

27. When L.A.M.'s body was discovered she was wearing neither a jacket nor shoes. The weather was chilly and Ms. Anton recalled L.A.M. wearing a jacket when she arrived at the Anton house at 3 a.m. L.A.M. was almost certainly wearing some sort of footwear and her brother later reported that her cowboy boots were missing. The fact that these clothing items are missing, while not critical evidence in and of itself, supports the conclusion that the person who had sexual intercourse with L.A.M., namely Defendant, was also the person who murdered her.
28. It is clear L.A.M.'s shoes or boots were removed before she was dragged to the location of her murder. Her socks and lower pant legs were dirty, consistent with them having been dragged through the dirt and making the drag marks across the tracks observed by

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<sup>379</sup> Exhibit 120 at 77.

officers. Additionally, given that there was blood on her velour top it follows that she was not wearing a jacket when she was beaten.

29. Sexual intercourse provides an explanation for why L.A.M. may have been missing these items of clothing. Jackets and footwear are logically the first items removed if one is undressing, and they are logically the last items one puts on when getting dressed. Common sense argues that if L.A.M. removed these articles of clothing to engage in sexual contact with Defendant, and then was rendered unconscious either during or shortly after, her jacket and boots are the items most likely to have been left behind. Conversely, if these articles of clothing were not removed to engage in sexual intercourse, their absence is confusing.
30. The removal of the shoes is also a similarity shared with B.A.B.'s case. B.A.B. told officers that Defendant removed her shoes. The total removal of clothing, including the removal of shoes is not strictly necessary to engage in sexual intercourse, particularly when the sexual contact is happening inside a vehicle in which the participants are not entirely shielded from public view. Further, common sense allows the conclusion that substantial footwear, like cowboy boots, would likely be removed before engaging in sexual penetration. Defendant removed B.A.B.'s shoes in order to engage in sexual penetration, the removal of L.A.M.'s boots fits this same pattern.
31. For these reasons, while the removal of L.A.M.'s boots and jacket do not on their own definitively point to Defendant as the murderer, they support the theory that he, as the person who sexually penetrated her shortly before her death, was the same person who murdered her.

**Alternative Perpetrator: R.A.R.**

32. Defendant has put forth two potential alternative perpetrators in order to cast reasonable doubt on his involvement in the murder of L.A.M. The Court considers each of these persons in turn and the potential evidence against him in determining whether or not this evidence creates reasonable doubt.
33. First, the Court considers R.A.R. R.A.R. confessed to murdering L.A.M. almost a year after her death, on February 18, 1984. After the murder, there were written and televised reports about in it the news media. There is evidence that L.A.M.'s family members talked about her murder to others and that at least some details about her murder were not unknown to the public. Portions of R.A.R.'s confession fit with the evidence. R.A.R. told officers he beat L.A.M. to death with a tire iron, which is the instrument officers suspected was used, though no murder weapon was ever recovered.
34. However, there are also substantial problems with R.A.R.'s confession. First, R.A.R. initially told the officer that he and L.A.M. walked to the scene of her murder, he only

mentioned a car when questioned further.<sup>380</sup> Not only was there evidence of a car at the scene of L.A.M.'s murder, it would be a significant walk from L.A.M.'s house to the scene of the murder, including crossing a major highway.

35. Second, R.A.R. indicated that he punched L.A.M. into unconsciousness before dragging her to the railroad tracks, and he denied ever strangling L.A.M. Defendant's suggestion that the strangulation could have occurred at another time and could have been unrelated to L.A.M.'s death does not take all of the evidence into consideration. First, while it is theoretically possible that a blow to L.A.M.'s face, which rendered her unconscious could have been masked by the subsequent trauma, it is unlikely. While the damage to her head and face was significant, one would expect to find some evidence of a previous blow, such as a bruise, which is notably absent. Additionally, the M.E. did not note any healing of the injuries to L.A.M.'s neck, which one would expect to find if the injuries were not inflicted immediately prior to her death. Finally, if the suggestion is that L.A.M. was strangled by someone other than R.A.R. shortly before she met up with him and was ultimately killed, this theory would require such a high number of coincidences as to make it virtually impossible. Rather, the evidence clearly shows L.A.M. was strangled into unconsciousness shortly before she was beaten to death.
36. Third, R.A.R. told officers he dragged L.A.M. 70 yards from his car to the murder site. It would have taken incredible endurance to drag a 138 pound unconscious person 70 yards. In reality, the distance L.A.M. was dragged was significantly less than 70 yards, probably less than 70 feet.<sup>381</sup> This demonstrates that R.A.R. had little or no familiarity with the actual site where L.A.M. was murdered and no real understanding of how she was moved to the location of her murder from the vehicle.
37. An even more significant problem with R.A.R.'s confession is that his timeline, in a case where timing is a crucial factor, is impossible. R.A.R. told officers that he picked up L.A.M. from her house at 7 p.m. on April 1, drove her<sup>382</sup> to the location of her murder, killed her and then returned to his home around 8:30 p.m. If he were to be believed, the time of L.A.M.'s death would have been hours before she was last reported seen alive. Numerous witnesses, including her brother, her mother, her closest friends, and her boyfriend and his family, would all have had to be mistaken about seeing her alive after 7 p.m. on April 1. It would also place her time of death four or five hours earlier than the earliest estimate given by the M.E. This is simply not possible.
38. However, assuming for the moment that R.A.R. could have been mistaken or lied<sup>383</sup> about the timing, there is still the problem of Defendant's sexual penetration of L.A.M.

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<sup>380</sup> R.A.R.'s confession is laid out in summary form, as such, it is impossible to know how questions were phrased. It is possible that R.A.R.'s changed his story based on a suggestion from the officer that L.A.M. was driven to the site of her murder.

<sup>381</sup> The parking lot is 5 feet from the railroad tracks, L.A.M. was found approximately 5 feet beyond that. The tire impressions coming into the lot measured approximately 50 feet. L.A.M.'s body is not significantly further from the tire impressions where she was removed from the vehicle than the entirety of those initial tracks.

<sup>382</sup> After he changed his story from walking with her.

<sup>383</sup> It strains the bounds of reason to posit a situation where someone, who was not presently a suspect, would confess to a murder he actually committed, but purposefully lie about the timing of the murder.

As previously discussed, the only place in the timeline where Defendant could have conceivably sexually penetrated L.A.M. was after she was seen at the Antons' residence at 3 a.m. Thus, for R.A.R.'s confession to work, the following would have had to have occurred: L.A.M. returned home from the party; left and visited her boyfriend's house at 3 a.m.; met up with Defendant, a stranger, had unprotected sex; returned home, but did not go inside and instead left again with R.A.R., all *before* 4:15 a.m., when her mother discovered she was missing. This is an almost impossibly short time frame for all this to have occurred and requires the extreme coincidence that R.A.R. just happened to drive by, or walk by (according to his initial story) L.A.M.'s home, in the wee hours of the morning, and discovered her outside.<sup>384</sup>

39. On top of all of these other difficulties, R.A.R. would have had to murder L.A.M. without leaving any DNA on her. The DNA testing showed that R.A.R. did not match any identifiable DNA profiles and that he was excluded as a contributor from all DNA mixtures. Also of note, after he recanted his confession, R.A.R. freely gave his DNA sample to be tested in this case, without knowing what type of DNA evidence was on L.A.M.'s body. It is unlikely R.A.R. would have made this choice, absent a search warrant or court order, had he been the killer.
40. There is also an explanation, albeit an odd one, for why R.A.R. falsely confessed as well as for how he knew or guessed some of the details of L.A.M.'s murder. First, R.A.R. later told officers that he confessed because he was homeless at the time and was looking for a place to stay. Also noteworthy is that R.A.R. was under the influence of some drug at the time he confessed and admitted that he had been doing a lot of drugs around the time of L.A.M.'s murder, which is why he was confused about whether or not he killed her. As for his knowledge, some details of L.A.M.'s murder, including a general description of the location was in the news, and some of L.A.M.'s friends and family discussed the murder, including the manner of death amongst themselves. It is entirely possible that R.A.R. did have some sort of confrontation with L.A.M., or even some other female from that group of friends, sometime prior to L.A.M.'s murder. Heavy drug use at the time meant his memory was spotty and so in the aftermath, coupled with knowledge gleaned from the news and conversations with friends, R.A.R. may have convinced himself that he had in fact killed L.A.M. This is a more reasonable explanation than that R.A.R. actually killed L.A.M., as it explains why he was able to get some of the details of L.A.M.'s murder right, while simultaneously offering other details that are inconsistent and impossible.
41. Given R.A.R.'s impossibility-laden confession and the number of highly improbable circumstances that would have had to have occurred to make his story possible, any doubt as to Defendant's guilt, based upon R.A.R.'s confession, would not be reasonable.

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<sup>384</sup> In the world of cellphones and instant communication, this scenario would certainly be less improbable. However, in 1983, with no means of coordinating, the chances of this occurring sporadically are virtually non-existent.



### **Alternative Perpetrator: C.J.M.**

42. With regard to Defendant's second alternative perpetrator, C.J.M., the Court first notes that had an objection been raised, the evidence connecting C.J.M. to L.A.M.'s murder would not have been admissible. "Alternative perpetrator evidence is admissible if it has an inherent tendency to connect the alternative party with the commission of the crime."<sup>385</sup> The only connection to the crime presented by Defendant is that C.J.M. happened to be driving around in the area shortly after the police cleared the murder scene and that he was acting weird.<sup>386</sup> These facts alone without anything more do not have "an inherent tendency" to connect C.J.M. to the commission of L.A.M.'s murder.
43. Moreover, C.J.M. as an alternative perpetrator suffers from many of the same fatal flaws as R.A.R. as an alternative perpetrator. There is still the problem of Defendant having had sexual intercourse with L.A.M. between the time she was last seen and the time of her death. C.J.M. as a murderer would mean that L.A.M. encountered and interacted with not one, but two strange men shortly before her death. First, Defendant, with whom she had sex, and then C.J.M. who, if he killed L.A.M., did so without leaving any DNA and for no apparent reason. There is nothing about this theory that is sufficient to raise a reasonable doubt as to Defendant's identity as the killer.
44. In fact, the Court views C.J.M. less as a genuine alternative perpetrator and more of a stand-in for any unidentified person who might have killed L.A.M. instead,<sup>387</sup> and perhaps as a symbol of all the things the police failed to do. Whether or not there was more the police could have done to rule out C.J.M. or any other potential suspects is not the question. The question is, is there sufficient evidence to show Defendant committed this crime beyond a reasonable doubt and the answer to that question is "yes."

### **Defendant's Other Theories**

45. Defendant posits several other hypotheses inconsistent with guilt, not specifically tied to either alternative perpetrator. The Court considered whether these theories were rational.
46. First, Defendant argues that a possible explanation for L.A.M.'s missing coat and boots is that she had gone into someone's home and removed them. The implication in this theory is that L.A.M. was either rendered unconscious or murdered at the home; and afterwards moved, sans coat and boots, to a car, at which point she was driven to the site where her body would ultimately be found.
47. At first glance, this sounds like a reasonable explanation, however, it suffers from several serious problems. First, there is no evidence that L.A.M. ever went to another home. No witnesses saw her enter another home or ever came forward as having seen her after she

<sup>385</sup> *State v. Jones*, 678 N.W.2d 1, 16 (Minn. 2004).

<sup>386</sup> The description of this oddness in the police report differs significantly from the description given by Defendant. Contrary to Defendant's description of C.J.M. having a "tell-tale-heart-like" compulsion to know what had happened, Officer Jansen thought C.J.M. was odd because he showed no interest in the murder.

<sup>387</sup> The Court addresses some of these theories in the next section.

was turned away from her boyfriend's home. Second, as previously explained, the evidence does not support the conclusion that L.A.M. was murdered anywhere other than the location where her body was found. Thus, L.A.M. would have had to have remained unconscious for a significant amount of time, during which she was moved from a home to a car, driven to the area near the railroad tracks, and then moved from the car to the murder site. This seems highly unlikely.

48. Additionally, the crime, carried out the way Defendant suggests, is not rational. Being in someone's home would suggest the killer would have been someone L.A.M. knew and with whom she had some sort of relationship. Defendant's story would have the Court believe that this person, who knew L.A.M., either rendered her unconscious or panicked when she became unconscious, took her to a place near the railroad tracks, and then, for no apparent reason, brutally beat her to death. If this person had simply wanted to get rid of an unconscious person, why beat her to death? If he or she had always intended to kill L.A.M., why not do so in the privacy of a home? There is no rational answer to these questions, which seriously undercuts the reasonableness of this theory.
49. Finally, and fatally, there is still the problem of Defendant's sexual contact with L.A.M. Once again, the only time in the timeline for Defendant to have sexually penetrated L.A.M. is after she was turned away from her boyfriend's house. It is simply not a reasonable theory that L.A.M. left her boyfriend's house, met Defendant, had sex with him, proceeded to some unknown person's home where she was rendered unconscious, and then transported to a less secluded location (than a home) and bludgeoned to death.
50. Another theory suggested by Defendant is that L.A.M. was a prostitute and in that capacity had sex with Defendant. The implication being that after her encounter with Defendant she could have had set out to prostitute herself to another individual who ultimately killed her. However, there are problems with this theory as well. First, there is very little evidence to support a conclusion that L.A.M. ever worked as a prostitute. She admitted to a detective that she had lurked with the intent to commit prostitution, but that does not necessarily mean she had ever actually successfully prostituted herself. Additionally, on the only occasion where there is any evidence of L.A.M. attempting to prostitute herself, she was with another individual, presumably a friend. This incident also occurred two and half years before L.A.M.'s murder and there is no evidence that L.A.M. did anything related to prostitution in the interim. Lastly, this theory requires that this unidentified second person killed L.A.M. without leaving any DNA evidence.
51. In fact, all theories inconsistent with Defendant's guilt suffer from these same flaws. They are all theoretical possibilities which require complicated explanations and are based on little more than speculation. They require the invention of significant details for which there is no direct or circumstantial evidentiary support. And, most importantly, any theory inconsistent with guilt still requires that L.A.M. first had sex with Defendant, and then, very soon thereafter, met up with some other unknown person who killed her without leaving any DNA evidence on her, with all of this occurring in a compressed amount of time. Such theories are not rational. Thus, in the end, there is no rational hypothesis inconsistent with guilt.

***Spreigl Case—B.A.B.***

52. Finally, Defendant's involvement in the 1988 assault of B.A.B. is helpful in confirming Defendant as L.A.M.'s killer in two ways. First, it was the blood left on B.A.B.'s shirt which initially connected Defendant to L.A.M.'s murder. When Defendant assaulted B.A.B., he bled on her shirt. That blood was tested against known samples from Defendant and shown to be a match both by blood typing and through DNA testing. Initial matches occurred in 1993 when the search warrant was executed and were confirmed in 2013. This meant, when a case-to-case match occurred between L.A.M.'s case and B.A.B.'s case, police were able to identify Defendant as a possible suspect. DNA matches between Defendant and the evidence in L.A.M.'s case were later confirmed with a sample taken from Defendant pursuant to an order in this case, but that initial connection was a crucial first step in singling out Defendant.
53. Second, the similarities between the assault on B.A.B. and the murder of L.A.M. are striking and useful for confirming that it is Defendant, and not some identified or unidentified alternative perpetrator, who killed L.A.M.<sup>388</sup> The Court finds the following similarities between the two incidents:
- i. Both victims were young women at the time they were assaulted, L.A.M. being 17 years old and B.A.B. being 23 years old. B.A.B. may have appeared even younger, as one witness initially thought she was a juvenile.
  - ii. Both victims were white with brown hair.
  - iii. Both victims were in a vulnerable position, walking alone on the streets of Minneapolis in the early morning hours, between 3 a.m. and 5 a.m.
  - iv. Both victims accepted a ride from Defendant, who was a stranger to both women.
    - v. Defendant drove both victims to another nearby location.
    - vi. At the subsequent location in each incident, Defendant engaged in vaginal sexual intercourse with the victims.
    - vii. Both victims were found to have semen inside their vaginas.
    - viii. Both victims had their shoes removed.
    - ix. Defendant became physically violent with both victims.
      - x. The nature and extent of violence used against each victim was brutal and extreme.
      - xi. Death could have resulted from the violence used against either of the victims, and actually did result in the death of L.A.M.
      - xii. A weapon was used in the assault of B.A.B. and in the murder of L.A.M.
      - xiii. Both assaults occurred near railroad tracks.
      - xiv. In both cases, the victims were strangled.
      - xv. L.A.M. was rendered unconscious and B.A.B. feigned unconsciousness to stop the assault.

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<sup>388</sup> The Court wishes to make it clear that while the *Spreigl* evidence is helpful, it is not strictly necessary to the Court's determination of Defendant's guilt. The *Spreigl* evidence adds weight to the other arguments discussed *supra* and adds one more reason the theories inconsistent with guilt are not rational.

- xvi. After both assaults, Defendant fled the scene in his vehicle.
- xvii. Each assault occurred within the city of Minneapolis, and all the individual locations were within a few mile radius of one another.
- xviii. Following the assault of B.A.B., Defendant hid his vehicle at a location directly across the river from where L.A.M. was murdered, which was also very close to where Defendant lived.

These commonalities display a markedly similar common scheme in assaulting women. Any hypothesis inconsistent with guilt would require that L.A.M. first encountered and had sex with Defendant, and then encountered someone else who killed her. The possibility that L.A.M. first came into contact with Defendant (a man who had sex with, assaulted and attempted to kill B.A.B. in a markedly similar way), who left her alive after their encounter, only to be killed by someone else shortly thereafter in such a similar fashion, is simply not reasonable.

### **Defendant is Guilty of Murder in the Second Degree**

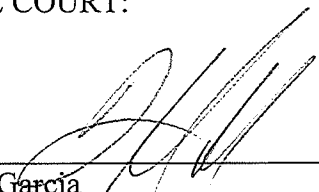
54. After reviewing all the evidence submitted in this case and having considered all of the possibilities, the Court has come to the only possible conclusion; there are no rational hypotheses inconsistent with Defendant's guilt, there is no reasonable doubt as to the identity of L.A.M.'s killer, nor any reasonable doubts as to any of the other elements. Therefore, Defendant is guilty of the crime of Murder in the Second Degree.

BY THE COURT:

Dated: \_\_\_\_\_

jal

5.10.19

  
\_\_\_\_\_  
Tamara Garcia  
Judge of District Court  
Fourth Judicial District