

HardisonInk.com

Jury rules man is guilty of first-degree murder, rape and burglary

Sentencing set for Monday; Life sentence anticipated



Assistant State Attorney Glenn Bryan (left) and Assistant State Attorney Robert Willis prosecuted these cases as co-counsel against Michael Darnell Porter on behalf of the people of Florida through the Office of Eighth Judicial Circuit State Attorney William Cervone.

Story, Photos and Video

By Jeff M. Hardison © Nov. 3, 2018 at 12:38 a.m.

Updated Nov. 3, 2018 at 7:08 a.m.

TRENTON -- Twelve jurors took a few hours Friday afternoon (Nov. 2) to rule that a man broke into a woman's house, raped her and then ran over her with a truck in 2013 – killing her with premeditation.

HardisonInk.com



Among the people in the audience at points during this trial were (from left) Gilchrist County Sheriff Bobby Schultz, Trenton Department of Public Safety Chief Matthew Rexroat and Gilchrist County Fire Rescue Chief James Campbell. Sheriff Schultz was among the witnesses for the state as well.

https://youtu.be/tsH8Ko_XzBQ

In this video, Sheriff Bobby Schultz speaks about the tie that binds the community of Gilchrist County when the force of evil causes a heinous crime such as the ones proved to have been committed by Michael Darnell Porter. The sheriff also answers other questions posed by a broadcast journalist, who came to Trenton on Friday afternoon (Nov. 2) from Gainesville after the trial.

Those eight women and four men were chosen from an initial pool of 400 jury notices mailed to prospective jurors, Gilchrist County Clerk of the Circuit Court Todd Newton said. From those 400, there were 238 qualified to be selected from on Monday (Oct. 29), he said.

The 12 jurors and two alternates listened to witnesses for the prosecution and the defense on Monday, Tuesday, Wednesday and Thursday. Both sides ended that aspect of the trial on Thursday afternoon.

On Friday, the members of the Court worked and agreed on jury instructions before both sides gave closing statements. From about 1:05 p.m. until about 4:15 p.m., the 12

HardisonInk.com

members of the jury deliberated, and the two alternates were excused.

Jurors are paid \$15 each day for the first three days of their service and \$30 a day for each day after that, Newton said. The jurors are treated to a good lunch each day, he said.

Michael Darnell Porter of Archer (Bronson), was arrested Aug. 3, 2013 for the murder of Joyce Burrow who was 55 at the time of her death in July of 2013, according to records.

In this case, Porter, who was 53 at the time when he is now convicted of killing Burrow, was charged with raping the woman and then killing her by running over her with a truck in 2013, according to records.

During the third day of trial Thursday (Nov. 1), the 9-1-1 tape from that event was played. During that tape, Heather White of Bell, a registered nurse, was speaking with the dispatcher at the Gilchrist County Sheriff's Office.

For the 12 jurors, two alternate jurors, and any other civilized human being in the courtroom on Thursday, the experience of hearing that 9-1-1 tape was a terrible horror. At the outset, everyone knew the victim had died.

Heather White, the niece of Burrow was heard during the 9-1-1 call trying to keep her aunt breathing and conscious. White had just told listeners in the courtroom that it was about 3 a.m. on July 24, 2013, when she heard what she thought was a person "doing doughnuts" in the road between her and her husband's house and their aunt's house.

She told her husband John to check on the ruckus. He went and returned to report that Burrow was naked in the middle of the street and she had been run over. Heather White immediately went to the aid of Burrow and called 9-1-1.

Investigators proved that Porter broke into Burrow's house, and he raped her. She then escaped, naked with a garment tightly tied around her throat. Burrow had barely escaped, however, only to have Porter chase her down and run over her with a red 1994 Ford F-150 pickup truck, according to testimony and evidence presented during the trial.

He either ran over her once and left, or he ran over her twice before leaving, according to evidence released during the trial.

The case for the state was presented by two co-counsels -- Assistant State Attorney Robert Willis and Assistant State Attorney Glenn Bryan.

These two prosecutors have been working together at the Office of Eighth Judicial Circuit State Attorney William Cervone since 2002. They represented the people of Florida as they brought facts, evidence and testimony to be weighed with the laws of the state against this defendant.

Michael Ruppert, an attorney from Gainesville, represented Porter. Willis, Bryan and Ruppert completed the presentation of their facts and evidence for jurors on Thursday.

While Willis had Bryan as co-counsel at his table, Ruppert was joined at the defense table by his client Porter, and private investigator J.D. Thomas of Pinellas County.

The jury on Thursday heard from the Florida Department of Law Enforcement's Jacksonville Laboratory Supervisor of the Biological Evidence Section – Daniel Escalada.

Escalada, an expert witness in forensic biology, was a crime lab analyst in 2013 and he identified the DNA of Porter as being found on certain pieces of evidence.

Escalada's significant pedigree in this profession includes him earning a Master's Degree from the University of Florida, specific to DNA forensic analysis. He is certified

HardisonInk.com

as an expert witness who has testified in cases in Alachua, Duval, St. Johns and several other Florida counties.

Jurors heard Assistant State Attorney Bryan question Escalada to show the trail of the custody of evidence and the procedures and safeguards by the FDLE to prove Porter's DNA was in the blood detected on the fitted sheets of Burrow's bed.

The odds of that blood being Porter's as a result of DNA analysis was one in 400 quadrillion. That number is 57 million times greater than the entire population of the seven billion humans that are on the Earth now.

Porter's DNA was found on a yellow sponge, which included Burrow's DNA. From that sample, Escalada said the odds were one in 4.9 million; and that 4.9 million-to-one ratio were the odds that it was Porter's DNA mixed with Burrow's DNA on a pink silky garment (light nightgown), according to testimony.

FDLE Jacksonville Lab Analyst Elisa Sosa told jurors that she investigated Porter's Ford F-150's tires.

She took pictures of tires and impressions at the scene of the crime, made casts, rolled the suspected murder tires in sand, rolled them across ink and then on paper and studied the class characteristics and individual characteristics of the tires.

The class characteristics are those of a certain type of tire, where the individual characteristics are the particular unique aspects of a tire such as missing pieces of rubber, Sosa said.

Three of the tires were Goodyear Wrangler P235/75 R15, according to Sosa's testimony.

The left rear tire, though, was a Uniroyal Tiger Paw, she testified.

The three Goodyear tires did not prove to be useful in comparison with the impressions left at the crime scene by the murder truck. However, the Uniroyal left impressions that included many individual characteristics that corresponded in shape, size and other factors to those from the murder truck, according to her testimony.

The combined expert witness testimony Wednesday, and the testimony of the relative of the victim were final nails in the coffin of conviction for Porter. The strong case by the state included testimony by a number of other FDLE agents, health care professionals and Gilchrist County Sheriff Bobby Schultz.

On Thursday, Ruppert called Dr. Edward Willey, also of Pinellas County. Dr. Willey is a medical doctor who now serves as an expert witness and has testified in 4,500 cases worldwide. Dr. Willey gave his extensive set of credentials before he began specializing as an independent contractor in forensic biological science.

On cross-examination by Assistant State Attorney Willis, Dr. Willey's testimony did not appear to add much to helping there be reasonable doubt about this case being a homicide.

The final person on the stand was defendant Porter.

Eighth Judicial Circuit Court Judge Phillip A. Pena cautioned and advised Porter about his right to not testify, and that the jury would be instructed to not infer anything if the defendant were not to speak on his own behalf.

Circuit Court Judge Pena reminded Porter that the state must prove beyond reasonable doubt that Porter had committed burglary, rape and first-degree murder.

The judge cautioned the defendant to remember that if he took the stand, the prosecution has a right to cross-examine him.

Nevertheless, Porter took the stand.

HardisonInk.com

Ruppert asked questions and Porter spoke about where he allegedly was during the time in question. Porter is a truck driver, and he told about going to Mississippi to deliver pine straw to Lowe's for the Warren Pine Straw Co. of Branford.

Porter told long stories about how he slept in the cab of his truck. He said he had tools, like those used in burglary, on his truck because he needs to be able to repair the truck.

Porter said he owns cleaning materials, including a yellow sponge, which are to keep the semi-tractor clean.

As for the rubber gloves, the defendant said he uses those because when fueling a truck, cloth or leather gloves become soiled more quickly.

As for an X-rated DVD that investigators found in a storage shed, Porter said there were three of those there. They came in a pack of 10 or 12 random DVDs that he bought from other truckers. Porter planned to put them in a pack of several DVDs he would sell to other drivers, which he said is a common practice.

Prosecutors chose against cross-examining the defendant.

Ruppert asked Porter about video monitors at the Warren Pine Straw Co. parking area in Branford. The attorney asked the defendant if he saw his truck leave the parking lot, before a truck of that description was seen arriving in the parking lot. Ruppert said he never saw his pickup truck leave that lot, thereby making it "impossible" for him to have burglarized, raped and killed Burrow.

This trial started on Monday (Oct. 29) when the 12 jurors were selected. Tuesday, Wednesday and Thursday the jurors saw evidence and heard testimony.

On Friday, the two sides gave closing arguments and then the jury deliberated.

CLOSING ARGUMENTS

The prosecutors and defense attorney spent hours taking the jurors back through what they had seen during the previous few days.

PROSECUTION

Assistant State Attorney Bryan thanked the jurors for their dedicated focus on evidence and testimony presented to them.

The prosecutor showed how the state had gone beyond proving to the limit of reasonable doubt on all three charges – burglary, rape and first-degree murder.

Dr. William Hamilton of the Medical Examiner's Office, had showed jurors pictures and evidence to explain why he thought the woman was murdered. Every rib in her body was crushed, and she was unable to survive that.

Burrow died in the ambulance before she reached a Gainesville hospital.

The state showed jurors several examples of how Porter demonstrated a consciousness of guilt.

He burned his clothes from that night, according to evidence and testimony. He used chemical and mechanical means to cover the damage on the front and underside of the murder pickup truck, according to testimony and evidence.

Evidence proved that Porter pried open a back door, made entry, raped and bound Burrow, including tying a garment around her throat.

That garment had Porter's DNA on it, and that DNA was found in the area of the garment where he had to pull on it with force to make the knot tight. That article around her throat was so tight, it had to be cut loose by responding EMTs, according to testimony.

HardisonInk.com

Assistant State Attorney Bryan said the naked woman who was bound and dying in the road said. “He broke in. He raped me. He ran over me,” as some of her dying declarations.

The victim could not describe the assailant, however DNA and other evidence absolutely tied Porter to the crimes.

Just because Porter said he did not commit the crimes, Bryan said, is not reason to believe him.

The story about some unknown person stealing Porters Ford F-150, taking a yellow sponge out of the semi he used for work and planting it on the sheet of the victim, and then somehow creating a better sample of his DNA from that sponge to put on the sheet for a complete DNA match, is not believable, Bryan said.

There is no reasonable doubt that Porter committed these three crimes, Bryan told the jury as he asked them to use common sense and to convict him.

DEFENSE

Ruppert thanked the jurors for their service.

He reminded them to scrutinize the facts presented. He reminded the jurors that the state must prove beyond and to the exclusion of all reasonable doubt, based on credible facts, to the point that all 12 jurors had an abiding conviction of guilt that did not waiver or vacillate.

The defense attorney reminded the jurors that no person saw who killed the victim. In fact, he said it was his belief that the state did not show enough evidence to prove beyond reasonable doubt that the woman was raped.

THE RULINGS

Porter was unanimously ruled by the 12 jurors to be guilty of first-degree murder, rape and burglary.

Victims’ impact statement and sentencing is set for Monday at 2:30 p.m. in the Gilchrist County Courthouse.

The odds are strong that Judge Pena will impose a life sentence without hope for parole.

First-degree murder convictions in Florida result in a life sentence or a sentence to death by execution. State Attorney Cervone did not seek the death penalty in this case. Therefore, it seems likely that Porter will spend the rest of his life in the Florida Department of Corrections Prison System.

PORTER'S PAST

This was not Porter’s first go-around in court related to being accused as a burglar, rapist and murderer. In fact, this most recent week-long trial resulted after the first attempt by the state from these very same events led the state to attempt to convict him – but the first attempt ended in a mistrial.

Even before that, though, this defendant maintained his presumption of innocence after a 1987 rape led to him being accused, according to records.

In 1988, Porter was convicted of burglary, kidnapping, robbery, aggravated battery, and sexual battery in Pasco County, according to records.

He was sentenced to life in prison without the possibility of parole, according to records.

In 2002, a United States appellate court granted Porter’s petition for habeas corpus and set aside his conviction after concluding that the prosecution in the Pasco County

HardisonInk.com

cases had violated his due process rights under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963), by failing to disclose to him, for use at trial, two favorable police reports, both of which were material to his defense, according to records.

Later in 2002 -- this time equipped with the previously undisclosed reports -- Porter was retried and acquitted of all charges.

The charges against him that led to his life sentence in 1988, and then his acquittal in 2002 has this for a background, according to federal court records, where the first part of that narrative is published verbatim below:

Just before midnight on June 26, 1987, Morton Young was brutally attacked and raped in her room at the LaRue Motel in Holiday, Florida.

Following the attack, Young made her way to a nearby gas station to seek help.

William Karcinski and Sandy Nicholas were dispatched to the gas station in response to a call from the station attendant — at the time, Karcinski was a recently hired deputy sheriff with the Pasco County Sheriff's Office, and Nicholas was his field training officer.

Karcinski and Nicholas were the first law enforcement officials to respond.

According to Karcinski, Young was "crying, nervous, [and] upset." Karcinski interviewed Young at the gas station. He asked her if she could provide a description of her attacker and if she could recount the manner in which she had been attacked.

She did both. Karcinski recorded Young's statements in a written incident report.

Karcinski's report reveals that Young was watching television in her bedroom around 11:30 p.m. when she heard a noise coming from the kitchen/living room area. She got up to investigate and was confronted by a man who wrapped a belt around her neck and spun her around so she could not see his face.

Telling her to keep quiet, the man laid Young down on her stomach and said, "I bet you didn't know I was going to do this. I've been watching you."

The man tightened the belt around Young's neck, dragged her from room to room throughout the unit, and tried repeatedly to have sex with her. After several failed attempts to obtain an erection, the man finally succeeded and proceeded to rape Young while she was submerged in a bathtub half filled with water.

When he was finished, the man told Young to lie face down on the couch because he was "going to take her money and leave."

Young stayed on the couch for approximately half an hour before going to the gas station for help.

SHERIFF SCHULTZ COMMENTS

Gilchrist County Sheriff Bobby Schultz commented on the weeklong trial that ended Friday. He did not comment about the previous trials of Porter.

The sheriff said he is grateful and thankful that justice has been served in Gilchrist County. In this set of three cases, he said, it seems as if it was "a long time coming."

The men and women of the Florida Department of Law Enforcement, the Gilchrist County Sheriff's Office, the Eighth Judicial Circuit State Attorney's Office and all of the people involved in the investigation and prosecution of these crimes, the sheriff said, from July of 2013 through now have earned and deserve the gratitude of the people of Gilchrist County and of Florida, he said.

No amount of trials or anything else can bring back Joyce Burrow, Sheriff Schultz said.

"She was a lovely woman," Schultz said. "She was loved by many. To say this was a

HardisonInk.com

tragedy, would be an understatement."

The sheriff said he hopes this is the start of the closure phase of this ordeal for the family of the victim of these heinous crimes.

He said this is the type of thing that all people hope will not happen in their community. Homicides and horrendous crimes do not happen in Gilchrist County on a regular basis, the sheriff said.

"Gilchrist County is a small county," Sheriff Schultz said. "It is a very close-knit community, and when something like this happens, it certainly is big news. We wish it would never happen.

"But as far as the work that the law enforcement and (other) emergency personnel did on this day," he added, "and leading up to what we, again, believe is the appropriate verdict, I am thankful we have men and women who are willing to stand on that wall to protect us. And on those times when we can't protect them (the people in the community), to find justice (afterward)."

The sheriff said Gilchrist County is one family. When part of that family suffers a loss such as this, the rest of the family is there to help them through it, he said.

The community helps others pick up the pieces after horrible events like this, he said. This reflect the tie that binds the people of this rural community -- love for one another.