

**State v. Harruff**

Kristi Olson was discovered unresponsive in her Dallas home on June 1, 2017. Kristi's oldest daughter, Samantha, who lived in a home nearby, had called her mother several times that morning and received no answer. Kristi was known for always having her phone with her, so when Kristi did not answer the phone, Samantha was worried. Samantha went to Kristi's home and found Kristi lying unresponsive in her bed. Samantha called 911 and woke up everyone in the house. An ambulance arrived at the home and transported Kristi to the hospital where she was pronounced dead upon arrival. Medical professionals observed that Kristi had abrasions and discoloration around her neck.

Local law enforcement officers contacted the Division of Criminal Investigation for assistance and began an immediate investigation. Kristi's children noticed that their mother's cell phone was missing and Chance Harruff's name was immediately mentioned. Harruff was Kristi's most recent boyfriend and was known for having a tumultuous relationship with Kristi.

Harruff and Kristi had a history of verbal arguments and physical altercations. Harruff would get violent with Kristi, the couple would make up and start the process over again. Kristi refused to report the domestic violence to law enforcement, but did confide in family and friends about the abuse. A major source of contention in the relationship was phone calls and text messages Kristi received from other men. On at least two occasions, when other men would contact Kristi, Harruff would fight with Kristi and destroy her cell phone.

Law enforcement asked Harruff to come in for questioning and he did so voluntarily. During his first interview, Harruff provided the officers with an account of his whereabouts on the previous night. Harruff told the officers that the last time he saw Kristi was in her home around 6:00 p.m. He later went to Mr. G's convenience store in Gregory and then to his apartment. Harruff said that a friend, Kristin Wallace, came to his apartment for a few beers. Around 12:30 a.m., Harruff and Wallace went to another residence briefly to get cigarettes. Harruff then returned alone to his apartment where he stayed for the rest of the night. Around 2:45 a.m., Harruff said that he spoke with Kristi on the phone. Officers questioned Harruff about Kristi's missing cell phone and he indicated that he did not know where it was and that he last saw her phone was around 6:00 p.m.

Officers contacted the cell phone provider and discovered a ping from Kristi's cell phone in Gregory around 4:00 a.m. Officers reviewed surveillance videos of various businesses in Gregory around that time. Footage from Mr. G's convenience store showed Harruff's car driving into Gregory from Dallas, parking briefly near the dumpster at Mr. G's, and then driving in the direction of his apartment. Officers searched the dumpster at Mr. G's and found remnants of a purple iPhone in a white kitchen trash bag, later identified as Kristi's cell phone.

Harruff was interviewed by law enforcement a second time and confronted with the cell phone information. Harruff admitted that he traveled to Kristi's home

around 4:00 a.m. and had a verbal disagreement with her about the messages she was receiving from other men. Harruff told the officers that he grabbed the cell phone and Kristi hit him. Harruff then shoved Kristi back into the house and Kristi slammed the door on him. Harruff claimed that he never entered the house and he returned to his apartment.

The forensic pathologist concluded that Kristi's cause of death was asphyxia due to manual strangulation and that her death was a homicide. Harruff was indicted by a Gregory County grand jury for alternative counts of first degree murder, second degree murder and manslaughter in the first degree for the death of Kristi Olson.

Prior to trial, the State filed a Notice of Intent to Offer Other Act Evidence to prove Harruff's motive and intent. The other acts detailed Harruff's abuse of Kristi throughout their relationship. The circuit court noted that past abusive conduct in a domestic relationship is highly relevant in murder cases and that Harruff's prior conduct revealed a "controlling and hostile relationship fueled by jealousy of Olson's relationships with other men." After applying the required balancing test under SDCL 19-19-403, the circuit court held that the evidence was more probative than prejudicial and admitted the other acts admissible at trial.

During the eight-day jury trial, the State elicited the other acts evidence through the testimony of Marissa Bridges, Melvin Vosika, and Kristin Wallace. At the close of the State's case-in-chief, Harruff made a motion for judgment of acquittal which the circuit court denied. The jury convicted Harruff of second-degree murder and he was sentenced by the court to life in prison. On appeal, Harruff raises three issues:

1. Whether the circuit court erred in denying Harruff's motion for judgment of acquittal on second degree murder.
2. Whether sufficient evidence exists to sustain the second-degree murder conviction.
3. Whether the circuit court erred by admitting the testimony of Marissa Bridges, Melvin Vosika, and Kristin Wallace over Harruff's objection that the testimony was cumulative in violation of SDCL 19-19-403.

Mr. Clint Sargent, Ms. Raleigh Hansman, Attorneys for Appellant Chance Harruff.

Mr. Jason Ravensborg, Attorney General, Mr. Quincy R. Kjerstad, Assistant Attorney General, Attorneys for Appellee State of South Dakota.