

GENESEE COUNTY BAR ASSOCIATION
2009 HIGH SCHOOL
MOCK TRIAL COMPETITION

STATE OF MICHIGAN

v.

TRACY KNOTTING

Genesee County Circuit Court
900 S. Saginaw Street
Flint, Michigan 48502

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State of Michigan

v.

Tracy Knotting

TYPE OF CASE:

Criminal prosecution. The People of the State of Michigan charged Tracy Knotting with voluntary manslaughter in the death of Regan Hollingsworth.

Defendant Tracy Knotting claims that the death of Regan Hollingsworth was justifiable because Tracy Knotting was acting in self defense and/or defense of others.

The case will be tried before a jury in Genesee County Circuit Court.

NATURE OF LEGAL CLAIMS:

The prosecution claims that defendant Tracy Knotting hit and/or kicked the victim, Regan Hollingsworth, in the head causing the victim's death. Defendant Tracy Knotting claims that the death was justifiable because he acted in self defense and/or in defense of his friend or that death was caused by alcohol consumption that aggravated a medical condition.

SUMMARY OF FACTS:

Defendant Tracy Knotting went to O'Conner's Restaurant with Chris, a friend. Knotting is eighteen years old, a member of Junior ROTC, and a body builder. Knotting and Chris sat down in a booth. A few minutes later, Regan Hollingsworth entered the restaurant with friends, Andy Townsend and Billie Stevens. Stevens sat next to Chris. Knotting told Stevens to leave the seat. Stevens left and sat in another booth with Townsend and Hollingsworth. Defendant's friends, Shawn Kelly and Terry Rinehart were sitting in another booth. Hollingsworth, Stevens, and Townsend exchanged insults with Kelly and Rinehart. Stevens became disruptive, jumped over the back of the booth and onto the drink stand behind it, and began to yell. Stevens, Hollingsworth, and Townsend were asked to leave the restaurant. Shortly after they left, Kelly and Rinehart exited the restaurant.

Once outside of O'Conner's Restaurant, Hollingsworth, Stevens, Townsend, Kelly and Rinehart exchanged more words and a fight ensued. Hollingsworth and Stevens attacked Kelly while Townsend and Rinehart began to fight. Watching from inside, Knotting left the restaurant, walked over to Kelly who was being double teamed, and pulled Hollingsworth off of Kelly. Knotting hit Hollingsworth and Hollingsworth fell to the concrete. Knotting then appeared to have kicked Hollingsworth. Hollingsworth did not fight back. Paramedics were able to resuscitate Hollingsworth before taking Hollingsworth to the hospital. While at the hospital, Hollingsworth was placed on life support and died three days later.

During the autopsy, Dr. Lavern Ott examined the body of Regan Hollingsworth and found that Hollingsworth had died from a subarachnoid hemorrhage secondary to hyperextension. Dr. Leslie Heinz, acting for the defense, reviewed the autopsy report and talked with Dr. Ott. Dr. Heinz found that since Dr. Ott could not identify the location of the hemorrhage; hyperextension was not verifiable.

LIST OF MATERIALS:

Stipulations

Statement of Alex O’Conner, prosecution witness

Statement of Devon McCarthy, prosecution witness

Statement of Dr. Lavern Ott, prosecution witness

Statement of Tracy Knotting, defendant

Statement of Shawn Kelly, defendant witness

Statement of Dr. Leslie Heinz, defendant witness

Exhibit 1: O’Conner’s Interior

Exhibit 2: O’Conner’s Exterior

Exhibit 3: Autopsy Drawing of Head

Exhibit 4: Toxicology Report

COMMENTS AND SUGGESTIONS:

The 2009 Mock Trial is based on an actual case that occurred in Genesee County. All names, descriptions, and some events have been changed. Most witnesses were created to be gender-neutral.

All admissible exhibits and information relating to the case are contained in these case materials. Students are not allowed to introduce at trial cases or exhibits not contained in the case materials.

**STATE OF MICHIGAN
IN THE SEVENTH CIRCUIT COURT FOR THE COUNTY OF GENESEE**

STATE OF MICHIGAN

Plaintiff,

Case No: 09-70420-FC

v.

TRACY KNOTTING
DOB 10/1/1989
SSN: 982-22-0985

Defendant.

STIPULATIONS

1. The elements of Voluntary Manslaughter are as follows:
 - a. Defendant caused the death of the victim;
 - b. The Defendant had one of these three states of mind: [he/she] intended to kill, or [he/she] intended to do great bodily harm to the victim, or [he/she] knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his/her] actions; and
 - c. The Defendant caused the death without lawful excuse or justification.

CJI2d 16.8; *See also People v Sullivan*, 231 Mich App 510; 586 NW2d 578 (1998); *People v Tierney*, 266 Mich App 687; 703 NW2d 204 (2004); *lv den* 474 Mich 1068, 711 NW2d 303 (2005); *reh den* 475 Mich 865, 714 NW2d 297 (2006).

2. Defendant Tracy Knotting is charged with Voluntary Manslaughter in the death of Regan Hollingsworth.
3. Voluntary Manslaughter is a felony punishable by imprisonment in the state prison for not more than 15 years or a fine of not more than 7,500 dollars, or both, at the discretion of the court.
4. The defense argues that the Defendant is not guilty because the victim's death was due to Defendant acting in defense of others or that Defendant's death resulted from alcohol consumption that aggravated a medical condition.
5. In order to prove defense of others, Defendant must show the following:
 - a. Defendant honestly and reasonably believed there was danger;
 - b. This danger amounted to serious bodily harm or death;
 - c. Defendant's action at this time was reasonable necessary for defense of others;

d. Defendant was not the initial aggressor.

See People v Riddle, 467 Mich 116, 119; 120 n 8; 649 NW2d 30 (2002).

6. At the hospital, Regan Hollingsworth's blood alcohol level was 235 milligrams per hundred cubic centimeters of blood.

7. In terms of drunk driving, Regan Hollingsworth's blood alcohol content was .235 grams per 100 milliliters which is the equivalent of 10-12 shots of 80 proof alcohol or 10-12, 12oz. beers within one hour.

8. In terms of drunk driving, a person with 0.08 grams blood alcohol level is legally drunk or intoxicated under Michigan law, and would be charged with Operating While Intoxicated (OWI).

9. The presiding judge will conduct the trial according to the Michigan Rules of Evidence. Trial will be by jury.

10. The jury will be instructed on the elements of the offense according to the Standard Jury Instructions.

11. The presiding judge will entertain no motions other than for an order sequestering the witnesses. Such a motion should be made after the introduction of counsel and before the plaintiff's opening statement.

12. All facts asserted in the witness statements are true and correct.

13. All exhibits included in these case materials are authentic and are accurate in all respects; no objections to the authenticity of the exhibits will be entertained.

STATEMENT OF ALEX O'CONNER

AFFIDAVIT OF ALEX O'CONNER

Prosecution Witness

1. My name is Alex O'Conner . I am fifty five (55) years old. I own O'Conner's Restaurant located at 4567 Madison Road, Flint, Michigan which is approximately four blocks from Flint High School. I have owned O'Conner's for twenty three (23) years.
2. O'Conner's employs two full time chefs and six waiters/waitresses. During the evening shift, the restaurant is staffed with a chef and two waitresses who work along with me.
3. My restaurant sits on the corner of Madison and Bay, a busy intersection. In the front of the restaurant are two big windows. The windows take up the majority of the front structure. In front of the restaurant, there are about six parking spaces that are separated in the middle with an opening with yellow lines for the entrance. The O'Conner's sign sits on the corner at an angle.
4. On most days, several students regularly come into the restaurant after school or school activities.
5. Tracy Knotting is a regular. Tracy comes into the restaurant after Junior ROTC. Tracy is an athlete, has a muscular build, and is about six feet tall. Tracy usually comes into the restaurant with friends Shawn Kelly and Terry Rinehart who are also in Junior ROTC.
6. Regan Hollingsworth, Andy Townsend, and Billie Stevens are high school drop-outs. They come into the restaurant on occasion. They always seem to start trouble when they are in the restaurant.
7. On or about March 2, 2007, at around 5:30 p.m., Tracy was sitting in the booth with his friend, Chris. Tracy and Chris sat in a booth that normally sits eight people. The booth is in the corner to the right of the front door when you enter the restaurant. Tracy's friends, Shawn Kelly and Terry Rinehart, walked into the restaurant. They said hello to Tracy and Chris then sat in the same row of booths, two booths down.
8. Normally around 5:30 p.m., the restaurant is near capacity for the dinner rush. The staff and I are usually greeting guests as they enter into the restaurant, waiting tables, serving orders, and assisting customers at the cash register.
9. About 15 minutes after Shawn and Terry came into the restaurant, Regan Hollingsworth, Billie Stevens, and Andy Townsend came into the restaurant. I was at the malt machine making a malt for another customer. I heard Tracy yell, "You are not sitting here." I looked over my shoulder towards Tracy's table and I saw Billie leaving the booth.
10. As I was waiting on other customers, I heard loud talking. I turned and saw that Billie, Shawn and Terry were exchanging words. I could not hear what the words were exactly. However, they were in close proximity to each other. Another customer was sitting near them and attempted to break them up. Shawn and Terry walked away toward the restrooms.

11. After Shawn and Terry went into the restroom, Billie yelled across the restaurant to Tracy. He yelled, "What did you say." Tracy yelled back and stated, "You are not sitting here."
12. When you walk in the front entrance, there is a drink stand immediately in front of you. There are four booths behind the drink stand. The stand houses glasses, silverware, a sink, and a hidden trash can for the staff to use in setting up tables. There are two booths on the right side of the stand and two on the left side. Regan, Andy, and Billie were sitting in the booth immediately behind the drink stand on the right.
13. After the exchange with Tracy, Billie jumped onto the booth seat then onto the stand behind the booth. He began to yell then jumped off. Regan and Andy were laughing. I walked over to the drink stand and asked them to leave. Laughing, they stood up and walked out of the restaurant.
14. When Billie jumped onto the staff's stand, Billie knocked over several glasses. I started to clean up the mess when Shawn Kelly and Terry Rinehart walked by me and out of the restaurant.
15. A customer was waiting at the cash register and I went to help him. As I was walking towards the cash register, I heard a commotion outside. Tracy got out of the booth and went outside. I got to the register and cashed out the customer. I noticed several other customers were leaving the restaurant as well, including Devon McCarthy.
16. Another customer, who was sitting in the first booth to the right of the front entrance and in front of the window, was attempting to get my attention. As I was walking to the customer, I looked out of the front window. Regan and Billie were hitting Shawn. Then, I saw Tracy take Regan off of Shawn. Tracy hit Regan. I did not see what happened next because I began to take the customer's order.
17. As I finished taking the customer's order, I looked out the window. Shawn was fighting with Billie and Terry was fighting with Andy. I saw Tracy standing but was unable to see Regan. I saw Tracy making a kicking motion at something on the ground.
18. I walked over to the kitchen window to place the customer's order. After placing the order, I called the police.
19. When the police came, I went outside and saw Regan on the ground in the area that I saw Tracy kicking.
20. As the police officer checked on Regan who appeared not to be breathing, Tracy, Shawn, and Terry got into their blue Monte Carlo SS and drove away. Another police car came to the restaurant and pulled out after the Monte Carlo.

STATEMENT OF DEVON MCCARTHY

AFFIDAVIT OF DEVON MCCARTHY

Prosecution Witness

1. My name is Devon McCarthy. I am 17 years old and a senior in high school. I attend Flint High School with Shawn Kelly, Terry Rinehart, and Tracy Knotting. I grew up with Andy Townsend, Billie Stevens, and Regan Hollingsworth.
2. I am a member of the Junior Army ROTC along with Shawn, Terry, and Tracy. We have been trained in self defense tactics which includes how to break a choke hold. Our basic training includes weight lifting, running, and other exercises.
3. Regan is a thin, non-athletic build, high school drop out. There have been times when I would talk with Regan that I could smell alcohol on his breath. In comparison with Tracy, Regan is about half a foot shorter than Tracy and about 50 pounds lighter.
4. After training on March 2, 2007, I went with several Junior Army ROTC cadets to O'Conner's Restaurant. It is not far from the high school. Tracy met up with his friend, Chris, and sat in a booth separate from everyone else. I sat in a booth with some of the other cadets along the right wall between Tracy's booth and Shawn's booth.
5. A few minutes after we made our orders, Regan, Billie, and Andy walked into the restaurant. Billie sat in the booth with Tracy and Chris. Tracy yelled, "You can't sit here." Billie said something to Chris then walked to where Regan and Andy were located. Billie sat in the booth with Regan and Andy.
6. Billie would not shut up. He kept saying how the members of Junior ROTC were a bunch of fairies. Shawn and Terry got up and confronted Billie. They started arguing but another customer tried to break it up. Shawn and Terry walked towards the bathroom.
7. Next thing I know Billie is being very loud and jumped onto a wait stand behind his booth. He knocked several glasses onto the ground and Regan and Andy laughed. On their way out, Regan walked by our booth and I swear I smelled alcohol.
8. Shortly after they walked out, Shawn and Terry left the restaurant. A little while later, other people started to leave the restaurant, too. I looked over to Tracy's booth and Chris was sitting there alone. I got up and walked out of the restaurant. I was a few seconds behind Tracy. The restaurant emptied out into the parking lot. I saw Tracy take Regan off of Shawn. I was trying to get through the crowd. As I was walking through the crowd, I saw Tracy hit Regan and Regan fell to the concrete. Tracy walked away for a second then came back. Tracy picked up Regan's head from the concrete and hit him again. Regan was not fighting back.
9. The police came to the scene. Tracy ran over to a blue Monte Carlo with Shawn and Kelly. They left the parking lot in the Monte Carlo.
10. Regan was not moving. The paramedic came and put something down his throat. They loaded him in the ambulance and left.

REPORT OF DR. LAVERN OTT

AFFIDAVIT OF DR. LAVERN OTT

Prosecution Witness

1. I am Doctor Lavern Ott. Since May 2003, I have been employed at Hurley Medical Center as a full time staff pathologist. Pathology is a laboratory science. I am a licensed physician.
2. I graduated from University of Michigan Medical School in 1999. I completed my clinical and anatomic pathology residency at Hurley Medical Center in 2003. Clinical pathology deals with the interpretation of blood tests; includes materials that might come through either the hospital laboratory or private hospitals. Anatomic pathology is involved with determining state of disease in tissues. Specimens are sent to help the laboratory determine if there is disease.
3. I am Board Certified in both anatomic and clinical pathology. I received training as a forensic pathologist.
4. Forensic pathology is a subspecialty of anatomic pathology specifically dealing with causes of death when there may be foul play or some question of cause of death.
5. On or about March 12, 2007, I performed a post mortem examination on the body of Regan Hollingsworth at Hurley Medical Center. Sgt. Schmieder identified the body.
6. During the external examination of the body, I observed an incision beneath the right eye that measured one inch in length and angled downward. Near this incision, there was another incision that was closed by sutures and surrounded by Bentadine which is a disinfectant. I found another small vertical bruise over the right eyebrow which was about a half an inch in length and an eighth of an inch wide. Next to the bruise was a bump on the skull. On the left lower chest in the upper abdomen area, there were linear abrasions. On the right shoulder, there were older scars, scabs, and/or cuts.
7. During the internal examination of the body I found that there was a right pneumothorax, or pocket of air, in the right chest cavity. The right lung was collapsed.
8. The skull was intact and showed no signs of a skull fracture. The skull cap appeared normal and there appeared to be no previous trauma to the brain. I removed the skull cap and noted that the brain had some subarachnoid hemorrhage. This is bleeding in the middle one of three membranes that cover the brain and spinal cord. I removed the brain and noted that the hemorrhage was most intense at base of brain or that area of the brain before it enters the spinal column. I washed the brain and dissected arteries to determine any sort of malformations or aneurysm; something that might have caused this hemorrhage. I found nothing. When slicing the brain, I did not find any other areas of hemorrhage except that in the subarachnoid space.
9. The brain was slightly softer than normal but sometimes that can occur when a person is on life support and the brain and body are essentially dead. From a review of the hospital records, Regan Hollingsworth was on life support.

10. I did not have access to the blood toxicology results prior to doing the autopsy.
11. It is my opinion that the cause of death is subarachnoid hemorrhage secondary to hyperextension injury. Hyperextension injury is throwing of the head back suddenly beyond the normal range of motion for the neck.
12. There are many causes of subarachnoid hemorrhage.
13. The most common subarachnoid hemorrhage in the hospital practice is due to malformation of blood vessels at the base of brain. There was no evidence of malformation of the blood vessels in the victim. Sometimes in traffic cases there is trauma to the head, be it blunt trauma, or trauma otherwise, that will cause the injury.
14. The brain is a fairly moveable organ in a very rigid structure which protects it. But, if the head is moved quickly, there are forces set up within the brain that cause it to rotate, which may disrupt some of the vessels or even cause an expansion of their walls; enough to cause bleeding. This bleeding could cause sudden death. This type of hemorrhage is consistent with someone being hit in the face. Subarachnoid hemorrhage would result immediately upon trauma.
15. Spontaneous subarachnoid hemorrhage can occur. Doctors do not know what can cause it. There is no ability to eliminate spontaneous subarachnoid hemorrhage as a possible cause of death in this case.
16. Hyperextension can occur if there was a blow to the head and the victim immediately went limp. Hyperextension is more difficult if the victim is on the ground receiving blows. The laceration to right cheek and bump to head indicate possible hyperextension of neck.
17. Death may or may not have been immediate. In some cases, people survive. Hyperextension could occur without the head going back. A person can receive damage from hyperextension without dying.
18. Hyperextension could be caused from the head hitting the cement.
19. The injuries to the left side of rib cage can be from blows or from kicks. If victim was kicked three times in the face, then you would see damage.
20. I cannot tell what caused the right pneumothorax. It could have been caused by the life support. In assisting a person to breathe, if there is a small defect which can burst or collapse, then air will continue to pump into the chest cavity. The treatment received at the hospital or from the paramedic could cause pneumothorax.
21. It has been reported that there seems to be a correlation between blunt trauma and high blood alcohol level results in subarachnoid hemorrhage. People who have higher blood alcohol levels are seen in this situation at times.

STATEMENT OF TRACY KNOTTING

AFFIDAVIT OF TRACY KNOTTING

Defense Witness

1. My name is Tracy Knotting. I am 18 years old. I attend Flint High School where I am a senior.
2. I am in Junior ROTC, and I lift weights and do other physical training as a part of the Junior ROTC program.
3. After school and after Junior ROTC I sometimes go to O'Conner's Restaurant on Madison Road with friends, usually Shawn Kelly and Terry Rinehart, who are in Junior ROTC with me.
4. On or about March 2, 2007, at about 5:30 p.m., I was at O'Conner's, sitting in the front corner booth with my friend Chris. Shawn and Terry came in and said hello and went to sit in another booth.
5. Maybe about 15 minutes later, three guys I know to be drop-outs from Flint High School, came in together. I knew them as Regan, Billie, and Andy. I don't know them well. We didn't have anything in common. I didn't pay much attention to them.
6. This day, Billie came in and sat next to my friend Chris. He made a comment about Chris being a homo or something. I told him he wasn't sitting there and to move. He did.
7. A couple minutes later Billie was exchanging words with my friends, Shawn and Terry. Billie was being loud and obnoxious. He was sitting with Regan and Andy next to a waitress stand.
8. Shawn and Terry got up and headed to the restroom after another customer came to tone down the argument.
9. Billie hollered at me, "What did you say?" I shouted back that he was not sitting here.
10. All of a sudden Billie jumped up on his seat and onto the waitress stand where there were glasses and cups and other items used by the staff. He knocked a bunch of stuff over.
11. He started yelling insults about Chris, Shawn, Terry, and me. Andy and Regan were laughing. Then they all walked out of the restaurant.
12. I saw Shawn and Terry follow them outside.
13. I saw Billie, Andy and Regan start a fight with Shawn and Terry. Billie and Regan were ganged up on Shawn and Andy was hitting Terry.
14. I went outside and took Regan off of Shawn. I smelled alcohol on him. He really stank of it.
15. I hit him once in the face. He went down.

16. I picked him up by his collar, but he was out. I didn't think I hit Regan very hard. He just went down.
17. Shawn, Terry and I got into Terry's Monte Carlo and drove away.
18. We only got a little way before a police car pulled us over and took us downtown.

STATEMENT OF DR. LESLIE HEINZ

AFFIDAVIT OF DR. LESLIE HEINZ

Defense Witness

1. I am Doctor Leslie Heinz. I am chief medical examiner for Wayne County and a contract forensic pathologist for Macomb County. I have been chief M.E. for Wayne County since 1997.
2. I was trained as a Doctor of Medicine in 1976 and did my residency in pathology followed by two fellowships. The second fellowship was at the office of the Chief Medical Examiner of the State of Maryland in 1982. I worked there for two years. I performed similar work in West Berlin, Germany.
3. I came back to Baltimore as assistant medical examiner and was promoted to Deputy Chief Medical Examiner for the State of Maryland in 1985.
4. I have taught forensic pathology in Berlin, Germany. I was also part of the pathology departments at the University of Maryland and at Johns Hopkins University. Since coming to Michigan I have taught at Wayne State University Medical School and am on the faculty at University of Windsor, Ontario.
5. I have published 76 scientific papers. I also published a textbook in Forensic Pathology.
6. I am licensed to practice in Michigan, Maryland, Virginia, District of Columbia, and in all the countries of the common market of Europe, as well as in Canada.
7. I am certified by the American Board of Pathology in Anatomic Pathology and Forensic Pathology.
8. A pathologist in a hospital deals with people who are hospital patients either while they are alive for purposes of diagnosing a condition from which they suffer by studying specimens, including bodily fluids that are removed during surgery or biopsies, or by conducting autopsies after they die.
9. A forensic pathologist has taken additional training to learn to interpret injuries and determine the manner of death, whether by suicide, accident, homicide or natural causes.
10. I was certified as a hospital pathologist in 1981 and as a forensic pathologist in 1984.
11. I reviewed the autopsy report on Regan Hollingsworth and discussed the case with Dr. Ott.
12. I believe the cause of death was a hemorrhage into the soft envelope of the brain called the spider web that surrounds the brain, otherwise known as an arachnoid membrane. It appears the hemorrhage originated from a rupture to a blood vessel near the base of the brain.
13. When a part of the arterial system ruptures, there occurs bleeding into the vicinity, and, in fact, it will spread into the base of the brain because of the limited room in the head for the brain and the envelope that contains the brain.

14. Dr. Ott never found the hemorrhage, and there is no evidence of whether the hemorrhage started in the back or front of the brain. This is of great significance because if it is an injury from over extension from a sudden jolting backwards there is no reason why hemorrhage should originate from a rupture in the front portion of the system. For hyperextension, the rupture would occur in the back portion of the system. Dr. Ott's opinion that the cause of death was hyperextension is not provable from the evidence in the autopsy.

15. The injuries to the head did not result from a kick. The injury near the right eye and the swollen cheek was most likely caused by a fist. It was a superficial injury because the skin was broken but there was no fracturing of the underlying structure (cheek). The left side forehead injury was not from a shoe because there was not a pattern of a shoe left on the skin. There was some hemorrhage under the skin but not severe, and not within the brain cage or skull.

16. The victim's blood alcohol level was 235 milligrams per hundred cubic centimeters of blood. In drunk driving terms, the blood alcohol level would be .235 grams of alcohol per 100 milliliters of blood, which is the equivalent of 10-12 shots of 80 proof liquor or 10 -12, 12 oz. beers within one hour. A level of 0.08 grams of alcohol per 100 milliliters of blood is considered legally drunk in this state.

17. There is no record of deformity of blood vessels at birth.

18. The majority of people who sustain a burst blood vessel or a torn blood vessel in a subarachnoid hemorrhage are hypertensive. Blood pressure suddenly surges, be it due to severe stress, or be it an altercation; a vessel will rupture and give rise to a subarachnoid hemorrhage. Indirectly, it is entirely possible that there was hypertension in the victim added with the fact of intoxication.

19. Alcohol makes a person more prone to spontaneous subarachnoid hemorrhage. It is spontaneous insofar as a stressful situation can cause a surge of blood pressure in a person who is already subject to high blood pressure, either with or without the presence of alcohol. Alcohol makes blood rush to the head. It is more probable that a blood vessel will rupture from whatever cause if there is a lot of blood under pressure.

20. I do not believe there was hyperextension because there is nothing to support that opinion. None of the injuries to the face were of a severity that would make hyperextension an obvious result of that type of injury. If it is a hyperextension then you would expect the hemorrhage to be in the back of the brain which means there would be a shearing of a blood vessel between the spine and the brain. If the hemorrhage occurred in the front, hyperextension is not likely.

21. There is no evidence of brain injury.

22. The bleeding caused an increase of pressure in the skull. The blood is a space occupying condition that pushes on the brain without causing damage to it. In order for a hemorrhage to occur, there must be a tear.

STATEMENT OF SHAWN KELLY

AFFIDAVIT OF SHAWN KELLY

Defense Witness

1. My name is Shawn Kelly. I'm 17 years old and a senior at Flint High School.
2. I am a member of Junior ROTC with Tracy Knotting and Terry Rinehart.
3. As part of our ROTC training we lift weights and do other physical training that makes us bigger and stronger than some other people our age.
4. On or about March 2, 2007, I went to O'Conner's Restaurant on Madison Roads in Flint after a Junior ROTC session. I was with Terry Rinehart.
5. When we got there it was about 5:30 p.m.. Tracy was already there with a friend of his named Chris. I don't know the last name. They were sitting in a front booth that usually seats eight. We didn't want to butt in, so we sat in another booth.
6. Shortly after we got there, three guys who were dropouts from school walked in and one of them, Billie Stevens, started to sit in the booth with Chris and Tracy. The other two guys were Regan Hollingsworth and Andy Townsend.
7. Apparently Billie said something, and I heard Tracy tell him he wasn't sitting with them. He said it pretty loud.
8. Billie left and sat with Regan and Andy, next to a waitress stand that had some glasses and other stuff on it that the staff use to set up tables.
9. Billie started jawing at me and Terry, talking about what a bunch of fairies we were for being in Junior ROTC and making other comments that were meant to tick us off. We tried to ignore him, but then the other guys joined in and it got pretty loud.
10. Another guy, a customer I don't know, came over to quiet us down and break up the argument. Shawn and I left and went to the bathroom.
11. I could hear Billie yelling something as we left, but I don't know what he said. I heard Tracy answer back, but I didn't hear that either.
12. Terry and I came out of the restaurant and walked out into the parking lot.
13. Billie, Regan and Andy were already outside when we left. They started yelling at us that they could beat the crap out of us fairies and they started in.
14. Regan and Billie jumped me and started hitting and cussing me. I'm stronger than either one of them, but the two of them together were giving me a tough time, punching and scratching and kicking at me.

15. Before I knew it, Tracy was pulling Regan off me. He got hold of him and threw a punch that looked like it caught Regan flush on the cheek. Regan fell and hit his head on the pavement and looked like he was out cold. Tracy reached over and picked him up by his shirt front and then dropped him back on the ground. I didn't see anyone kick Regan, but they might have. I was still fighting with Billie.

16. Once Regan was on the ground, Billie and Andy quit. I don't know what they did after that. Tracy, Terry and I got in our car and left.

17. While Regan was on me, I could smell a strong odor of alcohol. I think he must have been really drunk for him and his buddies to pick a fight with Terry and me. Maybe they figured Tracy was too occupied with Chris to notice they had jumped us.