

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BOSTON MUNICIPAL COURT

DORCHESTER DISTRICT DIVISION

DOCKET NO.

COMMONWEALTH

v.

DAVID PENA

COMMONWEALTH'S STATEMENT OF THE CASE

This complaint is the result of a long joint investigation between the Boston Police Department and the Suffolk District Attorney's Office. This investigation began in early 2008. Initially it was a missing persons investigation. On or about October 7, 2007, Felicia McGuyer, was reported missing by her mother Sharon McGuyer. Felicia McGuyer was last seen at 17-19 Roxton St Dorchester.

David Pena, DOB 11/12/1989, was the live-in boyfriend of Felicia McGuyer at the time of her disappearance. Mr., Pena resided at 17-19 Roxton Street on the second floor with Ms. McGuyer at the time of her reported disappearance.

On 01/16/2008 the Boston Police conducted a recorded interview with David Pena. During this interview, David Pena admitted that he was involved in a physical confrontation with Felicia McGuyer at their shared residence at 17-19 Roxton Street. During this fight, Pena stated that McGuyer stabbed him with a pair of scissors in the shoulder area causing a wound. Pena stated that he fled the apartment and went to his mother's house at 95 Devon St Dorchester. Pena stated that he returned to their Roxton St several days later and stated that he observed McGuyer to be gone and her things to be removed. Pena further claimed that he had not seen McGuyer since and that he believed McGuyer went to Florida to be with an ex-boyfriend.

On March 4, 2008, The Boston Police spoke to witness #1, who is known to the Commonwealth. This interview was digitally recorded. During this interview, witness #1 stated on or about October 7, 2007, during the early morning hours David Pena was banging on witness #1's apartment door. Witness #1 further stated that Pena said he had been in a fight with "Felicia" upstairs and that he wanted a ride to his mother's house on Devon St. Witness #1

was familiar with Felicia and knew her to be David Pena's live in girlfriend. Witness #1 observed a relatively minor wound to Pena's shoulder. According to Witness #1, Pena said Felicia stabbed him during the fight. Witness #1 further stated Pena was wearing a bloody shirt that appeared to have more blood than what the minor wound would have created on his shirt. Pena told Witness #1 he pushed McGuyer against a wall and she hit her head on the bed or dresser and that he did not know if McGuyer was alive or not. This witness also stated that Pena had a swollen right hand. Pena also stated McGuyer hit him with a baseball bat. Witness #1 cleaned Pena's wound and drove him to 95 Devon St., where Pena's mother's home was located. Witness #1 did not see Felicia again after cleaning Pena's wound.

Witness #1 further stated that approximately 2 days later, during the early morning hours, Pena knocked on Witness #1's door and thanked Witness #1 for helping him. Witness #1 had a relative visiting at the time of this encounter. The relative was present when Pena knocked on the door, this individual is known to the Commonwealth and will be further referred to as Witness #2. Witness #1 stated that there was a second unknown Hispanic Male with Pena that Witness #1 believed may have been Pena's brother. Pena and the other male then went upstairs. Witness #1 and Witness #2 both stated that at approximately 3- 4:00 AM they heard noises coming from the front stairwell area of 17-19 Roxton Street. Both witnesses stated that when they opened the front door, Pena and the second unknown Hispanic male, whom the witnesses believed to be Pena's brother, were struggling to carry what appeared to be a bulky rolled up multi-colored blanket. One person at each end of the rolled up blanket. Witness 1 stated that Witness 2 offered to help, and that Pena and his "brother" looked scared. Pena then yelled at the witnesses to close the door and mind their business. Witness #1 believed that there may have been a body in the rolled-up multi-colored blanket. Witness #1 observed Pena and his "brother" struggle to get the rolled up blanket into the back seat of a beige motor vehicle that could have been a Malibu or a Lumina. Witness #1 stated that Pena then drove the beige car away at a high rate of speed.

Witness #1 stated that the next day Pena returned to Witness #1's apartment door again approximately at 4 AM. Witness #1 described Pena as having a "crazed" look to his face. Witness #1 refused to allow Pena to enter the apartment and therefore he left. Witness #1 saw Pena 2 additional times afterward. On each occasion Pena wanted to talk but Witness #1 refused each time.

On March 25, 2008, Detective Ricard spoke to a friend of Felicia McGuyer. This person is known to the Commonwealth and shall be further referred to as Witness #3. Witness #3 stated that around the time of McGuyer's disappearance, Witness #3 used to allow Pena to use the vehicle Witness #3 owned in exchange for heroin. This vehicle was a 2005 brown Chevy Impala. Witness #3 stated that sometime within a couple of days after McGuyer's disappearance, Pena returned the vehicle to witness #3. Witness #3 stated that the rear seat of the Impala folded down to allow access to the trunk. Witness #3 noticed the rear folding seat was now broken. Witness #3 further stated Pena cleaned the vehicle which was something that he normally did not do after using Witness #3's Impala. Witness #3 had not heard from or seen McGuyer since October 7, 2007. Witness #3 further also they have not seen Pena since he returned the Impala to Witness #3. At the time of the interview of Witness #3 no longer owned the Impala, Witness #3 believed McGuyer was deceased. The Boston Police were able to locate the Impala previously owned by Witness #3. Boston Police Crime Lab technicians searched the vehicle for evidence to no avail.

On May 15, 2017, the Boston Police conducted an interview that was video/digitally recorded. This interview was conducted with a witness known to the Commonwealth and further referred to as Witness #4. During this interview Witness #4 stated that they knew David Pena. Witness #4 stated that Pena was dating and living with McGuyer at Roxton St. prior to her disappearance. Witness #4 stated that Pena had called a couple of days after October 7, 2007 and wanted help moving things out of Roxton St. Witness #4 stated that during a phone call Pena said that he was going to strangle McGuyer. Witness #4 stated that when he arrived in the early morning hours at Roxton St. things were already packed in bags. He stated that there was a rolled-up carpet that contained a blanket and that it was difficult to carry. Witness #4 immediately thought there was a body wrapped up in the carpet and blanket.

Witness #4 eventually observed that it was in fact Felicia McGuyer's body wrapped up in the carpet and blanket. Witness #4 was with Pena when the two drove the carpet & blanket with Felicia's body to a spot Witness #4 believed was somewhere in the Boston area. Witness #4 was not sure where in Boston as Witness #4 is not originally from the Boston area.. Witness #4 helped Pena carry Felicia's McGuyer's body into a wooded area with a parking lot. Witness #4 returned to the car to wait at Pena's request. After some time, Pena returned to the car without the body of McGuyer. Witness #4 then drove away with Pena. Witness #4 believed they had disposed of McGuyer's body.

On March 9, 2022, The Boston Police conducted a digitally recorded interview with a witness known to the Commonwealth. This witness is further referred to as Witness #5. Witness #5 was McGuyer's ex-boyfriend and that he has not seen or heard from McGuyer since October 2007. Witness #5 also believed that Maguyer is deceased.

Over the course of several interviews over the years with Sharon McGuyer, who is Felicia's mother, and with Nicholas Fahey, who is McGuyer's son and was 11 years old when McGuyer went missing, both have said that Felicia McGuyer would have contacted them if she was still alive. They believe that McGuyer is deceased. Sharon stated that Felicia was in daily constant contact with her and her child up and until her disappearance in October 2007. Neither her mother, her son, nor any of her other family or close friends have had contact with McGuyer since October 7, 2007.

The Boston Police have checked numerous Law Enforcement Data Bases including Massachusetts and NCIC and has found no law enforcement contact with McGuyer since October 2007. In fact, McGuyer has 2 outstanding warrants due to arrests prior to her date of disappearance.

The Boston Police have searched financial databases and found no financial records for McGuyer after October 2007.

The Boston Police have searched numerous internet search engines for McGuyer to no avail.

The Boston Police have searched to see if Felicia McGuyer left the United States after October 2007 to no avail.

McGuyer's DNA has been entered into NCIC as a missing person to no avail.

Due to the statements and facts stated above and the efforts to locate Felicia McGuyer to no avail, it is believed that there is probable cause to believe that David Pena caused Felecia McGuyer death, and that David Pena then disposed of McGuyer's body in an area that as of today's date has not been located.

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