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COURT OF APPEALS  
DIVISION III  
OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON, RESPONDENT

v.

EUGENE JUPP, APPELLANT

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APPEAL FROM THE SUPERIOR COURT  
OF SPOKANE COUNTY

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**BRIEF OF RESPONDENT**

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## **I. APPELLANT’S ASSIGNMENT OF ERROR**

Judge Clary erred when he denied the defendant’s motion to dismiss prosecution based on the failure of the State to introduce sufficient evidence to justify submitting the case to the jury for its consideration.

## **II. ISSUE PRESENTED**

After considering all of the evidence admitted at trial in the light most favorable to the State, was there sufficient evidence to prove that Mr. Jupp killed Stephanie Standen?

## **III. STATEMENT OF THE CASE**

On February 1, 2019, the State charged Eugene Jupp, by second amended information, with one count of second degree felony murder, committed during the course of a second degree assault. CP 3. The State further alleged a sentencing enhancement – that Stephanie Standen was a particularly vulnerable victim. CP 3. The matter proceeded to trial.

### **1. Background information pertaining to Ms. Standen.**

In October 2016, Georgia Miller’s cousin, an employee of Sacred Heart Hospital, asked Ms. Miller to retrieve Stephanie Standen’s dog from SCRAPS.<sup>1</sup> RP 343-44. At the time, 78-year-old Ms. Standen was a patient at Sacred Heart and was later moved to Eastern State Hospital; she had

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<sup>1</sup> Spokane County Regional Animal Protection Service.

schizophrenia. RP 344, 415. Ms. Miller began to visit Ms. Standen at the hospital because Ms. Standen “needed someone to be on her side and support her.” RP 344. In February 2017, Ms. Miller and her husband, Stan Miller, agreed to have Ms. Standen reside at their house until suitable housing became available. RP 347, 411.

Ms. Standen lived with the Millers for several months; Ms. Miller provided her transportation to appointments and social events. RP 348-49. Ms. Standen took her medications regularly, and trusted Ms. Miller with the care of her dog. RP 350. Ms. Miller attempted to help Ms. Standen find housing, but several obstacles made this task impossible – Ms. Standen lost her wallet and identification which took time to replace, RP 351-52; the housing market was subject to long waitlists, RP 353; and Ms. Standen’s application was denied because of previous landlord/tenant disputes, RP 353.

On June 10, 2017, Ms. Standen suffered a stroke; after her release from the hospital, she returned to the Miller home. RP 351, 354, 413. After the stroke, Ms. Standen had trouble climbing stairs and she stopped taking her medications, which affected her mental health. RP 355-56, 414. Ms. Standen began to stay in her room, where she kept all of her personal belongings, including her dog. RP 356. The Millers were unsuccessful in their additional attempts to find Ms. Standen housing. RP 357.

In September 2017, the Millers travelled abroad, and did not want Ms. Standen to stay alone in their house during their trip. RP 358. Ms. Standen moved into a hotel. RP 358. After the Millers' six-week trip, they did not hear from Ms. Standen until December 2017. RP 359. The Millers picked Ms. Standen up from a shelter; because a motel could not accommodate her, the Millers took Ms. Standen to their rental property on 15<sup>th</sup> Avenue on the Spokane South Hill, a house which had a bedroom on the main floor. RP 361. In early December 2017, Ms. Standen moved into the house, occupying the main floor bedroom which was immediately adjacent to the only bathroom on that floor. RP 362. The Millers would visit Ms. Standen at least five days per week; Ms. Miller would bring Ms. Standen food and "puppy pads," as she rarely left her room. RP 363-64. Ms. Standen's bedroom did not have a lock on the door. RP 369.

2. Mr. Jupp and his family also occupied the rental property and struggled with Ms. Standen's deterioration.

The Millers met Eugene Jupp in December 2017 after Mr. Jupp placed a note on the door of the 15<sup>th</sup> Avenue rental indicating that he would like to rent the house for his family. RP 365. Mr. Jupp, his wife Leann Hughes, and their daughter had moved from Montana to Spokane; the

family had previously stayed in a hotel. RP 366. The Jupps<sup>2</sup> had earlier enrolled their young daughter at Roosevelt Elementary, a school immediately neighboring the Miller rental.<sup>3</sup> RP 899.

Mr. Jupp's prior work had been "feast or famine" and he believed that he was going to "make it" in Spokane. RP 522. Ms. Miller learned that Mr. Jupp was a professional painter and, because the house on 15<sup>th</sup> Avenue needed significant work, including painting, the Millers agreed that Mr. Jupp and his family could stay in the house nearly rent free<sup>4</sup> in exchange for his painting services and other labor. RP 362, 366-67. The Millers explained to the Jupps that Ms. Standen lived in the residence as well, but that they were trying to make other living arrangements for her; the Jupps would not be expected to pay full rent until other arrangements were made for Ms. Standen. RP 366, 371. The Jupps moved into the residence in mid- to late-December 2017 and occupied the upstairs bedrooms and used the kitchen and living room on the main floor. RP 369.

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<sup>2</sup> Ms. Hughes and Mr. Jupp had a "common law marriage." RP 899. When referring to the family collectively, this brief shall refer to them as "the Jupps" for ease of the reader. No disrespect is intended.

<sup>3</sup> The child was enrolled at the elementary school adjacent to the rental for 60 to 90 days before Ms. Hughes left the rental to return to Montana in January 2018. RP 922.

<sup>4</sup> Ms. Miller had Mr. Jupp keep track of his time and paid Mr. Jupp \$25 dollars per hour. Over the course of four months, Mr. Jupp paid Ms. Miller \$480 dollars in rent and \$700 for utilities. RP 377, 395.

However, Mr. Jupp's wife and daughter did not stay long, returning to Montana on January 3, 2018; Mr. Jupp told Ms. Miller that they left because Ms. Standen was not "a normal person and they didn't want their little girl to be exposed to that" and so his wife "went back to Montana to stay with her parents." RP 371, 660. Mr. Jupp became very lonely. RP 660. Mr. Jupp did not have a car while he lived with Ms. Standen. RP 723.

On January 4, 2018, the day after his family left, Mr. Jupp made a report to adult protective services ("APS") complaining that Ms. Standen was not taking care of herself, was going to the bathroom in her bedroom, and had mental health problems. RP 492. An APS employee, Craig Hirt, attempted to meet Ms. Standen on January 18, 2018. RP 494. Ms. Standen refused to meet with Mr. Hirt, and insisted he contact Ms. Miller. RP 494. Mr. Hirt left the residence, and as he did, he spoke with Mr. Jupp. RP 496. Mr. Jupp expressed concern that Ms. Standen would burn down the house, and complained that his wife and daughter had left the home because of Ms. Standen's behavior and would not return "until she was gone." RP 496.

Five days later, on January 23, 2018, Mr. Jupp called police to report an incident between himself and his "roommate." RP 518. Police arrived at approximately 1:30 a.m., and found a dining room chair had been tipped over and a radio and a flashlight on the floor. RP 518-19. Mr. Jupp said that he had awoken to Ms. Standen flinging the items around. RP 519-20. He

claimed that it had happened in the past and “things had gotten so bad his wife left and took [his] daughter back to Montana.” RP 520.

Mr. Jupp explained to the responding officers that his previous work in Montana had been “feast or famine.” RP 522. He had moved into the residence on December 18, 2017, and Ms. Standen “had [come] with the house.” His wife and daughter were in Montana “with their stuff packed up ready to bring everything back over to the house.” RP 522. Mr. Jupp told police that Ms. Standen was a paranoid schizophrenic who “hates men.” RP 520. Mr. Jupp asked police if they had ever seen a book called Burnt Offerings; however, they had not. RP 520.

The police told Mr. Jupp that there was nothing they could do. RP 520. Mr. Jupp claimed that the owners were “in the process of starting the eviction process.” RP 521. Mr. Jupp also stated that APS was involved and that he “was just trying to cover [his] ass.” RP 521. He also complained that he was paying the power bill to heat Ms. Standen’s bedroom when the rest of the house was “ice cold,” noting she paid no rent. RP 522-23.

The APS employee, Mr. Hirt, later contacted Ms. Miller who provided background on Ms. Standen and her mental condition. RP 497-98. Mr. Hirt returned to the rental property on January 26, 2018. RP 497, 507. Ms. Miller met him there; after some time, Ms. Standen agreed to meet with Mr. Hirt. RP 498. Mr. Hirt observed Ms. Standen’s poor living conditions

as he spoke with her, and Ms. Standen was suspicious of him, Ms. Miller and “everyone around her.” RP 498-99. Ms. Standen did not voluntarily agree to Mr. Hirt’s help, and, for some reason, a guardianship was not pursued by APS.<sup>5</sup> RP 499.

Mr. Hirt returned in February 2018. RP 500. At that time, DSHS was also involved, and Ms. Miller was trying to find Ms. Standen an assisted living apartment through Catholic Charities and Home Community Services. RP 500, 502. Ms. Standen was aggressive with Mr. Hirt and continued to refuse to sign paperwork. RP 503. At a later time, Mr. Hirt attempted to meet with Ms. Standen, she refused to see him because he had arrived unannounced. RP 503-04. During the first week of March 2018, Mr. Hirt was successful in contacting Ms. Standen, who was unbathed and complained of being a captive in her own home; however, she still refused to leave her room. RP 505. Mr. Hirt again tried to meet with Ms. Standen on March 23, 2018, but she again refused to open her door. RP 506. During the two months Mr. Hirt met with Ms. Standen, she refused to sign the paperwork necessary for Mr. Hirt to procure housing for her. RP 507.

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<sup>5</sup> Apparently, Ms. Standen also did not meet the criteria for an involuntary commitment. RP 509.

Ms. Standen continued to refuse to leave her room.<sup>6</sup> RP 374. By April 2018, “it...looked like a homeless camp.” RP 375. Ms. Standen kept spoiled food in her bedroom, and because she would not leave her room, she used the “puppy pads” instead of the bathroom. RP 400. The room smelled of feces and urine. RP 474. At one time, Ms. Miller learned that Mr. Jupp entered Ms. Standen’s room to clean it; the Millers argued with him, telling him that he did not have any right to enter that room. RP 376.

3. Ms. Standen’s disappearance from the rental house.

On April 3, 2018,<sup>7</sup> at approximately noon, Mr. Miller visited Ms. Standen with Aaron Anderburg, a social worker for individuals in need of care services,<sup>8</sup> in order to have Ms. Standen sign consent and release of information paperwork; at the time, Ms. Miller was in Seattle. RP 381, 433, 437, 448, 450, 466, 470. Mr. Jupp was present at the rental. RP 433-34. Mr. Miller and Mr. Anderburg spoke with Ms. Standen for two hours, attempting to convince her to sign the paperwork. RP 434. Ms. Standen

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<sup>6</sup> A neighbor across the street saw Mr. Jupp and his family at the rental property, but never saw anyone else who appeared to live there. She was aware the Millers were assisting a “homeless woman” but never saw the woman. RP 457.

<sup>7</sup> Mr. Anderburg testified that this interaction occurred on Tuesday, April 3, 2018. RP 470, 486. Mr. Miller testified that this interaction occurred on Wednesday, April 4, 2018. RP 450.

<sup>8</sup> Anderburg was not an APS employee, but instead, was employed by “Pathways of Washington.” RP 465-66. DSHS worker Robin Jacobson, who was also involved with Ms. Standen’s case, had referred Ms. Standen to Pathways in order to find her residential placement. RP 467.

declined because she had signed similar paperwork for a different individual the previous week. RP 406, 435. However, Ms. Standen indicated she might later sign the paperwork and Mr. Anderburg could pick it up on Friday. RP 435, 476. In Mr. Jupp's presence, Mr. Miller shared his concern with Mr. Anderburg that Ms. Standen would not sign the paperwork by Friday and that she would tell him to return the following Monday. RP 435. When Mr. Miller and Mr. Anderburg saw Ms. Standen at this time, she had no injuries. RP 442, 477.

As Mr. Anderburg left, Mr. Jupp approached him and asked if he had made any progress with Ms. Standen. RP 478. Mr. Anderburg explained that Ms. Standen had refused to sign paperwork allowing Mr. Anderburg to provide services. RP 478. Mr. Jupp became upset and explained that his family had moved out the residence because of Ms. Standen. RP 478. Mr. Jupp told Mr. Anderburg to "have a nice day, asshole" and remarked that providers like Mr. Anderburg "say a lot but...don't do anything." RP 479. Mr. Anderburg felt intimidated by the conversation. RP 481.

Thursday, April 5, 2018, was garbage pickup day for the rental property. RP 458. The garbage truck usually picked up the rental's garbage at approximately 7:00 a.m. RP 458. A neighbor heard the truck travelling down the street and rushed outside to put out her trash and recycling.

RP 458. At the time, Mr. Jupp was sitting on his porch, smoking a cigarette. The neighbor did not know if Mr. Jupp's recycling had already been collected. RP 460.

Also on April 5, 2018, Mr. Anderburg called Ms. Miller, who was still in Seattle, and informed her he wanted to obtain Ms. Standen's verbal consent, rather than wait for her written consent.<sup>9</sup> RP 381, 437, 448. Ms. Miller called Mr. Miller to have him return to the rental house to facilitate a telephone call between Ms. Standen and Mr. Anderburg. RP 381, 438. Mr. Miller arrived at the rental fifteen minutes later at approximately ten o'clock in the morning. RP 381, 438. Mr. Jupp was seated in the living room. RP 438. While on the telephone with Ms. Miller, Mr. Miller knocked several times on Ms. Standen's bedroom door. RP 382, 438. He entered the bedroom, and, not seeing Ms. Standen, checked under the blankets on her bed. RP 438. Ms. Standen was not there, but her dog, suitcase, purse and other belongings were still there. RP 382, 438. A blanket that had been on her bed was also missing.<sup>10</sup> RP 429.

Mr. Miller unsuccessfully searched the house and the neighborhood for Ms. Standen. RP 383, 439-40. Mr. Jupp said he had not seen

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<sup>9</sup> Mr. Anderburg also discussed the potential that the Millers could become a paid care provider for Ms. Standen, so they would have a financial incentive to help them continue to care for her until other arrangements could be made. RP 478.

<sup>10</sup> Both of the Millers denied removing the blanket. RP 375, 429, 707.

Ms. Standen, and he checked the upstairs. RP 439. One of the Millers told Mr. Anderburg that they could not find Ms. Standen; Mr. Anderburg called the jail and local shelters and did not find her. RP 384, 440, 480, 482.<sup>11</sup> After searching for Ms. Standen, a missing person report was ultimately filed on April 5, 2018. RP 383, 441, 482, 483.

4. The discovery of Ms. Standen's body and police investigation.

Bradley McPhee was the refuse collector who picked up the recycling from the rental property on April 5, 2018. RP 735-36. Mr. McPhee picked up recycling on 15<sup>th</sup> Avenue in Spokane, the first full block of his route, at approximately 7:30 or 7:45 a.m. RP 736. When he collected the recycling at the rental property, he noted that the bin had non-recyclable material in it; on his camera's live feed, he watched as two plastic bags were dumped out of the bin and into his truck. RP 736. He made a mental note of the presence of non-recyclable material (plastic bags) in the bin.<sup>12</sup> RP 736-37. As the contents of the bin poured into his truck, he could hear that the load was heavy and loud. RP 738. One bag looked fuller than

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<sup>11</sup> It is unclear whether the report to Mr. Anderburg was made by Ms. Miller or Mr. Miller.

<sup>12</sup> The presence of non-recyclable material in the rental's recycle bin was a "first offense" and so Mr. McPhee did not "write them up or leave a tag that would tell them...not to do that again." RP 737. However, he made a mental note to pay attention the next time he picked up recycling at the house to "tag it and call it in." RP 737.

the other. RP 744. Ultimately, Mr. McPhee dropped his load at the recycling center at 1:26 p.m. on April 5, 2018. RP 742.

On that same date, the Spokane recycling facility stopped operations at approximately 4:15 p.m. when a body was found on the “sort line,” where employees sort plastics from metals. RP 532-34. The plant operations manager, Tom Young, cleared the area and checked the body to determine if the individual was still alive. RP 532. Finding the person deceased, Mr. Young called the authorities. RP 532. The woman’s head was badly deformed and her body was covered in refuse. RP 552. Near her body was discarded mail from the “middle belt” of the Spokane South Hill, including 15<sup>th</sup> Avenue. RP 651. Relying on the employees working at the recycling facility, law enforcement was able to narrow down the number of trucks that could have transported the body into the facility. RP 555. Officers also checked missing persons reports and found one report of interest – Stephanie Standen. RP 556.

On April 6, 2018, Sergeant Zachary Storment and Sergeant Bartlett travelled to the Millers’ rental property,<sup>13</sup> and observed Mr. Jupp on the front porch. RP 556-57. As the officers approached Mr. Jupp, his shoulders

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<sup>13</sup> Video surveillance taken from the school neighboring the Miller rental was of no value in determining what had occurred at the residence. RP 567.

slumped and his hands started shaking. RP 557. He was disheveled and appeared to be hungover, although he denied drinking. RP 584.

Mr. Jupp “played semantics” with the officers who asked him a few questions about Ms. Standen – he never called her by name, only describing her as a mentally ill person who lived in the residence, stated that he had not seen her in a month, but then stated it had been three weeks since he had last seen her. RP 558, 656. When asked if she was still in the house, he told officers she never left the house without her dog, and stated the dog was still inside; he then said, “well, she could still be in her room maybe. I just haven’t seen her.” RP 559, 658. Mr. Jupp had scratches on his face.<sup>14</sup> RP 654.

Mr. Jupp permitted the officers to enter the house, where they observed Ms. Standen’s filthy bedroom, Ex. P-66–P-68, and her dog cowering in the corner. RP 559-60. Detective Christopher Bode later compared photographs of Ms. Standen’s room taken during the investigation and one taken while Ms. Standen was alive. RP 705. All of her known possessions – including the dog and her suitcase, were accounted for – except the teal colored blanket. RP 706. The blanket was the only item

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<sup>14</sup> Mr. Jupp and his son and daughter testified that Mr. Jupp was cut when pruning bushes in the yard. RP 869, 885.

that appeared to be missing from Ms. Standen's room, other than her EBT card, which was missing but not used after her death. RP 698-99, 706, 711.

During the investigation, Mr. Jupp also made another reference to the book, Burnt Offerings.<sup>15</sup> RP 686. Mr. Jupp had a handwritten calendar in the basement of the residence upon which he marked days when Ms. Standen was acting out – he noted that she was “speaking in tongues” and “hollering and banging on the walls.” RP 661.

Law enforcement observed no sign of forced entry into the home. RP 666-67. Bloodstains belonging to the defendant were found on the floor of the residence. RP 577, 776. A shirt stained with Mr. Jupp's blood was also found in the residence. RP 673, 774-75.

Law enforcement found the recycle bin and garbage bin at the rear of the house – the recycle bin's lid was open and propped against the house; the garbage bin lid was closed. RP 666; Ex. P-27. In the garbage can, law enforcement found recyclables, including empty vinegar bottles and beer

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<sup>15</sup> As part of his investigation, Detective Bode read the novel, Burnt Offerings. RP 703. The novel follows a husband, wife and their eight-year-old son, who respond to an advertisement for a large residence in the country, perfect for a family. RP 703. The rent was very cheap. RP 703. The family agrees to live in the residence for two months, with the caveat that the mother of the brother and sister who own the home is allowed to live upstairs. RP 703. Told that the woman should not be a bother, the family is directed to leave food outside her door at certain times; they are told not to contact her. RP 703. Ultimately, the book becomes a horror novel – the wife becomes possessed by the home and the husband and son both die. RP 703-04.

cans.<sup>16</sup> RP 670, 831. The recycle bin was empty except for some water in the base of the bin. RP 831; Ex. P-31, P-32. The recycling bin was seized and Ms. Standen's blood was found at the bottom of the bin.<sup>17</sup> RP 688, 772. The sample of blood found in the recycling bin was degraded, potentially due to heat, bacteria, or water. RP 796.

When police first arrived at the rental, they photographed a security system and associated paperwork indicating that Mr. Jupp had the system activated on March 8, 2018. RP 447, 679; Ex. P-73–P-74. However, detectives did not seize the security system during the first night of their investigation at the rental property. RP 694. Later, knowing a security system was installed in the residence, Detective Bode wrote a search warrant for Comcast to provide any logs, records or recordings the security system made on the night of Ms. Standen's death.<sup>18</sup> RP 694. However, law enforcement was too late; Comcast had purged that information. RP 694. The security system's control panel that was seen in the rental by law enforcement was not recovered until the week before trial; Mr. Jupp had his

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<sup>16</sup> Other recyclables found in the garbage can included a soup can, a pop can, and cardboard. RP 671.

<sup>17</sup> Blood was also found in a nearby dumpster at Roosevelt school. It belonged to a janitor who was eliminated as a suspect. RP 699-700.

<sup>18</sup> The doors in the residence were equipped with sensors that would notify the security system that the doors were being opened and closed. RP 695.

son, Caylan Jupp,<sup>19</sup> remove it from the property shortly after law enforcement had initially photographed it; Caylan took the control panel to Mr. Jupp's daughter's home.<sup>20</sup> RP 695-96.

Detectives executed a search warrant for Mr. Jupp's cell phone; in doing so, Detective Bode noticed that Mr. Jupp had received text messages in response to a Craigslist ad for a room to rent. RP 701. Detective Bode found the Craigslist ad posted by "Gene" on April 4, 2018, at 12:59 p.m., which stated: "Have rooms available. Professionals or students. No drama. Safe house. [L]ooking for someone who can appreciate and respect each other. Ladies only, Sorry fella's." RP 702; Ex. P-147. The ad listed the room as "private" with a "private bath" and stated the room was "available now."<sup>21</sup> Ex. P-147. Mr. Jupp did not ask Ms. Miller's permission to post this advertisement, nor would she have allowed him to do so. RP 397.

Detectives procured a search warrant for Mr. Jupp's clothing, swabs of his injuries, buccal swabs and the seizure of his cell phone. RP 570. The

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<sup>19</sup> For the sake of clarity, Caylan Jupp's first name is used. No disrespect is intended.

<sup>20</sup> Shortly before trial, law enforcement recovered the control panel from a plastic storage tote in Bailey Mahugh's shed. RP 696. All information on the control panel had also been deleted because the security system was shut down. RP 697.

<sup>21</sup> Ms. Standen's room was on the main floor of the residence along with one bathroom; the first floor of the residence had another bathroom, used by Mr. Jupp as his bedroom was on that floor. RP 702-03.

defendant's face had a few marks on it, his hand and arm were scratched, and his fingernails were too short to clip. RP 572-73.

The week after Ms. Standen's body was found, the Millers returned to the rental, finding the back door ajar. RP 385. Mr. Jupp was gone, as were his computer and other personal items. RP 385. Mr. Jupp later turned himself in to law enforcement after an arrest warrant was issued. RP 715.

5. Ms. Standen's autopsy.

Dr. Sally Aiken performed an autopsy on Ms. Standen's body on April 6, 2018. RP 595. When Ms. Standen's body was recovered from the recycling plant she was unclothed from the waist down except for socks. RP 597. Her upper body was covered with three layers of clothing. RP 597. Her body was covered with dirt, glass, and other garbage. RP 598.

Ms. Standen had sustained many injuries; some of her injuries were premortem, some were perimortem, and some were postmortem. RP 600. Dr. Aiken opined that several of the injuries were premortem because of the coloring of the bruise that formed as a result of the injury; a premortem injury is red in color – such an injury requires a heartbeat to cause blood vessels to bleed and bruise. RP 601. Many of Ms. Standen's injuries occurred postmortem from being in the recycle bin, being in a garbage truck, and being dumped at the recycling center. RP 602. Ms. Standen sustained several premortem or perimortem injuries as well. These included

a bruise on her left leg, RP 605; a bruise on her left foot, RP 605; a defensive injury to her wrist, RP 606; potentially defensive bruises on her fingers, RP 608, 611; and a contusion to her chest/armpit area possibly due to being struck or grabbed there, RP 609-10. Ms. Standen also had premortem contusions on her face to her nose, eyes, forehead and cheeks. RP 614-15, 617. Bruising on Ms. Standen's cheek was apparent both externally and on the inside of her mouth. RP 618. Ms. Standen's nose was fractured premortem. RP 619. The orbital bone of Ms. Standen's right eye sustained premortem fractures. RP 620. Some of Ms. Standen's ribs were fractured, but Dr. Aiken could not determine whether those injuries were pre- or postmortem. RP 621. Ms. Standen's neck and jaw were also fractured premortem, although Dr. Aiken could not explain the mechanism of those injuries. RP 623-24. Dr. Aiken ultimately attributed Ms. Standen's death to blunt force injuries to the head with facial and skull fractures and described the manner of death as a homicide. RP 628.

Dr. Aiken observed lividity on Ms. Standen's neck and chest, an indication that, postmortem, Ms. Standen's body was positioned such that blood settled in those areas. RP 604. Ms. Standen's toxicology screen was negative. RP 625. Based on Ms. Standen's rigidity and lividity, Dr. Aiken opined that Ms. Standen died sometime late on April 3 or early on April 4, 2018. RP 631.

Forensic testing of scrapings taken from Ms. Standen's fingernails revealed male DNA in a quantity too small to test. RP 779. Forensic testing of gauze from Ms. Standen's face also revealed the presence of male DNA in an amount too small to test. RP 781. Forensic testing of gauze from Ms. Standen's eye revealed partial Y-STR DNA<sup>22</sup> originating from two individuals; Mr. Jupp was excluded as a contributor of these samples.<sup>23</sup> RP 781. Mr. Jupp could not be included nor excluded as a possible contributor to Y-STR DNA found on the collar of Ms. Standen's shirt. RP 786.

6. Defendant's case-in-chief.

Bailey Mahugh, Mr. Jupp's daughter, saw her father on April 3, 2018. RP 869. She went to the rental house with her son at approximately 4:30 p.m. and left at 6:30 p.m. (although she estimated she stayed at the house for three and one-half hours). RP 870. They left to run some errands, and were gone for over an hour and a half; they returned sometime later and continued to visit with Mr. Jupp, leaving the house between 7:30 and 7:45 p.m.<sup>24</sup> RP 871. Ms. Mahugh also stopped by the residence on April 4,

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<sup>22</sup> Y-STR DNA is male DNA. RP 782.

<sup>23</sup> The forensic scientist explained that the placement of Ms. Standen's body in the recycling increased opportunity for contamination of her body as it was in contact with various items of refuse and recyclables. RP 788.

<sup>24</sup> Based on this timeline, Ms. Mahugh and her son would have returned to the rental at 8:00 p.m. and then continued to visit "a while longer." However,

2018, in the early afternoon, and he appeared normal. RP 872. Ms. Mahugh denied seeing Mr. Jupp consume alcohol on these days. RP 874-85. Ms. Mahugh also claimed that Mr. Jupp's wife and daughter returned to Montana so the child could finish school in Montana. RP 879.

Mr. Jupp's son, Caylan, also saw his father on April 3, 2018. RP 886. Caylan went to the rental at 9:00 p.m. and saw his father who was watching television and whose demeanor appeared normal. RP 887. Caylan did not see Ms. Standen. RP 886. Caylan left the rental between 10:30 p.m. and 11:00 p.m. RP 887. Neither he nor his father consumed any alcohol. RP 890.

Caylan returned to the rental on April 4, 2018, also between 8:30 and 9:00 p.m. RP 888. Caylan stated that his father had just taken the recycling bin down to the street. RP 888. Caylan did not note anything unusual about his father's demeanor. RP 888. They spoke for approximately two hours before Caylan returned home. RP 889, 890. Neither he nor his father consumed any alcohol during this time. RP 890.

Caylan helped his father pack some of his belongings after law enforcement began to investigate Ms. Standen's death because Mr. Jupp had safety concerns. RP 892. However, Mr. Jupp did not intend to move out

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Ms. Mahugh estimated that, after she and her son returned from running errands, she left to return home between 7:30 and 7:45 p.m. RP 871.

of the residence completely. RP 892. Caylan took the security system, and returned some of the equipment to Comcast “because [Mr. Jupp] was being charged a pretty large amount for the equipment fees and stuff like that” but he retained the “head unit” “because nobody asked him for it.”<sup>25</sup> RP 893-94.

Ms. Hughes also testified at trial. Shortly after the Jupps moved into the rental, Ms. Standen approached Ms. Hughes, who was cooking, placed deli chicken on the counter and told Ms. Hughes to “eat this. This is poisoned.” RP 903. Later that evening, Ms. Standen pointed to Christmas lights outside and said, “We’re all going to hell, God is going to punish us.” RP 904. Ms. Hughes stated that Ms. Standen would use the main floor bathroom, but would neglect to shut the door; the Jupps’ daughter entered the bathroom two or three times with Ms. Standen inside, and Ms. Standen would yell at the child. RP 905. Ms. Standen said, “If she were my child, I know what I would do to her.” RP 905. Ms. Hughes claimed that Ms. Standen had such bad diarrhea that she would leave fecal matter smeared on the bathroom countertops, the floor, and on the edges of the toilets. RP 905. Ms. Hughes “didn’t let [her] daughter use the restroom

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<sup>25</sup> In an earlier interview, Caylan stated he believed that the security unit could exonerate his father, but he did not turn it over to authorities. RP 894-95.

without going in and cleaning before she could use the bathroom, or I would make her go to the upstairs bathroom.” RP 905.

Ms. Hughes stated that in January 2018, she moved back to Whitefish, Montana, because they “had a house full of belongings, storage units full of stuff, and [they] needed to get moved out of that place...and so [she] returned to Montana,” taking her daughter with her because they “were having issues finding daycare throughout the city.” RP 902. She denied the trip had anything to do with Ms. Standen.<sup>26</sup> RP 906. Due to significant snowfall in Whitefish, Montana, Ms. Hughes changed her plans to return to Spokane immediately, and decided to remain in Montana until the end of the school year. RP 902.

Ms. Hughes claimed that she spoke with Ms. Miller about the need for Mr. Jupp to have a roommate until she and her daughter returned from Montana. RP 907. She also claimed that on March 30, 2018, she and Mr. Jupp decided he should get a female roommate – because “guys are always lackadaisical in cleaning [and] in wanting to pay the rent.” RP 907.

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<sup>26</sup> On cross-examination, despite her contention that Ms. Standen was a motherly figure, RP 912, she stated that Ms. Standen’s behavior was erratic enough that it made the Jupps uncomfortable and made her daughter nervous, conceding that “she was not the primary sole reason for leaving.” RP 915. She later stated, that her decision to leave “at that particular time had nothing to do with [Ms. Standen.]” RP 918.

Ms. Hughes stated that the roommate would have lived in the upstairs bedroom or in the basement of the rental. RP 907.

Ms. Hughes recalled a birthday party at the rental house that occurred the weekend before Ms. Standen's disappearance. RP 923-24. No one drank any alcohol during the birthday party on March 30, 2018. RP 924. Ms. Hughes also stated that neither she nor Mr. Jupp nor Ms. Standen drank any alcohol during the week preceding the birthday party. RP 925.

Mr. Jupp testified in his own defense. He described the nature of Ms. Standen's bedroom, stating that it was attracting mice. RP 941. Ms. Standen would "rant and rave. She would slam her hands around and beat on the walls. I felt bad for her." RP 942. He stated that one time he returned home from grocery shopping to find "it was just like Poltergeist. There were three chairs stacked on top of each other right in front of...the door." RP 942. And so, "he finally had enough" and called police. RP 943. He claimed that all of his actions with regard to Ms. Standen – calling APS and the police – were an effort to help her. RP 964.

Later, his wife and daughter visited in late March, and returned to Montana on April 1, 2018. RP 949. Mr. Jupp was "pretty bummed" so he threw himself into work. RP 950. He stated that he was out of the house on Tuesday, April 3, 2018, from 4:30 p.m. to 10:30 p.m. and when he came home, the house was dark. RP 955. He was home all day on Wednesday,

April 4, 2018, except for when his daughter took him grocery shopping. RP 955. He took the garbage out between 6:30 and 7:00 p.m. RP 954. He denied knowing who deposited the beer cans in his garbage receptacle, but speculated Mr. Miller and his son or nephew<sup>27</sup> may have left them there as he had seen them drink at his rental house. RP 956. Mr. Jupp denied drinking alcohol for two and one-half years. RP 985. He also stated that he had cleaned the house with vinegar, explaining the presence of those bottles in his garbage. RP 957.

Mr. Jupp also stated that he turned on the alarm system at night on April 3, 4, and 5, while he slept, and during those nights, the alarm did not sound.<sup>28</sup> RP 959. During those days, Mr. Jupp did not see anyone come or go from Ms. Standen's room except for Mr. Miller and Mr. Anderburg on April 3, 2018. RP 979-81.

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<sup>27</sup> During the State's rebuttal, Mr. Miller denied drinking with his nephew at the rental house, and denied placing any of the beer cans or bottles in the trash at the rental house. RP 1001-02. Ms. Miller stated that the Millers did not have any children; she also stated she did not recognize the beer cans in the rental property's garbage, and denied taking her own trash to dump at the rental property. RP 1005. Although the Millers had a nephew, the nephew apparently only did clean-up work at the house before Mr. Jupp lived there. RP 1012.

<sup>28</sup> Mr. Jupp stated only the doors on the main floor were equipped with sensors that would set off the alarm. RP 983. The windows in the basement were also equipped with sensors. RP 983. The system would also record what time specific doors were opened and closed. RP 984.

7. Procedural history.

The defendant moved the court for a dismissal after the State rested its case, alleging there was insufficient evidence for the matter to be submitted to a jury. RP 849-56. The court denied the defendant's motion. RP 860-65. After the motion was denied, the defendant put on evidence of his own. RP 865-985. After the State submitted rebuttal evidence, the defendant again moved for a dismissal due to insufficient evidence which the court again denied. RP 1014-16.

The jury found the defendant guilty of second degree murder as charged, and further found that Ms. Standen was a particularly vulnerable victim or incapable of resistance. CP 132-33.<sup>29</sup> The court sentenced Mr. Jupp to an exceptional sentence of 300 months incarceration.<sup>30</sup> CP 119. The defendant timely appealed.

#### **IV. ARGUMENT**

##### **A. STANDARD OF REVIEW FOR SUFFICIENCY OF THE EVIDENCE CASES.**

The purpose for sufficiency of the evidence review is "to guarantee the fundamental protection of due process of law." *Jackson v. Virginia*,

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<sup>29</sup> The State designated the jury's verdict and special verdict concurrently with the filing of its response brief, and anticipates those documents to be designated as CP 132-33.

<sup>30</sup> The defendant's standard range was 165 to 265 months. CP 117.

443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). The test for determining the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). When the sufficiency of the evidence is challenged in a criminal case, *all* reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. *Id.* A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. *Id.* In a sufficiency of the evidence challenge, the court is highly deferential to the decision of the jury. *State v. Davis*, 182 Wn.2d 222, 227, 340 P.3d 820 (2014).

Credibility determinations are for the trier of fact and are not subject to review on appeal. *State v. Thomas*, 150 Wn.2d 821, 874, 83 P.3d 970 (2004). The appellate court must defer to the trier of fact on issues of conflicting testimony, credibility of witnesses and the persuasiveness of the evidence. *Id.*

Our Supreme Court has stated:

It is the province of the jury to weigh the evidence, under proper instructions, and determine the facts. It is the province of the jury to believe, or disbelieve, any witness whose testimony it is called upon to consider. If there is substantial evidence (as distinguished from a scintilla) on

both sides of an issue, what the trial court believes after hearing the testimony, and what this court believes after reading the record, is immaterial. The finding of the jury, upon substantial, conflicting evidence properly submitted to it, is final.

*State v. Williams*, 96 Wn.2d 215, 222, 634 P.2d 868 (1981); *see, also, State v. Walton*, 64 Wn. App. 410, 415-16, 824 P.2d 533 (1992) (the court defers to the jury's determination regarding conflicting testimony, evaluation of witness credibility, and decisions regarding the persuasiveness of evidence).

In *State v. Hill*, 83 Wn.2d 558, 560, 520 P.2d 618 (1974), the Supreme Court held that the State has the burden of proving identity through relevant evidence. The Court said:

It is axiomatic in criminal trials that the prosecution bears the burden of establishing beyond a reasonable doubt the identity of the accused as the person who committed the offense. Identity involves a question of fact for the jury and any relevant fact, either direct or circumstantial, which would convince or tend to convince a person of ordinary judgment, in carrying on his everyday affairs, of the identity of a person should be received and evaluated.

*Id.* at 560 (citations omitted).

Accordingly, “[t]he function of an appellate court is only to assess that there was substantial evidence from which the trier of fact could infer that the burden of proof had been met and that the defendant was the one who perpetrated the crime.” *State v. Johnson*, 12 Wn. App. 40, 44-45, 527 P.2d 1324 (1974). Substantial evidence is that quantum of evidence

necessary to establish circumstances from which the jury could reasonably infer the fact to be proved. *Id.*; *State v. Cleman*, 18 Wn. App. 495, 498, 568 P.2d 832 (1977).

The State need not disprove all conceivable hypotheses consistent with innocence, so long as the record contains sufficient probative facts from which the jury could reasonably find guilt beyond a reasonable doubt. *State v. Bridge*, 91 Wn. App. 98, 100, 955 P.2d 418 (1998).

In support of his argument that the evidence was insufficient to sustain a finding that he killed Ms. Standen, the defendant cites a litany of cases wherein various courts found insufficient evidence of identity to convict, finding in many of those cases that the identity of the perpetrator rested on speculation. The State agrees with the defendant that a conviction may not rest on speculation or unreasonable inferences. As discussed below, however, the defendant's cited cases are inapt because the evidence linking the defendant to Ms. Standen's murder was not speculative and did not require the jury to make unreasonable inferences.

**B. THE DEFENDANT WAIVED HIS CHALLENGE TO THE SUFFICIENCY OF THE EVIDENCE MADE AT THE CLOSE OF THE STATE'S CASE IN CHIEF; THIS COURT REVIEWS ALL EVIDENCE PRESENTED AT TRIAL DE NOVO.**

Defendant claims that the trial court erred "when he denied the defense motion to dismiss and allowed the case to go to a jury." Br. at 32.

In making this claim, he relies heavily upon the trial court's ruling immediately after the defendant's motion at the close of the State's case-in-chief.

In a criminal case, a defendant may challenge the sufficiency of the evidence (a) before trial, (b) at the end of the State's case in chief, (c) at the end of all evidence, (d) after verdict, or (e) on appeal. *State v. Jackson*, 82 Wn. App. 594, 607-08, 918 P.2d 945 (1996). Where a defendant moves the court to dismiss a charge at the end of the State's case in chief, the trial court is required to assume the truth of the State's evidence, and view it most strongly against the defendant and in the light most favorable to the State.<sup>31</sup> *State v. Hobart*, 34 Wn. App. 187, 190, 659 P.2d 557 (1983). If the defendant proceeds to present evidence on his own behalf after his motion for dismissal is denied, he may not claim on appeal that the denial of his mid-trial motion to dismiss was in error. *State v. Allan*, 88 Wn.2d 394, 396, 562 P.2d 632 (1977); *see also State v. Mudge*, 69 Wn.2d 861, 863,

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<sup>31</sup> "Before trial, a court examines sufficiency based on facts supplied by affidavit. At the end of the State's case in chief, a court examines sufficiency based on the evidence admitted at trial so far. At the end of all the evidence, after verdict, or on appeal, a court examines sufficiency based on all the evidence admitted at trial. Each succeeding basis is more complete, and hence better, than the one before." *Jackson*, 82 Wn. App. at 608.

420 P.2d 863 (1966); Royce A. Ferguson, 13 WASH. PRAC., Criminal Practice & Procedure, § 4317 (3d ed. 2019).<sup>32</sup>

Here, although defendant claims that the trial court's ruling allowing the case to be submitted to the jury was in error, he cites extensively to the court's oral ruling which occurred after the mid-trial motion to dismiss. Br. at 10-12. However, after the trial court denied his mid-trial motion to dismiss, the defendant presented evidence on his own behalf, including his own testimony. As a result, the defendant's challenge to the court's mid-trial ruling was waived.

Furthermore, review of the remarks the trial court made in denying the mid-trial motion is unnecessary. The defendant takes issue with the lack of formal findings of fact and conclusions of law, criticizing the State for its failure to present such findings to the trial court despite the court's

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<sup>32</sup> See also, *State v. Watson*, 2017 WL 4570386, 200 Wn. App. 1067 (2017) (unpublished opinion) ("The [summary judgment] practice is similar in criminal cases. *State v. Jackson*, 82 Wn. App. 594, 608 n.41, 918 P.2d 945 (1996), review denied, 131 Wn.2d 1006 (1997). When an appellate court reviews a sufficiency of the evidence challenge, it does so on the basis of the most complete factual record in existence. *Id.* at 608-609. Thus, if a case proceeds to trial after the denial of a *Knapstad* motion, the court will consider the evidence presented at trial. *Id.* In that circumstance, there is 'no right to have us review the sufficiency of the evidence using pretrial *Knapstad* affidavits.' *Id.* at 609. Accordingly, the denial of a *Knapstad* motion is not an issue that can be raised on appeal following trial. *Id.*"); see GR 14.1 (a party may cite to an unpublished opinion filed on or after March 1, 2013 as a non-binding authority; such opinions have no precedential value and the appellate court may accord the opinion such persuasive value as it deems appropriate).

request. Br. at 9-10. However, on review, this Court considers *all* of the evidence presented at trial – that from the State’s case, the defendant’s case, and the State’s rebuttal; review of that evidence is *de novo*. See *State v. Berg*, 181 Wn.2d 857, 867, 337 P.3d 310 (2014). Because review is *de novo*, the trial court’s oral findings below are irrelevant.<sup>33</sup>

**C. THE EVIDENCE PRESENTED AT TRIAL WAS SUFFICIENT TO SUSTAIN A CONVICTION.**

The defendant agrees the evidence was sufficient to prove a homicide. However, he claims insufficient evidence exists proving identity – that *he* committed the homicide. Br. at 21. To the contrary, the evidence, along with all reasonable inferences that may be taken from it, is sufficient to support the conclusion that Mr. Jupp killed Ms. Standen beyond a reasonable doubt.

1. It is logical to conclude that Ms. Standen was killed in her bedroom and was placed in the recycle bin.

Ms. Standen was a recluse who never left her room (even in the defendant’s own words) without her dog, suitcase and purse. She was in her bedroom on April 3, 2018 when she was visited by Mr. Anderburg and

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<sup>33</sup> In sufficiency review, the court *construes* the facts in the light most favorable to the State. It does not engage in fact-finding, and because review is *de novo*, its “findings” below are not entitled to any deference. See *e.g. State v. Knapstad*, 107 Wn.2d 346, 356, 729 P.2d 48 (1986) (in considering a motion to dismiss for lack of sufficient evidence, the trial court does not make findings of fact, and none should be entered).

Mr. Miller. The dog, purse, and suitcase were still in her room two days after her disappearance.

One of the blankets that had been on her bed was missing after her death. There was no blood found in Ms. Standen's bedroom or anywhere else in the house, but her blood *was* found in the recycle bin that Mr. Jupp took to the curb on April 4, 2018 – enough that, even though the sample was degraded, there was enough present that it was detectable. Additional evidence that her dead body was placed in the recycle bin included the uncharacteristic noise that the recycle bin's load made as it dropped into the recycling truck and the timing of the arrival and discovery of her body at the recycling plant. The lividity detected on Ms. Standen's chest and neck, was consistent with her body being positioned face down shortly after death.

The only logical conclusion that could be drawn from this evidence was that Ms. Standen was killed in her bedroom; her small, frail body was wrapped in the missing blanket, and was taken to the recycle bin, where she remained, face down, until the bin was emptied and she was transported, along with the refuse to the recycling plant. If the blanket or a garbage bag had been wrapped around Ms. Standen's body while she was in her bedroom, this would explain the absence of blood inside the residence but

the presence of blood in the recycling bin – the blanket became saturated and began to leak blood into the bottom of the bin.<sup>34</sup>

After the recycling was picked up and the bin was returned to the back of the house, the bin lid remained open such that water collected in the bottom of the bin. It is unknown whether that water was rain water or was from the garden hose found immediately next to the bin. Ex. P-31. The jury could easily have found that the recycle bin lid was purposefully left open, when the bin lid for the garbage can was closed, potentially to refresh the bin outdoors due to its exposure to human remains. Similarly, the jury could infer that the recyclables and other material that were found in the garbage can were added to that can after garbage was picked up on April 5, 2018. The jury could infer that there was no room for these items in the recycle bin on the morning of April 5, 2018, or that they were items that were removed from the house on April 5, 2018, after the garbage had been picked up. Despite the defendant's protestations that he had not consumed alcohol in two and one half-years, the jury could also rationally have found that he

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<sup>34</sup> The evidence reasonably suggests that Ms. Standen was placed in the bin in such a way that her blood leaked into the bottom of the bin – perhaps wrapped in the missing blanket. At the time she was emptied from the bin, however, she was in a garbage bag, as her body was undetected by the refuse collector (other than by the sound it made). Therefore, alternatively, she could have initially been placed in the bin in the garbage bag and the bag leaked blood into the bottom of the bin. Perhaps the blanket was in the second bag that was observed being dumped from the bin into the garbage truck.

was the only individual who could have consumed the beer<sup>35</sup> and placed it in the receptacle.

2. The defendant had motive to kill Ms. Standen, opportunity to do so, and knew of her death before she was found.

In Montana, Mr. Jupp's job had been feast or famine. He and his family moved to Spokane to "try to make it." Mr. Jupp and his family caught a break when they moved into the Millers' rental property for little-to-no rent. But, Ms. Standen came with the house, just as the elderly woman came with the house in the book repeatedly referenced by Mr. Jupp, Burnt Offerings.

Ms. Standen was seriously mentally ill. No one, including the Millers, the authorities, or APS could remove her from the home. Her room was filthy and smelled of feces; it was attracting mice. She soiled the downstairs bathroom, and sometimes, did not use the bathroom at all, opting to relieve herself in her bedroom. She kept rotting food in her room. She made noises and paranoid comments. She refused to meet with the social workers who were trying to help her and even when she did, she refused to sign paperwork to allow them to assist her.

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<sup>35</sup> At least two cans of Budweiser beer are visible in the photographs, as is an empty case of lager. Ex. P-37–P-40.

A timeline of events reveals Mr. Jupp's increased frustration with Ms. Standen's presence in the home and the inability of anyone to find an alternative living arrangement for her:

- On January 3, 2018, because of Ms. Standen's presence, Mr. Jupp's family left Spokane to return to Montana. Although Ms. Hughes denied this was the reason for their departure, Mr. Jupp told multiple people between January and April 2018 that his family left for this reason. He was lonely. He had to clean up after Ms. Standen. He paid the utilities to heat her room when she contributed nothing to the household expenses. His family would not return to Spokane until Ms. Standen was removed because they did not want their young daughter around a mentally-ill woman.
- The next day, on January 4, 2018, Mr. Jupp complained to APS that Ms. Standen was a victim of self-neglect and had mental health problems.
- Two weeks later on January 18, 2018, APS employee Craig Hirt finally attempted to make contact with Ms. Standen, but she would not meet with him.
- Five days later, on January 23, 2018, Mr. Jupp reported an incident between himself and Ms. Standen to police. The police did nothing.

- Three days later, on January 26, 2018, Mr. Hirt returned to the property with Ms. Miller; Ms. Standen was suspicious of Mr. Hirt, and refused his help.
- Mr. Hirt returned in February 2018, and Ms. Standen was aggressive with him.
- Mr. Hirt returned on an unspecified date in February 2018 and Ms. Standen again refused to meet with him as he was unannounced.
- During the first week of March 2018, Mr. Hirt met with Ms. Standen who refused to leave her room.
- On March 23, 2018, Mr. Hirt attempted to meet with Ms. Standen but she refused to open her door to him. At no point in February or March 2018, did Ms. Standen sign paperwork for Mr. Hirt that would allow him to procure her housing.
- On April 3, 2018, two days before the discovery of her body and potentially the day of her death, Mr. Miller and Mr. Anderburg met with Ms. Standen, who again refused to sign consent paperwork. At the conclusion of this unsuccessful meeting, Mr. Jupp cursed at and intimidated Mr. Anderburg, accusing him of inaction.

From this timeline, the jury could conclude that Mr. Jupp became increasingly frustrated with Ms. Standen's presence in the home and the inaction of law enforcement and social workers who were involved.

The medical examiner opined that Ms. Standen was killed on the evening of April 3, or the morning of April 4, 2018. Mr. Jupp placed himself in the residence, *alone* with Ms. Standen during this time frame. He arrived home from work at 10:30 or 11 p.m. on April 3, and was home all day on April 4. Mr. Jupp had an alarm system that he activated at night. No one entered the residence during the night of April 3-4 as the alarm did not sound. There was no sign of forced entry into the residence. Moreover, the alarm system that could have demonstrated someone else entered the home during the night, or otherwise could have exculpated Mr. Jupp, disappeared after law enforcement began to investigate Ms. Standen's death, to be found shortly before trial in Mr. Jupp's daughter's shed. Mr. Jupp's son knew where the security system was being kept, but despite his claim that the security system might exonerate his father, never offered it to law enforcement for analysis.

Importantly, on April 4, 2018, just after noon, Mr. Jupp placed an advertisement for a roommate. He sought someone who would respect him, asking for "no drama please." He offered a room with a private bathroom – the only such room in the residence was Ms. Standen's room on the main

level; the bathroom upstairs served multiple bedrooms on the first floor, and there was no evidence that the basement had a bathroom in it. This advertisement was placed *after* Ms. Standen's time of death, but *before* the garbage was picked up from the rental property, and therefore, before her body was discovered. The jury could reasonably find that Mr. Jupp killed Ms. Standen because he was the only person with knowledge that she was dead and her room was available. Additionally, Mr. Jupp knew that once Ms. Standen was gone, he would be expected to pay full rent, an explanation why he sought a roommate who could pay \$500 per month toward his \$1,100 rental obligation that would commence upon Ms. Standen vacating the rental. The jury could easily have discredited the Jupps' explanation as to why he posted an advertisement at that time. When Mr. Jupp was confronted by law enforcement at his home, his demeanor changed – his shoulders slumped and he was visibly shaken. He did not refer to Ms. Standen by name, and vacillated on how long it had been since he had seen her.

From these facts, a jury could also rationally infer that because Mr. Jupp did not have a motor vehicle, he had no way to dispose of Ms. Standen's body, other than to dump her in the trash. Further, a jury could reasonably infer that Mr. Jupp remained home all day on April 4, 2018 (to the exclusion of everyone else) to ensure that no one would locate

Ms. Standen's body before the recycling was picked up on April 5, 2018. Similarly, a jury could infer that he sat on his porch on April 5, 2018, watching the recycling bin to ensure that the bin was emptied without interference. The jury could also reasonably infer that the defendant put Ms. Standen's body in the recycling in an effort to destroy whatever evidence may have tied her to him – an effort that was largely successful as her body was covered with the DNA of numerous other individuals. Although not strenuously argued at trial, the jury could also have believed that Mr. Jupp inexplicably vacated the rental shortly after the discovery of Ms. Standen's body in an attempt to flee.

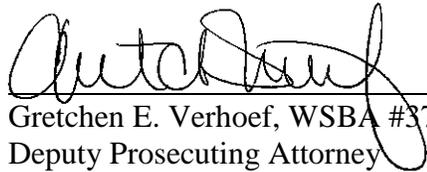
The evidence was sufficient for the jury to conclude that Mr. Jupp killed Ms. Standen during an assault. The jury was free to disregard the testimony of Mr. Jupp and the members of his family, finding it to lack credibility. While no one may ever know what precipitated the murder – if Ms. Standen provoked the defendant or if he was so drunk that he lost control of himself – the evidence established the defendant had motive to kill her, the defendant was the only individual with opportunity to kill her, and the defendant's actions after her death demonstrated he had knowledge that she was permanently gone. By process of elimination, the evidence established, beyond a reasonable doubt, that *only* Mr. Jupp could have killed Ms. Standen.

## V. CONCLUSION

The direct and circumstantial evidence in this case, when viewed in the light most favorable to the State, established that the defendant killed Stephanie Standen. The jury was not required to speculate about this conclusion; rather, it made reasonable, rational inferences from the direct and circumstantial evidence presented to it. The State respectfully requests this Court affirm the jury's verdict.

Dated this 5 day of March, 2020.

LAWRENCE H. HASKELL  
Prosecuting Attorney

A handwritten signature in black ink, appearing to read "Gretchen E. Verhoef", is written over a horizontal line.

Gretchen E. Verhoef, WSBA #37938  
Deputy Prosecuting Attorney  
Attorney for Respondent

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION III

STATE OF WASHINGTON,

Respondent,

v.

EUGENE JUPP,

Appellant.

NO. 36746-1-III

CERTIFICATE OF  
SERVICE

I certify under penalty of perjury under the laws of the State of Washington, that on March 5, 2020, I e-mailed a copy of the Brief of Respondent in this matter, pursuant to the parties' agreement, to:

Mark Mestel

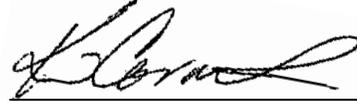
[Mark.mestel@gmail.com](mailto:Mark.mestel@gmail.com); [brandylellis@gmail.com](mailto:brandylellis@gmail.com)

3/5/2020

(Date)

Spokane, WA

(Place)



(Signature)

**SPOKANE COUNTY PROSECUTOR**

**March 05, 2020 - 11:21 AM**

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