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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM YORK COUNTY  
In the Court of Common Pleas

Honorable William H. Seals, Jr., Circuit Court Judge

Case No. 2009-GS-46-02834  
Case No. 2009-GS-46-02835

The State ..... Respondent

vs

Francis Larmand ..... Appellant

RECORD ON APPEAL  
VOLUME TWO

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1 I WANT TO TALK A LITTLE BIT ABOUT THE LOCATION OF THE PARTIES.  
2 A LOT'S BEEN SAID ON DIRECT EXAMINATION AND CROSS EXAMINATION  
3 WITH REGARD TO WHERE EVERYBODY WAS.

4 THE FIRST THING I ASK YOU TO CONSIDER IS WHEN THINGS LIKE THIS  
5 HAPPEN, THEY HAPPEN VERY FAST, VERY QUICKLY. ALTERCATIONS HAPPEN  
6 LIGHTNING FAST (SNAPPING OF FINGERS) AND SOMETIMES PEOPLE HAVE TO  
7 REACT.

8 WHERE DO THE PIECES OF THE PUZZLE FIT? WHAT I DON'T REALLY  
9 UNDERSTAND SO CLEAR IN MY MIND IS WHY DIDN'T THE THREE FRIENDS OF  
10 MR. LOCHBAUM THAT WERE RUNNING FROM ALLEGEDLY SO FAR AWAY, MR.  
11 LEE, MR. FIVECOAT, AND THE OTHER GENTLEMAN. WHY DIDN'T THEY SEE  
12 JESSE HARRIS COME OUT OF THE HOUSE?

13 I SUBMIT TO YOU THE ONLY LOGICAL EXPLANATION IS THEY WERE A  
14 LOT CLOSER THAN THEY SAID THEY WERE TO WHERE MR. LOCHBAUM AND  
15 MY CLIENT, MR. LARMAND, WERE HAVING A HEATED DISCUSSION.

16 COMMON SENSE TELLS US IF YOU SEE A FRIEND OF YOURS OR AN  
17 ACQUAINTANCE, WHATEVER, INVOLVED IN WHAT SEEMS LIKE A  
18 POTENTIALLY VOLATILE SITUATION, YOU DON'T HAVE TO BE TOO TERRIBLY  
19 FAR AWAY, AND THAT CAME OUT IN CROSS EXAMINATION.

20 NOW, WITH REGARD TO MR. LOCHBAUM, HAVE YOU EVER SEEN A  
21 WITNESS, OR A MORE DISGRUNTLED EMPLOYEE WITH AN AXE TO GRIND IN  
22 YOUR LIFE? ADMITTEDLY SO. HE DIDN'T TRY AND HIDE THAT AT ALL. AND I  
23 SUBMIT TO YOU THAT COLORS THIS ENTIRE CASE. HE'S CERTAINLY SITTING  
24 IN THE DRIVER'S SEAT, THIS ONE, BECAUSE HOW COULD YOU HAVE MORE  
25 POWER OVER SOMEBODY YOU DISLIKE THAN HAVE THE LONG ARM OF THE

1 LAW, THE PROSECUTION ON YOUR SIDE? IT WOULD BE HARD TO BE IN MORE  
2 OR A POSITION OF POWER THAN THAT.

3 NOW, THE PROBLEM IS, MR. LOCHBAUM THINKS HE'S SMARTER THAN  
4 EVERYBODY ELSE. IT MIGHT NOT BE THAT HARD TO BE SMARTER THAN ME.  
5 HE THINKS HE'S SMARTER THAN EVERYBODY ELSE IN THE COURTROOM. MS.  
6 JOYNER, TO HIS DETRIMENT, HE THINKS THAT HE'S SMARTER THAN HER,  
7 NOT. SHE CAN'T CONTROL HIM. YOU HEARD HIM ON THE STAND. HE  
8 BLURTED OUT THAT MR. LARMAND SAID YOU CAN KEEP MIKE TAYLOR. SHE  
9 TRIED TO CUT HIM OFF THERE. BUT THE TOOTHPASTE WAS ALREADY OUT  
10 OF THE TUBE., YOU CAN KEEP MIKE TAYLOR.

11 AND WHAT DOES THAT MEAN? WELL, THAT'S GOING TO LINE UP WITH  
12 EVERYTHING ELSE HE TRIED TO PORTRAY, WHETHER WITH DETECTIVE  
13 HERRING OR IN FRONT OF Y'ALL HERE IN THIS COURTROOM. HE WANTS YOU  
14 TO THINK THAT BY PLAYING DUMB, I DON'T UNDERSTAND WHAT A CALL  
15 FROM MIKE TAYLOR, WHAT'S THAT GOT TO DO WITH ME.

16 THE PROBLEM IS THE MECHANISM IN WHICH HE USED ONE OF THEM,  
17 THEY TRIED TO LURE ME. AND MAKING A BIG DEAL OF THAT WITH  
18 DETECTIVE HERRING WAS, IN FACT, AN ADMISSION THAT HE WAS IN  
19 CAHOOTS WITH MR. TAYLOR TO STEAL CALLS AND GO TO POP-A-LOCK  
20 CALLS. IT'S A CLEAR ADMISSION OF THAT FACT.

21 WHY ELSE WOULD THEY BE THINKING THAT THEY'RE TRYING TO GET  
22 HIM UP THERE? WHAT'S HE GOT TO DO WITH POP-A-LOCK? HE'D BEEN  
23 WORKING FOR THEM FOR SIX MONTHS OR THEREABOUTS AT THAT  
24 JUNCTURE. BUT HE WANTS YOU TO THINK THAT, OKAY?

1 HE CAN'T EVEN BE TRUTHFUL ABOUT LITTLE THINGS. AND IF YOU'RE  
2 NOT TRUTHFUL ABOUT LITTLE THINGS I SUBMIT TO YOU, CHANCES ARE  
3 YOU'RE NOT GOING TO TRUTHFUL ABOUT THE BIGGER THINGS.

4 MR. GREELEY WAS ASKING ABOUT THE PHONE CALLS. THOSE ARE  
5 PHONE CALLS THAT WERE PROVIDED TO ME AND MR. GREELEY BY THE  
6 STATE. MR. GREELEY ASKED HIM, DID YOU CALL WBT. I THINK HE GAVE  
7 HIM TWO CRACKS AT THAT QUESTION. NO, I DIDN'T CALL WBT, I DIDN'T  
8 CALL WBT. AND THEN MR. LOCHBAUM GOES ON TO SAY, AND I THINK THE  
9 TIME WAS AROUND 7:30, HE REMEMBERED, AS YOU HEARD IT. HE SAID,  
10 WELL, THEY DON'T ANSWER THE PHONE, OR THEY'RE NOT OPEN AT 7:30,  
11 THEY DON'T TAKE CALLS AT 7:30. YOU GOT TO WAIT TILL 9:00.

12 PHONE RECORDS DON'T LIE. DO YOU KNOW OF ANYTHING MORE  
13 INHERENTLY RELIABLE THAN PHONE RECORDS?

14 MS. JOYNER: OBJECTION. THE PHONE RECORDS AREN'T IN EVIDENCE,  
15 YOUR HONOR.

16 MR. RHEA: THERE'S BEEN MUCH TESTIMONY ABOUT THEM, YOUR  
17 HONOR.

18 THE COURT: I'LL LET YOU DISCUSS THE TESTIMONY, BUT THEY ARE  
19 NOT IN EVIDENCE.

20 MR. RHEA: THANK YOU, YOUR HONOR. WHAT ABOUT MR.  
21 LOCHBAUM'S INTERACTION WITH THE EMPLOYMENT SECURITY  
22 COMMISSION? WE TALKED ABOUT THAT. HE WAS UNTRUTHFUL WITH THEM.  
23 HE TRIED TO GET UNEMPLOYMENT AND THEN HE CAME IN HERE ON CROSS  
24 EXAMINATION AND TESTIFIED ON THE STAND AND SAID HE'D BEEN  
25 WORKING AT THIS PLACE IN ROCK HILL SINCE NOVEMBER, APPROXIMATELY

1 A MONTH AFTER HE WAS TERMINATED FROM POP-A-LOCK FOR GOOD CAUSE.  
2 HE WAS DISQUALIFIED BY THE EMPLOYMENT SECURITY COMMISSION AND  
3 RIGHTFULLY SO. IN LARGE PART BECAUSE MRS. LARMAND, WHO HE ALSO  
4 DISLIKED, AND HE MENTIONED IT LATER, BECAUSE SHE POINTED OUT THE  
5 FACT THAT HE WAS CAHOOTS. JUST ANOTHER EXAMPLE.

6 ALSO, WEAVING THE STORY OF TRYING TO LURE HIM. OBVIOUSLY,  
7 THAT HAD AN IMPACT ON DETECTIVE HERRING. THAT'S WHY HE DID IT. HE  
8 CONTINUES ON WITH THEY TRIED TO LURE ME INTO THE DARKNESS OF THE  
9 NEIGHBORHOOD, HIS OWN NEIGHBORHOOD. THE BERM AREA, DRESSED ALL  
10 IN BLACK. THAT'S WHAT A WORKING MAN LIKE FRANK WEARS. IT'S ALL  
11 BLACK. A FACTUAL INCONSISTENCY. OKAY?

12 HE WAS ALSO IN CAHOOTS WITH A WITNESS. OH, YEAH, EVERYBODY  
13 POINTED OUT, YOU KNOW, THEY WERE WEARING ALL BLACK. PART OF A  
14 CONSPIRACY. JUST ANOTHER EXAMPLE OF WEAVING THIS STORY WHICH IS  
15 ALL BASED ON UNTRUTHS.

16 NOW, WITH REGARD TO THE LURING OUT TO THE DARK LOCATION,  
17 WELL, EVEN THE STATE'S WITNESSES' TESTIMONY ABOUT WHERE THE PILE  
18 WAS, WAS RIGHT IN THE YARD OF MR. LOCHBAUM'S HOUSE. THAT GOES  
19 AGAINST HIS THEORY RIGHT THERE. ANOTHER FACTUAL INCONSISTENCY.

20 THE SAME THING WITH MR. LARMAND. MR. LARMAND WAS IN FACT  
21 WALKING AWAY, AS YOU HEARD. REMEMBER? THE PILE LOCATION'S STILL  
22 RIGHT IN FRONT OF THE HOUSE. WHAT DOES THAT TELL YOU? ANOTHER  
23 UNTRUTH, FACTUAL INCONSISTENCY.

24 HIS EXPLANATION FOR TALKING WITH MIKE TAYLOR WAS THAT MIKE  
25 CALLED HIM TO ASK HIM FOR DIRECTIONS TO KNIGHTS' STADIUM. ONCE

1 AGAIN, I ASK YOU TO THINK ABOUT OUR OWN LIVES, COMMON SENSE. MIKE  
2 TAYLOR HAS BEEN WITH THAT COMPANY FOR YEARS AND YEARS AND  
3 YEARS IN THIS GENERAL GEOGRAPHIC AREA. MR. LOCHBAUM WANTS YOU  
4 TO BELIEVE THAT HE DOESN'T KNOW THE LOCATION OF KNIGHTS' STADIUM.  
5 I SUBMIT THAT'S NOT TRUTHFUL.

6 LIKE ANY OTHER BUSINESS-- AND TO THIS DAY, MR. LOCHBAUM  
7 STILL HAS HIS NOSE IN POP-A-LOCK'S BUSINESS, GIVING OPINIONS ON THE  
8 STAND ABOUT THE STATE OF THE BUSINESS AS HE KNOWS IT, UP UNTIL THIS  
9 DAY, AND WHAT MRS. LARMAND IS OR IS NOT DOING.

10 IT GOES TO THE THEME OF THIS GUY CANNOT LET IT GO. HIS HATRED  
11 FOR FRANK AND KERRIANN LARMAND, HE CANNOT AND WILL NOT LET IT  
12 GO. AND THAT'S A BIG PART OF THIS TRIAL, I SUBMIT TO YOU.

13 NOW, THIS HAS BEEN SOMETHING OF A SANITIZED TRIAL SOMETIMES.  
14 MRS. LARMAND'S A NICE LADY. SHE GOT ON THE STAND, USED  
15 TERMINOLOGY THAT'S BEEN USED THROUGHOUT THE TRIAL, ABOUT THE  
16 CALL INTERCEPTION AND UNAUTHORIZED SERVICES.

17 WELL, IN CLOSING ARGUMENT, I'M NOT GONNA BE SO SANITIZED.  
18 BECAUSE THIS IS THE TRUTH CHAIN. THIS IS WHERE IT COUNTS. YOU'RE  
19 ASKED TO DETERMINE WHAT THE TRUTH OF THE MATTER IS, TO SIPHON  
20 THROUGH THE FACTS.

21 WELL, LET'S CALL CALL INTERCEPTION AND UNAUTHORIZED  
22 SERVICES WHAT THEY ARE. IT'S STEALING, IS WHAT IT IS. THAT AND  
23 NOTHING MORE. MR. LARMAND WENT DOWN THERE SIMPLY WITH THE  
24 INTENTION OF SAYING YOU NEED TO STOP. I THINK HE EXERCISED BAD  
25 JUDGMENT, CERTAINLY, IN GOING TO MR. LOCHBAUM'S HOUSE. HE SHOULD

1 HAVE HANDLED IT ANOTHER WAY. BUT HE DIDN'T KNOW WHAT WAS ABOUT  
2 TO GO DOWN THERE. HE'S NOT GUILTY OF THE CHARGES THAT HAVE BEEN  
3 LEVELED AGAINST HIM TODAY.

4 THE PROSECUTION BROUGHT UP THE FACT ABOUT MR. LARMAND  
5 HAVING A KNIFE. OKAY? A LOT OF WORKING FOLKS WORK WITH THEIR  
6 HANDS, CARS, WHAT NOT, HAVE A KNIFE IN THEIR POCKET. MR. LARMAND  
7 NEVER USED THE KNIFE. THAT SHOWS HE DIDN'T GO DOWN THERE WITH ILL  
8 WILL. HE NEVER PUNCHED, HIT MR. LOCHBAUM WHEN HE WAS ON TOP OF  
9 HIM. HE SIMPLY REACTED AS ANYONE MIGHT WHEN HIS BROTHER-IN-LAW IS  
10 ON THE GROUND, TRYING TO MAKE SURE THE GUN'S SECURE, NOBODY GETS  
11 HURT, AND TRYING TO GET EVERYBODY OFF OF LEO, WHOM HE KNOWS HAS  
12 A BAD BACK.

13 HE SHOWED YOU HIS BACK. AND HE'S HAD BACK PROBLEMS, AND I  
14 KNOW YOU'RE NOT ONE HUNDRED PERCENT WHEN YOU'VE GOT A BAD  
15 BACK. HE'S NEAR CROOKED. IS THAT THE KIND OF GUY YOU'RE GOING TO  
16 TAKE WITH YOU ON YOUR PLAN TO GO LYNCH SOMEBODY? IS PART OF  
17 YOUR CONSPIRACY, HEY, LET'S GO BEAT THIS GUY UP, AND YOU'RE GONNA  
18 TAKE MR. LEMIRE WITH YOU?

19 THERE HAVE BEEN MANY OBJECTIONS TO INTRODUCTION OF PHONE  
20 RECORDS, MR. GREELEY GETTING INTO PHONE RECORDS THAT HAVE BEEN  
21 PROVIDED TO US AND ME. ONCE AGAIN, I SUBMIT TO YOU THERE'S NOTHING  
22 MORE INHERENTLY RELIABLE THAN PHONE RECORDS.

23 NOW, WITH REGARD TO THE SPECIFIC CHARGES. YOU HEARD MR.  
24 LOCHBAUM DESCRIBE THE REASONS FOR HIM BEING TERMINATED FROM

1 POP-A-LOCK AS BEING TRUMPED UP. YOU REMEMBER THE TESTIMONY AS  
2 YOU HEARD IT, BUT I THINK THAT'S WHAT I HEARD, TRUMPED UP.

3 WELL, IF ANYTHING WAS TRUMPED UP IN THIS PROCEEDING AND THE  
4 INTERACTION BETWEEN THESE PARTIES AT THIS TRIAL, IT'S THESE  
5 EXCESSIVE CHARGES AGAINST MY CLIENT.

6 NOW, MR. LARMAND'S CHARGED, AS YOU'VE HEARD, WITH LYNCHING.  
7 YOU TAKE THE LAW AS HIS HONOR READS IT TO YOU, NOT AS THE LAWYERS  
8 GIVE IT TO YOU. BUT THAT REQUIRES PREMEDITATION. OKAY?  
9 PREMEDITATED. PREMEDITATED PURPOSE AND INTENT. I SUBMIT TO YOU  
10 THOSE ARE NOT PRESENT IN THIS CASE. OKAY?

11 LET'S THINK ABOUT THE WAY THINGS WENT DOWN. OKAY? THE  
12 CHRONOLOGY, THE TIMING OF THE WAY THINGS WENT DOWN. MR.  
13 LARMAND'S BEEN TALKING WITH MR. LOCHBAUM. THEY'RE HAVING A LESS  
14 THAN HARMONIOUS CONVERSATION. MR. LARMAND IS WALKING AWAY.  
15 THAT'S WHEN MR. LEMIRE APPEARS. HE THINKS THAT HIS BROTHER-IN-LAW  
16 IS IN DANGER. HE SEES THESE OTHER FOLKS IN CLOSE PROXIMITY. AND HE  
17 BROUGHT OUT THE GUN.

18 THEREAFTER, MR. LOCHBAUM JUMPS ON, JUMPS ON LEO. HOW IN THE  
19 WORLD CAN MR. LARMAND HAVE ANTICIPATED THAT? THEREAFTER HE  
20 SIMPLY REACTED SPONTANEOUSLY, AS PERHAPS ANYONE WOULD. THAT'S  
21 TOTALLY DIFFERENT FROM A SITUATION WHERE THEY GO DOWN THERE  
22 WITH AN AGREEMENT THAT MR. LEMIRE HOLDS MR. LOCHBAUM AT  
23 GUNPOINT WHILE MR. LARMAND BEATS HIM SENSELESS, AND MR. LEMIRE  
24 JOINS IN, KICKING HIM IN THE HEAD, KICKING HIM IN THE RIBS. THAT'S NOT  
25 WHAT HAPPENED HERE. THAT'S NO WHERE CLOSE TO WHAT HAPPENED

1    HERE. IT'S NOT ON ALL FOURS WITH WHAT THIS STATUTE IS. WHAT  
2    OCCURRED ON THIS NIGHT IS NOT WHAT THIS STATUTE IS MEANT FOR, I  
3    SUBMIT TO YOU.

4           THE SERIOUS PHYSICAL ALTERCATION DID NOT OCCUR WHILE MR.  
5    LARMAND AND MR. LOCHBAUM WERE TALKING WITH ONE ANOTHER. HE  
6    DIDN'T TAKE A SWIPE AT HIM. HE DIDN'T PULL A GUN ON HIM. HE DIDN'T  
7    GET HIS KNIFE OUT. HE SIMPLY TOLD HIM TO LEAVE HIS WIFE'S COMPANY  
8    ALONE. OKAY? AND THEN HE PROCEEDED TO WALK AWAY.

9           I WANT TO POINT OUT AGAIN, IS THAT THE MAN YOU'RE GONNA TAKE  
10   FOR YOUR LYNCHING PLAN?

11           BEG THE COURT'S INDULGENCE.

12           (PAUSE TO RETRIEVE EXHIBITS)

13           HE'S ALSO CHARGED WITH CRIMINAL CONSPIRACY. THE JUDGE IS  
14   GOING TO READ YOU THE LAW ON THAT. I SUBMIT YOU THERE'S NO  
15   TESTIMONY AND NO EVIDENCE WHATSOEVER OF UNITING, COMBINING, AND  
16   CONSPIRING ON THE PART OF FRANK AND LEO, ESPECIALLY NOT WITH  
17   REGARD TO LYNCHING AND POINTING A FIREARM. NONE WHATSOEVER

18           YOU HEARD MR. LEMIRE'S TESTIMONY AND MR. LARMAND'S  
19   TESTIMONY. WHAT DOES THE STATE HAVE OTHER THAN THAT'S THE WAY  
20   RYAN WANTS IT TO BE? BECAUSE IF IT'S THAT WAY IT'S A LOT MORE  
21   SERIOUS THAN JUST A DISORDERLY SITUATION OR A BREACH OF PEACE  
22   SITUATION, PEOPLE GETTING LOUD IN THE STREET.

23           HE KNOWS THAT TAKES IT TO ANOTHER HIGHER LEVEL. HE KNEW  
24   THAT WHEN HE WENT DOWN TO THE ROCK HILL POLICE DEPARTMENT. HE

1 WAS IN THERE EARLY IN THE MORNING AND HE'S RAISING CAIN. OKAY?  
2 AND IT WAS SEVERE ENOUGH FOR LES HERRING TO GO DEAL WITH IT.

3 AS I SAID IN OPENING ARGUMENT, AS YOU WILL RECALL, THE  
4 SQUEAKY WHEEL GOT THE GREASE THAT DAY, AND HAS CONTINUED TO GET  
5 THE GREASE THROUGHOUT THE PENDENCY OF THIS CASE AND INTO THIS  
6 CASE, AND THROUGHOUT. THAT'S NOT WHAT THE CRIMINAL JUSTICE  
7 SYSTEM SHOULD BE ABOUT. IT'S A SEARCH FOR TRUTH.

8 THIS IS STATE'S EXHIBITS SIX AND SEVEN. THESE ARE MR.  
9 LOCHBAUM'S INJURIES. AND I DON'T WANT TO MINIMIZE ANYTHING IN THE  
10 WORLD OF HUMAN INTERACTION. I DON'T LIKE TO SEE ANYBODY GET HURT.  
11 BUT THESE OCCURRED INCIDENTAL TO THE STRUGGLE FOR THE GUN. I  
12 DON'T KNOW WHETHER THESE ARE FINGERNAIL MARKS FROM PEOPLE  
13 TRYING TO GET THEIR HANDS ON THE GUN OR WHAT NOT. MY CLIENT'S NOT  
14 RESPONSIBLE FOR THOSE. THESE ARE PICTURES, I SUBMIT TO YOU, OF A  
15 LYNCHING?

16 POINTING A FIREARM. THERE'S ABSOLUTELY NO TESTIMONY-- MY  
17 CLIENT IS CHARGED WITH POINTING A FIREARM. THERE'S ABSOLUTELY NO  
18 EVIDENCE WHATSOEVER THAT MR. LARMAND EVER HAD A FIREARM, KNEW  
19 THAT MR. LEMIRE HAD A FIREARM, KNEW THAT MR. LEMIRE WOULD BRING  
20 A FIREARM DOWN TO MR. LOCHBAUM'S HOUSE, MUCH LESS TAKE THE  
21 FIREARM OUT AND BRANDISH THE FIREARM. YOU HEARD WHAT MR. LEMIRE  
22 SAID, NEVER HAPPENED.

23 BUT THAT'S NOT ENOUGH FOR MR. LOCHBAUM BECAUSE HE AS MUCH  
24 AS SAID WHEN HE WAS ON THE STAND, HE DOESN'T CARE ANYTHING ABOUT  
25 LEO. WHAT DID HE SAY? HE'S JUST FRANK'S THUG. IS THAT WHAT HE SAID?

1 HE DIDN'T CARE WHAT HAPPENS TO MR. LEMIRE. HE HOLDS AGAINST MR.  
2 LARMAND. HE DOESN'T HOLD ANY DISGRUNTLED FEELINGS ABOUT MR.  
3 LEMIRE. HE WANTS FRANK. A COURT OF LAW IS NOT THE PLACE TO EXACT  
4 REVENGE. IT'S A PLACE FOR THE SEARCH FOR TRUTH. THERE'S NO EVIDENCE  
5 OF A CONSPIRACY FOR MY CLIENT TO HAVE A GUN.

6 AS I SAID TO YOU IN THE BEGINNING OF THIS TRIAL, ALL OF THE  
7 HALLMARKS OF OUR CRIMINAL JUSTICE SYSTEM APPLY IN THIS CASE. THIS  
8 IS THE STUFF OF REAL LIFE. YOU READ IT IN BOOKS, SEE IT IN MOVIES AND  
9 TV. TODAY, IT IS A LIVING, BREATHING CONCEPT.

10 THE FIRST AND FOREMOST HALLMARK OF OUR CRIMINAL JUSTICE  
11 SYSTEM IS THIS MAN AS HE SITS HERE BEFORE YOU IS PRESUMED INNOCENT.  
12 THE STATE IN THE FORM OF PROSECUTION HAS THE BURDEN OF PROOF. HE  
13 NEED NOT PROVE ANYTHING IN THIS CASE. CERTAINLY, WE PUT OUR  
14 CLIENTS ON THE STAND. THERE'S NOTHING TO HIDE.

15 THE STATE'S BURDEN IN A CRIMINAL CASE IS A HIGH ONE. IT IS  
16 BEYOND A REASONABLE DOUBT, THE KIND OF DOUBT THAT WOULD CAUSE  
17 A REASONABLE PERSON TO HESITATE TO ACT. THAT'S OUR BLUEPRINT FOR  
18 JUDGING THIS CASE.

19 I SUBMIT TO YOU THE STATE HAS NOT COME CLOSE TO PROVING THEIR  
20 CASE BEYOND A REASONABLE DOUBT. NOT BECAUSE MS. JOYNER ISN'T  
21 WORKING HARD. IT'S BECAUSE MY CLIENT IS NOT GUILTY OF THOSE  
22 CHARGES. AND THAT IS THE SUM AND SUBSTANCE OF THE REASONS WHY  
23 THAT HAS NOT BEEN DONE. AND I ASK YOU TO SO FIND HIM NOT GUILTY OF  
24 THOSE CHARGES.

1           BAD JUDGMENT DOES NOT RISE TO THE LINE FOR LYNCHING. ACTING  
2 TO HELP YOUR BROTHER-IN-LAW WHO DID SOMETHING YOU DIDN'T KNOW  
3 HE WAS GOING TO DO AND SPONTANEOUSLY JUMPING INTO THE DOG PILE  
4 DOES NOT AMOUNT TO LYNCHING OR POINTING A FIREARM.

5           MY GRANDDADDY USED TO BE FOND OF AN OLD SAYING WHICH IS  
6 STILL USED IN THE SOUTH, CALLED WHEN PEOPLE ARE IN CAHOOTS WITH  
7 ONE ANOTHER. GOT SOMETHING GOING ON, COULD BE LEGAL, COULD BE  
8 ILLEGAL, COULD BE JUST FRIENDLY, WHATEVER. IT COULD BE BAD INTENT,  
9 GOOD INTENT. WHO KNOWS? YOU CAN BE IN CAHOOTS WITH ONE  
10 ANOTHER.

11           THE STATE WANTS YOU TO BELIEVE THAT MY CLIENT AND MR.  
12 LEMIRE WERE IN CAHOOTS WITH ONE ANOTHER. THEY WEREN'T. I SUBMIT  
13 TO YOU THE ONLY PEOPLE IN CAHOOTS WITH ONE ANOTHER WERE MR.  
14 LOCHBAUM AND HIS FRIENDS. WHETHER IT'S MIKE TAYLOR AND OTHER  
15 EMPLOYEES OF POP-A-LOCK WHO WERE HELPING HIM STEAL, OR TO SAY, OH,  
16 YEAH, THEY WERE WEARING ALL BLACK, TRYING TO LURE ME INTO THE  
17 DARKNESS. THAT, I SUBMIT TO YOU, IS WHAT BEING IN CAHOOTS IS ALL  
18 ABOUT.

19           THANK YOU FOR YOUR TIME AND ATTENTION TO THIS MATTER. I  
20 RESPECTFULLY ASK YOU THE JURY TO FIND NOT GUILTY OF ALL CHARGES  
21 AGAINST MR. LARMAND. THANK YOU.

22           THE COURT: MR. GREELEY.

23           MR. GREELEY: MAY IT PLEASE THE COURT. GOOD AFTERNOON. IN  
24 THE BEGINNING I TOLD YOU ABOUT THE STATE'S BURDEN OF PROOF AND

1 HOW THE STATE WAS ON TRIAL. AND THE STATE IS ON TRIAL IN EVERY  
2 CRIMINAL CASE THAT IS TRIED ACROSS THIS LAND.

3 AND ONE OF THE THINGS THAT YOU'RE GOING TO HAVE TO LOOK AT IS  
4 YOU'RE GOING TO HAVE TO DECIDE WHETHER OR NOT THE STATE HAS  
5 PROVED BEYOND A REASONABLE DOUBT EVERY ELEMENT OF EACH  
6 OFFENSE.

7 NOW, WHAT AM I TALKING ABOUT ELEMENTS? WHAT'D HE MEAN BY  
8 THAT? THERE ARE THREE ALLEGATIONS FOR BOTH OF THESE GENTLEMEN.  
9 ONE IS POINTING A FIREARM. TWO IS CONSPIRACY TO EITHER POINT A  
10 FIREARM OR DO A LYNCHING. THE STATE'S GONNA GO WITH WHICHEVER  
11 ONE, I GUESS, THEY THINK, OR BOTH.

12 THEN THEY'RE GOING TO HAVE TO PROVE EACH AND EVERY ELEMENT  
13 OF THE OFFENSE OF LYNCHING. AND THE JUDGE IS GOING TO GIVE YOU AN  
14 INSTRUCTION AND EXPLAIN TO YOU WHAT EACH OF THOSE OFFENSES ARE  
15 AND WILL DEFINE THEM. AND HE WILL DEFINE THEM BY THE ELEMENTS.

16 AND THEN WHAT YOU ARE TO DO IS TO LOOK AT WHAT YOU'VE SEEN  
17 AND WHAT YOU'VE HEARD AND MAKE A DETERMINATION AS TO WHETHER  
18 OR NOT THE GOVERNMENT HAS SATISFIED YOU BEYOND A REASONABLE  
19 DOUBT THAT THESE MEN ARE GUILTY OF EACH OF THOSE ELEMENTS OF  
20 EACH OFFENSE.

21 AND IF ON ONE ELEMENT OF THAT OFFENSE YOU FIND THAT THEY  
22 HAVE NOT PROVED THAT BEYOND A REASONABLE DOUBT, THEN YOU ARE  
23 TO RESOLVE THAT IN FAVOR OF MR. LARMAND AND MR. LEMIRE, AND FIND  
24 THEM NOT GUILTY OF THAT.

1           THERE'S SOMETHING ELSE THAT YOU'RE GOING TO HEAR IN THE  
2 INSTRUCTIONS. YOU'RE GOING TO HEAR THE LAW ON DEFENSE OF ANOTHER.  
3 THE LAW RECOGNIZES AS A COMPLETE AND ABSOLUTE DEFENSE THE  
4 DEFENSE OF ANOTHER. AND WHAT DEFENSE OF ANOTHER IS, IS IT IS VERY  
5 SIMILAR AND LIKE SELF-DEFENSE. BUT IT IS WHEN A THIRD PERSON COMES  
6 TO THE RESCUE OF ANOTHER PERSON.

7           AND THE JUDGE IS GOING TO TELL YOU WHAT THE ELEMENTS ARE OF  
8 SELF-DEFENSE. HOWEVER, IT'S VERY IMPORTANT FOR YOU TO UNDERSTAND  
9 THAT MR. LEMIRE HAS NO RESPONSIBILITY TO PROVE ANYTHING, EVEN IN  
10 REGARDS TO SELF-DEFENSE. WHAT YOU ARE TO DO IS TO LISTEN TO THE  
11 SELF-DEFENSE AND THEN SAY DID THE STATE PROVE THEM GUILTY EVEN  
12 OVER AND ABOVE ANY SELF-DEFENSE. AND SO, THAT IS THE WAY THAT  
13 YOU TREAT SELF-DEFENSE. SO, THAT IS AN WHOLE OTHER ASPECT THAT  
14 YOU HAVE TO CONSIDER ON BEHALF OF MR. LEMIRE.

15           AND WHAT THOSE ELEMENTS ARE GOING TO BE IS WHETHER OR NOT A  
16 REASONABLE PERSON BELIEVED THAT ANOTHER WAS IN THE THREAT OF  
17 SERIOUS BODILY INJURY OR DEATH, BUT SERIOUS BODILY INJURY. BASED  
18 ON THOSE CIRCUMSTANCES YOU'RE ALSO GOING TO HEAR THAT THE  
19 PERSON WHO WAS BEING DEFENDED DID NOT DO ANYTHING TO BRING  
20 ABOUT THE TROUBLE. OKAY?

21           NOW, I SUBMIT TO YOU THAT MR. LEMIRE REMEMBERED. MR. LEMIRE  
22 WAS ABOUT THREE AND A HALF MONTHS OFF OF BACK SURGERY. YOU SAW  
23 THE SCAR. I SUBMIT TO YOU HE'S NOT FAKING, HE'S NOT TRYING TO BEG ON  
24 YOUR SYMPATHY. THIS IS AN ACTUAL CONDITION THAT HE HAD THEN AND  
25 HE STILL HAS IT NOW.

1           AND SO, WHEN HE HEARD THE LOUD VOICES HE GOT OUT OF THE  
2 VEHICLE AND HE WENT UP THERE. YES, IT WAS DARK. BUT AT THE SAME  
3 TIME HIS BROTHER-IN-LAW HAD HIS BACK TURNED AND WAS WALKING  
4 BESIDE MR. LOCHBAUM. MR. LOCHBAUM WAS THE ONE WHO WAS CUSSING  
5 ABOUT THE COMPANY AND ABOUT FRANK. AND MR. LEMIRE SAW BEHIND  
6 FRANK.

7           NOW, I SUBMIT TO YOU ONE OF THE THINGS, YOU REMEMBER WHAT  
8 RON LEE SAID. THEY WERE READY TO FIGHT IF NEED BE. THAT'S KIND OF AN  
9 ATTITUDE. THAT'S A MINDSET THAT YOU REALLY HAVE TO GET YOURSELF  
10 INTO. IT'S NOT SOMETHING THAT SAYS, OH, I MIGHT NEED TO FIGHT HERE IN  
11 A MINUTE. OKAY? AND I'M READY. NO. GETTING READY TO FIGHT, BEING  
12 IN A MINDSET TO FIGHT. AND HE SAYS THEY WERE THINKING ABOUT IT.

13           AND YOU'RE NOT GOING TO BE THINKING ABOUT FIGHTING AND  
14 WALKING A THOUSAND FEET AWAY, ACCORDING TO HIS DEFINITION, FROM  
15 THE PERSON THAT YOU'RE THERE TO TRY AND PROTECT. THE PERSON THAT  
16 THEY REALLY DIDN'T KNOW THAT WELL. THEY JUST MET HIM RECENTLY  
17 AND THAT HAD KIND OF BECOME FRIENDS. OKAY? ALL OF FOUR OR FIVE  
18 PEOPLE WHO LIVED IN THE HOUSE TOGETHER, DOWN THE STREET FROM THE  
19 CONTROL GUY, MR. LOCHBAUM.

20           I SUBMIT TO YOU MR. LOCHBAUM HAS GOT CONTROL ISSUES. HE  
21 LIKES TO HAVE CONTROL. HE LIKES TO CONTROL PEOPLE. NOT A SINGLE  
22 FEMALE WHO WAS OUT THERE THAT NIGHT TESTIFIED. BUT THE GUYS DID.  
23 THE GUYS CAME TO TESTIFY.

24           MR. LOCHBAUM IS A CONTROL GUY AND HE LIKES TO CONTROL THE  
25 POLICE. HE WENT DOWN THE NEXT MORNING TO CONTROL THE POLICE

1 BECAUSE IT WASN'T HAPPENING THE WAY HE WANTED IT TO HAPPEN  
2 BECAUSE FRANK HAD GONE HOME.

3 AFTER CONFERRING WITH THE POLICE, AFTER THE POLICE DID THEIR  
4 JOB, THEIR JOB, FRANK WENT HOME. LEO COOPERATED. THERE WAS A GUN.  
5 LEO WAS ARRESTED FOR POINTING AND PRESENTING A FIREARM. OF  
6 COURSE, HERE WE HAVE TO DETERMINE WHETHER OR NOT HE'S GUILTY OF  
7 THAT. AND BY DOING THAT WE HAVE THE DEFENSE OF DEFENSE OF  
8 ANOTHER.

9 AND HAVE YOU NOTICED ABOUT HOW IN THIS CASE THERE'S ONLY  
10 TWO VERSIONS? THE POLICE WERE NOT THERE WATCHING WHAT  
11 HAPPENED. THERE'S NOBODY WHO IS UNCONNECTED WHO HAS COME IN  
12 HERE AND GIVEN YOU A VERSION. YOU'VE GOT ONE VERSION AND YOU'VE  
13 GOT THEIR VERSION. THAT'S ALL YOU GOT.

14 AND THE GOVERNMENT WANTS YOU TO SAY THAT THEIR VERSION,  
15 MR. LOCHBAUM'S VERSION IS SUFFICIENT BEYOND A REASONABLE DOUBT  
16 AND THAT THESE MEN ARE GUILTY, THEY'RE CRIMINALS.

17 SO, YOU'RE GOING TO HAVE TO RELY UPON MR. LOCHBAUM AND HIS  
18 VERSIONS AND HIS NEIGHBORS' VERSIONS. IF YOU CAN'T RELY UPON IT, YOU  
19 DON'T EVEN HAVE TO ACCEPT WHAT THEY SAY. YOU CAN FIND THEM NOT  
20 GUILTY, IF YOU CAN'T RELY UPON MR. LOCHBAUM'S VERSION.

21 LET'S TALK ABOUT THAT. OH. BEFORE I FORGET IT, AND I APOLOGIZE.  
22 PLEASE BE PATIENT WITH ME. THIS IS THE LAST OPPORTUNITY I HAVE TO  
23 SPEAK TO YOU ON BEHALF OF MR. LEMIRE. WHEN I SIT DOWN, IF I THINK OF  
24 SOMETHING ELSE I CAN'T SAY IT. SO, PLEASE BE PATIENT WITH ME.

1 THE SOLICITOR WAS QUESTIONING MR. LEMIRE. OKAY? MR. LEMIRE.  
2 AND SHE MENTIONED ABOUT HIM CARRYING THE GUN DOWN THE ROAD,  
3 BEING IN VIOLATION OF THE STATE LAW. THAT'S A RED HERRING IN THIS  
4 CASE. THAT'S A RED HERRING IN THIS CASE. HIM CARRYING IT DOWN THE  
5 ROAD HAS GOT NOTHING TO DO WITH POINTING AND PRESENTING A  
6 FIREARM.

7 THAT IS NOT POINTING AND PRESENTING A FIREARM IF HE'S NOT  
8 BEING TRIED FOR ANY VIOLATION OF WALKING DOWN THE ROAD WITH THE  
9 GUN. SO, THAT'S A RED HERRING. DO NOT FIND HIM GUILTY OF ANYTHING  
10 OF WALKING DOWN THE ROAD ALLEGEDLY IN VIOLATION OF SOUTH  
11 CAROLINA LAW. BECAUSE HE'S NOT. THEY'RE NOT ACCUSING HIM OF THAT  
12 BEFORE YOU. SO, DON'T CONFUSE THAT WITH POINTING A FIREARM.

13 THE POINTING A FIREARM HAS THE DEFENSE OF SELF DEFENSE. AND  
14 THIS ABOUT LYNCHING: THE EVOLUTION OF THE LAW IS VERY INTERESTING  
15 IN THE WAY THAT IT WOULD APPLIES TO THOSE. OKAY? YOU'RE GOING TO  
16 HEAR THE LAW ABOUT THAT. LYNCHING IS ABOUT MOBS.

17 HOWEVER, THE LAW DOES SAY THAT A MOB CAN BE TWO OR MORE  
18 PEOPLE. SO, THANK GOODNESS WE HAVE TWO PEOPLE SO THAT WE CAN DO  
19 LYNCHING AND WE CAN HAVE A MOB. THERE'S YOUR MOB. DON'T THINK  
20 ABOUT MR. LOCHBAUM'S MOB. THIS MOB OVER HERE, THESE TWO. A VERY  
21 SERIOUS OFFENSE, LYNCHING, HISTORICALLY A VERY SERIOUS OFFENSE.  
22 SO, THE EVOLUTION OF THE APPLICATION BRINGS US INTO COURT ON THESE  
23 FACTS BY THE GOVERNMENT THAT WE HAVE LYNCHING IN THE CASE.

24 NOW, LET ME TALK TO YOU ABOUT SOME OF THE TESTIMONY. YOU  
25 KNOW IN CASES SOMETIMES-- IF CASES WEREN'T SO SERIOUS SOMETIMES,

1 THEY WOULD BE A LOT MORE FUN TO TRY FROM OUR PERSPECTIVE. BUT  
2 WHEN THEY'RE SERIOUS IT'S NOT FUN. BUT IT IS INTERESTING. OKAY? IT'S  
3 INTERESTING. AND THE REASON THAT IT'S INTERESTING IS BECAUSE IN  
4 TRIALS SOMETIMES YOU NEVER QUITE KNOW WHAT'S GONNA HAPPEN. YOU  
5 TRY TO PREPARE AND PREPARE AND PREPARE. AND YOU TRY TO GET THIS  
6 STATEMENT AND THIS STATEMENT AND THIS STATEMENT, BUT SOMETIMES  
7 YOU'RE JUST NOT QUITE SURE OF EVERYTHING THAT MAY HAPPEN IN A  
8 TRIAL.

9 AND OUT OF THOSE THINGS, SOMETIMES THINGS THAT YOU DO  
10 PREPARE FOR AND SOMETIMES THINGS YOU DON'T PREPARE FOR, YOU FIND  
11 NUGGETS, LITTLE NUGGETS. AND LITTLE NUGGETS CAN MEAN A LOT.  
12 OKAY?

13 NOW, I'M GOING TO TALK TO YOU ABOUT A COUPLE OF THOSE LITTLE  
14 NUGGETS. THIS CASE, BASICALLY, THAT EVENING AROUND MIDNIGHT, OF  
15 APRIL 30-MAY 1, INTO THE NEXT DAY, TWO THINGS WERE BEING CREATED.  
16 TWO THINGS. PHONE LOGS AND A STORY. AND YOU KNOW, SOMETIMES  
17 THINGS DON'T MATCH UP ESPECIALLY WHEN A STORY'S BEING CREATED.  
18 OKAY?

19 REMEMBER THE TESTIMONY OF THE OFFICER AND FROM MR.  
20 LOCHBAUM? THEY'RE ALL THESE OTHER PEOPLE TESTIFYING ABOUT HOW  
21 THEY'RE CALLING THE POLICE. BECAUSE WE'VE GOT THIS MOB OVER HERE  
22 WHO HAD COME TO CREATE ALL THIS HAVOC AND THEY'RE CALLING THE  
23 POLICE. THIS OTHER MOB DIDN'T WANT TO CALL THE POLICE AT THAT TIME.  
24 SO, WHERE'S THE CONSISTENCY?

1 MR. HARRIS CAME ACROSS WELL. HE CAME ACROSS WELL. BUT  
2 THERE'S A PROBLEM. YOU REMEMBER MR. HARRIS LOOKED OUT THE  
3 WINDOW AND THEN WENT OUT THE DOOR. IT WAS BEFORE HE SAID PEOPLE  
4 WERE ON THE GROUND. AND WHAT DID HE DO BEFORE HE WENT OUT THE  
5 DOOR? BECAUSE HE WAS WATCHING MR. LOCHBAUM AND MR. LARMAND.  
6 WHAT DID HE DO? TOLD HIS WIFE, CALL THE POLICE. YET, THE FIRST CALL  
7 TO THE POLICE ACCORDING TO THE TESTIMONY CAME AT 12:09:55.

8 MS. JOYNER: OBJECTION, YOUR HONOR. THE PHONE LOGS ARE NOT IN  
9 EVIDENCE.

10 THE COURT: AS I TOLD THE JURY EARLIER, CLOSING ARGUMENTS ARE  
11 NOT EVIDENCE. THESE ATTORNEYS ARE SIMPLY STATING THEIR POSITIONS.  
12 PLEASE CONTINUE.

13 MR. GREELEY: THANK YOU. MR. LOCHBAUM ADMITTED THAT HE  
14 CALLED THE POLICE. IT'S ON THE CAD REPORT. NOW, HOW DID MR.  
15 LOCHBAUM CALL THE POLICE ON THE CAD REPORT WHILE HE'S OUT THERE  
16 FIGHTING? MAYBE HE WAS MULTI-TASKING THAT NIGHT. DO WE KNOW WHO  
17 CALLED? MAYBE HE DID. AND REMEMBER, HE'S THE ONE WHO'S KEEPING  
18 CONTROL. HE'S THE ONE WHO'S KEEPING CONTROL.

19 AND ABOUT THREE MINUTES AFTER THIS HE CALLS MIKE TAYLOR. HE  
20 CALLED MIKE TAYLOR BEFORE HE CALLED HIS WIFE. AND THEN  
21 THROUGHOUT THE EVENING, THE WHOLE EVENING HE ADMITTED TO YOU HE  
22 DIDN'T GO TO SLEEP. AND THE REASON HE DIDN'T GO TO SLEEP I SUBMIT TO  
23 YOU IS BECAUSE HE WAS BUSY. HE WAS BUSY. HE WAS ABOUT TO LOSE  
24 CONTROL. AND THE REASON HE WAS ABOUT TO LOSE CONTROL WAS

1 BECAUSE HE HAD BEEN BUSTED AND HE KNEW IT. HE HAD BEEN A THIEF  
2 AND THEY KNEW IT.

3 SO, WHO WAS HE CALLING IN THE MIDDLE OF THE NIGHT AT 1:30 IN  
4 THE MORNING, AT 2:00 IN THE MORNING, AT 3:00, WHO IS HE TALKING TO? HE  
5 ADMITTED TO TALKING TO AT LEAST FOUR EMPLOYEES OF THE COMPANY IN  
6 THE MIDDLE OF THE NIGHT. HE ADMITTED TO CALLING THE ROCK HILL  
7 POLICE DEPARTMENT TO FIND OUT-- AN OFFICER ADMITTED THAT HE  
8 TALKED TO MR. LOCHBAUM LATE THAT NIGHT. WHY? HE WAS OUT OF  
9 CONTROL. HE WANTED FRANK IN JAIL AND FRANK WASN'T IN JAIL.

10 ALL RIGHT. AND YOU KNOW THE REST OF IT, HOW IT WENT DOWN.  
11 HOW THE CHARGES CAME OUT AFTER HE MET WITH MR. LOCHBAUM.  
12 REMEMBER, HE MET WITH NOBODY ELSE BUT MR. LOCHBAUM AND THAT'S  
13 HOW ALL THESE OTHER CHARGES CAME ABOUT. MR. LOCHBAUM'S STORY  
14 THAT WE SHOWED DID NOT HAPPEN. OKAY?

15 NOW, WHAT'S THE OTHER ELEMENT? LET'S TALK ABOUT PLANNING  
16 AND CONSPIRING. I THINK THE EVIDENCE IS CLEAR AND IT IS UNREFUTED  
17 THAT WHEN FRANK WALKED UP TO THE DRIVEWAY HE STOOD AT THE END  
18 OF THE DRIVEWAY. NOW, MIND YOU, THIS IS 12:00 AT NIGHT AND FRANK'S  
19 STANDING THERE AT THE END OF THE DRIVEWAY. HE BELIEVES RYAN'S  
20 THERE. THERE ARE PEOPLE IN THE VAN, LEANING INTO THE VAN, LOOKING  
21 AT THIS SPIDER. WERE THEY LOOKING AT THE SPIDER?

22 REMEMBER HOW LONG HE STOOD THERE BEFORE THEY RECOGNIZED  
23 HIM? USE YOUR COMMON SENSE ON THIS. YOU'VE GOT GUYS WHO ARE, YOU  
24 HAVE ALL OF THEM TOGETHER IN A VAN. THERE ARE WINDOWS ALL THE

1 WAY AROUND THE VAN. MR. LOCHBAUM IS IN THE VAN. AND SOMEBODY  
2 WALKS UP AT MIDNIGHT AND STANDS AT THE END OF HIS DRIVEWAY.

3 THEY KNEW HE WAS THERE. THEY KNEW HE WAS THERE. THE  
4 DRIVEWAY WAS LIT. AND YET, NOBODY IMMEDIATELY WENT OUT AND  
5 SAID, WHAT ARE YOU DOING HERE. HE HAD TO WAIT. HE HAD TO WAIT. HE  
6 HAD TO WAIT. FINALLY, NOT MR. LOCHBAUM, BUT MARK, WHATEVER HIS  
7 NAME WAS, SAID CAN WE HELP YOU. THINK OF THE REASONABLENESS OF  
8 THAT. THINK OF THE RATIONALITY. THINK OF THE LOGIC OF THAT.

9 MR. LOCHBAUM IS IN THE VAN WITH WINDOWS ALL THE WAY  
10 AROUND. LOOK AT MR. LARMAND HERE. HE IS A DISTINCTIVE LOOKING  
11 PERSON. MR. LOCHBAUM KNEW HE WAS AT THE END OF THE DRIVEWAY.  
12 MR. LOCHBAUM KNEW HIM. HE SAW HIM. HIM COMING OUT OF THE VAN  
13 AND SAYING, OH, IT WAS A SCAM.

14 WHY WAS IT A SCAM? THEY WEREN'T LOOKING AT A SPIDER. THEY  
15 WERE IN THERE TALKING ABOUT THE GUY STANDING BACK AT THE END OF  
16 THE DRIVEWAY.

17 HAVE YOU NOTICED HOW ALL OF THEM USED THE SAME PHRASE,  
18 RYAN ASKED US FOR PRIVACY. RYAN ASKED US FOR PRIVACY. RYAN ASKED  
19 US FOR PRIVACY. WHY? WHY DID RYAN ASK THEM FOR PRIVACY. THEY  
20 ALREADY TALKED ABOUT IT. THINK ABOUT IT. THEY ALREADY TALKED  
21 ABOUT IT. RYAN KNEW HE WAS THERE. THEY TALKED ABOUT WHAT THEY  
22 WERE GONNA DO AND THEN THEY CAME OUT OF THE VAN AND ACTED  
23 SURPRISED. AND THEN RYAN ASKS FOR SOME PRIVACY. AND SO, THEY  
24 SHUFFLE OVER A LITTLE BIT AND RYAN LEADS FRANK AWAY FROM THE  
25 VAN WITH HIS BACK TO THE CROWD. OKAY?

1 AT THAT POINT IN TIME IT WAS JUST FRANK. IT WAS JUST FRANK.  
2 THEY'RE NOT GONNA SIT IN A VAN FOR A COUPLE OF MINUTES WHILE A GUY  
3 STANDS AT THE END OF THE DRIVEWAY AT MIDNIGHT LIKE FRANK DID  
4 WHERE THEY CAN ALL SEE HIM UNLESS THEY'RE NOT READY TO TALK TO  
5 HIM.

6 THOSE ARE THE LITTLE NUGGETS. THOSE ARE THE LITTLE NUGGETS. I  
7 SUBMIT TO YOU MRS. HARRIS DIDN'T CALL THE POLICE. NOBODY CALLED  
8 THE POLICE UNTIL RYAN WAS READY TO CALL THE POLICE AND HE CALLED  
9 THE POLICE. WHO HAD A MIND TO FIGHT THAT NIGHT? WHO WAS ANGRY  
10 THAT NIGHT? WHO HAD A REASON TO BE ANGRY THAT NIGHT?

11 RYAN GOT THE GUN, MADE THE COMMENT TO THEM ABOUT THE GUN.  
12 WAS THAT EVER REBUTTED? NO. RYAN HAD WON THAT SMALL VICTORY.  
13 HE HAD THE GUN. SO, HE MADE HIS LITTLE COMMENT AND THEN HE TAKES  
14 THE GUN IN THE HOUSE AND LOADS HIS OWN SHOTGUN AND BRINGS IT OUT  
15 AFTER HE CALLS THE POLICE. AFTER HE CALLS THE POLICE.

16 MY CLIENT HAD EVERY REASON TO BE ABLE TO-- PEOPLE CAN BE  
17 CRITICAL OF HIM. PEOPLE CAN SAY THEY DON'T LIKE HIM. I'M SORRY.

18 THIS COUNTRY, I SUBMIT TO YOU, THIS COUNTRY HAS A HISTORY TO  
19 WHERE PEOPLE APPRECIATE THAT FIREARMS CAN BE USED FOR  
20 PROTECTION. AND SO EVERY TIME A FIREARM IS PICKED UP OR IS USED IN  
21 ORDER TO INSURE THAT PROTECTION, IT'S NOT A CRIME. IT'S NOT A CRIME.  
22 WE HAVE A CONSTITUTIONAL RIGHT - THAT'S WHY IT'S IN THERE - TO BEAR  
23 ARMS.

24 NOW, IT'S ILLEGAL IF YOU POINT AND PRESENT AND DON'T HAVE A  
25 REASON TO DO THAT. IF MY CLIENT WANTED TO HURT ANYBODY THERE HE

1 HAD THIS GUN AND HE CERTAINLY COULD HAVE DONE SO. HE HAD ON THAT  
2 GUN ALMOST THE WHOLE TIME AND THE GUN WAS NEVER, NEVER  
3 DISCHARGED.

4 SO, CONTRARY TO WHAT THE SOLICITOR WAS SAYING ON CROSS  
5 EXAMINATION, PISTOLS LIKE THIS ONE ARE NOT ALWAYS BROUGHT OUT TO  
6 BE USED AND TO SHOOT. THEY CAN BE BROUGHT OUT TO QUELL, TO CALM,  
7 TO STOP PEOPLE BEFORE SOMETHING HAPPENS. ESPECIALLY WHEN THEY  
8 SEE THEIR FAMILY MEMBER GETTING READY TO BE BUSHWHACKED. AND  
9 SO, WHAT DID HE DO? HE SHOWED IT. HE DIDN'T SHOOT IT. HE SHOWED IT  
10 TO THEM AND WHAT HAPPENED IS IT STOPPED THEM.

11 MR. LEE SAID HE STOPPED IN HIS TRACKS WHEN SOMEBODY SAID  
12 THERE WAS A GUN. I SUBMIT TO YOU MR. LEE STOPPED IN HIS TRACKS  
13 BECAUSE HE WAS CLOSE ENOUGH TO COME OVER THERE TO HELP MR.  
14 CONTROL OVER HERE BECAUSE HE SAW IT. AND THAT IS THE GOOD THING  
15 ABOUT IT. IT CAN STOP VIOLENCE THAT'S GETTING READY TO OCCUR AND  
16 SOMEBODY BEING HURT. BECAUSE HE CERTAINLY WASN'T IN ANY  
17 CONDITION TO FIGHT, AND HE STOPPED IT.

18 THE FIRST TIME THAT ANYBODY TOUCHED ANOTHER PERSON WAS  
19 WHEN MR. LOCHBAUM BECAME THE AGGRESSOR TO TAKE IT AWAY. AND  
20 YOU HEARD HOW THAT OCCURRED. DO YOU THINK MR. LEMIRE WAS GOING  
21 TO SIT THERE AND GO, WOULD YOU TAKE THIS FOR ME? NO. IT'S THE  
22 REVERSE. HE'S GONNA SIT THERE AND HE'S GONNA STOP IT. HE'S GONNA  
23 STOP THE FRACAS AND THEY CAN LEAVE.

24 BUT A PERSON GOT HIS ATTENTION AND HE TURNED AROUND AND DID  
25 LIKE THIS. THERE HAD TO BE A DISTRACTION. THERE YOU GO. THERE WAS

1 A DISTRACTION. AND THAT WAS MR. LOCHBAUM'S OPENING TO DO WHAT HE  
2 WANTED TO DO, SO THAT HE COULD TAKE CONTROL.

3 I'M GOING TO SIT DOWN IN A MINUTE. THE DAY IS DONE. IT'S BEEN A  
4 LONG ROAD. WE'VE WAITED A LONG TIME FOR A JURY TO BE ABLE TO HEAR  
5 THE EVIDENCE. AND WE'RE GLAD THAT YOU'RE HAVING THAT  
6 OPPORTUNITY.

7 I ASK THAT YOU LOOK AT THE CASE AND I ASK THAT YOU LOOK AT  
8 THE STATE'S CASE.. AND IF YOU CAN RELY UPON THE WITNESSES OF THAT  
9 CASE, ESPECIALLY IN LIGHT OF THE OTHER VERSION OF WHAT OCCURRED  
10 AND THE LAW OF SELF-DEFENSE, I WOULD ASK THAT YOU NOT RELY ON THE  
11 WITNESSES FOR THE STATE WHEN YOU REACH YOUR VERDICT. AND ASK  
12 THAT YOU FIND MY CLIENT NOT GUILTY OF ALL THE CHARGES. THANK YOU.

13 THE COURT: SOLICITOR.

14 MS. JOYNER: THANK YOU, YOUR HONOR. THESE DEFENDANTS, THEY  
15 DON'T HAVE TO LIKE RYAN LOCHBAUM. NOBODY HAS TO LIKE ANY OTHER  
16 PERSON. BUT IF YOU DON'T LIKE SOMEBODY, EVEN IF YOU CANNOT STAND  
17 SOMEBODY, YOU DO NOT HAVE THE RIGHT TO GO TO THEIR HOME AND  
18 POINT A LOADED GUN AT THEM. YOU DON'T HAVE THE RIGHT TO GO TO  
19 THEIR HOME TO ATTACK THEM.

20 THE DEFENSE WANTS FOR THIS CASE TO BE COMPLICATED. THIS CASE  
21 ISN'T COMPLICATED. IT'S AS SIMPLE AS A CASE CAN BE. THESE DEFENDANTS  
22 WENT TO RYAN LOCHBAUM'S HOME. THAT'S THE HOME THAT HE SHARED  
23 WITH HIS WIFE AND HIS CHILD. THEY PARKED ALL THE WAY DOWN THE  
24 STREET, ALL THE WAY OUT OF VIEW. THEY WERE DRESSED IN ALL BLACK

1 IN THE MIDDLE OF THE NIGHT. THEY WALKED UP TO HIS HOME. ONE WENT  
2 ONE WAY, ONE WENT THE OTHER WAY.

3 LEO LEMIRE HAD A GUN AND FRANK LARMAND GOT RYAN ALONE.  
4 AND ONCE RYAN WAS ALONE AND DEFENSELESS, LEO LEMIRE CHARGED  
5 OUT OF THE DARKNESS, CHARGED OUT OF THE DARKNESS WITH THIS GUN  
6 LOADED AND POINTED.

7 WHAT WERE THEY THERE TO DO, LADIES AND GENTLEMEN? WHAT  
8 WERE THERE TO DO? THEY WANTED TO SURPRISE HIM. THEY WANTED TO  
9 AMBUSH HIM. THEY WANTED TO HURT HIM OR WORSE. AND THEY MIGHT  
10 HAVE SUCCEEDED IF EVERYTHING AT THEY PLANNED TO ACCOMPLISH THAT  
11 DAY BUT FOR THE INTERVENTION OF NEIGHBORS.

12 YOU ARE THE FINDERS OF FACT. ULTIMATELY, YOU HAVE THE TOUGH  
13 JOB OF GOING BACK THERE IN THAT JURY ROOM AND DECIDING WHAT  
14 HAPPENED AT MIDNIGHT ON GENTLE BREEZE LANE. AND AS THE FINDERS OF  
15 FACT YOU ARE JUDGES OF CREDIBILITY. YOU DECIDE WHO IS TELLING THE  
16 TRUTH.

17 IN A CRIMINAL TRIAL, THE BURDEN ALWAYS REMAINS WITH THE  
18 STATE. WE HAVE THE BURDEN OF PROVING THE DEFENDANTS GUILTY  
19 BEYOND A REASONABLE DOUBT. NO CRIMINAL DEFENDANT HAS TO TAKE  
20 THE STAND. IN FACT, THEY HAVE THE RIGHT NOT TO TAKE THE STAND. AND  
21 IF THEY DON'T TAKE THE STAND YOU CAN'T USE IT AGAINST THEM.

22 BUT THE MINUTE A CRIMINAL DEFENDANT PUTS HIS HAND ON THE  
23 BIBLE, RAISES HIS HAND AND SWEARS TO THE TELL THE TRUTH, AND  
24 TESTIFIES FORM THAT SEAT, YOU JUDGE HIS CREDIBILITY THE WAY YOU  
25 JUDGE EVERY OTHER WITNESS' CREDIBILITY.

1 LET'S TALK ABOUT FRANK LARMAND'S STORY FIRST. IT'S  
2 INTERESTING. SO, FRANK LARMAND, HE'S GONNA GO TO KNIGHTS' STADIUM  
3 WITH HIS BROTHER-IN-LAW FOR SOMETHING THAT HAS ABSOLUTELY  
4 NOTHING TO DO WITH RYAN LOCHBAUM. RYAN'S NOT EVEN A THOUGHT IN  
5 HIS MIND.

6 AND THEN WHEN THIS MYSTERY CALLER THING DOESN'T PRODUCE  
7 ANY EVIDENCE OR INFORMATION HE INEXPLICABLY DECIDES THAT TONIGHT  
8 IS THE NIGHT HE'S GONNA GO TO THIS MAN'S HOUSE. AND BY HIS OWN  
9 TIMELINE, IT'S, LIKE, 11:20 AT NIGHT WHEN HE DECIDES THIS. NO PHONE  
10 CALL. HE DIDN'T BOTHER TO CALL HIM. HE CALLS HIS WIFE HE SAYS TO GET  
11 DIRECTIONS TO GO TO THIS HOUSE. AND HE HAS TO STAY ON THE PHONE  
12 WITH HIS WIFE THE WHOLE TIME BECAUSE THE ROADS ARE CONFUSING AND  
13 HE'S HAVING A HARD TIME FINDING HIS WAY.

14 HE'S GOING TO THIS HOUSE AT 11:30 AT NIGHT. AND REMEMBER, HE'S  
15 JUST GOING THERE TO TALK ABOUT TWO THINGS. RIGHT? HE'S GONNA TALK  
16 ABOUT MAGNETS AND HE'S GONNA SEE IF ANY OF HIS EMPLOYEES ARE  
17 THERE. WHEN HE FINALLY GETS THERE HE MAKES A SLOW DRIVE BY AND  
18 THERE ARE NO MAGNETS ON THE CAR. SO, SCRATCH THAT ONE OFF THE  
19 LIST.

20 AND HE SAYS HE CAN'T SEE WHO THE PEOPLE ARE, SO, HE'S JUST  
21 GONNA PARK HIS CAR ALL THE WAY AROUND THE CORNER AND HE'S JUST  
22 GONNA WALK IN. BUT HE'S GONNA LEAVE HIS BROTHER-IN-LAW, LEO, IN  
23 THE CAR BECAUSE HE DOESN'T WANT TO GET LEO INVOLVED. HE DOESN'T  
24 WANT ANY TROUBLE. HE DOESN'T WANT LEO INVOLVED.

1           AND WE'LL TALK ABOUT LEO IN JUST A MINUTE AND WHAT FRANK  
2 SAID ABOUT LEO. BECAUSE THEY'RE IN THE CAR FOR NEARLY THREE HOURS  
3 BY THIS TIME AND THEY HAVEN'T TALKED ABOUT RYAN LOCHBAUM ONCE.  
4 THEY HAVEN'T DISCUSSED THIS AT ALL. LEO'S JUST SITTING IN THE DRIVER'S  
5 SEAT, GOING WHEREVER FRANK SAYS TO GO. HE DOESN'T KNOW ANYTHING  
6 ABOUT WHY THEY'RE GOING ANYWHERE.

7           AND SO, THEY PULL UP AND THIS SUBDIVISION, SOUTH WINDS, IN THE  
8 MIDDLE OF NOWHERE. AND HE LEAVES HIM ON A DARK STREET TO GO TO A  
9 HOUSE TO SEE A GUY. IT DOESN'T REALLY MAKE SENSE, DOES IT? IT  
10 DOESN'T MAKE ANY SENSE AT ALL.

11           AND AS FOR LEO, FOR HIS PART, FRANK SAYS HE HAD NO IDEA THIS  
12 GUN, THIS LOADED GUN WAS IN THE CAR. FOR THREE HOURS IN THE CAR  
13 AND HE HAS NO IDEA, RIDING ALL OVER TOWN, THERE'S THIS BIG GUN.

14           SO, HE PARKS ALL THE WAY DOWN THE STREET BECAUSE HE DOESN'T  
15 WANT LEO WHO DOESN'T KNOW ANYTHING AND HAS NO BEEF WITH  
16 ANYBODY TO GET INVOLVED IN ANYTHING, EVEN THOUGH THERE'S NOT  
17 GONNA BE ANY TROUBLE. HE'S JUST GOING THERE TO TALK ABOUT  
18 EMPLOYEE THINGS. BUT HE LEAVES HIM OVER HERE AND HE WALKS ALL  
19 THIS WAY BY HIMSELF.

20           AND HE STANDS AT THE END OF THE DRIVEWAY AND HE FOLDS HIS  
21 ARMS. THIS IS HIS TESTIMONY. STANDING IN SOMEONE'S DRIVEWAY IN THE  
22 MIDDLE OF THE NIGHT WAITING TO BE ACKNOWLEDGED BECAUSE THESE  
23 GUYS HE THINKS HAVE SEEN HIM AND ARE IGNORING HIM. HE DOESN'T  
24 EVEN THINK IT'S CREEPY.

1           REMEMBER, I ASKED HIM WAS THAT CREEPY. WELL, HE THOUGHT IT  
2           WAS CREEPY THEY DIDN'T ACKNOWLEDGE HIM. HE DIDN'T THINK IT WAS  
3           CREEPY HE WAS STANDING THERE CROSSING AND UNCROSSING HIS ARMS  
4           AT THE END OF SOMEONE'S DRIVEWAY AT MIDNIGHT.

5           AND SO, WHEN HE FINALLY-- OH, I REMEMBER HIS TESTIMONY. HE'S  
6           NOT REALLY UPSET. THAT'S CONSISTENT THROUGHOUT HIS TESTIMONY.  
7           RIGHT? IT'S AT THIS POINT, MIDNIGHT, MIDNIGHT, AND HE'S NOT UPSET. HE'S  
8           JUST DRIVEN THIRTY MINUTES OUT OF HIS WAY TO GO TO SOMEONE'S  
9           HOUSE TO TALK AND HE'S NOT UPSET AT ALL.

10          SO, HE ASKED TO SPEAK WITH RYAN, AND THE FIRST THING HE SAYS  
11          IS, I KNOW WHAT YOU'RE DOING, LEAVE MY WIFE'S BUSINESS ALONE. BUT,  
12          REMEMBER, HE SAID, RYAN WAS THE ONE WHO WAS REALLY UPSET. HE'S  
13          REALLY NOT THAT UPSET. DOES THAT MAKE ANY SENSE?

14          AND THE LAST THING HE SAYS IS, YOU CAN HAVE MIKE TAYLOR.  
15          NOW, EVEN THOUGH KNIGHTS' STADIUM HAD NOTHING TO DO WITH LURING  
16          RYAN LOCHBAUM OUT, AND MAYBE HE'S THROWING MIKE TAYLOR'S NAME  
17          AROUND, LIKE MIKE TAYLOR IS THIS GUY'S BIG CONSPIRATOR. BUT THIS BIG  
18          CONSPIRACY THEY DIDN'T PROVE. AND SO, NOW HE'S OVER THERE BECAUSE  
19          HE DIDN'T PROVE IT.

20          AND EVEN THOUGH KNIGHTS' STADIUM HAD NOTHING TO DO WITH  
21          RYAN LOCHBAUM, YOU CAN KEEP MIKE TAYLOR. HE COULDN'T REALLY  
22          EXPLAIN WHY HE SAID THAT.

23          AND HE'S GONNA TURN AND WALK AWAY BECAUSE HE'S DONE. HE'S  
24          DONE TALKING. THE NEXT THING HE HEARS IS A NOISE AND HE TURNS  
25          AROUND AND OUT OF NO WHERE, BECAUSE HE'S NEVER SEEN LEO, AND HE

1 CAN'T TELL YOU WHERE LEO CAME FROM. THE LAST TIME HE SAW LEO WAS  
2 AT THE CAR. LEO AND RYAN ARE SCUFFLING OVER THIS GUN. AND THESE  
3 BIG GUYS ARE JUMPING ON HIS BROTHER-IN-LAW. AND HE'S JUST, LIKE,  
4 JESSE HARRIS OR MARK WHITTINGTON, HE'S JUST TRYING TO DEFUSE THE  
5 SITUATION. THAT'S ALL. AND THEY GAVE UP THE GUN AND LEFT.

6 LADIES AND GENTLEMEN, HIS STORY DOESN'T MAKE SENSE. HE WENT  
7 THERE FOR TROUBLE. ABSOLUTELY, POSITIVELY, HE WENT THERE FOR  
8 TROUBLE.

9 LET'S TALK ABOUT LEO'S TESTIMONY. NOW, LEO, HE'S JUST ALONG  
10 FOR THE RIDE. THREE HOURS IN A CAR. AND THEY'RE JUST WAITING FOR A  
11 VOICE ON A CELL PHONE AT KNIGHTS' STADIUM AND HE DOESN'T KNOW  
12 ANYTHING ABOUT RYAN. HE DOESN'T REALLY QUESTION WHY HE'S GOING  
13 WHERE HE'S GOING IN THE MIDDLE OF THE NIGHT. HE JUST GOES WHERE HIS  
14 BROTHER-IN-LAW TELLS HIM TO.

15 AND HE SAYS, YEAH, HE'S PARKED AT THE END OF THE STREET AND HE  
16 LEFT ME THERE. THEN, ABOUT THREE MINUTES LATER, I HEARD VOICES AND  
17 I WAS SCARED. HE HEARS VOICES AND HE'S SCARED. AND THIS FEEBLE  
18 MAN-- NOT MY WORDS, THAT'S HOW HE'S BEING PORTRAYED BY MR. RHEA.  
19 THIS FEEBLE MAN MAKES IT ALL THE WAY UP THE STREET IN ABOUT TWO  
20 MINUTES.

21 AND REMEMBER WHICH WAY HE SAYS HE WENT? HE SAYS HE  
22 WALKED STRAIGHT UP THE MIDDLE OF THE STREET. RIGHT? HE'S GOING  
23 RIGHT UP THE STREET. AND REMEMBER, FRANK'S GOING THIS WAY DOWN  
24 THE STREET.

1 FRANK SAID IN HIS TESTIMONY THAT HE NEVER SAW WHERE LEO  
2 CAME FROM. HE JUST CAME OUT OF NOWHERE. RIGHT? WELL, LEO SAYS I  
3 WALKED RIGHT BY HIM. OH, HE TRIES TO SAY EIGHT FEET OR FIFTEEN FEET  
4 OR HOW EVER MANY FEET, I DON'T KNOW BIG THE ROADS ARE IN THE SOUTH  
5 WINDS NEIGHBORHOOD. BUT HE WALKED RIGHT BY HIM. HE WALKED BY  
6 HIM ON THE STREET.

7 LEO SAW HIM. LEO SAW FRANK. LEO SAW RYAN. BUT, YOU KNOW,  
8 NOBODY CAN SEE LEO EVEN THOUGH HE'S RIGHT THERE IN THE STREET,  
9 WALKING RIGHT UP. DOES THAT REALLY MAKE SENSE?

10 AND IF LEO LEMIRE IS DOWN HERE AND HEARS VOICES, AND SO MUCH  
11 SO, SO SCARY, THAT HE THINKS THERE'S GONNA BE TROUBLE, LADIES AND  
12 GENTLEMEN, THERE'S SOMETHING ELSE THAT HE'S GOT IN HIS CAR THAT'S  
13 EVEN MORE EFFECTIVE THAN THIS IN QUELLING THE PROBLEM. HE'S GOT A  
14 PHONE. AND DOES HE STOP TO CALL 911 BECAUSE HE'S FEEBLE AND HE  
15 THINKS THERE'S TROUBLE, AND HE'S NOT THE TYPE OF PERSON WHO CAN  
16 DEFEND SOMEBODY? NO. HE GETS THAT GUN, IT'S ALL LOADED UP AND IT'S  
17 READY TO GO. AND HE WALKS DOWN THE STREET.

18 AND IF YOU BELIEVE HE'S AS FEEBLE AS THEY SAY HE IS, WALKING  
19 DOWN THE STREET IN THE MIDDLE OF THE NIGHT WITH HIS GUN, NO. LADIES  
20 AND GENTLEMEN, NONE OF THIS MAKES SENSE. ABSOLUTELY NONE OF THIS  
21 MAKES SENSE. IF HE THOUGHT THERE WAS TROUBLE AND HE'S SO FEEBLE  
22 WHY DOESN'T HE DRIVE THE CAR DOWN THE STREET?

23 IT DOESN'T MAKE SENSE BECAUSE NONE OF IT'S TRUE. NONE OF IT IS  
24 TRUE. HE WALKED DOWN THAT STREET THAT NIGHT WITH HIS BROTHER-IN-  
25 LAW. THEY WERE GOING HERE. THEY WERE GOING HERE.

1           NOW, JUST A WORD ABOUT THE VICTIM. YES, LADIES AND  
2 GENTLEMEN, THE VICTIM WAS UPSET THAT HE HAD LOST HIS JOB. HE  
3 ABSOLUTELY WAS. I THINK MOST PEOPLE WOULD BE.

4           MR. GREELEY'S FOUND THIS NEW THEORY ABOUT THE VICTIM BEING  
5 ABLE TO ARRANGE TO CONSPIRE WITH HIS OWN LYNCHING IN THREE  
6 MINUTES TO GET THESE GUYS. WELL, LADIES AND GENTLEMEN, THEY CAME  
7 TO HIS HOUSE. THEY CAME TO HIS HOUSE. HE DIDN'T MAKE THIS SITUATION  
8 UP AND HE DIDN'T MAKE THIS HAPPEN. THEY MADE THIS HAPPEN. THEY  
9 CAME TO HIS HOME AT MIDNIGHT, ONE OF THEM CARRYING THIS.

10           AND THEY FAULTED HIM. THEY FAULTED HIM IN CROSS  
11 EXAMINATION. THEY FAULTED HIM IN THEIR CLOSING. BECAUSE HE HAD  
12 THE UNMITIGATED GALL OF CALLING THE POLICE. IMAGINE. IMAGINE  
13 ADDRESSING CONCERNS ABOUT SOMETHING TO PROPER AUTHORITIES.

14           REALLY, IS THAT WORST-- IS THAT THE BIGGEST TAX THEY CAN LEVY  
15 AGAINST THE VICTIM, HE CALLED THE POLICE? HE WAS CONCERNED ABOUT  
16 HIS CASE AND HE CALLED THE POLICE. HE WANTED AN ANSWER ABOUT  
17 SOMETHING, SO HE WENT TO THE POLICE DEPARTMENT. THAT'S THE WAY  
18 THAT YOU'RE SUPPOSED TO HANDLE QUESTIONS AND PROBLEMS. THAT'S  
19 WHAT PEOPLE DO IN THE SOCIETY WE HAVE. YOU HAVE A PROBLEM, YOU  
20 GO TO THE POLICE.

21           THEY WANT, THE DEFENSE WANTS HIM TO BE A SVENGALI, AND HE'S  
22 GOT THIS CONTROL OVER THE GUY THAT LIVES RIGHT THERE, OR USED TO  
23 LIVE RIGHT THERE. THE ONE THAT CAME HERE FROM FLORIDA TO TESTIFY.  
24 THAT GUY, AND THESE OTHER GUYS DOWN THE STREET. THAT HE'S  
25 SOMEHOW GOT THEM LYING TO TELL WHAT HAPPENED.

1 LADIES AND GENTLEMEN, THEY DON'T HAVE TO. THEY DON'T HAVE A  
2 DOG IN THIS FIGHT. THEY DON'T KNOW THE DEFENDANTS. THEY'RE  
3 NEIGHBORS OF THE VICTIM. THEY HAPPENED TO BE THERE WHEN  
4 SOMETHING HAPPENED. THEY DIDN'T MAKE IT HAPPEN. THESE GUYS MADE  
5 IT HAPPEN. THEY JUST HAPPENED TO BE THERE. THEY'VE GOT NO REASON  
6 TO LIE.

7 THE DEFENSE ATTORNEYS KEPT ASKING, THEY TALKED TO EACH  
8 OTHER, TALKED TO EACH OTHER BEFORE THEY CAME IN WITH THEIR  
9 STORIES. AND I THINK IT WAS IN CROSS EXAMINATION OF RONALD LEE  
10 THAT MR. GREELEY SAID YOU TALKED WITH EACH OTHER TO GET YOUR  
11 STORIES STRAIGHT. RIGHT? NO.

12 LADIES AND GENTLEMEN, THE ONLY TWO WITNESSES IN THIS CASE  
13 WHO TRIED TO GET THEIR STORIES STRAIGHT WERE THESE TWO.

14 THE DEFENDANTS ARE CHARGED WITH CRIMINAL CONSPIRACY,  
15 POINTING AND PRESENTING, LYNCHING. POINTING AND PRESENTING, THAT'S  
16 REALLY SIMPLE. TO POINT AND/OR PRESENT A FIREARM AT ANOTHER  
17 PERSON.

18 CRIMINAL CONSPIRACY, THE WAY THE LAW IS WRITTEN IS IT'S  
19 UNLAWFUL, IT'S UNLAWFUL, WILLFUL, FELONIOUS TO CONSPIRE, TO  
20 CONFEDERATE, TO AGREE, TO HAVE AN UNDERSTANDING WITH ANOTHER  
21 PERSON FOR A CRIMINAL PURPOSE.

22 AND FINALLY, LYNCHING, AN ACT OF VIOLENCE INFLICTED UPON  
23 ANOTHER-- OR, AN ACT OF VIOLENCE INFLICTED BY A MOB ON THE PERSON  
24 OF ANOTHER.

1 I WANT TO TALK TO YOU ABOUT A CONCEPT CALLED THE HAND OF  
2 ONE IS THE HAND OF ALL. AND THE JUDGE IS GOING TO CHARGE YOU ON  
3 THIS. AND HE'S GOING TO READ YOU A LONGER INSTRUCTION. BUT HERE'S  
4 THE HIGHLIGHTS: IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE WHO  
5 ARE ACTING TOGETHER IN COMMITTING A CRIME, THE ACT OF ONE IS THE  
6 ACT OF ALL. A PERSON WHO JOINS WITH ANOTHER WHO COMMITS AN  
7 UNLAWFUL ACT IS CRIMINALLY RESPONSIBLE FOR EVERYTHING DONE BY  
8 THE OTHER PERSON WHICH HAPPENS AS A NATURAL CONSEQUENCE OF THE  
9 ACTS DONE IN CARRYING OUT THE COMMON PLAN OR PURPOSE.

10 FOR EXAMPLE, TWO PEOPLE CAN BE GUILTY OF KILLING ANOTHER  
11 PERSON WHEN ONE OF THE TWO HAD A GUN, THERE WAS ONLY ONE BULLET,  
12 AND ONLY ONE OF THE TWO FIRED THE SHOT THAT CAUSED THE DEATH. SO,  
13 THE HAND OF ONE IS THE HAND OF ALL.

14 WHEN YOU ARE THINKING ABOUT THE CRIME OF LYNCHING, AN ACT  
15 OF VIOLENCE INFLICTED BY A MOB UPON THE PERSON OF ANOTHER, THINK  
16 OF IT THIS WAY: MOST PEOPLE HAVE HEARD OF THE CRIME OF ASSAULT  
17 AND BATTERY. A BATTERY IS AN UNWANTED TOUCH. SO, IF I DRAW MY FIST  
18 BACK AT YOU AND YOU'RE AFRAID THAT I'M GOING TO HIT YOU, THEN I'VE  
19 ASSAULTED YOU. BUT IF I ACTUALLY FOLLOW THROUGH AND I DO PUNCH  
20 YOU, THEN I'VE COMMITTED A BATTERY.

21 LYNCHING IS AN ASSAULT AND BATTERY COMMITTED BY A MOB.  
22 THAT'S TWO OR MORE PEOPLE THAT COME TOGETHER FOR THE PURPOSE OF  
23 COMMITTING AN ACT OF VIOLENCE. THE STATE DOES NOT HAVE TO PROVE  
24 SERIOUS INJURY. AND THEY DON'T HAVE TO PROVE ANY INJURY.

1 RYAN LOCHBAUM WASN'T SERIOUSLY INJURED. HE WAS VERY, VERY  
2 LUCKY. BUT IT WASN'T BECAUSE THEY-- HE WASN'T SERIOUSLY INJURED  
3 BECAUSE OF HIS NEIGHBORS, LADIES AND GENTLEMEN, WHO WERE ABLE TO  
4 STOP THIS ACT.

5 SO, WHEN YOU THINK ABOUT THIS CASE, THINK ABOUT IT THIS WAY:  
6 THE CRIMINAL CONSPIRACY IS THE AGREEMENT, THE AGREEMENT TO DO  
7 THE CRIMINAL ACT. IT IS BASICALLY TWO PEOPLE COMING TOGETHER AND  
8 HAVING AN UNDERSTANDING. ONCE TWO PEOPLE GET TOGETHER AND  
9 HAVE THAT UNDERSTANDING AND THEY TAKE THAT EXTRA STEP OF GOING  
10 AND DOING WHAT THEY PLANNED TO DO, LADIES AND GENTLEMEN, THEY'RE  
11 BOTH THERE AND PRESENT AND DOING WHAT THEY PLANNED TO DO. THEN  
12 WHAT ONE DOES, THE OTHER DOES, TOO. THEY'RE BOTH GUILTY. THE  
13 HAND OF ONE IS THE HAND OF ALL.

14 AND WHEN YOU TAKE THAT UNDERSTANDING AND YOU PUT IT IN THE  
15 CONTEXT OF LYNCHING, THE TWO PEOPLE COME TOGETHER FOR THE  
16 PURPOSE OF COMMITTING THAT VIOLENT INJURY, THAT VIOLENCE, THAT  
17 ASSAULT AND BATTERY, AND THEY ACTUALLY FOLLOW THROUGH WITH IT,  
18 THEY HAVE COMMITTED LYNCHING.

19 SO, REALLY, THE CRUX OF THIS CASE IS THE CONSPIRACY. IT IS THE  
20 PLAN, LADIES AND GENTLEMEN. THE PLAN, THE INTENT. WE DON'T HAVE TO  
21 SHOW YOU INTENT BY DIRECT EVIDENCE. YOU'RE NOT SUPPOSED TO BE  
22 MIND READERS. THE POLICE AREN'T SUPPOSED TO BE MIND READERS. HOW  
23 DO YOU KNOW WHAT SOMEBODY INTENDED TO DO? YOU LOOK TO THEIR  
24 ACTIONS. WHAT DO THEIR ACTIONS TELL YOU ABOUT WHAT THEY PLAN TO  
25 DO?

1           THESE GUYS PULLED UP IN A DARK NEIGHBORHOOD AND PARKED ALL  
2 THE WAY DOWN THE STREET, OUT OF VIEW. THIS GUY OVER HERE HAD NO  
3 IDEA THEY WERE COMING. THEY DIDN'T CALL HIM. THIS VICTIM DIDN'T  
4 EVEN KNOW THEY KNEW WHERE HE LIVED. THEY HAD TO GET DIRECTIONS  
5 TO FIND HIS HOUSE, ACCORDING TO MR. LARMAND. AND THEY SHOW UP  
6 THERE UNINVITED. THEY WALK DOWN THIS STREET AND THEY SPLIT APART.

7           BECAUSE THE PLAN ISN'T TO APPROACH TOGETHER. BECAUSE WHERE  
8 WOULD BE THE ELEMENT OF SURPRISE IN THAT? THEY SPLIT UP, LADIES  
9 AND GENTLEMEN. AND FRANK APPROACHES AND LEO CROUCHES IN THE  
10 DARKNESS WITH HIS LOADED, BIG GUN.

11           I WANT YOU TO THINK ABOUT WHAT HAPPENED ONCE RYAN'S ALONE  
12 AND ONCE LEO COMES RUNNING OUT OF THE DARKNESS. NOW, I KNOW  
13 FRANK SAID HE HAD HIS BACK TO HIM. LADIES AND GENTLEMEN, IT SIMPLY  
14 DOESN'T MAKE SENSE. THE ONLY THING THAT MAKES SENSE, REMEMBER  
15 THE TESTIMONY OF JESSE HARRIS, AND THE TESTIMONY OF EVERYBODY  
16 ELSE, ALL THESE NEIGHBORS WITH NO DOG IN THIS FIGHT.

17           THE ONLY THING THAT MAKES SENSE IS FRANK LARMAND IS  
18 STANDING AT THE END OF THAT DRIVEWAY WITH RYAN LOCHBAUM, THERE  
19 ALONE. AND FRANK (SIC) COMES DARTING OUT OF THE DARKNESS AND HE'S  
20 GOT THIS LOADED GUN, AND HE'S IS SCREAMING, THIS IS WHAT YOU GET  
21 WHEN YOU F WITH MY FAMILY. HE GETS THAT GUN. HE GETS THIS GUN SO  
22 CLOSE TO RYAN LOCHBAUM, THIS LOADED GUN THAT HE CAN REACH OUT  
23 AND HE CAN TOUCH IT.

24           AND WHAT IS FRANK DOING? WHAT IS FRANK DOING WHEN LEO  
25 RUSHES OUT? DOES HE SAY, OH, NO, OH, NO, LEO, WHAT ARE YOU DOING?

1 NO. STOP, LEO, STOP, LEO. WHERE'D YOU GET A GUN? NO. DOES HE REACT  
2 LIKE POOR, LITTLE, OLD DEVIN FIVECOAT THE FIRST TIME HE SEES THE  
3 BARREL OF THIS GUN? AND WHAT DOES HE SAY? OH, MY GOD, THERE'S A  
4 GUN? NO. HE DOESN'T REACT ANY OF THOSE WAYS BECAUSE HE'S NOT  
5 SURPRISED. THIS WAS PART OF THE PLAN.

6 RYAN LOCHBAUM GRABBED THAT GUN AND HE THINKS HE IS  
7 FIGHTING FOR HIS LIFE. DOES FRANK LARMAND TRY TO GET THE GUN AWAY  
8 FROM HIS BROTHER-IN-LAW WHO CAME RUNNING OUT OF THE DARKNESS?  
9 NO. HE TAKES THE VICTIM AND HE JERKS HIM UP IN A CHOKE HOLD. HE'S  
10 GOT HIM AROUND THE NECK. HE'S NOT TRYING TO DEFUSE THE SITUATION.  
11 HE'S TRYING TO GET THE VICTIM BECAUSE THAT'S BEEN THE PLAN. THAT IS  
12 THE PLAN.

13 LADIES AND GENTLEMEN, THIS SITUATION IS SO SERIOUS, IT'S SO  
14 SERIOUS. IF RYAN LOCHBAUM DIDN'T WALK AWAY WITH A BULLET, IF  
15 NOBODY ELSE WALKED AWAY WITH A BULLET, SHOULD NOT MAKE THIS  
16 CASE ANY SMALLER IN YOUR MIND. WHEN TWO PEOPLE GO AFTER  
17 ANOTHER PERSON AND THEY GO AFTER ANOTHER PERSON TO DO WHAT  
18 THESE GUYS WERE GOING TO DO, IT CANNOT BE TOLERATED.

19 THIS SITUATION WAS SO SERIOUS THAT IT TOOK TWO OTHER MEN  
20 COMING IN TO MAKE, TO DEFUSE THIS SITUATION. JESSE HARRIS HAD HIS  
21 FINGER IN THE HAMMER OF THIS GUN, STOPPING THIS HAMMER FROM  
22 MOVING. HE WAS STOPPING THIS GUN FROM FIRING. THIS IS AS SERIOUS AS  
23 YOU GET. THIS WAS ALL PART OF THE PLAN, LADIES AND GENTLEMEN.

24 YOU'RE GOING TO HEAR AN EXPRESSION OF SELF-DEFENSE, LADIES  
25 AND GENTLEMEN. IN ORDER FOR SELF-DEFENSE TO APPLY, THE PERSON

1 MUST BE WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. THEY MUST BE  
2 IN FEAR OF IMMINENT DANGER OR THEY MUST REASONABLY BELIEVE  
3 THEMSELVES TO BE IN IMMINENT DANGER. AND THEY MUST HAVE NO  
4 OTHER PROBABLE MEANS OF ESCAPE.

5 WHEN YOU COME TO THE DEFENSE OF ANOTHER, THEN YOU STAND IN  
6 THEIR SHOES, LADIES AND GENTLEMEN. IF YOU LOOK, IF YOU SEE PERSON A  
7 AND YOU THINK THAT PERSON NEEDS YOUR HELP AND YOU COME IN TO  
8 DEFEND THEM, THE PERSON A WOULD NOT HAVE BEEN ENTITLED TO  
9 DEFEND THEMSELVES BECAUSE THEY WERE WITH FAULT IN BRINGING ON  
10 THE DIFFICULTY OR WERE IN DANGER OR HAD MEANS OF ESCAPE, WELL,  
11 LADIES AND GENTLEMEN, THE DEFENSE OF OTHERS DOESN'T APPLY.

12 AND I'M FRANKLY CONFUSED ON HOW THAT WOULD APPLY TO  
13 ANYBODY. EITHER OF THOSE TWO THINGS WOULD APPLY TO ANYBODY IN  
14 THIS CASE. BUT RYAN LOCHBAUM, HE WAS THE ONLY PERSON THAT NIGHT  
15 ACTING IN SELF-DEFENSE. THE DEFENSE OF OTHERS, JESSE HARRIS AND  
16 MARK WHITTINGTON, THEY WERE ACTING IN DEFENSE OF ANOTHER. THESE  
17 GUYS WEREN'T.

18 LOOK AT THE CONCEPT OF SELF-DEFENSE AND APPLY IT TO WHAT  
19 THESE MEN DID. START WITH MR. LARMAND. HE CAME TO THE FIGHT. HE  
20 BROUGHT THE FIGHT. HE BROUGHT ON THE DIFFICULTY, LADIES AND  
21 GENTLEMEN. HE WAS NEVER IN DANGER. HE WASN'T THE ONE IN DANGER.  
22 RYAN LOCHBAUM WAS THE ONE IN DANGER.

23 LEO LEMIRE, HE WAS PART OF THE PLAN, TOO, LADIES AND  
24 GENTLEMEN. HE CAME, HE WALKED TO FIGHT. YOU CANNOT FIND HE  
25 ACTED IN SELF-DEFENSE. IT'S SIMPLY NOT REASONABLE. HE WASN'T IN ANY

1 DANGER. THE PEOPLE WITH THE GUN POINTED AT THEM, THEY WERE IN  
2 DANGER. AND DID THEY HAVE A MEANS TO LEAVE? DID THEY HAVE A WAY  
3 TO GET AWAY? ABSOLUTELY, LADIES AND GENTLEMEN. AND THEY TOOK  
4 THAT WAY.

5 THEY TOOK THAT WAY BACK TO THEIR CAR JUST AS SOON AS THE  
6 VICTIM AND THE NEIGHBORS TOOK THEIR BIG GUN AWAY THEY HAD NO  
7 MORE PROBLEM RUNNING BACK DOWN THE STREET. THEY WEREN'T ACTING  
8 IN SELF-DEFENSE. NEITHER ONE OF THEM WAS ACTING LAWFULLY IN THE  
9 DEFENSE OF THE OTHER. IT JUST DOESN'T STICK.

10 AND WHEN YOU HEAR THE INSTRUCTIONS ON SELF-DEFENSE, PAY  
11 PARTICULAR ATTENTION, LADIES AND GENTLEMEN TO THIS, THIS  
12 INSTRUCTION: THE WRONGDOER ENGAGED IN VIOLATION OF THE LAW THAT  
13 WAS REASONABLY CALCULATED FOR PROVOKE CONFRONTATION HAS NO  
14 RIGHT TO SELF-DEFENSE, BECAUSE HE WOULD BE CONSIDERED TO BE THE  
15 AGGRESSOR..

16 LADIES AND GENTLEMEN, THESE MEN CAME TO RYAN LOCHBAUM'S  
17 HOME WITH A PLAN. IT IS THE ONLY THING THAT IS REASONABLE. IT IS THE  
18 ONLY THING THAT MAKES SENSE AS EVERYTHING THAT YOU'VE HEARD IN  
19 THESE LAST THREE DAYS. THEY CAME TOGETHER AND THEY TRIED TO GET  
20 HIM. THEY CONSPIRED. FIND THEM GUILTY OF CRIMINAL CONSPIRACY.

21 THEY CAME WITH A LOADED GUN. LEO LEMIRE POINTED IT. IT WAS  
22 LOADED. ABSOLUTELY, POSITIVELY, HIS HAND WAS ON THE GUN. FIND HIM  
23 GUILTY.

24 FRANK LARMAND, HE WAS THERE. IT WAS A PLAN. THEY WERE THERE  
25 TOGETHER. THEY WERE THERE TO GET RYAN LOCHBAUM. EVERYTHING

1 THAT THIS MAN DOES AS PART OF THAT PLAN, HE'S RESPONSIBLE FOR, TOO.  
2 LADIES AND GENTLEMEN, THE HAND OF ONE IS THE HAND OF ALL. FIND HIM  
3 GUILTY.

4 LYNCHING, AN ACT OF VIOLENCE. AN ACT OF VIOLENCE WAS  
5 COMMITTED AGAINST RYAN LOCHBAUM, LADIES AND GENTLEMEN. IT WAS  
6 COMMITTED BY TWO OR MORE PEOPLE, THESE TWO PEOPLE. AND THEY  
7 HAVE A PLAN. THEY HAVE A PLAN. AND THEIR PLAN WAS TO GET HIM. IT  
8 WAS PREMEDITATED, LADIES AND GENTLEMEN, AND IT WAS PREMEDITATED  
9 IN THE EXTREME. THEY DROVE THIRTY MINUTES TO GET TO HIM. THEY HAD  
10 TO GET DIRECTIONS TO HIS HOUSE. THEY HAD TO FIND HIM, LADIES AND  
11 GENTLEMEN. FIND THEM GUILTY.

12 TO PROVE THEM GUILTY BEYOND A REASONABLE DOUBT, THE STATE  
13 HAS THAT BURDEN. THE JUDGE IS GOING TO TELL YOU A REASONABLE  
14 DOUBT, THAT THERE ARE VERY FEW THINGS IN LIFE THAT CAN BE PROVED  
15 BEYOND ANY AND ALL DOUBT. THERE ARE VERY FEW THINGS THAT CAN BE  
16 PROVED WITH ABSOLUTE CERTAINTY. BUT IT'S ONLY THE DOUBT WHICH IS  
17 REASONABLE, LADIES AND GENTLEMEN.

18 MR. RHEA SAID THAT A TRIAL IS ABOUT THE SEARCH FOR TRUTH. AND  
19 THAT'S WHY A TRIAL IS ABOUT THE SEARCH FOR TRUTH. IT'S NOT ABOUT  
20 THE SEARCH FOR DOUBT.

21 IS THERE ANY DOUBT IN YOUR MIND THAT THESE MEN PLANNED THIS?  
22 IF YOU WANT TO KNOW IF THE STATE HAS MET ITS BURDEN, GO BACK IN THE  
23 JURY DELIBERATION ROOM, THROW OUT ALL THESE WHAT IFS, MAYBES,  
24 COULD BE'S. AND IF IN YOUR HEART AND YOUR MIND YOU BELIEVE THE

1 STATE HAS PROVEN ITS CASE BEYOND A REASONABLE DOUBT, THEN IT IS  
2 YOUR DUTY TO FIND THEM GUILTY. THANK YOU.

3 THE COURT: MEMBERS OF THE JURY, IT IS NOW MY DUTY UNDER THE  
4 CONSTITUTION OF THIS STATE TO CHARGE AND INSTRUCT YOU IN THE LAW  
5 APPLICABLE TO THIS CASE. AND IT IS YOUR DUTY AS JURORS TO ACCEPT  
6 AND APPLY THE LAW AS THE COURT WILL NOW STATE IT TO YOU. AND AS  
7 JURORS IT IS YOUR EXCLUSIVE DUTY TO DECIDE ALL THE ISSUES OF FACT IN  
8 THIS CASE, AND TO THAT PURPOSE, TO DETERMINE THE EFFECT, VALUE,  
9 WEIGHT AND TRUTH OF THE EVIDENCE.

10 BOTH THE STATE AND DEFENDANTS HAVE A RIGHT TO EXPECT THAT  
11 YOU WILL CONSCIOUSLY CONSIDER AND EVALUATE THE EVIDENCE AND  
12 APPLY THE LAW OF THE CASE THERETO TO THE END THAT BOTH THE STATE  
13 OF SOUTH CAROLINA AND THE DEFENDANTS WILL RECEIVE AND OBTAIN A  
14 FAIR AND IMPARTIAL TRIAL IN THIS CASE.

15 WHEN I USE THE WORD, DEFENDANTS, I REFER TO MR. FRANCIS  
16 LARMAND AND MR. LEO LEMIRE. THE STATE OF SOUTH CAROLINA BY BILLS  
17 OF INDICTMENT IN THIS CASE CHARGES THE DEFENDANTS WITH THE  
18 OFFENSES KNOWN AS SECOND DEGREE LYNCHING, POINTING AND  
19 PRESENTING A FIREARM, AND CRIMINAL CONSPIRACY.

20 TO THESE CHARGES THE DEFENDANTS HAVE ENTERED THEIR PLEAS OF  
21 NOT GUILTY. THESE PLEAS OF NOT GUILTY BY THE DEFENDANTS PLACES  
22 THE BURDEN OF PROOF ON THE STATE TO PROVE BY THE EVIDENCE THE  
23 GUILT OF THE DEFENDANTS BEYOND A REASONABLE DOUBT BEFORE YOU  
24 THE JURY CAN FIND THE DEFENDANTS GUILTY.

1           PLEASE KEEP IN MIND THAT THE DEFENDANTS ARE PRESUMED IN LAW  
2 INNOCENT OF THE CHARGES CONTAINED IN THE INDICTMENTS. IT IS A  
3 CARDINAL AND FUNDAMENTAL RULE OF THE LAW OF EVIDENCE THAT A  
4 DEFENDANT, IRRESPECTIVE OF THE SERIOUSNESS OF THE CHARGE AGAINST  
5 HIM WILL ALWAYS BE PRESUMED INNOCENT OF THE CRIME FOR WHICH HE IS  
6 INDICTED, UNLESS AND UNTIL THE GUILT OF THE DEFENDANT HAS BEEN  
7 PROVED BY EVIDENCE THAT SATISFIES YOU THE JURY OF HIS GUILT BEYOND  
8 A REASONABLE DOUBT.

9           THE PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL THEORY. IT  
10 IS NOT JUST A LEGAL PHRASE. THE PRESUMPTION OF INNOCENCE IS LIKE A  
11 ROBE OF RIGHTEOUSNESS PLACED ABOUT THE SHOULDERS OF THE  
12 DEFENDANT AND IT REMAINS WITH HIM AND ASSIGNS HIM TO THAT CLASS,  
13 THE INNOCENT, UNTIL THE PRESUMPTIVE ROBE OF RIGHTEOUSNESS HAS  
14 BEEN STRIPPED FROM THEIR PERSONS BY EVIDENCE SATISFYING YOU THE  
15 JURY OF THE GUILT OF THE DEFENDANTS BEYOND A REASONABLE DOUBT.

16           THE PRESUMPTION OF INNOCENCE ACCOMPANIES THE DEFENDANTS  
17 FROM THE TIME OF THEIR ARRAIGNMENT AND THEIR APPEARANCE IN THIS  
18 COURT AND CONTINUES WITH THE DEFENDANTS AFTER YOU RETIRE TO THE  
19 JURY ROOM TO DELIBERATE YOUR VERDICTS.

20           THE PRESUMPTION OF INNOCENCE CONTINUES IN EXISTENCE TO THE  
21 BENEFIT OF THE DEFENDANTS UNTIL YOU THE JURY REACH THE  
22 CONCLUSION THAT THE STATE HAS PROVED THE GUILT OF THE DEFENDANTS  
23 BEYOND A REASONABLE DOUBT. PLEASE UNDERSTAND THAT THE STATE  
24 HAS THE BURDEN OF PROVING THE DEFENDANTS GUILTY BEYOND A  
25 REASONABLE DOUBT.

1           SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES WHERE  
2 YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A FACT IS  
3 MORE LIKELY TRUE THAN NOT TRUE. IN CRIMINAL CASES, THE STATE'S  
4 PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST BE BEYOND A  
5 REASONABLE DOUBT. PROOF BEYOND A REASONABLE DOUBT IS PROOF  
6 THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANTS' GUILT.

7           THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH  
8 ABSOLUTE CERTAINTY. AND IN CRIMINAL CASES THE LAW DOES NOT  
9 REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF BASED ON  
10 YOUR CONSIDERATION OF THE EVIDENCE YOU ARE FIRMLY CONVINCED  
11 THAT THE DEFENDANTS ARE GUILTY OF THE CRIME CHARGED, YOU MUST  
12 FIND THEM GUILTY.

13           IF ON THE OTHER HAND YOU THINK THERE IS A REAL POSSIBILITY  
14 THAT THEY ARE NOT GUILTY, YOU MUST GIVE THEM THE BENEFIT OF THE  
15 DOUBT AND FIND THEM NOT GUILTY.

16           REASONABLE DOUBT MAY ARISE FROM EVIDENCE WHICH IS IN THE  
17 CASE OR FROM THE LACK OF OR ABSENCE OF EVIDENCE IN THE CASE. YOU  
18 THE JURY MUST DETERMINE WHETHER OR NOT REASONABLE DOUBT EXISTS  
19 AS TO THE GUILT OF THE DEFENDANTS.

20           I CHARGE YOU THAT THE DEFENDANTS ARE ENTITLED TO EVERY  
21 REASONABLE DOUBT ARISING IN THE WHOLE CASE, OR ARISING IN ANY  
22 DEFENSE ASSERTED BY THE DEFENDANTS.

23           IF UPON ANY ISSUE OF FACT ESSENTIAL TO A CONVICTION AND A  
24 VERDICT OF GUILTY YOU HAVE A REASONABLE DOUBT AS TO HOW THAT

1 ISSUE SHOULD BE RESOLVED, IT WOULD BE YOUR DUTY TO RESOLVE THAT  
2 REASONABLE DOUBT IN FAVOR OF THE DEFENDANTS.

3 A DEFENDANT, LADIES AND GENTLEMAN, IS NOT REQUIRED TO PROVE  
4 HIS INNOCENCE. BUT THE STATE IS REQUIRED AT LAW TO PROVE EVERY  
5 ESSENTIAL ELEMENT OF THE OFFENSES CHARGED AGAINST THE  
6 DEFENDANTS BY EVIDENCE WHICH SATISFIES YOU THE JURY OF THE GUILT  
7 OF THE DEFENDANTS BEYOND A REASONABLE DOUBT BEFORE YOU CAN  
8 CONVICT THE DEFENDANTS AND FIND THEM GUILTY.

9 IF, THEN, UPON THE WHOLE CASE YOU HAVE A REASONABLE DOUBT  
10 AS TO THE GUILT OR THE INNOCENCE OF THE DEFENDANTS THEY ARE  
11 ENTITLED TO THAT REASONABLE DOUBT AND WOULD BE ENTITLED TO AN  
12 ACQUITTAL AND A VERDICT OF NOT GUILTY.

13 BUT ON THE OTHER HAND, IF UPON THE WHOLE CASE YOU FIND THAT  
14 THE STATE HAS PROVED BY EVIDENCE WHICH SATISFIES YOU THE JURY OF  
15 THE GUILT OF THE DEFENDANTS BEYOND A REASONABLE DOUBT, THEN IN  
16 SUCH CIRCUMSTANCE IT WOULD EQUALLY BE YOUR DUTY TO CONVICT THE  
17 DEFENDANTS AND FIND THEM GUILTY.

18 I INSTRUCT YOU THAT THE INDICTMENTS IN THIS CASE ARE NOT  
19 EVIDENCE AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE IN THIS  
20 CASE. THE INDICTMENTS ARE SIMPLY THE FORMAL, WRITTEN INSTRUMENT  
21 WHICH CONTAIN THE CHARGES AGAINST THE DEFENDANTS. AND IT SERVES  
22 AS THE FORMAL DOCUMENT BY WHICH THIS CASE IS PROCESSED INTO THIS  
23 COURT.

24 DURING THIS TRIAL EACH OF US, YOU AND I, HAVE CERTAIN DUTIES TO  
25 PERFORM. AS THE TRIAL JUDGE IT IS MY RESPONSIBILITY TO PRESIDE OVER

1 THE TRIAL IN THIS CASE. AND I ALSO HAVE THE DUTY TO RULE UPON OR  
2 PASS UPON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THE  
3 PROCESS OF THIS TRIAL.

4 YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE  
5 YOU. AND YOU ARE TO DISREGARD FROM YOUR MIND ANY TESTIMONY  
6 ORDERED STRICKEN FROM THE RECORD OF THIS CASE DURING THE  
7 PROGRESS OF THE TRIAL, IF THERE BE ANY. AND YOU ARE TO CONSIDER  
8 ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS  
9 STAND, TOGETHER WITH ANY EXHIBITS ADMITTED INTO THE RECORD OF  
10 THIS CASE AND ANY STIPULATIONS OF COUNSEL MADE INTO THE RECORD, IF  
11 THERE BE ANY.

12 I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE APPLICABLE LAW  
13 IN THIS CASE. I AS PRESIDING JUDGE AM THE SOLE JUDGE OF THE LAW IN  
14 THE CASE, AND IT IS YOUR DUTY TO ACCEPT AND APPLY THE LAW AS I NOW  
15 STATE IT TO YOU.

16 IF YOU HAVE A PRECONCEIVED IDEA AS TO WHAT THE LAW IS OR  
17 WHAT THE LAW OUGHT TO BE IN THIS CASE THAT SHOULD NOT AGREE WITH  
18 WHAT I TELL YOU THE LAW IS, YOU ARE OBLIGATED UNDER YOUR OATH TO  
19 ABANDON THIS PRECONCEPTION ON YOUR PART BECAUSE YOU ARE SWORN  
20 TO ACCEPT THE LAW PRECISELY AS I NOW STATE IT TO YOU.

21 IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY THE JURY  
22 BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS OF THE CASE.  
23 YOU THE JURY ARE THE JUDGE OF THE FACTS IN THIS CASE. THE COURT IS  
24 NOT THE-- THE COURT IS THE JUDGE OF THE LAW IN THIS CASE.

1 THE CONSTITUTION OF THIS STATE HAS DECLARED THAT THE TRIAL  
2 JUDGE SHALL NOT INTIMATE, STATE, COMMENT, OR MAKE ANY  
3 STATEMENTS TO A TRIAL JURY ABOUT THE FACTS OF THE CASE. SINCE YOU  
4 ARE THE SOLE JUDGE OF THE FACTS YOU ARE NOT TO INFER FROM  
5 ANYTHING I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING  
6 UPON THE ADMISSIBILITY OF THE EVIDENCE OR OTHERWISE OR ANYTHING  
7 THAT I NOW SAY DURING THE COURSE OF THIS CHARGE TO YOU THAT I  
8 HAVE ANY OPINION ABOUT THE FACTS OF THIS CASE.

9 THE LAW DOES NOT PERMIT ME TO HAVE AN OPINION ABOUT THE  
10 FACTS OF THE CASE. THIS IS A MATTER SOLELY FOR YOU THE JURY TO  
11 DETERMINE. AS JURORS THEN IT IS YOUR DUTY TO DETERMINE AS I HAVE  
12 STATED TO YOU, THE EFFECT, THE VALUE, THE WEIGHT, AND THE TRUTH OF  
13 THE EVIDENCE PRESENTED DURING THE COURSE OF THIS TRIAL.

14 IN DETERMINING WHAT THE FACTS IN THE CASE ARE, YOU MUST  
15 NECESSARILY PASS UPON THE CREDIBILITY WHICH SIMPLY MEANS THE  
16 BELIEVABILITY OF THE WITNESSES AND THE VALUE AND WEIGHT TO BE  
17 GIVEN THEIR TESTIMONY.

18 YOU ALONE MUST DECIDE THE FORCE AND EFFECT OF THE TRUTH OF  
19 THE TESTIMONY. IN MAKING THAT DECISION, THERE ARE MANY THINGS  
20 YOU MAY AND SHOULD TAKE INTO CONSIDERATION SUCH AS THE  
21 APPEARANCE AND MANNER OF THE WITNESS ON THE STAND, SOMETIMES  
22 REFERRED TO AS THE Demeanor OF THE WITNESS.

23 WAS THE WITNESS FORTHRIGHT OR HESITANT. WAS THE WITNESS'  
24 TESTIMONY CONSISTENT OR DID IT CONTAIN DISCREPANCIES. WHAT WAS  
25 THE ABILITY OF THE WITNESS TO KNOW THE FACTS ABOUT WHICH HE OR

1 SHE TESTIFIED. DID THE WITNESS HAVE A CAUSE OR REASON TO BE BIASED  
2 OR PREJUDICED IN THE STATEMENT OR TESTIMONY THAT HE OR SHE GAVE.  
3 WAS THE TESTIMONY OF THE WITNESS CORROBORATED OR MADE  
4 STRONGER BY OTHER TESTIMONY AND EVIDENCE. OR WAS IT MADE  
5 WEAKER OR IMPEACHED BY SUCH OTHER TESTIMONY AND EVIDENCE.

6 AS JURORS YOU HAVE THE RIGHT TO BELIEVE A SMALL PORTION OF A  
7 WITNESS' TESTIMONY AND DISCARD THE LARGER, AND VICE-VERSA. YOU  
8 MAY BELIEVE ALL OF A WITNESS' TESTIMONY OR NONE. YOU MAY BELIEVE  
9 THE TESTIMONY OF A SINGLE WITNESS AGAINST THAT OF MANY, OR THE  
10 OTHER WAY AROUND.

11 IN EXERCISING YOUR MENTAL PROCESSES IN DETERMINING WHAT  
12 YOU CONSIDER TO BE TRUE, THE LAW SIMPLY REQUIRES THAT YOU  
13 EXERCISE YOUR GOOD JUDGMENT, YOUR COMMON SENSE, YOUR SENSE OF  
14 LOGIC AND REASON AND YOUR EXPERIENCES OF LIFE.

15 YOU THEN APPLY THESE ATTRIBUTES OF ABILITY TO THE EVIDENCE  
16 AND DETERMINE WHAT YOU CONSIDER THE TRUTHFUL EVIDENCE. AS TO  
17 THESE TRUE STATEMENTS OF FACT AS DETERMINED BY YOU THE JURY, YOU  
18 TAKE AND APPLY THE LAW AS I NOW STATE IT TO YOU, AND THUS ARRIVE  
19 AT A TRUE VERDICT IN THE CASE.

20 NOW, PLEASE UNDERSTAND THAT IF A CRIME IS COMMITTED BY TWO  
21 OR MORE PEOPLE WHO ARE ACTING TOGETHER IN COMMITTING A CRIME,  
22 THE ACT OF ONE IS THE ACT OF ALL. A PERSON WHO JOINS WITH ANOTHER  
23 TO COMMIT AN UNLAWFUL ACT IS CRIMINALLY RESPONSIBLE FOR  
24 EVERYTHING DONE BY THE OTHER PERSON WHICH HAPPENS AS A PROBABLE

1 OR NATURAL CONSEQUENCE OF THE ACT DONE IN CARRYING OUT THE  
2 FURTHER PLAN AND PURPOSE.

3 FOR EXAMPLE, TWO PEOPLE CAN BE GUILTY OF KILLING ANOTHER  
4 PERSON WHEN ONLY ONE OF THE TWO HAD A GUN, THERE WAS ONLY  
5 BULLET AND ONLY ONE OF THE TWO FIRED THE SHOT THAT CAUSED THE  
6 DEATH.

7 IF TWO OR MORE PEOPLE ARE TOGETHER, ACTING TOGETHER,  
8 ASSISTING EACH OTHER IN COMMITTING THE OFFENSE, THE ACT OF ONE IS  
9 THE ACT OF ALL. OR AS IT IS SOMETIMES SAID, THE HAND OF ONE IS THE  
10 HAND OF ALL.

11 PRIOR KNOWLEDGE THAT A CRIME IS GOING TO BE COMMITTED  
12 WITHOUT MORE IS NOT SUFFICIENT TO MAKE A PERSON GUILTY OF THAT  
13 CRIME. MERE KNOWLEDGE THAT ANOTHER PERSON IS GOING TO COMMIT A  
14 CRIME EVEN IF THE DEFENDANT IS PRESENT WHEN THE CRIME IS  
15 COMMITTED IS NOT SUFFICIENT TO CONVICT THE DEFENDANT AS THE  
16 PRINCIPAL. GUILT AS THE PRINCIPAL IS SHOWN BY ACTUAL OR  
17 CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF PRIOR  
18 ARRANGEMENT.

19 THEREFORE, A FINDING OF A PRIOR ARRANGEMENT, PLAN, OR  
20 COMMON SCHEME IS NECESSARY FOR A FINDING OF GUILT AS A PRINCIPAL.  
21 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT BY COMPETENT  
22 EVIDENCE THE THEORY OF THE HAND OF ONE IS THE HAND OF ALL.

23 A PRINCIPAL IN A CRIME IS ONE WHO EITHER ACTUALLY COMMITS THE  
24 CRIME OR WHO IS PRESENT, AIDING, ABETTING, ASSISTING, OR COMMITTING

1 THE CRIME. WHEN A PERSON DOES AN ACT IN THE PRESENCE OF AND WITH  
2 THE ASSISTANCE OF THE ANOTHER, THE ACT IS DONE BY BOTH.

3 WHEN TWO OR MORE ACTING WITH A COMMON PLAN OR INTENT ARE  
4 PRESENT AT THE COMMISSION OF A CRIME IT DOES NOT MATTER WHO  
5 ACTUALLY COMMITS THE CRIME. ALL ARE GUILTY. THE HAND OF ONE IS  
6 THE HAND OF ALL.

7 PRESENT AT THE COMMISSION OF THE CRIME MEANS TO BE  
8 SUFFICIENTLY NEAR TO AID AND ABET AND ASSIST IN THE COMMISSION OF  
9 A CRIME. HOWEVER, MERE PRESENCE AT THE SCENE OF A CRIME IS NOT  
10 SUFFICIENT TO CONVICT ONE AS THE PRINCIPAL ON THE THEORY OF AIDING  
11 AND ABETTING.

12 INTENT IS ALSO A NECESSARY ELEMENT, FOR THERE MUST HAVE BEEN  
13 A COMMON DESIGN OR INTENT TO COMMIT THE CRIME, AND THE CRIME  
14 MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE PERSON  
15 AIDING AND ABETTING BY SOME OVERT ACT.

16 INTENT MEANS INTENDING THE RESULT WHICH ACTUALLY OCCURS,  
17 NOT ACCIDENTALLY OR INVOLUNTARY. INTENT MAY BE SHOWN BY ACTS  
18 OR CONDUCT OF THE DEFENDANTS AND OTHER CIRCUMSTANCES FROM  
19 WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT. THE STATE  
20 MUST PROVE THESE ELEMENTS BEYOND A REASONABLE DOUBT.

21 THE DEFENDANTS ARE CHARGED WITH SECOND DEGREE LYNCHING.  
22 THE STATE MUST FIRST PROVE BEYOND A REASONABLE DOUBT THAT THE  
23 DEFENDANTS ACTING AS A MOB COMMITTED AN ACT OF VIOLENCE UPON  
24 THE BODY OF ANOTHER THAT DID NOT RESULT IN DEATH.

1           A MOB IS DEFINED AS AN ASSEMBLAGE OF TWO OR MORE PERSONS  
2 FOR THE PREMEDITATED PURPOSE AND WITH PREMEDITATED INTENT OF  
3 COMMITTING AN ACT OF VIOLENCE UPON ANOTHER PERSON.

4           THE STATE DOES NOT NEED TO PROVE PHYSICAL INJURY IN ORDER  
5 FOR YOU TO FIND AN ACT OF VIOLENCE OCCURRED. IT IS PERMISSIBLE TO  
6 INFER THAT ALL PERSONS PRESENT AS MEMBERS OF A MOB WHEN AN ACT  
7 OF VIOLENCE IS COMMITTED HAVE AIDED AND ABETTED THE CRIME AND  
8 ARE ACTUALLY GUILTY AS PRINCIPALS. OR WHEN THE COMMON INTENT TO  
9 DO VIOLENCE MAY BE PERFORMED BEFORE OR DURING THE ASSEMBLAGE,  
10 THE STATE MUST PRODUCE AT LEAST SOME EVIDENCE OF PREMEDITATION  
11 TO SUSTAIN A CONVICTION OF LYNCHING.

12           THE PREMEDITATED PURPOSE AND INTENT UNDERLYING THE CHARGE  
13 OF LYNCHING CANNOT BE SPONTANEOUS. RATHER, THE STATE MUST  
14 PRODUCE EVIDENCE THAT SHOWS THAT THE DEFENDANTS ASSEMBLED FOR  
15 THE FURTHER PURPOSE AND INTENT OF COMMITTING AN ACT OF VIOLENCE  
16 AGAINST THE VICTIM.

17           PREMEDITATION CONNOTATES WILLFUL DELIBERATION IN PLANNING  
18 OR CONSCIOUS CONSIDERATION PRECEDING A PARTICULAR EVENT. A  
19 PREMEDITATED PURPOSE AND INTENT UNDERLYING A CHARGE FOR  
20 LYNCHING CANNOT BE SPONTANEOUS. THE STATE MAY PROVE THE INTENT  
21 ELEMENT OF LYNCHING BY POSITIVE TESTIMONY OR EVIDENCE OR BY  
22 CIRCUMSTANTIAL EVIDENCE. INTENT MAY BE SHOWN BY ACTS AND  
23 CONDUCT FROM WHICH A JURY CAN NATURALLY AND REASONABLY INFER  
24 INTENT.

1 THE DEFENDANTS HAVE ALSO BEEN CHARGED IN THE INDICTMENTS  
2 WITH THE CRIME OF POINTING AND PRESENTING A FIREARM. THE STATE  
3 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANTS  
4 PRESENTED OR POINTED AT ANOTHER PERSON A LOADED OR UNLOADED  
5 FIREARM.

6 TO PRESENT MEANS TO BRING INTO THE PRESENCE OF, AND  
7 INTRODUCE FORMALLY TO ANOTHER OR OTHERS THEIR OFFER FOR VIEWING  
8 OR NOTICE TO DISPLAY OR SHOW.

9 THE DEFENDANTS ARE ALSO CHARGED WITH CRIMINAL CONSPIRACY.  
10 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE  
11 DEFENDANTS COMBINED WITH ONE ANOTHER FOR THE PURPOSE OF  
12 COMMITTING AN UNLAWFUL ACT OR OF COMMITTING A LAWFUL ACT BY  
13 UNLAWFUL MEANS.

14 THERE MUST BE A MUTUAL UNDERSTANDING, AGREEMENT OR  
15 COMMON INTENTION AND PLAN. MERE PASSIVE KNOWLEDGE OF OR  
16 CONSENT TO THE CRIMINAL CONDUCT OF ANOTHER IS NOT ENOUGH TO  
17 MAKE A PERSON A CONSPIRATOR. THERE MUST BE GUILTY KNOWLEDGE  
18 AND PARTICIPATION.

19 SIMILARLY, THE MERE FACT THAT THE DEFENDANTS MAY HAVE  
20 ASSOCIATED WITH ONE ANOTHER OR MET WITH ANOTHER AND DISCUSSED  
21 COMMON AIMS AND INTEREST DOES NOT NECESSARILY ESTABLISH PROOF  
22 OF THE EXISTENCE OF A CONSPIRACY, OR THAT THE DEFENDANTS WERE  
23 INVOLVED IN A CONSPIRACY.

24 ON THE OTHER HAND IT IS NOT NECESSARY THAT THE AGREEMENT BE  
25 A FORMAL ONE, THAT IT BE IN WRITING, THAT THE PERSONS HOLD A

1 MEETING AND EXPRESSLY STATE THE TERMS OF A COMMON PLAN OR THAT  
2 THE AGREEMENT BE STATED IN WORDS BETWEEN THEM. THE AGREEMENT  
3 OF A CRIMINAL CONSPIRACY MAY COME INTO BEING MERELY BY MUTUAL  
4 UNDERSTANDING.

5 THE WILLFUL, INTENTIONAL AND KNOWING ADOPTION BY TWO  
6 KNOWING PERSONS OF A COMMON PLAN IS SUFFICIENT. NO OVERT ACTS  
7 NEED TO BE SHOWN TO ESTABLISH A CONSPIRACY. A CONSPIRACY MAY BE  
8 SHOWN BY CIRCUMSTANTIAL EVIDENCE IN THE CONDUCT OF THE PARTIES.  
9 SUBSTANTIAL CRIMES COMMITTED IN FURTHERANCE OF A CONSPIRACY  
10 CONSTITUTE CIRCUMSTANTIAL EVIDENCE OF THE EXISTENCE OF A  
11 CONSPIRACY, IT'S OBJECTIVE AND ITS SCOPE.

12 IN ORDER TO CONVICT THE DEFENDANTS OF CONSPIRACY THE STATE  
13 MUST PROVE BEYOND A REASONABLE DOUBT NOT ONLY THAT THE  
14 DEFENDANTS KNEW OF THE UNLAWFUL CONDUCT, BUT THAT THE  
15 DEFENDANTS AGREED TO COMBINE WITH ONE ANOTHER FOR THE PURPOSE  
16 OF ACCOMPLISHING THE UNLAWFUL CONDUCT.

17 HOWEVER ONCE A CONSPIRACY HAS BEEN ESTABLISHED, EVIDENCE  
18 ESTABLISHING BEYOND A REASONABLE DOUBT, THE CONNECTION OF THE  
19 DEFENDANTS WITH THE CONSPIRACY, EVEN THOUGH THE CONNECTION IS  
20 SLIGHT, IS SUFFICIENT TO CONVICT HIM WITH KNOWING PARTICIPATION IN A  
21 CONSPIRACY.

22 FURTHER, THE ACTS AND DECLARATIONS OF ANY CONSPIRATOR MADE  
23 DURING THE CONSPIRACY AND IN FURTHERANCE THEREOF ARE DEEMED TO  
24 BE ACTS AND DECLARATIONS OF EVERY OTHER CONSPIRATOR AND ARE  
25 ADMISSIBLE AGAINST ALL.

1 I WILL NOW CHARGE YOU ON THE LAW OF SELF-DEFENSE AS IT  
2 APPLIES IN THIS CASE. A PERSON IS JUSTIFIED IN USING DEADLY FORCE IN  
3 SELF-DEFENSE IF FOUR ELEMENTS ARE MET.

4 ONE: THAT HE WAS WITHOUT FAULT IN BRINGING ON THE  
5 DIFFICULTY.

6 TWO: THAT HE ACTUALLY BELIEVED HE WAS IN IMMINENT DANGER  
7 OF LOSING HIS LIFE OR OF A SUSTAINED SERIOUS BODILY INJURY. OR, HE  
8 ACTUALLY WAS IN IMMINENT DANGER OF LOSING HIS LIFE, OR OF  
9 SUSTAINING SERIOUS BODILY INJURY.

10 THREE: IF HIS DEFENSE IS BASED ON HIS ACTUAL BELIEF OF IMMINENT  
11 DANGER THAT A REASONABLY PRUDENT MAN OF ORDINARY FIRMNESS AND  
12 COURAGE WOULD HAVE ENTERTAINED THE SAME BELIEF. OR IF HIS  
13 DEFENSE IS BASED ON HIS BEING IN ACTUAL IMMINENT DANGER THAT THE  
14 CIRCUMSTANCES WERE SUCH AS WOULD WARRANT A MAN OF ORDINARY  
15 PRUDENCE, FIRMNESS AND COURAGE TO STRIKE A FATAL BLOW IN ORDER  
16 TO SAVE HIMSELF FROM SERIOUS BODILY HARM OR LOSING HIS OWN LIFE.

17 FOUR: THAT HE HAD NOT OTHER PROBABLE MEANS OF AVOIDING THE  
18 DANGER OF LOSING HIS OWN LIFE OR SUSTAINING SERIOUS BODILY INJURY  
19 THAN TO ACT AS HE DID IN THE PARTICULAR INSTANCE.

20 HOWEVER, A WRONGDOER ENGAGED IN A VIOLATION OF LAW THAT  
21 WAS REASONABLY CALCULATED TO PROVOKE A CONFRONTATION HAS NO  
22 RIGHT TO SELF-DEFENSE BECAUSE HE WOULD BE CONSIDERED THE  
23 AGGRESSOR.

24 THE ELEMENTS OF SELF-DEFENSE ARE APPLICABLE TO THE DEFENSE  
25 OF OTHERS. A PERSON ACTING IN DEFENSE OF ANOTHER STANDS IN THE

1 SHOES OF THE PERSON TO WHOSE AID HE CAME. AND HE HAS NO GREATER  
2 RIGHT THAN TO ACT IN THAT PERSON.

3 YOU MAY CONSIDER THE ALLEGED VICTIM'S CONDUCT, ACTIONS AND  
4 GENERAL Demeanor IMMEDIATELY BEFORE THE INCIDENT AS BEARING ON  
5 THE ALLEGED VICTIM'S TEMPER AND STATE OF MIND AT THE TIME OF THE  
6 ENCOUNTER.

7 AND THE DEFENDANT DOES NOT HAVE TO SHOW THAT HIS CO-  
8 DEFENDANT WAS ACTUALLY IN DANGER. IT IS ENOUGH IF THE DEFENDANT  
9 BELIEVES HE WAS IN IMMINENT DANGER AND A REASONABLY PRUDENT  
10 PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE  
11 SAME BELIEFS. THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCE,  
12 EVEN THOUGH THE DEFENDANT'S BELIEFS MAY HAVE BEEN RESPECTED.

13 WHEN A PERSON IS ATTACKED WITH A DEADLY WEAPON UNLESS HE IS  
14 WITHIN HIS OWN HOME OR THE CLOSELY SURROUNDING PREMISES HE HAS  
15 THE DUTY TO RETREAT FROM THE DANGER IF POSSIBLE BEFORE RESORTING  
16 TO DEADLY FORCE TO DEFEND HIMSELF.

17 HOWEVER, HE DOES NOT HAVE A DUTY TO RETREAT IF BY DOING SO  
18 HE WOULD INCREASE HIS DANGER OF BEING KILLED OR SUFFERING SERIOUS  
19 BODILY INJURY.

20 LADIES AND GENTLEMEN, YOU ARE NOT PARTISANS OR ADVOCATES  
21 FOR THE STATE OF SOUTH CAROLINA OR FOR THE DEFENDANTS. YOU DO  
22 NOT SERVE AS JURORS TO REWARD YOUR FRIENDS OR PUNISH YOUR  
23 ENEMIES. OBVIOUSLY, SUCH A PERVERTED SYSTEM OF JUSTICE WOULD BE  
24 INTOLERABLE. YOU HAVE BEEN SELECTED BY BOTH THE STATE AND THE  
25 DEFENDANTS AS FAIR AND IMPARTIAL JURORS.

1           IT IS YOUR DUTY, THEN, BY YOUR JOINT DELIBERATIONS TO  
2 DETERMINE THE TRUTH IN THIS CASE, GIVING TO THOSE DEFENDANTS THE  
3 BENEFIT OF EVERY REASONABLE DOUBT ON EACH AND EVERY ISSUE. THEN  
4 TO THE FACTS WHICH DETERMINE TO BE TRUE YOU MAY THEN TAKE AND  
5 APPLY THE LAW WHICH HAS BEEN GIVEN TO YOU BY THIS COURT, AND THUS  
6 ARRIVE AT A VERDICT WHICH SPEAKS THE TRUTH OF THE CASE. FOR THE  
7 WORD, VERDICT, WHICH HAS A LATIN DERIVATIVE THAT MEANS A TRUE  
8 SAYING. AND WHEN YOU HAVE ACCOMPLISHED THESE RESPONSIBILITIES  
9 YOU WILL HAVE SATISFIED YOUR OATH AS JURORS AND YOU WILL HAVE  
10 DISCHARGED YOUR DUTY TO THIS COURT.

11           I WILL NOW INSTRUCT YOU IN THE FORMS OF THE VERDICT IN THIS  
12 CASE. I HAVE IT RIGHT HERE AND I AM GOING TO GIVE IT TO THE CLERK  
13 WHO WILL PASS IT TO YOU IN JUST A MOMENT. IT IS VERY SIMPLE. IT HAS  
14 ONE, TWO, THREE, FOUR, SIX SEPARATE QUESTIONS. YOU WILL NEED TO  
15 ANSWER EACH ONE EITHER GUILTY OR NOT GUILTY. THAT IS FOR YOU TO  
16 DECIDE.

17           THEY ARE IN NO PARTICULAR ORDER FOR NO REASON. WE JUST HAVE  
18 TO PUT THEM DOWN IN SOME FORM OR FASHION. ONCE ALL OF YOU HAVE  
19 REACHED A VERDICT, MS. FOREPERSON, I WOULD ASK THAT YOU DATE IT,  
20 SIGN IT AND KNOCK ON THE DOOR.

21           FOR EACH CHARGE IF THE STATE HAS FAILED TO PROVE THE GUILT OF  
22 THESE DEFENDANTS BEYOND A REASONABLE DOUBT YOUR VERDICT WILL  
23 BE TWO WORDS: NO GUILTY.

24           IS THE STATE HAS PROVED THE GUILT OF THESE DEFENDANTS BEYOND  
25 A REASONABLE DOUBT YOUR VERDICT WILL BE ONE WORD: GUILTY.

1 THE VERDICT THAT YOU RENDER IN THIS CASE MUST BE THE VERDICT  
2 OF EACH AND EVERY JUROR. IT MUST BE YOUR UNANIMOUS VERDICT. ALL  
3 TWELVE OF YOU MUST AGREE ON THE VERDICT WHICH YOU AUTHORIZE THE  
4 FOREPERSON TO WRITE FOR THE JURY.

5 MS. FOREPERSON, I HAND YOU NOW FOR THE JURY THE VERDICT  
6 FORMS. I WOULD ASK THAT YOU NOW GO BACK TO YOUR JURY ROOM, BUT  
7 DO NOT BEGIN YOUR DELIBERATIONS. DO NOT BRING YOUR DISCUSSIONS OF  
8 THE CASE AT THIS TIME. I HAVE TO TAKE UP MY CHARGES WITH THE  
9 ATTORNEYS TO MAKE SURE THAT I DIDN'T LEAVE SOMETHING OUT AND  
10 THAT I DIDN'T STATE SOMETHING INCORRECTLY.

11 ONCE WE HAVE DECIDED THAT ISSUE I WILL THEN SEND THE BAILIFF  
12 BACK TO THE JURY ROOM TO YOU AND HE WILL INSTRUCT YOU  
13 SPECIFICALLY TO BEGIN YOUR DELIBERATIONS AT THAT TIME.

14 SO, IF YOU WOULD, PLEASE STEP BACK TO YOUR JURY ROOM, BUT DO  
15 NOT BEGIN YOUR DELIBERATIONS.

16 (WHEREUPON THE JURY EXITED THE COURTROOM AT 4:26 P.M.)

17 ARE THERE ANY EXCEPTIONS TO THE CHARGE OR ADDITIONAL  
18 REQUESTS TO THE CHARGE FROM THE STATE?

19 MS. JOYNER: NOT FROM THE STATE, YOUR HONOR.

20 THE COURT: FROM THE DEFENSE, MR. RHEA?

21 MR. RHEA: NO ADDITIONS OR EXCEPTIONS ON BEHALF OF MR.  
22 LARMAND, YOUR HONOR.

23 THE COURT: MR. GREELEY?

1 MR. GREELEY: YOUR HONOR, I WOULD JUST MAKE AN EXCEPTION  
2 WITH REGARD TO INFERENCE LANGUAGE OF THE STATUTE IN THE LYNCHING  
3 STATUTE, THE SAME THING I HAD STATED EARLIER.

4 THE COURT: ALL RIGHT. SAME RULING ON THAT. ALL RIGHT. IF YOU  
5 WILL GO THROUGH THE EVIDENCE BEFORE WE SEND IT BACK. ALSO, IF WE  
6 SEND THE GUN BACK I WOULD LIKE FOR THE BAILIFF TO SEND JUST THE GUN  
7 BACK AND LET THEM EXAMINE THE GUN FOR FIFTEEN MINUTES AND SEND IT  
8 BACK OUT. THEN SEND THE BULLETS IN AND LET THEM EXAMINE THEM AND  
9 LET THEM ALSO SEND THAT BACK OUT.

10 (WHEREUPON EXHIBITS WERE RECONCILED BY COUNSEL AND COURT  
11 REPORTER AND GIVEN TO BAILIFF, AND DELIBERATIONS BEGAN AT 4:30  
12 P.M.)

13 **COURT IN SESSION - 5:38 P.M.**

14 THE COURT: I HAVE A NOTE FROM THE JURY THAT I WILL READ TO  
15 YOU. "IF WE THINK ONE IS GUILTY OF A CHARGE, DO WE HAVE TO  
16 AUTOMATICALLY VOTE THAT THE OTHER PARTY IS ALSO GUILTY OF THE  
17 CHARGE?"

18 DOES ANYBODY WANT TO RESPOND?

19 MR. GREELEY: I DON'T KNOW IF IT'S A PROPER QUESTION. I MEAN,  
20 THEY'RE ASKING DO WE HAVE TO DO SOMETHING.

21 THE COURT: HOW CAN YOU FIND ONE PARTY GUILTY OF LYNCHING?

22 MR. GREELEY: THERE IS THE-- THERE'S CASE LAW SHOWING, TALKING  
23 ABOUT INCONSISTENT VERDICTS. I HAD ONE YEARS AGO, A CASE THAT  
24 CAME OUT, STATE VERSUS, AND I CAN'T REMEMBER MY CLIENT I WAS  
25 APPOINTED TO, WHO ALLEGEDLY BURNED A CROSS IN THE CHIEF OF

1 POLICE'S YARD IN YORK. AND HE SAID HE DIDN'T DO IT, SO WE HAD TO TRY  
2 THE CASE. AND HE WAS CHARGED WITH THREAT BY THE USE OF AN  
3 INCENDIARY DEVICE AND HE WAS CHARGED WITH BURNING A CROSS.

4 THE JURY CAME BACK, FOUND HIM GUILTY OF THE INCENDIARY  
5 DEVICE, BUT NOT GUILTY OF BURNING A CROSS. AND IT WAS APPEALED, IT  
6 WENT UP. HIS LAST NAME STARTS WITH A G, STATE VERSUS GARRETT, I  
7 THINK IT WAS, TED GARRETT. AND THE COURT ENDED UP FINDING THAT IT'S  
8 PERMISSIBLE FOR THE JURY TO GIVE INCONSISTENT VERDICTS BECAUSE  
9 THEY CAN PRETTY MUCH DO WHAT THEY WANT IN THE CASE. SO, THEY'RE  
10 NOT REQUIRED TO DO ANYTHING IN PARTICULAR. AND THEY UPHELD HIS  
11 CONVICTION ON THAT, AND SAID INCONSISTENT VERDICTS ARE ALLOWED.

12 THE COURT: I'LL BE GLAD TO HEAR FROM YOU, MR. RHEA.

13 MR. RHEA: YOUR HONOR, MY UNDERSTANDING OF THEIR QUESTION,  
14 IT DIDN'T ALLUDE TO THE LYNCHING DIRECTLY. IT'S JUST THAT GENERAL  
15 QUESTION THAT IF WE BELIEVE ONE IS GUILTY---

16 THE COURT: IF WE THINK ONE IS GUILTY OF A CHARGE DO WE HAVE  
17 TO AUTOMATICALLY VOTE THAT THE OTHER PARTY IS ALSO GUILTY?

18 MR. RHEA: YOUR HONOR, I WOULD SUBMIT THAT UNDER THE LAW  
19 THAT THE CHARGE AS I KNOW IT, THE ANSWER TO THAT QUESTION WOULD  
20 BE NO, THEY DO NOT HAVE TO AUTOMATICALLY FIND THE OTHER GUILTY.  
21 THAT ONLY MAKES SENSE.

22 THE COURT: I'LL BE GLAD TO HEAR FROM YOU, SOLICITOR.

23 MS. JOYNER: I THINK THE EVIDENCE HAS TO BE EVALUATED AS TO  
24 EACH DEFENDANT AS TO EACH CHARGE. THE EVIDENCE SPEAKS TO EACH  
25 OFFENSE. I THINK THE INFERENCE, THOUGH, BEARS A LITTLE BIT MORE

1 EXPLANATION THAN THAT. THEY MUST EVALUATE THE EVIDENCE AGAINST  
2 EACH DEFENDANT ON EACH OFFENSE.

3 THE COURT: I DON'T SEE HOW THEY CAN FIND ONE PARTY GUILTY OF  
4 CONSPIRACY AND NOT THE OTHER. AND I DON'T SEE HOW YOU CAN HAVE  
5 ONE PARTY GUILTY OF LYNCHING. BECAUSE THEN YOU DON'T HAVE  
6 LYNCHING, AND YOU DON'T HAVE A CONSPIRACY.

7 MR. GREELEY: I AGREE WITH YOU ON THAT, JUDGE.

8 THE COURT: IT SEEMS TO ME THAT THE ANSWER WOULD BE YES TO  
9 POINTING AND PRESENTING, AND NO TO SECOND DEGREE LYNCHING AND NO  
10 TO CONSPIRACY.

11 MR. GREELEY: WHAT WAS THE QUESTION THEY ASKED?

12 THE COURT: IF WE THINK ONE IS GUILTY OF A CHARGE, DO WE HAVE  
13 TO AUTOMATICALLY VOTE THAT THE OTHER PARTY IS ALSO GUILTY.  
14 MAYBE WE SHOULD ASK THEM WHAT CHARGE.

15 MR. GREELEY: I HAVE NO OBJECTION TO THAT.

16 THE COURT: I'M THINKING OUT LOUD. THE ANSWER IS YES TO  
17 POINTING AND PRESENTING AND NO TO CONSPIRACY AND LYNCHING.

18 MR. GREELEY: RIGHT. MAYBE IF THEY COULD REPHRASE THE  
19 QUESTION.

20 MS. JOYNER: YOUR HONOR, MY CONCERN IS THAT WE JUST SIMPLY  
21 ANSWER THE WAY THAT MR. RHEA AND I HAVE SAID, THAT THE EVIDENCE  
22 HAS TO BE EVALUATED AS TO EACH DEFENDANT. THEN IF THERE'S SOME  
23 ISSUE WITH THE VERDICTS LATER, THEN I THINK A MOTION CAN BE MADE. I  
24 GUESS. I GUESS I'M NOT CLEAR WHAT THE QUESTION IS ALSO. BUT IF WE  
25 ANSWER BEYOND WHAT THEY'RE ASKING, THAT'S MY CONCERN.

1 MR. GREELEY: THEN I WOULD ASK THAT THEY BE ASKED WHAT  
2 CHARGE.

3 THE COURT: I'LL TELL YOU WHAT. LET'S TAKE A FIFTEEN MINUTE  
4 RECESS AND LET ME RESEARCH IT A LITTLE BIT. THEN WE'LL COME BACK  
5 WITH A DECISION.

6 (WHEREUPON THE COURT WAS IN RECESS AT 5:45 P.M.)

7 COURT IN SESSION - 6:00 P.M.

8 THE COURT: COUNSEL, LET ME TELL YOU WHAT I'M THINKING. WHAT  
9 I'M THINKING ABOUT DOING IS BRINGING THEM BACK IN HERE AND  
10 RECHARGING THEM ON LYNCHING AND CONSPIRACY. GIVE THEM THAT  
11 CHARGE ONE MORE TIME, WITH SPECIAL ATTENTION TO IT. AND THEN SEND  
12 THEM BACK IN. HOW DOES THAT SOUND WITH RESPECT TO THE QUESTION?

13 MS. JOYNER: THAT SOUNDS WONDERFUL. MAY WE ALSO ASK FOR AN  
14 ADDITIONAL CHARGE ON THE HAND OF ONE, SINCE I BELIEVE THAT MAY BE  
15 THE SOURCE OF THE CONFUSION WITH THE QUESTION.

16 THE COURT: HOW DO Y'ALL FEEL ABOUT THAT?

17 MR. GREELEY: YOUR HONOR, I WOULD JUST ASK FOR AN INSTRUCTION  
18 ON THE CHARGE BECAUSE THAT'S WHAT THE QUESTION WAS.

19 MR. RHEA: I AGREE, YOUR HONOR. I DON'T THINK WE NEED THE HAND  
20 OF ONE IS THE HAND OF ALL. I MEAN, I THINK THAT LEADS TO ALL THE  
21 OTHER PERIPHERAL THINGS LIKE MERE PRESENCE AND ALL THAT. I'M FINE.  
22 BUT YOUR OBJECTION WAS BEING CHARGED ON LYNCHING AND  
23 CONSPIRACY AND POINTING A FIREARM.

24 THE COURT: I THINK I'M NOT GONNA CHARGE THEM ON THE HAND OF  
25 ONE JUST BECAUSE THEY DON'T HAVE A QUESTION ABOUT THAT. IT SEEMS

1 TO ME THEIR QUESTION IS PERTAINING TO THE THREE PARTICULAR  
2 CHARGES.

3 MS. JOYNER: YOUR HONOR, MAY WE ALSO---

4 THE COURT: IF THEY COME BACK AND ASK ABOUT THAT, THEN WE  
5 CAN GO BACK THERE.

6 MS. JOYNER: YOUR HONOR, CAN---

7 THE COURT: I'M NOT GONNA CHARGE THEM ON THE HAND OF ONE. I  
8 DON'T THINK THEY HAD A QUESTION ABOUT THE HAND OF ONE. IT APPEARS  
9 TO ME THAT THE QUESTION APPLIES TO THE CONSPIRACY AND THE  
10 LYNCHING.

11 MS. JOYNER: YOUR HONOR, CAN WE ALSO ADD AN ADDITIONAL  
12 INSTRUCTION THAT THEY ARE TO CONSIDER EACH OF THE CRIMINAL  
13 CHARGES AS TO EACH OF THE DEFENDANTS SEPARATELY, EVEN THOUGH IT  
14 WASN'T PART OF THE ORIGINAL CHARGE, IN ADDITION?

15 THE COURT: I DON'T THINK WE NEED TO ADD TO THE CHARGE. THEY  
16 HAVE THE VERDICT FORM AND IT SEPARATES EACH AND EVERY ONE OF  
17 THEM INDIVIDUALLY TO EACH PERSON AND EACH CHARGE. I THINK THAT  
18 WOULD CAUSE MORE CONFUSION.

19 ALL RIGHT. LET'S BRING THEM BACK OUT.

20 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 6:05 P.M.)

21 MEMBERS OF THE JURY, I HAVE RECEIVED YOUR QUESTION, AND THE  
22 QUESTION AGAIN IS AS FOLLOWS: "IF WE THINK ONE IS GUILTY OF THE  
23 CHARGE, DO WE HAVE TO AUTOMATICALLY VOTE THAT THE OTHER PARTY  
24 IS ALSO GUILTY?"

1           WHAT I'M GOING TO DO IS I'M GOING TO READ TO YOU THE CHARGE AS  
2 IT PERTAINS ONLY TO THE SECOND DEGREE LYNCHING, POINTING AND  
3 PRESENTING A FIREARM AND CRIMINAL CONSPIRACY. AND I WOULD ASK  
4 THAT YOU LISTEN CAREFULLY.

5           THE DEFENDANTS ARE CHARGED WITH SECOND DEGREE  
6 LYNCHING. THE STATE MUST FIRST PROVE BEYOND A REASONABLE DOUBT  
7 THAT THE DEFENDANTS ACTING AS A MOB COMMITTED AN ACT OF  
8 VIOLENCE UPON THE BODY OF ANOTHER THAT DID NOT RESULT IN DEATH.

9           A MOB IS DEFINED AS AN ASSEMBLAGE OF TWO OR MORE PERSONS  
10 FOR THE PREMEDITATED PURPOSE AND WITH PREMEDITATED INTENT OF  
11 COMMITTING AN ACT OF VIOLENCE UPON ANOTHER PERSON.

12          THE STATE DOES NOT NEED TO PROVE PHYSICAL INJURY IN ORDER  
13 FOR YOU TO FIND AN ACT OF VIOLENCE OCCURRED. IT IS PERMISSIBLE TO  
14 INFER THAT ALL PERSONS PRESENT AS MEMBERS OF A MOB WHEN AN ACT  
15 OF VIOLENCE IS COMMITTED HAVE AIDED AND ABETTED THE CRIME AND  
16 ARE ACTUALLY GUILTY AS PRINCIPALS. OR WHEN THE COMMON INTENT TO  
17 DO VIOLENCE MAY BE PERFORMED BEFORE OR DURING THE ASSEMBLAGE,  
18 THE STATE MUST PRODUCE AT LEAST SOME EVIDENCE OF PREMEDITATION  
19 TO SUSTAIN A CONVICTION OF LYNCHING.

20          THE PREMEDITATED PURPOSE AND INTENT UNDERLYING THE CHARGE  
21 OF LYNCHING CANNOT BE SPONTANEOUS. RATHER, THE STATE MUST  
22 PRODUCE EVIDENCE THAT SHOWS THAT THE DEFENDANTS ASSEMBLED FOR  
23 THE FURTHER PURPOSE AND INTENT OF COMMITTING AN ACT OF VIOLENCE  
24 AGAINST THE VICTIM.

1           PREMEDITATION CONNOTATES WILLFUL DELIBERATION IN PLANNING  
2 OR CONSCIOUS CONSIDERATION PRECEDING A PARTICULAR EVENT. A  
3 PREMEDITATED PURPOSE AND INTENT UNDERLYING A CHARGE FOR  
4 LYNCHING CANNOT BE SPONTANEOUS. THE STATE MAY PROVE THE INTENT  
5 ELEMENT OF LYNCHING BY POSITIVE TESTIMONY OR EVIDENCE OR BY  
6 CIRCUMSTANTIAL EVIDENCE. INTENT MAY BE SHOWN BY ACTS AND  
7 CONDUCT FROM WHICH A JURY CAN NATURALLY AND REASONABLY INFER  
8 INTENT.

9           THE DEFENDANTS HAVE ALSO BEEN CHARGED IN THE INDICTMENTS  
10 WITH THE CRIME OF POINTING AND PRESENTING A FIREARM. THE STATE  
11 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANTS  
12 PRESENTED OR POINTED AT ANOTHER PERSON A LOADED OR UNLOADED  
13 FIREARM.

14           TO PRESENT MEANS TO BRING INTO THE PRESENCE OF, AND  
15 INTRODUCE FORMALLY TO ANOTHER OR OTHERS THEIR OFFER FOR VIEWING  
16 OR NOTICE TO DISPLAY OR SHOW.

17           THE DEFENDANTS ARE ALSO CHARGED WITH CRIMINAL CONSPIRACY.  
18 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE  
19 DEFENDANTS COMBINED WITH ONE ANOTHER FOR THE PURPOSE OF  
20 COMMITTING AN UNLAWFUL ACT OR OF COMMITTING A LAWFUL ACT BY  
21 UNLAWFUL MEANS.

22           THERE MUST BE A MUTUAL UNDERSTANDING, AGREEMENT OR  
23 COMMON INTENTION AND PLAN. MERE PASSIVE KNOWLEDGE OF OR  
24 CONSENT TO THE CRIMINAL CONDUCT OF ANOTHER IS NOT ENOUGH TO

1 MAKE A PERSON A CONSPIRATOR. THERE MUST BE GUILTY KNOWLEDGE  
2 AND PARTICIPATION.

3 SIMILARLY, THE MERE FACT THAT THE DEFENDANTS MAY HAVE  
4 ASSOCIATED WITH ONE ANOTHER OR MET WITH ANOTHER AND DISCUSSED  
5 COMMON AIMS AND INTEREST DOES NOT NECESSARILY ESTABLISH PROOF  
6 OF THE EXISTENCE OF A CONSPIRACY, OR THAT THE DEFENDANTS WERE  
7 INVOLVED IN A CONSPIRACY.

8 ON THE OTHER HAND IT IS NOT NECESSARY THAT THE AGREEMENT BE  
9 A FORMAL ONE, THAT IT BE IN WRITING, THAT THE PERSONS HOLD A  
10 MEETING AND EXPRESSLY STATE THE TERMS OF A COMMON PLAN OR THAT  
11 THE AGREEMENT BE STATED IN WORDS BETWEEN THEM. THE AGREEMENT  
12 OF A CRIMINAL CONSPIRACY MAY COME INTO BEING MERELY BY MUTUAL  
13 UNDERSTANDING.

14 THE WILLFUL, INTENTIONAL AND KNOWING ADOPTION BY TWO  
15 KNOWING PERSONS OF A COMMON PLAN IS SUFFICIENT. NO OVERT ACTS  
16 NEED TO BE SHOWN TO ESTABLISH A CONSPIRACY. A CONSPIRACY MAY BE  
17 SHOWN BY CIRCUMSTANTIAL EVIDENCE IN THE CONDUCT OF THE PARTIES.  
18 SUBSTANTIAL CRIMES COMMITTED IN FURTHERANCE OF A CONSPIRACY  
19 CONSTITUTE CIRCUMSTANTIAL EVIDENCE OF THE EXISTENCE OF A  
20 CONSPIRACY, ITS OBJECTIVE AND ITS SCOPE.

21 IN ORDER TO CONVICT THE DEFENDANTS OF CONSPIRACY THE STATE  
22 MUST PROVE BEYOND A REASONABLE DOUBT NOT ONLY THAT THE  
23 DEFENDANTS KNEW OF THE UNLAWFUL CONDUCT, BUT THAT THE  
24 DEFENDANT AGREED TO COMBINE WITH ONE ANOTHER FOR THE PURPOSE OF  
25 ACCOMPLISHING THE UNLAWFUL CONDUCT.

1           HOWEVER ONCE A CONSPIRACY HAS BEEN ESTABLISHED, EVIDENCE  
2     ESTABLISHING BEYOND A REASONABLE DOUBT, THE CONNECTION OF THE  
3     DEFENDANTS WITH THE CONSPIRACY, EVEN THOUGH THE CONNECTION IS  
4     SLIGHT, IS SUFFICIENT TO CONVICT HIM WITH KNOWING PARTICIPATION IN A  
5     CONSPIRACY.

6           FURTHER, THE ACTS AND DECLARATIONS OF ANY CONSPIRATOR MADE  
7     DURING THE CONSPIRACY AND IN FURTHERANCE THEREOF ARE DEEMED TO  
8     BE ACTS AND DECLARATIONS OF EVERY OTHER CONSPIRATOR AND ARE  
9     ADMISSIBLE AGAINST ALL.

10          ALL RIGHT. SO, I WOULD ASK THAT YOU TAKE THAT, RETURN TO  
11     YOUR JURY ROOM, AND BEGIN DELIBERATIONS AGAIN.

12          (WHEREUPON THE JURY EXITED THE COURTROOM AT 6:10 P.M. TO  
13     RESUME DELIBERATIONS)

14          ARE THERE ANY OBJECTIONS FROM THE STATE?

15          MS. JOYNER: NONE, YOUR HONOR.

16          THE COURT: ANY OBJECTION, MR. RHEA?

17          MR. RHEA: YOUR HONOR, I WOULD JUST REITERATE MR. GREELEY'S  
18     OBJECTION MADE EARLIER IN THE COURSE OF THE PROCEEDING IN THE MOB  
19     DEFINED, MEMBERS OF A MOB, WITH REGARD TO WHERE IT SAYS IT IS  
20     PERMISSIBLE TO INFER THAT ALL PERSONS PRESENT ARE MEMBERS OF A  
21     MOB WHEN AN ACT OF VIOLENCE IS COMMITTED HAVE AIDED AND ABETTED  
22     A CRIME AND ARE GUILTY. MY MOTION IS BASED ON THE CASE CITED BY  
23     MR. GREELEY, AND WE OBJECT TO THAT LANGUAGE.

24          THE COURT: THAT IS NOTED FOR THE RECORD.

1 MR. GREELEY: AND I'LL JUST RENEW THAT SAME OBJECTION TO THAT  
2 PREVIOUSLY MADE.

3 THE COURT: YOUR OBJECTIONS ARE OVERRULED AND NOTED FOR THE  
4 RECORD. WE ARE AT EASE AGAIN.

5 (WHEREUPON COURT'S EXHIBIT ONE WAS MARKED FOR THE RECORD  
6 AND COURT WAS AT EASE AT 6:15 P.M.)

7 COURT IN SESSION - 7:53 P.M.

8 THE COURT: FOR THE RECORD, WE HAVE ANOTHER JURY NOTE THAT  
9 SAYS "TWO SMOKERS AND TWO PHONE CALLS".

10 (LAUGHTER)

11 I'M GOING TO SAY NO AND NO. BUT I WILL ADD A NOTE THAT SAYS, "I  
12 WILL HAVE THE BAILIFF CALL YOUR HOUSE IF YOU WILL SEND OUT THE  
13 NAME AND NUMBER TO BE CALLED."

14 ANY OBJECTION FROM THE STATE?

15 MS. JOYNER: NO OBJECTION, YOUR HONOR.

16 THE COURT: ANY OBJECTION, MR. RHEA?

17 MR. RHEA: NO OBJECTION.

18 THE COURT: MR. GREELEY?

19 MR. GREELEY: I'M A SMOKER. MAY I ABSTAIN?

20 (LAUGHTER)

21 NO OBJECTION, YOUR HONOR.

22 THE COURT: THANK YOU.

23 (WHEREUPON DELIBERATIONS RESUMED AT 7:56 P.M.)

24

25

COURT IN SESSION - 8:00 P.M.

1  
2 THE COURT: WE'VE GOT A NOTE FROM THE JURY. WELL, WE SENT A  
3 NOTE INTO THE JURY AND THE NOTE SAID, "ARE YOU CLOSE TO REACHING A  
4 VERDICT, OR WOULD YOU LIKE FOR US TO ORDER DINNER? IT WILL TAKE  
5 APPROXIMATELY FORTY-FIVE MINUTES TO AN HOUR." THEY SENT A NOTE  
6 BACK OUT AND THEY ACTUALLY WROTE ON THAT SAME NOTE AND THEY  
7 SAID, "ORDER DINNER. NOT CLOSE ON VERDICT." THEN THEY SAID, "CAN WE  
8 HAVE A COPY PRINTOUT OF THE STATUTE OF THE THREE CHARGES?"

9 AND WHAT I'M GONNA DO IS PRINT THE CHARGE, BRING THE  
10 FOREPERSON AND JUST GIVE HER THE CHARGE. THAT WAY IF THEY HAVE  
11 ANY QUESTIONS THEY HAVE THE CHARGE EXACTLY AS I READ IT TO THEM.  
12 ANY OBJECTION FROM THE STATE?

13 MS. JOYNER: YOUR HONOR, CAN WE HAVE A MOMENT TO RESEARCH?  
14 I THINK THERE MAY BE A CASE. I'M NOT SURE IF MR. GREELEY AND MR.  
15 RHEA ARE FAMILIAR WITH THE CASE REGARDING---

16 THE COURT: I'LL BE GLAD TO GIVE YOU A MOMENT, BUT WHERE I'M  
17 FROM, IT HAPPENS ALL THE TIME. MOST OF THE JUDGES GIVE THE CHARGE  
18 TO START WITH, AND I'M GOING TO START DOING THAT AFTER THIS TRIAL.

19 MR. RHEA: I JUST WANT TO MAKE SURE. ARE YOU PROPOSING TO GIVE  
20 THEM TO THE CHARGE THAT YOU JUST READ OR THE STATUTES?

21 THE COURT: THE CHARGE.

22 MR. GREELEY: THE WHOLE CHARGE YOU READ?

23 THE COURT: THE EXACT, SAME THING THAT I READ.

24 MR. RHEA: NOT JUST WHAT YOU READ, BUT THE WHOLE CHARGE?

1 THE COURT: THE WHOLE CHARGE. THAT WAY THEY GET EVERYTHING  
2 FROM BEGINNING TO END. THAT WAY, IF THEY HAVE A QUESTION, THEY  
3 CAN JUST GO TO WHAT I CHARGED.

4 MR. GREELEY: YOUR HONOR, THE ONLY HESITATION THAT I HAVE  
5 AND THE OBJECTION THAT I WOULD MAKE FOR THE RECORD IS THAT NOT  
6 KNOWING THE DYNAMIC OF THE JURY, AND THERE BEING ONE COPY OF THE  
7 CHARGE, I WOULD HESITATE A JUROR OR A GROUP OF JURORS BEING ABLE  
8 TO TRY AND USE THE WRITTEN CHARGE TO CITE AND TO OVERCOME WHAT  
9 THE JURY HAS HEARD IN THEIR MINDS. BUT I UNDERSTAND THE COURT'S  
10 POSITION. AND I WOULD JUST OBJECT TO THE WRITTEN CHARGE AS SUCH  
11 GOING BACK TO THE JURY.

12 MR. RHEA: FOR THE RECORD, I WOULD CONCUR IN THAT OBJECTION,  
13 RESPECTFULLY

14 THE COURT: YOU'RE NOT SURE THEY WOULD UNDERSTAND YOUR  
15 OBJECTION?

16 MR. GREELEY: IT WOULD HAVE TO DO WITH CERTAIN-- IT WOULD  
17 HAVE TO DO IF A JUROR WAS TO PICK AND CHOOSE FROM THE CHARGE, I  
18 GUESS.

19 THE COURT: THE WHOLE CHARGE?

20 MR. GREELEY: THE WHOLE CHARGE.

21 THE COURT: BEING BACK THERE WITH THEM?

22 MR. GREELEY: TO PICK AND CHOOSE AND POINTING DIFFERENT  
23 SECTIONS OF THE CHARGE AS OPPOSED TO OTHER SECTIONS. IF THE OTHER  
24 JURORS DID NOT WISH TO READ THE WHOLE CHARGE. IT'S ABOUT TWENTY-  
25 TWO PAGES, TWENTY-ONE PAGES. AND THAT'S THE REASON THAT I WOULD

1 HAVE, THAT THERE IS THE POSSIBILITY THAT THERE MIGHT BE SOME JURORS  
2 WHO WOULD EMPHASIZE CERTAIN SECTIONS OF THAT AND POINT TO  
3 OTHERS AND SEE IF THERE'S SOMETHING ELSE IN THE CHARGE. AND THEY  
4 MAY REMEMBER THINGS DIFFERENTLY.

5 THE COURT: WELL, THAT'S WHAT THEY'RE DOING RIGHT NOW  
6 ANYWAY. THAT'S THE EXACT SAME THING. THIS WAY THEY WILL HAVE THE  
7 CHARGE TO REFER TO.

8 MR. GREELEY: I AGREE WITH THAT, BUT I OBJECT.

9 THE COURT: LET ME HEAR THE SOLICITOR'S RESPONSE.

10 MS. JOYNER: YOUR HONOR, IT'S BEEN PASSED ON TO ME THAT YOU  
11 WANT TO SEND BACK THE INSTRUCTIONS. THE TWO CASES THAT I'VE FOUND  
12 URGE CAUTION TO THE COURT TO USE THE PRACTICE SPARINGLY, THE  
13 WHOLE STATUTE OR CHARGE, TO USE IT SPARINGLY ONLY WHERE IT WILL  
14 NOT PREJUDICE THE DEFENDANT. SO I DO BELIEVE IT IS IN THE COURT'S  
15 DISCRETION.

16 THE COURT: AND OF COURSE, I RESPONDED TO THE NOTE, AND THEY  
17 WERE CALLED BACK OUT A SECOND TIME AND I READ A PORTION TO THEM,  
18 GIVING THEM THE CHARGE. AND SINCE THEY ARE ASKING FOR IT I AM  
19 GOING TO SEND IT BACK TO THEM.

20 MS. JOYNER: IS IT THE WHOLE CHARGE THAT YOU READ?

21 THE COURT: YES. I'LL GIVE YOU COPIES OF IT, JUST TO MAKE SURE  
22 YOU ARE GETTING EXACTLY WHAT THEY ARE GETTING.

23 (WHEREUPON COPIES OF JURY CHARGE WERE MADE AND DISTRIBUTED  
24 TO COUNSEL.)

1 FOR THE RECORD, I HAVE PASSED OUT TO ALL THREE ATTORNEYS  
2 COPIES OF THE CHARGE THAT I GAVE EARLIER TODAY. NOW, BRING IN THE  
3 FOREPERSON.

4 (WHEREUPON JURY FOREPERSON WAS BROUGHT INTO THE  
5 COURTROOM)

6 MADAM FOREPERSON, WE HAVE HAD PRINTED OUT FOR THE JURY OF  
7 THE THREE CHARGES. WHAT I AM GOING TO DO IS SEND YOU BACK THE  
8 CHARGE THAT I HAVE READ.

9 JURY FOREPERSON: THANK YOU.

10 THE COURT: THANK YOU VERY MUCH.

11 (WHEREUPON JURY FOREPERSON RETURNED TO THE JURY ROOM)

12 ANYTHING FURTHER FROM THE STATE AT THIS TIME?

13 MS. JOYNER: NO, YOUR HONOR.

14 THE COURT: ANYTHING FURTHER FROM MR. RHEA?

15 MR. RHEA: NO, YOUR HONOR.

16 THE COURT: MR. GREELEY?

17 MR. GREELEY: NO, YOUR HONOR.

18 THE COURT: ALL RIGHT. WE'LL BE AT EASE UNTIL WE GET ANOTHER  
19 QUESTION OR A VERDICT.

20 (WHEREUPON JURY NOTE WAS MARKED AS COURT'S EXHIBIT NUMBER  
21 TWO)

22 (WHEREUPON DELIBERATIONS RESUMED AT 8:10 P.M.)

23

24

25

1 COURT IN SESSION - 9:04 P.M.

2 THE COURT: I HAVE RECEIVED A NOTE THAT SAYS, "REACHED  
3 VERDICT ON THREE CHARGES, DEADLOCKED ON THE REMAINING CHARGE."

4 SO, I THOUGHT I'D BRING THE JURY BACK OUT AND GIVE THEM AN  
5 ALLEN CHARGE. ANY OBJECTION FROM THE STATE?

6 MS. JOYNER: NO OBJECTION, YOUR HONOR.

7 THE COURT: ANY OBJECTION, MR. RHEA?

8 MR. RHEA: NO, YOUR HONOR.

9 THE COURT: MR. GREELEY?

10 MR. GREELEY: NO OBJECTION.

11 THE COURT: BRING IN THE JURY.

12 (WHEREUPON THE JURY ENTERED THE COURTROOM)

13 LADIES AND GENTLEMEN OF THE JURY, WE HAVE RECEIVED YOUR  
14 NOTE THAT SAYS YOU'VE REACHED A VERDICT ON THREE CHARGES,  
15 DEADLOCKED ON THE REMAINING CHARGE. WITH THAT IN MIND, I AM  
16 REQUIRED BY LAW TO GIVE YOU YET ANOTHER CHARGE. AND I NEED FOR  
17 YOU TO LISTEN CAREFULLY.

18 LADIES AND GENTLEMEN, YOU HAVE STATED THAT YOU HAVE BEEN  
19 UNABLE TO AGREE ON A VERDICT IN THIS CASE. AS I INSTRUCTED YOU  
20 EARLIER, THE VERDICT OF THE JURY MUST BE UNANIMOUS. WHEN A  
21 MATTER IS IN DISPUTE IT ISN'T ALWAYS EASY FOR EVEN TWO PEOPLE TO  
22 AGREE. SO, WHEN TWELVE PEOPLE MUST AGREE IT BECOMES EVEN MORE  
23 DIFFICULT.

24 IN MOST CASES, ABSOLUTE CERTAINTY CANNOT BE REACHED OR  
25 EXPECTED. HOWEVER, YOU HAVE A DUTY TO MAKE EVERY REASONABLE

1 EFFORT TO REACH A UNANIMOUS VERDICT. IN DOING THIS YOU SHOULD  
2 CONSULT WITH ONE ANOTHER, EXPRESS YOUR OWN VIEWS AND LISTEN TO  
3 THE OPINIONS OF YOUR FELLOW JURORS. TELL EACH OTHER HOW YOU FEEL  
4 AND WHY YOU FEEL THAT WAY. DISCUSS YOUR DIFFERENCES WITH AN  
5 OPEN MIND.

6 ALTHOUGH THE VERDICT MUST BE UNANIMOUS EVERYONE OF YOU  
7 HAS THE RIGHT TO YOUR OWN OPINION. THE VERDICT YOU AGREE TO MUST  
8 BE YOUR OWN VERDICT, THE RESULT OF YOUR OWN CONVICTIONS. AND  
9 YOU SHOULD NOT GIVE UP YOUR FIRMLY HELD BELIEFS MERELY TO BE IN  
10 AGREEMENT WITH YOUR FELLOW JURORS.

11 THE MAJORITY SHOULD CONSIDER THE MINORITY'S POSITION AND THE  
12 MINORITY SHOULD CONSIDER THE MAJORITY'S POSITION. YOU SHOULD  
13 CAREFULLY CONSIDER AND RESPECT THE OPINIONS OF EACH OTHER AND  
14 REEVALUATE YOUR POSITION FOR REASONABLENESS, CORRECTNESS AND  
15 PARTIALITY.

16 YOU MUST LAY ASIDE ALL OUTSIDE MATTERS AND REEXAMINE THE  
17 QUESTIONS BEFORE YOU BASED ON THE LAW AND THE EVIDENCE IN THIS  
18 CASE.

19 IF YOU DO NOT AGREE IN A VERDICT IN THIS CASE I MUST DECLARE A  
20 MISTRIAL. IN THAT CASE IT DOES NOT MEAN THAT ANYBODY WINS. IT JUST  
21 MEANS THAT AT SOME FUTURE TIME I WILL TRY THIS CASE WITH SOME  
22 OTHER JURY SITTING WHERE YOU SIT NOW. THE SAME PARTICIPANTS WILL  
23 COME AND THE SAME LAWYERS WILL ASK BASICALLY THE SAME QUESTIONS  
24 AND GET BASICALLY THE SAME ANSWERS. AND WE WILL GO THROUGH THE  
25 WHOLE PROCESS AGAIN.

1           YOU ARE SELECTED IN THE SAME MANNER AND FROM THE SAME  
2 JURORS AS ANY FUTURE JURY WILL BE AND THERE IS NO REASON FOR ME TO  
3 SUPPOSE THAT THE CASE WILL EVER BE SUBMITTED TO TWELVE MORE  
4 INTELLIGENT, IMPARTIAL, COMPETENT AND CONSCIENTIOUS JURORS THAN  
5 YOU. AND THAT MORE OR CLEARER EVIDENCE WILL BE PRODUCED ON ONE  
6 SIDE THAN THE OTHER.

7           I, THEREFORE, ASK YOU TO RETURN TO YOUR DELIBERATIONS WITH  
8 THE HOPE THAT YOU CAN ARRIVE AT A VERDICT WITHIN A REASONABLE  
9 TIME. THANK YOU, AND WITH THAT IN MIND, I WILL ASK YOU TO RETURN TO  
10 THE JURY ROOM.

11           (WHEREUPON THE JURY EXITED THE COURTROOM AND  
12 DELIBERATIONS RESUMED AT 9:09 P.M.)

13           ANY OBJECTIONS FROM THE STATE?

14           MS. JOYNER: NO, YOUR HONOR.

15           THE COURT: MR. RHEA?

16           MR. RHEA: NO, YOUR HONOR.

17           THE COURT: MR. GREELEY?

18           MR. GREELEY: NO, YOUR HONOR.

19           THE COURT: WE'LL BE AT EASE AGAIN.

20           (WHEREUPON COURT WAS AT EASE)

21           (WHEREUPON JURY NOTE WAS MARKED AS COURT'S EXHIBIT NUMBER  
22 THREE)

23

24

25

1 COURT IN SESSION - 9:50 P.M.

2 THE COURT: I WANT TO SPEAK TO ALL THE SPECTATORS. THAT JURY'S  
3 HAD A HARD JOB. THEY HAVE WORKED ALL DAY TODAY AND ALL EVENING.  
4 AND THEY DON'T NEED A REACTION FROM ANYBODY. NONE, POSITIVE,  
5 NEGATIVE, NONE. IF ANY OF YOU ARE GOING TO HAVE ANY REACTIONS, IF  
6 YOU'RE GONNA HICCUP, COUGH, RAISE YOUR HAND, ANYTHING, I'LL PUT  
7 YOU IN JAIL. IF YOU THINK YOU CAN'T RESTRAIN YOURSELF, YOU NEED TO  
8 LEAVE NOW.

9 BRING THE JURY IN.

10 (WHEREUPON THE JURY ENTERED THE COURTROOM)

11 MADAM FOREPERSON, HAVE YOU REACHED A VERDICT.

12 JURY FOREPERSON: YES, WE HAVE, YOUR HONOR.

13 THE COURT: IF YOU WOULD, PASS THE VERDICT TO THE BAILIFF.

14 (WHEREUPON THE VERDICT FORMS WERE PASSED BY THE BAILIFF TO  
15 THE COURT AND ON TO THE CLERK OF COURT)

16 MADAM CLERK, PLEASE PUBLISH THE VERDICTS.

17 CLERK OF COURT: AS TO INDICTMENT 2009-GS-46-2833, LYNCHING IN  
18 THE SECOND DEGREE, WE THE JURY UNANIMOUSLY FIND THE DEFENDANT,  
19 FRANCIS LARMAND, JR., GUILTY.

20 AS TO INDICTMENT NUMBER 2009-GS-46-2834, CRIMINAL CONSPIRACY,  
21 WE THE JURY UNANIMOUSLY FIND THE DEFENDANT, FRANCIS LARMAND,  
22 GUILTY.

23 AS TO INDICTMENT NUMBER 2009-GS-46-2835, POINTING AND  
24 PRESENTING A FIREARM, WE THE JURY UNANIMOUSLY FIND THE  
25 DEFENDANT, FRANCIS LARMAND, GUILTY.

1 AS TO INDICTMENT NUMBER 2009-GS-46-2838, LYNCHING IN THE  
2 SECOND DEGREE, WE THE JURY FIND THE DEFENDANT, LEO LEMIRE, GUILTY.

3 AS TO INDICTMENT NUMBER 2009-GS-46-2837, CRIMINAL CONSPIRACY,  
4 WE THE JURY UNANIMOUSLY FIND THE DEFENDANT, LEO LEMIRE, GUILTY.

5 AS TO INDICTMENT NUMBER 2009-GS-46-2839, POINTING AND  
6 PRESENTING A FIREARM, WE THE JURY UNANIMOUSLY FIND THE  
7 DEFENDANT, LEO LEMIRE, GUILTY.

8 LADIES AND GENTLEMEN OF THE JURY, IF THIS BE YOUR VERDICT,  
9 PLEASE STATE SO BY RAISING YOUR RIGHT HAND.

10 (WHEREUPON JURORS RAISED THEIR RIGHT HANDS)

11 LET THE RECORD REFLECT ALL JURORS AFFIRMED THIS VERDICT.

12 THE COURT: IS THERE ANY NEED FOR FURTHER POLLING FROM THE  
13 STATE?

14 MS. JOYNER: NO SIR, YOUR HONOR.

15 THE COURT: MR. RHEA?

16 MR. RHEA: NO, YOUR HONOR.

17 THE COURT: MR. GREELEY?

18 MR. GREELEY: I WOULD ASK THAT THE JURY BE POLLED.

19 THE COURT: ALL RIGHT. MADAM CLERK, PLEASE DO SO.

20 CLERK OF COURT: Y'ALL STAND.

21 (WHEREUPON ALL JURORS STOOD)

22 NUMBER 217, DELLA SZABO, IS THIS YOUR VERDICT?

23 JUROR SZABO: YES.

24 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

25 JUROR SZABO: YES.

1 CLERK OF COURT: PLEASE BE SEATED. NUMBER 99, JENNIFER HART, IS  
2 THIS YOUR VERDICT?

3 JUROR HART: YES MA'AM.

4 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

5 JUROR: YES MA'AM.

6 CLERK OF COURT: PLEASE HAVE A SEAT. NUMBER 115, TERESA  
7 JOHNSON-DUNLAP, IS THIS YOUR VERDICT?

8 JUROR JOHNSON-DUNLAP: YES.

9 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

10 JUROR JOHNSON-DUNLAP: YES.

11 CLERK OF COURT: PLEASE BE SEATED. NUMBER 62, WILLIAM DUDLEY,  
12 IS THIS YOUR VERDICT?

13 JUROR DUDLEY: YES MA'AM.

14 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

15 JUROR DUDLEY: YES MA'AM.

16 CLERK OF COURT: PLEASE TAKE YOUR SEAT. NUMBER 148, DONNA  
17 MATTHEWS, IS THIS YOUR VERDICT?

18 JUROR MATTHEWS: YES.

19 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

20 JUROR MATTHEWS: YES.

21 CLERK OF COURT: PLEASE HAVE A SEAT. NUMBER 11, DIANNE  
22 BARBER, IS THIS YOUR VERDICT?

23 JUROR BARBER: YES.

24 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

25 JUROR BARBER: YES.

1 CLERK OF COURT: TAKE YOUR SEAT, PLEASE. NUMBER 176, EDWARD  
2 PHELPS, IS THIS YOUR VERDICT?

3 JUROR PHELPS: YES.

4 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

5 JUROR PHELPS: YES.

6 CLERK OF COURT: PLEASE TAKE YOUR SEAT. NUMBER 223, TERRY  
7 THOMPSON, IS THIS YOUR VERDICT?

8 JUROR THOMPSON: YES, IT IS.

9 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

10 JUROR THOMPSON: YES, IT IS.

11 CLERK OF COURT: PLEASE TAKE YOUR SEAT. NUMBER 169, DARYL  
12 PARTYKA, IS THIS YOUR VERDICT?

13 JUROR PARTYKA: YES.

14 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

15 JUROR PARTYKA: YES.

16 CLERK OF COURT: PLEASE BE SEATED. NUMBER 224, REGINALD  
17 JACKSON, IS THIS YOUR VERDICT?

18 JUROR JACKSON: YES.

19 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

20 JUROR JACKSON: YES.

21 CLERK OF COURT: PLEASE BE SEATED. NUMBER 66, VIRGINIA EMERY,  
22 IS THIS YOUR VERDICT?

23 JUROR EMERY: YES.

24 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

25 JUROR EMERY: YES.

1 CLERK OF COURT: PLEASE BE SEATED. NUMBER 210, DANA STATON, IS  
2 THIS YOUR VERDICT?

3 JUROR STATON: YES.

4 CLERK OF COURT: IS THIS STILL YOUR VERDICT?

5 JUROR STATON: YES.

6 CLERK OF COURT: PLEASE BE SEATED.

7 THE COURT: MEMBERS OF THE JURY, I WANT TO SINCERELY THANK  
8 YOU FOR THE EFFORTS YOU HAVE MADE. YOU HAVE BEEN HERE A LONG  
9 TIME AND YOU HAVE PAID CAREFUL ATTENTION. THANK YOU FOR WHAT  
10 YOU'VE DONE. THE STATE HAS THE CHECKS READY TO PAY YOU FOR YOUR  
11 SERVICES. IF YOU HAVE ANY COMPLAINTS ABOUT YOUR CHECKS, DON'T  
12 TAKE IT UP WITH ME, TAKE IT UP WITH THE CLERK OF COURT. YOU ARE NOW  
13 DISMISSED AND YOU HAVE EARNED A THREE YEAR EXEMPTION FROM AGAIN  
14 SERVING ON A JURY.

15 (WHEREUPON THE JURY WAS DISMISSED AND EXITED THE  
16 COURTROOM)

17 ANY MOTIONS FROM THE STATE?

18 MS. JOYNER: NO SIR, YOUR HONOR.

19 THE COURT: ANY MOTIONS FROM MR. RHEA?

20 MR. RHEA: BEG THE COURT'S INDULGENCE, YOUR HONOR.

21 (PAUSE)

22 YOUR HONOR, AT THIS I WOULD RESPECTFULLY MAKE A MOTION FOR  
23 A NEW TRIAL BASED UPON MY EARLIER MOTIONS FOR A DIRECTED VERDICT.

24 THE COURT: YOUR MOTION IS DENIED. MR. GREELEY?

25 MR. GREELEY: NOT AT THIS TIME.

1 THE COURT: IF YOU WOULD, BRING THE PARTIES FORWARD.

2 (WHEREUPON DEFENDANTS CAME FORWARD TO THE BAR)

3 MR. RHEA: YOUR HONOR, I DIDN'T KNOW WHETHER YOU WANTED  
4 MRS. LARMAND TO COME UP WITH HIM AT THIS TIME.

5 THE COURT: WHATEVER YOU WANT TO DO.

6 MR. RHEA: THANK YOU, YOUR HONOR. YOUR HONOR, YOU KNOW A  
7 GOOD BIT ABOUT MY CLIENT OBVIOUSLY FROM THE BIOGRAPHICAL  
8 TESTIMONY THAT WAS PRESENTED. OBVIOUSLY HE IS ACCOMPANIED IN  
9 COURT TODAY BY HIS LOVING WIFE OF SEVENTEEN YEARS, KERRIANN.

10 AS YOU HEARD, YOUR HONOR, THEY HAVE TWO CHILDREN THAT ARE  
11 THE LIGHT OF THEIR LIVES. THEIR SON IS IN COLLEGE, A BASEBALL PITCHER.  
12 THEY SPEND MOST OF THEIR WEEKENDS TRAVELING GOING TO HIS GAMES.  
13 THEY ATTEND WHETHER HE'S PITCHING OR NOT. THEIR LOVELY DAUGHTER  
14 IS SIXTEEN YEARS OF AGE.

15 YOUR HONOR, THIS IS A MAN-- AND I DON'T WANT TO MISSTATE. IT'S  
16 MY UNDERSTANDING THAT HIS PRIOR CRIMINAL HISTORY IS A  
17 PARAPHERNALIA CHARGE IN NORTH CAROLINA. THAT'S HIS ENTIRE  
18 CRIMINAL HISTORY.

19 YOUR HONOR, AT THIS TIME, I'D LIKE FOR MRS. LARMAND TO ADDRESS  
20 THE COURT JUST BRIEFLY, IF SHE MAY.

21 THE COURT: I'LL BE HAPPY TO HEAR FROM YOU. IF YOU WOULD,  
22 PLEASE STATE YOUR NAME.

23 KERRIANN LARMAND: KERRIANN LARMAND.

24 THE COURT: I'LL BE GLAD TO HEAR FROM YOU.

1           KERRIANN LARMAND: YOUR HONOR, IF YOU WOULD, PLEASE HAVE  
2           MERCY ON MY HUSBAND AND MY FAMILY, MY CHILDREN, MY SON, MY  
3           DAUGHTER, ALL OF MY FAMILY. THANK YOU.

4           THE COURT: ANYTHING FURTHER?

5           MR. RHEA: YOUR HONOR, HE'S JUST SPENT FOURTEEN DAY IN JAIL NOT  
6           INCLUDING WHEN HE'S BEEN IN JAIL DURING THE PENDENCY OF THIS TRIAL.  
7           YOUR HONOR, HE'S HARD WORKING. HE AND HIS WIFE BOTH ARE HARD  
8           WORKING, GOOD CITIZENS. I WOULD SUBMIT TO THE COURT THAT FRANK  
9           EXERCISED ON THAT NIGHT COMING DOWN TO YORK COUNTY WAS AN  
10          ERROR IN JUDGMENT, AND IT IS ATYPICAL OF HIM AS HIS HISTORY SHOWS,  
11          CLEARLY.

12          YOUR HONOR, WE WOULD PASS UP A LETTER. IT'S FROM OFFICER  
13          ANDREW DIEHL WITH THE CITY OF KANNAPOLIS DEPARTMENT. HE WAS  
14          PRESENT AT THE BOND HEARING. HE COULD NOT BE PRESENT HERE TODAY.  
15          HE'S KNOWN FRANK AND KERRIANN FOR A LONG TIME. HE IS VERY ACTIVE  
16          IN HIS DAUGHTER ASHLEY'S ACTIVITIES, AND THAT'S HOW HE CAME TO  
17          KNOW FRANK AND KERRIANN. WE CERTAINLY ASK YOUR HONOR TO  
18          CONSIDER THAT. HE IS WELL KNOWN IN THE KANNAPOLIS COMMUNITY AND  
19          VERY WELL LIKED.

20          THE COURT: ANYTHING YOU WANT TO TELL ME, MR. LARMAND?

21          MR. LARMAND: IT WAS POOR JUDGMENT. I'M GLAD NOBODY GOT  
22          HURT. THAT WAS NOT MY ATTENTION AT ALL. I HAVE NOTHING ELSE TO  
23          SAY, JUST IT WAS POOR JUDGMENT. THANK YOU.

24          THE COURT: MR. GREELEY.

25          MR. GREELEY: MAY IT PLEASE THE COURT.

1 THE COURT: SURE.

2 MR. GREELEY: YOUR HONOR, I HAVE WORKED WITH MY CLIENT AND  
3 HIS WIFE SINCE THIS OCCURRED. HE HAS ALWAYS BEEN FORTHRIGHT WITH  
4 ME. WHEN HE SAW THE POLICE ON THE SIDE OF THE ROAD THAT DAY HE  
5 WAS TOLD THAT HE SHOULD NOT HAVE HAD THE GUN. HE ADMITTED TO  
6 THEM, COOPERATED WITH THEM, AS FAR AS THE GUN GOES.

7 THIS IS A MAN WHO TO MY KNOWLEDGE HAS NO PRIOR CRIMINAL  
8 RECORD, ANYTHING OF ANY SIGNIFICANCE. IF THEY DID FIND SOMETHING  
9 OUT, IT WAS NEVER RECEIVED BY---

10 MS. JOYNER: NO RECORD, YOUR HONOR.

11 THE COURT: NO RECORD.

12 MR. GREELEY: I MEAN, NO RECORD, WHATSOEVER. AND HE ALSO HAS  
13 A MEDICAL CONDITION WHICH YOUR HONOR HAS SEEN. AND I'VE GOT A  
14 MEDICAL REPORT HERE THAT I WOULD LIKE FOR THE COURT TO SEE  
15 BECAUSE HIS MEDICAL PROBLEMS ARE REAL. AND THEY WERE REAL  
16 BEFORE THIS INCIDENT AND THEY ARE REAL TODAY. AND I WOULD SUBMIT  
17 TO THE COURT IT'S GOING TO BE VERY, VERY DIFFICULT FOR HIM TO BE  
18 ABLE TO SERVE AN INCARCERATED SENTENCE IN REGARDS TO THIS.

19 I DO NOT BELIEVE THAT THERE IS MANDATORY TIME THAT IS  
20 REQUIRED BY STATUTE FOR THIS. HE HAS GOT NO PRIOR RECORD. AND HE  
21 DOES HAVE A VERY BAD BACK. HE HAS APPLIED FOR LONG TERM  
22 DISABILITY SOCIAL SECURITY.

23 THESE CONVICTIONS OF COURSE HAVE NOW RUINED HIS SECURITY  
24 CLEARANCE THAT HE HAD FOR YEARS DOING WORK FOR NOT ONLY YORK  
25 COUNTY AT THIS JAIL BUT WITH THE U. S. DEPARTMENT OF JUSTICE.

1 SO, IT IS A VERY, VERY SAD THING. AND FORTUNATELY NOBODY GOT  
2 SERIOUSLY HURT. THIS COURT HAVE BEEN A MURDER CASE BUT IT WASN'T.  
3 FORTUNATELY NOBODY GOT HURT.

4 BUT WHAT CAN STAND TO HAPPEN OUT OF THIS AND OUT OF THAT  
5 SINGLE INCIDENT IS THAT FAMILIES CAN BE DAMAGED FOR A LONG TIME AS  
6 A RESULT OF THEIR LACK OF JUDGMENT POSSIBLY ON THAT EVENING, FOR  
7 THAT ONE SINGLE EVENING.

8 AND YOUR HONOR, I HAVE TO, I CAN'T IGNORE THIS, AND IT DOESN'T  
9 POSSIBLY CALL FOR THE REACTION THAT MY CLIENT HAD THAT NIGHT WITH  
10 THE GUN. BUT THE ALLEGED VICTIM IN THIS CASE ALSO HAD BEEN A  
11 VICTIMIZER AND SO, I'M NOT TRYING TO BELITTLE WHAT MY CLIENT DID,  
12 BUT WE'RE NOT TALKING ABOUT FOLKS WHO JUST DID AN ACT OF VIOLENCE  
13 AGAINST SOMEBODY WHO WAS INNOCENT AND DIDN'T HAVE A HISTORY.

14 SO, NOW, THEY HAVE THESE FELONY CONVICTIONS, WHICH IN AND OF  
15 ITSELF, AS I SAID, IS GOING TO LIMIT THEIR ABILITY IN THE FUTURE.

16 I WOULD JUST ASK ON BEHALF OF MY CLIENT'S CHILD AND HIS  
17 SISTER'S CHILDREN THAT THE COURT CONSIDER ALLOW THEM TO TRY  
18 PROBATION ON THESE CHARGES. AND IF THEY CAN'T MAKE PROBATION,  
19 WHICH THEY WILL BE ABLE TO MAKE BECAUSE THEY'RE WORKING CITIZENS  
20 WHO HAVE DONE WELL WITH THEIR CHILDREN, THEN THE STATE OF SOUTH  
21 CAROLINA CAN PAY FOR THEM AT \$20,000 A YEAR. BUT I SUBMIT THAT IT  
22 MAY NOT BE TIME FOR THAT YET.

23 SO, I WOULD ASK THE COURT TO CONSIDER GIVING THEM BOTH A  
24 PROBATIONARY SENTENCE. AND BOTH CAN BE TRANSFERRED TO  
25 KANNAPOLIS AND THEY CAN CONTINUE TO SUPPORT THEIR FAMILIES AND

1 THEIR CHILDREN DESPITE THE FACT THAT THEY NOW HAVE THREE FELONY  
2 CONDITIONS. THANK YOU.

3 THE COURT: MR. RHEA.

4 MR. RHEA: I RESPECTFULLY ASK THE COURT FOR A SENTENCE THAT  
5 THE COURT DEEMS JUST AND PROPER, TEMPERED WITH MERCY.

6 THE COURT: SOLICITOR.

7 MS. JOYNER: YOUR HONOR, THE VICTIM WANTS TO ADDRESS THE  
8 COURT, MR. LOCHBAUM.

9 MR. GREELEY: YOUR HONOR, I AM SORRY, BUT I FORGOT TO ASK, HIS  
10 WIFE, DONNA, WOULD LIKE TO SPEAK TO THE COURT. I THINK WE CAN DO  
11 THAT REAL QUICKLY.

12 THE COURT: I'LL BE GLAD TO HEAR FROM HER. GIVE ME YOUR NAME,  
13 PLEASE.

14 DONNA LEMIRE: MY NAME IS DONNA LEMIRE.

15 THE COURT: YES MA'AM.

16 DONNA LEMIRE: YOUR HONOR, HE HAS AN EIGHT YEAR OLD SON, A  
17 LITTLE BOY. HE'S A DADDY TO HIS LITTLE BOY. HE LOVES HIS DAD. HIS  
18 DAD, HE'S A GREAT GUY. HE'S A GOOD HUSBAND. HE'S SUPPORTED US  
19 THROUGH THICK AND THIN. AS MR. RHEA HAS MENTIONED , HE HAD DONE A  
20 LOT OF GOVERNMENT WORK AND HE NEVER HAD ANY ISSUES OR PROBLEMS  
21 WITH THAT. AND I JUST ASK FOR THE MERCY OF THE COURT.

22 THE COURT: THANK YOU.

23 DONNA LEMIRE: THANK YOU.

24 MS. JOYNER: MR. LOCHBAUM.

25 THE COURT: STATE YOUR NAME, PLEASE.

1 RYAN LOCHBAUM: MY NAME IS RYAN LOCHBAUM. YOUR HONOR, I  
2 WANTED TO COME HERE AND TELL YOU THANK YOU. THIS IS NOT-- THIS  
3 BEHAVIOR THAT WE SAW IS JUST A CULMINATION OF A PATTERN OF  
4 BEHAVIOR, I REPRESENT, NOT JUST TO MYSELF, BUT TO OTHER FAMILIES.  
5 THEY HAVE DONE THIS TO OTHER FAMILIES, LEFT THEM IN THIS STATE.

6 I DIDN'T KNOW WHAT FEAR WAS UNTIL I SAW THIS MAN WHO IS IN A  
7 POSITION OF RESPONSIBILITY AS A LOCKSMITH. BECAUSE OF THE FEAR HE  
8 HAS BROUGHT TO MY FAMILY I'M SURE OTHER FAMILIES HE'S CHILLED,  
9 CHILLED TO THE BONE REGULARLY. AND WHEN HE GETS OUT OF JAIL I  
10 KNOW THAT I HAVE TO BE IN FEAR FOR THE REST OF MY LIFE. AND NOT OF  
11 MY OWN CHOOSING, ONLY BECAUSE I CHOSE TO DEFEND MYSELF.

12 I AM GLAD TO BE IN THE POSITION OF THANKING THE COURT. I WANT  
13 TO THANK ON THE RECORD THE LOWERY FAMILY AND THE HERRING  
14 FAMILY, BECAUSE I PROBABLY WOULDN'T BE HERE TODAY IF IT WEREN'T  
15 FOR THEM. THANK YOU ALL, THE COURT, FOR WHAT YOU HAVE DONE.  
16 THANK YOU.

17 THE COURT: THANK YOU. THE SENTENCE ON THE COURT ON  
18 INDICTMENT 2009-GS-46-02833, LYNCHING IN THE SECOND DEGREE, IS THAT  
19 THE DEFENDANT IS COMMITTED TO THE STATE OF CORRECTIONS FOR A  
20 TERM OF TEN YEARS. HE WILL BE GIVEN CREDIT FOR THE FOURTEEN DAYS  
21 HE HAS SERVED THUS FAR.

22 IN CONNECTION WITH 2009-GS-46-02834, THE DEFENDANT IS  
23 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF  
24 FIVE YEARS. HE WILL ALSO BE GIVEN CREDIT FOR FOURTEEN DAYS. AND  
25 THAT SHALL RUN CONCURRENT.

1           IN CONNECTION WITH 2009-GS-46-02835, THE DEFENDANT IS  
2           COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TIME OF  
3           FIVE YEARS. THAT WILL ALSO RUN CONCURRENT, AND HE WILL BE GIVEN  
4           CREDIT FOR FOURTEEN DAYS THAT HE HAS SERVED.

5           IN CONNECTION WITH 2009-GS-46-02838, THE DEFENDANT IS  
6           COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF  
7           TEN YEARS. HE WILL BE GIVEN CREDIT FOR THE FOURTEEN DAYS HE HAS  
8           SERVED THUS FAR.

9           IN CONNECTION WITH 2009-GS-46-02837, THE DEFENDANT IS  
10          COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF  
11          FIVE YEARS. THAT SHALL RUN CONCURRENT, AND HE WILL BE GIVEN  
12          CREDIT FOR FOURTEEN DAYS SERVED THUS FAR.

13          IN CONNECTION WITH INDICTMENT 2009-GS-46-02839, THE DEFENDANT  
14          IS COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM  
15          OF FIVE YEARS. THAT SHALL RUN CONCURRENT AND HE WILL BE GIVEN  
16          CREDIT FOR FOURTEEN DAYS SERVED THUS FAR.

17          THANK YOU, AND THAT CONCLUDES THIS CASE.

18          (WHEREUPON COURT WAS ADJOURNED AT 10:13 P.M.)

19

20

21

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25

C O P Y

STATE OF SOUTH CAROLINA ) COURT OF GENERAL SESSIONS  
COUNTY OF YORK ) SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA )  
PLAINTIFF, )

VERSUS )

FRANCIS VICTOR LARMAND, JR., )  
LEO DAVID LEMIRE, )  
DEFENDANTS. )

TRANSCRIPT OF RECORD  
09-GS-46-02833  
09-GS-46-02834  
09-GS-46-02835  
09-GS-46-02837  
09-GS-46-02838  
09-GS-46-02839

VOLUME IV  
OCTOBER 23, 2009  
YORK, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE, AND A JURY

A P P E A R A N C E S:

FOR THE STATE:  
ERIN JOYNER, ESQ., ASSISTANT SOLICITOR  
JENNIFER COLTON, ASSISTANT SOLICITOR

FOR THE DEFENDANT, FRANCIS VICTOR LARMAND, JR.:  
JOHN D. RHEA, ESQ.

FOR THE DEFENDANT, LEO DAVID LEMIRE:  
LELAND GREELEY, ESQ.

PHYLLIS S. BARRETT  
CIRCUIT COURT REPORTER

1                   FRIDAY, OCTOBER 23, 2009 - COURT IN SESSION - 11:00 A.M.

2           THE COURT: MR. GREELEY.

3           MR. GREELEY: YOUR HONOR, MAY IT PLEASE THE COURT. WE'RE  
4   BACK ON THE RECORD FROM LAST NIGHT. JUST BRIEFLY, LAST NIGHT THE  
5   JURY RETURNED THREE VERDICTS OF GUILTY AGAINST MR. LARMAND AND  
6   MR. LEMIRE, WHO ARE HERE BESIDE ME TODAY.

7           YOUR HONOR SENTENCED THEM TO TEN YEARS AND FIVE YEARS AND  
8   FIVE YEARS, TO BE CONCURRENT ON THOSE CHARGES.

9           I AM AT THIS TIME-- FIRST OF ALL FROM A PROCEDURAL STANDPOINT  
10   AND FOR THE RECORD, I WOULD JUST MAKE-- I DID NOT DO IT LAST NIGHT.  
11   WE'RE GIVEN TEN DAYS TO DO IT AND I'M GOING TO DO IT RIGHT NOW THIS  
12   MORNING.

13           ON BEHALF OF MR. LEMIRE, I'M GOING TO ASK THE COURT TO  
14   CONSIDER AND ASK FOR A SETTING ASIDE OF THE VERDICT, SET A NEW  
15   TRIAL BASED UPON THE ISSUES THAT WE HAD IN THE CASE, ESPECIALLY  
16   INVOLVING THE JURY CHARGE THAT WAS SENT BACK TO THE JURY, AS WELL  
17   AS THE OBJECTIONS THAT MR. RHEA AND I HAD REGARDING THE LYNCHING  
18   PORTION THAT HIS HONOR HAD GIVEN, WHICH IS IN THE STATUTE. WE DO  
19   UNDERSTAND THAT.

20           AND SO, BASED ON THOSE, I WOULD ASK FOR A NEW TRIAL ON BEHALF  
21   OF MR. LEMIRE. I BELIEVE THAT MR. LARMAND'S MOTION WAS MADE LAST  
22   NIGHT BY MR. RHEA.

23           THE COURT: ANY RESPONSE FROM THE SOLICITOR IN THAT REGARD?

1 MS. JOYNER: YOUR HONOR, WE JUST RESPECTFULLY ASK THE COURT  
2 TO DENY THE MOTIONS FOR ALL REASONS THE PREVIOUS MOTIONS WERE  
3 DENIED.

4 THE COURT: YOUR MOTION IS RESPECTFULLY DENIED. THANK YOU.

5 MR. GREELEY: YOUR HONOR, THE NEXT IS, MR. LARMAND HAS  
6 ALLOWED ME TO SPEAK ON BEHALF OF HIM AND MR. RHEA. MR. RHEA IS  
7 NOT ABLE TO BE HERE THIS MORNING. AND I WOULD LIKE TO SEE IF MR.  
8 LARMAND DOES AGREE WITH THAT.

9 MR. LARMAND: VERY MUCH SO.

10 MR. GREELEY: OKAY. YOUR HONOR, ON BEHALF OF BOTH CLIENTS,  
11 MR. LEMIRE, FIRST, IN REGARDS TO 09-GS-46-2837, 2838, AND 2839, WHICH ARE  
12 THE INDICTMENTS FOR WHICH HE WAS FOUND GUILTY. AND ON BEHALF OF--  
13 THAT WAS MR. LEMIRE.

14 AND IN REGARDS TO MR. LARMAND, 2833, 2834, AND 2835, I WOULD,  
15 YOUR HONOR, PURSUANT TO TITLE 18-01-90 OF THE SOUTH CAROLINA CODE  
16 WHICH ALLOWS FOR BAIL TO BE GIVEN WHEN AN APPEAL IS TAKEN, WHICH  
17 WE ARE TAKING AN APPEAL. WE HAVE ALREADY DONE THE NOTICES OF  
18 APPEAL AND THEY'RE GOING OUT IN THE MAIL TODAY TO THE PARTIES. I  
19 WOULD ASK FOR THE COURT TO GIVE BOND TO OUR CLIENTS PENDING THAT  
20 APPEAL.

21 I WOULD SUBMIT TO THE COURT, YOUR HONOR, THAT AS YOU'VE  
22 ALREADY HEARD, THE CLIENTS HAVE NO PRIOR CRIMINAL RECORD. THEY  
23 ARE FAMILY PEOPLE. THEY HAVE HAD BUSINESSES BEFORE. I DO NOT  
24 BELIEVE THAT THEY WOULD BE A DANGER TO THE COMMUNITY AT ALL IN  
25 REGARDS TO THIS. THEY HAVE BEEN OUT ON BAIL SINCE THIS OCCURRED

1 AND SINCE THEIR TRIAL. THEY HAVE ABIDED BY ALL THE RULES SINCE  
2 THAT HAPPENED AND THEY MADE ALL THE APPEARANCES THEY WERE  
3 SUPPOSED TO MAKE. AND SO, THERE IS, OTHER THAN THE CONVICTION,  
4 THERE IS NO REASON TO BELIEVE THAT THEY WOULD EITHER BE A THREAT  
5 TO THE COMMUNITY OR WOULD FLEE.

6 YOUR HONOR, ANOTHER REASON I'M ASKING FOR THE COURT TO  
7 CONSIDER BAIL IS THE CHARGE FOR WHICH THEY WERE GIVEN TEN YEARS IS  
8 A VIOLENT OFFENSE, TO MY UNDERSTANDING, WHICH IS THE LYNCHING,  
9 SECOND DEGREE.

10 WE BELIEVE THAT WE HAVE A MERITORIOUS APPEAL REGARDING THE  
11 LANGUAGE THAT WAS INSTRUCTED TO THE JURY REGARDING THE  
12 PERMISSIVE INFERENCE AND IN LIGHT OF THE BELCHER CASE THAT CAME  
13 DOWN TWO WEEKS AGO, TALKING ABOUT PERMISSIVE INFERENCES,  
14 ESPECIALLY IN CASES INVOLVING SELF DEFENSE, AND ALSO IN THIS CASES,  
15 WHERE IN THIS PARTICULAR CASE, THE COURT WAS INSTRUCTED, DID  
16 INSTRUCT THE JURY ABOUT MERE PRESENCE. AND SO, YOU HAD A  
17 PERMISSIBLE INFERENCE THAT WAS GIVEN OVER THE TOP OF MERE  
18 PRESENCE IN REGARDS TO THE LYNCHING CHARGE.

19 GIVEN THESE CONVICTIONS, IF THEY HAVE TO REMAIN  
20 INCARCERATED PENDING THE APPEAL THEY WILL BE INCARCERATED FOR A  
21 YEAR AND A HALF OR TWO YEARS AS VIOLENT OFFENDERS.

22 WE WOULD LIKE TO HAVE THE LYNCHING AND THE OTHER CHARGES  
23 REVIEWED PRIOR TO THEM HAVING TO UNDERGO SUCH AN INCARCERATION.  
24 BECAUSE IF THAT IS SET ASIDE, THEN THEY WOULD HAVE HAD TO ENDURE  
25 ONE AND A HALF TO TWO YEARS AS VIOLENT OFFENDERS IN THE SOUTH

1 CAROLINA DEPARTMENT OF CORRECTIONS, EVEN THOUGH OUR APPEAL MAY  
2 END UP BEING, COULD VERY WELL END UP BEING SUCCESSFUL.

3 AND SO, I WOULD ASK FOR THE COURT TO GRANT A REASONABLE  
4 APPEAL BOND UNDER SECTION 18-01-90 ON BOTH DEFENDANTS.

5 THE COURT: SOLICITOR.

6 MS. JOYNER: YOUR HONOR, I KNOW THAT SECTION. IF YOU WANT TO  
7 GRANT IT, IT'S CLEARLY IN THE COURT'S DISCRETION. PURSUANT TO CASE,  
8 IN THE INTEREST OF MICHAEL H., 360 SC 540, A SUPREME COURT CASE, SOUTH  
9 CAROLINA SUPREME COURT CASE FROM 2004. THE FACTORS TO BE  
10 CONSIDERED IN ADMITTING A PERSON TO BAIL PENDING APPEAL INCLUDE  
11 THE PROBABILITY OF REVERSAL, THE NATURE OF THE CRIME AND THE  
12 POSSIBILITY OF ESCAPE AND THE CHARACTER AND CIRCUMSTANCES OF THE  
13 APPELLANT.

14 OBVIOUSLY, THEY HAVE NO PRIOR CRIMINAL RECORD OTHER THAN  
15 THIS. THE STATE DOESN'T BELIEVES THERE'S A PROBABILITY OF REVERSAL  
16 BASED ON THE ISSUES STATED BY MR. RHEA.

17 THE COURT: I AGREE WITH THE STATE AND ALSO FIND THAT THE  
18 NATURE OF THE CRIME WAS A VIOLENT ACT. THERE'S OBVIOUS BAD BLOOD  
19 BETWEEN THE DEFENDANTS AND THE VICTIM AND I WOULD FIND THAT  
20 RELEASING THEM ON BOND WOULD BE A DANGER TO THE COMMUNITY.

21 I'M GOING TO DENY THE MOTION ON BOTH PARTIES. THANK YOU.

22 MR. GREELEY: THANK YOU, JUDGE.

23 MS. JOYNER: THANK YOU, YOUR HONOR.

24 (WHEREUPON THE MATTER WAS ADJOURNED)

25

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM YORK COUNTY  
In the Court of Common Pleas

Honorable William H. Seals, Jr., Circuit Court Judge

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Case No. 2009-GS-46-02834  
Case No. 2009-GS-46-02835

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The State ..... Respondent

vs

Francis Larmand ..... Appellant

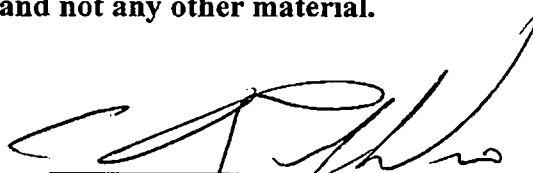
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CERTIFICATE OF COUNSEL

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The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 15<sup>th</sup>, 2011



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