

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,)	
)	Case No. S 104144
Plaintiff and Respondent,)	
)	(Capital Case)
v.)	
)	
)	Contra Costa County Case No.990453-3
)	
JOSEPH ANDREW PEREZ, JR.)	
)	
Defendant and Appellant.)	
)	

APPELLANT'S PEREZ'S MOTION FOR JUDICIAL NOTICE

TO: THE HONORABLE TANI GORRE CANTIL-SAKAUYE, PRESIDING JUSTICE,
AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT
OF CALIFORNIA:

Appellant hereby requests that this Court take judicial notice of the following document, attached herein as Exhibit 1, pursuant to Evidence Code §§ 452(c),(g) and (h), as authorized at this stage of the proceedings by Evidence Code § 459:

Contra Costa County Coroner’s Office, *Report of Autopsy CR 98-0451*, dated March 26, 1998.

See Dixon v. Superior Court (2009) 170 Cal.App.4th 1271, 1278 [an autopsy report is a public record]; see also *People v. Castillo* (2010) 49 Cal.4th 145, 157 [a court may take judicial notice of a public record when it does not consider the record for the truth of matters stated therein”].

Dated: September 28, 2017

Respectfully submitted,

/s/ A. Richard Ellis

A. RICHARD ELLIS
ATTORNEY FOR APPELLANT

DECLARATION OF SERVICE BY MAIL

I, A. RICHARD ELLIS, hereby declare that I am a citizen of the United States, over the age of eighteen, an active member of the State Bar of California, and not a party to the within action. My business address is 75 Magee Ave, Mill Valley, California 94941.

On September 28, 2017 I served the within

APPELLANT'S PEREZ'S MOTION FOR JUDICIAL NOTICE

by e-filing it with the Court. The document was also served on the interested parties in said action listed below, by placing a true and correct copy of the same in a sealed envelope, with 1st class postage affixed thereto, and placing the same in the United States Mail, addressed as follows:

John H. Deist
Deputy Attorney General
Office of the Attorney General of the State of California
California Department of Justice
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102-7004

California Appellate Project
101 2nd Street, Ste. 600
San Francisco, CA 94105

Mr. Joseph Perez
T-42655
San Quentin State Prison
San Quentin, CA 94974

Douglass MacMaster
Acting District Attorney
Contra Costa County District Attorney's Office
P.O. Box 670
Martinez, CA 94553

Clerk of the Court
Contra Costa County Superior Court
Wakefield Taylor Courthouse
725 Court Street
Martinez, CA 94553-1233

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed at Mill Valley, California, on September 28, 2017.

/s/ A. Richard Ellis

A. RICHARD ELLIS

EXHIBIT 1

Contra Costa County Coroner's Office,
Report of Autopsy CR 98-0451,
dated March 26, 1998.

CONTRA COSTA COUNTY CORONER'S OFFICE

WARREN E. RUPF, SHERIFF-CORONER

NAME: DAHER, Janet

REPORT OF AUTOPSY CR 98-0451

POSTMORTEM AT: Central Morgue

DATE: 03/26/98

PLACE OF DEATH: Lafayette, CA

DATE: 03/24/98

TIME: Unk. HRS.

AGE: 46

SEX: Female

RACE: White

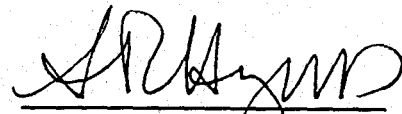
ANATOMIC DIAGNOSES

1. Ligature Strangulation.
 - a. Phone cord wrapped three times around each wrist, extending across the back from right hip to left shoulder and around neck.
 - b. Phone cord embedded in neck with pattern furrow on left side of the neck and abrasion on the right side and back of the neck.
 - c. Tongue protruding from mouth.
 - d. Hemorrhage, petechial hemorrhages, and edema of periorbital soft tissues.
 - e. Bilateral scleral hemorrhages.
2. Stab and cutting wound to right side of the neck (stab wound "A").
3. Four stab wounds to left side of the chest (stab wounds "B, C, D and E").
4. Ten stab wounds to the back of the chest (stab wounds "F, G, H, I, J, K, L, M, N and O").
5. Cutting wound to front of left arm (cutting wound "P").
6. Other injuries.
 - a. Abrasions left side of the face.

CAUSE OF DEATH: Ligature Strangulation and Multiple Stab and Cutting Wounds

SRH/ica

Date: 4/22/98


Susan R. Hogan, M.D.
Forensic Pathologist

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EXTERNAL EXAMINATION

The body is that of a well developed, well nourished, white female, who appears consistent with the reported age of 46 years. The body measures 65 inches and weighs 140 pounds. The body is clothed in a navy blue sweat shirt, a black and white striped t-shirt, a white bra, black jeans, white panties, white socks and black loafer shoes. There are diamond and gold earrings and a Rolex watch on the body. Rigor mortis is fully developed. The body is cold and lividity is anterior except over pressure points. The scalp hair is tinted red and straight. The irides are brown, the cornea are clear, and the sclerae and conjunctivae are remarkable for hemorrhages in the lateral aspects of both sclerae. Injuries to the face are noted below. The ears, nose and mouth contain blood. The nasal skeleton and facial bones are palpably intact. The lips are without evidence of injury. The teeth are natural and in good condition. The tongue is clenched in the teeth and protrudes from the mouth approximately 1/4 inch. Injuries to the neck and chest are noted below. The abdomen is scaphoid. Surgical scars are not noted. The external genitalia are those of a adult female. Injuries to the extremities are noted below. The fingernails are intact. Tattoos are not noted. Needle tracks are not noted. Injuries to the posterior torso are noted below.

EVIDENCE OF THERAPY:

None.

EVIDENCE OF INJURY**LIGATURE STRANGULATION:**

There is a coiled phone line embedded in the deceased neck showing superior angulation. The phone line is wrapped once around the victims neck starting from the left side of the neck, coming around the front of the neck and then around the right side of the neck and to the back of the neck where there is one loose end of the phone line. The other end of the phone line tracks across the deceased back in a diagonal direction from the left shoulder to the right hip and then wraps around the wrists, three times around each wrist. The hands are behind the back and the phone cord comes from the back around the right wrist then the left in a figure-8 fashion for three times. There are patterned furrows in each wrist from the cord. There is a patterned furrow in the deceased neck. The furrow is 1/8 inch deep on the left side of the neck and is 1/4 inch wide. The furrow is situated 8 inches below the top of the head on the left side of the neck, the right side of the neck, and the back of the neck. The furrow is situated 10 1/2 inches below the top of the head in the midline of the front of the neck. While the furrow is 1/8 inch deep on the left side of the neck it consists of an abrasion only on the right side of the neck and the back of the neck. There are petechial hemorrhages and edema in the bilateral periorbital soft tissues. There are large hemorrhages involving the lateral half of the sclera in each eye. The tongue protrudes approximately 1/4 inch from the mouth. These findings are consistent with ligature strangulation.

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STAB AND CUTTING WOUNDS:

These stab and cutting wounds are labeled "A" through "P", for purposes of identification only.

STAB AND CUTTING WOUND "A":

There is a deep cutting wound to the right side of the neck which is situated 6 inches below the top of the head on the superior and 8 ½ inches below the top of the head on the inferior end. It is oriented parallel to the long axis of the body. The cutting wound is 4 inches in length. 1 ¼ inches from the superior end of the cutting wound there is a ½ wide stab wound which is 1 ¾ inches deep. On the inferior border of the cutting wound at the level of the stab wound there is a 5/8 inch abrasion. When approximated both borders of the cutting wound are sharp. The stab wound path is directed right to left, front to back, and downward. The stab wound penetrates the skin and soft tissues of the right side and the back of the neck.

STAB WOUND "B":

There is a deep penetrating stab wound to the right side of the torso, situated 17 inches below the top of the head and 8 ½ inches to the left of the anterior midline. It is oriented at an oblique angle. The stab wound entry is 7/8 inch long and approximately 1/4 inch wide. When approximated both borders are sharp. There is no abrasion on the edges of the entry wound. The stab wound path is directed left to right, back to front and slightly downward. The stab wound path penetrates the skin and soft tissues of the left side of the chest and is approximately 1 ½ inches deep.

STAB WOUND "C":

There is a deep penetrating stab wound to the left side of the chest situated 19 inches below the top of the head and 7 ½ inches to the left of the anterior midline. It is oriented at an oblique angle. The stab wound entry is 5/8 inch long and approximately 1/8 inch in width. When approximated both borders are sharp. There are no abrasions on the borders of the entry wound. The stab wound path is directed left to right, back to front and slightly downward. The stab wound path penetrates the skin and soft tissues of the left side of the chest and the 6th left rib on the lateral aspect. The wound is approximately 1 ½ inches deep.

STAB WOUND "D":

There is a deep penetrating stab wound to the left side of the chest. The wound of entry is situated 19 inches below the top of the head and 8 inches to the left of the anterior midline. It is oriented at an oblique angle. The stab wound entry is 5/8 inch in length and approximately 1/8 inch in width. When approximated both borders are sharp. There are no abrasions on the edges of the entry wound. The stab wound path is directed left to right, back to front, and slightly downward. The stab wound path penetrates through the

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skin and soft tissues through the left side of the chest, and the lateral aspect of the 7th left rib. The wound is approximately 1 ½ inches deep.

STAB WOUND "E":

There is a deep penetrating stab wound to the left side of the chest. The wound of entry is situated 21 inches below the top of the head and 9 ½ inches to the left of the anterior midline. It is oriented at an oblique angle. The stab wound of entry is ¾ inch long and approximately 1/8 inch wide. When approximated both borders are sharp. There are no abrasions on the edges of the entry wound. The stab wound path is directed left to right, back to front, and slightly downward. The stab wound path penetrates through the skin and soft tissues of the left side of the chest, the 9th left rib, and the lower lobe of the left lung for approximately 1 inch. The depth of the stab wound is approximately 2 ½ inches.

STAB WOUND "F":

There is a deep penetrating stab wound to the back of the left shoulder. The wound of entry is situated 9 inches below the top of the head and 2 inches to the left of the posterior midline. The wound is oriented parallel to the long axis of the body. The stab wound entry is 1 ¼ inches in length and approximately ¼ inch in width. When approximated both borders are sharp. There is a ¼ inch abrasion along the lower edge of the wound. The stab wound path is directed left to right, back to front, and upward. The stab wound path penetrates through the skin and soft tissues of the left shoulder, the left external jugular vein, the left carotid artery, the left lobe of the thyroid gland and the left side of the trachea. The wound is approximately 3 ¼ inches deep.

STAB WOUND "G":

There is a deep penetrating stab wound to the left side of the back. The wound of entry is situated 8 1/8 inches below the top of the head and crosses the midline of the back. It is oriented at an oblique angle. The stab wound entry is 1 ¼ inches in length and approximately ¼ inch in width. When approximated both borders are sharp. There are no abrasions on the edges of the wound. The stab wound path is directed, left to right, back to front, and slightly upward. The stab wound path penetrates through the skin and soft tissues of the back and is approximately 1 ¼ inch in depth.

STAB WOUND "H":

There is a deep penetrating stab wound to the midline of the back. The wound of entry is situated 10 inches below the top of the head and crosses the midline. It is oriented at an oblique angle. The stab wound entry is ¾ inch long and approximately ¼ inch in width. When approximated both borders are sharp. There are no abrasions on the edges of the entry wound. The wound path is directed left to right, back to front, and slightly upward. The stab wound path penetrates through the skin and soft tissues of the back and is approximately 1 ¾ inch deep.

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STAB WOUND "I":

There is a deep penetrating stab wound to the right side of the back. The wound of entry is situated 10 1/4 inches below the top of the head and 1 inch to the right of the posterior midline. The wound is oriented parallel to the long axis of the body. The stab wound entry is 1 1/4 inch in length and approximately 1/4 inch in width. When approximated both borders are sharp. There are no abrasions on the edges of the entry wound. The stab wound path is directed right to left, back to front, and downward. The stab wound path penetrates through the skin and soft tissues of the right side of the back, the right ribs 1 and 2 on the posterior aspect, and the upper lobe of the right lung where it penetrates approximately 1 inch. The stab wound is approximately 4 inches in depth.

STAB WOUND "J":

There is a deep penetrating stab wound to the left side of the back of the chest. The wound of entry is situated 13 1/2 inches below the top of the head and 2 inches to the left of the posterior midline. It is oriented parallel to the long axis of the body. The stab wound entry is 1 1/4 inches in length and approximately 1/4 inch in width. When approximated both borders are sharp. There is a 1/8 inch linear abrasion on the superior border which is oriented perpendicular to the stab wound. The stab wound path is directed back to front, left to right, and slightly downward. The stab wound path penetrates through the skin and soft tissues of the left side of the back of the chest, the 6th left rib on the posterior aspect, and the lower lobe of the left lung for approximately 1 inch. The depth of the stab wound is approximately 5 inches.

STAB WOUND "K":

There is a deep penetrating stab wound to the left side of the back of the chest. The wound of entry is situated 14 inches below the top of the head and 1 inch to the left of the posterior midline. It is oriented parallel to the long axis of the body. The stab wound entry is 1 1/2 inches long and approximately 1/4 inch in width. When approximated both borders are sharp. 1/4 inch to the right of the superior border of the stab wound there is a 1/4 inch square abrasion in the surrounding skin. The stab wound path is directed left to right, back to front, and slightly downward. The stab wound path penetrates the skin and soft tissues of the left side of the back of the chest, the 7th left rib on the posterior aspect, and the lower lobe of the left lung for approximately 1 inch. The stab wound depth is approximately 5 inches.

STAB WOUND "L":

There is a deep penetrating stab wound to the left side of the back of the chest. The wound of entry is situated 15 inches below the top of the head and 1/2 inch to the left of the posterior midline. It is oriented parallel to the long axis of the body. The stab wound on entry is 1 3/8 inches long and approximately 1/4 inch in width. There is a 1/4 inch square abrasion on the superior border of the wound. There is also a 3/8 inch square abrasion

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1/4 inch to the right of the wound in the surrounding skin. When approximated both borders are sharp. The stab wound path is directed left to right, back to front and slightly downward. The stab wound path penetrates the skin and soft tissues on the left side of the back, the 9th left rib on the posterior aspect and the lower lobe of the left lung for approximately 1/2 inch. The wound is approximately 4 inches deep.

STAB WOUND "M":

There is a deep penetrating stab wound to the right side of the back of the chest. The wound of entry is situated 12 inches below the top of the head and 1/4 inch to the right of the posterior midline. It is oriented parallel to the long axis of the body. The stab wound entry is 1 1/4 inches long and approximately 1/4 inch in width. When approximated both borders are sharp. There is a 1/4 inch linear abrasion in the surrounding skin at the superior border of the wound. The stab wound path is directed back to front, toward the right, and slightly downward. The stab wound path penetrates through the skin and soft tissues of the right side of the back, the 5th and 6th right ribs on the posterior aspect and the lower lobe of the right lung for approximately 2 inches. The depth of the wound is approximately 5 inches.

STAB WOUND "N":

There is a deep penetrating stab wound to the right side of the back of the chest. The wound of entry is situated 15 inches below the top of the head and 2 1/2 inches to the right of the posterior midline. It is oriented at an oblique angle. The stab wound entry is 1 1/4 inches in length with a 1/4 inch long curved end to the inferior border of the wound. This curved end is consistent with the knife being turned while it is in the wound. There is a 1/4 inch linear abrasion in the surrounding skin at the superior border of the wound. When approximated both borders are sharp. The stab wound path is directed toward the right, back to front, and slightly downward. The stab wound path penetrates through the skin and soft tissues of the right side of the back of the chest, the 8th and 9th ribs on the posterior aspect, and the lower lobe of the right lung for approximately 1/2 inch. The depth of the stab wound is approximately 4 inches.

STAB WOUND "O":

There is a deep penetrating stab wound to the right side of the back of the chest. The wound of entry is situated 15 1/4 inches below the top of the head and 3 1/2 inches to the right of the posterior midline. It is oriented at an oblique angle. The stab wound entry is 1 1/4 inches long and approximately 1/4 inch in width. When approximated both borders are sharp. There are two abrasions on the lateral edge of the wound which are situated respectively 3/8 inch from the superior and inferior borders of the wound. There is a 1/4 inch square abrasion in the surrounding skin located 1/4 inch in the medial direction from the superior border of the wound. The stab wound path is directed toward the right, back to front, and slightly downward. The stab wound path penetrates through the skin and soft tissues of the right side of the back of the chest, the 7th, 8th, 9th, and 10th ribs on t

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posterior border, and the lower lobe of the right lung for approximately 2 inches. The stab wound depth is approximately 5 ½ inches.

CUTTING WOUND "P":

There is a cutting to the front of the left arm. The wound of entry is located 6 inches distal to the point of the left shoulder. The cutting wound is 1 ¼ inch in length. The wound is oriented perpendicular to the long axis of the body. The wound penetrates the skin of front of the left arm and is less than ¼ inch in depth.

ASSOCIATED INJURIES:

Associated with the stab wounds to the chest there is 200 ml of fluid and clotted blood in the left pleural cavity and 400 ml of fluid and clotted blood in the right pleural cavity.

OTHER INJURIES:

There is a ¾ x ¼ inch irregularly shaped abrasion just lateral to the left eyebrow, situated 2 ½ inches below the top of the head and 2 ½ inches to the left of the anterior midline. There are two abrasions on the left cheek, situated 4 inches below the top of the head and 2 inches to the left of the anterior midline. These abrasions are ¼ inch in greatest dimension and triangular in shape. These three marks are consistent with *rug-burns*.

INTERNAL EXAMINATION

BODY CAVITIES:

The body is opened by the usual Y-shaped and intermastoid incisions and the chest plate is removed. There are no adhesions in the pericardial, pleural or peritoneal spaces. There is bilateral hemothorax as noted above. All body organs are in normal anatomical position. The subcutaneous fat layer of the abdominal wall is 1 inches thick.

HEAD:

The scalp is reflected after making the usual intermastoid incision and is free of subgaleal hemorrhage. The calvarium and dura mater are intact. There is no evidence of epidural or subdural hemorrhage. The leptomeninges are thin and delicate; there is no subarachnoid hemorrhage. The structures at the base of the brain, including cranial nerves and blood vessels are intact. Coronal sections through the cerebrum and transverse sections through the cerebellum and brain stem are unremarkable. The upper spinal cord is normal. The brain weighs 1430 grams.

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NECK:

Examination of the soft tissues of the neck, including strap muscles, thyroid gland, large vessels, hyoid bone, thyroid and cricoid cartilages, reveals no non-traumatic abnormalities.

CARDIOVASCULAR SYSTEM:

The 320 gram heart has a normal external configuration; the pericardial surfaces are smooth and glistening. The coronary arteries arise normally, follow the usual distribution, and are without significant atherosclerosis or thrombosis. The chambers and valves have the normal size-position relationship and are unremarkable. The myocardium is dark red-brown, firm and uniform; the atrial and ventricular septa are intact. The great vessels exit and return to the heart in a normal distribution and are unremarkable.

RESPIRATORY SYSTEM:

Injuries to the lungs are noted above. The airway contains blood. Except for injuries noted above the pleural surfaces are smooth and glistening. Sections reveal a uniform red-purple parenchyma which exudes moderate amounts of blood and frothy fluid. The pulmonary arteries and veins are normally distributed and unobstructed. The right lung weighs 470 grams, the left 350 grams.

GASTROINTESTINAL SYSTEM:

Injuries to the tongue are noted above. The mucosa of the esophagus, stomach and duodenum is intact; the gastric lumen is empty. The small and large bowel are unremarkable. The appendix is present.

HEPATOBIILIARY SYSTEM:

The 1380 gram liver is covered by a glistening, intact capsule. Sections reveal a dark red-brown uniform parenchyma. The extrahepatic biliary tree is normally distributed and unobstructed. The gallbladder contains 10 ml of dark green mucoid bile; the mucosa is velvety and unremarkable. The pancreatic parenchyma is yellow-tan and lobular and the ducts are clear.

RETICULOENDOTHELIAL SYSTEM:

The 60 gram spleen is covered by a wrinkled gray intact capsule. Sections reveal a congested red-purple parenchyma with a normal distribution of white pulp. The regional lymph nodes and bone marrow are grossly unremarkable.

GENITOURINARY SYSTEM:

The renal capsules are smooth, thin and semi-transparent and strip with ease from the underlying smooth, red-brown cortical surface. The cortex is slightly congested and is sharp.

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delineated from the unremarkable medulla and collecting system. The ureters follow the normal course to the urinary bladder which is empty. The non-gravid uterus and appendages are unremarkable. Each kidney weighs 120 grams.

ENDOCRINE SYSTEM:

The pituitary, thyroid and adrenal glands are unremarkable.

MUSCULOSKELETAL SYSTEM:

There are no nontraumatic bone or joint abnormalities. The skeletal muscle is red-brown and firm.

SPECIMENS RETAINED:

Blood and standard tissue sections saved.

TOXICOLOGY SPECIMENS:

Blood is submitted.

PRESENT

S. Jagoda, Pathologist's Assistant
Sergeant D. Sweeney, Sheriff's Office, Contra Costa County
Detective M. Hubbard, Sheriff's Office, Contra Costa County
B. Hole, District Attorney's Office, Contra Costa County
S. Ojena, Criminalist, Sheriff's Office, Contra Costa County
C. Inman, Fingerprint Technician, Sheriff's Office, Contra Costa County

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STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. PEREZ (JOSEPH ANDREW)**

Case Number: **S104144**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **a.r.ellis@att.net**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
MOTION	Appellant Perezs Motion for Judicial Notice

Service Recipients:

Person Served	Email Address	Type	Date / Time
California Department of Justice Docket Unit California Dept of Justice, Office of the Attorney General	SFAG.Docketing@doj.ca.gov	e-Service	09-28-2017 3:07:24 PM
Contra Costa DA Contra Costa District Attorney's Office California Dept of Justice, Office of the Attorney General	appellate.pleading@contracostada.org	e-Service	09-28-2017 3:07:24 PM
eService California Appellate Project California Appellate Project 000000	filing@capsf.org	e-Service	09-28-2017 3:07:24 PM
John Deist California Dept of Justice, Office of the Attorney General 136469	john.deist@doj.ca.gov	e-Service	09-28-2017 3:07:24 PM
Richard Ellis Law office of A. Richard Ellis 64051	a.r.ellis@att.net	e-Service	09-28-2017 3:07:24 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

09-28-2017

Date

/s/Richard Ellis

Signature

Ellis, Richard (64051)

Last Name, First Name (PNum)

Law office of A. Richard Ellis

Law Firm