



# **HSH**

# **Investigative**

# **Report**

*11/10/21*  
*Christopher Handy*

## Background

**Pinal County Sheriff's Office:** Case: (190105169)

**District Court Case No.** (2 CA-CR 2020-0023 CR201900100)

**Incident Date:** 1/5/2019

**Prosecutor(s):** Matthew Reed

**Judge:** Patrick K. Gard

**Trial Attorney:** Jessica Zachary and Brian Bohan (Deputy Public Defenders)

**Appellate Attorneys:** Public Defenders Harriette P. Levitt

**Appellate Case #:** NO. 2 CA-CR 2020-0023

**Convicted by Jury:** 11/13/19

**Sentenced:** 12/23/2019 to 16 years Department of Corrections

**Appealed to Arizona Court of Appeals:** 12/24/2019

**Peoples Answer Brief to Court of Appeals:** 1/8/21

**Reply Brief to Court of Appeals:** 1/18/21

**Judgement and Sentence Affirmed:** by Patrick K. Gard on 3/17/21

**Petition for Review:** None (Attorney Harriette P. Levitt letter to Mr. Handy stating that she does not believe that there are any issues which merit review by the Arizona Supreme Court. Therefore, she will not be filing petition for review on his behalf.)

Christopher Handy filed for an extension to the deadline to file Petition for Rehearing due to attorney Levitt not notifying him of this option in a timely matter. The court granted this extension and Mr. Handy submitted prose motion to file Petition for Rehearing.

**Post-Conviction Review:** Pending

## Charges

### ***1. Attempted second degree murder, a Class 2 felony.***

- Attempted Second Degree Murder is charged when someone has the intent to commit the murder and takes action in furtherance to commit the murder. But in the end the person fails to commit the murder.
- Attempted Second Degree Murder can only be charged if the person either intended to or knowingly attempted to cause the death of another. It is not enough to show that the person intended to do serious bodily harm. Also, it cannot be charged if the person's actions were only reckless (requires extreme indifference to human life).
- **Indictment:** Count 1. On or about January 5th, 2019, in or near San Tan Valley, Pinal County, Arizona, Christopher Lamon Handy attempted to commit second degree murder, intending or knowing that his conduct would cause death, he attempted to cause the death of Joseph Winner.

- **Jury Instruction:** The crime of attempted second degree murder requires proof of the following: One, the defendant intended or knew that his conduct would cause the death of another person; and two, the defendant intentionally took a substantial step in a course of conduct which the defendant planned would culminate in the death of another person.

## 2. Two counts aggravated assault, Class 3 felonies.

- *Simple Assault.* A conviction for aggravated assault requires the prosecution to first prove the underlying simple assault (Simple Assault + Aggravator). This means that the prosecution must first prove that you: Intentionally, knowingly, or recklessly caused any physical injury to another person; or Intentionally put another person in reasonable apprehension of imminent physical injury; or Knowingly touched another person with the intent to injure, insult, or provoke that person.
- Aggravator. The prosecution then must prove that the assault was aggravated by one of the factors listed in ARS 13-1204. These factors fall within four main categories: Weapon Used, Injury Caused, Victim's Home, Victim's Status or Helplessness
  - **Indictment:** Count 2. On or about January 5th, 2019, in or near San Tan Valley, Pinal County, Arizona, Christopher Lamon Handy committed aggravated assault, by intentionally, knowingly, or recklessly causing any physical injury to Joseph Wesley Winner with a deadly weapon or dangerous instrument, to wit, a gun.
  - Count 3. On or about January 5th, 2019, in or near San Tan Valley, Pinal County, Arizona, Christopher Lamon Handy committed aggravated assault, by intentionally placing another person in reasonable apprehension of imminent physical injury, to wit, Joseph Wesley Winner, while using a deadly weapon or dangerous instrument, to wit, a gun.
  - **Jury Instruction:** The crime of aggravated assault, injury, requires proof of the following: One, the defendant intentionally, knowingly, or recklessly caused a physical injury to another person, and two, the defendant used a deadly weapon or dangerous instrument. The crime of aggravated assault, reasonable apprehension, requires proof of the following: One, the defendant intentionally placed another person in reasonable apprehension of imminent physical injury; and two, the defendant used a deadly weapon or dangerous instrument.

## 3. Two counts endangerment, Class 6 felonies

- In Arizona, you commit endangerment if you recklessly endanger someone with a high risk of physical injury or imminent (certain or impending) death. This can mean anything from driving under the influence to handling weapons in a careless way.
- **Indictment:** Count 4. On or about January 5th, 2019, in or near San Tan Valley, Pinal County, Arizona, Christopher Lamon Handy committed endangerment, by recklessly endangering Michael Lee Collins with a substantial risk of imminent death.
- **Indictment:** Count 5. On or about January 5th, 2019, in or near San Tan Valley, Pinal County, Arizona, Christopher Lamon Handy committed endangerment, by recklessly endangering Justin Scharich with a substantial risk of imminent death.
- **Jury Instruction:** The crime of endangerment requires proof of the following: One, the defendant disregarded a substantial risk that his conduct would cause imminent death; and two, the defendant's conduct did, in fact, create a substantial risk of imminent death.

## 4. Discharging a firearm at a residential structure, a Class 2 felony.

- A person who with criminal negligence discharges a firearm within or into the limits of any municipality is guilty of a class 6 felony.
- **Indictment:** Count 6. On or about January 5th, 2019, in or near San Tan Valley, Pinal County, Arizona, Christopher Lamon Handy committed discharge of a firearm at a residential structure, by knowingly discharging a firearm at the residential structure of Justin Scharich.
- **Jury Instruction:** The crime of discharge of a firearm at a residential structure requires proof that the defendant knowingly: One, discharged a firearm; and two, discharged at a residential structure.

5. *All charges were alleged as dangerous nature offenses and were alleged to have occurred on January 5, 2019*

- Arizona Revised Statute section 13-105(13) defines a dangerous offense as one: (1) involving the use, threatening exhibition or discharge of a dangerous instrument or deadly weapon or (2) the knowing or intentional infliction of serious physical injury.

**Case Synopsis: (As Stated on Appeal)**

1. On the evening of January 5, 2019, a group of neighbors who lived on Julie Court in San Tan Valley, got together at the home of Justin S. and his wife, Hope. They had a bonfire in the driveway. Justin and Hope had built a bar in their garage. The party started around 4:30 p.m. Neighborhood children played in the street, which is a cul-de-sac, until about 9:30.
2. The adult neighbors had drinks and snacks until the party broke up shortly after 10:00 p.m. Among the group were Michael C and his wife Veronica, as well as Joe W, who had moved into the neighborhood about five months earlier. Over the course of the evening Joe became very intoxicated. As the party wound down and people were putting things away, Joe said his goodbyes and began to walk across the street to his home.
3. At about the same time, Hope started to walk down the street to pick up her son, who had spent the evening with one of the other neighbors, who lived just a couple of houses away. A vehicle drove by rather fast and very close to Joe. Justin told Joe to “watch out for the car”. Joe yelled at the driver, “Hey, slow the F— down”. The car was coming from inside the cul-de-sac. The vehicle was close enough that Justin and one of the other neighbors thought Joe was going to get hit by the car.
4. The driver immediately slammed on his brakes and stopped in the middle of the street, in front of the next house, approximately 10 to 15 feet from Joe. A man later identified as Christopher Handy got out of the driver side. He was alleged to be holding a gun, which he allegedly pointed at Joe and said, “Don’t you run up on me Mother F—er. Get the F— back” When Handy slammed on his brakes Joe took a couple of steps forward. When Handy got out of the vehicle he came up to Joe, witnesses stated he pointed the gun at his head, and started advancing towards him, while cursing at him.
5. By this time Justin was at the end of his driveway near the bon fire, which gave him a clear view. Handy was about 10 feet away from Justin. Michael C also came to the end of the driveway. He was approximately 10 to 12 feet from Handy and Joe, and several feet away from Justin. Handy allegedly continued to point the gun at Joe, who was backing up as Handy advanced. Both Justin and Michael testified that they tried to de-escalate the situation. Justin told Handy that Joe was just drunk and was going home. He told Handy to calm down and get back in his car. Michael testified that he told Handy, “please calm down” and “calm the F— down”. According to Justin, Michael yelled at Handy to calm down. Witnesses stated Handy appeared very angry and upset.
6. Joe turned slightly and backed up a couple more steps towards Justin’s house. Then it was alleged that Handy shot Joe, who fell flat on his face. Justin testified he was very frightened and intimidated after

the gunshot. He ran inside his home through the open garage door. He was so upset and shaken that he was not able to call 911. He was also afraid to go back outside and check on Joe because he saw Handy pacing back and forth outside, just as he ran into his own garage. Michael followed Justin into the house. He testified he ran inside because he was afraid, he would be shot next. He was terrified but was still able to call 911.

7. He saw the vehicle back up. Believing that the assailant had left, Michael went out to check on Joe. Then he saw Handy further back in the cul-de-sac. Handy appeared to be walking back towards him. Michael told the 911 operator, "I'm going back inside. I'm not getting shot". As soon as law enforcement officers arrived Michael and Justin went back outside to speak with them. Hope had just arrived her neighbor's home when she heard a commotion back towards her house. She turned around and heard shouting, but she did not know what was being said. Hope saw someone get out of the vehicle with his arm up. Then she heard the commotion and saw the man get into a stance as if he had a gun.
8. She saw the flash of a gunshot and she heard a loud noise. The assailant was holding his arm straight up and he was approaching Joe and Justin. Another neighbor, Tracy B, was in her home. Sometime after 10:00 p.m. her attention was drawn to the sound a very loud music coming from a car. Then she heard some sort of a crunch and went to the front door to investigate. Initially, Tracy thought that someone might have clipped one of the vehicles parked in her driveway. Tracy went to her front door, looked outside and saw a vehicle stopped between her house and another in the middle of the road, facing towards the exit of the cul-de-sac. The driver's door was open, the engine was running, and the interior light was on. She was able to discern a man standing near the driver's door of the vehicle.
9. The neighbor's garage was open and there were people inside it. She saw one person in the roadway. Then she heard a gunshot which came within 16 to 3 seconds of when she first saw the man by the car and within 5 to 10 seconds from when she first noticed the loud noises coming from that vehicle. Tracy shut her front door and called 911. She provided a description of the assailant which generally matched Handy. While she was on the phone with the 911 operator Tracy was looking out the door. She saw Handy get back into his car, turn off the headlights, and back up into the cul-de-sac. Meanwhile, Tracy's adult son Kevin R came into the room where Tracy was, and asked what was going on. When she told him, Kevin, who served in the Army National Guard, went outside and down the street to try to render aid to Joe.
10. Tracy followed her son. As both of them were walking towards Joe, they saw Handy walking towards them. Tracy heard the man say, "he shouldn't have come at me" just as Kevin was walking past him. Kevin also noticed Handy standing in the street and, not knowing he was the assailant, asked him, "Does he need help? Is he okay?". Handy responded, "he shouldn't have come up on me like that".
11. Another neighbor, Joshua A, lives next door to Justin and Hope. He did not attend the party because he was at a friend's house playing poker until about 10:00 p.m. When he returned between 10:30 and 11:00 p.m. he noticed Justin, Michael and other neighbors in Justin's front yard. Joshua pulled into his own driveway, saw Hope walking up the street and exchanged hellos. Just as Joshua decided to walk over to Justin's house to visit for a little while, he saw Joe starting to walk to his own home. Joe had gotten about 3 to 4 feet into the road. "A car sped past him and got rather close". The car almost hit Joe, who yelled at the driver to slow down. The car immediately stopped. A man got out with a gun and walked towards Joe. He pointed the gun at Joe's head, told Joe to "back the F— up" twice. Then he fired the gun. Joshua was about 20 feet away from Joe and about 30 to 35 feet away from the man, who met Handy's description. As soon as Handy got out of the car, he raised his arm with the gun, and pointed it at Joe's head. According to Joshua, Joe seemed frozen. Joe did nothing aggressive.
12. Joshua saw that Justin was standing a little bit behind Joe and off to the side. He testified that Justin tried to defuse the situation, saying, "Hey man, it's cool. He's just drunk. It's okay, you can just go ahead and go". That's when Handy pulled the trigger. Joshua also saw Michael C, who was behind Joe but to the other side, next to the fire pit. It was only 5 to 10 seconds from the time Handy got out of his

car until he fired the gun. Handy was approximately an arm's length away from Joe when he shot directly at Joe's head.

13. After the shooting Joshua heard Handy get on the phone and say, "Hey it's me. You know what the F— is up. You know what the F— is up. That's what's up". Then Handy got back into his vehicle and started to back up into the cul-de-sac. Joshua was frightened and hid behind his own car until after the vehicle backed up past him. For his part, Joe had very little memory of what happened after he stepped out into the street, saw the vehicle coming out of the cul-de-sac a little too quickly, and called out, "Whoa, slow the F— down". He recalled that the vehicle stopped in front of the house next door, the car door opened, and a man came out holding a gun. The next thing he remembered was waking up in an ambulance. Joe sustained a gunshot wound on the back of his scalp. There were actually two wounds, one for entry the other for an exit. The colloquial term is "through and through".
14. When law enforcement officers responded to Julie Court, they immediately checked on Joe, who was lying on the pavement. They also spoke with Michael and Justin, as well as another neighbor who pointed out that the assailant, Handy, was standing further up the street, apparently talking on a cell phone. Officers approached Handy with weapons drawn and ordered him to put down his phone. Handy complied. Officers took Handy down to the ground and handcuffed him. At that point they saw a firearm concealed in Handy's front waistband just above the groin. The gun, which was removed from Handy, was a Glock subcompact nine-millimeter handgun.
15. As Sheriff's deputies were processing the crime scene for evidence, Deputy Wilson found a defect in the bar that was inside Justin and Hope's garage. Further inspection produced a spent .40 hollow point bullet which was lodged in a wooden 2 x 4, behind a piece of corrugated metal. The bullet was 28 inches from the floor of the garage, which is at a higher level than the 10 street. The bullet casing on a Glock ejects to the right when fired.
16. Deputy Wilson testified that a casing was found in a crack in the roadway. The casing could have rolled into the crack or it could have been kicked or bumped as individuals attempted to render aid to Joe. Any of these circumstances would affect the accuracy in determining the bullet's trajectory. Deputy Wilson also testified that a Glock has a built-in safety on the trigger, so the trigger has to be depressed in order to activate the safety. The trigger safety is designed to prevent the gun from misfiring. A firearms expert test fired Handy's gun. It never fired without pulling the trigger and it never misfired. The trigger pull is within the range of 6 3/4 to 7 pounds, which is the amount of force required to pull the trigger. Additionally, in order to disengage the safety and fire this gun, an individual has to have his finger fully on the trigger and push back. The gun does not fire merely by lightly holding that finger to the outside of the trigger.

#### **Defendants Defense (as stated on appeal)**

17. Handy testified in his own defense. He testified that he owned a gun. He had been target shooting, although he had never taken a gun safety course. Handy carries a gun everywhere they are allowed because he has been robbed and assaulted on a few previous occasions. At the time of the offense, he was employed and taking classes to get his real estate license. On January 5, 2019 Handy was studying for real estate exam. He was contacted by a very close friend, Casem J., who needed a ride to a location in San Tan Valley, where he and his wife were staying. Handy picked up his friends at a hair salon where Casem's wife worked. He drove them to a residence on Julie Court and waited while Casam's wife went inside the house to pick up some items. Then he drove them to another residence where Casem's children were temporarily staying. Finally, Handy drove them back to the Julie Court residence. By then it was dark and raining.
18. As Handy was getting ready to leave the area, he turned up his music very loud and set his GPS program on his phone. As he was pulling out from the cul-de-sac, he saw someone outside his vehicle, in the roadway very close by. Handy immediately stopped his vehicle in the middle of the roadway. He felt the individual was close enough that he was almost able to peer into Handy's vehicle. Handy was caught

off guard and was concerned that he might have hit the man. Handy testified that when he got out of the car and his gun was in a holster on the right side of his pants. Joe grabbed him and he “just defensively reacted” by pushing Joe and telling him to “get the F— back”. At that point, Handy stated, “I immediately prepared for an embracement, and I grabbed his gun. I froze. And I just stood there with my gun like this”. Handy contended that Joe came at him again and he pushed him off again, demanding to know what was going on with him and why he was coming at him.

19. At that time Handy was holding the gun down and his finger was not on the trigger. When he pushed Joe back the first time, Handy either told Joe to “back the F— up” or “get the F— back”. The second time Handy pushed Joe back he told him, “Stop running up on me. You don’t know me like that”. Handy testified that the second time he pushed Joe they both stumbled. He tried to step back, and Joe came at him again. Handy had a fractured knee from an injury in December 2018. When he stumbled backwards, his knee buckled. As a result, the gun accidentally went off. Handy backed up his vehicle towards the house where his friend Casem was staying to wait for law enforcement. He did not call the police himself, because he has seen police, “kill too many people” and he felt they were not there to help him. Handy insisted that he had no intent to shoot Joe. He just wanted to go home. He was not trying to shoot at Justin’s house or to endanger either Justin or Michael. Handy confirmed during cross-examination that the Glock belonged to him. He had loaded 10 rounds of hollow point bullets in the magazine and an additional round in the chamber. He did not have to rack the slide in order to fire the gun. All he had to do was pull the trigger. Both the gun and the safety work properly. Handy also agreed that Joe did not have any weapons on him, and that Joe is much smaller than Handy.
20. Handy introduced expert testimony which challenged the state’s testimony regarding the trajectory of the bullet. First, the expert opined that a .40 caliber hollow point bullet could not have caused the wound to Joe’s scalp. The bullet was too big to have caused such a small wound. The wound Joe sustained was curved, whereas bullets travel straight. A hollow point bullet is designed to expand after it makes contact with a soft tissue, yet the wound Joe sustained was through and through. The height of the bullet trajectory was too low to hit Joe in the back of the head and then wind up lodged in the bar in Justin’s garage.
21. Finally, if Joe was standing facing Handy as Justin and Michael testified, the bullet could not possibly have caused the wound to the back of Joe’s head without going through the head. At the conclusion of trial, the jury found Handy guilty of all charges. The jury also found that the allegation of dangerous nature was proven beyond a reasonable doubt, as to each charge. Following a trial on the state’s allegation of aggravating factors, the jury found proven beyond a reasonable doubt that the offenses in Counts 1, 2, 3, 4, and 5 all involved the infliction or threatened infliction of serious physical injury and that the victims suffered emotional, physical or financial harm.
22. Handy was sentenced on December 23, 2019 to concurrent presumptive terms of 16 years as to Count 1, 11 years each as to Counts 2 and 3, and 10.5 years on Count 6. He was also sentenced to concurrent maximum terms of three years each on Counts 4 and 5. The court awarded Handy 351 days presentence incarceration on each charge.

### **Arguments on Appeal**

23. The evidence was insufficient to sustain guilty verdicts.
24. The Trial Court Improperly Precluded Impeachment of Michael C. Relevant facts.

### **Post-Conviction Investigation**

25. During my investigation into Mr. Handy’s case, there were many discrepancies that stood out that provided numerous issues with inconsistent statements by the witnesses, crime scene contamination, due process issues, biased jury, prosecutorial misconduct, ineffective assistance of counsel, Brady and Giglio violations. The evidence was insufficient to prove all the elements of the charges.

26. The jury pool was never challenged. There were no African Americans in the entire jury pool to allow for an opportunity for an impartial jury of his peers. Subsequently, there were not any African Americans on the jury. Nine of the twelve jurors had ties to law enforcement and the Pinal County Sheriff's office.
27. Officer Nathan Knight who was the crime scene detective that collected evidence, photos, measurements, and testified in court, was decertified from the Flagstaff Police Department on 3/19/2014 for Dishonesty/False Statements. Although his information was presented to Mr. Handy's attorney, there was no cross examination made in regard to these issues for the jury to make a judgement on his credibility.
28. Numerous witnesses including the victim had prior criminal records that were never allowed to be presented to the jury and would have gone to the credibility of their statements. Mr. Winner's criminal history was never disclosed to the defense in order to impeach.
29. The witnesses were not sequestered during the crime scene investigation. Witnesses were allowed to be in the area of the crime scene while detectives were investigating the incident further contaminating the area. (See crime scene photos).
30. Witnesses were allowed to speak with the victim prior to the police conducting an interview and getting a statement. The victim initially did not know or remember what had happened immediately after the incident. Later his statement matched those of his friends.
31. The statement made to the police by Joe Winner (alleged victim) was extremely racist and should have been brought out to the jury to hear by Mr. Handy's defense attorney. Shows intent to provide perjured testimony against the defendant.
  - *Joe Winner mentions to the police that they looked at his Facebook and he doesn't look like a very nice guy.*
  - *He also states "I guess he - I guess he just a - a drug dealer. I guess he don't have a job." "Like I dunno why but it's - it's stupid to take it down."*
  - *"Does this - does this black guy know the black family that lives there?" So, then he probably does. "Buying drugs from him or something."*
  - *"Apparently, he was parked in front of the black peoples' house. Yeah, but there's only one black family in the whole neighborhood right there. I mean we don't talk to them I don't know though."*
  - *"I'm just aggravated I mean who the fuck just jumps out and shoots you? This isn't the ghetto. I don't live in the ghetto."*
  - *"Well, he'll probably do jail, right?" "Most likely. So, he's gotta go through the court process just like (unintelligible)." "I don't even know why - I don't even why he was there. The only reason is he probably knew that family that lives there."*
  - *"I guess why else would there be a black dude in a neighborhood with a bunch of white people. Black dude is parked in front of their house they said and he's just sittin' there or something."*
  - *"I mean I guess when he shot me, he backed up and was on the phone yellin' with somebody. But you know if he jumps out and fuckin' just shoots me that quickly, how many other people has he shot? You know?"*
  - *"I mean obviously he shot more people than just me. I mean if you're that quick on the draw to shoot somebody, you've done it before. I mean people don't just jump out and bam and shoot people*



*that quickly. I mean where I'm from, man, we fight. We don't shoot each other. That's not how I was raised."*

32. Expert testimony was presented by the defense showing how the trajectory of the bullet and the wound on Joe Winner's head do not show any physical possible way that Joe was wounded by the bullet of the gun. It also shows that what Mr. Handy was testifying to was accurate.
33. Lab Reports indicated no blood found on the bullet, wood, or metal found at the scene. DNA testing was requested but never done. Having this information would have corroborated Mr. Handy's testimony.
34. The physician who testified as to the wound on Joe Winner's head stated that it was a "through and through gun shot wound". A through and through gunshot wound is defined in forensics as a bullet that has passed through a body, leaving both entry and exit wounds. To diagnose a through and through gun shot wound requires a combination of multiple experts. There was no residue testing done on the victim and no further examination to the wound to determine if it was a wound from a bullet or an injury due to hitting his head on the ground. This was prejudicial to Mr. Handy giving the jury the indication that the injury was due to a bullet wound when there was insufficient evidence to support this. Obtaining this information would have corroborated Mr. Handy's testimony.
35. Mr. Handy had his music up loud enough for the witnesses to hear so it would have been impossible to hear Joe Winner yelling and cussing at him. Mr. Handy thought he may have hit someone or something and immediately stopped his car to make sure they were okay.
36. All the witnesses in the area were friends and able to speak with each other before giving any kind of statement to the police. Many witness's testimony was inconsistent with their initial statements and the 911 calls.
37. Fleeing the scene of an incident is typically used by prosecutors as a show of guilt. Mr. Handy did not flee or run.
38. There is no physical possible way for someone to have a gun pointed point blank at an individual's head as witnesses stated, standing face to face and suffer a bullet wound to the back of his head.
39. The media misrepresented the information to the public surrounding the actual facts of the case.
40. The statement Mr. Handy made after the incident to the individual he called "the gun accidentally

#### **Investigator Case Synopsis**

41. While On the evening of January 5, 2019, a group of neighbors who lived on Julie Court in San Tan Valley, got together at the home of Justin S. and his wife, Hope. They had a bonfire in the driveway. Justin and Hope had built a bar in their garage. The party started around 4:30 p.m. Neighborhood children played in the street, which is a cul-de-sac, until about 9:30.
42. The adult neighbors had drinks and snacks until the party broke up shortly after 10:00 p.m. Among the group were Michael C and his wife Veronica, as well as Joe W, who had moved into the neighborhood about five months earlier. Over the course of the evening Joe Winner became very intoxicated. As the party wound down and people were putting things away, Joe said his goodbyes and began to stumble across the street to his home.
43. Mr. Handy had dropped off his friend at his home on Julie Court in San Tan Valley. He turned on his music and began driving home. In the meantime, Joe Winner so intoxicated that he wasn't paying attention stepped out close to the approaching car. Mr. Handy saw him out of the corner of his eye and

immediately stepped on the brakes and got out of the car to make sure he didn't hit someone or something.

44. The moment he stepped out of the car; Joe Winner came up to him aggressively cussing and yelling at him. Joe continued yelling and pushed Mr. Handy. In his drunken aggressive state, Mr. Handy feared for what was going to happen. He warned Joe to stay back, and Joe continued at him. He knew the neighborhood to be racist due to how they treated his friend's family. He again told Joe to back off. Although Mr. Handy was bigger than Joe, he was at a disadvantage due to his recent knee injury. When he didn't stop, he pulled out his legal gun that he is licensed to carry in order to protect himself as he feared what could happen.
45. Once again Joe came after Mr. Handy and when Mr. Handy tried to step back, his knee buckled causing the gun to fire on his way to the ground. At this time intoxicated Joe fell backwards, hitting his head on the curb causing an injury to his head.
46. Witnesses had no idea what was going on as they knew Joe was being aggressive towards Mr. Handy. They ran into the house and called 911 after the shots were fired. Mr. Handy then pulled his car back towards his friend's house and waited for police to arrive. He called his friend and told him the gun accidentally went off. During this time, all Joe's friends were able to get their stories straight. They knew it was self-defense, but they were not going to allow a black man in their neighborhood to get one of their friends in trouble.
47. The crime scene was investigated by a Pinal County Sheriff Deputy who had been decertified by another police agency due to Dishonesty and false statements. Joe was already provided all the information of what his friends had told police, so that he would confirm their stories before ever being released from the hospital.
48. All the while Mr. Handy had been honest to law enforcement, his attorneys and everyone involved as far as what had transpired. Even after being convicted by a biased jury he maintains his innocence. Mr. Handy's appellate attorney refused to continue representing him through the appeal process.
49. Information received through other sources in Pinal County indicate that the District Attorney's office and the Public Defender's Office work together in order to obtain convictions. Predominately against the African American Race. The Pinal County Sheriff's office has been investigated by the Attorney General for misconduct.

#### **Witnesses who testified at trial:**

##### **JUSTIN SCHARICH – Neighbor (No Criminal Records)**

Direct Examination by Mr. Reed 53

Cross-Examination by Mr. Bohan 89

Redirect Examination by Mr. Reed 103

##### **JOSEPH WINNER - Victim (Criminal Records)**

Direct Examination by Mr. Reed 106

Cross-Examination by Mr. Bohan 126

Redirect Examination by Mr. Reed 134

##### **CRIMINAL RECORDS (Never provided to Defense)**

01/31/2018 - NOT SPECIFIED

06/20/2017 - NOT SPECIFIED

11/05/2009 - TRAVEL ON/ACROSS GUIDEWAY OUTSIDE X-WALK

09/29/2009 - MARIJUANA VIOLATION  
09/29/2009 - DRUG POSSESSION/USE OFFENSES, FEL: MARIJUANA  
09/29/2009 - NOT SPECIFIED  
03/13/2009 - OCCUPY VEHICLE W/O PAYMENT OF REQ FARE  
05/05/2006 - DWI - ALCOHOL - PRIOR OFFENDER  
06/23/2002 - DWI - ALCOHOL  
11/28/1997 - DRIVER/FRONT SEAT PASSENGER FAIL TO WEAR PROPERLY  
ADJUSTED/FASTENED SAFETY  
02/27/2018 - FTA-WRITTEN PROMISE TO APPEAR

**HOPE SCHARICH - Neighbor (No Criminal Records)**

Direct Examination by Mr. Reed 136  
Cross-Examination by Ms. Zachary 151  
Redirect Examination by Mr. Reed 156

**JULIE WYNNE, M.D.**

Direct Examination by Mr. Reed 158  
Cross-Examination by Mr. Bohan 170  
Redirect Examination by Mr. Reed 177  
Juror Questions 180

**AARON SEIFERT (Pinal County Sheriff's Office)**

Direct Examination by Mr. Reed 186  
Cross-Examination by Ms. Zachary 200

**PATRICK PALOMAR (Pinal County Sheriff's Office)**

Direct Examination by Mr. Reed 207  
Cross-Examination by Mr. Bohan 215  
Redirect Examination by Mr. Reed 219

**TRACY BAXTER – Neighbor (No Criminal Records)**

Direct Examination by Mr. Reed 10  
Cross-Examination by Ms. Zachary 45  
Redirect Examination by Mr. Reed 54, 64  
Voir Dire Examination by Mr. Reed 58

**KEVIN RENZAGLIA – (Neighbor No Criminal Records)**

Direct Examination by Mr. Reed 69  
Cross-Examination by Ms. Zachary 81  
Redirect Examination by Mr. Reed 86

**ANTHONY SANFILLIPPO - (Pinal County Sheriff's Office)**

Direct Examination by Mr. Reed 87  
Cross-Examination by Ms. Zachary 94

**Criminal Records**

ANTHONY L SANFILLIPPO | 133-82-#### | 09/###/1994 (26) | TRAFFIC  
ANTHONY L SANFILLIPPO | 133-82-#### | 09/###/1994 (26) | TRAFFIC

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**Defense witness Casan Jamison testimony denied**

**Mr. Reed:** And that after the shooting the defendant came back to that house within the same cul-de-sac and that the defendant made a statement to him, "My gun went off." I think that that statement should be precluded because it is self-serving hearsay. It's a statement that's offered for the truth of the matter asserted. It's pretty clear that the defense in this case is going to be some kind of an accidental discharge or something like that. It's a very corroborative statement. It's a statement that's made out of court offered for the truth of the matter asserted. So, I'm sure the Court's aware of the rules of evidence in relation to this. It's hearsay. Although the State may offer some statements from the defendant that were heard by other people, those statements would be offered against the defendant. This statement is not being offered against the defendant, so it's self-serving hearsay, so the State's view is that it's not admissible at trial and it should be precluded.

**Court:** So, the State is not intending to use any other statements made by the defendant to Casan that night?

**Mr. Reed:** There are some jail-recorded phone calls where the defendant talks to Mr. Jamison and describes what happened in the incident. There may be some statements made during those phone calls which the State would attempt to use. I'm not aware that he said in those phone calls anything about the gun going off on accident.



Photo 1: Injury to the back of victims Head. (See below figures.)



Photo 2: Injury to victim. Not Consistant with graze wound at Close range. (See Below figures)



Photo 3: Hair is not singed, and



Photo 4: Where victim fell. Blood

No stippling is present. No GSR

observed by curb.



Photo 5: All witnesses in active Crime scene. (Contamination)



Photo 6: Witnesses observed in area of active investigation.



Photo 7: Active Crime Scene Investigation Contamination.



Photo 8: Measurements indicating Where bullet found.

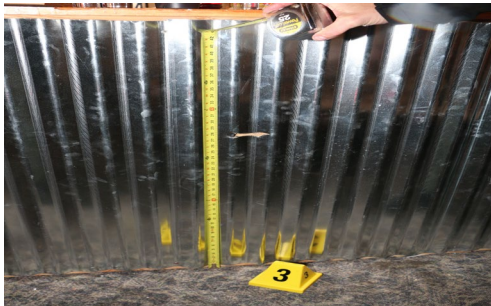


Photo 9: Measurements indicating Where bullet was found.

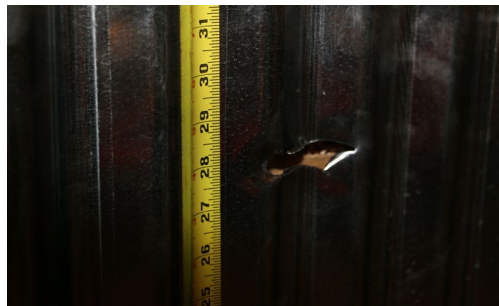


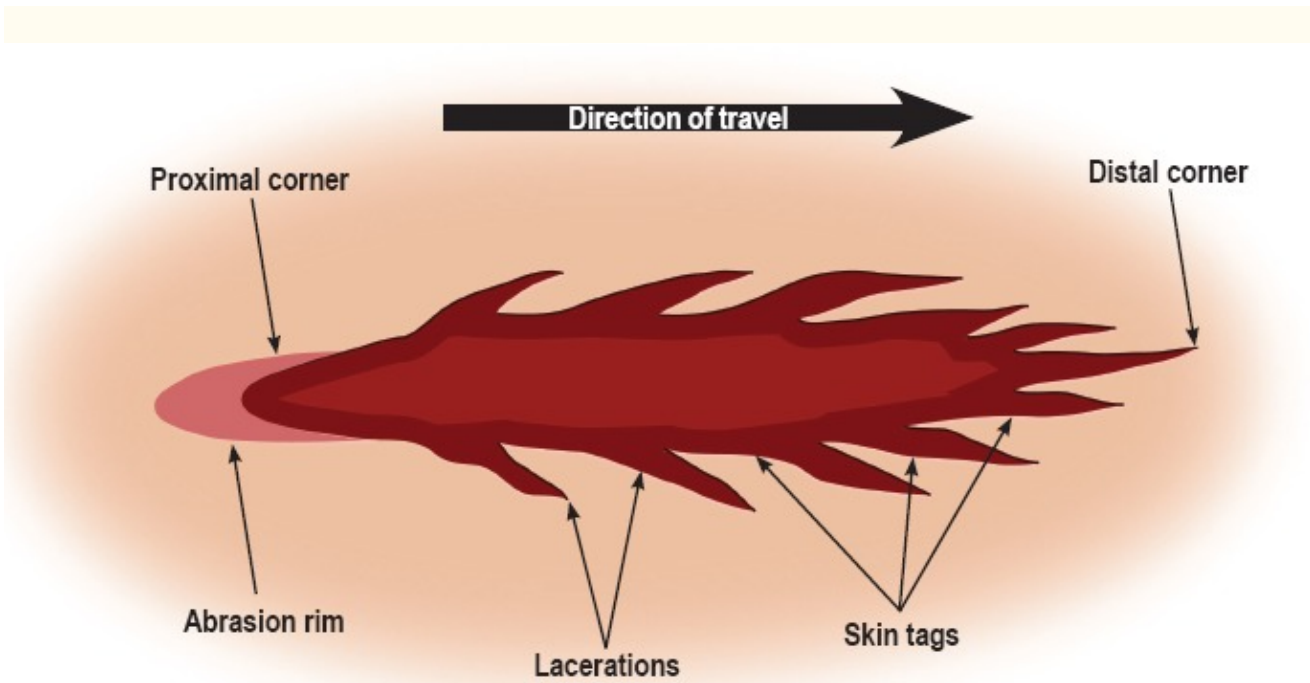
Photo 9: Impact shown 2 feet 4 Inches.

### Graze Wound Research

1. Graze wounds seldom cause death but are often encountered by the medical examiner because of the company they keep, that being fatal gunshot wounds. Their direction often is important in the evaluation of circumstances surrounding the shooting. Graze wounds are studied closely to determine the direction of travel; features that distinguish entrance, exit, and graze wounds are well-described.
2. The common appearance of a graze wound consists of an elliptical furrow in the skin of variable depth. The initial point of contact or the proximal corner of a graze wound may have a partially round or crescentic margin of abrasion resembling a portion of a typical entrance wound margin of abrasion. This can be helpful in distinguishing a graze wound from a laceration and in determining direction. The edges of the graze wound may have small diagonal lacerations. Because the kinetic energy of the projectile is dissipated away in every direction, the lacerations tend to radiate away from the initial point of contact. These small lacerations create corresponding diagonal skin tags that point back in the direction from

which the projectile came. The distal corner is variable in appearance, often irregular, and lacerations may be present (**Figure 1**).

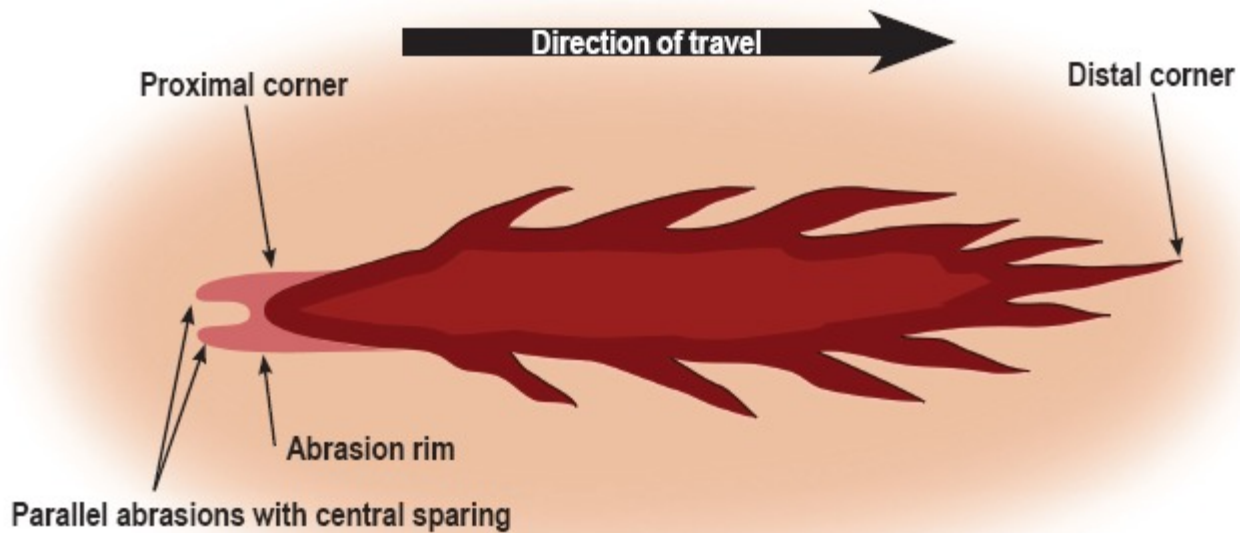
3. Mr. Handy would have benefited from having an independent review of the victim's wound to determine whether the injury was from a bullet. The bullet was never tested to determine if it contained the DNA of Mr. Winner. The defense was that the weapon accidentally went off. There was no investigation on the part of law enforcement, prosecution, or Mr. Handy's defense attorney to corroborate this and uncover if this was true or not. Law enforcement and Prosecutors have a duty to investigate a crime to ensure that the truth is presented. In this case the investigation was done to prove guilt to fit the charge and conceal innocence.



**Figure 1**

Typical graze wound. Drawn under contract with professional medical illustrator Diana Kryski.

This study describes an unusual feature noted on a few graze wounds that is not described in the standard texts or medical literature searched. This unusual feature consists of a pair of parallel abrasions, roughly the same size and shape, extending away from either the proximal or, less commonly, the distal corner of the graze wound in the same direction of travel as the graze wound. The parallel abrasions demarcate a central area of sparing of the skin that is slightly higher in relation to the abrasions on either side of it (**Figure 2**).



**Figure 2**

Graze wound with unusual feature. Drawn under contract with professional medical illustrator Diana Kryski.

### Handgun wounds

- Entrance wounds: point where the bullet enters the biological target
  - General features:
    - Abrasion ring: a reddish-brown abrasion on the skin surrounding the gunshot wound of entrance
    - Greasy rim or bullet wipe is a dirt collar due to the lubricant carried on the bullet
    - Inverted edges: due to the bullet movement inside the body
    - Smaller than bullet caliber (usually): due to the elastic recoil of the affected tissues.
  - Shape:
    - Round (circular) shape suggests a perpendicular discharge with respect to the skin
    - Oval shape: suggests an acute angle of fire with respect to the skin
    - Atypical or irregular shape: indicates loss of stability of the bullet before hitting the target or hard contact gunshot wounds to the skin overlying bone (i.e. skull) ([Am J Forensic Med Pathol 2012;33:250](#))
  - Range of fire: determination by estimating the distance from the muzzle of the weapon to the target; specific findings on the skin (secondary effects of the discharge) surrounding the entrance wound can help determine the range of fire.
    - Thermal effect: due to the gas and flame produced by the deflagration; flames cause searing of the skin and regional hairs



- Soot deposition: due to the carbon produced by combustion of the gunpowder that exits the barrel and deposits on the skin surrounding the entrance wound; can be wiped out by cleaning the body
  - Stippling (or powder tattooing): red to orange or brownish punctate abrasions surrounding the entrance wounds as a result of pieces of gunpowder expelled from the barrel and striking the skin; can't be wiped out by cleaning the body
  - Pseudostippling: punctate abrasion due to fragmented bullets or fragments of a damaged intermediate target interposed between the firearm and the target ([Am J Forensic Med Pathol 2003;24:243](#))
- Contact wounds: firearm is in contact with the target at the time of discharge
  - Loose contact: circular wound with blackened, seared skin margins
  - Hard contact: gas expansion within the subcutaneous tissues may result in a muzzle imprint (abrasion resembling the shape of the muzzle = Werkgartner mark) or in an irregular, stellate appearance with a central defect and radiating lacerations (typically seen in gunshot wounds to the head) ([Arch Kriminol 2009;224:145](#))
- Near contact wounds: firearm is not in contact with the target but is held a very short distance from it (usually < 1 cm)
  - Entrance wound may show soot deposition and burn / seared edges; small amount of powder stippling can be present ([Forensic Sci Int 2003;138:68](#))
- Intermediate range: distance between the firearm and the target increases but is still short enough to allow secondary effects of the discharge; distance depends on firearm type (usually from a few centimeters up to several feet)
  - Hallmark is the presence of stippling (or powder tattooing) on the skin surrounding the entry wound ([Arch Pathol Lab Med 2006;130:1283](#))
  - Greater distance = larger area of stippling but its density will decrease.
- Distant range: firearm is at a distance (many feet) from the target so there will be only the gunshot wound of entrance due to the mechanical action of the bullet
  - There must be no stippling
  - Usually round or oval, depending on the angle of discharge.
  - If there is an intermediate target between the firearm and the target, close or intermediate gunshot wounds can be confused with distant ones
- In the absence of reliable evidence of a distant range gunshot wound, it is preferable to classify it as an indeterminate range
- Wound channel: path of the bullet within the body; after hitting the target, the bullet releases its energy to the body and creates 2 cavities ([J Trauma 1985;25:522](#))
- Permanent cavity: primary wound channel caused by the tissue damage due to the bullet passage through the body; the final injury that can be observed at autopsy
- Temporary cavity: while the bullet travels through the body, the permanent cavity is stretched, causing progressive pulsations and contractions
  - Energy is transferred to the surrounding tissues, causing damage even far from the primary bullet path

- After a variable amount of time, the temporary cavity collapses into the permanent cavity due to the elastic recoil of the biological tissues
  - Temporary cavities are not identifiable at autopsy, but effects can be observed on tissues and organs surrounding the permanent cavity
- Exit wounds: point where the bullet leaves the body
    - Generally, an exit gunshot wound is more irregular in shape than entry wound
    - Skin is perforated from the inside out, causing eversion of skin tags and protrusion of tissue from the defect
    - Exit wounds do not show soot deposition, muzzle imprint, stippling or blackening of the skin edges
    - Can be slit-like lesions that can mimic a stab wound
    - Shored exit wound is one in which the skin is in contact with another object when the bullet exits (a belt, a wall, etc.); this causes an irregular area of abrasion on the skin, which can be confused with the abrasion ring of an entrance wound ([Am J Forensic Med Pathol 2000;21:220](#))

### Jurors

(No names provided only numbers): 9 of the 12 jurors had some sort of tie with law enforcement.

Juror #33: Works in Healthcare

Juror #36: Nephew is Phoenix Police Officer

Juror #37: Communication technician (friends who work for border patrol) Went to law school

Juror #6: Works for Bell Steel

Juror #47: Hospital Liaison/Wife works at Department of Corrections and nephew in law enforcement.

Juror #53: Works as Computer Tech

Juror #11: Nephew works in Security

Juror #13: Works as an Engineer

Juror #40: His nephew and his wife are lawyers in Oregon. Routinely works with the Secret Service from time to time, FBI, U.S. Marshals, Homeland Security, TSA, and local Phoenix police all on a professional level.

Juror #15: Is Self-employed.

Juror #17: Son in law is a correctional officer/Border patrol

Juror #22: Former Corrections Officer Pinal County

Juror #27: Mother-in-law was a sheriff's deputy in Riverside County, California. Works for the Arizona State Capitol Police Department

Juror #32: Flight Attendant. Has a friend who is a Correctional Officer

### CONCLUSION

1. What does have intent mean? If you have an intent, you have a motive or purpose. Intention implies a general desire or plan to accomplish something, while intent is a little stronger, indicating a firm resolve to get it done. Intention is a mental state that represents a commitment to carrying out an action or actions in the future. Intention involves mental activities such as planning and forethought.
2. The state of Arizona will use any and all its resources to secure a conviction of attempted second degree murder. Because a conviction for attempted second degree murder brings substantial prison time you must be armed with information and a solid legal defense. Attempted Second Degree Murder is charged when someone has the intent to commit the murder and takes action in furtherance to commit the murder. But in the end the person fails to commit the murder.
3. Attempted Second Degree Murder can only be charged if the person either intended to or knowingly attempted to cause the death of another. It is not enough to show that the person intended to do serious

bodily harm. Also, it cannot be charged if the person's actions were only reckless (requires extreme indifference to human life).

4. Mr. Handy did not get out of the car that night with any intention of hurting anyone. He got out of his car to make sure he hadn't caused harm to anyone, as he believed his car may have hit someone or something. Once he did this, it was clear that he felt threatened and due to his life experiences was ready to defend himself if need be. As Mr. Winner was coming at him, Mr. Handy stated multiple times to back away. When Mr. Winner refused and continued after Mr. Handy, the struggle caused an accidental discharge of the weapon. The behavior of Mr. Handy after the event, points to this. There were no more gun shots, he didn't run, and he did not resist arrest. He assumed the justice system would sort out the facts with a proper investigation and they would discover the truth. He stated to his friend, "the gun accidentally went off". Prosecutors fought to keep this statement from the jury. It came down to Mr. Handy's word against numerous racist friends who were able to discuss the incident with each other prior to being questioned.
5. The police did not carry out a complete investigation and neglected to follow up on important information. The crime scene investigators allowed all the witnesses to "hang out" in the area they were investigating. The prosecution's experts in areas such as ballistics, DNA analysis, and crime-scene reconstruction were incomplete and biased. Witnesses for the prosecution were biased and mistaken in what they say they saw.
6. In situations of self-defense, you may use deadly physical force in self-defense only to protect yourself against another person's use, attempted use, or threatened use of deadly physical force against you. The use of deadly physical force is justified if a reasonable person in your situation would have reasonably believed that immediate deadly physical danger appeared to be present. The existence of actual danger is not necessary. Mr. Handy was outnumbered, and with Mr. Winner coming at him and others approaching the situation, the threat was increasing. The weapon Mr. Handy pulled from his person, was in response to this increasing threat. Even at this point there was no shots fired at anyone. The ballistics corroborate Mr. Handy's testimony of accidental discharge. His actions and behavior after the accidental discharge also corroborate this.
7. Intent is not something that can be determined by others perception. Intent must be looked at from the mental state of the individual accused. Mr. Handy's past did not indicate violent behavior, he was not under the influence of drugs and alcohol. Mr. Winner and the others were under the influence. Mr. Winner and Michael Collins both have criminal records that were not seen by the jury. Mr. Winner racist statements made were also not heard by the jury. Mr. Handy's life was in the hands of a neighborhood of white friends, decertified police officer, contaminated crime scene, an all-white jury with 75% having ties to law enforcement, ineffective counsel and malicious prosecutors.

X CONNOR MCGHUGH

**Report completed by HSH  
Investigations, LLC**