

2019-20 Case Clarifications (Updated 12/11/2019)

State of Minnesota v. Sam Soto

Question	Answer	Date
<p>How do students overcome a hearsay objection to the admission of Exhibits 2 and 3? The documents are the two pages that Officer Soderberg observed at the death scene “under one of the beer bottles,” “Exit Form for Dec. Wayfarer Recovery, Incident Report from same place,” bagged as EB #6. See Exhibit 1. [The documents are not mentioned in Soderberg’s witness statement.] There is no witness who can testify to the foundational facts necessary to qualify the documents as records of regularly recorded activity, although on their face the documents certainly look like business records. There’s no stipulation that the documents satisfy the requirements of Rule 803(6), and no stipulation that the signature affixed at the bottom of each document is that of Brandon Webster. (David Drueding, St. Agnes HS)</p>	<p>Officer Soderberg's affidavit will be revised to include some foundational knowledge of Exhibits 1, 2 and 3 are. However, teams will have decide for themselves how to make use of these exhibits and how to try to get them into evidence.</p>	<p>11/22/2019</p>
<p>I noticed that a revised version of the case materials was posted on 10/16/2019 at 7:15 pm. The revision included changes in Exhibit 1 that resolved my second comment on the case materials. Is it possible to get a list of which documents were changed by this revision? It would make it easier for myself and others to know which parts need to be downloaded and copied again. (David Drueding, St. Agnes HS)</p>	<p>Exhibits 1, 5 and 5A</p>	<p>11/22/2019</p>
<p>We were wondering about the differences between The Autopsy Report being dated July 9, 2018 and Kelly Fagin's witness statement that says July 6, 2018. (Ken Williams, LSHS)</p>	<p>There is an error in Exhibit 6. The date of autopsy in Exhibit 6 should be July 6, 2018.</p>	<p>11/22/2019</p>
<p>Holloway claims she read a couple of the witness statements but they are all signed on the 14th of Oct. We're confused as to how she was able to read them. (Ken Williams, LSHS)</p>	<p>Holloway will be revised so that his/her statement is written sometime after the other affidavits.</p>	<p>11/22/2019</p>

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<p>Case Overview states "Such drugs can be possessed lawfully only if prescribed by a doctor."</p>	<p>Case has been updated to "Such drugs can be possessed lawfully only if prescribed by a docterlicensed medical professional."</p>	<p>10/16/2019</p>
<p>Exhibit 6, page 3, "...the weight of the heart is 495 g..."</p>	<p>Change 405 g to 520g.</p>	<p>11/22/2019</p>
<p>Would you state the dosage of the pills found in the baggies depicted in Exhibits 7, 9 and 10? Soderberg, at 68, says the red tablets in the bottle were 60 mg percocet. And Dr. Quakenbush tells Soderberg, at 109-112, about prescribing 60 mg percocet pills a number of years ago, but more recently keeping Webster at a low oxycodone dosage. I could not find in the case materials dosage information on the strength of the pills in the two baggies. As matters stand, cross-examiners can make a cheap point that Fagin and Soderberg can't say that the pills in the two baggies are a strong or low dose form of oxycodone. (David Drueding, St. Agnes)</p>	<p>All pills found in the fact pattern will have documented dosage levels added to them in relevant materials that mention them.</p>	<p>11/22/2019</p>
<p>Does the toxicology information in the Autopsy Report (Exhibit 6, page 46) represent the results of the preliminary testing by the medical examiner, or the later testing by the laboratory? The date of the final diagnoses is 7/09/2018, the same date the autopsy was done. However, if it was the preliminary testing, one would expect to see mention of finding trace amounts of acetaminophen. Fagin at lines 132-133, 137-138. (David Drueding, St. Agnes)</p>	<p>According to the exhibit, the mentioning of toxicology testing on Exhibit 6, page 46 includes both preliminary drug screening from urine as well as quantitation testing from femoral blood.</p>	<p>11/22/2019</p>

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<p>Soderberg states, at 92-93, that “there was evident activity on Sam Soto’s Facebook page <i>within an hour of the discovery of the body</i>” (at 11:45 am). The activity is never described. I initially assumed that this activity might have been the deletion of the Facebook message. However, Stipulation #4 and Exhibit 5 (both versions) expressly state when the message was posted and deleted. To avoid any confusion, the sentence at lines 92-93 could be modified by striking the phrase “within an hour of the discovery of the body.” (David Drueding, St. Agnes)</p>	<p>Soderberg statement that there was activity on Soto’s Facebook page within an hour of discovery of the body: This is correct – “within an hour of the discovery of the body” will be struck.</p>	<p>11/22/2019</p>
<p>Fagin states, at 74-75, that pictures of the “house” have been included as Exhibits 7 through 10. The pictures do not depict a house. I assume it should read something like, “pictures of the drugs found by the police” are included as Exhibits 7 through 10. (David Drueding, St. Agnes)</p>	<p>Same person. The materials will be updated to be consistent.</p>	<p>11/22/2019</p>
<p>We found something in the case I thought you should know, In Fagin's direct it says that Brandon Webster's "heart was enlarged and weighed 520g, but a normal heart weighs 475g. The left ventricle of the heart, a chamber inside, was slightly thickened, at 1.7 cm thick (normal max is 1.5)." but the Autopsy report says "The 405g heart is contained in an intact pericardial sac...The walls of the left and right ventricles are 1.0 and 0.5 cm thick, respectively." Is this a mistake? (Mary Murphy, Benilde)</p>	<p>Change 405 g to 520g.</p>	<p>11/22/2019</p>
<p>In Kelly Fagin affidavit it says the Autopsy was conducted July 6 2018. The actual Autopsy Report is July 9, 2018. (Bemidji)</p>	<p>There is an error in Exhibit 6. The date of autopsy in Exhibit 6 should be July 6, 2018.</p>	<p>11/22/2019</p>
<p>Skyler is spelled as Skyler at some points and Skylar at others. (LNHS)</p>	<p>Same person. The materials will be updated to be consistent.</p>	<p>11/22/2019</p>
<p>Taylor Jennissen mentions having a family and then later moving to MN to start a family. (LNHS)</p>	<p>This is an unintended inconsistency. Materials will be updated to be consistent..</p>	<p>11/22/2019</p>

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<p>No one in the case says that Sam Soto's house or Brandon Webster's house are in Ramsey County, asking Soderberg if the houses were in Ramsey County would be grounds for impeachment because they never mention it, and while it may be inferred that a Ramsey county dispatcher would be sent only to places in Ramsey county, not sure if said inference would be too far. (LNHS)</p>	<p>This is correct. Soderberg will be updated to state the homes are both in Ramsey County.</p>	<p>11/22/2019</p>
<p>In Soto's affidavit on lines 134-137 it states, "Like I said, he had several drinks that night. If he really put his mind to it, I suppose he could've stolen some pills from me. I just know I didn't give them any pills. I can't verify that though." IS THERE A TYPO? (BSMHS)</p>	<p>The sentence should read: "I just know I didn't give *him any pills."</p>	<p>11/22/2019</p>
<p>Just wondering about a possible typo in Exhibit 6. In both the witness statements of Kelly Fagin and Pat Soderberg, it references Brandon being found dead in his living room, whereas in the first few lines of Exhibit 6 it explicitly references him being found dead in his basement. Is the language in Exhibit 6 a typo or did Brandon have a basement living room, in which he was found dead? (Woodbury East Ridge HS)</p>	<p>The reference to a basement is a typo. Materials will be updated.</p>	<p>11/22/2019</p>
<p>In Fagin's statement, line 79 is says the autopsy started on "July 6, 2018". But the date on the report is " 07-09-18; 8:30 a.m. " Typo? (West Central HS)</p>	<p>There is an error in Exhibit 6. The date of autopsy in Exhibit 6 should be July 6, 2018.</p>	<p>11/22/2019</p>

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<p>Taylor Jennissen’s testimony on pages 37-38 of the trial materials. On lines 21 through 34 of her statement she talks about going to a concert with Brandon Webster and seeing him drink a lot and admitting to popping pills at the concert. Line 36-37 then say “it wasn’t long after that that he invited me to the last party I’d ever go to with him. It was at his friend Sam Soto’s house.” When I read the materials myself I assumed that the invite to the party on July 4 was some time after the concert, but our team read it to mean that Jennissen and Webster went to Soto’s house for the party immediately after the concert. This seems ambiguous and I think the time of the concert in relation to the party at Soto’s home needs clarification. (GSLHS)</p>	<p>To avoid the possibility of unfair extrapolation disputes, we w</p>	<p>11/22/2019</p>
<p>My team had a clarification Q about Alex Kirby’s affidavit. On line 73, Kirby mentions bringing baggies with whole bean coffee samples. On line 112, she references the baggies she brought with ground coffee samples. My team is interpreting at this point that she brought both but I mentioned to them that this may be a point on which there is further clarification, since I wasn’t sure if that ambiguity was intentional or not. (St. Agnes)</p>	<p>Case updated</p>	<p>12/11/2019</p>

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<p>"With all the different medications I was taking, I started keeping pills in numbered plastic baggies. It was just easier to organize the pills that way than try to keep the bottles straight. I put each bottles' pills in a different baggie to conserve space. To prove they were my pills, I kept the stamp of the bottle in marker on the baggie, just in case I was accused of hoarding pills that aren't mine. I thought that pharmacies would record the specific manufacturing stamp on every bottle, but I guess they don't. And I threw out the bottles long ago, I can't show anyone that they came from my bottles of prescription medication." I had a question about it - what "stamp" is this referring to? What would that look like/what is it? (Rochester Century HS)</p>		
<p>I am wondering about the first stipulation in the case. It mentions that the drugs ingested by Brandon Webster were tested by the BCA, but isn't it in question which drugs he took? (LNHS)</p>		