



State of North Carolina
General Court of Justice
Twenty-Sixth Prosecutorial District
MECKLENBURG COUNTY

SPENCER B. MERRIWEATHER III
DISTRICT ATTORNEY

700 EAST TRADE STREET
CHARLOTTE, NC 28202
TELEPHONE: 704-686-0700
FAX: 704-686-0716

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Special Agent in Charge Brandon Blackman
North Carolina State Bureau of Investigation
5994 Caldwell Park Dr.
Harrisburg, North Carolina 28075

Re: Sanrico Sanchez McGill Death Investigation

Dear SAC Blackman:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the shooting death of Sanrico Sanchez McGill on December 16, 2023. The case was investigated under case number 2023-03388. The documentation considered for the purposes of this review was provided by the North Carolina State Bureau of Investigation in March of 2024. The purpose of this review was to examine whether the actions of Charlotte-Mecklenburg Police Department Officers Benjamin DeVries, Sean Wercheck, Tymel Carson, and James Fisher were unlawful in the incident leading to the death of Sanrico McGill.

These events occurred on December 16, 2023, at 1515 Catherine Simmons Ave., Apartment #2, Charlotte, North Carolina. At approximately 6:13 a.m., the decedent's mother called 911 to report that she had heard approximately five gunshots and she believed her son was the person shooting. She also informed 911 that she had recently completed involuntary commitment paperwork on her son and was waiting for CMPD to serve him with the paperwork and take him for treatment.

Officer Gardner, one of the first officers to arrive on scene, heard two gunshots as he opened the door to exit his patrol car. Upon approaching 1515 Catherine Simmons Ave., he could see a male holding a firearm inside Apartment #2, the entrance of which is at the side of the residence. This information was relayed to dispatch and provided to other responding officers. Additional officers, including Officers Benjamin DeVries, Sean Wercheck, Tymel Carson, and James Fisher, responded to the scene.

Meanwhile, the decedent's mother and two brothers came out of Apartment #1, the entrance of which was at the front of the residence, and she informed the officers that the decedent was not mentally well. The decedent's brothers remained in the front yard of the residence despite being instructed to go back inside. Officers utilized a loudspeaker to call for the decedent to come out of his residence. The decedent then stepped out of the residence in an

extremely agitated state, yelling from the front porch and the steps to his residence. He then returned inside the residence and came back moments later carrying a black Taurus G2C 9mm handgun. [1]. As he exited the residence, he raised the gun in the direction of his brother while appearing to rack the slide. [2]. Officers Benjamin DeVries, Sean Werchek, Tymel Carson, and James Fisher fired at the decedent, who fell to the porch before crawling back inside the residence and passing away.

The decedent's pistol was later found to be unloaded. The empty magazine for the gun was located on the sidewalk leading to the decedent's residence. [3]. Two spent 9mm cartridge cases were located on the welcome mat at the decedent's front door.

An autopsy conducted on the decedent determined he suffered two gunshot wounds. One entered the lower right hip and would likely not have been fatal to the decedent by itself. The second was a gunshot wound to the left side of the decedent's chest. The Medical Examiner determined this was the fatal wound.

As you know, this letter specifically does not address issues relating to tactics, or whether officers followed correct police procedures or CMPD Directives.

I personally responded to the scene of this incident and monitored the investigation along with another senior Assistant District Attorney (ADA). I reviewed the investigative file as provided by the SBI. Finally, consistent with the District Attorney's Office Officer-Involved Shooting Protocol, this case was presented to the District Attorney's Officer-Involved Shooting Review Team, which is comprised of the office's most experienced prosecutors.

A. The role of the District Attorney under North Carolina law

The District Attorney (DA) for the 26th Prosecutorial District is a state official and, as such, does not answer to city or county governments within the prosecutorial district. The District Attorney is the chief law enforcement official of the 26th Judicial District, the boundaries of which are the same as the County of Mecklenburg. The District Attorney has no administrative authority or control over the personnel of CMPD or other police agencies within the jurisdiction. That authority and control resides with each city or county government.

Pursuant to North Carolina statute, one of the District Attorney's obligations is to advise law enforcement agencies within the prosecutorial district. The DA does not arrest people or charge people with crimes. When the police charge a person with a crime, the DA decides whether or not to prosecute the charged crime. Generally, the DA does not review police decisions not to charge an individual with a crime. However, in officer-involved shooting cases, the DA reviews the complete investigative file of the investigating agency. The DA then decides whether he agrees or disagrees with the charging decision made by the investigating agency. If the DA concludes that uncharged conduct should be prosecuted, the case will be submitted to a Grand Jury.

If no criminal charges are filed, that does not mean the District Attorney's Office believes the matter was in all respects handled appropriately from an administrative or tactical viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt unanimously to a jury. This is the limit of the DA's statutory authority in these matters. The fact that a shooting may be controversial does not mean that

criminal prosecution is warranted. Even if the District Attorney believes a shooting was avoidable or an officer did not follow expected procedures or norms, this does not necessarily amount to a violation of criminal law. In these circumstances, remedies (if any are appropriate) may be pursued by administrative or civil means. The District Attorney has no administrative or civil authority in these matters. Those remedies are primarily in the purview of city and county governments, police departments, and private civil attorneys.

B. Legal standards

The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to “self-defense.” A police officer does not lose the right to self-defense by virtue of becoming a police officer. Officers are entitled to the same protections of the law as every other individual. An imminent threat to the life of a police officer or others entitles the officer to respond in such a way as to stop that threat.

Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did not act in defense of himself or others. N.C.G.S. §14-51.3 provides that a person is justified in the use of deadly force and does not have a duty to retreat in any place he or she has the lawful right to be if he or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another.

C. Use of deadly force by a law enforcement officer

The same legal standards apply to law enforcement officers and private citizens alike. However, officers fulfilling their sworn duty to enforce the laws of this State are often placed in situations in which they are required to confront rather than avoid potentially dangerous people and situations.

The United States Supreme Court stated, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” Graham v. Connor, 490 U.S. 386, 396 (1989). The Court further explained that “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” Id. at 396–97. Moreover, the analysis “requires careful attention to the facts and circumstances of each particular case,” including “whether the suspect poses an immediate threat to the safety of the officers or others,” as well as “the severity of the crime at issue” and whether the suspect “is actively resisting arrest or attempting to evade arrest by flight.” Id. at 396.

The Fourth Circuit Court of Appeals has consistently held that “an officer does not have to wait until a gun is pointed at the officer before the officer is entitled to take action.” Anderson v. Russell, 247 F.3d 125, 131 (2001). A situation in which an officer is confronting an armed person with uncertain motives is, by definition, dangerous, and such a circumstance will almost always be tense, uncertain, and rapidly evolving. In these circumstances, we are not deciding whether the officer’s belief in the need to use deadly force was correct but only whether his belief in the necessity of such force was reasonable.

In conducting a legal analysis, this office must take its guidance from the law, and a decision must not be based upon public sentiment or outcry. The obligation of a District Attorney is clear; he must simply apply the law to the known facts.

What the law demands is an evaluation of the reasonableness of the officer's decision at the moment he fired the shot. The Supreme Court of the United States has provided guidance on what is objectively reasonable and how such an analysis should be conducted. That guidance indicates that it is inappropriate to employ "the 20/20 vision of hindsight," and an analysis must make "allowance for the fact that police officers are often forced to make split-second judgments." *See Graham v. Connor*, 490 U.S. at 396. The Court suggests that when reviewing use of force cases, caution should be used to avoid analysis "more reflective of the 'peace of a judge's chambers' than of a dangerous and threatening situation on the street." *Elliot v. Leavitt*, 99 F.3d. 640, 643 (4th Cir. 1996).

D. The officer-involved shooting of Sanrico Sanchez McGill

Officer Benjamin DeVries

Officer Benjamin DeVries was interviewed by SBI agents on December 22, 2023, at the SBI District Office in Harrisburg, North Carolina. Officer DeVries has been employed with CMPD as a patrol officer in the Metro Division since 2014. Prior to his employment at CMPD, he served in the United States Army.

On December 16, 2023, Officer DeVries said he was scheduled to work from 6:15 a.m. to 2:30 p.m. He recounted that he was in uniform at roll call when the third shift radio advised that active shots were being fired somewhere off Catherine Simmons Ave. He stated that once the call came out, the officers on 1st shift prepared to report to the scene. He retrieved a rifle from the rifle rack and headed to his patrol car. He had two rifle magazines, each with a capacity of 30 rounds, but he did not check to see if they both had exactly 30 rounds in them.

Officer DeVries recalled that as he was driving to the scene, he heard over the radio that an officer was in active observation of an individual with a firearm on the porch of 1515 Catherine Simmons Ave. He estimated he arrived on scene within two minutes of leaving the Metro Division office. Officer DeVries stated that he parked on Kennesaw Dr. near Lincoln Heights Park and ultimately positioned himself near Officer Werchek behind the hood of a patrol vehicle parked near the residence at 1515 Catherine Simmons Ave. Officer DeVries observed several people at the residence and recalled officers giving commands for those people to come to the officers, though those commands were ignored. Officer Werchek informed Officer DeVries both that the house was a duplex and that Officer Werchek could see the subject inside the residence on the right side of the duplex.

Officer DeVries said the decedent then came out of the house yelling and in an agitated state. He could not remember what the decedent was saying, but he was ignoring the commands from officers on scene. He could not specifically remember what commands were being given but suggested they would have been something to effect of "show your hands" or "stop." Officer DeVries recalled that he heard multiple officers giving commands to both the bystanders and the decedent, but neither the bystanders nor the decedent complied. Officer DeVries did not personally give any commands to the decedent.

Officer DeVries described the decedent as a shirtless, heavysset, black male with long hair, and facial hair. Officer DeVries said there was nothing in the decedent's hands initially, and the decedent was outside less than a minute before he went back inside the residence. Officer DeVries said the decedent stayed inside roughly a minute, before later stepping back outside where Officer DeVries observed the decedent holding a pistol in his hand. He did not remember which hand the gun was in, but he described it as a dark colored semi-automatic pistol. Officer DeVries stated the decedent was still in an agitated state as he "racked" the handgun and pointed it "out." Officer DeVries said the bystanders were roughly in front of the front porch of the main home, with one person standing in front of the decedent. He described that the decedent pointed the gun towards the street, at one of the bystanders, and at officers positioned in front of the home as well.

Officer DeVries specifically noted that he heard the slide rack and observed the decedent with the gun in his hand. At that point, he made the decision to fire his rifle. Officer DeVries stated he fired two shots. He also heard other shots, describing them as short bursts occurring at roughly the same time he fired. After firing his weapon, Officer DeVries saw the decedent fall, but he did not see what happened to the decedent after that. Officer Werchek told him that the decedent went back inside the house, but Officer DeVries could not see the decedent in the house. Officer DeVries recounted that he moved from his original position to the patrol car that was in front of the decedent's home, which gave him direct perspective into the front door. Nevertheless, he could still not see the decedent. At that point, he maintained his observation of the residence, along with two other officers, and he asked one of them to watch his back while he concentrated on the residence where the decedent was located. Officer DeVries reported that he did not see the decedent fire the gun, and he was approximately 50 feet from the decedent at the time of the shooting. A round count conducted on Officer DeVries' rifle confirmed he fired two times.

Officer DeVries recounted that he was compelled to shoot, relying on his experience with firearms and his observation of the decedent racking the gun, which meant it was ready to fire. He said, given the decedent's agitated state, the fact that officers were there for a "shots fired" call, and the fact that the decedent had a gun in his hand while ignoring officers' commands, he believed there to be an imminent threat of harm to the bystanders as well as to the officers across the street.

Officer Sean Werchek

Officer Sean Werchek was interviewed by SBI agents on December 29, 2023, at the SBI District Office in Harrisburg, North Carolina. Officer Werchek advised that he had been employed with CMPD since July 2022, after having served as a law enforcement officer in Illinois for approximately seven years. He has been assigned to the Metro Division as a patrol officer his entire time with CMPD.

Officer Werchek advised that on December 16, 2023, his scheduled shift was from 6:15 a.m. to 2:30 p.m. While at roll call, Sergeant Gibbons announced they had a "shots fired" call on Catherine Simmons Ave. and directed everyone to respond. Officer Werchek and Officer Carson rode to the scene together in a CMPD Patrol Vehicle, PDA 058. Officer Werchek recalled that as they were exiting the gate at the Metro team office, dispatch advised that the subject was "10-

94,” police radio code distinguishing a subject as being armed with a handgun. Officer Werchek estimated it took him and Officer Carson a minute or so to arrive at the scene.

Officer Werchek, who was in full uniform, advised investigators that he parked to the right of the residence, with the hood of his car approximately perpendicular to the front door of the home. He exited his vehicle and approached the hood of the patrol vehicle. From that location, he saw family members of the decedent in the front yard of the duplex. He could hear yelling and specifically heard the decedent’s mother yelling. Officer Werchek advised he was familiar with the decedent’s mother from a previous interaction involving her as the complainant on an Involuntary Commitment Order for the decedent in the summer of 2023.

Officer Werchek recalled that, by the time he arrived, there was a 3rd shift vehicle with at least two officers at the patrol car, which was parked to the left of the home and on the same side of the road as Officer Werchek had parked. Officer Werchek recounted that he observed the right side of the home and could see the decedent moving around in the family room. Officers began giving the decedent verbal commands to come outside with empty hands. Officer Werchek noted that neighbors started coming outside because they could hear the noise.

Officer Werchek recounted that the decedent eventually came out on the front porch empty-handed. He described the decedent as a black male, heavysset, shirtless, and wearing sweatpants. He stated officers continued to give the decedent commands to come out and talk to them so they could secure him and further investigate the incident. At that time, the decedent had his fist clenched and was yelling at his brother. Officer Werchek described the decedent as taking an aggressive stance and not acknowledging the officer’s commands at all. He stated the decedent was yelling, but he could not understand what the decedent was saying.

Officer Werchek recalled that Officer Carson was positioned at the same car he was, but he could not recall if Officer Carson was to his left or right. At some point, while giving commands, Officer DeVries arrived, positioned himself at the same vehicle, and deployed his patrol rifle. Officer Werchek stated that he could see Officer Gardner at the 3rd shift unit car parked towards the front of the residence but could not see anyone else.

Officer Werchek recounted that the decedent then returned inside the house. Officer Werchek remembered giving the decedent commands to come out and talk with police and to show his hands. He was trying to get the decedent to walk towards the police. He stated that the decedent did not speak with or engage with officers at any point. Officer Werchek recalled that the decedent stayed in the house for about 20 to 30 seconds, then came back outside with a semi-automatic firearm in his right hand. Officer Werchek stated that the decedent racked the slide back like he was chambering a round and began to raise the firearm in the direction of the decedent’s brother. He estimated the decedent’s brother was 15 to 20 feet away from the decedent. Officer Werchek stated that from his vantage point it also looked like the decedent was raising the gun at the 3rd shift officers. Officer Werchek advised that he responded by firing his firearm, a Glock 9mm handgun. Officer Werchek was unaware if the decedent had been able to fire his gun before Officer Werchek fired. Officer Werchek believed that he fired five rounds at the time, but he later learned had fired 11 rounds. A round count conducted on Officer Werchek’s service weapon showed he fired a total of 11 times.

Officer Werchek stated that he felt compelled to shoot because the decedent was about to fire at the decedent's brother, and he believed the 3rd shift officers were also in the same line of fire. Officer Werchek explained that he fired more than one shot because he fired until the decedent no longer posed a threat. He determined the decedent was no longer a threat when the decedent fell to the ground. Officer Werchek advised he stopped firing as the decedent was falling, but he could not tell if he had struck him. At the time of the shooting, Officer Werchek knew Officer DeVries had also fired his weapon, and he believed someone else on 3rd shift had fired as well. He did not know at the time that Officer Carson had fired, but later learned that he had fired his weapon as well.

Officer Werchek recalled that after he fired, the decedent fell to the ground on the front porch. He could not see what happened to the decedent's gun. They waited for more officers to arrive on scene so they could approach the house and render aid to the decedent. Officer Werchek stated that the decedent then began to crawl back inside the residence. He saw the decedent rise to his feet and go to the right corner inside the home, at which point he lost sight of him.

After more officers arrived on scene, Officer Werchek informed Sergeant Gibbons that several of the officers had fired their weapons and that they needed to be relieved from the scene. After the shooting, the officers involved in the shooting were separated and taken from the scene.

Officer Werchek further advised that he had assisted with taking the decedent into custody for an Involuntary Commitment Order in the summer of 2023. Officer Werchek stated that, on that occasion, there was no use of force or struggle to take the decedent into custody. He recalled that the decedent was "passive-resistant," but they were able to take him into custody without incident. He did not recall any other calls for service to the residence.

Officer Tymel Carson

Officer Tymel Carson was interviewed by SBI agents on December 21, 2023, at the SBI District Office in Harrisburg, North Carolina. Officer Carson stated that he was hired by CMPD on September 18, 2023. He was still in his field training phase, and Officer Werchek was acting as his training officer that day. Prior to his employment with CMPD, he had been employed by Allied Universal Special Police since 2018.

Officer Carson said the first call of his December 16, 2023 shift was a Priority One "shots fired" call at 6:30 a.m. He said a Priority One call is a call where you get to the scene as soon as possible. He rode to the scene with Officer Werchek in a marked CMPD vehicle.

Officer Carson recalled that Officer Werchek parked in front of 1525 Catherine Simmons Ave. and was about 20 yards from 1515 Catherine Simmons Ave. Upon arriving at the scene, Officer Carson went around the rear and to the driver's side of the CMPD vehicle to get a better view of the scene. He described the decedent as a heavyset black male in a white shirt who was acting in an irate manner. Officer Carson noted there were other occupants of the residence at the scene who indicated the decedent needed help. He recalled Officers Fisher, DeVries, Johnson, and Werchek being at the scene, but he could not remember the other officers who were present. He recalled that Officer Johnson was with other officers behind a car directly in front of 1515 Catherine Simmons Ave. Officer Carson recounted that the occupants of 1525 Catherine

Simmons Ave. came outside and were told to go back inside their house. Officer Carson was unable to recall how many people were outside the home with the decedent.

Officer Carson recounted the decedent was walking back and forth outside of 1515 Catherine Simmons Ave. while notably agitated. At that time, the decedent did not have a weapon in his hand. The decedent was yelling, but Officer Carson could not determine what he was saying. Officer Carson estimated he was on scene for 20 to 30 minutes watching the decedent pacing while irate. Officer Carson was informed that the decedent had fired shots prior to his arrival, but he did not see the decedent fire a weapon after he arrived on scene.

Officer Carson told investigators that officers pointed a patrol spotlight at the decedent, who then went inside the residence for a short time before returning outside with a black handgun. Officer Carson's recollection was that the gun was in the decedent's left hand. He stated that officers gave the decedent commands to drop the weapon. Instead, the decedent racked the slide back and raised it to eye level with his left hand. Officer Carson advised that from his perspective, the decedent pointed the weapon at the officers who were positioned directly in front of the decedent's residence as well as the citizens behind the officers. At that time, Officer Carson gave commands to drop the gun and fired his weapon, a Glock 9mm, at the decedent who fell to the ground. He stated the decedent then got back up and went inside the house. He believed he fired his weapon five times and stated he stopped firing when the decedent fell to the ground. A round count conducted on Officer Carson's service weapon showed he fired 11 times. Officer Carson stated could not see if the weapon was still in the decedent's hand when the decedent fell to the ground. Officer Carson stated no one pursued the decedent, but commands were given for him to come outside with his hands up. He recalled that officers advised the decedent that MEDIC and the fire department were on scene to help him. Officer Carson estimated he was 20 yards from the decedent when he fired.

After the shooting, Officer Carson informed Sgt. Gibbons he had fired his weapon, and he was subsequently relieved from his position by another officer. At the time of the shooting, Officer Carson knew Officer Werchek had fired a handgun but did not know there were other officers that fired until after the shooting was over. He later learned that two other officers had fired.

Officer Carson told investigators that considering all the factors—a call for service for an assault with a deadly weapon and “shots fired,” the irate manner of the decedent, the decedent's retreat into his house and subsequent return with a weapon in his possession, and the decedent's failure to comply with verbal commands to drop the weapon, instead raising the gun to eye level—Officer Carson believed the decedent presented an imminent threat of death or serious bodily injury to the other officers, civilians, and himself. Officer Carson stated he had not previously responded to this residence and had never had contact with the decedent before.

Officer James Fisher

Officer James Fisher was interviewed by SBI agents on December 22, 2023, at the SBI District Office in Harrisburg, North Carolina. Officer Fisher advised he has been employed with CMPD since October 2017 and has been a sworn law enforcement officer for five and a half years.

Officer Fisher recalled that he was present at 6:15 a.m. roll call when a “shots fired” call came over the radio. They ended roll call and were told to report to the scene. Officer Fisher said that he logged out a patrol car, grabbed his rifle from the secure room, and did a “press test” on the magazine to ensure it was fully loaded. He then heard over the radio that a 3rd shift officer said the subject was in Apartment #2 and was “10-94,” which means “armed with a weapon.” Due to the urgency of the call, Officer Fisher left the division office without getting his second rifle magazine.

Officer Fisher advised that he drove to the scene in CMPD unit 565, which is a marked Ford Explorer. He did not receive any updates on the way to the scene, and it only took him a couple of minutes to arrive there. After he parked, he said he charged the rifle and went to the back of another marked patrol vehicle, which he believed was the best “point of cover” at the time. He provided coverage to other officers by pointing his rifle downrange.

Officer Fisher described the decedent as a heavysset black male, with no shirt, gray shorts or sweatpants, and wearing glasses. He said the decedent was agitated and was at the front porch of the residence arguing with another male who was near the house. He described this second male as black, wearing a flat bill hat and a light-colored shirt who was shorter than the decedent. Officer Fisher advised that he could not hear what was being said, but the decedent seemed agitated with the other black male.

Officer Fisher said there was another CMPD marked unit in front of 1515 Catherine Simmons Ave., but he did not know how many officers were at that car or who they were. He said blue lights were activated on both vehicles. Officer Fisher recalled that, when he first arrived, the decedent did not have a gun and was standing on the porch. Shortly thereafter, the decedent went inside the home. The decedent stayed inside the home for a minute or two before coming back out. Officer Fisher said the SUV behind which he was positioned had blue lights on top and in the rear window. He could see clearly, but the flashing lights were annoying him, so he left his position to walk around the vehicle to tell the officers to turn the blue lights off. He observed Officer Carson at the driver’s seat with the door open, and Officer Werchek and possibly two other officers using the engine block as cover protection. He walked nearly all of the way around the vehicle and yelled at Officer Carson, but he was not responding. He recalled that officers were giving commands over the P.A. system, and they told the decedent to come out with his hands up. Officer Fisher recalled he had just gotten Officer Carson’s attention to tell him to turn the blue lights off when he heard officers giving commands to drop the gun. Officer Fisher realized he needed to get back to his point of cover to provide coverage and, as he walked around the patrol vehicle, he heard a barrage of gunfire. He believed some of the gunfire was coming from his left, but he could not be certain. He knew it was coming from multiple sources, describing it as inconsistent, overlapping gunfire.

Officer Fisher said he initially believed they were in the middle of a gunfight and that officers were being fired upon. Officer Fisher then came around the patrol vehicle, pointed his rifle toward the residence, and observed the decedent in what he described as an “interesting” posture, like he was leaning or running. Officer Fisher also noted there was a white sedan parked between him and the decedent.

Officer Fisher stated that he perceived an imminent threat of death or seriously bodily injury based on the totality of the circumstances, which included the following conditions: 1)

knowing that 3rd shift officers had seen the decedent with a gun; 2) officers yelling that the decedent was armed; 3) the gunfire; 4) that it appeared the decedent was moving to a point of cover to engage or reengage; 5) that the other black male was approximately five yards from the decedent; and 6) that other officers were in close proximity to the decedent. As such, he fired one round at the decedent. He estimated he was 30 to 40 yards from the decedent when he fired. Officer Fisher was not sure if he struck the decedent or not. He said he did not give the decedent any commands as other officers were doing so because he did not want to give the decedent conflicting commands. A round count conducted on Officer Fisher's rifle confirmed he fired one time.

Officer Fisher believed the decedent began crawling back into the residence after the gunfire. He remembered seeing the decedent's feet in the doorway of the residence but did not remember specifically how he got there. Officer Fisher stated that, after the shooting, he was sent to Sgt. Gibbons.

Officer Fisher stated that he did not witness anyone provide medical aid to the decedent because the officers had to make sure they were not walking into an ambush inside the residence. Officer Fisher stated that, to his knowledge, he had not had any prior contact with the decedent and had not previously responded to 1515 Catherine Simmons Ave.

C.M.¹

C.M. is the decedent's brother and he was interviewed by SBI agents on Saturday, December 16, 2023, at the Law Enforcement Center in uptown Charlotte. C.M. recounted that the evening prior to the shooting, the decedent's state of mind had gotten worse, and he had become more agitated and aggressive. C.M. explained that the decedent was 34 years old and was diagnosed with bipolar schizophrenia when he was 25 years old. This eventually led to psychosis. C.M. advised that the decedent typically had episodes every six months or at least once a year. C.M. took his mother to the magistrate to seek an involuntary commitment of the decedent. C.M. learned it could be up to 24 hours before law enforcement would serve his brother a commitment order. C.M. described the rest of the night was restless for everyone. According to C.M., the decedent would talk to himself, open and shut doors, and yell repeatedly.

C.M. reported that on December 16, 2023, at approximately 6:00 a.m., he heard two or three gunshots coming from the park area near their residence. C.M. reported that the decedent grabbed his gun, went outside, and fired two or three shots in the air in response. C.M. stated his and the decedent's mother called 911 after the decedent fired those shots.

Shortly thereafter, the police arrived. C.M. recalled that the police said, "come out with your hands up" numerous times. C.M. stated that he tried to calm the decedent down and, as C.M. got closer to the decedent, he saw the magazine from the decedent's gun lying on the ground. C.M. recalled there still being bullets inside the magazine. C.M. recounted that he tried to think of ways to take the gun from the decedent, but he believed he would be unsuccessful because of the decedent's strength.

¹ Witnesses who did not identify themselves publicly in media interviews or otherwise are not identified by name in this document. To name those who did not publicly identify themselves could have a chilling effect on witness cooperation in other cases.

C.M. reported that the police were giving the decedent commands to show his hands, and the decedent went back inside of his residence. C.M. stated that the decedent came back outside still holding the gun. C.M. stated that as C.M. walked toward the decedent, the decedent raised his arm with the gun in his right hand. C.M. recalled that he was directly in front of the decedent at this time. C.M. stated he then heard approximately 6-10 shots fired by officers. C.M. stated that he saw the decedent was hit and that the decedent crawled back inside of the house. C.M. clarified that the decedent did not shoot at the police, but he did raise his gun in their presence.

D.M.

D.M. is the also decedent's brother and was interviewed by SBI agents on Saturday, December 16, 2023, at the Law Enforcement Center in uptown Charlotte. D.M. reported that he was in the front yard when the shooting occurred.

D.M. stated that he and the decedent's mother obtained involuntary commitment orders for the decedent on Friday, December 15, 2023, and that the decedent was supposed to be admitted to a mental health facility. D.M. recalled that the decedent had previously been committed three or four times. He advised the decedent's previous commitments had gone smoothly. D.M. stated that the decedent had a history of schizophrenia.

D.M. stated that officers arrived on scene at approximately 6:00 a.m. D.M. recalled he had not spoken to the decedent that morning before the officers arrived. D.M. stated that C.M. was outside when officers arrived and that C.M. went around the corner to the entrance of unit #2.

D.M. advised he initially saw two officers, then additional officers arrived. He recalled that the responding officers drew their guns immediately. D.M. recounted that the officers told him and C.M. to move into the next yard. D.M. stated that he told the officers not to shoot.

D.M. stated he did not recall hearing any commands being issued to the decedent, and he did not hear any dialogue between officers and the decedent prior to the shooting. D.M. noted he was unable to see the decedent from where he was standing in the front yard. D.M. advised that the officers were standing across the street from his residence behind their patrol cars. D.M. stated that officers began shooting and D.M. ran onto the front porch. He stated that everything happened very quickly. He recalled he heard over thirty gunshots and advised that it sounded like multiple people were shooting at once. D.M. stated he was unsure where the decedent was when the shooting took place, and he did not see the decedent after the shooting.

E. Video evidence

Although numerous officers were present on scene with working body-worn cameras, only Officer Werchek's camera was in a position to record the decedent's actions at the time of the shooting. The camera recorded Officer Werchek arriving on scene at approximately 6:22 a.m. As he exited his patrol car, the decedent's family members could be heard telling the officers already present that "he's mental health." Officers then used the loudspeaker to instruct the decedent to come out of the residence with his hands up. At 6:22:54 a.m., the decedent's brother walked up the stairs and through the front door of the decedent's residence. At 6:23:14 a.m., the decedent's brother exited the front door of the residence with the decedent following behind him. The decedent, appearing highly agitated, began yelling at his brother from the front porch steps.

At 6:23:55 a.m., the decedent walked back inside the residence for approximately five seconds before exiting, holding what appeared to be a firearm. The decedent appeared to rack the slide of the firearm and then pointed it in the direction of his brother who was still standing at the base of the front porch steps. His brother was temporarily obscured from camera view by a tree in the foreground. Officers gave commands to drop the gun and began firing at the decedent until he fell to the floor on the porch.

F. Physical evidence

The decedent's firearm, a Taurus G2C 9mm handgun, was recovered in the doorway of his residence. There was no magazine or ammunition in the firearm. The empty magazine to the firearm was located on the walkway leading to the decedent's front porch. There were two spent 9mm cases on the welcome mat outside the doorway of the decedent's residence.

Twenty-two discharged 9mm cases and three discharged .223 cases were found near PDA 058, a CMPD patrol vehicle on scene. These discharged cases corresponded with the 11 9mm rounds fired by Officer Werchek, the 11 9mm rounds fired by Officer Carson, the two .223 rounds fired by Officer DeVries, and the one .223 round fired by Officer Fisher.

G. Autopsy report

The Mecklenburg County Medical Examiner's Office performed an autopsy on December 18, 2023. The Medical Examiner who conducted the autopsy informed SBI agents that the decedent suffered two gunshot wounds: one to the lower right hip, which was not likely to have been fatal on its own, and one to the left chest which would have been a fatal wound.

H. Conclusion

It is undisputed that Officers DeVries, Werchek, Carson, and Fisher fired at the decedent. The central issue in this review is whether these officers were justified under North Carolina law in using deadly force in the protection of another. A police officer – or any other person – is justified in using deadly force if they, in fact, believed that another person was in imminent danger of great bodily harm or death from the actions of the person who was shot, and if their belief was reasonable.

Graham v. Connor directs consideration of the following factors: (1) "whether the suspect posed an immediate threat to the safety of the officers or others," as well as (2) "the severity of the crime at issue" and (3) whether the suspect "is actively resisting arrest or attempting to evade arrest by flight." Graham v. Connor, 490 U.S. 386, 396 (1989).

The evidence suggests the decedent had recently fired multiple shots in a densely populated area of Charlotte, resulting in these officers being dispatched to investigate. Upon officers' arrival, the decedent failed to obey commands to exit the apartment with his hands up. Instead, the decedent exited his apartment in an extremely agitated state, yelled at his brother, then returned inside the apartment, retrieved the firearm, and, upon exiting his residence, appeared to rack the slide and point the firearm in the direction of his brother.

The officers on scene could not and did not know that the decedent's firearm was no longer loaded. As such, it was entirely reasonable for Officers DeVries, Werchek, Carson, and

Fisher to believe that the decedent posed an imminent threat of great bodily harm or death to his brother when he appeared to rack the firearm and point it in his brother's direction.

No available evidence in this case would enable the State to prove to a jury beyond a reasonable doubt that these officers did not act in defense of others. The video from Officer Werchek's body-worn camera, as well as the statements of those on scene, and the physical evidence on scene, corroborate that Officers DeVries, Werchek, Carson, and Fisher were reasonable in their belief that the decedent posed an imminent threat of great bodily harm or death to his brother when they fired their weapons, killing the decedent. Accordingly, the State will not pursue criminal charges related to the death of Sanrico Sanchez McGill.

If you have any questions, please contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Spencer B. Merriweather III".

Spencer B. Merriweather III
District Attorney

CC: Chief Johnny Jennings, Charlotte-Mecklenburg Police Department

Exhibits:

The decedent's firearm was located on the floor just inside the decedent's doorway.

[Return](#)



Decedent raised the gun in the direction of his brother who was temporarily blocked from view by the tree in the foreground. [Return](#)



The empty magazine to the decedent's weapon was located on the sidewalk leading to the decedent's residence.

[Return](#)



Mecklenburg County M E Office

3440 Reno Avenue, Charlotte, NC 28216
Telephone 7043362005
Fax 7043368353



REPORT OF AUTOPSY EXAMINATION

DECEDENT

Document Identifier B202306987
Autopsy Type ME Autopsy
Name Sanrico Sanchez McGill
Age 34 yrs
Race Black
Sex M

AUTHORIZATION

Authorized By James R. Lozano MD **Received From** Mecklenburg

ENVIRONMENT

Date of Exam 12/18/2023 **Time of Exam** 11:30
Autopsy Facility Mecklenburg County M E Office **Persons Present** Ms. Linnelle Banks

CERTIFICATION

Cause of Death

Gunshot wound of chest

The facts stated herein are correct to the best of my knowledge and belief.

Digitally signed by

James R. Lozano MD 12 July 2024 11:20

DIAGNOSES

1. Penetrating gunshot wound (A) of left chest
 - Lacerations of left upper and lower lung lobes
 - Left hemothorax
 - Left ventricular epicardial contusion
 - Perforating fractures of anterior left 5th rib, posterior left 5th and 6th ribs, and left scapula
2. Mixed penetrating and perforating gunshot wound (B) of right upper leg, partially-exiting right abdomen
 - Soft tissue lacerations and hemorrhage
 - Fractures of right iliac wing and L4 lumbar vertebral body
3. Abrasions and contusions of right abdomen and right upper leg
4. Hypertensive cardiovascular disease
 - Cardiomegaly (450 grams) with left ventricular hypertrophy
5. Mild pulmonary edema
6. Cerebral edema
7. Hepatomegaly
8. Left thyroid lobe nodule
9. Postmortem toxicology
 - Ethanol is not detected in decedent's blood
 - Cannabinoids detected in decedent's blood
 - No other substances of toxicologic significance identified

IDENTIFICATION

Body Identified By

Papers/ID Tag

EXTERNAL DESCRIPTION

Length 69 inches
Weight 240 pounds
Body Condition Intact

Rigor 2+
Livor Posterior
Hair Black and blond, in locs, with moustache and beard
Eyes Brown
Teeth Natural upper and lower in fair repair



Received in a body bag sealed with Medical Examiner tag #3448212 and North Carolina State Bureau of Investigation tag #2023-03388 is the body of a well-developed, well-nourished black man appearing compatible with the reported age of 34 years. The body is received wearing pants, underwear, socks, and shoes. No personal effects accompany the body. Identifying marks and scars consist of a well-healed scar over the left knee. Evidence of medical intervention consists of electrocardiograph electrodes on the abdomen and right upper arm.

INJURIES

GUNSHOT WOUNDS:

There are two (2) gunshot wounds on the body. There is no evidence of soot or gunpowder stippling noted on the skin surrounding these wounds. The wounds are lettered for convenience of description only; the lettering is not intended to indicate the order in which the injuries occurred. All wound directions are given relative to the body in the standard anatomic position.

1. PENETRATING GUNSHOT WOUND (A) OF CHEST

There is a 1/4" entrance gunshot wound on the left chest located 19" below the top of the head and 6" left of the anterior midline. The wound track proceeds through the soft tissue of the left chest; perforates and fractures the anterior left 5th rib as it enters the left chest cavity; lacerates the lingula of the left upper lung lobe and the left lower lung lobe; perforates and fractures the posterior left 5th and 6th ribs as it exits the left chest cavity; perforates and fractures the left scapula; and terminates in the soft tissue of the left upper back, where a deformed jacketed bullet is recovered. The wound path is associated with over 1.5 liters of blood in the left pleural cavity and contusion of the anterior left ventricular epicardium of the heart. The wound direction is front-to-back and upward.

2. MIXED PENETRATING AND PERFORATING GUNSHOT WOUND (B) OF RIGHT UPPER LEG

There is a 3/4" by 1/2" atypical entrance gunshot wound with 1/4" superior and 1/2" inferior marginal abrasion on the right upper leg located 36-1/2" above the right heel and 3-1/2" anterior to the right axillary midline. The wound track proceeds through the soft tissue of the right upper leg; perforates and fractures the right iliac wing; lacerates the right psoas muscle; and fractures and terminates in the L4 lumbar vertebral body, where a deformed jacketed bullet is recovered. A second wound track from a fragment of projectile or bone separates at the right iliac wing, lacerating the right abdominal wall, and ending at 1/4" partial exit wound on the right abdomen located 26-1/2" below the top of the head, 7" right of the anterior midline and 6" anterior to the right axillary midline. The wound path is associated with soft tissue hemorrhage. The wound direction is front-to-back, right-to-left, and upward.

Additional Injuries:

Torso: There is a contusion and abrasion on the right abdomen superior to the exit wound of gunshot wound B.

Right Leg: There are minor, superficial abrasions on the right upper leg, right buttock, and right knee/lower leg.

DISPOSITION OF PERSONAL EFFECTS AND EVIDENCE

The following items are released with the body

None

The following items are preserved as evidence

- Clothing: Pants
- Clothing: Underwear
- Clothing: Socks, shoes

- Deformed jacketed bullet recovered from left upper back (gunshot wound A)
- Deformed jacketed bullet recovered from L4 vertebral body (gunshot wound B)
- Bloodstain card



These items are released by Dr. Lozano to Agent T. A. Andrus of the North Carolina State Bureau of Investigation on January 2, 2024 at 1:10 p.m.

PROCEDURES

Radiographs

Anterior/posterior and lateral full body radiographs reveal two (2) radio-opaque projectiles in the left upper back and the abdomen.

INTERNAL EXAMINATION

Body Cavities

The peritoneal and left pleural cavities exhibit the previously described gunshot injuries. The right pleural cavity is free of significant fluid and adhesions. The organs are generally in their normal anatomic positions.

Cardiovascular System

Heart Weight 450 grams

The pericardial sac is free of significant fluid and adhesions. The coronary arteries arise normally, follow the usual distribution, and are widely patent without evidence of significant atherosclerosis or thrombosis. The left ventricular free wall measures 1.8 cm in thickness at a point located 1 cm below the mitral valve annulus. The chambers and valves otherwise bear the usual size-position relationships and are unremarkable. The myocardium exhibits the previously described gunshot injury but otherwise shows no evidence of acute infarction or scarring. The aorta and its major branches are intact without significant atherosclerosis.

Respiratory System

Right Lung Weight 540 grams

Left Lung Weight 350 grams

Examination of the soft tissues of the neck including the strap muscles and large vessels reveals no abnormalities. The hyoid bone and laryngeal cartilages are intact. The larynx is clear. The upper and lower airways are free of debris and foreign material. The lungs are normally formed. The left lung exhibits the previously described gunshot injuries. The parenchyma of the right lung shows congestion and mild edema without obvious consolidation or focal lesions.

Gastrointestinal System

The gastrointestinal tract is intact throughout its length and is unremarkable. The gastric contents consist of a minimal amount of viscous material without evidence of pills.

Liver

Liver Weight 2200 grams

The capsule is intact and the parenchyma exhibits fatty change. The gallbladder is present, contains bile, and is grossly unremarkable.

Spleen

Spleen Weight 100 grams

The spleen is normally formed; no focal lesions are present.

Pancreas

The pancreas is of normal size, shape, and consistency without focal lesions or masses.

Urinary

Right Kidney Weight 150 grams

Left Kidney Weight 175 grams

The kidneys are normally formed. The capsules strip with ease from the underlying smooth cortical surfaces. The renal architecture is intact without focal lesions. The bladder contains urine.

Reproductive

Grossly unremarkable.

**Endocrine**

The thyroid gland exhibits a 1 cm pale, tan-white nodule in the left thyroid lobe. The right thyroid lobe and bilateral adrenal glands are grossly unremarkable.

Neurologic

Brain Weight 1250 grams

Reflection of the scalp reveals no evidence of injury. No skull fractures are identified. The leptomeninges are thin, delicate, and congested. The cerebral hemispheres are mildly edematous, with flattened gyri and narrowed sulci. The vasculature at the base of the brain is intact and without significant atherosclerosis. Coronal sections reveal a normal architecture without focal lesions or masses.

Skin

Gunshot and blunt force injuries as previously described

Immunologic System

Grossly unremarkable.

Musculoskeletal System

Gunshot injuries as previously described.

MICROSCOPIC EXAMINATION**Microscopic Comment**

Histologic examination is not performed.

SUMMARY AND INTERPRETATION

The decedent is a 34-year-old black man who was shot by law enforcement.

Autopsy examination reveals two (2) gunshot wounds on the body, with the gunshot wound of the left chest causing fatal hemorrhage from injuries to the left lungs. There are minor abrasions and contusions of the right abdomen, right leg, and right buttock.

Postmortem toxicology is negative for ethanol in the decedent's blood. Extended toxicology reveals the presence of cannabinoids in the decedent's blood; cannabinoids are non-contributory to death. No other substances of toxicologic significance are identified. Please see separate report (T2023-14936) for further toxicology details.

Based on the history, autopsy findings, and results of postmortem toxicology, it is my opinion that the cause of death in this case is Gunshot wound of chest. The manner of death is Homicide.

DIAGRAMS

1. Body Diagram: Adult (Front/Back)
2. Body Diagram-Injuries: Adult (Front/Back)

State of North Carolina

Name of Decedent: McGill, Sanico

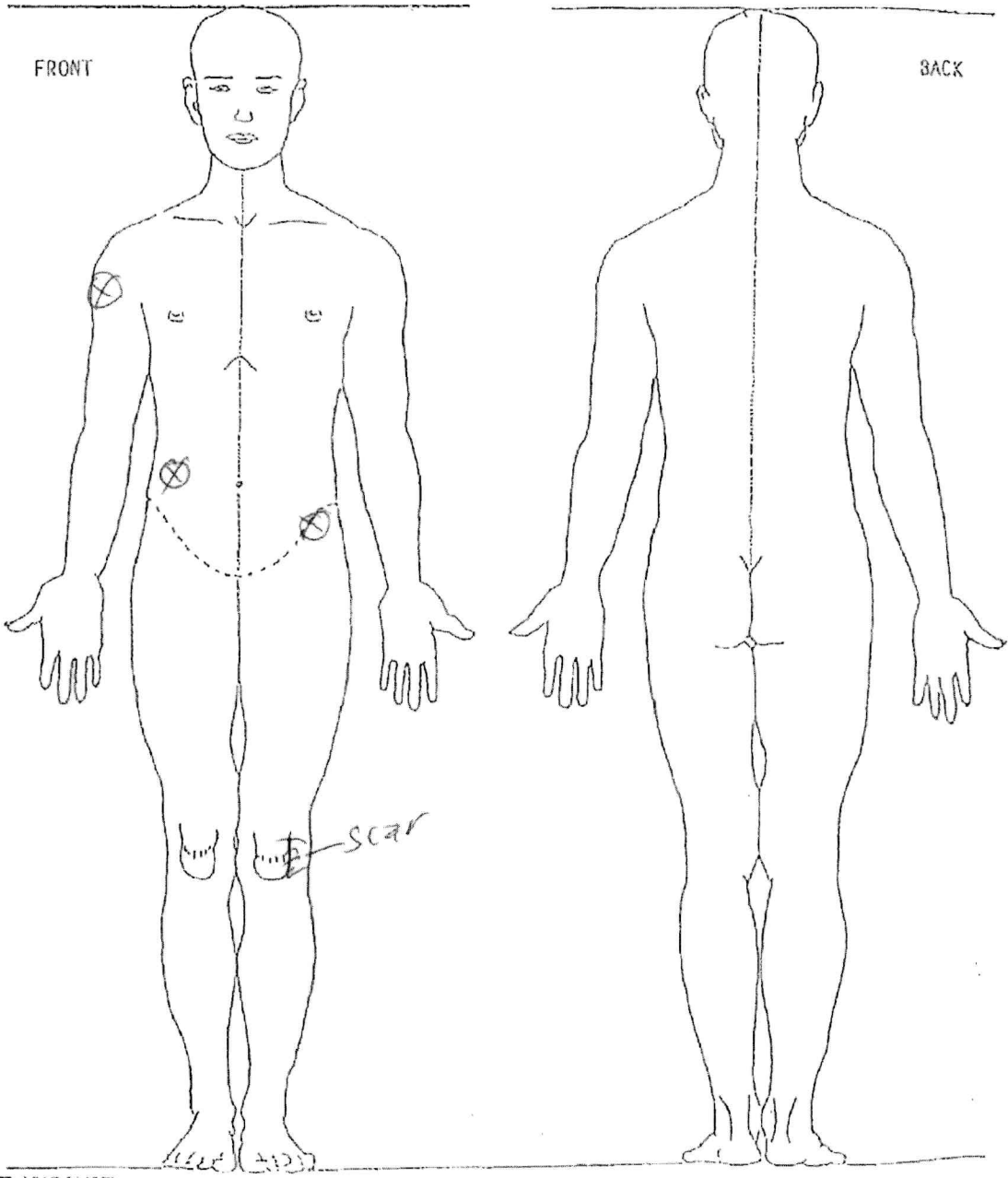
Office of the Chief Medical Examiner

Autopsy # B23-6987

Chapel Hill, North Carolina 27599-7580

Examined By: JML Date: 12/18/2023

BODY DIAGRAM: ADULT (Front/Back)



DEJMR 1917 (4/97)
Medical Examiner

This form may be photocopied.

PAGE 1 OF 2

State of North Carolina

Name of Decedent: Mc Gill, Sarrico

Office of the Chief Medical Examiner

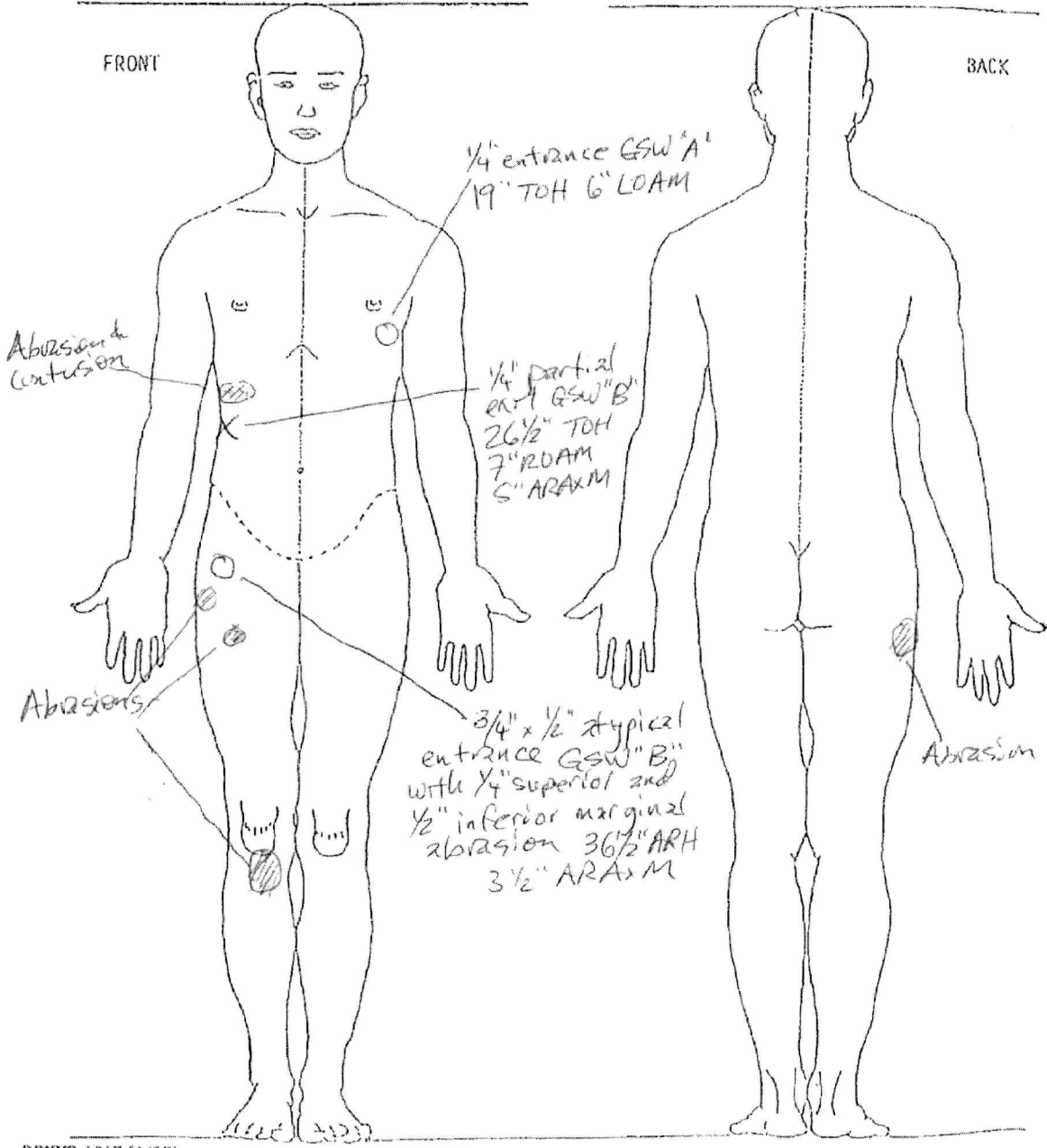
Autopsy # B23-6987

Chapel Hill, North Carolina 27599-7580

Examined By: JRL

Date: 12/13/2023

BODY DIAGRAM: ADULT (Front/Back)



DEMR 1317 (4/97)
 Medical Examiner

This form may be photocopied.

PAGE 2 OF 2

11-Hydroxy-THC -----	3.0	ng/mL	03/19/2024
Delta-9 Carboxy THC -----	110	ng/mL	03/19/2024
Delta-9-THC -----	11	ng/mL	03/19/2024
Organic Bases -----	None Detected		03/19/2024
Other Organic Acids/Neutrals	None Detected		03/19/2024

T O X I C O L O G Y R E P O R T

Office of the Chief Medical Examiner
Raleigh, NC 27699-3025

Toxicology Folder: T202314936
Case Folder: F202311503
Date of Report: 19-mar-2024
DOD: 16-dec-2023
Page: 2

Decedent: Sanrico Sanchez McGill

* * * SPECIMENS received from James R.

Lozano on 21-dec-2023 (Continued)

S230046346: 5.0 ml Urine
SOURCE:

CONDITION: Postmortem
OBTAINED: 18-dec-2023

S230046347: Liver
SOURCE: Liver

CONDITION: Postmortem
OBTAINED: 18-dec-2023

Accredited by the American Board of Forensic Toxicology, Inc.

071524 13:04

* * * E N D O F R E P O R T * * *

B202306987