

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

JENS SOERING v. GEORGE DEEDS, Warden.

Argued: June 8, 2000

Decided: June 30, 2000

Before WILKINS and LUTTIG, Circuit Judges, and Robert R. BEEZER, Senior Circuit Judge of the United States Court of Appeals for the Ninth Circuit, sitting by designation.

Page 5 (citations omitted):

"First, the only relationship between the Haysom and the Milliken murders was that they occurred in the same county within six days of each other, and both were carried out with a knife. There is no evidence whatsoever that either Shifflett or Albright had ever met, or knew of, Elizabeth Haysom or her parents, nor is there any physical evidence connecting Shifflett or Albright to the Haysom murders. Second, it is highly unlikely that Shifflett and Albright, who murdered another vagrant to rob him of his empty wallet, murdered the Haysoms, since robbery was patently not the motive behind the Haysom murders: silverware, jewelry, \$122 in cash, the automobile parked outside and the keys thereto, a television, stereo equipment, and other valuable items that were in plain view were left behind after the Haysoms were murdered. Third, the manner in which Milliken and the Haysoms were murdered differed markedly: Milliken's throat was stabbed, not slashed, as was the case with the Haysoms, and thus Milliken died slowly, unlike the Haysoms; moreover, the Haysoms were not sexually mutilated, as was Milliken. Fourth, it is far from clear that the knife that the deputy found buried in the back seat of his patrol car one week after he detained Shifflett and Albright, and that Soering now alleges was used by Shifflett and Albright to murder the Haysoms, even belonged to the two vagrants, since the deputy could not recall when he had last checked his back seat prior to detaining Shifflett and Albright. Fifth, the knife was a very common kind of folding knife, readily available at retail stores. Sixth, even if the knife did belong to Shifflett and Albright, there were no traces of blood on it, and although the blade was "consistent with the size and shape of [the] weapon that could have caused the wounds to [the Haysoms]," the medical examiner explained that he could not determine the precise dimensions of the blade actually used to cause the Haysoms' wounds."