

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-14-00194-CR

JAYLAN ROCHARD WILLIAMS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
Jefferson County, Texas
Trial Cause No. 12-13932

MEMORANDUM OPINION

Appellant Jaylan Rochard Williams¹ was indicted for the offense of murder. *See* Tex. Penal Code Ann. § 19.02(b)(1) (West 2011). The jury found Williams guilty of murder and assessed his punishment at 35 years in prison. On appeal, Williams argues that the evidence is insufficient to support the judgment and that the trial court erred in denying his motion for an instructed verdict of not guilty. He

¹ Jaylan Rochard Williams is also commonly known by the street name of “J-Ro” or “Jrow[.]”

also contends that the trial court abused its discretion by admitting Williams's videotaped statement into evidence at trial. We affirm the judgment of the trial court.

I. The Evidence

On the night of March 30, 2012, Michael Sennet was working at the Paradise Market, a convenience store located on the corner of Washington Boulevard and Park Street in Beaumont, Texas. At approximately 11:00 p.m., as Sennet was closing the store for the night, he heard a woman scream. Sennet walked around the side of the store and looked north down Park Street to determine where the screaming was coming from. When he did so, he saw a young woman running towards him on the sidewalk, screaming for help. When the woman reached the front of the store, she fell onto some steps. Sennet approached the woman to see if she was alright, and the woman told him that she was bleeding. The woman then attempted to sit up and stand, but she was bleeding profusely. Sennet called 911 and remained with the woman until the police arrived a few minutes later.

Sennet testified that approximately ten minutes before he heard the woman scream, he observed what appeared to be the same woman walking across the street near the convenience store. Sennet explained that Park Street runs along the

east side of the store, and there is a health clinic located across from the store on Park Street. Sennet testified that he saw the woman walk “from the east side of the [health] clinic,” turn north, and begin walking down Park Street. Sennet recalled the woman as having the same “bright skin” and wearing the same dark t-shirt and jeans as the woman he saw screaming ten minutes later.

Joshua Jackson, a police officer with the Beaumont Police Department, testified that on March 30, 2012, at approximately 11:00 p.m., he received a dispatch call in reference to a stabbing at the Paradise Market. Officer Jackson responded to the call and was the first officer on the scene. When Officer Jackson arrived, he observed a young woman lying on the ground. Jackson approached the woman, whom he later identified as April Danna. Danna was still conscious when he arrived, and Jackson asked her several times who had done this to her. At one point, Danna responded, “I don’t know[,]” but she was otherwise unresponsive to his questioning. Because Danna was covered in blood, Officer Jackson was not able to determine the full extent of her injuries. However, he could see that she had a “pretty severe” wound on the left side of her face and additional wounds on her cheek. Officer Jackson testified that shortly before the ambulance arrived, Danna lost consciousness. Danna was pronounced dead at the hospital later that night.

At trial, the State introduced a copy of a video that was recorded by Officer Jackson's dash cam on the night of the murder. The video was admitted into evidence as State's Exhibit 2 and played for the jury. The video corroborated Officer Jackson's testimony at trial.

Mark Hawthorne, a police officer with the Beaumont Police Department, responded to a stabbing at the Paradise Market. At some point after the victim had been removed from the crime scene, a black male with tattoos on his neck appeared at the scene and approached Officer Hawthorne. The man asked Officer Hawthorne what had happened, and Officer Hawthorne told him that "a lady had been stabbed[.]" Officer Hawthorne testified that the man acted as though he knew the victim, which Officer Hawthorne thought was odd because the victim was no longer at the crime scene. At some point, the man "became kind of frantic" and started pacing. The man walked over to the yellow tape surrounding the crime scene, looked at the place where Danna had been lying, and then "left running . . . northbound on [P]ark [Street] yelling something." At trial, Officer Hawthorne positively identified Williams as the man who approached him at the crime scene.

Michael Sennet testified to seeing a similar man at the crime scene on the night of the murder. Sennet testified that after the ambulance transported the victim to the hospital, Sennet remained at the scene, where he was questioned by police.

As Sennet was talking to a police officer, a man approached them and asked, ““What happened over here?”” Sennet told the man that “[s]omebody got stabbed over there[.]” The man asked who had been stabbed, and Sennet told him that he did not know. According to Sennet, the man then walked over to the location where the victim’s body had been, put his face in his hands, and said, “[t]hat’s my girl[.]” The man then “took off running” toward the health clinic across the street. Sennet described the man as wearing “blue attire” and a t-shirt and having “tattoos all on him.” Sennet testified that he did not know the man, but he had seen him “in and out of the store.”

At trial, the State introduced a copy of a second video that was recorded by a camera mounted in one of the other police cruisers that was parked at the crime scene on the night of the murder. The video recording was admitted into evidence and played for the jury. The video spans the time frame from 11:04 p.m. on March 30, 2012 to 12:29 a.m. on March 31, 2012. At 12:07 a.m., approximately one hour after Danna’s body had been removed from the crime scene, the video shows a black male and a uniformed police officer walk up to the crime scene, which, at that point, was surrounded by yellow police tape. The man is wearing a dark t-shirt and dark shorts. The man appears to lean over the police tape and look at the concrete steps where Danna’s body had been. The man then quickly turns around

and runs north down Park Street. At trial, Officer Hawthorne identified the black male in the video as Williams, and he identified the police officer in the video as himself. Sennet also watched the video and identified the black male in the video as the individual who approached him at the crime scene.

Dr. Lisa Funte performed Danna's autopsy on March 31, 2012. The autopsy revealed numerous sharp force injuries to Danna's upper body, including stab wounds to Danna's face, chest, back, left shoulder, left arm, and the palm of her right hand. Based on the results of the autopsy, Dr. Funte concluded that the cause of Danna's death was multiple sharp force injuries and that the manner of her death was homicide.

Charles Duchamp, a detective with the Beaumont Police Department, was one of two lead detectives assigned to investigate Danna's murder. Detective Duchamp testified that he was called out to the crime scene at approximately 11:00 p.m. on the night of the murder. According to Detective Duchamp, investigators found a trail of blood leading from the corner of the storefront where Danna came to rest to the back of the store. Behind the store, there was a small vacant lot or field containing trees and other vegetation. In the field, investigators located an area containing additional blood and several branches and limbs on the ground,

where it appeared there had been some sort of a struggle. Detective Duchamp testified that he believed the stabbing occurred at this location.

Detective Duchamp testified that Williams became a suspect in the case when investigators entered Danna's name into their computer system and the system showed an association between Danna and Williams. On March 31st, the day after the murder, Detective Duchamp returned to the crime scene with other detectives to continue their investigation. While the detectives were in the vacant lot behind the convenience store, they were advised that Williams was in front of the store. The detectives immediately walked around to the front of the store, where they observed Williams in a silver Chrysler convertible with a woman, who was later identified as Wendy Flowers. The detectives stopped the Chrysler and asked Williams and Flowers to come to the police station for questioning. Detective Duchamp testified that both Williams and Flowers voluntarily agreed to go with the detectives and give a statement. Duchamp performed a pat-down on Williams and discovered that Williams was carrying a knife. Detective Duchamp described the knife as a "folding knife" or a "pocketknife." Detective Duchamp recovered the knife and then drove Williams to the police station, while Flowers followed behind them in Williams's vehicle.

At the police station, Williams provided a videotaped statement to the police. A copy of the video containing Williams's statement was admitted into evidence over defense counsel's objection and played for the jury. Throughout the interview, Williams denied any involvement in Danna's murder. He told the detectives that "the word on the street" was that Danna had been stabbed by a Mexican man who went by the name of "Ponytail." Later in the interview, however, he told the detectives that he thought a woman named "Misty" had set Danna up to be killed because Misty was jealous that Williams had chosen Danna to be his girlfriend instead of her.

During the interview, Williams told the detectives that the last time he had seen Danna was on the afternoon of March 30th, while she was walking behind the Family Dollar store on Washington Boulevard. Williams stated that he drove up to Danna and asked her for his wallet, which she gave to him. He then asked Danna to get in his car, but she refused because she was angry that he had gotten high on drugs the night before. Williams denied that Danna refused to get in the car because she was afraid of him. He stated that after Danna gave him his wallet, she started talking to some men nearby to make Williams jealous, so Williams left. Williams then picked up a friend named Ben, and they drove to Ben's brother's house.

Williams told the detectives that at some point later that night, he received a telephone call from a friend named “K-1,” who told him that Danna had been killed at the Paradise Market. After receiving this call, Williams got in his car, picked up Wendy Flowers, and drove to the crime scene. He stated that they got to the crime scene between 2 and 4 a.m. When they got there, there were several police cars at the Paradise Market, and Flowers asked Williams to drop her off somewhere else. Williams, however, refused because he wanted to see what was going on. Williams then drove around the block, parked on a street behind the Paradise Market, and walked to the crime scene. Williams approached a police officer and asked him what had happened, but the officer did not provide him with any information. The officer then asked Williams his name, but Williams refused to identify himself and ran back to his vehicle. Williams told the detectives that he and Flowers then drove to the Deluxe Inn on College Street so that they could watch the news and see if it was Danna who had been killed. While they were in their motel room, two of Williams’s friends, Todd and Maxine Smith, came to the room to tell Williams the “bad news” about Danna. Williams stated that he did not leave the Deluxe Inn until he checked out the next morning.

During the interview, Williams gave the detectives conflicting statements about where he was when he received the phone call about Danna’s murder.

Initially, he told the detectives that he was at a party with several friends at a house located on Corley Street and Avenue L when he received the call. However, he later contradicted that statement, telling the detectives that he had checked into a room at the Deluxe Inn earlier that evening and received the call while he was getting out of the shower. Still later, Williams told the detectives that he received the call as he was leaving the Deluxe Inn to pick up Flowers at her apartment. However, he then contradicted this statement by telling the detectives that Flowers was already with him when he received the call. When the detectives asked Williams what time he checked into the Deluxe Inn on the evening of March 30th, Williams stated that he could not remember. Similarly, Williams stated that he could not recall what time he showered at the motel or what time he met up with Flowers that night. He denied that he took the shower at the motel because he had “something on [him]” and denied that investigators would find any blood in the shower or other parts of the motel room. Further, when asked what he did with the clothing he had been wearing before he showered, he stated that he put the same clothing back on after his shower and that he was wearing the very same clothing at the time of the interview.

At one point during the interview, Williams partially lifted up his shirt, and the detectives observed scratches on Williams’s stomach. They also observed a cut

on Williams's chin. The detectives asked Williams how he received those injuries, and Williams told them that he had fallen while he was running down College Street the day before. Williams explained that some police officers stopped him after he fell, told him he needed stitches in his chin, and took him to the hospital. Williams, however, refused treatment at the hospital and left.

On March 31, 2012, following his interview with Williams, Detective Duchamp went to the Deluxe Inn to conduct a search of the room that Williams had stayed in on the night of the murder. When he arrived at the motel, however, he learned that the room had already been cleaned by motel staff. While at the motel, Detective Duchamp requested a copy of the video footage from the motel's security cameras from the night of the murder. However, the quality of the video was so poor that he was not able to identify anyone in the videos.

Later that same day, investigators also seized the convertible that Williams had been driving when he was stopped by the police. Stephen Mays, a forensic scientist with the Jefferson County Crime Lab, examined the vehicle for possible blood stains and any weapons that may have been used in connection with the murder. During his examination of the vehicle, Mays discovered what appeared to be a small drop of blood on the exterior driver's side door above the door handle. He also found what appeared to be multiple drops of blood on the handle of the

driver's seat release. Preliminary testing performed on each of these drops came back positive for blood. Mays therefore swabbed the drops and submitted them for DNA testing.

During his examination of the vehicle, Mays also found a pillow case in the back seat of the vehicle that had a number of stains that appeared to be blood. Testing performed on the larger stains confirmed that the stains were indeed blood, so Mays submitted them for DNA testing. Mays also found a towel and a pair of plaid shorts that appeared to be stained with blood in the trunk of the vehicle. After preliminary and confirmatory testing on the stains came back positive for the presence of blood, Mays submitted the stains for DNA testing. Mays testified that he could not determine how long the blood on the vehicle, the pillow case, the towel, and the plaid shorts had been on those items.

Mays also examined the knife that Detective Duchamp recovered from Williams. Mays testified that he did not see any obvious blood stains on the knife. However, he took swabs from both the handle and the blade of the knife to test for the presence of blood. After his preliminary test of the swabs revealed the presence of blood, he submitted the swabs from the knife for DNA testing.

Mays testified that he also received some swabs that had been taken from leaves, sticks, and other debris at the crime scene. He performed testing on those

swabs, which confirmed the presence of blood. He testified, however, that those swabs were not submitted for DNA testing because he was told that the blood most likely came from the victim.

Angelina Temple, a forensic scientist with the Texas Department of Public Safety, performed DNA testing on the evidence samples taken from the seized vehicle, the pillow case found in the backseat of the vehicle, the towel and the plaid shorts found in the vehicle's trunk, and Williams's knife.

Temple testified that, to a reasonable degree of scientific certainty, Williams was the source of the DNA profiles obtained from: (1) the drop of blood found on the exterior driver's side door of the vehicle; (2) the drops of blood found on the driver's side seat release in the vehicle; (3) one of the two cuttings taken from the pillow case found in the back seat of the vehicle; (4) one of the two cuttings taken from the towel found in the trunk of the vehicle; and (5) one of the two cuttings taken from the plaid shorts found in the trunk of the vehicle.

With respect to the second of the two cuttings from the pillow case, the DNA was consistent with a mixture of DNA profiles. Based on Temple's analysis, Williams could not be excluded as a contributor to the profile at 12 of the 16 locations that she analyzed. Further, Danna could not be excluded as a contributor

to the profile at 15 of the 16 locations. Temple testified that there was also an unknown portion of the profile that was indicative of a third unknown contributor.

Temple obtained only a partial DNA profile from the second of the two cuttings from the towel. This partial profile was also consistent with a mixture of DNA profiles. Temple testified that Williams could not be excluded as a contributor to the profile at 10 of the 16 locations that were analyzed. Further, Danna could not be excluded as a contributor to the profile at 7 of the 16 locations. Temple testified that it was possible that there was at least one other unknown contributor to the profile.

With respect to the second of the two cuttings taken from the plaid shorts, Temple testified that the DNA was consistent with a mixture of DNA profiles. To a reasonable degree of scientific certainty, Williams was the source of the major component in the profile. In addition, Danna could not be excluded as the minor contributor to the profile at 7 of the 16 locations analyzed.

Temple testified that she was able to obtain only a partial DNA profile from the swabs taken from Williams's folding knife. This partial profile was consistent with a mixture of DNA profiles. Danna, however, was excluded as a contributor to the profile.

The last items that Temple tested in connection with this case were fingernail scrapings obtained from Danna's right and left hands. After confirming that the scrapings contained Danna's DNA, Temple performed additional testing to determine whether any male DNA was present. According to Temple, the scrapings did not yield enough male DNA for her to make a comparison or a reasonable association. She therefore reported the results of this testing as uninterpretable.

Wendy Flowers testified that she is a prostitute who goes by the street name of "Star." She explained that she was friends with Williams in March of 2012 and used to purchase drugs from him. Around that time, she also "knew of" Danna, but explained that Danna "was new" and had not been "around long." Flowers testified that she did not think that Danna worked for Williams as a prostitute; instead, she described Danna and Williams as being "more like together." Flowers testified that Danna and Williams stayed at motels from night to night, and it was her belief that they lived out of Williams's car and kept all of their clothing and belongings in the trunk. She recalled that she spent the night with Williams and Danna in various motels on a couple of occasions.

Flowers testified that on March 30th, she was staying at an apartment that belonged to a friend named Macio. At approximately 11:00 a.m., Williams came to

Macio's apartment and entered without knocking. Flowers recalled that Williams had blood on his shirt, his chin was "busted open" and bleeding, and he appeared to be "high on dip." Williams did not tell Flowers how he had received his injuries, but he did ask Flowers to go with him to the hospital, and she agreed. At the hospital, Williams received stitches in his chin and was treated for a stab wound to his chest. At approximately 1:30 p.m., Williams was discharged from the hospital, and Williams took Flowers back to Macio's apartment and left. Flowers testified that she did not see Williams again until later that night.

That afternoon, Flowers went to the Deluxe Inn, where she met with several clients from her escort service. At approximately 9:00 p.m., Flowers noticed Williams's car in the motel's parking lot, but she did not see Williams. Later, however, at approximately 9:45 p.m., Flowers observed Williams standing at the back of his vehicle in the motel's parking lot. The trunk of his vehicle was open, and Williams was putting on a shirt. Flowers walked over to Williams, and Williams told her to get in the car. Flowers got in and started "getting high" while she waited for Williams. Several minutes later, Williams got into the vehicle, and he and Flowers sat in the car and talked for about fifteen or twenty minutes. Flowers testified that while they were sitting in the car, Williams received a call on

his cell phone from a friend named K-1. Flowers testified that she answered the phone, and K-1 told her that Danna had been killed at the Paradise Market.

Thereafter, Williams and Flowers drove to an auto parts store that was located next to the Paradise Market. According to Flowers, there were police “everywhere,” and Flowers told Williams that she wanted him to drop her off somewhere else because she had drugs in her possession and did not want to get in trouble with the police. Williams then drove around the block and parked on the street located behind the Paradise Market. He then got out of the car and ran towards Park Street, leaving Flowers in the car. Flowers testified that Williams was gone for approximately five minutes, after which he returned to the car and told Flowers that he had spoken to the police and the person who had been killed was not Danna. Williams and Flowers then drove back to the Deluxe Inn.

Flowers testified when she and Williams got back to the motel, but before they got out of the vehicle, Williams suddenly said, “I didn’t mean to kill her.” Flowers asked Williams what he was talking about, but Williams did not answer and only stared at her. Flowers then asked Williams to tell her “what’s going on[,]”but Williams did not say anything and got out of the vehicle.

Thereafter, Williams and Flowers went to a motel room at the Deluxe Inn, and Williams asked Flowers to stay with him for the rest of the night. In the motel

room, Flowers smoked crack cocaine, and Williams smoked “a lot” of embalming fluid, or cigarettes dipped in formaldehyde. Flowers testified that when Williams smokes embalming fluid, he has a tendency to become “really aggressive” and that at one point after smoking the embalming fluid that night, Williams grabbed Flowers around the neck and attempted to choke her. She testified, however, that she did not leave because she was worried about Williams and did not want to leave him by himself.

Flowers testified that while they were in the motel room, a man named Todd and a woman named Maxine came to the room. According to Flowers, Todd and Maxine gave Williams several pills and made him swallow them. Thereafter, a man named “T” came to the room. At some point, Todd and T began talking about two knives that were on top of a dresser in the motel room. Flowers looked over and saw the two knives on the dresser, and she saw T pick up one of the knives, and put it in his pocket. Flowers testified that T took Williams’s car keys and some of Williams’s drugs, and left the motel in Williams’s car. Todd and Maxine also left, and Williams fell asleep in the motel room. Flowers testified that she then stayed in the motel room with Williams for the rest of the night.

When Flowers and Williams awoke the next morning, they checked out of the motel, and Williams dropped Flowers off at Macio’s apartment around 11:00

a.m. Thereafter, Flowers did not see Williams again until 1:30 or 2:00 p.m. that day, when she observed Williams at a gas station and walked over and got into his vehicle. Williams then drove with Flowers to the intersection of Washington Boulevard and Park Street and pulled into the driveway of a dollar store across the street from the Paradise Market. Flowers told Williams that she wanted to leave because several detectives' vehicles were parked across the street. However, Williams responded, "We have no reason to go. Let's go talk to them." Flowers again told him that she wanted to leave, explaining that she had drugs in her possession and that she did not want to talk to the police. In response, Williams pulled out of the parking lot of the dollar store, but his vehicle was immediately stopped by police. Williams asked Flowers what he should do, and Flowers stated, "Well, if you know that you didn't kill April[,] just pull the car over." Williams then pulled his car over and stopped. Thereafter, the police handcuffed Williams, placed him in the back of a police car, and asked Flowers to follow them to the police station in Williams's vehicle.

At the police station, Flowers gave a written statement to the police. This statement was not introduced into evidence at trial. Flowers, however, admitted that her written statement contained statements that were inconsistent with her testimony at trial. For example, in her written statement, Flowers stated: (1) that

she was not with Williams at the time he received the phone call from K-1; (2) that on March 30th Williams came to see her at Macio's apartment at 11:30 p.m. (rather than at 11:30 a.m.); (3) that when Williams arrived at Macio's apartment, he appeared to have just taken a shower; and (4) that after Flowers and Williams drove to the crime scene on the night of March 30th Williams took Flowers back to Macio's apartment. Flowers testified that these portions of her written statement were not correct and that when she read her written statement at the police station, she informed the detective that "there was some stuff that was wrong . . . and was left out" in her statement and that "the times [were] wrong[.]" According to Flowers, however, the detective told her that if she wanted to leave, she had to sign the statement. Flowers also testified that at the time she reviewed and signed the written statement, she had been awake for four or five days straight.

Flowers testified that she returned to the police station a few days later and gave a second, video-recorded statement to the police. The video-recorded statement was not introduced into evidence. However, Flowers testified that in the statement, she told the detectives about Williams's statement on the night of the murder that he "didn't mean to kill her[.]" Flowers also testified that in her statement she told the detectives that "[i]t wasn't supposed to happen to her[.]" In

addition, Flowers told the detectives that she had witnessed a man named Todd Smith take two knives from Williams.

Elizabeth Briscoe, who is Williams's second cousin, testified that she is a former prostitute and was close friends with Danna in March of 2012. She explained that Danna worked as a prostitute at one time, but stopped working in that capacity when she became Williams's girlfriend. When asked whether Danna worked for Williams, she testified that once they met, it was more like a "relationship than an employee type thing." Briscoe testified that Williams and Danna lived out of Williams's vehicle and kept all of their clothing and belongings in the trunk of his car. Briscoe also kept her belongings in the trunk of Williams's vehicle because she did not have a permanent residence. Briscoe would also sometimes sleep in the back of William's vehicle.

Briscoe testified that at approximately 5:00 a.m. on March 30, 2012, she walked to the Paradise Market to cash in some lottery tickets. When she arrived at the store, she saw Danna sitting on the front steps of the store waiting for her. Danna appeared to be afraid, and Danna told Briscoe that she was trying to avoid or hide from Williams. Briscoe testified that she knew Williams had made threats against Danna in the past. She also knew that Williams smoked cigarettes dipped in embalming fluid, and that when Williams was high on embalming fluid, he

would become violent. She testified that when she saw Danna on the morning of the murder, she felt like she needed to keep Danna safe, and she remained with Danna for much of the day.

Later that day, Briscoe and Danna went to the dollar store across the street from the Paradise Market. While they were there, Williams and his friend, K-1, drove up to them, and Williams asked Danna to give him his wallet. Danna gave Williams the wallet, and Williams and K-1 left. According to Briscoe, Danna did not get in the car with Williams at the time because she was afraid to do so. Later in the afternoon, Briscoe observed Williams drive by again, and she testified that it was her belief that Williams was “checking up” on them.

Briscoe and Danna later went to a house that belonged to an individual known as “Wine.” According to Briscoe, she and Danna stayed at Wine’s house until approximately 8:00 p.m., when they left to go to the house of another friend named “RL” to take a shower. As they were leaving Wine’s house, Briscoe and Danna encountered a man named Emmanuel Sigarst. Briscoe testified that Sigarst was friends with Williams and was “part of [their] circle.” She also knew that Sigarst used crack cocaine and described him as a “functioning addict[.]” When Briscoe and Danna encountered Sigarst, he propositioned Danna, offering her money and drugs in return for sex, and Danna accepted his offer. Briscoe testified

that she was reluctant to allow Danna to go with Sigarst because she was concerned for Danna's safety. She explained that Sigarst made her feel "very uncomfortable" and that she had been involved in a previous encounter with Sigarst during which Briscoe felt it necessary to display a knife to protect herself. Briscoe told Danna that there was no reason for her to go with Sigarst because she had just cashed in almost \$800 in lottery winnings and was willing to share the money with Danna. Danna, however, stated that she wanted to have some money of her own and left with Sigarst. Before she left, Danna agreed to meet Briscoe at RL's house at 8:30 p.m. to take showers. Briscoe testified that that was the last time she saw Danna alive.

After Danna left with Sigarst, Briscoe went to RL's house. At approximately 8:45 p.m., Briscoe realized that Danna had not arrived and started "casing the neighborhood" in search of her. Briscoe testified that she asked several people if they had seen Danna, but she did not look for Danna at Sigarst's house because she was afraid to go there. At approximately 9:00 p.m., Briscoe went to a friend's house to wait for Danna. At some point while she was there, Briscoe was told that Danna had been killed at the Paradise Market. She testified that approximately 30 to 40 minutes elapsed between the time that Danna left with Sigarst and the time she found out that Danna was dead.

Briscoe testified that early the next morning, she went to the Paradise Market and saw Sigarst standing in the parking lot of a bank across the street. She recalled that Sigarst was looking at her in a “really weird” manner. According to Briscoe, a female reporter suddenly came up to Briscoe and started asking her questions about Danna. The reporter asked Briscoe who the last person was that she saw with Danna before the murder, and Briscoe pointed across the street at Sigarst. Sigarst then began arguing with Briscoe about what had happened the night before. At some point during this discussion or argument, Sigarst told Briscoe that he had seen Williams chase Danna towards the Paradise Market. He stated that he saw Danna run behind the Paradise Market and that Williams ran around to the other side of the store. Sigarst stated that he then observed “Star” drive up in Williams’s vehicle and stop next to the Paradise Market, and that Williams came out from behind the store and got into the vehicle driven by Star. He stated that he saw Danna then come out from behind the store, holding her side, and he observed the ambulance and the police arrive afterwards.

Briscoe gave a statement to the police on April 1, 2012. In her statement, Briscoe told the police about the statements Sigarst made on the morning after the murder. However, she also told the police that she thought Sigarst was responsible for Danna’s death. At trial, Briscoe testified that she believed Sigarst was the one

who killed Danna because he was the last person she saw with Danna before the murder. However, Briscoe also admitted to being afraid of Williams after the murder occurred. In her written statement, Briscoe told detectives that after she found out Danna had been killed, her first thought was to question where Williams was ““because [she] felt like [she] would be next.”” Briscoe also testified that while Williams was in jail awaiting trial for Danna’s murder, Williams threatened her and called her a “snitch[.]”

Emmanuel Sigarst testified that on the night of March 30, 2012, at approximately 8:30 p.m., he ran into Danna and Briscoe while they were walking down Euclid Street. He testified that he knew both Danna and Briscoe to be prostitutes. Sigarst had just purchased \$40 worth of crack cocaine, and he approached Danna and offered her the drugs in exchange for sex. Danna accepted his offer, and he and Danna walked to Sigarst’s house, which was located a few blocks away. When they arrived at Sigarst’s house, Sigarst and Danna smoked the crack cocaine and talked for approximately 45 minutes. As they talked, Sigarst realized that he was friends with the father of Danna’s child and therefore decided not to have sex with Danna. When they finished smoking the crack cocaine, Sigarst left to purchase more drugs.

When Sigarst returned twenty minutes later, he was surprised to find that Danna was still at his house. Danna then told Sigarst that she was hiding from Williams and that she did not want to go back out on the streets at that time. Sigarst testified that he and Danna stayed at his house for a while longer and smoked the crack cocaine that he had just purchased. At some point, Danna got up and told Sigarst that she was leaving to get more drugs or money. As she was leaving, Danna handed a photo album to Sigarst and told him that she wanted him to hold onto it “in case she didn’t come back.” Sigarst then walked Danna outside and halfway up the street, after which he turned around and went back to his house.

Sigarst testified that his house is about a block and a half from the Paradise Market and that he can see the store from his house. He testified that when he left Danna that night, she was walking in the direction of the Paradise Market. Around the same time, Sigarst observed a vehicle parked at the health clinic across the street from the Paradise Market. Because it was dark, Sigarst could not see what color the vehicle was, and there did not appear to be anyone in the vehicle at the time. However, he recalled thinking at the time that the car belonged to Williams.

Sigarst testified that approximately ten minutes after he returned home, he went back outside and saw police cars and ambulances at the Paradise Market. He then left his house and walked to a friend’s apartment on Park Street. On his way

there, Sigarst ran into Star, who was standing in the middle of the street. Star was crying and told Sigarst that Danna was dead. Sigarst testified that Williams then walked over, and Sigarst told Williams that Danna had been killed. Williams did not say anything other than, “there was a lot of blood down there.” Williams and Star then got into a silver convertible and drove away.

Sigarst gave two written statements to the police in connection with Danna’s murder. Both statements were admitted into evidence at trial. The first statement, dated April 2, 2012, states, in relevant part:

On Friday, 3-30-12, at about 8:30 in the evening I had just left Wine’s house on Euclid. I had gone there to get some crack. I was walking back towards my house on Park and I ran into a white female that I know as April. She was with a black female that I know as Liz. They were actually on Euclid because they had just left Wine’s house to [sic]. I recognized April as being a girl that ran around with “Jrow”. I went up to them and she asked me if I wanted to do anything and I asked her how much. She told me 30 dollars and I agreed. I understood that she was wanting me to do a trick with her. I told her that I had a rock and we went back to my house. Liz left us and continued down the street. When we got [to] my house we smoked the rock and hung out at my house. We never had sex. I guess we had been there for about 30 minutes to an hour and she asked me if I could get some more crack. I told her that I could and went back to Wine’s house. It took me a little while to get some crack because I had to wait my turn to get some. I guess it took me about 30 minutes to get the crack and get back to my house. When I got back April was still there. At first this surprised me because I kind of thought she wouldn’t be there but I think she was hiding out from “Jrow” and didn’t want to be where he could find her. She had told me that she was hiding from him and I knew that he would beat her. We smoked the rock and hung out at my house for a while longer. After she had been there for a

while she told me that she needed to get some more money and left. Before she left she asked me to hold onto a photo album that she had. She told me that she wanted me to hold onto it in case something happened to her. I watched her walking down Washington towards Park and I noticed she was walking down the center lane of the street. As she was walking she appeared to be looking around as she was walking. It seems like as I was watching her I saw a silver colored car parked in the parking lot of the Health Clinic. It was parked in the parking lot that was closer to Park St. When I saw this car it kind of clicked in my head that this was the car that I had seen "Jrow" driving. As she was getting closer to Park St I went back in the house. About 10 of [sic] 15 minutes later I went back outside and saw an ambulance and the police at Oasis. When I saw the police I thought the store had got robbed. I walked down Washington to Park and as I was crossing Park next to the bank I ran into a black female that told me that April had got cut up trying to rob someone. I don't know this female[']s name. I have seen her out on the street before and she is a [sic] older person. I walked down to Neches and walked around the block to an apartment on Park St just off of Prairie. This was Anthony Rogers' apartment. I was standing at the corner of Prairie and Park and a white female that I know as Star came up to where I was. She was upset and crying. She told me that she couldn't believe that April had been killed. She then quit crying and told me that she had a 8-ball of cocaine and left walking away from me. A short time later I saw "Jrow" come running up and get in a silver car. This was when I realized that this was the same car I had seen in the parking lot of the health clinic. This is the car I had seen "Jrow" driving before. Before he got in the car I heard "Jrow" saying that there was a lot of blood around April. By this time Star had come up and got in the car. I noticed that she was no longer crying and didn't say anything else to me. I had told him that you know it's your girl April down there dead and he never appeared like he was upset about it. He just kept on saying there was a lot of blood down there. I was actually still in the process of talking with him when he put the car in gear and took off. This time I went down Park and cut through the clinic parking lot.

The second statement, which is also dated April 2, 2012, is identical to the first statement, except the following additional paragraph appears at the end of the second statement:

After giving this statement to Detective Froman I realized that I had not told him the entire truth. When I told him that I didn't see April after she got past the corner of Washington and Park that was not correct. When April got by the store I saw a black male approaching April. The black male was wearing dark clothing and had a light complexion. While I didn't see the black males [sic] face I could see that he had the same build and body size as "Jrow". I saw him arguing with April and I saw him grab for her. It appeared that she broke away from him and I saw her run towards the vacant lot behind the store. He was chasing her and I saw them both disappear into the vacant lot behind the store. When they disappeared I went back in the house. When I saw them disappear behind the building I thought that April was going to get beat. I didn't think he would carry it that far. It was later when I was down on Park that I saw "Jrow" and realized that it was him that I had seen chasing April. I've known "Jrow" for about 5 or 6 months and I can recognize him from a distance. There is no doubt in my mind that it was him chasing April Friday night.

At some point after Sigarst gave his two statements to the police, he made a third, handwritten statement in connection with Danna's murder. According to Sigarst, the third statement was not made in response to questioning by the police. Instead, he decided on his own to write the statement while he was incarcerated in county jail. Sigarst explained that his intent in writing the third statement was to someday give it to Williams's attorney. The third statement, which is neither dated nor notarized, states in relevant part:

I Emmanuel Jerome Sigarst do hereby attest that the following statement is true and correct. On or about the 30[th] day of March, 2012, I did not witness Jaylan Williams aka J-RO standing on the corner of Washington and Park with April M. Dana, nor did I see him (J-RO) chase April behind the convenience store Oasis located on Washington and Park. Moreover I did not see Jaylan Williams cause the death of April Dana by stabbing with a knife or cutting object.

On the 2nd day of April, 2012 the previous statements I Emmanuel Jerome Sigarst made to detective Froman were under duress after being interrogated not being able to leave [until] they got me to say what they wanted to hear. Which is what everyone else was saying, all the prostitutes who knew Elizabeth Briscoe also a prostitute.

Sigarst testified that after he wrote the third statement, a private investigator who worked for Williams's attorney came to see Sigarst in jail, and Sigarst gave the statement to him. Later, after Sigarst was released from jail, the same private investigator came to Sigarst's home and brought a fourth statement, which Sigarst signed. The fourth statement is identical in substance to the third statement. However, unlike the third statement, the fourth statement is typed, notarized, and dated September 18, 2013. Both the third and fourth statements were admitted into evidence at trial.²

² At trial, defense counsel objected to the admissibility of all four of Sigarst's written statements on the ground that the requirements for admission of the statements under Texas Rule of Evidence 613 had not been met. Outside the presence of the jury, the trial court heard arguments from both sides regarding the admissibility of the statements, and the trial court ultimately overruled the objection and admitted the statements "pursuant to Rule 613." Defense counsel did not request an instruction limiting the jury's consideration of the statements solely

At trial, Sigarst testified that the statements contained in the last paragraph of his second statement are not true and that he did not recall telling the police that he witnessed the events described in that paragraph. He specifically denied seeing Williams approach Danna as she walked from Sigarst's house to the Paradise Market on the night of the murder and denied seeing Williams chase Danna behind the store. He testified that the only time he saw Williams on the night of the murder was when he encountered Williams and Star in the street after the murder had already occurred. Sigarst also testified that the following facts in his first and second written statements are not true: (1) that on the night of the murder, he knew Williams would beat Danna if he found her; (2) that when he saw Williams after the murder, Williams did not appear upset that Danna was dead; and (3) that after the murder, Williams got into a car that appeared to be the same car that had been parked at the health clinic shortly before Danna was killed. Sigarst admitted that he

to impeachment purposes, and no such instruction was given. Accordingly, the jury was free to consider the statements for all purposes. *See Hammock v. State*, 46 S.W.3d 889, 892-93 (Tex. Crim. App. 2001) (holding that the party seeking to limit the purpose for which evidence is admitted has the burden to request a limiting instruction at the time the evidence is admitted and explaining that “[o]nce evidence is received without a limiting instruction, it becomes part of the general evidence and may be used for all purposes.”); *Navarro v. State*, 280 S.W.3d 405, 406-07 (Tex. App.—Amarillo 2008, no pet.) (concluding that the jury was free to consider the witness’s prior inconsistent statement for all purposes because defense counsel did not request an instruction limiting the jury’s consideration of the statement to impeachment purposes at the time the statement was admitted into evidence).

was given an opportunity to review his second statement before he signed it and that he did, in fact, review it, but he testified that he had consumed two pints of vodka before he went to the police station that day and was intoxicated at the time he spoke to the police. Sigarst also testified that he felt like he was placed “under a lot of duress” to sign the second statement and felt as though they would not let him leave “unless [he] told them something.” Sigarst denied at trial that he was trying to “cover” for Williams. However, he agreed that there is an “unwritten code on the street that people don’t snitch out other people,” and he testified that he follows that code.

Gerald LeChance, a sergeant with the Beaumont Police Department, testified that on March 30, 2012, at approximately 4:00 a.m., he responded to a call in the proximity of College Street and Interstate 10 in Beaumont, Texas. When Sergeant LeChance arrived at that location, he came into contact with an individual who was wearing plaid shorts and who identified himself as Jaylan Williams. Sergeant LeChance observed that Williams had an injury to his chin. An ambulance arrived shortly thereafter and treated Williams. Sergeant LeChance did not arrest Williams at the time. At trial, Sergeant LeChance positively identified Williams as the individual he encountered on the morning of March 30th. The State also introduced a copy of a video that was recorded by a camera mounted in his patrol unit. The

video recording was admitted into evidence and played for the jury. The video shows that Sergeant LeChance and other officers responded to the call and encountered Williams at approximately 4:00 a.m. on March 30th. Williams can be seen in the video wearing plaid shorts and a light-colored t-shirt. The plaid shorts worn by Williams in the video appear to be identical to the plaid shorts later found in the trunk of Williams's vehicle. In the video, one of the officers questioned whether Williams had blood on him, and Williams can be heard stating, "I'm alright. I just fell." An ambulance arrives shortly thereafter, and Williams appears to receive medical treatment inside the ambulance.

Timothy Lewis, an inmate, testified that he wrote a letter to the district attorney's office on April 27, 2012, offering to provide information concerning Williams. Lewis testified that in April of 2012, he was serving as a trustee at the Jefferson County jail and was responsible for cleaning the cells in the maximum security unit, where Williams was housed at the time. One day, Williams was getting a haircut, and Lewis, who was cleaning nearby, overheard part of a conversation between Williams and the barber. According to Lewis, the barber asked, "Who was this girl?" and Williams responded that it was "a white ho" that he knew or that worked for him. The barber asked if she was "a new girl[,] and Williams said that he had known her for a while and that she was "one of his better

moneymakers.” Williams told the barber that he had to “take her out because she was going to get him somehow or another” and that “[s]he owed him money or . . . was going to tell the cops on him.” In addition, Williams told the barber that “[s]ome other girl” had possibly “witnessed it or knew about it[,]” but he thought he “could beat” the case. At the time of trial, Lewis was serving a sentence for a burglary conviction. He testified that when he wrote the April 27th letter to the district attorney’s office, he offered to provide the information concerning Williams in exchange for a “time reduction” and “protection” for his family and himself. Despite this request, no one ultimately offered or otherwise agreed to give him anything in exchange for his testimony at trial. However, on cross-examination, Lewis admitted that he was hoping he would get a “deal” and a reduction in his sentence after the trial was over.

At the close of the State’s case-in-chief, Williams moved for an instructed verdict of not guilty, arguing that the State had failed to prove the elements of murder as charged in the indictment. The trial court denied Williams’s motion.

Williams called only one witness, Stephen Garrison, to testify in his defense. Garrison, a police officer with the Beaumont Police Department, testified that on the night of March 30, 2012, he was on patrol and responded to the area of Park Street and Washington Boulevard in reference to the victim of a stabbing. When he

arrived at the scene, Officer Garrison helped secure the crime scene and attempted to look for witnesses in the immediate area. While in the process of looking for witnesses, Officer Garrison drove down Hector Street, which was approximately seven or eight blocks from the crime scene. On Hector Street, Officer Garrison came into contact with an individual named Thomas Black, who appeared to be having a verbal altercation with someone down the street. When Officer Garrison pulled up, he noticed that Black had some injuries. Specifically, it appeared as though Black had some scratches and small abrasions on his forehead, and his knuckles appeared to be “a little skinned up.” Black also had some blood smeared on his shirt, which Officer Garrison later characterized as “a large amount” of blood in his police report. In addition, Officer Garrison noticed that Black’s pants appeared to have “fresh dirt” on them. Officer Garrison testified that it looked like Black had possibly been in a fight or had fallen.

According to Officer Garrison, Black was unable to adequately explain what had happened to him. Black told Officer Garrison that he had fallen off of a bicycle, but Officer Garrison did not see a bicycle in the immediate area. Officer Garrison detained Black and contacted other officers at the crime scene. The other officers instructed Officer Garrison “to get good identification” on Black, but indicated that they did not want to speak to Black at that time. Officer Garrison

took Black to Black's mother's house, which was nearby, and released him into her custody. Later that night, after the other officers cleared the crime scene, Officer Garrison was asked to go back and retrieve the bloody shirt that Black had been wearing when he was detained by Officer Garrison. Officer Garrison returned to Black's mother's house, but when he arrived, Black and his mother did not want to cooperate, so Officer Garrison was unable to retrieve the shirt.

Williams introduced a copy of a video that was recorded by a camera mounted in Officer Garrison's police cruiser at the time that he detained Black. The video recording was admitted into evidence and played for the jury. The video is approximately one and a half minutes long, and the time stamp indicates that it was recorded at 11:48 p.m. on March 30, 2012. In the video, a black male can be seen standing in front of the police cruiser. He is wearing a white t-shirt that appears to have several small red stains on the front.

Williams also introduced a copy of his hospital records from March 30, 2012. The records show that Williams was admitted to the hospital at "4:26" on March 30, 2012, but he refused treatment and was discharged at "4:26[.]"The records also show that Williams returned to the hospital the same day and was re-admitted at "9:05." During his second hospital visit, Williams informed hospital personnel that he had fallen earlier that morning, and Williams was treated for

lacerations on his chin and upper left chest. The records also show that Williams's urine drug screen came back positive for cannabinoids and PCP. Williams was discharged from the hospital at "12:45" on March 30th.

After the close of evidence, the jury found Williams guilty of murder as charged in the indictment and assessed punishment at 35 years in prison. Williams filed a motion for new trial and motion in arrest of judgment, asserting that his conviction was not supported by the law or the evidence and that the trial court erred in admitting Sigarst's written statements into evidence at trial. These motions were denied by the trial court without a hearing. This appeal followed.

II. Sufficiency of the Evidence

In his first, second, and third issues, Williams contends that the evidence is insufficient to support the judgment of conviction for the offense of murder. Specifically, Williams argues that the evidence presented at trial is insufficient to prove: (1) that Williams was the person who caused the death of April Danna, and (2) that he possessed the requisite culpable mental state for the offense of murder.

We review the sufficiency of the evidence to support a conviction under the standard set forth in *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). *See Brooks v. State*, 323 S.W.3d 893, 895 (Tex. Crim. App. 2010). Under that standard, we view all of the evidence in the light most favorable to the verdict and determine, based

on that evidence and any reasonable inferences therefrom, whether any rational factfinder could have found the essential elements of the offense beyond a reasonable doubt. *Temple v. State*, 390 S.W.3d 341, 360 (Tex. Crim. App. 2013) (citing *Jackson*, 443 U.S. at 318-19). “The jury is the sole judge of credibility and weight to be attached to the testimony of witnesses.” *Id.* In this role, the jury may choose to believe all, some, or none of the testimony presented by the parties. *Chambers v. State*, 805 S.W.2d 459, 461 (Tex. Crim. App. 1991). Further, the jury is permitted to draw multiple reasonable inferences from facts as long as each is supported by the evidence presented at trial. *Temple*, 390 S.W.3d at 360. When the record supports conflicting inferences, we presume that the jury resolved those conflicts in favor of the verdict and therefore defer to that determination. *Id.*

In reviewing the sufficiency of the evidence, we consider all of the evidence in the record, regardless of whether it was properly admitted. *Clayton v. State*, 235 S.W.3d 772, 778 (Tex. Crim. App. 2007). Direct and circumstantial evidence are equally probative of an actor’s guilt, and “circumstantial evidence alone can be sufficient to establish guilt.” *Temple*, 390 S.W.3d at 359 (quoting *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007)). In a circumstantial evidence case, each fact need not point directly and independently to the guilt of the defendant so long as the combined and cumulative force of all the incriminating circumstances

warrants the conclusion that the defendant is guilty. *Id.* (quoting *Johnson v. State*, 871 S.W.2d 183, 186 (Tex. Crim. App. 1993)); *Hooper*, 214 S.W.3d at 13. “After giving proper deference to the factfinder’s role, we will uphold the verdict unless a rational factfinder must have had reasonable doubt as to any essential element.” *Laster v. State*, 275 S.W.3d 512, 518 (Tex. Crim. App. 2009).

The indictment charged Williams with murder under section 19.02(b)(1) of the Texas Penal Code, which provides that a person commits murder if he “intentionally or knowingly causes the death of an individual[.]” Tex. Penal Code Ann. § 19.02(b)(1). Specifically, the indictment alleged that Williams “intentionally and knowingly cause[d] the death of . . . [April Danna] . . . by stabbing and cutting [Danna] with a deadly weapon, to-wit: a knife, that in the manner of its use and intended use was capable of causing serious bodily injury and death[.]” On appeal, Williams contends that the evidence is insufficient to prove: (1) that he is the person who caused Danna’s death, and (2) that he intentionally or knowingly caused Danna’s death.

A. Evidence that Williams Was the Person Who Caused Danna’s Death

In his first issue, Williams argues that the evidence is insufficient to prove beyond a reasonable doubt that he was the person who caused Danna’s death. According to Williams, the only evidence presented at trial that could conceivably

link him to Danna is the fact that his DNA was discovered on “an article of clothing.” He contends that this fact, if believed, establishes only that he “was present with [Danna] at some point in time,” and not that he killed her. Contrary to Williams’s assertions, however, the fact that Williams’s DNA was found on clothing recovered by the police was not the only evidence from which a rational trier of fact could have found that it was Williams who caused Danna’s death. Although no eyewitness testified in court to seeing Williams stab Danna, the State is entitled to prove a defendant’s identity and criminal culpability by either direct or circumstantial evidence, coupled with all reasonable inferences from that evidence. *See Gardner v. State*, 306 S.W.3d 274, 285 (Tex. Crim. App. 2009).

The jury heard testimony from several witnesses at trial that on the day of the murder, Danna was afraid of Williams and that she was trying to hide from him. In addition, evidence was presented showing that the attack on Danna occurred in the vacant lot behind the Paradise Market and that Williams was seen chasing Danna behind the Paradise Market on the night of the murder shortly before Danna was found stabbed. Sigarst testified that when Danna left his house on the night of the murder, he watched Danna walk away in the direction of the Paradise Market. He testified that Danna left his house approximately ten minutes before the police arrived at the Paradise Market in response to Danna’s stabbing.

Similarly, Sennet testified that on the night of the murder, he observed a woman who appeared to be Danna walking across the street from the Paradise Market. He saw the woman turn north and begin walking down Park Street. Approximately ten minutes later, Sennet heard screams and observed Danna running towards him down the sidewalk on Park Street. She was coming from the direction of the back of the store and was bleeding severely. After the murder, investigators found a trail of blood leading from the back of the store to the concrete steps where Danna was ultimately found by the police. Further, in the vacant lot behind the store, investigators located an area containing additional blood and several branches and limbs on the ground, where it appeared that a struggle had occurred. Investigators concluded that the stabbing occurred at that location.

In addition, Briscoe testified that on the morning after the murder, she and Sigarst got into an argument after Briscoe told a reporter that Sigarst was the last person that she saw with Danna before Danna was killed. During this argument, Sigarst told Briscoe that on the night of the murder, he saw Williams chase Danna towards the Paradise Market. He then saw Danna run behind the store, and he observed Williams, who was behind her, run around to the other side of the store. While Williams and Danna were behind the store, Sigarst saw Flowers pull up and stop next to the store in Williams's vehicle. He then saw Williams come out from

behind the store and get into that vehicle. Thereafter, Sigarst observed Danna emerge from behind the store holding her side, and he watched as the police and the ambulance arrived a short time later.

Sigarst made similar statements in his second written statement to the police on April 2, 2012. Sigarst later recanted these statements in two subsequent written statements and at trial. However, the jury, as the factfinder, was the judge of the credibility of the witnesses and could choose to believe all, some, or none of the testimony presented. *Chambers*, 805 S.W.2d at 461. The jury, therefore, could have disbelieved Sigarst’s recantation and instead believed his account of the events as described in his second written statement to the police. *See id.* (concluding that witness’s recantation of prior statements did not destroy probative value of prior statements and explaining that “[t]he jury observed the complainant’s demeanor and was entitled not only to reconcile any such conflicts, but even to disbelieve her recantation”); *Saldana v. State*, 287 S.W.3d 43, 60 (Tex. App.—Corpus Christi 2008, pet. ref’d) (noting that “when a witness recants prior testimony, it is up to the [factfinder] to determine whether to believe the original statement or the recantation,” and “[a factfinder] is fully entitled to disbelieve a witness’s recantation”).

The evidence also showed that Williams admitted to killing an unnamed female shortly after the murder occurred. Flowers testified that when she and Williams received the telephone call from K-1 on the night of the murder informing them that Danna had been killed, they immediately drove to the Paradise Market, and Williams got out and walked to the crime scene. Several witnesses testified that they saw and spoke to Williams at the crime scene and that he seemed to know who the victim was, even though her body had already been removed from the scene by the time he arrived. Flowers testified that after going to the crime scene with Williams, Williams stated, “I didn’t mean to kill her[.]” Although Williams did not specifically identify who he was referring to, the jury could have reasonably inferred from the timing and the circumstances surrounding the statement that Williams was referring to Danna. *See Anderson v. State*, 416 S.W.3d 884, 888 (Tex. Crim. App. 2013) (“Juries are permitted to draw multiple reasonable inferences from the evidence as long as each inference is supported by the evidence presented at trial[.]”); *see also Hooper*, 214 S.W.3d at 16 (explaining that “an inference is a conclusion reached by considering other facts and deducing a logical consequence from them.”).

Evidence was also presented that there were at least two knives in Williams’s motel room shortly after the murder. Flowers testified that after she and

Williams visited the crime scene on the night of the murder, they returned to the Deluxe Inn. While in the motel room, Flowers observed two knives on a dresser. She later saw Williams's friend, "T," take one of the knives, put it in his pocket, and leave the motel. Detective Duchamp testified that during Flowers's video-recorded interview on April 4, 2012, Flowers told him that she saw a man named Todd take two knives off of Williams in the motel room. Based on the evidence, the jury could have reasonably inferred that one or both of the knives in the motel room were used by Williams to attack Danna earlier that evening and that both knives were disposed of later that night by Williams's friends.

Further, the evidence revealed that there were several inconsistencies in the story that Williams gave to the police. *See Temple*, 390 S.W.3d at 361 (discussing inconsistencies in the defendant's story as evidence in support of the defendant's murder conviction). For example, Williams initially told the police that he received the phone call from K-1 informing him that Danna had been killed while he was at a party with several friends at a house on Corley Street and Avenue L. Later, however, he told the police that he had checked into a room at the Deluxe Inn on the night of the murder and had received the call as he was getting out of the shower in his motel room. Williams then contradicted this statement by telling the police that he received the call as he was leaving the motel to pick up Flowers. Still

later, he claimed that he received the call while Flowers was already with him. When detectives asked Williams what time he checked into the Deluxe Inn on the night of the murder, he stated that he could not recall, even though it had just happened the night before. Williams also told detectives that he could not recall what time he took a shower at the motel or what time he met up with Flowers on the night of the murder. Further, at the beginning of the interview, Williams told detectives that it was his belief that a Mexican man named “Ponytail” had killed Danna. Later, however, he told detectives that he thought a woman named Misty had Danna killed because she was jealous that Williams had chosen Danna as his girlfriend instead of her.

Evidence was also presented that Williams smoked cigarettes dipped in embalming fluid. Flowers testified that when Williams smoked embalming fluid, he had a tendency to become very aggressive. As an example of his drug-induced aggression, Flowers testified that after Williams smoked embalming fluid on the night of the murder, he attempted to choke Flowers in their motel room. Briscoe also testified that Williams smoked embalming fluid and that when he did so, he would become violent. Although there was no testimony that Williams was under the influence of embalming fluid at the time of Danna’s murder, the jury heard evidence that Williams was under the influence of embalming fluid and possibly

other drugs at various times on the day of the murder, both before and after Danna was killed.

Although motive is not an element of murder and is not sufficient by itself to prove identity, it is a circumstance that is indicative of guilt. *Id.* at 360; *Guevara v. State*, 152 S.W.3d 45, 50 (Tex. Crim. App. 2004). At trial, the jury heard evidence that Danna was a prostitute at the time of her death and that she accepted Sigarst's offer of drugs in exchange for sex on the night of the murder. The jury also heard evidence that Williams had prostitutes who worked for him. Although there was some testimony that Danna did not work for Williams, there was also testimony that Danna had a close relationship with Williams. Lewis, a jailhouse trustee, testified that he overheard Williams suggest to the barber cutting his hair that he had to take out a female prostitute that he knew or that worked for him because "[s]he owed him money or . . . was going to tell the cops on him." The jury could have reasonably inferred that Williams was referring to Danna during this discussion and that he had a motive to kill Danna because she either owed him money or planned to provide the police with information about Williams.

Having viewed the evidence in the light most favorable to the verdict, we conclude that a rational factfinder could have found beyond a reasonable doubt that Williams was the person who caused Danna's death. *See Jackson*, 443 U.S. at 319;

Temple, 390 S.W.3d at 360. The jury was able to assess the credibility and demeanor of the witnesses who testified at trial, and we presume that the jury resolved all conflicts in the testimony, weighed the evidence, and drew reasonable inferences from the evidence in a manner that supports the verdict. *See Hooper*, 214 S.W.3d at 13. The jury could have reasonably inferred from the circumstantial evidence presented that Williams was the person who caused Danna’s death. “This was not a determination so outrageous that no rational trier of fact could agree.” *Wirth v. State*, 361 S.W.3d 694, 698 (Tex. Crim. App. 2012). We therefore overrule Williams’s first issue.

B. Evidence that Williams Acted Intentionally or Knowingly

In his second and third issues, Williams contends that even if the evidence shows that he caused Danna’s death, the evidence is insufficient for a rational jury to have concluded that he did so intentionally or knowingly. Murder is a “result of conduct” offense, which means that the culpable mental state relates to the result of the conduct—i.e., the causing of the death. *Schroeder v. State*, 123 S.W.3d 398, 400 (Tex. Crim. App. 2003). A person acts intentionally with respect to a result of his conduct when it is his conscious objective or desire to cause the result. Tex. Penal Code Ann. § 6.03(a) (West 2011). A person acts knowingly with respect to a

result of his conduct when he is aware that his conduct is reasonably certain to cause the result. *Id.* § 6.03(b).

“Intent and knowledge are fact questions for the jury, and are almost always proven through evidence of the circumstances surrounding the crime.” *Manrique v. State*, 994 S.W.2d 640, 649 (Tex. Crim. App. 1999); *see also Brown v. State*, 122 S.W.3d 794, 800 (Tex. Crim. App. 2003). The jury may infer intent from any facts which tend to prove its existence, including the acts, words, and conduct of the defendant. *Manrique*, 994 S.W.2d at 649. Intent to kill may also be inferred from the nature and extent of the injuries inflicted on the victim, the method of committing the crime, the size and strength of the parties, and the defendant’s flight from the scene. *Id.* at 649 (noting that intent may be inferred from “the method of committing the crime and from the nature of [the] wounds inflicted on the victim[.]”); *Patrick v. State*, 906 S.W.2d 481, 487 (Tex. Crim. App. 1995) (concluding that intent may “be inferred from the extent of the injuries and the relative size and strength of the parties”); *Wilkerson v. State*, 881 S.W.2d 321, 324 (Tex. Crim. App. 1994) (considering the nature of the injury inflicted and the defendant’s flight from the scene, among other facts, in concluding that the evidence was sufficient to support the jury’s finding of intent to kill); *Felder v. State*, 848 S.W.2d 85, 90 (Tex. Crim. App. 1992) (considering the number and

location of the stab wounds inflicted on the victim in examining the sufficiency of the evidence to support intent to kill finding). A jury may also infer knowledge from such evidence. *Manrique*, 994 S.W.2d at 649.

Viewed in the light most favorable to the verdict, the evidence shows that Danna was afraid of Williams on the day of the murder and spent much of the day trying to hide from him. Shortly after Danna left Sigarst's house on the night of the murder, Williams was seen arguing with Danna and chasing her behind the Paradise Market. A short time later, Williams emerged from behind the store and got into a vehicle driven by Flowers. Danna then came out from behind the store, holding her side. Around the same time, Sennet observed Danna running towards him from the back of the store, screaming and bleeding profusely from multiple injuries. The evidence also shows that after his arrest, Williams was overheard telling a jailhouse barber that he had to take out a white, female prostitute that he knew or that worked for him because "[s]he owed him money or . . . was going to tell the cops on him." As noted above, the jury could have reasonably inferred that Williams was referring to Danna when he made these statements based on the timing and the context of these statements, the evidence that Danna was a prostitute at the time she was killed, and her close relationship with Williams.

Further, the number, nature, and location of the injuries that Danna sustained during the attack suggest that the injuries were intentionally inflicted. *See Felder*, 848 S.W.2d at 90. The autopsy report and the testimony by Dr. Funte established that Danna was stabbed or cut at least twenty-seven times and that these injuries were the cause of Danna's death. Danna's injuries included fourteen stab wounds to her face, chest, back, left shoulder, left arm, and the palm of her right hand. One of the stab wounds, which was approximately two inches long and two and a half inches deep, was located on the left side of Danna's face and severed several arteries. Danna also sustained a "gaping" stab wound on the right side of her chest. This stab wound, which was over six and a half inches deep, went through Danna's chest wall and penetrated Danna's right lung.

Danna also sustained multiple incised wounds to her left cheek, left eyelid, neck, back, chest, right forearm, and the palm of her right hand. The testimony at trial indicated that the injuries to Danna's forearm and hand were consistent with defensive injuries, indicating that Danna raised her hands in a defensive posture to fend off a weapon. On the left side of Danna's neck, there was a "unique" set of incised wounds that were parallel to each other and evenly spaced. Dr. Funte explained that these wounds suggest that at some point a serrated blade was held against Danna's neck and dragged across her skin.

The evidence also shows that Williams was larger and likely stronger than Danna. Danna's autopsy report indicates that she was approximately five feet tall and weighed 117 pounds at the time of her death. Williams, by contrast, was nine inches taller than Danna and weighed 197 pounds on the day of the murder.

Williams argues that the jury could not have rationally concluded that he intentionally or knowingly killed Danna. Specifically, Williams contends that Flowers's testimony that Williams said he "didn't mean to kill her[.]" if believed, proves that he lacked the requisite culpable mental state to support his conviction for murder. The jury, however, as the exclusive judge of witness credibility and the weight to be given to such testimony, is entitled to accept or reject all or any part of a witness's testimony. *Sharp v. State*, 707 S.W.2d 611, 614 (Tex. Crim. App. 1986); *Jackson v. State*, 483 S.W.3d 78, 81 (Tex. App.—Houston [1st Dist.] 2016, pet. ref'd). The jury, therefore, was free to believe the inculpatory portion of William's statement and to disbelieve the exculpatory portion. *See Trenor v. State*, 333 S.W.3d 799, 809 (Tex. App.—Houston [1st Dist.] 2010, no pet.) (noting that the jury was free to believe or disbelieve all or part of the defendant's statement); *see also Moreno v. State*, No. 01-15-00675-CR, 2016 WL 828195, *6 (Tex. App.—Houston [1st Dist.] Mar. 3, 2016, no pet.) (mem. op., not designated for publication) (concluding that the finder of fact "was free to believe the inculpatory

portion of [the defendant's] statement and to disbelieve the exculpatory portion"). Accordingly, the jury was free to believe that Williams killed Danna, yet at the same time disbelieve that he did not mean to kill her.

Viewing the evidence in the light most favorable to the verdict, we conclude that a rational factfinder could have found beyond a reasonable doubt that Williams intentionally or knowingly killed Danna. *See Jackson*, 443 U.S. at 319; *Temple*, 390 S.W.3d at 360. We overrule Williams's second and third issues.

III. Instructed Verdict

In his fourth issue, Williams argues that the trial court erred in denying his motion for an instructed verdict of not guilty. Specifically, Williams contends that the trial court should have granted his motion for an instructed verdict because there is insufficient evidence to show that he was the person who caused Danna's death and that he intentionally or knowingly killed Danna.

"A motion for instructed verdict is essentially a trial level challenge to the sufficiency of the evidence." *Smith v. State*, No. PD-1615-14, 2016 WL 3193479, *4 (Tex. Crim. App. June 8, 2016). Therefore, "[w]e treat a point of error complaining about a trial court's failure to grant a motion for directed verdict as a challenge to the legal sufficiency of the evidence[.]" and the *Jackson v. Virginia* standard of review applies. *Williams v. State*, 937 S.W.2d 479, 482 (Tex. Crim.

App. 1996). Because we have concluded that the evidence presented at trial is sufficient under *Jackson v. Virginia* to support the jury's findings that Williams caused Danna's death and that he did so intentionally or knowingly, we overrule Williams's fourth issue.

IV. Admissibility of Williams's Recorded Statement

In his fifth issue, Williams argues that the trial court abused its discretion by denying his motion to suppress his videotaped statement and by admitting the statement into evidence. Specifically, Williams contends that his intoxication at the time of his interrogation rendered his statement involuntary and, therefore, inadmissible under Articles 38.21 and 38.22 of the Texas Code of Criminal Procedure.

A. Standard of Review

A trial court's ruling on a motion to suppress is reviewed for an abuse of discretion. *State v. Story*, 445 S.W.3d 729, 732 (Tex. Crim. App. 2014). In reviewing the trial court's ruling, we do not engage in our own factual review. *St. George v. State*, 237 S.W.3d 720, 725 (Tex. Crim. App. 2007). The trial judge is the sole trier of fact and judge of the credibility of the witnesses and the weight to be given to their testimony. *Id.* We give almost total deference to (1) the trial court's determination of historical facts that are supported by the record, and (2)

the trial court's rulings on mixed questions of law and fact that turn on an evaluation of credibility and demeanor. *Gonzales v. State*, 369 S.W.3d 851, 854 (Tex. Crim. App. 2012); *Guzman v. State*, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997). For rulings on mixed questions of law and fact that do not turn on an evaluation of credibility and demeanor, we apply a *de novo* standard of review. *Crain v. State*, 315 S.W.3d 43, 48 (Tex. Crim. App. 2010); *Guzman*, 955 S.W.2d at 89.

When the trial court's determination of historical facts is based on a videotape recording admitted at a suppression hearing, we apply the deferential standard of review set forth in *Guzman* in reviewing that determination. *Montanez v. State*, 195 S.W.3d 101, 109 (Tex. Crim. App. 2006). Thus, "[w]hen there are factual disputes regarding . . . the contents of a videotape, the trial court's findings of historical fact are afforded almost total deference." *Miller v. State*, 393 S.W.3d 255, 263 (Tex. Crim. App. 2012) (internal quotations omitted). However, when evidence is conclusive, such as when a videotape contains "indisputable visual evidence," then any findings by the trial court that are inconsistent with that conclusive evidence may be disregarded as unsupported by the record, even when that record is viewed in a light most favorable to the trial court's ruling. *Id.* (quoting *Tucker v. State*, 369 S.W.3d 179, 187 (Tex. Crim. App. 2012) (Alcala, J.,

concurring)); *see also Carmouche v. State*, 10 S.W.3d 323, 332 (Tex. Crim. App. 2000) (refusing to defer to trial court's fact findings where "indisputable visual evidence" contained in a videotape contradicted those findings).

When the trial court makes explicit fact findings, we consider whether the evidence, when viewed in the light most favorable to the trial court's ruling, supports those findings. *State v. Kelly*, 204 S.W.3d 808, 818 (Tex. Crim. App. 2006). When the trial court does not make explicit fact findings, we must imply the necessary fact findings that would support the trial court's ruling if the evidence, when viewed in the light most favorable to the trial court's ruling, supports those implied findings. *Id.* at 818-19. We then review the trial court's legal ruling *de novo* unless the trial court's explicit fact findings that are supported by the record are also dispositive of the legal ruling. *Id.* at 819. We must uphold the trial court's ruling if it is supported by the record and correct under any theory of law applicable to the case, even if the trial court gave the wrong reason for its ruling. *See Estrada v. State*, 154 S.W.3d 604, 607 (Tex. Crim. App. 2005).

As a general rule, appellate courts limit their review of a trial court's suppression ruling to an examination of the evidence produced at the suppression hearing because the ruling was based on it rather than evidence introduced later. *Rachal v. State*, 917 S.W.2d 799, 809 (Tex. Crim. App. 1996). However, because

the record establishes that the trial court conducted the hearing on Williams's motion to suppress beginning on the third day of trial, we will consider all of the evidence that was before the trial court at the time of its ruling. *See id.*; *see also Statin v. State*, Nos. 01-11-00651-CR, 01-11-00652-CR, 2013 WL 2456716, at *4 (Tex. App.—Houston [1st Dist.] June 6, 2013, pet. ref'd) (mem. op. on reh'g, not designated for publication) (reviewing all evidence before the trial court at the time of its ruling, including evidence introduced at trial, where suppression hearing was conducted following the State's case-in-chief at trial); *Matus v. State*, No. 10-08-00149-CR, 2011 WL 1166383, *9 (Tex. App.—Waco Mar. 30, 2011, pet. ref'd) (mem. op., not designated for publication) (reviewing all evidence before the trial court at the time of its ruling, including evidence introduced at trial, where suppression hearing was held at the end of the first day of trial after two witnesses had already testified).

B. Applicable Law

“A statement of an accused may be used in evidence against him if it appears that the same was freely and voluntarily made without compulsion or persuasion, under the rules hereafter prescribed.” Tex. Code Crim. Proc. Ann. art. 38.21 (West 2005). A statement can be deemed involuntary and thus inadmissible under three different theories: (1) that it was made in violation of the Due Process

Clause; (2) that it does not comply with the dictates of *Miranda v. Arizona*, 384 U.S. 436 (1966), as expanded in Article 38.22, sections 2 and 3; and (3) general involuntariness under Article 38.22, section 6 of the Texas Code of Criminal Procedure. *Oursbourn v. State*, 259 S.W.3d 159, 169 (Tex. Crim. App. 2008); *Wolfe v. State*, 917 S.W.2d 270, 282 (Tex. Crim. App. 1996). A statement by an accused may be involuntary under the Due Process Clause only when there is police overreaching. *Oursbourn*, 259 S.W.3d at 169. Thus, even when a statement “is not the product of a meaningful choice (for example, when it is made in response to hallucinations or to a private person’s threat), it is nonetheless ‘voluntary’ within the meaning of the Due Process Clause absent some coercive police activity.” *Id.* at 169-70. Similarly, a claim of involuntariness under *Miranda* requires some form of police overreaching or governmental coercion. *Id.* at 170-71; *see also Leza v. State*, 351 S.W.3d 344, 349 (Tex. Crim. App. 2011) (“Before it may be said that a waiver of a *Miranda* right is involuntary, . . . there must be some element of official intimidation, coercion, or deception.”).

By contrast, a claim of general involuntariness under Article 38.22, section 6 is not required to be predicated on police overreaching or coercion. *Oursbourn*, 259 S.W.3d at 172; *see* Tex. Code Crim. Proc. Ann. art. 38.22 (West Supp. 2016). Under Article 38.22, section 6, a claim of involuntariness can also be based on

“[c]ircumstances unattributable to the police that nevertheless adversely impact an accused’s ability to resist reasonable police entreaties to waive his statutory rights[.]” *Leza*, 351 S.W.3d at 352. Factors that are relevant to a general involuntariness inquiry under Article 38.22 include illness, intoxication, effects of medication, youth, mental retardation, and threats by private actors. *Id.*; *Oursbourn*, 259 S.W.3d at 172-73. These factors, however, are usually not enough, by themselves, to render a statement inadmissible under Article 38.22. *Leza*, 351 S.W.3d at 352; *Oursbourn*, 259 S.W.3d at 173. Thus, intoxication, while relevant, does not render a statement involuntary per se. *Jones v. State*, 944 S.W.2d 642, 651 (Tex. Crim. App. 1996). Instead, when the record reflects evidence of narcotics, medications, or other mind-altering intoxicants, the question becomes whether those intoxicants prevented the defendant from making an informed and independent decision to make the statement. *Paolilla v. State*, 342 S.W.3d 783, 792 (Tex. App.—Houston [14th Dist.] 2011, pet. ref’d); *see also Jones*, 944 S.W.2d at 651 (“[T]he question becomes whether the defendant’s intoxication rendered him incapable of making an independent, informed decision to confess.”); *Saldana v. State*, 59 S.W.3d 703, 712 (Tex. App.—Austin 2001, pet. ref’d) (quoting *Nichols v. State*, 754 S.W.2d 185, 190 (Tex. Crim. App. 1988) (explaining that the central question is the extent to which the accused was deprived of his faculties due to the

intoxication). We evaluate whether the statement was voluntary by examining the totality of the circumstances. *Wyatt v. State*, 23 S.W.3d 18, 23 (Tex. Crim. App. 2000) (quoting *Penry v. State*, 903 S.W.2d 715, 744 (Tex. Crim. App. 1995)).

C. The Evidence and Findings

Prior to trial, Williams filed two motions to suppress his recorded statement and a motion to determine the admissibility of the statement, arguing, among other things, that the statement was involuntary and obtained in violation of Article 38.22. Williams did not obtain a hearing or a ruling on those motions prior to trial. However, on the third day of trial, when the State attempted to question Detective Duchamp about Williams's recorded statement to police, Williams objected, stating that he had "filed a [*Jackson v. Denno*] motion for voluntariness of [the] statement" and requested a hearing outside the presence of the jury. Thereafter, the trial court excused the jury and conducted a suppression hearing on the voluntariness of the recorded statement.

As noted, the trial court heard testimony from Flowers³ that on the night of March 30th, after she and Williams received the phone call from K-1 and drove to

³ Flowers did not testify at the suppression hearing, but she testified at trial prior to the suppression hearing. Her testimony was therefore before the trial court at the time of its ruling on the admissibility of the recorded statement. Accordingly, we may consider the relevant portions of Flowers's testimony in reviewing the trial

the scene of the murder, they returned to the Deluxe Inn. At the motel, Flowers observed Williams smoke embalming fluid. Flowers did not identify how much embalming fluid Williams smoked, but she testified that he smoked more than she had ever seen him smoke before. Flowers also testified that Williams's friends, Todd and Maxine, came to the motel room that night and made Williams take "some pills[.]" Flowers did not identify what kind of pills they gave to Williams or the quantity of pills that Williams ingested. After Williams took the pills, Williams's friends left the motel room, and Williams fell asleep. Williams was stopped by police shortly after 1:30 or 2:00 p.m. on March 31st and was taken to the police station, where he gave his recorded statement.

Flowers did not identify what time Williams ingested the embalming fluid or the pills on the night of March 30th. She testified only that it happened while they were at the Deluxe Inn, after she and Williams returned from the crime scene. The video from the camera mounted in one of the police cruisers that was parked at the crime scene that night was admitted at trial prior to the suppression hearing. The video shows Williams at the crime scene speaking to Officer Hawthorne at 12:07 a.m. Thus, according to the timeline established by Flowers's testimony, Flowers

court's suppression ruling. *See Rachal*, 917 S.W.2d at 809; *Statin*, 2013 WL 2456716, at *4; *Matus*, 2011 WL 1166383, at *9.

observed Williams ingest the embalming fluid and pills at some point after 12:07 a.m. on the night before he gave his recorded statement.

The record reflects that the trial court also viewed the video of Williams's recorded statement for purposes of the suppression hearing. The video of Williams's recorded statement is approximately one hour and forty-two minutes in length.⁴ The video shows Williams in an office, unhandcuffed and sitting across a desk from Detective Duchamp. At the beginning of the interview, Detective Duchamp reads Williams his rights under Article 38.22, section 2(a), and Williams affirmatively states that he understands each of those rights. Detective Duchamp then asks Williams if he will agree to waive his rights and talk to the detectives, and Williams responds, "I want to talk to you right now." Detective Duchamp and a second detective, Detective Alfaro, then proceed to interview Williams.

In the video, Williams appears calm during much of the interview. At several points, however, he appears to become agitated and restless. On two occasions, his behavior escalates to the point of becoming aggressive and violent,

⁴ The record on appeal includes only a redacted version of the video of Williams's recorded interview. This redacted version of the interview is the version that was ultimately admitted into evidence and played for the jury, and it is approximately one hour and forty-two minutes in length. The record reflects that the unredacted version of the video, which is the version of the interview that the trial court reviewed for purposes of the suppression hearing, is approximately two hours and thirty-five minutes in length.

and the video shows Williams shouting, leaning over and hitting the detective's desk, and falling to the floor multiple times. Both episodes, however, are brief, and after each one, Williams calmly resumes his responses to the detectives' questions. Williams also behaves bizarrely or inappropriately at certain points in the video. For example, on a couple of occasions, Williams laughs and attempts to make jokes with the detectives and, at times, he makes odd or exaggerated movements with his arms and legs. Throughout the interview, however, Williams appears to understand the detectives' questions, and his responses throughout the interview are coherent and appropriately address the substance of the questions asked.

Approximately one hour into the interview, Williams informs the detectives that he is "getting sleepy" and is "coming down hard," and at one point, states that he is "on a rollercoaster right now." In response, Detective Alfaro asks Williams if he is "coming off of something" or if he has "been drinking" or "blowing some stuff," and Williams responds, "I told you, I've been up, man." Detective Alfaro then asks Williams if he had done "any wet or lean"⁵ that day or the night before,

⁵ "Wet" is a term used to refer to a tobacco or marijuana cigarette that has been dipped in PCP (phencyclidine) or embalming fluid and then dried. *See* U.S. Dept. of Justice, *FRY Fast Facts: Questions and Answers*, <https://www.justice.gov/archive/ndic/pubs11/12208/12208p.pdf> (last visited Sept. 27, 2016). The term "lean" is used to refer to a drink made with a codeine-based cough syrup. *See* NATIONAL INSTITUTE ON DRUG ABUSE,

and Williams shakes his head, indicating that he had not. Detective Alfaro then asks Williams if he stayed up all night partying, and Williams nods his head affirmatively.

After viewing the recorded statement, the trial judge made the following comments on the record during the hearing:

THE COURT: Yesterday[,] when we recessed for the evening, the Court was tendered a copy of this video that is identified as State's Exhibit 49 and reviewed it and it is 2 hours and 35 minutes and some change. And the Court watched that whole thing last night . . . and the Court will describe what it saw this way: It was about 8 to 10 minutes at the beginning of what this Court perceives as dialogue and conversation between the defendant and this witness and some others[,] then about 10 minutes in, the warnings under 38.22 are then given. . . .

The defendant proceeds with going forward and urges to go forward with the questioning, and then at about 37 minutes there is a problem because the defendant -- really in two and a half minutes the Court will, you know, observe the defendant to exhibit emotional states across the board from docile and passive to agitated and angry. He several times throws himself onto the ground. He hits things over this two and a half hours that are objects in the room. He shouts. He's quiet. He's laughing. He's angry. And there's a lot of flatulence. He points out that he has gas and throughout the first hour there's a lot of flatulence[.] . . . [H]is state is perceived by this Court's experience to be almost drunken[-]like, but from what we've heard could very well be a product of ingestion of embalming fluid, which this Court's experience in 33 years, such will cause delusions, bizarre behavior, a complete transcendence of emotional states from agitation to calmness back and forth and quick changes in emotional states[.] . . . [O]n the

<https://www.drugabuse.gov/publications/drugfacts/cough-cold-medicine-abuse>
(last visited Sept. 27, 2016).

tape the 38.22 warnings are given literally word for word, they don't even have to be word for word, but they were almost literally, if not, word for word as I followed with it. And the defendant on two occasions that this Court saw made statements of: "I don't want to talk" and then immediately wanted to talk, which are again, exhibits of possibly formaldehyde ingestion or whatever, but it was a very bizarre appearance, not knowing the man before, comparing today and the last days of this Court, the defendant's appearance and composure on these two and a half hours was Dr. Jekyll vs[.] Mr. Hyde, very different.

During the suppression hearing, the trial court also heard testimony from Detective Duchamp. Detective Duchamp testified that on March 31st, the day after the murder, he came into contact with Williams and asked him if he would voluntarily come to the police station to give a statement. Williams agreed and voluntarily rode to the police station in Detective Duchamp's patrol unit. When they arrived at the police station, Detective Duchamp took Williams to a room to interview him. Before the interview began, Detective Duchamp turned on a video camera and read the *Miranda* warnings to Williams. Williams verbally indicated that he understood his rights as they were read to him. Detective Duchamp then asked Williams if he would agree to waive his rights and speak with the detectives, and Williams voluntarily agreed to do so.

On cross-examination, Detective Duchamp described Williams's behavior during the interview as "erratic[.]" He testified that Williams appeared to be in an

“agitated state” at times during the interview and that he had to tell Williams to sit down at least five times “to keep him from becoming aggressive” and “to prevent any violence from happening.” At one point, Williams was “banging on things” and “hitting [the] desk.” According to Detective Duchamp, Williams was arrested at the end of the interview, not for Danna’s murder, but for assault on a police officer, although he did not describe the assault or how it occurred. When asked whether he thought Williams was “[h]igh on something” during the interview, Detective Duchamp responded, “[p]ossibly.”

At the conclusion of the suppression hearing, the trial judge indicated that he would permit a redacted version of the recorded statement to be admitted into evidence and made several oral findings, which included the following:

THE COURT: . . . [T]his Court finds after reviewing State’s Exhibit 49 and the laws applicable under 38.22 as follows, that the requirements under 38.22 have been followed in this particular -- in the circumstances of this particular case as -- under certain conditions.

No. 1, that the statement was made in a video electronic tape form that at approximately 13 minutes into what we see the reading to the accused of the warnings provided in 38.22[,] Section 2, which other people refer to generally as the Miranda warning, but they are specific under this statute, were provided literally word for word and that the witness has provided who the voices are on the recording and have identified them and it is obvious by watching the defendant that he -- even though he is acting bizarre in his emotional states, he -- from the beginning of the video his expressions were of he wanted to get to the bottom of the issue concerning April Danna and he was anxious to discuss the matter and -- but again, for two and a half hours

we see an emotional roller coaster from peace to great agitation and violence, back and forth, back and forth, and -- and again, it is an appearance of a drunken-like state, based upon the evidence as we know that exists, may very well have been a product of ingestion of embalming fluid or formaldehyde that has been testified in this case. Such does exhibit the manifestations that the defendant showed in this exhibit.

.....

Now, I am going to make further findings. This Court will find also as follows: That notwithstanding Article 38.22 requirements[,] that State's Exhibit 49, the video of the interview, is also admissible because it, from this Court's information, appears to be voluntarily made. The defendant asserts numerous times he wants to talk. He wants -- and he is urging the questioners, move on, let's go, let's ask me more questions. And according to this witness[,] . . . there is nothing to refute the record that shows that the defendant voluntarily went with the officers and met with them and provided this statement[.]

Following its ruling on the suppression motion, the trial court admitted a redacted version of the recorded statement into evidence, while noting the objections made by Williams during the hearing. The redacted version of the recorded statement was later played for the jury.

D. Application of the Law to Facts

On appeal, Williams argues that “[t]he trial court clearly found [Williams] to be in such a state of intoxication that he was unable to voluntarily provide a statement[.]” yet the trial court “inexplicably found his statement to be voluntarily given.” Williams contends that these findings are contradictory and that the trial

court therefore abused its discretion by denying his motion to suppress and admitting his statement into evidence. We disagree that this is an accurate characterization of the trial court's findings.

Although the trial court expressly found that Williams appeared to be in a "drunken-like state" during the interview and that his condition "may very well have been a product of ingestion of embalming fluid or formaldehyde[,] "the trial court did not find that Williams was so intoxicated that he could not voluntarily provide a statement to the police. To the contrary, the trial court expressly found that Williams's statement to the police was voluntarily given. Therefore, the trial court necessarily found that Williams's intoxication, if any, did not render him incapable of making an independent, informed decision to waive his rights and speak to the police at the time of the interview.

Detective Duchamp testified that on the day after the murder, Williams voluntarily agreed to go to the police station with Detective Duchamp and give a statement to the police. Once they arrived at the police station, Detective Duchamp advised Williams of his rights, and Williams stated that he understood those rights and wanted to talk to the detectives. The video of Williams's recorded statement supports this testimony, showing that Williams was advised, nearly word-for-word,

of his statutory rights under Article 38.22 and that Williams affirmatively indicated that he understood those rights and wanted to proceed with the interview.

Although Williams had episodes of bizarre or aggressive behavior during the interview, the video shows Williams behaving in a relatively calm and cooperative manner for much of the interview. In addition, the video shows that, throughout the entire interview, Williams is awake and coherent and, by all appearances, fully understands the detectives' statements and questions. There is no indication in the video that Williams is unable to follow or comprehend the warnings read to him or the questions asked by the detectives, and there is no indication that Williams has any trouble formulating his answers. For the most part, Williams's responses to the detectives' questions are prompt, logical, and appropriately address the substance of the questions asked. He is able to describe certain events that occurred on the previous day, who he was with at various times, what he was wearing, and why he did certain things. In addition, at one point, Williams decides not to answer Detective Duchamp's questions about a prior incident during which he chased Danna after they had an argument, which suggests that he was able to recognize and avoid discussion of a subject that could potentially lead to the conclusion that he had a violent history with Danna.

While there is some evidence that Williams smoked embalming fluid on the night before he gave his statement, there is no evidence to demonstrate the specific amount of embalming fluid that he smoked or how much time transpired between the time he smoked the embalming fluid and the time that he arrived at the police station the next day. Similarly, although there is some evidence that Williams ingested some type of unidentified pills on the night before he gave the statement, there is no evidence to show what type of pills he took, the quantity of pills that he took, or how much time elapsed between the time he took the pills and the time he gave his statement. There is also no evidence regarding the effect of either substance on an individual who is similar in size and circumstance to Williams. In sum, Williams points to no evidence in the record showing that he was influenced by intoxicants to such an extent during the interview that he could no longer understand what was happening or make an informed decision about whether to speak to the detectives.

Viewing the totality of the circumstances, we conclude that the evidence before the trial court at the time of its ruling supports the trial court's implicit finding that Williams's intoxication, if any, did not render him incapable of making an independent, informed decision to waive his rights and speak to the police. *See, e.g., Saldana*, 59 S.W.3d at 712-13 (concluding that trial court did not

err in admitting confession into evidence where evidence showed that defendant had ingested cocaine, but police officers who interrogated the defendant testified that he did not appear intoxicated, the record showed that the defendant was able to comprehend that intoxication serves as a defense to criminal actions in certain situations, and the defendant was coherent enough to make the decision that he did not want to call an attorney because it would be too expensive); *Pena v. State*, 832 S.W.2d 697, 700 (Tex. App.—Corpus Christi 1992, pet. ref'd) (concluding that the trial court did not err in overruling the motion to suppress the defendant's confession where the record failed to show how the defendant's cocaine intake rendered him incapable of making an independent and informed decision to confess); *see also Akout v. State*, No. 05-13-01432-CR, 2015 WL 4362392, at *1, 3 (Tex. App.—Dallas July 16, 2015, no pet.) (mem. op., not designated for publication) (concluding that the trial court did not err in overruling motion to suppress confession, even though detective testified that he “‘could tell [the defendant] had been drinking’” and a video of the interview showed the defendant asking to use the restroom, asking for coffee, mumbling to himself, and falling asleep in his chair, where the record contained no evidence that the defendant lacked an understanding of what he had done, of his rights, or of the significance of waiving those rights and giving a statement). Therefore, we conclude that the trial

court did not err by denying Williams's motion to suppress and admitting his recorded statement into evidence. Williams's fifth issue is overruled.

Having overruled each of Williams's issues on appeal, we affirm the judgment of the trial court.

AFFIRMED.

CHARLES KREGER
Justice

Submitted on December 29, 2014
Opinion Delivered September 28, 2016
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Before Kreger, Horton, and Johnson, JJ.