

In the Matter of the Welfare of:

Verdict of Not Guilty

Logan Daniel Keranen (DOB: 9/7/03),

Court File No.: 03-JV-20-1872

Juvenile.

On February 14-18, 2022, this matter came on for Court Trial before the Honorable Gretchen D. Thilmony, Judge of District Court. Becker County Attorney Brian McDonald appeared on behalf of the State of Minnesota (“State”). The Juvenile, Logan Daniel Keranen (“Juvenile” or “Logan”), appeared with his attorneys, Bruce Ringstrom, Sr., Bruce Ringstrom, Jr., and Dane DeKrey.

The following witnesses testified:

- Nathen Erickson
- Davin Hilluka
- Jeff Swanson Becker County Dispatcher
- Dr. Victor Froloff Asst. Ramsey County Medical Examiner
- Chief Adam Gunderson Menahga Police Dept.
- Chief Tighe Lane Sebeka Police Dept.
- Deputy Benjamin Bruce Becker County Sheriff’s Office (BCSO)
- Deputy Adam Douglas BCSO
- Investigator Brent Fulton Detroit Lakes Police Dept. (DLPD)
- Investigator Mark Pinoniemi BCSO
- Investigator Jon Peterson BCSO
- Investigator Luke Sweere BCSO
- Agent Daniel Baumann (retired) Bureau of Criminal Apprehension (BCA)
- Agent Chad Kleffman BCA
- Brent Matzke – Forensic Scientist BCA
- Joseph Cooksley – Forensic Scientist BCA
- Nathaniel Pearlson – Forensic Scientist BCA
- Sara Pfeifer – Forensic Scientist BCA
- Officer William Landmark Dept. of Natural Resources (DNR)
- Dr. Gregory Davis University of KY – Pathology & Laboratory Medicine
- Emanuel Kapelsohn The Peregrine Corporation
- Nathan Keranen

The following exhibits were received by the Court:

- Exhibits 1-4, and 4a;
- Exhibits 5-7, and 7a;
- Exhibits 8 and 8a;
- Exhibits 9-10, and 10a;
- Exhibits 11-37, and 37a;
- Exhibits 38 and 38a;
- Exhibits 39 and 39a;
- Exhibits 40-83;
- Exhibits 149-150, and 150A;
- Exhibits 151 and 151A;
- Exhibits 152 and 152A;
- Exhibits 153-193; and
- Exhibits 1001, 1005-1006, 1008-1020, 1022-1032, 1034, 1036-1048, 1050-1052, 1060-1089.

The Court then took this matter under advisement. The parties agreed to waive the 15-day under advisement deadline.

Now therefore, based on the testimony, exhibits, record, and proceedings, the Court makes the following:

Findings of Fact

Basic Facts

1. Juvenile is Logan Daniel Keranen (“Logan”) (DOB 9/7/03). He is currently 18 years old. On the date of the offense, Logan was 17 years old. Logan lives with his parents, Patty and Daniel Keranen at 14341 County Road 119, Menahga, MN 56464 (“Residence” or “Scene” or “Address”) in Becker County.
2. The victim in this case is Michael Robert Erickson (“Michael”) (DOB 4/15/03).
3. On September 18, 2020, at approximately 9:35 AM, Becker County Sheriff’s Office (“BCSO”) Dispatcher Jeff Swanson received an emergency call that was transferred to him from Hubbard County.
4. The emergency call was made from the Residence by Davin Matthew Hillukka (“Davin”) (DOB 8/7/04). Davin called 9-1-1 and reported that Michael had been shot.
5. Michael was shot in the head with a 12-gauge Winchester Model 1300 shotgun, owned by Michael’s father, Daniel.

6. On the Morning of September 18, 2020, Logan, Davin, and Michael (collectively “the Boys”) were in Logan’s bedroom at the residence. Davin took a shower at around 8:30 AM and came back into the bedroom. While the Boys were all in the bedroom Logan took out some of the guns in the gun cabinet in his room to show his friends.
7. Davin was seated at the end of the bed, and Michael was lying on the bed.
8. The first gun was a 16-gauge break-action shotgun. Logan checked to see if it was loaded, which it was not, and placed it back in the cabinet.
9. Logan took out the second gun, which was the Winchester 1300, and the gun discharged, killing Michael who was still laying down on the bed.
10. Davin heard the loud ‘BOOM,’ turned to see what happened, saw Logan put the gun back in the cabinet, and the two ran upstairs to call 9-1-1.
11. It is disputed whether Michael was awake or sleeping while lying on the bed. However, there is reasonable evidence to suggest that Michael was sleeping or dozing at the time the gun discharged.
12. None of the Boys were under the influence of any substances.

First Response, Detention, and Initial Interviews

13. The 9-1-1 call referenced above was made on September 18, 2020, at about 9:35 AM with a report that someone had been shot in the head.
14. BCSO Dispatcher Swanson heard Davin ask Logan “what happened?” and Logan respond in the background “I don’t know.” This is also heard in the 9-1-1 call recording.
15. Emergency services were dispatched to the Address in Menahga.
16. Menahga Police Chief Adam Gunderson was one of the first responders on the scene. When he arrived, there were ambulances and other police officers already on the scene.
17. Two individuals who were later identified as Logan and Davin were situated on the grass on the left side of the driveway on-approach to the house. When asked where the injured person was, one of the boys responded that he was in the house.
18. Chief Gunderson performed a protective sweep of the house and found Michael in the basement bedroom. He stepped into the bedroom just long enough to determine Michael was deceased. He noted the bed was on the left side of the bedroom and the glass gun case was on the far-left side. He did not note all the details of the bedroom. His role was crime scene integrity until investigators arrived.

19. Sebeka Police Chief Tighe Lane received a call about assisting Becker County with the incident. He travelled to the Address with Officer Mauer. When he arrived, he and Officer Mauer performed a protective sweep of the premises and checked Michael's body for vital signs. Chief Lane looked around the room and noted there were spent casings for a rifle, guns in the gun cabinet, and a glass-faced gun cabinet that was partially open.

20. BCSO Deputy Benjamin Bruce was another one of the first responders on the scene. Deputy Bruce observed two of the boys on the grass upon his arrival.

21. One of the boys, later identified as Logan, said "I'm the one who frickin' shot him," or words to that effect. Logan was detained in Deputy Bruce's patrol vehicle for safety. Logan was advised that he was not under arrest at that time.

22. When asked where the gun was, Logan said it was in the safe.

23. Deputy Bruce went inside the residence and located two other officers standing outside of the bedroom where Michael had been shot. Deputy Bruce's body camera was activated, and he created a log of the scene. Deputy Bruce did not touch or manipulate anything inside the room. The bedroom is smaller; most testified that it was no larger than about 10 feet by 12 feet.

24. BCSO Investigator Jon Peterson is licensed as a peace officer by the State of Minnesota. He was dispatched to the scene on September 18, 2020. He pulled into the driveway and saw deputies and officers from Wadena, Becker, and Menahga Police.

25. Logan and Davin were secured in squad cars. Investigator Peterson spoke to Logan. Logan said before the shooting the boys were "horsing around," or words to that effect. Logan said (and Davin confirmed) the boys were having a "pull-back" contest on one of Logan's hunting bows to see who could hold the bowstring back the longest. While Logan admitted the boys were "horsing around" with the hunting bow, it was not an admission to recklessly handling the Winchester 1300 shotgun. While talking to Investigator Peterson, Logan cries when he is told that Michael is deceased and says, "Oh my God, oh my gosh, I don't know what I'm trying to say. I'd never try killing anyone."

26. Logan was in Deputy Ben Bruce's squad car where he remained for at least three hours. While in the back of the squad, he made statements to himself such as:

- "What the fuck just happened?"
- "Everybody's gonna fucking hate me."

- “. . . not even going to want to talk to me anymore.”
- “There’s no explanation for this.”
- “Family is never gonna fucking forgive me.”
- “It was an accident.”
- “Michael’s dead.”
- “I just killed his fucking son.”
- “I don’t know what happened.”
- “I just fucking killed somebody.”
- “I’m a murderer . . . he’s fucking dead – instantly.”
- “. . . cold-blooded murderer.”
- “I just killed somebody – there’s nothing I can do about it.”
- “How the hell do I explain this to anybody; I don’t even know what the fuck happened? . . . I killed my [inaudible] friend.”
- “This is like the worst think that anyone could do and I did it; I murdered a frickin’ human. He’s dead. There’s nothing I can do about it.”

or words to this effect.

27. In the squad camera video Logan is clearly distraught. Logan is in disbelief and crying, at times lying in the backseat of the police cruiser with his knees curled into his chest.

28. While the State relied heavily on these statements, arguing they are indicia of “consciousness of guilt,” this Court disagrees. These statements are indicative of a 17-year old having just experienced a traumatic incident. In fact, these statements (made while sitting alone in the back of a squad car for over three hours) are statements that would be in the mind of a person in shock — a stream of consciousness that would naturally result. They are in no way indifferent to what had just occurred. Further, none of the statements Logan made constitute evidence of an admission to the subjective element of second-degree manslaughter.

29. One statement Logan made in the back of the squad car was “I killed him in cold blood,” or words to that effect. Again, the Court attributes those words to those of a traumatized 17-year-old who is feeling guilt and shame for having just killed one of his friends. Moreover, the statement is more likely hyperbole or misuse/mischaracterization of the terms “cold blood” and “murder” than anything else. The Court certainly does not expect an ordinary teenager going through this sort of trauma to realize the technical legal requirements of the various degrees of homicide and its various states of mind.

30. Detroit Lakes Police Department Investigator Brent Fulton is an agent with the West Central Minnesota Drug and Violent Crimes Task Force. He is licensed as a peace officer in the State of Minnesota and has worked in that capacity since 2008.

31. On September 18, 2020, Investigator Fulton heard the call about a shooting incident over dispatch. As most officers in the area were at the Donald Trump rally, Investigator Fulton responded to assist. He arrived on the scene and was briefed by BCSO Deputy Shane Richard.

32. Investigator Fulton interviewed Davin at the scene, and Davin said:

a. The boys went to Logan's early that morning, at about 2:30 AM. They had plans to go to the Trump rally that morning.

b. Davin went upstairs to shower at about 8:30. Afterward, Davin came back downstairs, sat on the end of the bed, and was on his phone. He was not looking at Logan or Michael.

c. Davin heard Logan say, "look at this gun my brother just got," or words to that effect. Then Logan put the gun away and took out a different gun. Then Davin heard a loud 'BOOM' sound.

d. Davin and Logan both ran upstairs and called 9-1-1.

Medical Examiner Reports

33. Dr. Victor Froloff is a Ramsey County Medical Examiner. He performed the Autopsy on Michael.

34. Dr. Froloff has been employed as the Assistant Medical Examiner at the Ramsey County Medical Examiner's Office for the last 17 years. Dr. Froloff went to medical school in Siberia, Russia, at the age of 18, and practiced family and emergency medicine. In 1993, Dr. Froloff immigrated to the United States (which does not recognize an MD from Russia).

35. After immigrating to the U.S., Dr. Froloff passed his board exams in the U.S., completed a residency in forensic medicine and pathology at the University of Minnesota. Dr. Froloff did a fellowship in forensic medicine at the University of Wisconsin. He received his medical license in 2005 from the Minnesota Board of Medical Practice. Dr. Froloff is not board-certified, which is not required in Minnesota.

36. Dr. Froloff has conducted over 4,000 autopsies, including countless gunshot wound victims. He testifies regularly in both state and federal district court.

37. The Ramsey County Medical Examiner's Office covers 15 counties in the State of Minnesota and counties in states bordering Minnesota. The Office is certified nationally and internationally.
38. There are three procedural steps when performing an autopsy: (1) determine the cause of death, (2) determine the manner of death, and (3) toxicology.
39. In September 2020, Dr. Froloff performed the autopsy on Michael Erickson.
40. Dr. Froloff submitted four Provisional Autopsy reports and one Final Autopsy report. In all autopsy reports the cause of death was cranial hemorrhaging due to the gas pressure as a result of a shotgun discharge to the head. He determined the manner of death was homicide¹.
41. On September 19, 2020, Dr. Froloff submitted his Provisional Autopsy. In this autopsy, Dr. Froloff determined Michael suffered from a "contact" shotgun wound to the head and that soot had been found in Michael's nasal crest.
42. On October 15, 2020, Dr. Froloff issued his Final Autopsy report. In this report, he determined there was no contact wound or soot present on the body.
43. Dr. Gregory Davis specializes in anatomic and forensic pathology. He is board certified and has worked in the field for over 35 years.
44. Dr. Davis has a B.S. from the University of Kentucky and received his M.D. from the University of Texas. He did a residency in forensic pathology at the University of Kentucky - Louisville and passed the boards for pathology and forensic pathology. He has also taken and passed the board exams in South Carolina. Dr. Davis is the Chief Medical Examiner in the State of Kentucky.
45. Dr. Davis performs forensic and clinical pathology consultation services for both prosecutors and defense attorneys. He performed between 100 and 150 autopsies last year alone.
46. Dr. Davis reviewed the autopsy reports written by Dr. Froloff and photographs documenting the autopsy.

¹ The term "homicide," as used in the field of forensic pathology means that a person causes the death of another person. It does not imply that a crime has been committed as in the legal definition of "homicide."

47. Although Dr. Davis did not participate in the autopsy process, he is not disadvantaged by this. The purpose of taking photos and writing a detailed autopsy report is for quality assurance and control purposes, peer review, and the expectation that litigation surrounding cause and manner of death is inevitable.
48. Dr. Davis agrees with Dr. Froloff's ultimate opinion – that the wound was not a contact wound, and there was no presence of soot on the body. The damage to Michael's face was consistent with between two and five feet.
49. Dr. Davis's independent assessment concludes that an experienced forensic pathologist could not have concluded this was a contact wound. A contact wound would have caused a lot more damage, and there was no presence of soot or gun powder.
50. Dr. Davis' concluded the following:
- a. Provisional ME reports are just initial impressions and are subject to change.
 - b. An ME should always be acutely aware of and must assume initial impressions are depended upon by others, including law enforcement.
 - c. Pictures show a pattern of blood away from the body – presumably because it was moved. However, a common phenomenon known as peri-mortem seizures likely caused jerking movement, causing the body to move on its own.
 - d. Other tearing on Michael's face was a result of kinetic waves from the shot and gases entering the head at a high velocity and escaping through tears in the skin.
 - e. Scalloping is potentially present on the face, but no definitive finding can be made, indicating the shot could have been fired from as close as three feet away.
 - f. In addition to the likely presence of peri-mortem seizures, there was likely post-mortem breathing due to the area of the brain that was impacted by the shot.

Investigation & Subsequent Interviews

51. BCSO Investigator Mark Pinoniemi is a licensed peace officer for the State of Minnesota and a Special Agent in the West Central Minnesota Drug and Violent Crimes Task Force and has been so employed since 2014.
52. On September 18, 2020, Investigator Pinoniemi was called to assist in this case. When he arrived, he met with and was briefed by other investigators on the scene.
53. Investigator Pinoniemi (along with BCA Agent Ricky Wuori) interviewed Davin on while they were at the scene on the same day as the shooting.

54. Davin said that he and Logan had a bow pull-back contest while Michael was sleeping.
55. Davin confirmed that Logan had first shown them (he and Michael) a gun that Logan's brother had bought, and that Logan had checked that the gun was not loaded – because he saw the barrel was cracked and there was no shell there.
56. Davin then said he was on his phone facing away from the two other boys. He was in a group chat on Snap Chat and thought Michael was in the chat too. Davin told Investigator Pinoniemi that he was focused on his phone immediately before Michael was shot.
57. After Davin heard the gun go off, he heard Logan yelling, “oh my gosh, it went off!” He turned and saw Logan “freaking out” and thought he saw the end of the barrel of the gun was about two feet away from Michael. Davin said Logan was totally scared and that they both ran upstairs, screaming “call 9-1-1.”
58. Davin was questioned again on September 21, 2020 after law enforcement had received Dr. Froloff's Provisional Autopsy, indicating a contact wound. They pressed him about inconsistencies between his story and the ME report. Davin was questioned repeatedly about where he was positioned and the order of events. Davin became distraught when agents became more aggressive, suggesting he was lying. Davin said, “I don't know what I'm lying about.” “I don't know what to tell you then.” “I don't know how to convince you.” (nearly crying) “If I told you otherwise, I'd be lying.” “If you don't believe me, I don't know what to do.” He cries and says, “I don't know what to say. What do you want me to say?” However, throughout this, Davin's answers remained consistent. Davin's statements corroborate Logan's statements (discussed later).
59. Investigator Pinoniemi noted there was no blood on the front of Davin's clothes – only the back, consistent with Davin's statement that he was facing away from Michael when the shot went off.
60. Investigator Pinoniemi relied on the Provisional Autopsy results which incorrectly reported the presence of soot and that it was a contact wound.
61. BCA Agents Daniel Baumann and Chad Kleffman (“the “Agents”) were the primary investigators in this case.

62. Agent Kleffman is a special agent with the homicide division with the BCA. He has been a licensed peace officer by the State of Minnesota since 1996 and has worked with the BCA since 2020.

63. Agent Baumann is now retired from the BCA. He currently works as a part-time deputy with the Clay County and Wilkin County Sheriff's Offices. He is a licensed peace officer in the State of Minnesota. Before retiring from the BCA he worked in the homicide division from 1998 to 2020. He began his career in law enforcement in 1984.

64. The Agents' investigation proceeded on the belief and assumption that Michael died from a contact wound, most likely the result of some reckless or intentional act.

65. Some of the evidence the Agents relied upon for their conclusion includes the following:

- a. Blood patterns and voids indicating direction and location of the source of the shot, voids at the bedpost and doorway to the bedroom.
- b. Tissue damage to Michael's body, including the presence or absence of wadding, pattern, soot, or powder stippling. Powder stippling can occur up to three feet, but none was observed. Damage appeared to be caused by a slug because of the lack of pellet pattern. Michael's eyeball was protruded – which Agent Baumann believed to be consistent with a contact wound.
- c. The ME Provisional Autopsy reports.

66. Agents Baumann and Kleffman interviewed Logan three times. They had received the Provisional Autopsy reports (erroneously concluding a contact wound) after the first two statements. The Agents relied heavily on the Provisional Autopsy findings. Agent Baumann stated he “knew he would be able to rely on the Medical Examiner for information concerning the range of fire.”

67. The Agents interviewed Logan the first time on the day of the shooting. During the interview, they obtained basic information from Logan. Logan said he was showing the guns to his friends. First, he showed them the 870 16-gauge, then when he took out the Winchester Model 1300, it discharged. Logan told the Agents he was about five feet from Michael, that he didn't know what happened, and that the gun went off.

68. The second interview took place later on the same day. Logan's parents were present. During that interview Logan thought he was about 7-8 feet away and was

standing near the gun case which was in the opposite corner of the room. Logan also recalled the pull-back contest with the bow prior to showing his friends the guns.

69. The third interview took place on September 21, 2020, with both Logan's parents and counsel present. The Agents told Logan that the round was either a slug or an intra-oral gunshot wound (meaning the gun was placed inside Michael's mouth when it went off) — neither of which is the case.

70. Agent Baumann testified that he over-relied on the Provisional Autopsy reports, and he could have asked better questions with better information, instead of doubting Logan's answers as to distance.

71. Logan was never asked: "Did you know if the gun was loaded?" "Did you check to see if it was loaded?" "Where were your hands on the gun?" Instead, the Agents' questioning continued to focus on distance and they characterized his answers as untruthful. While in the small bedroom where the incident took place, no one examined the plausibility of what Logan and Davin remembered happening (as it relates to distance).

72. This Court finds that Logan did not know the gun was loaded.

73. Unfortunately, from the beginning, the path of the investigation was fueled for the worse by an inaccurate Provisional Autopsy report. This Court believes that had that report not included the finding of "contact wound," the course of the lives of all involved in this matter would be different.

74. Moreover, there was little, if any, evidence of a contact wound otherwise. (As discussed below, numerous witnesses testified there was no evidence of soot on Michael's face) Davin, Logan, and Michael were friends. There was no animosity between them. There had been no arguments. And while the theory of Logan playing a prank on Michael by placing the gun to his face was asserted, that theory is wholly unsupported. In fact, there was evidence to the contrary that was disregarded.

75. Distance became the guiding theory that fueled the investigation for the worse based on the incorrect assumption this was a contact wound. Sadly, these incorrect assumptions also harmfully affected and wrongly shaped community reaction and response to this tragedy.

Ballistics, Firearms, and Blood Pattern Analysis

76. Emanuel Kapelsohn (“Kapelsohn”) is an expert on firearms training, force science², crime scene reconstruction, and distance testing. Kapelsohn has an extensive *curriculum vitae*, which qualifies him as an expert witness in this regard. His basic qualifications include extensive experience conducting firearms and use-of-force training programs all over the U.S. Kapelsohn has consulted for gun manufacturers and as an expert witness for both plaintiff and defense (in both criminal and civil trials).

77. Kapelsohn is a certified firearms instructor by the FBI, the NRA, and other various state and local law enforcement agencies. He has authored several published articles, including one on the Winchester Model 1300. He is also an armorer which makes him qualified to conduct maintenance and repairs on many different firearm types and brands.

78. Kapelsohn does not have any formal training in crime scene reconstruction or distance testing. However, he is self-taught and has many years of experience.

79. Kapelsohn reconstructed the scene of the shooting using exact dimensions and conducted distance testing using different material to simulate the shotgun’s firing effects.

80. The shotgun is pump-action with the disconnect release at the rear-left of the trigger guard. In order to open the shotgun’s action without pulling the trigger, the release must be pressed and the forend must be pulled rearward.

81. The testing was conducted on three types of material – paper targets, bench coat, and ballistics gel in the shape of a human head. Kapelsohn agrees none of these materials is a perfect substitute for living human tissue.

82. Kapelsohn concluded:

a. The entry wound was not a contact wound, and it occurred from a distance of approximately 2-1/2 feet.

b. The dimensions of the bedroom in which the incident occurred, placement of the gun cabinet, and location of the individuals are consistent with Logan taking the shotgun from the cabinet, rotating it to a roughly horizontal position, and the muzzle

² “Force science” is the psychological (or “startle”) effect or phenomena on the shooter associated with deadly shooting incidents.

of the 49-inch-long shotgun then being within 2-1/2 feet of Michael's face when it discharged.

c. The Winchester Model 1300's manual safety was defective or not operating properly. The safety could not be engaged into the safe position, rendering it unsafe. The intermittent and erratic nature of the defect was such that the gun's owner and users might not be aware that there was anything wrong with the safety. If the safety had been operating properly, this incident likely would not have occurred.

d. A contraction of Logan's trigger finger into the trigger guard or on the trigger could occur as an involuntary muscle contraction of his right hand when his left hand was pulling rearward on the shotgun's action to see if it was loaded or empty.

e. The condition of the shotgun as recovered by the BCA is consistent with having discharged while being held loosely in a more or less horizontal position with the buttstock not being braced against the user's shoulder. This is one way in which a person would hold a pump-action shotgun to open the action to determine whether or not it was loaded.

83. BCA Agent Nathaniel Pearlson is the supervisor of the Firearms and Toolmark section at the BCA. He has a master's degree from the University of Virginia. He has specialized training in firearms and toolmark, gunshot residue, competency testing, and is certified in criminalistics and forensics.

84. As a firearms expert, Agent Pearlson looks at firearms components, conducts function testing, and conducts gunshot residue (GSR) distance testing.

85. Agent Pearlson inspected the firearm for functional anomalies and found that it was functional but that the safety had a push button — and he was unable to engage the safety.

86. This Court finds that Logan did not know the gun safety was defective.

87. Agent Pearlson conducted strike-testing on the Winchester Model 1300 with a rubber mallet to determine the gun was not bumped when it was discharged. This was in-line with BCA protocol. He did not conduct drop-tests which are arguably more scientifically acceptable.

88. Agent Pearlson and the State were persistent throughout this case that the BCA could not or would not perform ballistics distance testing.

a. Agent Pearlson testified that he is qualified and trained to conduct ballistics and distance testing.

b. Agent Pearlson testified that the BCA's distance testing usually involves clothing or other surfaces like a wall or furniture. They do not have training to account for all the variables as it relates to human tissue.

c. Agent Pearlson testified that the BCA could not perform the distance testing because the BCA does not perform ballistics testing on living human tissue³, and therefore, distance testing is typically done by medical examiners or forensic pathologists.

d. Agent Pearlson also testified that his office relied on the medical examiner's report regarding distance, and therefore found it unnecessary to perform distance testing.

89. No ballistics distance testing of any kind, by any professional — either in the medical, forensic, or law enforcement fields — was done by the State in this case.

90. While Agent Pearlson remarked that Kapelsohn's distance testing could not be considered synonymous to distance testing on human skin, Kapelsohn's testing was the *only* distance testing done. And in the end, the Final Autopsy conclusions of Dr. Froloff (and agreed with by Dr. Davis) were consistent with Kapelsohn's distance testing.

91. This Court finds Kapelsohn's testing to be informative and relevant information, particularly considering the erroneous "contact wound" conclusion in the Provisional Autopsy relied upon by law enforcement in their subsequent investigation and lack of distance testing by the State.

92. BCA Agent Sarah Pfeifer is the State's expert on blood pattern analysis (BPA). Agent Pfeifer could not conclude based on the blood pattern evidence that it was a contact wound and admitted there were dozens of hypothetical possibilities.

93. BCA Agent Brent Matzke is a forensic scientist and has been since March, 2008. He was the case coordinator in this case.

³ It should be noted that no one would ever expect the BCA to perform ballistics testing on living human tissue.

94. Serology testing is the actual examination of evidence for blood or bodily fluids. Agent Matzke conducted serology tests on Logan's hat, pants, and sweatshirt and did not find any blood on them.

95. Agent Matzke examined Michael's face and saw no evidence of soot and no evidence of a contact wound.

96. Michael did not die from a contact wound.

DNR & Gun Safety

97. DNR Conservation Officer William Landmark has been a DNR officer for eight years and is licensed as a peace officer by the State of Minnesota. Prior to that he worked as a police officer in Watford City, ND for two years.

98. Officer Landmark has been a hunter since 1997 and is safety certified. In addition to his duties as a police officer, he is trained to be a conservation officer, and enforces recreational vehicle laws, conducts firearms training, and enforces fishing, game, and wildlife laws.

99. Officer Landmark has taught roughly 40 firearms safety courses.

100. The four basic rules (or tenets) of firearms safety are:

- a. Treat every firearm as if it is loaded.
- b. Always point the firearm in a safe direction.
- c. Know your target and what is beyond it.
- d. Keep your finger off the trigger.

101. These rules are contained within the Minnesota Education and Firearms Safety Manual.

102. Logan's DNR registration records show he has a firearms safety certificate. The four tenets of firearm safety are printed on the back of the certificate. The licensing system shows Logan received his safety card on October 5, 2015.

103. A firearm's mechanical safety shouldn't be relied on in substitution of the safety principles. Even when checking to see if the gun is loaded, it should be pointed in a safe direction. The user of a firearm should always understand where other individuals are in relation to them, especially in a small room.

Conclusions of Law

Standard—Beyond a Reasonable Doubt

1. Minnesota Statute, section 611.02 provides, “[e]very defendant in a criminal action is presumed innocent until the contrary is proved and, in case of a reasonable doubt, is entitled to acquittal . . .” Minn. Stat. § 611.02 (1986). *See also State v. Sap*, 408 N.W.2d 638 (Minn. Ct. App. 1987); *In re Winship*, 397 U.S. 358 (1970).

Manslaughter in the Second Degree

2. Minnesota Statute, section 609.205 provides:

A person who causes the death of another by any of the following means is guilty of **manslaughter in the second degree** . . . : (1) by the person's culpable negligence whereby the person creates an unreasonable risk, and consciously takes chances of causing death or great bodily harm to another . . .

Minn. Stat. § 609.205 (1995) (emphasis added).

3. The elements of second-degree manslaughter are:

First: Michael Erickson’s death must be proven.

Second: Logan caused the Michael’s death, by culpable negligence, whereby Logan created an unreasonable risk and consciously took a chance of causing death or great bodily harm.

- “To cause” means to be a substantial causal factor in causing the death.
- A person is criminally liable for all the consequences of his actions that occur in the ordinary and natural course of events, including those consequences brought about by one or more intervening causes, if such intervening causes were the natural result of the defendant's acts. The fact that other causes contribute to the death does not relieve a person of criminal liability.
- However, a person is not criminally liable if a “superseding cause” caused the death. A “superseding cause” is a cause that comes after the defendant's acts, alters the natural sequence of events, and produces a result that would not otherwise have occurred.

- “Culpable negligence” is intentional conduct that a person may not have intended to be harmful, but that an ordinary and reasonably prudent person would recognize as involving a strong probability of injury to others.
- “Great bodily harm” means bodily injury that creates a high probability of death, or causes serious permanent disfigurement, or causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Third: Logan’s act took place on or about September 18, 2020, in Becker County.
10 MNPRAC CRIMJIG § 11.56.

Death of the Victim (Element Number One)

4. Michael’s death is not in dispute. Michael died on September 18, 2020 from a shotgun wound to the head.

Cause of Death (Element Number Two)

5. For a defendant’s act to be the cause of death, the defendant’s act must have been the cause-in-fact of the death and the death must have been a reasonably foreseeable consequence of the defendant’s act (proximate cause). *State v. Smith*, 835 N.W.,2d 1, 4 (Minn. 2013) (in the context of a vehicular homicide). In order to prove proximate cause, “the State must show that the defendant’s acts were a substantial factor in causing the death.” *Smith* at 4-5 (quoting *State v. Olson*, 435 N.W.2d 530, 534 (Minn. 1989)). If the defendant seeks to establish a superseding cause of death, then “the intervening conduct must be the sole cause of the end result.” *Id.* (citing *State v. Gatson*, 801 N.W.2d 134, 146 (Minn. 2011)).

6. Here, Logan’s actions were both the proximate and actual cause of Michael’s death. There were no superseding causes. Logan’s handling of the firearm, regardless of his mental state, caused Michael’s death.

Culpable Negligence (Objective Proof of Duty)

7. A defendant cannot be negligent, culpable or otherwise, unless the defendant has a duty that he or she breached. *State v. Back*, 775 N.W.2d 866, 869 (Minn. 2009) (citing *State v. Cantrell*, 18 N.W.2d 681, 686 (Minn. 1945) (noting that culpable negligence statute deals with acts or omission of personal duty resulting in the death of a human being); *cf. Lubbers*

v. Anderson, 539 N.W.2d 398, 401 (Minn. 1995) (explaining that the essential elements of negligence include the existence of a duty)). Whether a person has a duty of care is an issue for the court to determine as a matter of law. *Id.* (citing *Larson v. Larson*, 373 N.W.2d 287, 289 (Minn. 1985); *Johnson v. State*, 553 N.W.2d 40, 49 (Minn. 1996)).

8. The standard of care that a reasonable person in Logan's position would have observed can be attributed to DNR firearms safety guide tenets, which include: (1) treat every firearm as if it were loaded; (2) always control the muzzle and keep the muzzle pointed in a safe direction; (3) be sure of your target and what is beyond; and (4) keep your finger off of the trigger until you are ready to shoot. These factors establish a standard of care for hunters or anyone handling a firearm.

9. Logan was trained in firearm safety and had a firearm safety certificate. He also came from a hunting family and was frequently around firearms in his household. Logan knew and was aware of the four tenets of firearms safety. He had a duty to Michael to follow the four tenets of firearm safety and breached that duty when he failed to abide by them.

10. That being said, this is not a legal conclusion that negligence has occurred, but only a finding of the element of duty.

11. A reasonable person in the same or similar position as Logan would not likely have handled the firearm in such a manner, given the size of the room, their training, and the inherently dangerous nature of firearms. However, this Court cannot rule out an involuntary discharge of the gun under these facts.

12. This element has been proven beyond a reasonable doubt but does not necessarily imply the presence of a subjectively reckless act (see below).

Culpable Negligence & Reckless Act (Subjective)

13. Culpable negligence is defined as:

More than ordinary negligence. It is more than gross negligence. It is gross negligence coupled with an element of recklessness. It is intentional conduct which the actor may not intend to be harmful, but which an ordinary and reasonably prudent person would recognize as involving a strong probability of injury to others.

State v. Frost, 342 N.W.2d 317, 320 (Minn. 1983) (quoting *State v. Beilke*, 127 N.W.2d 516, 521 (Minn. 1964)); *see also State v. Munnell*, 344 N.W.2d 883 (Minn. Ct. App. 1984)

(surviving convicted defendant's constitutional challenge for overbreadth when conviction was based on gross negligence). Second degree manslaughter under paragraph 1 involves an element of awareness of the risk by the defendant . . . **the statute requires proof of an objective element – being gross negligence, and the subjective element – being recklessness.** *Id.* (accord Model Penal Code §§ 210.3, Comment 4, and 210.4, Comment 1 (1980) (liability for manslaughter should not be premised on “inadvertence to risk” (that is, disregarding of a risk of which one should be aware) but on a conscious disregarding of a substantial and unjustifiable risk of which one actually is aware)) (emphasis added).

14. Culpable negligence requires both objective proof that the defendant's act breached a duty of care, and subjective proof of reckless conduct. *State v. Back*, 775 N.W.2d 866 (Minn. 2009).

15. “Ordinary” negligence in the context of this criminal charge, means Logan violated the tenets of firearm safety. But culpable negligence as required by the charge of second degree manslaughter means that Logan consciously disregarded and intended to violate those tenets. (emphasis added)

16. The State has failed to prove beyond a reasonable doubt that Logan actually, consciously disregarded a risk of which one should be aware – that he acted recklessly. Although Logan's actions may (and probably do) constitute negligence on some level, there is no proof that Logan acted with intent. While the gun faced in Michael's general direction, and Logan's finger could have been on the trigger or near the trigger mechanism, there is no compelling evidence that Logan consciously disregarded the risk while doing so. Logan first looked at the 16-gauge and performed a safety check in accordance with the tenants of firearm safety. In all likelihood, Logan was checking to see if the Winchester shotgun was loaded, and because of the faulty safety, it discharged. While this handling of guns in a small room with others in close proximity is definitely unsafe, and likely negligent on some level, it does not rise to the *criminal* definition of culpable negligence.

Time & Place of the Offense (Element Number Three)

17. The offense occurred on September 18, 2020, in Becker County.

Verdict of Not Guilty

18. The State has failed to prove beyond a reasonable doubt all of the elements of second-degree manslaughter. Therefore, this Court finds Logan *not guilty* of the charged offense.

19. While this Court recognizes Michael's family's grief, and empathizes with them, that grief cannot be softened by the criminal justice system.

Verdict and Order of Acquittal

1. The Juvenile, Logan Daniel Keranen, is **not guilty** of manslaughter in the second degree, as defined by Minnesota Statute, section 609.205(1).

2. Jurisdiction is terminated and the file is closed.

March 18, 2022

BY THE COURT:

Honorable Gretchen D. Thilmony
Judge of District Court