

VOLUME 2 OF 2

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Larry B. Hyman, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRIAN K SPEARS,

APPELLANT

RECORD ON APPEAL

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INDEX

INDEXi

TRIAL TRANSCRIPT DATED MAY 10-13, 2010.....1

DEFENSE MOTION IN LIMINE TO EXCLUDE GANG TESTIMONY AND
GANG MATERIAL8

DEFENSE MOTION EXCLUDE WALMART INCIDENT14

DEFENSE MOTION EXCLUDE BULLETPROOF VEST.....29

DEFENSE MOTION EXCLUDE RAP LYRICS30

DEFENSE MOTION SEQUESTER WITNESSES34

DEFENSE MOTION LIMIT JEFFREY BETHEA TESTIMONY.....37

OPENING STATEMENT BY MR. FILIBERTO43

OPENING STATEMENT BY MS. PRATT45

TESTIMONY

 OFFICER TRAVIS M. PRESTON

 Direct Examination.....48

 Cross Examination.....56

 SPECIAL AGENT W. BRADLEY KELLER

 Direct Examination.....61

 Cross Examination66

 OFFICER BRYAN L. TRUEX

 Direct Examination.....68

 Cross Examination.....82

 DETECTIVE CAROL ANN ALLEN

 Direct Examination.....88

 Cross Examination.....94

 CS OFFICER CANDY MICHELLE MCSPADDEN

 Direct Examination106

 Cross Examination108

BRITTNEY MAYNOR.	
Direct Examination.....	110
Cross Examination.....	130
Redirect Examination.....	132
DR. EDWARD LEROY PROCTOR, JR.	
Direct Examination.....	133
Cross Examination.....	137
DANYELL HAMMONDS (IN CAMERA)	
Direct Examination.....	140
Cross Examination.....	144
Redirect Examination.....	155
COLLOQUY.....	156
DANYELL HAMMONDS.	
Direct Examination.....	188
Cross Examination.....	194
NATHANIEL DOUGLAS	
Direct Examination.....	205
Cross Examination.....	225
Redirect Examination.....	259
Recross Examination.....	267
DETECTIVE MICHAEL A. HULL	
Direct Examination.....	268
Cross Examination.....	328
Redirect Examination.....	336
Recross Examination.....	337
SERGEANT LYNN BAKER	
Direct Examination.....	338
Cross Examination.....	343
Redirect Examination.....	344
AGENT SUZANNE CROMER	
Direct Examination.....	345
Cross Examination.....	352
Redirect Examination.....	353

JEFFREY BETHEA	
Direct Examination.....	355
Cross Examination	374
Redirect Examination.....	406
Recross Examination.....	411
TIMOTHY F. SMITH	
Direct Examination.....	417
Cross Examination.....	426
Redirect Examination.....	437
Recross Examination.....	438
ALEXIS DENISE BROWN	
Direct Examination.....	445
Cross Examination	451
MATTHEW JENKINS	
Direct Examination.....	454
DEANDRE BISHOP	
Direct Examination.....	458
Cross Examination	460
BRIAN KENDRICK SPEARS	
Direct Examination.....	467
Cross Examination	500
Redirect Examination.....	512
COLLOQUY	514
CLOSING ARGUMENT BY MS. PRATT	519
CLOSING ARGUMENT BY MS. ELDER.....	532
JURY CHARGE.....	542
VERDICT	571
DEFENSE MOTION FOR ARREST OF JUDGMENT	572
SENTENCING.....	573
INDICTMENTS	582
CERTIFICATE OF COUNSEL.....	590

MR. SPEARS - CROSS EXAMINATION BY MS. ELDER

599

1 Q YOU ALSO SAID THAT YOU WALKED OFF WITH
2 JUNE, RIGHT?

3 A I MIGHT HAVE DID, YEAH.

4 Q AND YOU HEARD JUNE TESTIFY AND SAY YOU
5 DIDN'T WALK OFF WITH HIM? YOU HEARD HIM TESTIFY YESTERDAY?

6 A I HEARD HIM TESTIFY THAT HE GOT INTO AN
7 ARGUMENT AND HE WALKED OFF, YES, MA'AM.

8 Q AND I ASKED SPECIFICALLY IF YOU WENT WITH
9 HIM AND HE SAID NO YOU STAYED WITH BIRD?

10 A I STAYED WITH THE CROWD AND THEM, YES,
11 MA'AM.

12 Q SO WHEN YOU TOLD INVESTIGATORS THAT YOU
13 WALKED OFF WITH JUNE TO TAKE YOURSELF OUT OF THE SITUATION,
14 ON THE SECOND INTERVIEW WHEN YOU FINALLY ADMITTED YOU WERE
15 IN MYRTLE BEACH YOU SAID BUT I WALKED OFF JUNE WHICH IS NOT
16 TRUE; IS THAT CORRECT?

17 A MA'AM, WHEN JUNE WALKED OFF HE WALKED OFF
18 IN THE SAME DIRECTION THAT OUR CROWD STARTED MOVING IN,
19 MA'AM.

20 Q YOU DIDN'T GO WITH JUNE LIKE YOU ORIGINALLY
21 TOLD POLICE?

22 A HAND AND HAND, NO.

23 Q NOW WHAT I FIND REAL INTERESTING IS THAT IN
24 YOUR INTERVIEWS WITH POLICE YOU NEVER TOLD THEM YOU HAD A
25 GUN THAT NIGHT?

MR. SPEARS - CROSS EXAMINATION BY MS. ELDER

600

1 A NO, MA'AM.

2 Q THAT'S NEW TODAY, RIGHT?

3 A YES, MA'AM.

4 Q WHY DIDN'T YOU TELL THEM YOU HAD A GUN?

5 A MA'AM, I DIDN'T WANT TO GET INTO TROUBLE
6 THE SAME REASON THAT I TOLD THEM THE FIRST TIME I WASN'T
7 THERE AT ALL, I DIDN'T WANT TO GET INVOLVED.

8 Q ALL RIGHT, SO YOU DIDN'T TELL THEM A GUN,
9 ANYTHING ABOUT A GUN UNTIL TODAY FIVE MINUTES AGO AFTER YOU
10 HEARD TIM SMITH SAY YOU HAD A GUN, JEFFREY BETHEA SAID YOU
11 HAD A GUN, AND NATHANIEL DOUGLAS SAY, SAID YOU HAD A GUN,
12 THAT'S WHEN YOU FINALLY TOOK THE STAND AND SAY, YEP, YOU
13 KNOW WHAT I HAD A GUN THAT NIGHT BUT IT WASN'T ME, RIGHT?

14 A NO, I DIDN'T DO IT BECAUSE OF THEIR
15 TESTIMONY.

16 Q WELL YOU DIDN'T DO IT BEFORE EITHER, DID
17 YOU?

18 A NO, MA'AM.

19 Q WHAT KIND OF GUN DID YOU HAVE?

20 A IT WAS A BLACK, FADED BLACK 380 11 SHOT.

21 Q AND WHERE, WHERE WAS THE GUN, WHERE'S THE
22 GUN NOW, WHAT DID YOU DO WITH IT?

23 A I GAVE IT TO A FRIEND.

24 Q WHY?

25 A BECAUSE I DIDN'T NEED IT.

MR. SPEARS - CROSS EXAMINATION BY MS. ELDER

601

1 Q YOU DIDN'T THINK IT WAS IMPORTANT TO GIVE
2 YOUR GUN TO THE POLICE TO HAVE IT TESTED?

3 A NO, MA'AM.

4 Q COULD HAVE EXONERATED YOU, WASN'T YOUR GUN,
5 YOU DIDN'T GIVE IT TO POLICE, THOUGH, DID YOU?

6 A NO, MA'AM.

7 Q YOU WERE ANGRY ABOUT ERIC GETTING KILLED,
8 G-BLACK GETTING KILLED, RIGHT?

9 A YEAH, I WAS SAD AND ANGRY.

10 Q AND WHEN YOU WERE TALKING ABOUT THE GANG
11 WAS DISCUSSING IT AND THEY WERE ANGRY AND THEY WERE TALKING
12 ABOUT RETALIATION YOU WERE PART OF THAT GANG, RIGHT?

13 A I'M A PART OF G.D., YES, MA'AM.

14 Q AND WHEN DETECTIVES INTERVIEWED ABOUT IT
15 THE SECOND TIME ALTHOUGH YOU DENIED IT THE FIRST YOU CALLED
16 IT A GANG? YOU KNOW IT'S A GANG, WE ALL KNOW IT'S A GANG,
17 RIGHT?

18 A NO, MA'AM, IT'S NOT A GANG AND FOR ME TO
19 CALL IT A GANG I WOULD BE DISRESPECTING WHAT I AM.

20 Q DO YOU EDUCATE YOURSELF ON GANG HISTORY?

21 A YES, MA'AM.

22 Q WHAT KIND OF GANG HISTORY DO YOU EDUCATE
23 YOURSELF ON?

24 A MAINLY ON MY ORGANIZATION.

25 Q AND WHAT IS YOUR ORGANIZATION?

1 A G.D.

2 Q NOW YOU HAVE DESCRIBED BIRD AS A TALKER, HE
3 TALKED A LOT?

4 A YES, MA'AM.

5 Q AND YOU TOLD POLICE THAT HE'S A BIG TALKER?

6 A YES, MA'AM.

7 Q AND YOU ALSO TOLD THEM YOU DIDN'T TAKE HIM
8 SERIOUS BECAUSE HE ALWAYS TALKED SO MUCH?

9 A YES, MA'AM.

10 Q NEVER FOLLOWS THROUGH?

11 A SOMETIMES.

12 Q YOU WERE UPSET AT HIM AND ANGRY AT HIM
13 BECAUSE HE DIDN'T FOLLOW THROUGH AND GET RETRIBUTION FOR G-
14 BLACK'S MURDER; ISN'T THAT RIGHT?

15 A NO, MA'AM.

16 Q AND YOU WENT TO WALMART IN APRIL OF '07 TO
17 DO WHAT BIRD HAD NOT DONE; ISN'T THAT CORRECT?

18 A NO, MA'AM.

19 Q AND YOU AFTER YOU WERE SERVED WITH MURDER
20 WARRANTS FOR SHOOTING SOMEBODY GOT A TATTOO THAT SAID REST
21 IN PEACE G-BLACK WITH A GUN UNDERNEATH IT, RIGHT?

22 A YES, MA'AM.

23 Q YOU ALSO GOT TATTOOED AFTER YOU HAD BEEN
24 SERVED WARRANTS FOR MURDERING SOMEBODY WITH THE WORD
25 RESPECT TATTOOED UNDER YOUR GANG SYMBOL, RIGHT?

MR. SPEARS - CROSS EXAMINATION BY MS. ELDER

603

1 A YES, RESPECT AND HONOR.

2 A YOU ALSO, AFTER YOU GOT SERVED WITH MURDER
3 WARRANTS FOR MURDERING AARON HAMMONDS, GOT YOUR G.D. TATTOO
4 OF YOUR GANG YOU GOT IT COLORED IN, THE TAIL OF IT COLORED
5 IN, AND YOU GOT A TEARDROP ADDED TO END WITH THE WORD HONOR
6 WRITTEN UNDER IT, TOO; ISN'T THAT RIGHT?

7 A NO, MA'AM, IT'S NOT A TEARDROP. IF I
8 WANTED TO PUT A TEARDROP I WOULD HAVE PUT IT ON THE RIGHT
9 SIDE UNDER MY EYE.

10 Q WHAT'S A TEARDROP MEAN?

11 A A TEARDROP MEANS YOU KILLED SOMEBODY.

12 Q YOU SAID TIM SMITH CAME IN AND MADE ALL
13 THIS UP ABOUT YOU, RIGHT?

14 A YES, MA'AM, HE ADD SOME THINGS THAT HE KNOW
15 ABOUT ME, YES, MA'AM.

16 Q AND HE MADE UP ALL THAT STUFF ABOUT YOUR
17 FAMILY, NONE OF THAT WAS TRUE, RIGHT?

18 A SOME OF IT.

19 Q ALL THAT STUFF HE KNEW ABOUT YOUR MAMA AND
20 WHO THEY WERE AND YOUR DADDY AND CAME OUT AND HANGING OUT
21 IN LUMBERTON THAT WAS ALL FALSE, TOO?

22 A YES, MA'AM, AND HE DOESN'T KNOW MY MOTHER
23 AND I NEVER SPOKE WITH HIM ABOUT MY MOTHER.

24 Q AND ALL THAT STUFF HE ADMITTED ABOUT HOW HE
25 USED TO KNOW SOME OF THE SAME PEOPLE CAUSE HE WAS KIND OF A

1 PLAYER FROM LUMBERTON HE MADE ALL THAT UP, TOO, RIGHT?

2 A YES, MA'AM.

3 Q AND THE AUTOPSY PICTURE HE SAID YOU SHOWED
4 HIM YOU NEVER SHOWED HIM?

5 A I SHOWED EVERYBODY IN THE CELL. I HAD MY
6 MOTION OUT, THEY STEPPED UP, I LET THEM SEE IT.

7 Q CAUSE YOU WERE PROUD OF IT, WEREN'T YOU?

8 A NO, MA'AM.

9 Q IT WAS A TROPHY?

10 A NO, MA'AM, IT WAS A STACK OF PAPERWORK.

11 Q AND I AM CURIOUS, THOUGH, BECAUSE SINCE
12 THIS IS THE FIRST TIME YOU MENTIONED A GUN HERE IN THIS
13 COURTROOM HOW IS IT IF TIM SMITH NEVER TALKED TO YOU ABOUT
14 THIS HOW IS IT THAT TIM SMITH KNEW EXACTLY WHAT YOU WERE
15 GOING TO TESTIFY TO TODAY, THAT YOU HAD A GUN AND IT WAS IN
16 YOUR CAR IN MYRTLE BEACH BECAUSE NONE OF US KNEW IT UNTIL
17 TODAY? WE'LL GET BACK TO THAT.

18 MS. PRATT: YOUR HONOR, I WOULD ASK THAT HE BE
19 ALLOWED TO ANSWER THAT QUESTION.

20 THE COURT: HE CAN ANSWER IT.

21 MS. ELDER: (CONTINUING)

22 A MA'AM, I DON'T KNOW WHERE HE GOT HIS STORY
23 FROM BUT HIS STORY DOESN'T MAKE NO SENSE. BY THE TIME I
24 WOULD HAVE SEEN AARON AND I WOULD HAVE TRIED TO RUN BACK TO
25 MY VEHICLE TO GET A GUN I WOULD HAVE NEVER FOUND HIM AGAIN.

MR. SPEARS - CROSS EXAMINATION BY MS. ELDER

605

1 ALL THOSE PEOPLE OUT THERE IT WOULD HAVE TOOK ME AT LEAST
2 10 MINUTES TO GET BACK TO THE CAR.

3 Q MY QUESTION WAS IF YOU NEVER TALKED TO TIM
4 SMITH HOW IS IT THAT HE KNEW YOUR GUN WAS IN THE CAR WHEN
5 NOBODY FROM THE STATE, WHEN THE POLICE, NOTHING IN YOUR
6 DISCOVERY SAID ANYTHING ABOUT YOU HAVING A GUN BECAUSE THIS
7 IS THE FIRST DAY WE LEARNED ABOUT IT? HOW IS IT THAT IF
8 TIM SMITH NEVER TALKED TO YOU ABOUT ANY OF THIS STUFF HE
9 KNEW THAT? HOW DID HE KNOW THAT?

10 A MA'AM, I DON'T KNOW HOW HE PUT THAT STORY
11 TOGETHER.

12 Q THIS LETTER TO TRILL YOU WRITE?

13 A YES, MA'AM.

14 Q YOU SAID YOU COULDN'T SEND THE 41 PAGES OF
15 BIRD'S STATEMENT, WHY DID HE WANT BIRD'S STATEMENT IN
16 PARTICULAR?

17 A HE WANTED EVERYBODY'S STATEMENTS.

18 Q BUT YOU DON'T TALK ABOUT EVERYBODY'S
19 STATEMENTS, YOU TALK ABOUT BIRD'S STATEMENT?

20 A YEAH, HE REALLY WANTED TO READ WHAT BIRD
21 SAID.

22 Q BECAUSE BIRD WAS IN YOUR GANG, RIGHT?

23 A YES, MA'AM.

24 Q AND HE WAS NOW, YA'LL THOUGHT HE WAS A
25 SNITCH; IS THAT CORRECT?

1 A NO, MA'AM, HE WAS IN DISBELIEF FROM HOW
2 THIS MAN WOULD JUST, JUST ULTIMATELY JUST DISRESPECT LIKE
3 THAT.

4 Q BECAUSE HE SNITCHED?

5 A NO, MA'AM.

6 Q ARE YOU TELLING ME IN EVERYTHING THAT
7 YOU'VE WRITTEN YOU HAVE NEVER CALLED BIRD A SNITCH?

8 A BIRD HAS TURNED PEOPLE IN IN THE PAST ON
9 THINGS.

10 Q AND HE TURNED YOU IN, RIGHT?

11 A HE GAVE POLICE MY NAME.

12 Q AND THAT MAKES HIM A SNITCH, RIGHT?

13 A NOT NECESSARILY, MA'AM, MAKES HIM A DIRTY
14 GUY.

15 Q NOW YOU DON'T SAY I CAN'T SEND BIRD'S
16 STATEMENT AND I'M JUST GOING TO SEND YOU A COUPLE OF
17 PICTURES BECAUSE THIS IS ALL I CAN SEND? YOU SAID I AM
18 SENDING AARON'S DEAD ASS AND YOU SENT ONE PAGE, YOU SENT
19 ONE PAGE OF PAPER, ONE PICTURE?

20 A YES, MA'AM.

21 Q YOU HAD A LOT OF PICTURES IN YOUR
22 DISCOVERY, DIDN'T YOU?

23 A YES, MA'AM.

24 Q YOU HAD SOME OF THE BOULEVARD?

25 A YES, MA'AM.

MR. SPEARS - CROSS EXAMINATION BY MS. ELDER

607

1 Q YOU HAD SOME OF THE SHELL CASINGS THAT WERE
2 TAKEN, RIGHT?

3 A YES, MA'AM.

4 Q YOU DIDN'T SEND HIM THOSE, DID YOU?

5 A HE SPECIFICALLY REQUESTED HE WANTED THE
6 GUYS STATEMENTS AND THE PICTURES OF AARON.

7 Q SO THE ONLY THINGS YOU SENT HIM WAS AARON'S
8 AUTOPSY PICTURE?

9 A YES, MA'AM, AND I ---

10 Q YOU DID WRITE THAT'S AARON'S DEAD ASS,
11 RIGHT?

12 A YES, MA'AM.

13 Q NOW MS. PRATT ASKED YOU SPECIFICALLY ABOUT
14 HOW YOU WERE MOVING AROUND THE JAIL. WHY WAS IT REALLY
15 THAT YOU WERE MOVED AROUND THE JAIL SO MANY TIMES?

16 A I WAS MOVED FOR NOT SIGNING WRITE UPS. I
17 WAS MOVED CAUSE I REQUESTED TO BE MOVED. I WAS MOVED CAUSE
18 POD SHUT DOWN.

19 Q YOU GOT A LOT OF WRITE UPS, DIDN'T YOU?

20 A OH, YES, MA'AM.

21 Q SO YOU HAD SOME TROUBLE AT THE JAIL?

22 A ONLY WHEN I REALLY WANTED IT.

23 Q YOUR RAP LYRICS NONE OF IT IS BASED ON LIFE
24 EXPERIENCES?

25 A SOME AND SOME NOT.

1 Q OKAY, SO SOME OF THIS THAT YOU WRITE IS IN
2 FACT THINGS THAT YOU HAVE EXPERIENCED, CORRECT?

3 A SOMEWHAT.

4 Q SO YOUR HOMIE G-BLACK WAS IN FACT KILLED?

5 A YEAH, HE WAS MURDERED.

6 Q OKAY, AND YOU ADMIT IT NOW THAT YOU CARRY A
7 GUN, RIGHT?

8 A YEAH, I CARRY A GUN.

9 Q LET ME ASK YOU THIS, "MURDER WAS THE CASE
10 REVENGE FOR G-BLACK LOOK IN MY EYES YOU CAN SEE MY PAIN,
11 HEART TURNED COLD. I'LL PUT A BULLET STRAIGHT IN YOUR BRAIN,
12 YOU SAY I'M A NOBODY, WHY DO HOMICIDE UNIT BE SCREAMING MY
13 NAME," ALL OF THAT IS PRETTY MUCH TRUE, ISN'T IT?

14 A NO, MA'AM.

15 MS. ELDER: ONE MOMENT, YOUR HONOR.

16 Q (CONTINUING) WHAT DO YA'LL DO TO SNITCHES?

17 A WHAT DO WE DO TO SNITCHES?

18 Q IN GANGS WHAT DO YOU DO TO SNITCHES?

19 A WELL I DON'T KNOW WHAT PEOPLE WOULD THINK
20 WOULD HAPPEN TO THEM BUT I KNOW QUITE A FEW OF THEM THAT'S
21 STILL WALKING AROUND IN THE NEIGHBORHOOD.

22 Q BUT SOME OF THEM GET TAKEN OUT BY THEIR
23 GANG, RIGHT?

24 A MAYBE IN CERTAIN AREAS.

25 Q AND WERE YOU GOING TO GIVE TRELL BIRD'S

MR. SPEARS - CROSS EXAMINATION BY MS. ELDER

609

1 STATEMENT TO SHOW THAT HE WAS A SNITCH, DISRESPECT, HE
2 DISRESPECTED YOUR GANG?

3 A NO.

4 Q HE NEEDED TO BE TAKEN CARE OF?

5 A I WAS GOING TO GIVE HIM THE STATEMENT SO
6 HE'LL BE AWARE OF EXACTLY WHAT HE SAID.

7 Q YOU IN FACT MADE THREATS AGAINST BIRD WHEN
8 YOU FOUND OUT HE WAS GOING TO TESTIFY AGAINST YOU, DIDN'T
9 YOU?

10 A NO, MA'AM.

11 Q YOU IN FACT MADE THREATS AGAINST A LOT OF
12 PEOPLE IN THIS CASE WHEN YOU FOUND OUT THIS WAS GOING TO
13 TRIAL, DIDN'T YOU?

14 A NO, MA'AM.

15 Q NEVER MADE A THREAT?

16 A NO, MA'AM.

17 Q NOBODY'S LIFE?

18 A NO, MA'AM.

19 Q NOT BIRD'S?

20 A NO, MA'AM.

21 Q NONE OF THE WITNESSES?

22 A NO, MA'AM.

23 Q AND NOT MINE?

24 A NO, MA'AM.

25 MS. ELDER: NO OTHER QUESTIONS, YOUR HONOR.

MR. SPEARS - REDIRECT EXAMINATION BY MS. PRATT

610

1 THE COURT: ANY FOLLOW UP, MS. PRATT?

2 MS. PRATT: JUST A TOUCH.

3 REDIRECT EXAMINATION

4 BY MS. PRATT:

5 Q WHAT MS. ELDER SAID ABOUT THIS EVERYBODY
6 HAVING GUNS, THAT'S NOT THE FIRST TIME THAT THAT'S ACTUALLY
7 COME OUT IN THIS CASE, IS IT?

8 A NO, MA'AM.

9 Q I MEAN THAT WAS IN YOUR DISCOVERY, WASN'T
10 IT?

11 A YES, MA'AM.

12 Q IT WAS IN JUNE'S STATEMENT?

13 A YES, MA'AM.

14 Q AND HE SAID EVERYBODY HAD GUNS, DIDN'T HE?

15 A YES, MA'AM.

16 Q AND DO YOU REMEMBER HIM SAYING IN HIS
17 STATEMENT THAT I DON'T KNOW IF THEY BROUGHT THEM TO THE
18 BEACH?

19 A YES, MA'AM.

20 Q OKAY, SO IT'S NOT THE FIRST TIME THAT
21 ANYBODY SAID THAT EVERYBODY HAD GUNS OR CARRIED; IS IT?

22 A NO, MA'AM.

23 Q OKAY, AND YOU WERE TALKING ABOUT A DROP OF
24 BLOOD AS OPPOSED TO A TEARDROP?

25 A YES, MA'AM.

MR. SPEARS - REDIRECT EXAMINATION BY MS. PRATT

611

1 Q A TEARDROP YOU SAID WOULD NORMALLY BE AT
2 THE EYE?

3 A YEAH, I WOULD HAVE PUT IT ON THE, G WOULD
4 HAVE PUT IT ON HIS RIGHT SIDE OF HIS EYE.

5 Q AND THAT WOULD MEAN THAT HE'D KILLED
6 SOMEBODY?

7 A YOU KILLED SOMEBODY.

8 Q AND WOULD THAT NORMALLY BE OPEN LIKE --

9 A IT WOULD HAVE BEEN CLOSED UP OR OPEN.

10 Q OKAY, AND WHAT DID YOU PUT ON YOUR ARM?

11 A I PUT A DROP OF BLOOD, I DIDN'T DESIGN THE
12 TATTOO, THE INDIAN GUY DESIGNED IT BUT IT'S A DROP OF BLOOD
13 FOR THE SHED IN THE STRUGGLE.

14 Q BLOOD SHED IN THE STRUGGLE?

15 A YES, MA'AM.

16 MS. PRATT: OKAY, I THINK THAT'S ALL I'VE GOT,
17 THANK YOU.

18 THE COURT: MS. ELDER?

19 MS. ELDER: NO FURTHER QUESTIONS, YOUR HONOR.

20 THE COURT: YOU MAY STEP DOWN, SIR. IS THAT THE
21 DEFENSE?

22 MS. PRATT: THAT WOULD BE THE DEFENSE CASE, YOUR
23 HONOR.

24 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF
25 THE JURY, I HAVE BEEN WORKING DURING THIS TRIAL AND YOU MAY

1 HAVE SEEN MS. HALL ON HER COMPUTER. WHAT WE WERE DOING
2 DURING THAT TIME WAS PREPARING A CHARGE ON THE LAW IN THIS
3 CASE. I LIKE TO HAVE MY CHARGES ON THE LAW PREPARED SO
4 THAT I CAN SHARE THEM WITH THE ATTORNEYS BEFORE THEY DO
5 THEIR, THEIR CLOSING REMARKS SO THEY'LL UNDERSTAND WHAT I
6 DEEM TO BE A PROPER CHARGE ON THE LAW IN THIS CASE.

7 NOW WHAT I PROPOSE TO DO AT THIS TIME IS TO, TO
8 GO OVER THOSE CHARGES WITH THE ATTORNEYS TO MAKE SURE THERE
9 ANY ADDITIONS THAT I NEED TO PUT IN OR DELETIONS THAT I
10 NEED TO MAKE AND WE'RE GOING TO BE DISCUSSING FINAL
11 ARGUMENTS. SO WHAT I WANT TO DO AND I KNOW IT'S A LITTLE
12 BIT EARLY THIS MORNING BUT IN THE INTEREST OF TIME WHY
13 DON'T WE, IT'S 11:30, WHY DON'T I LET YOU GO TO LUNCH UNTIL
14 1:00, OKAY, AND WHEN YOU COME BACK AT 1:00 I WILL HAVE ALL
15 THESE MATTERS TAKEN CARE OF AND WE CAN GO DIRECTLY INTO
16 CLOSING REMARKS.

17 NOW LET ME TELL YOU ONE OTHER THING THAT I DO, I
18 REALLY DON'T KNOW ANY OTHER JUDGES THAT DO IT. I GUESS IT
19 JUST CREATES WORK FOR ME BUT MS. HALL AND I ALWAYS PREPARE
20 A WRITTEN TRANSCRIPT OF THE CHARGE WHICH I WILL GIVE YOU ON
21 THE LAW. THE LAW IN THESE CASES AND IN FACT MOST CASES IS
22 VERY COMPLEX AND WHERE I CERTAINLY DON'T EXPECT A JURY OF
23 LAYPERSONS TO UNDERSTAND EVERYTHING THAT I, I CHARGE THEM
24 OR TO REMEMBER IT ALL CAUSE THEY'RE QUITE LENGTHY, SO WHAT
25 I DO IS I PREPARE A TRANSCRIPT AND THE SUPREME COURT HAS

1 SAID THAT IT'S ALL RIGHT FOR ME TO DO THAT AND GIVE YOU
2 THAT TRANSCRIPT TO USE IN YOUR JURY ROOM AS LONG AS I GIVE
3 YOU MY CHARGE DIRECTLY VERBATIM FROM MY TRANSCRIPT AND
4 THAT'S WHAT I WILL DO FOR YOU AT THE END OF THIS TRIAL.
5 IT'S A LITTLE DIFFERENT FROM WHAT THE USUAL YOU MIGHT HAVE
6 EXPECTED OR, OR EXPERIENCED IF YOU WERE IN TRIALS BUT IT'S
7 JUST MY POLICY. I FIND THAT IT REALLY IS HELPFUL FOR THE
8 JURIES WHEN I DO THAT, SO WHEN WE COME BACK WE'LL HAVE
9 EVERYTHING READY TO GO FOR YOU.

10 AS I SAID I HAVE MY CHARGES, I'M GOING TO REVIEW
11 THEM ONE MORE TIME WITH THE ATTORNEYS AND TAKE UP ANY FINAL
12 MOTIONS AND WHEN YOU GET BACK AT 1:00 WE'LL BE READY TO GO
13 WITHOUT DELAY, OKAY. THANK YOU VERY MUCH. MR. ROPP, TAKE
14 YOUR JURY OUT.

15 (WHEREUPON, THE JURY WAS EXCUSED FOR LUNCH AT
16 11:30 A.M.)

17 THE COURT: MS. PRATT, I ASSUME YOU WANT TO
18 RENEW YOUR MOTION?

19 MS. PRATT: YES, YOUR HONOR, I RENEW ALL THE
20 MOTIONS THAT I'VE MADE IN THIS TRIAL IN REGARDS TO EVIDENCE
21 OR OTHER MATTERS INCLUDING MY MOTION FOR A DIRECTED
22 VERDICT.

23 THE COURT: ANY ADDITIONAL GROUNDS THAN THOSE
24 PREVIOUSLY STATED?

25 MS. PRATT: NO, YOUR HONOR.

1 THE COURT: ALL RIGHT, AND FOR THE SAME REASONS
2 I WOULD RESPECTFULLY DENY YOUR MOTIONS.

3 LADIES, I HAVE PREPARED FOR YOU COPIES OF THE
4 TRANSCRIPT OF MY CHARGE FOR EACH ONE OF YOU TO USE AND
5 REVIEW. I THINK IT WILL BE HELPFUL TO YOU DURING YOUR
6 CLOSING ARGUMENTS.

7 I WANTED TO DISCUSS WITH YOU THE VERDICT FORM.
8 WE HAVE FOUR CHARGES. WOULD YOU PREFER THAT WE HAVE FOUR
9 SEPARATE VERDICT FORMS OR WOULD YOU LIKE FOR CLAIRE TO SORT
10 OF CRAFT THIS IN SOME WAY THAT WE HAVE ALL THE VERDICTS ON
11 ONE PAGE?

12 MS. ELDER: YOUR HONOR, I'D PREFER SEPARATE
13 VERDICT FORMS.

14 THE COURT: ALL RIGHT, VERY WELL, THAT'S NOT A
15 PROBLEM, IN FACT IT'S PROBABLY THE BETTER WAY TO DO IT.
16 CLAIRE, IF YOU WOULD JUST DO A STANDARD, AND A VERDICT FORM
17 WILL SAY NOTHING BUT AS TO THE CHARGE OF ASSAULT AND
18 BATTERY WITH INTENT TO KILL, I THINK IT WOULD PROBABLY BE
19 BETTER IF WE PUT IN THE NAME OF THE VICTIM AS TO EACH
20 INDICTMENT.

21 MS. ELDER: YES, SIR.

22 THE COURT: WE'LL PUT THE INDICTMENT NUMBER AT
23 THE TOP BUT I'M SURE THE JURY CAN'T KEEP UP WITH THAT, PUT
24 THE INDICTMENT NUMBER AND IN THE, THE ACTUAL VERDICT FORM
25 I'LL SAY AS TO THE CHARGE OF ASSAULT AND BATTERY WITH

1 INTENT TO KILL WE, WITH INTENT TO KILL KRYSTAL FOWLER, WE
2 THE JURY UNANIMOUSLY FIND THE DEFENDANT, AND WE'LL HAVE
3 GUILTY, NOT GUILTY, THEY CAN CIRCLE ONE OR THE OTHER AND
4 WE'LL DO THAT ON EACH ONE OF THE THREE AND THE MURDER OF
5 AARON HAMMONDS WHATEVER, OKAY.

6 MS. ELDER: YES, SIR.

7 THE COURT: ALL RIGHT, AND THAT WILL BE
8 SUFFICIENT, DO YOU AGREE?

9 MS. PRATT: YES, SIR.

10 THE COURT: ALL RIGHT, ANYTHING FURTHER THAT WE
11 NEED TO TAKE UP BEFORE 1:00?

12 MS. ELDER: NO, SIR.

13 THE COURT: OKAY, LADIES, THANK YOU FOR MOVING
14 THIS ALONG. HOW LONG DO YOU ANTICIPATE YOU'LL NEED? I
15 DON'T WANT TO CRAMP YOU UP BUT WHAT ARE WE LOOKING AT, MS.
16 ELDER? I ASSUME YOU'RE GOING TO OPEN AND CLOSE?

17 MS. ELDER: NO, SIR, JUST CLOSE.

18 THE COURT: OKAY, YOU ARE GOING TO THEN ARGUE
19 FIRST, MS. PRATT?

20 MS. PRATT: YES, YOUR HONOR, ANTICIPATE, I AGREE
21 WITH YOU ON THE SERMON LENGTH 15 MINUTES TO 30 MINUTES OR
22 PEOPLE STOP LISTENING YOUR HONOR, SOMEWHERE IN THERE.

23 THE COURT: OKAY, AND HOW ABOUT YOU, MS. ELDER,
24 SOMETHING LIKE THAT?

25 MS. ELDER: YEAH, I USUALLY TRY TO STICK UNDER A

1 HALF AN HOUR, YOUR HONOR.

2 THE COURT: OKAY, SO WE DEFINITELY CAN GET THIS
3 INTO THE JURY'S HANDS ---

4 MS. ELDER: YES, SIR.

5 THE COURT: I WOULD ANTICIPATE THAT MY CHARGE
6 WILL TAKE ABOUT 30 MINUTES SO WE'LL HAVE IT TO THEM BY
7 2:30. OKAY, THANK YOU VERY MUCH.

8 MS. PRATT: THANK YOU, YOUR HONOR.

9 (WHEREUPON, COURT WAS RECESSED FOR LUNCH AND THE
10 FOLLOWING TAKES PLACE ON THE RECORD AFTER THE LUNCH
11 RECESS.)

12 THE COURT: ALL RIGHT, ANYTHING BEFORE THE JURY
13 COMES IN?

14 MS. ELDER: NO, SIR, YOUR HONOR.

15 THE COURT: LET THE RECORD REFLECT ATTORNEYS ARE
16 HERE AND SO IS THE DEFENDANT. MR. GREEN, WOULD YOU BRING
17 THE JURY IN?

18 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
19 1:14 P.M.)

20 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF
21 THE JURY, AS YOU KNOW ALL THE EVIDENCE IS IN IN THIS CASE
22 AND WE WILL NOW PROCEED WITH CLOSING ARGUMENTS. MS. PRATT
23 I BELIEVE WILL GO FIRST.

24 MS. PRATT: MAY IT PLEASE THE COURT?

25 THE COURT: YES.

1 CLOSING ARGUMENT

2 BY MS. PRATT:

3 LADIES AND GENTLEMEN, THE FIRST THING I WANT TO
4 SAY IS I DON'T GET TO HAVE THE LAST WORD TODAY AND I'VE GOT
5 A HUSBAND THAT THINKS I ALWAYS WANT TO HAVE THE LAST WORD,
6 SO I WANT TO ASK YOU TO PLEASE CONSIDER AND REMEMBER SOME
7 OF THE THINGS I'VE SAID THROUGHOUT AND AFTER BECAUSE MS.
8 ELDER WILL GET THE CHANCE TO HAVE THE LAST WORD IN THE
9 SITUATION.

10 DO YOU REMEMBER WHEN I FIRST WAS TALKING TO YOU
11 IN THE OPENING AND I SAID THAT WHAT WE WERE LOOKING AT WAS
12 A SITUATION OF WHAT YOU WOULD HEAR AND WHAT YOU WOULDN'T
13 HEAR, WELL I THINK YOU AGREE THAT THAT'S EXACTLY WHAT'S
14 GONE ON IN THIS CASE TODAY.

15 YOU HAVE A SITUATION WHERE YOU'VE HEARD SOME
16 THINGS BUT THERE'S A LOT OF THINGS THAT JUST AREN'T THERE.
17 FOR EXAMPLE, I TOLD YOU THAT THERE WOULD BE ONE GUN AND ONE
18 SHOOTER AND NO OTHER FORENSICS AND THAT'S EXACTLY WHAT
19 WE'VE GOT HERE.

20 I WANT YOU TO THINK IN TERMS OF THIS CASE AS
21 BEING SIX, TWO, AND ONE. WE HAVE SIX INMATES, I THINK I
22 CALLED THEM PERSONALITIES IN MY OPENING, SIX INMATES; WE'VE
23 GOT TWO GIRLS THAT WERE AARON HAMMONDS GIRLFRIENDS, ONE OF
24 WHOM IS NOW HIS BABY MAMA; AND WE'VE GOT ONE GUN, AND
25 THAT'S HOW OUR NUMBERS SHAKE DOWN IN THIS CASE.

1 WE'VE GOT ONE GUN. WE KNOW THAT THERE WERE THREE
2 CASINGS AND, THERE WERE, I MEAN THREE BULLETS, EXCUSE ME,
3 AND EIGHT CASINGS AND THEY COULD SAY THAT IT WAS CONSISTENT
4 WITH EACH OTHER. WE DON'T HAVE A GUN SO SHE COULDN'T
5 SPECIFICALLY SAY THAT THE BULLETS CAME FROM THE SAME
6 CASING, BUT THEY WERE CONSISTENT AND THAT THAT INDICATED
7 THAT BASICALLY WE'RE TALKING ONE GUN AND IT WOULD MAKE NO
8 SENSE TO HAVE CASINGS THERE THAT DIDN'T MATCH THE BULLETS
9 THAT WERE IN THE VICTIM. THAT WOULDN'T FIT WITH WHAT THE
10 CASE WOULD BE ABOUT, SO WE HAVE THREE BULLETS CONSISTENT
11 WITH THE EIGHT CASINGS.

12 WE'VE GOT TWO FEMALES AND I DON T KNOW IF YOU
13 PICKED UP ON IT, IT WAS KIND OF INTERESTING TO ME THAT
14 WE'VE GOT ONE THAT SAID SHE WAS HIS GIRLFRIEND AND ONE THAT
15 SAID SHE WAS PREGNANT WITH HIS BABY AND BOTH OF THEM WERE
16 THERE THAT NIGHT WALKING WITH HIM SO I WONDER WHAT WAS
17 GOING ON THAT SITUATION BUT THE INTERESTING THING TO ME IS
18 THAT BOTH OF THEM SAID THAT THE SHOOTER HAD DREADS, BOTH OF
19 THEM, AND THEY DIDN'T HAVE ANY REASON TO SAY THAT THE
20 SHOOTER HAD DREADS OR NOT HAD DREADS. THERE'S NO REASON
21 FOR THEM TO BE LYING ABOUT IT CAUSE AFTER ALL THEY'RE THE
22 DECEASED'S WOMEN AND THEY SAID DREADS AND WHO IS THE ONLY
23 PERSON THAT WE HAVE OUT OF THESE THREE DEFENDANTS THAT HAD
24 DREADS. IT'S JEFFREY BETHEA, IT'S BIRD, AND BIRD TOLD YOU
25 HIMSELF THAT HE SAW THIS COMPOSITE AND HE CAME DOWN CAUSE

1 HE WAS GOING TO CLEAR HIS NAME, HE WAS GOING TO GET HIMSELF
2 OUT OF IT AND GO BACK UP TO NORTH CAROLINA. I THINK THAT'S
3 POWERFUL AND I HOPE THAT YOU'LL AS THE JUDGE TELLS YOU
4 ABOUT CREDIBILITY THAT YOU'LL THINK ABOUT THAT BECAUSE YOU
5 KNOW CREDIBILITY CAN BE JUDGED OR DECIDED IN A LOT OF WAYS.

6 YOU KNOW WE TALK ABOUT YOU USING YOUR COMMON
7 SENSE YOU KNOW HOW DO YOU TELL WHEN YOUR CHILDREN ARE
8 LYING. WHEN DO YOU EXPECT YOUR CHILDREN TO BE LYING. WELL
9 IF YOU WALK IN AND THE VASE IS BROKEN ON THE FLOOR AND YOUR
10 CHILD'S STANDING RIGHT BESIDE IT YOU KNOW WHAT YOUR COMMON
11 SENSE TELL YOU. IF THEIR HAND IS IN THE COOKIE JAR AND
12 THEY CAN'T GET IT OUT BECAUSE THE COOKIES ARE IN THEIR HAND
13 YOU KNOW WHAT IT'S TELLING YOU.

14 COMMON SENSE WOULD TELL YOU THAT THOSE TWO GIRLS
15 HAD NO REASON TO FABRICATE THEIR STORY AND IT'S INTERESTING
16 THAT ONE OF THEM WAS THE STATE'S WITNESS AND ONE OF THEM
17 WAS MINE, COULDN'T EVEN SAY WELL THEY WERE BOTH DEFENSE
18 WITNESSES, THOUGH, DAH, DAH, DAH, YOU KNOW IT WAS SOMETHING
19 A LITTLE DIFFERENT THAN THAT.

20 THEN WE HAVE SIX INMATES OR SIX PERSONALITIES AND
21 I WANT TO LOOK AT EACH ONE OF THEM BECAUSE I THINK IT'S
22 PRETTY IMPORTANT TO SEE EACH ONE OF THEM DIFFERENTLY. WHEN
23 YOU EVALUATE TESTIMONY YOU LOOK AT WHETHER SOMEBODY'S GOING
24 TO BE BIASED. YOU LOOK AT WHETHER OR NOT THEY'VE GOT SOME
25 REASON TO LIE OR SOME REASON TO TELL THE TRUTH, RIGHT, AND

1 YOU SPECIFICALLY LOOK AT WHAT A PERSON MIGHT HAVE TO GAIN
2 BY TESTIFYING TODAY, WHAT THEY MIGHT HAVE TO LOOSE BY
3 TESTIFYING TODAY, WHETHER THEY'VE GOT A REASON TO LIE, A
4 REASON TO TELL THE TRUTH, AN OPPORTUNITY TO SPEAK WITH THE
5 DEFENDANT, AND A REASON THAT THE DEFENDANT WOULD TALK TO
6 THEM ABOUT SOMETHING, AND WE'VE GOT THAT ON ALL SIX OF
7 THESE INMATES.

8 THE FIRST INMATE THAT YOU HEARD FROM WAS
9 NATHANIEL DOUGLAS AND I'LL SAY THAT THAT BOY HAD A LOT TO
10 LOOSE. HIS CHARGES ARE STILL PENDING. HE HAS NO DEAL WITH
11 THE STATE. HE COULD HAVE DECIDED NOT TO TESTIFY AT ALL
12 BECAUSE HIS CHARGES ARE PENDING AND HE MAY STILL COME BACK
13 UP FOR TRIAL. I THINK HE SAID THAT, HE DOESN'T KNOW, BUT
14 HE GOT UP HERE AS THE STATE'S WITNESS AND HE TOLD YOU WHAT
15 HAPPENED AND HE TOLD YOU ABOUT THE ARGUMENT WITH BIRD AND
16 THE BOYS FROM CONWAY AND HOW HE WAS TRIPPING, TOLD YOU
17 ABOUT THE ARGUMENT WITH BIRD AND LEMARK AND HOW HE WAS
18 FREAKING OUT AND WHAT HE WAS SAYING AND THEN JUNE TOLD YOU
19 HE TURNED AROUND AND WALKED AWAY, AND I THINK EVERYBODY
20 ACTUALLY AGREED ON THAT TODAY AND I HOPE THAT MAKES A
21 DIFFERENCE FOR MR. DOUGLAS BECAUSE NOT ONLY DID HE SAY HE
22 TURNED AROUND AND WALKED AWAY BUT AFTER GIVING TWO
23 STATEMENTS SAYING HE WAS THERE BIRD SAYS HE WALKED AWAY AND
24 OBVIOUSLY BRIAN SAID HE WALKED AWAY CAUSE HE WALKED AWAY
25 BEFORE BRIAN DID.

621

1 NATHANIEL DOUGLAS TOLD YOU SOME OTHER THINGS. HE
2 TOLD YOU ABOUT A COMMENT BY BETHEA THE NEXT DAY TALKING
3 ABOUT IT, YOU KNOW, IT'S ON THE NEWS, THEY JUST HAD A
4 SHOOTING THE NIGHT BEFORE, IT'S NOT LIKE NOBODY'S GOING TO
5 BE TALKING ABOUT IT. I MEAN LET'S GET REAL THEY WOULDN'T
6 BE TALKING ABOUT MEMORIAL DAY, THEY'D BE TALKING ABOUT
7 SOMEBODY BETTING SHOT THE NIGHT BEFORE, AND HE SAYS THAT
8 NOT ONLY WAS BIRD SAYING AARON HAMMONDS IS SMOKED SAUSAGE
9 HE'S DANCING AROUND GLOATING ABOUT IT. BETHEA SAID THEY
10 WEREN'T EVEN TALKING ABOUT THE SHOOTING AT THE BARBECUE,
11 THAT MAY DEFY BELIEF.

12 BETHEA, NATHANIEL DOUGLAS TOLD YOU THAT THEY CAME
13 DOWN, JUNE AND BOS CAME DOWN TOGETHER AND HE TOLD YOU THERE
14 WAS NO PLAN. HE TOLD THERE WASN'T ANY CONSPIRACY OR SOME
15 FANCY PHONE CALL GET DOWN THERE AND LET'S KILL AARON. HE
16 TOLD YOU THAT. HE TOLD YOU THEY DECIDED TO COME DOWN TO
17 THE BEACH, THEY WERE CHASING WOMEN, THAT WAS WHAT THEY WERE
18 HERE FOR.

19 HE ALSO TOLD YOU THAT THEY SEARCHED HIS ROOM AND
20 IF YOU REMEMBER DETECTIVE HULL TOLD YOU THAT THEY SEARCHED
21 NATHANIEL DOUGLAS' ROOM AND THEY SEARCHED BRIAN SPEARS
22 ROOM, THEY DIDN'T SEARCH JEFFREY BETHEA.

23 NOW JEFFREY BETHEA WAS THE NEXT INMATE AND THIS
24 MAN HAS A LOT TO GAIN BY TESTIFYING. REMEMBER WE TALKED
25 ABOUT THE PROFFER AGREEMENT AND THE PROFFER AGREEMENT IS IN

1 EVIDENCE HERE. THE PROFFER AGREEMENT, IF I CAN LAY MY HAND
2 ON IT, WELL YOU GET TO LOOK AT IT SO I'M NOT GOING TO WORRY
3 ABOUT IT, I CAN TELL YOU WHAT IT SAYS. THE PROFFER
4 AGREEMENT SAYS THAT HE IS PLEADING GUILTY TO VOLUNTARY
5 MANSLAUGHTER FOR A NEGOTIATED 20 YEARS AND REMEMBER I ASKED
6 HIM SPECIFICALLY HE'S UP FOR MURDER WHAT COULD HE GET FOR
7 THAT, HE COULD GET LIFE. LIFE MEANS LIFE, IT MEANS YOU DIE
8 IN PRISON. HE COULD GET 20 YEARS FOR EACH ABIK CONSECUTIVE
9 ALTHOUGH I DON'T KNOW HOW YOU SERVE LIFE PLUS 60 BUT WE'VE
10 SEEN LIFE PLUS SOMETHING, SO HE HAD A LOT TO LOSE. HE
11 COULD HAVE GOTTEN AN ESTIMATED 130 YEARS AND HE GETS 20 AND
12 AFTER HE FINISHES SERVING WHATEVER PART OF THAT HE HAS TO
13 SERVE HE'LL BE BACK OUT ON THE STREET. HE'LL BE ABLE TO
14 SEE HIS CHILDREN. HE'LL BE ABLE TO SEE HIS GRANDCHILDREN.
15 HE'LL BE ABLE TO EAT MCDONALDS OR A STEAK. HE HAS A LOT TO
16 GAIN BY DOING THIS AND YOU NOTICE WHAT HE DID RIGHT FROM
17 THE VERY BEGINNING. FROM THE VERY BEGINNING HE WAS GOING
18 TO PUT SOMEBODY ELSE IN IT. HE SAID IT IN THE IN CAR VIDEO
19 THAT HE WAS GOING TO COME DOWN HERE, HE HAD BABIES, HE HAD
20 THIS OR THAT HE WAS GOING TO TELL THEM SO THAT HE COULD GO
21 BACK HOME. HE KNEW HE HAD TO DO THAT. I MEAN AFTER ALL HE
22 MATCHED THIS. HE KNEW THAT IT WAS A MATTER OF TIME BEFORE
23 THESE FINE DETECTIVES OVER HERE WOULD GET HIS NAME OUT OF
24 THE OFFICERS IN LUMBERTON AND COME AND PICK HIM UP SO HE
25 MIGHT AS WELL JUST COME DOWN HERE AND HE DID GO TO

1 FAYETTEVILLE FIRST.

2 NOW HE TOLD YOU THAT IT WASN'T THAT HE WAS
3 LEAVING BUT HE WENT SOMEWHERE FIRST AND THEN HE DECIDED TO
4 COME DOWN AND TALK AND HIS FIRST STATEMENT HE TELLS YOU HE
5 HAD NOTHING TO DO WITH IT, RIGHT, IT'S ALL BOS.

6 SECOND STATEMENT SUDDENLY HE'S AN ACCESSORY. HE
7 MIGHT HAVE, MIGHT HAVE LEFT OUT SOMETHING, MIGHT HAVE LEFT
8 OUT THAT HE WAS AN ACCESSORY. LET'S SEE HOW WAS HE AN
9 ACCESSORY, HE IN HIS STATEMENT TO DETECTIVE HULL TOLD HIM
10 HE TOLD THOSE BOYS TO KILL AARON.

11 NOW THE SOLICITOR WANTS YOU TO BELIEVE THAT
12 JEFFREY BETHEA IS ALL TALK BUT IF HE'S ALL TALK HOW DID HE
13 GET TO BE PRINCE. HOW DID HE GET TO BE OOG.

14 JEFFREY BETHEA WAS THE ONE WHO WAS THERE WHEN
15 TURK DIED. JEFFREY BETHEA WAS THE ONE WHO WAS BEING
16 FEELING THAT HE WAS RESPONSIBLE FOR TURK'S DEATH. HE WAS
17 THE ONE THAT HAD A REASON TO DO ANYTHING AT ALL TO AARON
18 HAMMONDS.

19 AND THEN WE GET TO TIMOTHY SMITH. TIMOTHY SMITH
20 WOULD HAVE YOU BELIEVE THAT BECAUSE HE'S WORRIED ABOUT HIS
21 GRANDCHILDREN HE DOESN'T WANT THEM IN A SITUATION THAT
22 MIGHT BE DANGEROUS. HE NEEDS TO COME TO THE SOLICITOR'S
23 OFFICE AND TELL THEM SOMETHING. TIMOTHY SMITH HAS A RECORD
24 THAT GOES ALL THE WAY BACK TO 1995 FOR LYING AND STEALING,
25 PUBLIC ASSISTANCE FRAUD, FOOD STAMP FRAUD, LARCENY,

1 ALLUDING ARREST, PROBATION VIOLATION, FAILURE TO APPEAR,
2 CONSPIRACY TO POSSESS STOLEN GOODS, LARCENY OF A MOTOR
3 VEHICLE, POSSESSION OF STOLEN GOODS, B&E, LARCENY AFTER
4 B&E, POSSESSION OF A FIREARM, TWO, COUNT THEM, TWO ALLUDING
5 ARREST, AND THEN B&E LARCENY AND LARCENY AFTER BREAK IN.

6 NOW HE TOLD US ON THE WITNESS STAND THAT HE'D
7 ONLY EVER SERVED 15 MONTHS IN JAIL WITH ALL THAT STUFF
8 SINCE 1995, 15 MONTHS IN JAIL. THAT'S A YEAR AND THREE
9 MONTHS OVER 12 DIFFERENT TYPES OF CHARGES. YOU THINK HE
10 MIGHT KNOW HOW TO WORK THE SYSTEM. YOU THINK HE MIGHT KNOW
11 WHAT HE HAS TO DO TO HELP CUT HIS TIME DOWN AND I REALIZE
12 THAT THE SOLICITOR DIDN'T MAKE A PROFFER WITH HIM OR MAKE A
13 DEAL WITH HIM BUT SHE DID SOMETHING THAT HE KNEW WOULD HELP
14 HIM OUT. SHE GAVE HIM A PR BOND SO THAT HE COULD GO BACK
15 TO NORTH CAROLINA AND DEAL WITH HIS NORTH CAROLINA CHARGES.
16 NOW I AM SURE THAT IN HIS LITTLE HEART OF HEARTS HE FIGURED
17 HE WAS GOING TO DO A LITTLE BIT OF TIME ON THAT STILL BE
18 OUT ON THAT PR BOND AND I DON'T KNOW MAYBE ALLUDE ARREST OR
19 FAIL TO APPEAR AND WE'D NEVER HAVE HIM BACK HERE TO DEAL
20 WITH OUR CHARGES CAUSE A PR BOND WHAT'S THERE TO BRING HIM
21 BACK.

22 BUT THAT BEING ASIDE LET'S LOOK AT SOME OTHER
23 THINGS IN REGARDS TO TIMOTHY SMITH. THERE WAS NO TAPE, I
24 GOT NO TRANSCRIPT. THERE'S NOTHING WHERE WE CAN SAY WHAT
25 HE REALLY SAID THE FIRST TIME HE TALKED TO DETECTIVE HULL

1 AT THE HOSPITAL OR ANY OTHER TIME THAT HE MIGHT HAVE TALKED
2 TO THE DETECTIVE OR THE SOLICITOR IN PREPARATION FOR THIS
3 TRIAL. WE'VE GOT NOTHING THAT WE COULD LOOK AT TO SEE WHAT
4 HE ACTUALLY SAID SO YOU DON'T KNOW IF HE CHANGED HIS STORY
5 OR NOT, AND I'M NOT TRYING TO SAY, AND PLEASE DON'T GET ME
6 WRONG, I AM NOT SAYING THAT MS. ELDER OR THESE DETECTIVES
7 TOLD HIM WHAT TO SAY BECAUSE I KNOW THESE PEOPLE, FOR 20
8 YEARS I KNOW THEM, THEY WOULDN'T DO THAT, BUT I BELIEVE
9 TIMOTHY SMITH KNOWS WHAT THEY NEEDED TO HEAR. I BELIEVE
10 HE'S BEEN IN WITH ENOUGH INMATES WITH ENOUGH CHARGES OVER
11 THE LAST 15 YEARS TO KNOW WHAT THEY NEED FOR MURDER. THEY
12 NEED A PLAN AND THEY NEED A WEAPON AND HE WAS MORE THAN
13 HAPPY TO PUT THAT IN.

14 NOW BRIAN TOLD YOU ABOUT THE WAY THAT IT WORKS IN
15 THEIR CELLS AND I HOPE YOU COULD IMAGINE HAVING NINE PEOPLE
16 IN ABOUT HALF YOUR JURY BOX. I GUESS YOU'VE GOT EIGHT
17 THERE RIGHT NOW SO PICTURE NINE 19 HOURS OUT OF A DAY.
18 YOU CAN'T PUT YOUR STUFF ANYWHERE. IT'S EASY TO GET AT IT
19 IF PEOPLE ARE INTERESTED. MR. SMITH HAD AMPLE OPPORTUNITY
20 TO LOOK AT THINGS. HE HAD AMPLE OPPORTUNITY TO TRY AND
21 PICK BRIAN'S BRAIN TO GET THINGS THAT HE MIGHT NEED TO HELP
22 HIMSELF.

23 HE SAYS HE'S WORRIED ABOUT HIS GRANDCHILDREN,
24 WELL WAS HE WORRIED ABOUT HIS GRANDCHILDREN WHEN HE STOLE
25 THE CAR. WAS HE WORRIED ABOUT HIS GRANDCHILDREN WHEN HE

1 BROKE INTO THE HOUSE OR ALLUDED ARREST OR COMMITTED THE
2 LARCENIES, NO, HE WASN'T. HE IS WHAT HE IS; HE'S A 45 YEAR
3 OLD WHITE MALE AND HE WANTS YOU TO BELIEVE THAT THIS 20-
4 YEAR-OLD YOUNG MAN WHEN HE WAS ARRESTED, 23-YEAR-OLD YOUNG
5 MAN NOW, FROM THE STREETS OF LUMBERTON WOULD JUST OPEN HIS
6 HEART AND TELL HIM THAT HE MURDERED SOMEBODY, AND IT'S A
7 GREAT STORY BUT I'LL POINT SOMETHING OUT TO YOU THAT YOU
8 NEED TO THINK ABOUT IT. YOU HAVE TO REMEMBER WHAT YOU
9 HEARD, YOU KNOW, CAUSE YOU, YOU WERE THE, YOU ARE THE
10 TRIERS OF THE FACT BUT HIS STORY DIDN'T MATCH WHAT BIRD
11 TOLD US.

12 IT DIDN'T MATCH WHAT BIRD TOLD US OR WHAT JUNE
13 SAID BECAUSE WHAT HE SAID WAS THAT BIRD WAS SUPPOSED TO
14 TAKE CARE OF IT AND DIDN'T AND THAT'S WHY BRIAN DID IT.
15 WELL THAT'S NOT WHAT EITHER ONE OF THOSE PEOPLE SAID.

16 AND THEN YOU HEARD FROM TWO OTHER, THREE OTHER
17 INMATES. THE FIRST ONE WAS MATTHEW JENKINS. MATTHEW
18 JENKINS CAME DOWN FROM NORTH CAROLINA, HE HAD NO DOG IN
19 THIS FIGHT, HE HAD NOTHING TO GAIN, NOTHING TO LOOSE. HE'S
20 SERVING A SENTENCE AND HE DIDN'T TRY AND LIE AND SAY IT WAS
21 THIS PERSON OR THAT PERSON. HE SIMPLY TOLD YOU HOW LEMARK
22 WAS WHEN HE CAME BACK, DIDN'T THINK THERE WAS ANY PROBLEM,
23 DIDN'T SEE THE SHOOTER, BUT WHEN HE SAW THE COMPOSITE HE
24 THOUGHT IT WAS BIRD.

25 AND YOU HAD DEANDRE BISHOP AND DEANDRE BISHOP HAD

1 A LOT TO LOSE TODAY AND HE AS HE TOLD YOU WAS AFRAID THAT
2 WHAT HE WAS DOING TODAY WAS GOING TO CAUSE HIM PROBLEMS
3 CAUSE IF YOU THINK ABOUT IT HE'S GOT A PROFFER WITH THE
4 STATE ON SOMETHING ELSE SO HE'S GOING TO BE TESTIFYING FOR
5 THEM AND HE NEEDS THEM TO CONSIDER WHAT HE'S DOING IN WHAT
6 THEY DO WITH HIM, BUT HE GOT UP ON THAT WITNESS STAND AND
7 HE TESTIFIED FOR US AND HE TOLD THE TRUTH.

8 HE TOLD YOU THAT HE HEARD BIRD SAY THAT HE DID IT
9 BUT HE WASN'T GOING DOWN ALONE. NOW WHY WOULD BIRD SAY
10 THAT, WELL THERE'S LOTS OF REASONS WHY PEOPLE SAY THINGS IN
11 PRISON. YOU KNOW THERE'S, THERE'S A REASON THAT HE MIGHT
12 HAVE TOLD HIM THAT BECAUSE THEY WERE IN THE SAME AREA AND
13 HE MIGHT HAVE WANTED TO SAY WHAT WAS GOING ON HIS CASE. HE
14 MAY HAVE THOUGHT THAT DEANDRE WAS JUST AS BAD A DUDE AS
15 HIM.

16 AND THEN BRIAN, BRIAN TESTIFIED, AND HE DIDN'T
17 HAVE TO, HE DIDN'T HAVE TO TELL YOU HIS SIDE OF THE STORY
18 BUT HE WANTED TO AND HE TOLD YOU ESSENTIALLY THE SAME THING
19 AS HIS SECOND STATEMENT. HE DIDN'T TELL YOU THE SAME
20 THINGS AS THE FIRST STATEMENT.

21 THE FIRST STATEMENT HE SAID I WASN'T EVEN THERE
22 BUT IN THE SECOND STATEMENT HE SAID I WENT, THIS IS WHAT I
23 DID. HE TOLD YOU ABOUT CARRYING A GUN AND THAT WAS
24 DANGEROUS THAT HE TOLD YOU THAT HE USUALLY CARRIES A GUN
25 BUT HE DIDN'T LIE ABOUT IT.

1 THE SOLICITOR ASKED WHY HE DIDN'T TURN THE GUN
2 OVER AND HAVE IT CHECKED. WELL I DON'T REMEMBER BETHEA
3 TURNING OVER HIS GUN AND HAVING IT CHECKED AND FRANKLY WITH
4 THE PASSAGE OF TIME IT'S THE SAME PROBLEM THAT WE HAD WITH
5 THE GUNSHOT RESIDUE. THE POLICE WOULDN'T HAVE KNOWN
6 WHETHER THAT, SOMEBODY HAD WASHED THEIR HANDS AND THAT'S
7 WHY THEY DIDN'T HAVE GUNSHOT RESIDUE AND THEY WOULDN'T HAVE
8 KNOWN IF IT WAS EVEN THE SAME GUN SO IT PROBABLY WOULDN'T
9 HAVE HAD ANY PROBATIVE VALUE AT ALL ANYWAY. HE TOLD YOU
10 WHAT HAPPENED IN THE CASE.

11 NOW BRIAN HAS BEEN CHARGED WITH MURDER AND THE
12 JUDGE IS GOING TO TELL YOU THE ELEMENTS OF THAT AND ASSAULT
13 AND BATTERY WITH INTENT TO KILL AND BASICALLY ASSAULT AND
14 BATTERY WITH INTENT TO KILL IS MURDER WITHOUT THE DEATH.
15 IT'S THE SAME KIND OF THING. HE'S GOING TO TALK TO YOU
16 ABOUT THE ELEMENTS. HE'S GOING TO TALK TO YOU ABOUT IDEAS
17 OF INTENT AND SO ON. THERE'S JUST ONE THING I WANT TO KIND
18 OF BRING TO YOUR MIND REAL QUICK CAUSE I KNOW YOU'RE
19 PROBABLY HOT AND TIRED AND EVERYTHING ELSE.

20 THEY MAY TRY TO ARGUE THAT BIRD AND BRIAN WERE
21 TOGETHER IN THIS AND, THEREFORE, EVEN YOU DON'T THINK THAT
22 BRIAN WAS THE SHOOTER THAT HE SHOULD BE CONVICTED BECAUSE
23 HE'S AN ACCOMPLICE. THE JUDGE IS ALSO GOING TO TELL YOU
24 THAT THE MERE PRESENCE OF A PERSON AT THE SCENE DOES NOT
25 MAKE THEM GUILTY. THERE HAS TO BE MORE THAN THAT. THERE

1 HAS TO BE A PLAN, A CONSPIRACY, SOME PUTTING TOGETHER THE
2 FACT THAT YOU WERE INVOLVED IN IT. JUST STANDING THERE
3 BESIDE SOMEBODY IS NOT ENOUGH AND THAT'S IMPORTANT FOR YOU
4 TO UNDERSTAND CAUSE A LOT OF PEOPLE GET THAT CONFUSED.

5 NOW THERE IS SOMETHING IN THE LAW THAT IS THE
6 PRESUMPTION OF INNOCENCE AND I TOLD YOU ABOUT THAT AND THE
7 JUDGE WILL TELL YOU ABOUT THAT. THAT MEANS THAT A
8 DEFENDANT IS PRESUMED INNOCENT AND THE STATE HAS TO REMOVE
9 THAT PRESUMPTION JUST LIKE TAKING THAT CHOIR ROBE OFF BY
10 GIVING YOU PROOF BEYOND A REASONABLE DOUBT.

11 A LOT OF TIMES WHAT WE DO WHEN WE LOOK AT PROOF
12 AND WHEN I TEACH ABOUT IT I TALK ABOUT THE FACT THAT YOU
13 HAVE TO HAVE BRICKS IN A WALL AND EACH BRICK IS A PIECE OF
14 EVIDENCE. FOR EXAMPLE IF WE HAD A BRICK THAT WAS DNA THAT
15 MATCHED THAT'D BE A BIG BRICK. IF WE HAD A BRICK THAT WAS
16 GUNSHOT RESIDUE THAT MATCHED THAT WOULD BE A BIG BRICK, AND
17 THEN WE'D BUILD ON TOP OF THAT AN I.D., A COMPOSITE, A
18 STATEMENT, A DESCRIPTION, AND WE'D HAVE A WALL AND WHEN YOU
19 GET TO A CERTAIN POINT YOU'RE BEYOND A REASONABLE DOUBT.

20 WHAT IS A REASONABLE DOUBT? IT'S A DOUBT THAT
21 WOULD MAKE A REASONABLE PERSON HESITATE TO ACT. HESITATE
22 TO ACT MEANS THAT YOU STOP AND YOU THINK ABOUT IT. YOU
23 DON'T GO THROUGH WITH WHAT YOU'RE THINKING ABOUT, OKAY.

24 YOUR VERDICT YOU, TO GIVE A VERDICT YOU NEED TO
25 BE CONVINCED BEYOND A REASONABLE DOUBT OF GUILT BEFORE YOU

1 CAN GIVE THAT VERDICT AND THAT VERDICT HAS TO BE UNANIMOUS,
2 NUMBER ONE. EACH OF YOU HAVE THE RIGHT TO ACT ON YOUR OWN
3 FEELINGS WHATEVER THEY ARE. YOU NEED TO USE YOUR OWN MORAL
4 CONVICTIONS. YOU DON'T HAVE TO COMPROMISE OR GIVE IN OR DO
5 ANYTHING ELSE THAT MIGHT CHANGE YOUR OPINION UNLESS YOU'RE
6 FIRMLY CONVINCED BY THE DISCUSSIONS THAT YOU HAVE BACK
7 THERE IN THE JURY ROOM, AND IF YOU HAVE A CONVICTION ABOUT
8 SOMETHING YOUR JURORS, YOUR FELLOW JURORS OUGHT TO RESPECT
9 YOUR CONVICTION ABOUT THAT.

10 THE LAST THING THAT I WANT TO LEAVE WITH YOU IS
11 THIS, IN MATH CLASS I KNOW YOU LEARNED A PLUS B EQUALS C.
12 WELL A IS THE COMPOSITE; B IS THE TWO GIRLS, THE TWO
13 GIRLFRIENDS OF AARON HAMMONDS; AND THERE'S C WHEN YOU ADDED
14 THIS WITH THEM WAS BIRD, JEFFREY BETHEA, BUT WHAT THAT ALSO
15 MEANS IN THAT A PLUS B PLUS C IS THAT BRIAN SPEARS IS NOT
16 GUILTY, THANK YOU.

17 THE COURT: THANK YOU. MS. ELDER?

18 MS. ELDER: THANK YOU, YOUR HONOR.

19 **CLOSING ARGUMENT**

20 **BY MS. ELDER:**

21 "I FIND TROUBLE WHEN I WANT IT," THAT PRETTY MUCH
22 SUMS IT UP. WE GOT THAT FROM BRIAN SPEARS LESS THAN AN
23 HOUR AGO, FIND TROUBLE WHEN I WANT IT. BOY HE SAID A MOUTH
24 FULL.

25 ON MAY 27TH, 2007, BRIAN SPEARS WAS OUT FOR

1 VENGEANCE. HE WAS OUT FOR RETALIATION. HE BROUGHT THAT
2 QUEST FOR VENGEANCE, RETALIATION INTO OUR STATE, INTO OUR
3 COUNTY, AND DOWN TO OUR BEACH.

4 I KNOW IT'S CONFUSING CAUSE IT WAS CONFUSING TO
5 ME, ALL THE STREET NAMES AND THE GANG SO I WROTE THIS UP SO
6 WE COULD GO THROUGH IT TO MAKE SURE WE ALL KNEW WHO WAS
7 WHO.

8 THERE IS ABSOLUTELY NO QUESTION BRIAN SPEARS,
9 JEFFREY BETHEA, NATHANIEL DOUGLAS WERE ALL IN A GANG. YOU
10 CAN DRESS IT UP; YOU CAN CALL IT ORGANIZATION; YOU CAN CALL
11 IT A CLUB; YOU CAN CALL IT WHATEVER YOU WANT TO, IT'S A
12 GANG, GANGSTER DISCIPLES, FOLK.

13 ERIC FLOYD WAS ALSO A MEMBER OF THAT GANG. HE
14 WENT BY THE STREET NAME G-BLACK. ERIC FLOYD WAS KILLED
15 SEVERAL YEARS BEFORE THIS INCIDENT AT THE BEACH. AARON
16 HAMMONDS WAS ARRESTED FOR IT. BRIAN SPEARS TOOK AARON
17 HAMMONDS OUT FOR THAT VERY REASON. HE HAD TO EXACT HIS
18 JUSTICE.

19 NOW BOS, BRIAN SPEARS, WAITED AND WAITED AND
20 WAITED CAUSE AARON HAMMONDS WAS IN PRISON, WAS IN JAIL, BUT
21 HE GOT OUT, WAS OUT FOR A FEW MONTHS. BOS TOOK HIS FIRST
22 OPPORTUNITY WALMART IN LUMBERTON, AGAIN A PUBLIC PLACE.
23 DON'T, IT DON'T MATTER WHO'S THERE, WENT TO WALMART IN
24 LUMBERTON TRIES TO TAKE AARON HAMMONDS OUT THERE. HE DOES
25 HIT HIM, SHOOTS HIM, BUT HE DOESN'T KILL HIM, BUT HE GETS

1 HIS OPPORTUNITY A LITTLE OVER A MONTH LATER ON THE
2 BOULEVARD, COMES DOWN HERE, HE LOADS UP WITH HIS BOYS, HE
3 AND JUNE, AND ISH, THEY GET IN THE CAR, ONE OTHER, GET IN A
4 CAR COME DOWN HERE. THEY DIDN'T HAVE ANY RESERVATIONS;
5 THEY DIDN'T HAVE A PLACE TO STAY. THEY CAME HERE ON
6 SATURDAY AFTERNOON. THEY GOT DOWN HERE ABOUT 8:00 AT NIGHT
7 AND THEY IMMEDIATELY START WALKING THE BOULEVARD.

8 NOW HE WAS IN RED. WELL NOW WAIT A MINUTE, HE'S
9 NOT A BLOOD, WONDER WHY HE'S WEARING RED. DANYELL HAMMONDS
10 WHO LIVES THERE, SHE'S KNOWS THE DEAL, SHE'S IN THE
11 COMMUNITY, SHE TOLD YOU WHY HE WAS WEARING RED. WHY WOULD
12 A RIVAL GANG MEMBER WEAR THE OTHER GANGS COLORS BECAUSE
13 THEY DO THAT WHEN THEY'RE GETTING READY TO DO SOMETHING, SO
14 ALL THE BOYS THAT BOS BROUGHT DOWN HAD ON RED, MET UP WITH
15 BIRD. THEY GOT DOWN TO THE BOULEVARD.

16 YOU HEARD THERE WAS SOME, THERE WAS SOME VERBAL
17 CONVERSATION BETWEEN JEFFREY BETHEA AND LEMARK IRONS AND
18 LEMARK IRONS WALKED OFF. IT'S DONE, BUT BRIAN SPEARS IS
19 ALL JACKED UP. HE MISSED AARON THE MONTH BEFORE. HE KNOWS
20 HE'S AT THE BEACH. HE'S SEEN HIM SEVERAL TIMES AND HE'S
21 PUMPING IT UP. "I'M GOING TO KILL HIM, WE'VE GOT TO DO
22 SOMETHING ABOUT THIS MAN, HE'S GOING TO TAKE US OUT, WE GOT
23 TO TAKE HIM OUT BEFORE HE TAKES US OUT. BIRD, MAN, WE GOT
24 TO DO SOMETHING, WE GOT TO DO SOMETHING," AND ALL THROUGH
25 HIS TRANSCRIPT BIRD TELLS YOU ON AT LEAST FOUR DIFFERENT

1 OCCASIONS THAT I READ OUT TO YOU BOS SAYING "I'M GOING TO
2 KILL THAT MOTHER FUCKER." BIRD SAYS "HEY, MAN, IF THEY
3 GOING TO GET US WE GOT TO GET THEM FIRST, LET'S GO."

4 HE GETS UP, GOES THAT WAY, THEY CROSS THE STREET,
5 AND THEY'RE GOING AFTER HIM. BIRD ADMITS "HEY, I WAS RIGHT
6 THERE WITH HIM. I'M GOING, I'M GOING, I'M GOING TO DO SOME
7 DAMAGE, BUT BEFORE I HAD THE CHANCE TO BOS TOOK CARE OF
8 IT." AND WHY DID BOS TAKE CARE OF IT, BECAUSE JUST ABOUT
9 EVERYBODY WHO GOT ON THAT STAND SAID BIRD'S A TALKER AND WE
10 ALL KNOW PEOPLE LIKE THAT, THEY TALK AND TALK AND TALK.
11 THEY TALK BIG, VERY RARELY DO THEY HAVE ANY FOLLOW THROUGH,
12 BOS KNEW THAT. BOS KNEW THAT BETHEA WAS NOT GOING TO TAKE
13 CARE OF AARON HAMMONDS SO HE PULLED OUT THAT GUN AND HE
14 FIRED THOSE SHOTS IN A PUBLIC PLACE WHERE THOUSANDS OF
15 PEOPLE WERE ON THAT BOULEVARD NOT CARING WHO HIS BULLET HIT
16 EXCEPT FOR ONE PERSON AARON HAMMONDS. HE KNEW HE WAS GOING
17 TO GET HIM. ALL THESE OTHER PEOPLE DON'T MATTER, THAT'S MY
18 TARGET.

19 NOW THE DESCRIPTION YOU'VE GOT TWO PEOPLE, BIRD
20 AND BOS, AND BIRD TELLS YOU, YEAH, I HAD DREADS, I WAS
21 WEARING BLACK. HOW MANY OTHER PEOPLE TOLD YOU HE WAS
22 WEARING BLACK. HE TOLD YOU NATHANIEL DOUGLAS TOLD YOU;
23 THEY BOTH TOLD YOU, WEARING BLACK. WHO WAS WEARING RED,
24 BOS SAID HE'S WEARING RED, BIRD SAID BOS WAS WEARING RED.
25 NATHANIEL DOUGLAS, BOS WAS WEARING RED. TWO GIRLS WHO GOT

1 UP ON THE STAND WHAT DID THEY TELL YOU THE SHOOTER WAS
2 WEARING, BOTH OF THEM HE WAS WEARING RED. BOTH OF THEM
3 SAID HE HAD A RED BANDANNA TIED AROUND HIS FACE. BOTH OF
4 THEM SAID THAT, RED BANDANNA.

5 BRITTNEY WHEN I ASKED ABOUT HEIGHT SHE SAID "WELL
6 I'M FIVE SIX, HE'S PROBABLY, HE WAS PROBABLY AN INCH OR TWO
7 TALLER THAN ME, MAKE HIM FIVE SEVEN, FIVE EIGHT, YOU GOT
8 TO, YOU GOT TO SEE BRIAN SPEARS AND YOU GOT TO SEE JEFFREY
9 BETHEA. JEFFREY BETHEA IS A BIG BOY. THERE AIN'T NO
10 MISTAKING HIM FOR FIVE SIX, FIVE SEVEN."

11 THERE IS A LOT OF MENTION ON THIS COMPOSITE AND I
12 WANT YOU TO THINK ABOUT WHAT YOU'VE HEARD ABOUT THIS
13 COMPOSITE, THE TESTIMONY THAT YOU'VE HEARD. EVERYBODY ON
14 THAT STAND SAID, NUMBER ONE, THIS IS A POSSIBLE SUSPECT.
15 DID YOU HEAR THEM SAY THIS IS THE SHOOTER? AND, NUMBER
16 TWO, THE PEOPLE SHE IDENTIFIED THAT DIDN'T SEE THE SHOOTING
17 ALL THEY SAID WAS, YEAH, LOOKS LIKE BIRD. WELL YOU KNOW
18 WHAT IT DOES LOOK LIKE BIRD BUT THINK ABOUT THIS, YOU TAKE
19 THIS BACK, SOMEBODY GAVE THIS AS A POSSIBLE DESCRIPTION OF
20 SOMEBODY WHO WAS THERE AT THE TIME OF THE SHOOTING.

21 YOU GOT TWO PEOPLE, TWO GIRLS, ONE BY THE STATE
22 ONE BY THE DEFENSE, THINK ABOUT WHAT THEY SAID, BOTH OF
23 THEM SAID RED BANDANNA ON THE FACE, SO TELL ME HOW WOULD
24 SOMEBODY GOING TO GIVE A COMPOSITE OF HIM HAVING A GOATEE
25 IF HE IN FACT HAD A RED BANDANNA ON HIS FACE. THIS IS NOT

1 THE SHOOTER. THIS IS SOMEBODY WHO'S STANDING BESIDE THE
2 SHOOTER AT THE TIME THAT IT HAPPENED, CAN'T HAPPEN IF YOU
3 LISTEN THE DESCRIPTION. THERE'S NO WAY THEY COULD DESCRIBE
4 THIS RIGHT HERE IF HE WAS IN FACT THE SHOOTER BECAUSE HE
5 HAD, THE SHOOTER HAD A RED BANDANNA SCARF TIED AROUND HIS
6 FACE.

7 NOW YOU HAVE SEVERAL INTERVIEWS, GOT AN INTERVIEW
8 FROM JEFFREY BETHEA. HE GIVES TWO INTERVIEWS BEFORE HE
9 MAKES A DEAL FOR ME, BEFORE HE AGREED TO TESTIFY, AND IN
10 BOTH INTERVIEWS HE PUTS HIMSELF HERE. HE PUTS HIMSELF
11 CLOSE TO THE TIME THAT THIS HAPPENED. HE SAID, THE FIRST
12 INTERVIEW BOS SHOT HIM. SECOND INTERVIEW, BOS SHOT HIM.
13 AFTER PROFFER, BOS SHOT HIM, TESTIFIED, BOS SHOT HIM.

14 ON THE SECOND INTERVIEW THAT HE GAVE BEFORE EVEN
15 TALKING TO THE STATE KNOWING THAT HE HAD BEEN CHARGED WITH
16 MURDER HE TELLS THEM, YOU KNOW WHAT I WAS INVOLVED, THIS IS
17 HOW I WAS INVOLVED. I WAS THERE, I'M THE LEADER OF THIS
18 GANG. I SAID WELL YOU KNOW WHAT WE BETTER GO, WE BETTER
19 GO DO IT. IT'S GOT TO BE TAKEN CARE OF, YOU NEED TO TAKE
20 CARE OF HIM, NEEDS TO BE KILLED BEFORE HE DOES SOMETHING TO
21 US, AND, YES, HE PLED GUILTY TO THAT, AND THE JUDGE IS
22 GOING TO GIVE YOU A CHARGE ABOUT ACCOMPLICE LIABILITY. HAND
23 OF ONE HAND OF ALL AND IT'S GOING TO SAY ---

24 MS. PRATT: OBJECTION, YOUR HONOR.

25 THE COURT: MY RULING, GO AHEAD.

1 MS. ELDER: AND HE'S GOING TO SAY THAT WHEN YOU
2 HAVE TWO PEOPLE ACTING TOGETHER TO COMMIT A CRIME IT DOES
3 NOT MATTER WHO PULLED THE TRIGGER. YOU ARE BOTH GUILTY
4 EVEN IF THERE'S ONE GUN, ONE BULLET, ONE DEATH, BOTH PEOPLE
5 ARE GUILTY OF MURDER, BOTH OF THEM.

6 NOW YOU ALSO HAVE AN INTERVIEW WITH NATHANIEL
7 DOUGLAS. DOES NATHANIEL TELL YOU, HE'S NOT UNDER
8 AGREEMENT, DOES HE TELL YOU THAT BIRD HAS A GUN, NO,
9 DOESN'T TESTIFY TO THAT. THE ONLY PERSON HE PUTS A GUN ON
10 IS BOS.

11 YOU GOT THE INTERVIEW WITH BOS. THE FIRST
12 INTERVIEW I WASN'T EVEN THERE. THE SECOND INTERVIEW I WAS
13 THERE BUT I WALKED OFF WITH JUNE. WELL THAT'S NOT TRUE.

14 THE THIRD INTERVIEW, THIRD, THIRD TIME HE
15 TESTIFIED TODAY WELL I HAD A GUN, IT WAS IN THE CAR, BUT I
16 DID HAVE A GUN, LITTLE BIT MORE, AND YOU KNOW WHAT WE DON'T
17 HAVE A GUN IN THIS CASE AND YOU KNOW WHY, BOS TOLD YOU WHY.
18 WELL I ASKED HIM, "WHAT DID YOU DO WITH THE GUN, YOU COULD
19 HAVE GIVEN THE GUN TO THE POLICE IF WE HAD OF KNOWN YOU HAD
20 A GUN YOU COULD HAVE GIVEN THE GUN TO THE POLICE. WHY
21 DIDN'T YOU GIVE IT TO THE POLICE, SHOW IT WASN'T YOUR GUN?
22 WELL I GOT RID OF IT. WHY DID YOU GET RID OF IT, CAUSE I
23 DIDN'T NEED IT ANYMORE." OF COURSE HE DIDN'T NEED IT
24 ANYMORE AARON HAMMONDS WAS DEAD. HE HAD ACCOMPLISHED HIS
25 GOAL.

637

1 NOW SINCE THE SHOOTING BRIAN SPEARS HAS DONE MANY
2 THINGS AND IT IS ALMOST LIKE THE THINGS HE HAS DONE SINCE
3 THE DEATH OF AARON HAMMONDS IT'S ALMOST LIKE HE'S BRAGGING.
4 IT'S ALMOST LIKE HE'S PUTTING IT OUT THERE SHOWING THESE
5 DIFFERENT THINGS SHOWING TROPHIES OF WHAT HE DID.

6 AFTER HE IS ARRESTED FOR MURDER, NOW G-BLACK HAS
7 BEEN DEAD, I BELIEVE THE TESTIMONY WAS SINCE ABOUT 2003
8 HE'S BEEN DEAD BUT BRIAN SPEARS WAITS UNTIL HE IS ARRESTED
9 FOR MURDER, GOES TO JAIL BEFORE HE GETS THIS TATTOO RIGHT
10 HERE. HE WANTS YOU TO THINK HE'S JUST HONORING HIS FRIEND.
11 WHY DIDN'T HE GET IT BEFORE, WHY DID HE WAIT FOUR YEARS AND
12 GET A MURDER CHARGE BEFORE HE GOT THIS? BECAUSE THIS IS A
13 TROPHY. HE GOT REVENGE FOR G-BLACK AND THERE'S THAT GUN TO
14 SHOW IT, REST IN PEACE G-BLACK.

15 NINE(B), YOU ARE SITTING IN JAIL FOR MURDER WITH
16 A SMALL CALIBER HANDGUN OUT ALLEGING AND WHAT DO YOU DO,
17 YOU GET NOT ONE GUN TATTOOED YOU GET TWO, ANOTHER TROPHY.

18 FOURTEEN(A), ONCE AGAIN YOU ARE IN JAIL FOR
19 MURDER, YOU GOT YOUR GANG TATTOO HERE WHEN YOU COME INTO
20 JAIL AND WHAT DO YOU DO AFTER YOU GET ARRESTED, AFTER YOU
21 HAVE KILLED SOMEBODY, YOU GET YET ANOTHER TROPHY. HERE WE
22 GO, B.O.S., G-UP RESPECT, YEP, HE'S EARNED SOME RESPECT NOW
23 HIS GANG AND HE WANTS EVERYBODY TO KNOW WHO HE IS AND HE
24 WANTS TO KNOW WHY. HE'S GOT RESPECT BECAUSE HE TOOK CARE
25 OF A PROBLEM THAT ANOTHER MEMBER COULD NOT.

1 FOURTEEN (B), ANOTHER TROPHY, HE'S GOT HIS GANG
2 TATTOO ON THERE ALREADY. AFTER HE'S ARRESTED CHARGED WITH
3 MURDER IN JAIL YOU CAN SEE WHAT HE GOT DONE. HE GOT THE
4 TAIL COLORED IN AND HE GOT THIS TEARDROP AND THAT WAS
5 ADDED.

6 MS. PRATT: OBJECTION, YOUR HONOR.

7 THE COURT: OVERRULED.

8 MS. PRATT: HE ALSO GOT THE WORD HONOR TATTOOED
9 ON THERE, ANOTHER TROPHY FOR WHAT HE DID, ANOTHER TROPHY
10 FOR TAKING CARE OF A PROBLEM.

11 BEFORE I GET INTO THIS I DID WANT TO PLAY OUT ONE
12 THING, REMEMBER DR. PROCTOR'S STATEMENT, ANGLE, WHERE THE
13 BULLETS WENT IN. THIS WAS ABOUT THE HEIGHT OF THE VICTIM
14 BRITTNEY SAYING THE DEFENDANT OR, I'M SORRY, THE SHOOTER
15 ABOUT FIVE-SEVEN, FIVE-EIGHT, A LITTLE TALLER THAN ME,
16 STRAIGHT OUT, WHERE'S THAT GOING TO GO. WE'RE TALKING
17 ABOUT SOMEONE NOT VERY TALL. WHO DOES THAT FIT? FROM THE
18 THREE PEOPLE YOU SAW IN THIS COURTROOM THIS WEEK WHO FITS
19 THAT DESCRIPTION? WHO IS THE SHORTEST OF THE THREE? YOU
20 SAW JEFFREY BETHEA, HE'S ABOUT AS BIG AS THE HEM.

21 NOW THE JUDGE IS GOING TO GIVE YOU THE CHARGE ON
22 MURDER AND WHAT HE'S GOING TO TELL YOU IS THAT THE KILLING
23 OF ANOTHER PERSON WITH MALICE AFORETHOUGHT, HATRED, ILL
24 WILL, THE INTENTIONAL DOING OF A WRONGFUL ACT. HE'S ALSO
25 GOING TO TELL YOU THAT A MALICE CAN BE EXPRESSED OR IMPLIED

1 AND I WANT TO TALK FIRST ABOUT EXPRESSED MALICE.

2 "MURDER WAS THE GAME, REVENGE FOR G-BLACK, LOOK
3 IN MY EYES YOU CAN SEE MY PAIN, HEART TURNED COLD, I'LL PUT
4 A BULLET STRAIGHT IN YOUR BRAIN. YOU SAY I'M NOBODY WHY
5 THE HOMICIDE UNIT BE SCREAMING MY NAME?" THAT'S ABOUT AS
6 EXPRESSED AS YOU CAN GET AND THIS WAS WRITTEN BY BOS AND
7 THIS WAS WRITTEN AFTER AARON GOT KILLED, THOSE THREE PEOPLE
8 GOT SHOT, AFTER HE WAS ARRESTED FOR MURDER AND PUT IN JAIL.

9 MALICE EXPRESSED: ILL WILL, HATRED, "YO, BRO,
10 BIRD'S STATEMENT IS 41 PAGES. I CAN'T MAIL IT, BUT I AM
11 SENDING AARON'S DEAD ASS. WHEN YOU GET OUT IF I'M STILL IN
12 MY CURRENT PLACE COME WITH GRANDMA BELL AND I'LL SIGN THE
13 STATEMENT OUT TO YOU, FUCK, GET A SHIRT MADE WITH AARON ON
14 IT THAT SAY NIGGA'S DEAD ASS."

15 TIM SMITH SAID IT BEST. HE SENT AN AUTOPSY
16 PICTURE OF THE VICTIM AND HIS MURDER TO HIS BUDDY, TO HIS
17 GANG FRIEND IN NORTH CAROLINA. HE WAS SHOWING THAT THING
18 LIKE HE HAD JUST KILLED A 10-POINT BUCK AND IT WAS A
19 TROPHY. WHY ELSE WOULD YOU PUT THAT AND WRITE THAT IN A
20 LETTER, SEND IT WITH A PICTURE AFTER YOU HAVE BEEN CHARGED
21 WITH MURDER AND IN JAIL? WHY WOULD YOU DO THAT IF IN FACT
22 YOU WEREN'T BRAGGING ABOUT IT, IF IN FACT IT WAS NOT TRUE?
23 THAT HAS TO BE ONE OF THE VILEST THINGS I'VE EVER HEARD
24 READ IN THIS COURTROOM AND THERE IS NO END TO THE ILL WILL
25 AND HOSTILITY CONTAINED IN THAT.

1 AND YOU HAVE TO ASK YOURSELF WHAT KIND OF PERSON
2 WOULD SAY THOSE THINGS, WOULD DO THOSE THINGS. WOULD BRAG
3 ABOUT TAKING THE LIFE OF ANOTHER HUMAN BEING AND YOU KNOW
4 WHAT IT DOESN'T MATTER HOW YOU DRESS HIM UP. YOU CAN DRESS
5 HIM UP, YOU CAN PUT GLASSES ON HIM, YOU CAN MAKE HIM LOOK
6 LIKE HE'S 15 YEARS OLD, BUT YOU KNOW WHAT? THE INSIDE
7 DOESN'T CHANGE. HE IS COLD. HE TELLS YOU THAT HIMSELF.
8 HE IS A KILLER AND HE NEEDS TO BE CONVICTED.

9 AND I'M GOING TO LEAVE YOU WITH THIS BECAUSE I
10 CAN'T THINK OF ANY OTHER WAY BETTER TO SUM IT UP THAN HOW
11 HE DID IT HIMSELF WHILE HE WAS SITTING IN JAIL WAITING FOR
12 THIS TRIAL. "SOMEBODY KILLED MY HOMIE AND I GOT TO EASE MY
13 PAIN AND THE ONLY WAY TO DO THAT IS TO SQUEEZE MY THANG,
14 THE MADNESS I'M FEELING IS DRIVING ME INSANE. I CAN FEEL
15 IT, IT'S CALLED MURDER, IT'S IN MY VEINS. IT'S REAL
16 SIMPLE, LOAD IT, COCK IT, SQUEEZE IT, BANG," AND YOU KNOW
17 WHAT THAT BANG WAS THE LAST THING AARON HAMMONDS EVER
18 HEARD.

19 THE COURT: THANK YOU. MR. ROPP, IF YOU WOULD,
20 MR. ROPP, AND THE EASEL, TOO. THANK YOU VERY MUCH.

21 **JURY CHARGE**

22 LADIES AND GENTLEMEN OF THE JURY, I REMIND YOU
23 THAT DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO
24 PERFORM. AS THE TRIAL JUDGE IT IS MY RESPONSIBILITY TO
25 PRESIDE OVER THE TRIAL OF THE CASE, AND I ALSO HAVE THE

1 DUTY TO RULE ON THE ADMISSIBILITY OF EVIDENCE OFFERED
2 DURING THIS TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT
3 EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED
4 STRICKEN FROM THE RECORD IN THIS CASE DURING THE TRIAL, YOU
5 MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY
6 THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS
7 STAND, ANY EXHIBITS WHICH MAY HAVE BEEN MADE A PART OF THE
8 RECORD IN THIS CASE, AND ANY STIPULATIONS OF COUNSEL.

9 I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW
10 APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE
11 SOLE JUDGE OF THE LAW OF THIS CASE, AND IT IS YOUR DUTY AS
12 JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU.
13 IF YOU ALREADY HAVE ANY IDEA AS WHAT THE LAW IS OR WHAT THE
14 LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL
15 YOU THE LAW IS, YOU MUST ABANDON THIS IDEA BECAUSE YOU ARE
16 SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I NOW
17 STATE IT TO YOU.

18 IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY,
19 THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS
20 IN A CASE. A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT
21 ON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS
22 IN A CASE. SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE
23 FACTS IN THE CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE
24 SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE
25 ADMISSIBILITY OF EVIDENCE, OR OTHERWISE, OR ANYTHING THAT I

1 SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU, THAT
2 I HAVE ANY OPINION ABOUT THE FACTS OF THIS CASE. THE LAW
3 DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN
4 THIS CASE. THIS IS A MATTER SOLELY FOR YOU, THE JURY, TO
5 DETERMINE. AS JURORS IT IS YOUR DUTY TO DETERMINE THE
6 EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED
7 DURING THIS TRIAL.

8 THE INDICTMENTS IN THIS CASE CHARGES THE
9 DEFENDANT WITH MURDER AND THREE COUNTS OF ASSAULT AND
10 BATTERY WITH INTENT TO KILL. I REMIND YOU THAT THE FACT
11 THE DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN THIS
12 CASE, IS NOT EVIDENCE IN THIS CASE AND CANNOT BE CONSIDERED
13 BY YOU AS EVIDENCE OF GUILT IN THIS CASE, NOR DOES IT
14 CREATE ANY PRESUMPTION OR INFERENCE OF GUILT. THIS
15 DOCUMENT OR THESE DOCUMENTS THAT I'VE REFERRED TO AS
16 INDICTMENTS ARE SIMPLY THE FORMAL WRITTEN INSTRUMENTS WHICH
17 CONTAIN THE CHARGES MADE AGAINST THE DEFENDANT. IT IS THE
18 FORMAL DOCUMENT OR THEY ARE THE FORMAL DOCUMENTS BY WHICH
19 THE CASE IS BROUGHT INTO THIS COURT.

20 THE FOUR INDICTMENTS IN THIS CASE ALLEGE TWO
21 DIFFERENT OFFENSES AGAINST THE DEFENDANT. THE CHARGES ARE:
22 INDICTMENT NO. ONE: MURDER; INDICTMENT NO. TWO, THREE, AND
23 FOUR; ASSAULT AND BATTERY WITH INTENT TO KILL.

24 EACH INDICTMENT CHARGES A SEPARATE AND DISTINCT
25 OFFENSE. YOU MUST DECIDE EACH INDICTMENT SEPARATELY ON THE

1 EVIDENCE AND THE LAW APPLICABLE TO IT UNINFLUENCED BY YOUR
2 DECISION AS TO ANY OTHER INDICTMENT. THE DEFENDANT MAY BE
3 CONVICTED OR ACQUITTED ON ANY OR ALL OF THE OFFENSES
4 CHARGED. YOU WILL BE ASKED TO WRITE A SEPARATE VERDICT OF
5 GUILTY OR NOT GUILTY FOR EACH INDICTMENT.

6 THE DEFENDANT HAS PLED NOT GUILTY TO THESE
7 INDICTMENTS, AND THAT PLEA PUTS THE BURDEN ON THE STATE TO
8 PROVE THE DEFENDANT GUILTY. A PERSON CHARGED WITH
9 COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER
10 REQUIRED TO PROVE HIMSELF INNOCENT.

11 I CHARGE YOU THAT IT IS AN IMPORTANT RULE OF LAW
12 THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO MATTER WHAT THE
13 SERIOUSNESS OF THE CHARGE MAY BE, WILL ALWAYS BE PRESUMED
14 TO BE INNOCENT OF THE CRIME FOR WHICH THE INDICTMENT WAS
15 ISSUED UNLESS GUILT HAS BEEN PROVED BY EVIDENCE SATISFYING
16 YOU OF THAT GUILT BEYOND A REASONABLE DOUBT. THIS
17 PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU BEGIN YOUR
18 DELIBERATIONS BUT IT ACCOMPANIES THE DEFENDANT THROUGHOUT
19 THE TRIAL UNTIL YOU REACH A VERDICT OF GUILT BASED ON THE
20 EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE
21 DOUBT.

22 THE PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF
23 RIGHTEOUSNESS PLACED ABOUT THE SHOULDERS OF THE DEFENDANT
24 WHICH REMAINS WITH THE DEFENDANT UNTIL IT HAS BEEN STRIPPED
25 FROM THE DEFENDANT BY EVIDENCE SATISFYING YOU OF THE

1 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

2 THE PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL
3 THEORY. IT IS NOT JUST A LEGAL PHRASE. IT IS A
4 SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED
5 UNLESS YOU THE JURY, ARE SATISFIED FROM THE EVIDENCE OF THE
6 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

7 THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT
8 GUILTY BEYOND A REASONABLE DOUBT. SOME OF YOU MAY HAVE
9 SERVED AS JURORS IN CIVIL CASES, WHERE YOU WERE TOLD THAT
10 IT'S ONLY NECESSARY TO PROVE THAT A FACT IS MORE LIKELY
11 TRUE THAN NOT, SUCH AS BY THE GREATER WEIGHT OR
12 PREPONDERANCE OF THE EVIDENCE. IN CRIMINAL CASES, THE
13 STATE'S PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST BE
14 BEYOND A REASONABLE DOUBT.

15 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT
16 LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.
17 THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH
18 ABSOLUTE CERTAINTY AND IN CRIMINAL CASES THE LAW DOES NOT
19 REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF,
20 BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY
21 CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME
22 CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF ON THE
23 OTHER HAND, YOU THINK THAT THERE IS A REAL POSSIBILITY THAT
24 THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE DEFENDANT
25 THE BENEFIT OF THAT DOUBT AND FIND HIM NOT GUILTY.

1 WHAT IS A REASONABLE DOUBT IN THE LAW? A
2 REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE A
3 REASONABLE PERSON TO HESITATE TO ACT.

4 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
5 GENERALLY PRESENTED DURING A TRIAL, DIRECT EVIDENCE AND
6 CIRCUMSTANTIAL EVIDENCE.

7 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO
8 CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN
9 EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES
10 THE MAIN FACT TO BE PROVED.

11 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF
12 FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT.
13 IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL
14 FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED.

15 CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON
16 PERSONAL KNOWLEDGE OR OBSERVATION.

17 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN
18 THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
19 CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF
20 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
21 DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE IN
22 THE CASE. AFTER WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT
23 CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE
24 DOUBT, YOU MUST FIND THE DEFENDANT NOT GUILTY.

25 IN THIS TRIAL YOU HAVE HEARD EVIDENCE REGARDING

1 AN ALTERCATION BETWEEN THE DEFENDANT AND THE VICTIM THAT
2 ALLEGEDLY OCCURRED ABOUT ONE MONTH BEFORE THE INCIDENT
3 WHICH IS THE SUBJECT OF THIS TRIAL. EVIDENCE OF OTHER
4 CRIMES, WRONGS OR ACTS IN GENERAL, EXCUSE ME, OR ACTS IS
5 GENERALLY NOT ADMISSIBLE TO PROVE THE CHARACTER OF A PERSON
6 IN ORDER TO SHOW HIS ACTION IN CONFORMITY THEREWITH;
7 HOWEVER, SUCH EVIDENCE MAY BE ADMISSIBLE TO SHOW MOTIVE,
8 IDENTITY, THE EXISTENCE OF A COMMON SCHEME OR PLAN, THE
9 ABSENCE OF MISTAKE OR ACCIDENT, OR INTENT.

10 YOU MAY CONSIDER THIS EVIDENCE ONLY TO PROVE
11 MOTIVE, IDENTITY, THE EXISTENCE OF A COMMON SCHEME OR PLAN,
12 THE ABSENCE OF MISTAKE OR ACCIDENT, OR INTENT.

13 NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY
14 OF THE WITNESSES WHO HAVE TESTIFIED IN THIS CASE.
15 CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR
16 DUTY AS JURORS TO ANALYZE AND EVALUATE THE EVIDENCE AND
17 DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH.

18 IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO
19 HAVE TESTIFIED IN THE CASE, YOU MAY BELIEVE ONE WITNESS
20 OVER SEVERAL OR SEVERAL WITNESSES OVER ONE WITNESS. YOU
21 MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT
22 THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS.
23 YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY
24 OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU
25 MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY

1 INTEREST, PREJUDICE, BIAS, OR OTHER MOTIVE IN THIS CASE.
2 YOU MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF A
3 WITNESS WHILE ON THE WITNESS STAND SOMETIMES REFERRED TO
4 THAT AS A WITNESSES Demeanor.

5 A STATEMENT ALLEGED TO HAVE BEEN MADE BY THE
6 DEFENDANT HAS BEEN ADMITTED INTO EVIDENCE IN THIS CASE.
7 WHILE THE COURT HAS DETERMINED THAT THE STATEMENT IS
8 ADMISSIBLE, I INSTRUCT YOU THAT YOU MAKE THE ULTIMATE
9 DECISION OF WHETHER OR NOT THE DEFENDANT MADE THE
10 STATEMENT. IF THE DEFENDANT DID MAKE THE STATEMENT YOU
11 MUST DETERMINE WHETHER THE STATEMENT WAS MADE BY THE
12 DEFENDANT VOLUNTARILY AND OF HIS OWN FREE WILL. THIS MEANS
13 THAT THE STATEMENT WAS NOT CAUSED BY PRESSURE, FORCE, FEAR,
14 THREATS, COERCION OR INTIMIDATION, OR BY HOPE OR A PROMISE
15 OF REWARD OR LENIENCY OF ANY KIND. IN DETERMINING WHETHER
16 THE STATEMENT WAS VOLUNTARILY, VOLUNTARY, YOU SHOULD
17 CONSIDER BOTH THE CHARACTERISTICS OF THE DEFENDANT AND THE
18 DETAILS OF THE QUESTIONING. SOME OF THE FACTORS THAT YOU
19 MUST CONSIDER ARE: THE AGE OF THE DEFENDANT; THE
20 DEFENDANT'S EDUCATION OR LACK OF EDUCATION; THE DEFENDANT'S
21 MENTAL ABILITY OR CAPACITY; THE DEFENDANT'S I.Q. OR
22 INTELLIGENCE; THE DEFENDANT'S BACKGROUND AND ENVIRONMENT;
23 (6) PLACE AND LENGTH OF DETENTION; THE NATURE OF THE
24 QUESTIONING; AND THE ADVICE, OR LACK THEREOF, TO THE
25 DEFENDANT OF HIS CONSTITUTIONAL RIGHTS INCLUDING, BUT NOT

1 LIMITED TO, THE RIGHT TO REMAIN SILENT; THAT ANY STATEMENT
2 COULD BE USED AGAINST HIM IN A COURT OF LAW; THE RIGHT TO
3 HAVE A LAWYER PRESENT; THAT IF HE COULD NOT AFFORD A
4 LAWYER, A LAWYER WOULD BE APPOINTED TO REPRESENT HIM
5 WITHOUT ANY COST; AND THAT HE COULD STOP MAKING A STATEMENT
6 AT ANY TIME. YOU MUST CAREFULLY CONSIDER ALL OF THE
7 SURROUNDING CIRCUMSTANCES BEFORE YOU GIVE ANY WEIGHT TO AN
8 ALLEGED STATEMENT.

9 THE STATE HAS THE BURDEN OF PROVING BEYOND A
10 REASONABLE DOUBT THAT THE ALLEGED STATEMENT WAS VOLUNTARY.
11 IF YOU DETERMINE THAT IT WAS, YOU MAY GIVE THE STATEMENT
12 ANY FURTHER CONSIDERATION THAT YOU DEEM PROPER. YOU MUST
13 DECIDE WHAT WEIGHT, IF ANY, SHOULD BE GIVEN TO THE ALLEGED
14 STATEMENT. IF YOU DETERMINE THE ALLEGED STATEMENT WAS NOT
15 A FREE AND VOLUNTARY STATEMENT OF THE DEFENDANT, YOU SHOULD
16 NOT CONSIDER THE STATEMENT AT ALL.

17 NOW THE RULES OF EVIDENCE ORDINARILY DO NOT
18 PERMIT WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN
19 EXCEPTION TO THIS RULE EXISTS FOR A WITNESS WE CALL AN
20 EXPERT WITNESS. A WITNESS WHO BY EDUCATION AND EXPERIENCE,
21 HAS BECOME EXPERT IN SOME ART, SCIENCE, PROFESSION, OR
22 CALLING MAY STATE AN OPINION TO A RELEVANT AND MATERIAL
23 MATTER, IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT, AND
24 MAY ALSO STATE THE REASONS FOR THE OPINION.

25 YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED

1 IN EVIDENCE AND, LIKE ANY OTHER EVIDENCE, GIVE IT THE
2 WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THAT THE
3 OPINION OF AN EXPERT WITNESS IS NOT BASED ON SUFFICIENT
4 EDUCATION AND EXPERIENCE, OR IF YOU CONCLUDE THAT THE
5 REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND, OR
6 THAT THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY
7 DISREGARD THE OPINION COMPLETELY AND ENTIRELY.

8 AN EXPERT'S, EXPERT WITNESS' TESTIMONY IS TO BE
9 GIVEN NO GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY
10 BECAUSE THE WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT
11 REQUIRED TO ACCEPT AND EXPERT'S OPINION, EVEN THOUGH IT IS
12 NOT CONTRADICTED.

13 THERE HAS BEEN EVIDENCE PRESENTED THAT WITNESSES
14 HAVE MADE PRIOR STATEMENTS WHICH ARE NOT CONSISTENT WITH
15 THE WITNESSES' PRESENT STATEMENT OR TESTIMONY. YOU MAY USE
16 THIS EVIDENCE TO DECIDE WHETHER TO BELIEVE THE WITNESS.
17 YOU MAY ALSO USE THE EVIDENCE OF THE EARLIER CONTRADICTORY
18 STATEMENT TO DETERMINE THE TRUTH OF THOSE STATEMENTS. IT
19 IS UP TO YOU TO DECIDE WHETHER TO BELIEVE THE EARLIER
20 STATEMENTS OR THE TESTIMONY GIVEN AT TRIAL.

21 IF A WITNESS IS SHOWN TO HAVE KNOWINGLY TESTIFIED
22 UNTRUTHFULLY CONCERNING ANY MATERIAL MATTER, YOU MAY
23 CONSIDER THIS IN DETERMINING WHETHER TO TRUST THE WITNESS'
24 TESTIMONY AS TO OTHER MATTERS. YOU MAY REJECT ALL THE
25 TESTIMONY OF THAT WITNESS OR GIVE ALL OR PART OF THE

1 TESTIMONY THE WEIGHT YOU THINK IT DESERVES.

2 IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE WHO
3 ARE ACTING TOGETHER IN COMMITTING A CRIME, THE ACT OF ONE
4 IS THE ACT OF ALL. A PERSON WHO JOINS WITH ANOTHER TO
5 COMMIT AN UNLAWFUL ACT IS CRIMINALLY RESPONSIBLE FOR
6 EVERYTHING DONE BY THE OTHER PERSON WHICH HAPPENS AS A
7 PROBABLE OR NATURAL CONSEQUENCE OF THE ACTS DONE IN
8 CARRYING OUT THE COMMON PLAN AND PURPOSE. IF TWO OR MORE
9 PEOPLE ARE TOGETHER, ACTING TOGETHER, ASSISTING EACH OTHER
10 IN COMMITTING THE OFFENSE, THE ACT OF ONE IS THE ACT OF
11 ALL.

12 PRIOR KNOWLEDGE OF THAT CRIME IS GOING TO BE,
13 EXCUSE ME, PRIOR KNOWLEDGE THAT A CRIME IS GOING TO BE
14 COMMITTED, WITHOUT MORE, IS NOT SUFFICIENT TO MAKE A PERSON
15 GUILTY OF THAT CRIME. MERE KNOWLEDGE THAT ANOTHER PERSON
16 IS GOING TO COMMIT A CRIME, EVEN IF THE DEFENDANT IS
17 PRESENT WHEN THE CRIME IS COMMITTED, IS NOT SUFFICIENT TO
18 CONVICT THE DEFENDANT AS A PRINCIPAL, GUILTY AS A PRINCIPAL
19 AS SHOWN BY ACTUAL OR CONSTRUCTIVE PRESENCE AT THE SCENE,
20 OR EXCUSE ME, GUILT AS A PRINCIPAL AS SHOWN BY ACTUAL OR
21 CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF PRIOR
22 ARRANGEMENT. THEREFORE, A FINDING OF A PRIOR ARRANGED PLAN
23 OR COMMON SCHEME IS NECESSARY FOR A FINDING OF GUILT AS A
24 PRINCIPAL. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT
25 BY COMPETENT EVIDENCE THE THEORY OF ACCOMPLICE LIABILITY.

1 A PRINCIPAL IN A CRIME IS ONE WHO EITHER ACTUALLY
2 COMMITTS THE CRIME OR WHO IS PRESENT AIDING, ABETTING, OR
3 ASSISTING IN COMMITTING THE CRIME. WHEN A PERSON DOES AN
4 ACT IN THE PRESENCE OF AND WITH THE ASSISTANCE OF ANOTHER,
5 THE ACT IS DONE BY BOTH. WHERE TWO OR MORE ACTING WITH A
6 COMMON PLAN OR INTENT ARE PRESENT AT THE COMMISSION OF THE
7 CRIME, IT DOES NOT MATTER WHO ACTUALLY COMMITTS THE CRIME.
8 ALL ARE GUILTY. PRESENCE AT THE COMMISSION OF A CRIME
9 MEANS TO BE SUFFICIENTLY NEAR TO AID AND ABET AND ASSIST IN
10 THE COMMISSION OF THE CRIME. HOWEVER, MERE PRESENCE AT THE
11 SCENE OF A CRIME IS NOT SUFFICIENT TO CONVICT ONE AS A
12 PRINCIPAL ON THE THEORY OF AIDING AND ABETTING. INTENT IS
13 ALSO A NECESSARY ELEMENT FOR THERE MUST HAVE BEEN A COMMON
14 DESIGN OR INTENT TO COMMIT THE CRIME AND THE CRIME MUST
15 HAVE BEEN COMMITTED PURSUANT THERETO WITH THE PERSON'S
16 AIDING AND ABETTING BY SOME OVERT ACT. INTENT MEANS
17 INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT
18 ACCIDENTALLY OR INVOLUNTARY. INTENT MAY BE SHOWN BY ACTS
19 AND CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM
20 WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT. THE
21 STATE MUST PROVE THESE ELEMENTS BEYOND A REASONABLE DOUBT.

22 AS I SAID, MERE PRESENCE AT A SCENE IS NOT
23 SUFFICIENT TO PROVE SOMEONE GUILTY OF A CRIME. A
24 DEFENDANT'S PRESENCE WHERE A CRIME IS BEING COMMITTED OR
25 MERE ASSOCIATION WITH A PERSON WHO COMMITTS A CRIME DOES NOT

1 MAKE A DEFENDANT AN ACCOMPLICE OR AN AIDER AND AN ABETTOR
2 OF THE PERSON COMMITTING THE CRIME.

3 THE BURDEN IS ON THE STATE TO PROVE EVERY ELEMENT
4 OF THE CRIME CHARGED. IF YOU FIND, AFTER REVIEWING ALL THE
5 EVIDENCE, THAT THE STATE HAS PROVED THAT THE DEFENDANT WAS
6 ONLY PRESENT AT THE SCENE OF A CRIME, AND THEY HAVE NOT
7 PROVED BEYOND A REASONABLE DOUBT, ANY OTHER PARTICIPATION
8 IN THE CRIME, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY.
9 THE LAW IS THAT PROOF OF PRESENCE AT THE SCENE OF A CRIME
10 IS NOT SUFFICIENT TO FIND SOMEONE GUILTY.

11 NOW, THE DEFENDANT IS CHARGED WITH MURDER. THE
12 STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
13 DEFENDANT KILLED ANOTHER PERSON WITH MALICE AFORETHOUGHT.

14 MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS
15 ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A WRONGFUL
16 ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN INTENT TO
17 INFLICT AN INJURY OR UNDER CIRCUMSTANCES THAT THE LAW WILL
18 INFER AN EVIL INTENT.

19 MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE
20 EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS COMMITTED,
21 BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST
22 BEFORE AND AT THE TIME THE ACT IS COMMITTED. THEREFORE,
23 THERE MUST BE A COMBINATION OF THE PREVIOUS ILL INTENT AND
24 THE ACT.

25 MALICE AFORETHOUGHT MAY BE EXPRESSED OR INFERRED.

1 THESE TERMS, "EXPRESSED" AND "INFERRED" DO NOT MEAN
2 DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH
3 SUCH MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY
4 DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND
5 CIRCUMSTANCES WHICH ARE PROVED. EXPRESSED MALICE IS SHOWN
6 WHEN A PERSON SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL
7 FOR ANOTHER OR WHEN THE PERSON PREPARED BEFOREHAND TO DO
8 THE ACT WHICH WAS LATER ACCOMPLISHED, FOR EXAMPLE, LYING IN
9 WAIT FOR A PERSON OR ANY OTHER ACT OF PREPARATION GOING TO
10 SHOW THAT THE DEAD WAS WITHIN THE DEFENDANT'S MIND WOULD BE
11 EXPRESSED MALICE. MALICE MAY BE INFERRED FROM CONDUCT
12 SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

13 NOW THE DEFENDANT HAS ALSO BEEN CHARGED WITH
14 ASSAULT AND BATTERY WITH INTENT TO KILL. IN ORDER TO PROVE
15 ASSAULT AND BATTERY WITH INTENT TO KILL, THE STATE MUST
16 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
17 COMMITTED AN UNLAWFUL ACT OF A VIOLENT NATURE TO THE PERSON
18 OF ANOTHER WITH MALICE AFORETHOUGHT.

19 AN ASSAULT OCCURS WHEN A PERSON UNLAWFULLY
20 ATTEMPTS OR OFFERS TO COMMIT A VIOLENT INJURY UPON ANOTHER
21 PERSON AND HAD THE PRESENT ABILITY TO COMPLETE THE ATTEMPT.
22 AN ASSAULT IS THE INTENTIONAL CREATION OF A REASONABLE FEAR
23 OF IMMEDIATE BODILY HARM. IT IS NOT NECESSARY THAT THE
24 ATTEMPTED INJURY OR HARM TAKE PLACE. FOR EXAMPLE, IF I
25 WALK UP TO YOU, AND WHEN WE ARE WITHIN ARM'S REACH, I DRAW

1 BACK TO HIT YOU, THAT IS AN ASSAULT.

2 A BATTERY IS THE UNLAWFUL TOUCHING OF ANOTHER
3 PERSON BY A PERSON WHO HAS COMMITTED THE ASSAULT. AN
4 UNLAWFUL TOUCHING CAN BE CAUSED BY A PART OF THE ACCUSED'S
5 BODY OR BY ANY OBJECT THAT THE ACCUSED PUTS INTO MOTION. A
6 BATTERY IS THE COMPLETION OF THE ASSAULT BY USING OR
7 APPLYING FORCE TO ANOTHER PERSON HOWEVER SLIGHT, IN A RUDE,
8 ANGRY, OR RESENTFUL MANNER WITHOUT LEGAL JUSTIFICATION FOR
9 DOING SO. USING MY EARLIER EXAMPLE, IF I CARRY THROUGH
10 WITH THE ASSAULT BY HITTING YOU, THEN THAT IS A BATTERY.

11 MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS
12 ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A WRONGFUL
13 ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN INTENT TO
14 INFLICT AN INJURY OR UNDER CIRCUMSTANCES THE LAW WILL INFER
15 EVIL INTENT.

16 MALICE AFORETHOUGHT DOES NOT REQUIRE AGAIN THAT
17 MALICE EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS
18 COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE
19 DEFENDANT JUST BEFORE AND AT THE TIME OF THE ACT OR THE ACT
20 IS COMMITTED. THEREFORE, THERE MUST A COMBINATION OF THE
21 PREVIOUS EVIL INTENT AND THE ACT.

22 MALICE AFORETHOUGHT MAY BE EXPRESSED OR INFERRED.
23 THESE TERMS, EXPRESSED AND INFERRED DO NOT MEAN DIFFERENT
24 KINDS OF MALICE AGAIN BUT MERELY THE MANNER IN WHICH THE
25 MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT

1 EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES
2 WHICH ARE PROVED. EXPRESSED MALICE IS SHOWN WHEN A PERSON
3 SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER
4 OR WHEN THE PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH
5 WAS LATER ACCOMPLISHED; FOR EXAMPLE, LYING IN WAIT FOR A
6 PERSON OR ANY OTHER ACT OF PREPARATION GOING TO SHOW THAT
7 THE DEED WAS WITHIN THE DEFENDANT'S MIND WOULD BE EXPRESSED
8 MALICE.

9 AND MALICE MAY BE INFERRED FROM CONDUCT SHOWING A
10 TOTAL DISREGARD FOR HUMAN LIFE.

11 IF FACTS ARE PROVED BEYOND A REASONABLE DOUBT
12 SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR
13 SATISFACTION, THEN THIS INFERENCE WOULD SIMPLY, WOULD BE
14 SIMPLY AN EVIDENTIARY FACT TO BE CONSIDERED BY YOU ALONG
15 WITH OTHER EVIDENCE IN THE CASE, AND YOU MAY GIVE IT SUCH
16 WEIGHT AS YOU DECIDE IT SHOULD RECEIVE.

17 A SPECIFIC INTENT TO KILL IS NOT AN ELEMENT OF
18 ASSAULT AND BATTERY WITH INTENT TO KILL, BUT THERE MUST BE
19 A GENERAL INTENT TO COMMIT SERIOUS BODILY INJURY. INTENT
20 MEANS INTENDING THE RESULT WHICH ACTUALLY OCCURS; NOT
21 ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE SHOWN BY ACTS
22 AND CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM
23 WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT.
24 EVIDENCE OF THE CHARACTER OF THE ASSAULT, THE CHARACTER OF
25 THE INSTRUMENT USED, THE MANNER IN WHICH IT WAS USED, THE

1 PURPOSE TO BE ACCOMPLISHED, AND THE RESULTING WOUNDS OR
2 INJURIES MAY BE CONSIDERED IN DETERMINING THE INTENT WITH
3 WHICH THE ASSAULT WAS COMMITTED. INTENT MAY BE INFERRED
4 WHEN IT IS DEMONSTRATED THAT THE DEFENDANT VOLUNTARILY AND
5 WILLFULLY COMMITS AN ACT, THE NATURAL TENDENCY OF WHICH IS
6 TO DESTROY ANOTHER'S LIFE.

7 AND FINALLY, IF THE DEFENDANT, WITH MALICE
8 AFORETHOUGHT, ATTEMPTS TO KILL ANOTHER PERSON, BUT BY
9 MISTAKE, INJURES OR KILLS A DIFFERENT PERSON, THE DEFENDANT
10 STILL HAS THE INTENT TO KILL. THE INTENT TO KILL IS MERELY
11 TRANSFERRED FROM THE ORIGINAL PERSON THE DEFENDANT
12 ATTEMPTED TO KILL TO THE ACTUAL PERSON KILLED OR INJURED.
13 THE DEFENDANT WOULD BE GUILTY OF ASSAULT AND BATTERY WITH
14 INTENT TO KILL JUST AS IF THE ATTEMPT HAD RESULTED IN THE
15 DEATH OR INJURY OF THE PERSON THE DEFENDANT ATTEMPTED TO
16 KILL.

17 NOW, LADIES AND GENTLEMEN OF THE JURY, THERE ARE
18 TWO POSSIBLE VERDICTS WHICH YOU MAY FIND ON EACH INDICTMENT
19 IN THIS CASE, AND I HAVE PREPARED FOUR INDICTMENTS. THOSE
20 VERDICTS ARE GUILTY OR NOT GUILTY, AND AGAIN THERE'S NO
21 SIGNIFICANCE WHATSOEVER IN THE ORDER THAT I STATE THESE
22 POSSIBLE VERDICTS. IT IS SIMPLY THAT ONE MUST BE STATED
23 FIRST.

24 LET ME TELL YOU THAT YOUR VERDICT MUST BE A
25 UNANIMOUS ONE. NOW, MR. FOREPERSON, WHEN YOUR JURY AGREES

1 UPON A VERDICT, I WANT YOU TO CIRCLE THE VERDICT THAT HAS
2 BEEN REACHED. AGAIN, THE VERDICT THAT HAS BEEN REACHED IS
3 THE ONE YOU WILL CIRCLE, AND THEN I WILL ASK YOU TO SIGN
4 YOUR NAME AND KNOCK ON THE DOOR.

5 NOW I'M GOING TO ASK YOU TO RETURN TO YOUR JURY
6 ROOM. I MAY HAVE AN ADDITIONAL INSTRUCTION; I DON'T THINK
7 SO, I'VE ALREADY GONE OVER THIS WITH THE JURY. IF I DO, I
8 MEAN THE ATTORNEYS, IF I DO HAVE TO INSTRUCT FURTHER I WILL
9 BRING YOU BACK OUT. I DON'T WANT YOU TO BEGIN YOUR
10 DELIBERATIONS YET. I WANT THE TWO ALTERNATES PLACED IN A
11 SEPARATE ROOM BECAUSE THEY CANNOT BE IN ON THE PROCESS AT
12 THIS POINT ANYWAY. I WANT YOU TO GO IN YOUR ROOM, DON'T
13 BEGIN YOUR DELIBERATIONS UNTIL I TELL YOU TO DO SO, AND LET
14 ME TELL YOU HOW I WILL DO THAT.

15 IF I SEND MR. ROPP IN AND HE HAS THE EXHIBITS IN
16 THIS CASE AND THE VERDICT FORMS AND THIS COPY OF MY CHARGE,
17 WHICH I AM HAVING THE COURT REPORTER MARK AS COURT'S
18 EXHIBIT NUMBER 4, AS I SAID THE CHARGE IN THIS CASE, AS IN
19 MANY CASES, IS VERY COMPLEX AND THAT'S WHY I DO A
20 TRANSCRIPT OF IT SO THAT YOU'LL HAVE A VERBATIM TRANSCRIPT
21 OF WHAT I'VE INSTRUCTED YOU. IF I SEND THOSE MATTERS TO
22 YOU THAT IS YOUR SIGNAL TO BEGIN YOUR DELIBERATIONS, IS
23 THAT CLEAR? OKAY, AND UNTIL I DO THAT DON'T BEGIN. I WILL
24 NOT SEND THEM UNTIL I AM PREPARED FOR YOU TO GO FORWARD,
25 ALL RIGHT. ALL RIGHT, MR. ROPP, IF YOU WOULD TAKE THEM.

1 BACK AND MAKE SURE THEY HAVE SOME REFRESHMENTS. THEY'VE
2 BEEN HERE FOR QUITE SOME TIME AND I KNOW THEY'RE VERY
3 TIRED.

4 (WHEREUPON, COURT'S EXHIBIT NUMBER 4 MARKED FOR
5 IDENTIFICATION.)

6 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
7 2:31 P.M.)

8 THE COURT: LADIES, DO YOU WANT TO LOOK AT THE
9 VERDICT FORMS?

10 (WHEREUPON, COUNSEL REVIEWED THE VERDICT FORMS
11 AND AGREED TO THEIR CONTENT.)

12 THE COURT: ALL RIGHT, NOW ARE THERE ANY
13 ADDITIONS TO OR DELETIONS TO THE CHARGE?

14 MS. ELDER: NO, SIR, NONE FROM THE STATE, YOUR
15 HONOR.

16 THE COURT: ALL RIGHT, FROM THE DEFENSE?

17 MS. PRATT: NO, YOUR HONOR.

18 THE COURT: ALL RIGHT, VERY WELL, WOULD YOU,
19 LADIES, PLEASE COME FORWARD AND GET THE VERDICT FORMS AND
20 YOUR EXHIBITS AND LET'S GET EVERYTHING TOGETHER, MAKE SURE
21 WE'RE ALL IN THE RIGHT TRACK AND GET THIS STUFF READY TO
22 SEND INTO THE JURY.

23 (WHEREUPON, THE VERDICT FORMS AND EXHIBITS WERE
24 DELIVERED TO THE JURY ROOM WITH INSTRUCTIONS TO BEGIN
25 DELIBERATIONS AT 2:36 P.M.)

1 THE COURT: ALL RIGHT, I DON'T THINK THERE'S
2 ANYTHING WE CAN DO. I AM GOING TO, IT'S MY POLICY THAT IF
3 WE GET ALL THE WAY THROUGH THE TRIAL AND I SEND THEM OUT I
4 DON'T BRING AN ALTERNATE IN HALFWAY THROUGH THE
5 DELIBERATIONS. I'M GOING TO SET, OR RELEASE THE ALTERNATES
6 AT THIS TIME, OKAY, ALL RIGHT.

7 (WHEREUPON, THE ALTERNATES WERE EXCUSED.)

8 THE COURT: MS. PRATT?

9 MS. PRATT: YES, YOUR HONOR, I JUST WANTED TO
10 PUT ON THE RECORD MY REASONS FOR MY OBJECTIONS DURING THE
11 SOLICITOR'S CLOSING ARGUMENT.

12 THE COURT: ALL RIGHT.

13 MS. PRATT: THE FIRST OBJECTION, AND I KNOW THEY
14 WERE OVERRULED, I JUST NEEDED TO PUT MY REASONS IN. THE
15 FIRST OBJECTION I MADE WAS WHEN SHE MADE THE STATEMENT HAND
16 OF ONE IS THE HAND OF ALL AND THROUGHOUT THIS TRIAL I'VE
17 MAINTAINED THAT THE LAW IN HAND OF ONE IS SLIGHTLY
18 DIFFERENT FROM THE LAW OF ACCOMPLICE LIABILITY. I'VE
19 ALREADY GIVEN THE COURT ON ANOTHER REASON THE SAME CASE
20 STATE V. CURRY ---

21 THE COURT: YES.

22 MS. PRATT: --- WHICH SPEAKS TO THAT. AND THE
23 SECOND OBJECTION THAT I MADE WAS WHEN SHE CALLED THE
24 ADDITION A TEARDROP. MY OBJECTION IS THAT SHE WAS ARGUING
25 FACTS NOT IN EVIDENCE BECAUSE IT WAS NOT TESTIFIED TO AS

1 BEING A TEARDROP.

2 THE COURT: I UNDERSTAND AND THERE HAS BEEN
3 TEARDROP TESTIMONY IN HERE ABOUT WHAT A TEARDROP MAKES --
4 MEANS. I THINK IT'S A FAIR COMMENT. WE TALKED ABOUT IT IN
5 THE TRIAL AND AS TO HER USE OF THE WORDS THE HAND OF ONE IS
6 THE HAND OF ALL AT THE BEGINNING OF THIS TRIAL AND I THINK
7 I MADE IT VERY CLEAR DURING MY INSTRUCTION THAT I WAS THE
8 SOLE JUDGE OF THE LAW IN THIS CASE AND I WAS VERY CAREFUL
9 TO REFER TO IT AS ACCOMPLICE LIABILITY OR THINGS OF THAT
10 NATURE AND I STRUCK FROM MY CHARGE THAT REFERENCE THAT YOU
11 MADE JUST AS AN ACCOMMODATION TO THE DEFENDANT. I DON'T
12 THINK IT MAKES A WHOLE LOT OF DIFFERENCE, BUT AT ANY RATE
13 THAT'S WHAT I DID, OKAY.

14 MS. PRATT: THANK YOU, YOUR HONOR.

15 THE COURT: YOU'RE WELCOME. OKAY, ANYTHING
16 FURTHER?

17 MS. PRATT: NO, YOUR HONOR.

18 THE COURT: OKAY, LET'S WAIT FOR A VERDICT.

19 (WHEREUPON, THE JURY KNOCKED WITH A QUESTION AT
20 4:06 P.M.)

21 THE COURT: ALL RIGHT, LET'S LET THE RECORD
22 REFLECT THAT THE DEFENDANT IS IN THE COURTROOM AS WELL AS
23 THE ATTORNEYS FOR BOTH SIDES.

24 I HAVE A NOTE FROM THE FOREMAN. THE NOTE SAYS WE
25 NEED TO HEAR THE TESTIMONY OF BRIAN SPEARS AND JEFFREY

1 BETHEA AGAIN, SO, OF COURSE, WE'RE GOING TO LET THEM HEAR
2 THAT. I THINK THAT PROBABLY IT'S GOING TO BE EASIER FOR
3 MS. BABB IF WE DO IT IN THE ORDER THAT THE TESTIMONY WAS
4 RECEIVED, JEFFREY BETHEA FIRST AND THEN WE'LL FOLLOW THAT
5 WITH BRIAN SPEARS.

6 THERE WAS A BREAK IN THE TESTIMONY, OR A COUPLE
7 OF BREAKS IN THE TESTIMONY OF JEFFREY BETHEA, AND WE'RE
8 GOING TO, WE'RE GETTING THE NUMBERS NOW SO THAT WE CAN EDIT
9 THAT OUT, OKAY.

10 MS. PRATT: AND THAT WOULD INCLUDE CROSS
11 EXAMINATION AND REBUTTAL?

12 THE COURT: YES.

13 MS. PRATT: THANK YOU.

14 THE COURT: WELL THE WAY, I USUALLY DO IT, MS.
15 PRATT, IS IF AT ANY TIME THE JURY DECIDES THAT THEY HAVE
16 HEARD THAT PORTION OF THE TESTIMONY THAT THEY WANTED TO
17 HEAR AND THEY DO NOT CARE TO HEAR ANYMORE I WILL CUT IT
18 OFF. I USUALLY TELL THEM THAT IF THEY REACH THE POINT THAT
19 THEY HAVE HEARD WHAT THEY WANT TO HEAR CAUSE SOMETIMES THEY
20 JUST WANT TO HEAR SOMETHING VERY SPECIFIC, OTHER TIMES THEY
21 MAY WANT TO LISTEN TO ALL OF IT, BUT THEY'RE CERTAINLY
22 GOING TO HAVE THE OPPORTUNITY TO LISTEN TO EVERYTHING.

23 MS. PRATT: THANK YOU, YOUR HONOR.

24 (WHEREUPON, COURT'S EXHIBIT NUMBER 5 MARKED FOR
25 IDENTIFICATION.)

1 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
2 4:26 P.M. AND THE FOLLOWING PROCEEDINGS WERE HAD.)

3 THE COURT: YOUR JURY WISHES TO HEAR THE
4 TESTIMONY OF THE DEFENDANT BRIAN SPEARS AND JEFFREY BETHEA
5 AS WELL; IS THAT CORRECT?

6 MR. FOREMAN: THAT IS CORRECT, YOUR HONOR.

7 THE COURT: OKAY, AND WE HAVE MADE PREPARATIONS
8 FOR THAT TO OCCUR, SORRY THAT IT TOOK QUITE SO LONG, BUT WE
9 HAVE TO GO BACK THROUGH THE TAPES AND FIND WHERE EACH ONE
10 STARTS BUT WE HAVE DONE THAT.

11 NOW WE'RE GOING TO, TO START I BELIEVE WITH MR.
12 BETHEA FIRST; IS THAT CORRECT?

13 MADAM COURT REPORTER: YES, SIR.

14 THE COURT: WE'RE GOING TO START WITH MR.
15 BETHEA. IF AT ANY TIME, OF COURSE WE'RE HERE TO PLAY THE
16 ENTIRE TESTIMONY DIRECT AND CROSS EXAMINATION FOR YOU, BUT
17 IF THERE WAS ANYTHING SPECIFIC, AND SOMETIMES JURORS ARE
18 LOOKING FOR A SPECIFIC SPOT, IF YOU REACH A POINT THAT YOU,
19 YOU'VE HEARD WHAT WAS IN DISPUTE OR WHAT YOU WANTED TO HEAR
20 JUST RAISE YOUR HAND LET ME KNOW AND WE'LL GO TO THE NEXT
21 ONE. FEEL FREE TO LISTEN TO ALL OF IT, THOUGH, IF THAT'S
22 WHAT YOU WISH, OKAY.

23 (WHEREUPON, THE TESTIMONY OF JEFFREY BETHEA WAS
24 PLAYED IN OPEN COURT FOR THE JURY.)

25 THE COURT: OKAY, GO TO THE JURY ROOM.

1 (WHEREUPON, AT 5:03 P.M. THE JURY RETIRED TO THE
2 JURY ROOM TO PERMIT THE COURT REPORTER TO LOCATE THE
3 REMAINING TESTIMONY OF MR. BETHEA.)

4 THE COURT: GET THE JURY.

5 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
6 5:09 P.M. AND THE FOLLOWING PROCEEDINGS WERE HAD)

7 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF
8 THE JURY, LET ME ASK YOU NOT TO TAKE NOTES. IT'S NOT
9 PROPER IN SOUTH CAROLINA.

10 (WHEREUPON, THE REMAINING TESTIMONY OF JEFFREY
11 BETHEA WAS PLAYED FOR THE JURY IN OPEN COURT.)

12 THE COURT: DO YOU NEED A BREAK BEFORE WE PLAY
13 THE TESTIMONY OF MR. SPEARS?

14 MR. FOREMAN: YES, SIR.

15 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
16 5:55 P.M.)

17 THE COURT: WE'RE AT BREAK.

18 (WHEREUPON, A RECESS WAS TAKEN AT THIS TIME AND
19 THE FOLLOWING TAKES PLACE ON THE RECORD AFTER THE BREAK.)

20 THE COURT: ARE WE READY?

21 MADAM COURT REPORTER: YES, SIR.

22 THE COURT: SAM, GET THE JURY.

23 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
24 6:20 P.M.)

25 THE COURT: ALL RIGHT, WE HAVE THE JURY BACK IN

1 AND WE'RE GOING TO LISTEN NOW TO THE TESTIMONY OF THE
2 DEFENDANT.

3 (WHEREUPON, THE TESTIMONY OF BRIAN SPEARS PLAYED
4 FOR THE JURY IN OPEN COURT.)

5 THE COURT: ALL RIGHT, MR. ROPP, TAKE THE JURY
6 TO THE JURY ROOM.

7 (WHEREUPON, AT 7:22 P.M. THE JURY AGAIN RETIRED
8 TO THE JURY ROOM AND RESUMED THEIR DELIBERATIONS.)

9 THE COURT: OKAY, WE'RE AT EASE.

10 (WHEREUPON, THE JURY KNOCKED WITH A QUESTION AT
11 7:46 P.M.)

12 THE COURT: LET THE RECORD REFLECT THAT THE
13 DEFENDANT IS PRESENT WITH HIS ATTORNEY AS WELL AS COUNSEL
14 FOR THE STATE. I HAVE A MESSAGE FROM THE, OR A REQUEST
15 FROM THE FOREPERSON, IT READS "COULD WE, PLEASE, SEE THE
16 LETTERS WAS (A) WRITTEN BY MR. SPEARS?" OF COURSE THAT'S
17 NOT IN EVIDENCE. I COULD BRING THE JURY IN IF YOU REQUEST
18 AND TELL THEM THAT THEY CAN ONLY CONSIDER THE EVIDENCE THAT
19 HAS BEEN PRESENTED TO THEM IN THE TRIAL, OR IF NO ONE HAS
20 AN OBJECTION I CAN WRITE THAT ON THIS NOTE AND RETURN THE
21 NOTE TO THEM. IT MIGHT SAVE A LITTLE BIT OF TIME.

22 MS. ELDER: YOUR HONOR, MY REQUEST WOULD BE THAT
23 I HAVE NO OBJECTION TO YOUR WRITING IT ON A NOTE BUT MY
24 REQUEST WOULD BE THAT YOU WOULD INCLUDE LANGUAGE ON THAT
25 NOTE THAT SAYS THEY CAN BE, THE PORTIONS THAT ARE ADMITTED

1 INTO EVIDENCE CAN BE REREAD TO THEM IF THAT IS WHAT THEY
2 WANT BECAUSE I DON'T KNOW IF THEY'RE ASKING TO SEE THE
3 ACTUAL WRITING OR IF THEY'RE ASKING TO HEAR WHAT THE
4 CONTENT IS.

5 THE COURT: NO, THEY WANT TO SEE IT ALL, THEY
6 WANT TO SEE, I KNOW THEY'RE TALKING ABOUT THE RAP LYRICS
7 AND THE LETTERS.

8 MS. ELDER: SO, I MEAN I, I, I THINK WE NEED TO
9 AT LEAST TELL THEM THAT THAT IS AVAILABLE THAT IF THEY WANT
10 TO HEAR THE PORTION THAT'S IN EVIDENCE THAT THEY CAN HEAR
11 THAT AGAIN.

12 THE COURT: THIS JURY I'M A LITTLE AFRAID TO,
13 BUT WE'LL SEE.

14 MS. PRATT: AND MY CONCERN WAS I DON'T WANT TO
15 SUGGEST TO THEM THAT THAT IS WHAT THEY NEED TO BE DOING AND
16 MAKE THEM THINK THAT THEY HAVE TO DO THAT. I DON'T KNOW
17 HOW YOU GOING TO WORD IT.

18 MS. ELDER: THEY ASKED FOR THEM.

19 THE COURT: WELL WHAT I'M GOING TO DO IS WRITE
20 HERE THAT, I'LL DO IT THIS WAY, THE LETTERS WERE NOT
21 INTRODUCED INTO EVIDENCE AND THEY MAY NOT SEE THEM. THEY
22 MAY ONLY CONSIDER THE EVIDENCE THAT WAS PRESENTED.

23 MS. ELDER: YOUR HONOR, I UNDERSTAND WHAT YOU'RE
24 SAYING, YOUR HONOR, BUT IT WAS IN FACT, PORTIONS OF THOSE
25 WERE IN FACT ADMITTED.

1 THE COURT: BUT ALL THEY'VE ASKED IS TO SEE,
2 THEY WANT TO SEE.

3 MS. ELDER: I THINK THAT IS MISLEADING.

4 THE COURT: I DON'T THINK THEY'RE TRYING TO
5 MISLEAD ME.

6 MS. ELDER: NO, I THINK THAT THAT IS MISLEADING
7 TO TELL THEM THAT THAT IS NOT IN EVIDENCE BECAUSE THAT IN
8 FACT THOSE PORTIONS OF IT ARE IN EVIDENCE, THE AGREEMENT
9 THAT WE ---

10 THE COURT: ALL RIGHT, WELL THEN I'LL SAY THAT
11 YOU MAY ONLY CONSIDER THE EVIDENCE THAT HAS BEEN ADMITTED
12 IN THIS TRIAL.

13 MS. PRATT: THAT'S FAIR.

14 MS. ELDER: YOUR HONOR ---

15 THE COURT: AND WE WILL REVIEW ANY PART OF THE
16 TESTIMONY THAT YOU WISH.

17 MS. ELDER: THAT'S FINE.

18 THE COURT: OKAY, THIS IS WHAT I'VE WRITTEN,
19 "YOU MAY CONSIDER THE TESTIMONY AND EVIDENCE AND EXHIBITS
20 INTRODUCED DURING THE TRIAL. WE WILL ALLOW YOU TO HEAR ANY
21 OF THE TESTIMONY YOU DESIRE."

22 MS. ELDER: YES, SIR.

23 THE COURT: OKAY, MS. PRATT?

24 MS. PRATT: YES, YOUR HONOR.

25 THE COURT: OKAY, ALL RIGHT, LET'S SEND IT.

1 MIKE, IF YOU WOULD TAKE THAT BACK TO THEM.

2 (WHEREUPON, COURT'S EXHIBIT NUMBER 6 MARKED FOR
3 IDENTIFICATION.)

4 (WHEREUPON, THE COURT'S RESPONSE TO THE QUESTION
5 FROM THE JURY WAS DELIVERED TO THE JURY AT 7:59 P.M.)

6 THE COURT: ALL RIGHT, STAY CLOSE JUST IN CASE
7 THEY HAVE ANOTHER QUESTION.

8 MS. ELDER: YES, SIR.

9 (WHEREUPON, THE JURY KNOCKED WITH A QUESTION AT
10 8:50 P.M.)

11 THE COURT: ALL RIGHT, WE HAVE ANOTHER QUESTION.
12 "COULD WE, PLEASE, LISTEN TO NATHANIEL DOUGLAS TESTIMONY?"
13 CAN YOU LOCATE THAT, MS. BABB?

14 MADAM COURT REPORTER: YES, SIR. NO, YOUR
15 HONOR, THE TAPE IS NOT HERE.

16 MS. ELDER: I ASSUME THAT WE'LL HAVE TO SUSPEND
17 THE DELIBERATIONS THIS EVENING AND HAVE THEM COME BACK IN
18 THE MORNING?

19 MS. PRATT: I AGREE, YOUR HONOR.

20 THE COURT: I'M GOING TO TELL THEM THAT TAPE IS
21 NOT HERE AND IF IT'S NECESSARY FOR THEIR DELIBERATIONS AND
22 LET THEM MAKE THE CALL.

23 MS. ELDER: YES, SIR.

24 (WHEREUPON, COURT'S EXHIBIT NUMBER 7 MARKED FOR
25 IDENTIFICATION.)

1 THE COURT: BRING THEM IN.

2 MS. PRATT: WILL YOU INFORM THEM, YOUR HONOR,
3 THAT IF THEY DO TAKE A BREAK THEY'LL GO HOME AND THEY'LL
4 COME BACK IN THE MORNING TO HEAR IT?

5 MADAM COURT REPORTER: I FOUND IT.

6 THE COURT: OKAY, THAT'S GOOD.

7 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
8 9:14 P.M. AND THE TESTIMONY OF NATHANIEL DOUGLAS WAS PLAYED
9 FOR THE JURY IN OPEN COURT.)

10 THE COURT: OKAY, TAKE THE JURY TO THE JURY
11 ROOM.

12 (WHEREUPON, THE JURY EXITED THE COURTROOM AT
13 10:02 P.M.)

14 THE COURT: WE'RE AT EASE.

15 (WHEREUPON, THE JURY KNOCKED WITH A VERDICT AT
16 10:25 P.M..)

17 THE COURT: BRING IN THE JURY.

18 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT
19 10:28 P.M. TO DELIVER ITS VERDICT AS TO DEFENDANT
20 SPEARS.)

21 THE COURT: ALL RIGHT, MR. FOREMAN, I UNDERSTAND
22 THAT YOU HAVE REACHED A VERDICT; IS THAT CORRECT?

23 MR. FOREPERSON: YES, WE HAVE, YOUR HONOR.

24 THE COURT: AND WAS IT A UNANIMOUS VERDICT?

25 MR. FOREPERSON: YES, IT WAS, YOUR HONOR.

1 THE COURT: WAS IT A VERDICT AS TO EACH COUNT?

2 MR. FOREPERSON: YES, IT WAS.

3 THE COURT: ALL RIGHT, LET ME ADVISE ALL THOSE
4 WHO ARE IN THE COURTROOM THAT I WILL TOLERATE NO OUTBURSTS
5 AND NO SHOW OF EMOTION ONE WAY OR THE OTHER. I HAVE NO
6 IDEA WHAT THIS VERDICT MAY BE BUT I WILL NOT TOLERATE ANY
7 EMOTIONAL SHOWS OR SHOWS OF EMOTION. I'M GOING TO HAVE THE
8 DEPUTIES PLACE YOU IN JAIL IF YOU DO.

9 MADAM CLERK, WOULD YOU RECEIVE THE VERDICT?

10 MADAM CLERK: YES, SIR.

11 THE COURT: THANK YOU VERY MUCH.

12 MADAM CLERK, PUBLISH THE VERDICT.

13 MADAM CLERK: INDICTMENT NUMBER 2007-GS-26-3388,
14 THE STATE OF SOUTH CAROLINA V. BRIAN KENDRICK SPEARS AS TO
15 THE CHARGE OF MURDER OF AARON HAMMONDS WE THE JURY
16 UNANIMOUSLY FIND THE DEFENDANT GUILTY.

17 INDICTMENT NUMBER 2007-GS-26-3387, THE STATE OF
18 SOUTH CAROLINA V. BRIAN KENDRICK SPEARS AS TO THE CHARGE OF
19 ASSAULT AND BATTERY WITH INTENT TO KILL KRYSTAL FOWLER WE
20 THE JURY UNANIMOUSLY FIND THE DEFENDANT GUILTY.

21 INDICTMENT NUMBER 2007-GS-26-3389, THE STATE OF
22 SOUTH CAROLINA V. BRIAN KENDRICK SPEARS AS TO THE CHARGE OF
23 ASSAULT AND BATTERY WITH INTENT TO KILL DJUAN QUINTELL
24 MONROE WE THE JURY UNANIMOUSLY FIND THE DEFENDANT GUILTY.

25 INDICTMENT NUMBER 2007-GS-26-3390, THE STATE OF

1 THE COURT: ARE YOU READY FOR SENTENCING?

2 MS. PRATT: YES, YOUR HONOR, I WOULD HAVE
3 OBVIOUSLY SOME MOTIONS.

4 THE COURT: THAT'S WHAT I MEANT.

5 MS. PRATT: I'M SORRY, YOUR HONOR, I WAS NOT
6 AWARE THAT YOU WOULD HAVE ME DO MOTIONS IN FRONT OF THE
7 JURY.

8 THE COURT: THE JURY HAS COMPLETED THEIR WORK.
9 I'M GOING TO LET YOU MAKE YOUR MOTIONS RIGHT HERE.

10 MS. PRATT: THANK YOU, YOUR HONOR, I'M SORRY I
11 WASN'T AWARE OF THE PROCEDURE.

12 YOUR HONOR, AT THIS TIME I WOULD MAKE, FIRST OF
13 ALL I WOULD RENEW EVERY MOTION THAT I HAVE MADE THROUGHOUT
14 THE TRIAL INCLUDING MY MOTION FOR A DIRECTED VERDICT AND MY
15 MOTION AT THE END OF THE CASE AS IT WENT TO THE JURY.

16 I WILL BE AT THIS POINT ASKING FOR A MOTION IN
17 ARREST OF JUDGMENT. WHILE I UNDERSTAND THAT WE HAVE BEEN
18 IN DELIBERATIONS FOR SOME EIGHT HOURS, FOUR HOURS OF THAT
19 WAS LISTENING TO TESTIMONY MUCH OF WHAT CAME IN IN THE
20 TRIAL, WAS EMOTIONAL AND APPEALED TO THE SENSES AND THERE
21 WERE THINGS THAT WOULD, WOULD CAUSE A PERSON TO BE
22 EMOTIONAL THAT MAY HAVE HAD NOTHING TO DO WITH THE ACTUAL
23 CRIME SINCE THEY HAPPENED AFTERWARDS. BECAUSE OF THAT,
24 YOUR HONOR, AND BECAUSE I BELIEVE THAT THERE MAY HAVE BEEN
25 AN EMOTIONAL APPEAL AND EMOTIONAL INVOLVEMENT IN THIS I

1 WOULD ASK THAT THE JUDGE, THAT YOU SET ASIDE THIS VERDICT
2 AND DIRECT A VERDICT OF NOT GUILTY.

3 THE COURT: YES, MA'AM, AND, MS. PRATT, LET ME
4 COMMEND YOU ON YOUR ZEALOUS REPRESENTATION OF YOUR CLIENT.
5 YOU HAVE DONE AN EXCELLENT JOB. I DON'T THINK ANYONE CAN
6 FAULT YOU, HOWEVER THE EVIDENCE IN THIS CASE CERTAINLY
7 SUPPORTS THE VERDICT THAT HAS BEEN RENDERED AND I WOULD
8 RESPECTFULLY DENY YOUR MOTIONS, THANK YOU.

9 MS. PRATT: THANK YOU, YOUR HONOR.

10 THE COURT: ALL RIGHT, MR. SPEARS, MS. PRATT?

11 MS. PRATT: THANK YOU, YOUR HONOR. YOUR HONOR,
12 I DON'T KNOW THE BASIS BUT THE JURY HAS MADE THEIR
13 DECISION. I DON'T KNOW WHETHER THEY THOUGHT HE WAS THE
14 SHOOTER OR WAS AN ACCOMPLICE. WHAT I KNOW IS THAT THIS IS
15 A MAN WHO IS A YOUNG MAN WHO HAS COME FROM A BACKGROUND
16 WHERE HE HAS JUST A 9TH GRADE EDUCATION. HIS PARENTS WERE
17 SEPARATED. HE GREW UP IN A VERY DIFFICULT AREA. HE WAS
18 SENT TO, HE SPENT SOME OF HIS TIME IN PRISON BECAUSE OF GUN
19 CHARGES. THINGS ARE DIFFERENT IN NORTH CAROLINA, THINGS
20 THAT PROBABLY WE WOULD CHANGE OR DO DIFFERENTLY IN HORRY
21 COUNTY. THE SUPPORT SYSTEMS AREN'T THERE THAT THE
22 SITUATIONS THAT MIGHT HAVE HELPED THIS YOUNG MAN IN GETTING
23 INVOLVED WITH THIS GROUP AND DOING THE THINGS THAT HE WAS.

24 I THINK THAT THE GANG INVOLVEMENT THAT HE HAD WAS
25 HIS WAY OF SEEKING FOR FAMILY AND HIS WAY OF SEEKING A

1 GROUP. I DON'T KNOW THAT WHEN HE GOT INVOLVED WITH THEM AT
2 THE AGE OF 13 OR 14 THAT HE HAD ANY IDEA WHERE IT WOULD
3 LEAD HIM OR THE KINDS OF THINGS THAT MIGHT BECOME NORMAL
4 FOR HIM.

5 I THINK THAT THE WRITINGS THAT HE HAD THAT
6 PROBABLY SHOCKED THE CONSCIOUS OF ALL OF US WERE THINGS
7 THAT THEY TALKED ABOUT ON A REGULAR WAY SO THAT IT DIDN'T
8 SEEM TO BE A DIFFICULT THING. I DON'T THINK THAT THIS IS
9 AN EVIL MAN. I HAVE KNOWN HIM NOW FOR THREE YEARS. I'VE
10 MET WITH HIM REGULARLY. I'VE TALKED TO HIM. HE'S
11 INTELLIGENT. HE IS HARD WORKING. HE IS ABLE TO
12 COMMUNICATE IN SUCH A BEAUTIFUL FASHION. HE HAS ART. HE'S
13 JUST NOT A LIFE TO THROW AWAY AND I WOULD ASK THE COURT IN
14 DEFERENCE TO THAT EVEN THOUGH THIS WAS A DANGEROUS CRIME,
15 AND I UNDERSTAND -- I'VE LIVED IN MYRTLE BEACH FOR 30 YEARS
16 NOW, THAT'S ALMOST BEING A LOCAL -- AND I UNDERSTAND THAT
17 WE DON'T LIKE THE KINDS OF THINGS THAT CAN HARM SO MANY
18 PEOPLE AS THIS ONE COULD HAVE. BUT AS I SAY WITH THIS
19 YOUNG MAN AND THE INCIDENT AND THE WAY IT CAME DOWN AND THE
20 FACT THAT, THAT HE COMES FROM A BACKGROUND THAT HE DOES I
21 ASK THAT THE COURT IN DEFERENCE TO THAT AND ALSO IN
22 DEFERENCE TO THE VERY LOW SENTENCE THAT THE CODEFENDANT WHO
23 VERY LIKELY MAY HAVE BEEN THE ACTUAL SHOOTER RECEIVED THAT
24 THE COURT CONSIDER NOTHING MORE THAN 30 YEAR LIFE ON THE
25 SITUATION.

1 THE COURT: MS. ELDER?

2 MS. ELDER: THANK YOU, YOUR HONOR. AS YOUR
3 HONOR KNOWS MR. SPEARS HAS NOT HAD A LONG TIME TO GET A
4 RECORD AS AN ADULT BUT HE DOES IN FACT HAVE A CONVICTION IN
5 2002 FOR CARRYING A CONCEALED WEAPON. HE ALSO HAS ANOTHER
6 CONVICTION FOR A WEAPONS OFFENSE IN 2006. HE WAS ON ACTUAL
7 PROBATION AT THE TIME OF THIS MURDER. HE SHOULDN'T HAVE
8 BEEN IN SOUTH CAROLINA AT ALL.

9 HE COMMITTED THE, YOU HEARD EVIDENCE ABOUT THE
10 SHOOTING AT WALMART. YOU HEARD THAT FROM HIS SISTER. YOU
11 ALSO HAD AN OPPORTUNITY, AND IT'S A COURT'S EXHIBIT OF THE
12 POLICE INCIDENT REPORT WHEN THEY RESPONDED TO THAT
13 INCIDENT, THE I.D. ON THE VIDEO WAS SUCH THAT WE, THAT THEY
14 COULD NOT CHARGE MR. SPEARS AT THAT TIME.

15 YOU'RE ALSO, YOUR HONOR HAS HAD A UNIQUE
16 OPPORTUNITY THAT THIS JURY DID NOT GET TO HEAR THE GANG
17 LYRICS THAT HE WROTE WHILE HE WAS IN JAIL AND THIS BOOK IS
18 ONLY A PIECE OF THOSE.

19 THE COURT: I HAVE SEEN MANY OF THEM.

20 MS. ELDER: AND AS YOUR HONOR CAN RECALL WHEN WE
21 WERE DOING THOSE MOTIONS OUTSIDE THE PRESENCE OF THE JURY
22 EVERYTHING I READ TALKED ABOUT A COMPLETE DISREGARD FOR
23 LIFE. IT TALKED ABOUT KILLING. IT TALKED ABOUT MURDER.
24 IT TALKED ABOUT ROBBERY. IT TALKED ABOUT GUNS, ALMOST
25 EVERY SINGLE LINE WAS ABOUT THAT. HE HAS GLORIFIED

1 VIOLENCE. HE HAS GOT THOSE TATTOOS SINCE HE'S BEEN
2 INCARCERATED.

3 YOUR HONOR, MR. SMITH TESTIFIED THAT HE CAME
4 FORWARD BECAUSE OF HIS CHILDREN. WHAT HE DIDN'T, WASN'T
5 ABLE TO TESTIFY TO IN FRONT OF THE JURY WAS THE REASON WE
6 WERE ABLE TO INTERCEPT THAT LETTER IN NORTH CAROLINA IS
7 BECAUSE HE GAVE US THAT INFORMATION TO INTERCEPT IT.
8 THAT'S WHY WE CALLED NORTH CAROLINA DEPARTMENT OF
9 CORRECTIONS. HE CAME FORWARD BECAUSE HE SAID HE COULD NOT
10 LIVE WITH HIMSELF BECAUSE OF ALL THE THREATS THAT BRIAN
11 SPEARS MADE WHILE HE WAS IN JAIL TO THE LIFE OF NOT ONLY
12 JEFFREY BETHEA BUT OF JEFFREY BETHEA'S WIFE, HIS CHILDREN,
13 THE PEOPLE IN THIS CASE, INVOLVED IN THIS CASE, THE VILE
14 THINGS THAT MR. SPEARS INDICATED THAT HE WAS GOING TO DO TO
15 THE PEOPLE INVOLVED IN THIS CASE.

16 YOUR HONOR, IN ADDITION TO THAT THAT'S NOT ENOUGH
17 MR. SPEARS SINCE HE'S BEEN OUT AT THE JAIL HE GOT SOMETHING
18 RIGHT, HE WAS MOVED AROUND QUITE A BIT BECAUSE HE CAN'T
19 EVEN BE MAINTAINED INSIDE A JAIL.

20 YOUR HONOR, I KNOW HE IS YOUNG BUT YOU HAVE SEEN
21 SOME OF THE THINGS HE'S CAPABLE OF, SOME OF THE THINGS HE
22 GLORIFIES AND BELIEVES IN, AND I THINK IF ANY CASE DESERVES
23 A LIFE SENTENCE THIS IS THE CASE FOR THAT.

24 THE COURT: THANK YOU, MS. ELDER, AND AGAIN I
25 WANT TO THANK YOU AND MR. FILIBERTO FOR THE JOB THAT YOU

1 HAVE DONE HERE THIS WEEK AS WELL.

2 MS. ELDER: THANK YOU, YOUR HONOR.

3 THE COURT: YOU ARE IN THE SAME CATEGORY IN MY
4 VIEW AS, AS MS. PRATT. YOU'RE EXCELLENT ATTORNEYS AND YOU
5 HAVE ZEALOUSLY REPRESENTED THE STATE.

6 MR. SPEARS, DO YOU WANT TO TELL ME ANYTHING?

7 DEFENDANT SPEARS: YOUR HONOR, I JUST ASK YOU
8 FOR YOUR MERCY, THANK YOU.

9 THE COURT: ALL RIGHT, MR. SPEARS, LET ME, LET
10 ME SAY THIS. I DON'T KNOW THE BASIS FOR THE JURY'S FINDING
11 OF GUILT, WHETHER IT BE THAT THE JURY FELT THAT YOU WERE
12 THE SHOOTER OR YOU WERE AN ACCOMPLICE. IT REALLY DOESN'T
13 MAKE ANY DIFFERENCE. THE JURY HAS DETERMINED THAT YOU ARE
14 GUILTY OF THE MOST SERIOUS CRIME THAT WE HAVE IN THIS STATE
15 AND THAT IS MURDER.

16 I BELIEVE, MR. SPEARS, THAT YOU ARE A SERIOUSLY
17 MISGUIDED YOUNG MAN. I HAVE READ SOME OF YOUR LYRICS. I
18 HAVE HEARD ABOUT, ABOUT YOUR LIFESTYLE. MR. SPEARS, THAT'S
19 NOT LIFE. THAT'S NOT THE WAY IT SHOULD BE IN ANY SOCIETY.
20 YOUR ACTIONS, YOUR THOUGHTS, YOUR FRIENDS ARE NOT WHAT WE
21 CAN TOLERATE. I THINK IN GREAT PART THAT'S BECAUSE OF YOUR
22 IMMATURITY.

23 PERHAPS YOU BELIEVE THAT BY HAVING A FIREARM OR
24 HAVING A GUN AND CARRYING ABOUT A GUN AND TAKING LIFE SO
25 CHEAPLY AS YOU AND YOUR ASSOCIATES SEEM TO DO THAT IT MAKES

1 YOU A MAN, IT MAKES YOU AN ADULT. LET ME TELL YOU IT
2 DOESN'T. I'VE WATCHED MANY DOCUMENTARIES. I'VE BEEN TO
3 MANY SEMINARS ABOUT GANGS AND I CAN TELL YOU THAT IN MOST
4 CASES AS THESE MEMBERS FINALLY MATURE THEY LEAVE IT AND
5 THEY REALIZE WHAT A DESTRUCTIVE INFLUENCE THAT IS ON THEIR
6 COMMUNITY AND THEIR SOCIETY.

7 YOU CALL YOURSELF GROWTH AND DEVELOPMENT BUT YOU
8 ALL CARRY GUNS, YOU SHOOT AT EACH OTHER, YOU QUARREL AND
9 YOU FIGHT. YOU'RE BASED IN VIOLENCE. THAT IS SO CONTRARY
10 TO WHAT YOU TRY TO TELL PEOPLE YOU ARE. THAT'S NOT HOW IT
11 IS.

12 I HOPE, MR. SPEARS, THAT YOU'LL BE ABLE TO, TO
13 MAKE SOMETHING OUT OF YOUR LIFE. YOU HAVE TO HAVE A
14 SUBSTANTIAL PERIOD OF INCARCERATION. YOUR LAWYER KNOWS
15 THAT. YOUR LAWYER KNOWS THAT THERE'S A 30-YEAR MINIMUM
16 MANDATORY INVOLVED HERE. SHE KNOWS THAT.

17 YOU WILL BE AN OLD MAN WHEN YOU ARE RELEASED FROM
18 PRISON OR ON THE WAY TO BEING ONE. I HOPE THAT YOU CAN
19 TURN YOURSELF AROUND AND THAT YOU CAN CONTRIBUTE TO
20 SOCIETY. IN SENTENCING YOU I PLACE GREAT EMPHASIS ON THE
21 FACT THAT YOUR CODEFENDANT, AND AS I SAID I DON'T KNOW
22 WHICH ONE OF YOU WERE THE TRIGGER MAN, I JUST KNOW THAT
23 THIS JURY HAS TOLD ME THAT YOU WERE INVOLVED IN IT, AND I
24 BELIEVE THAT YOU AND MR. BETHEA SET OUT TO AND DID MURDER
25 THE VICTIM IN THIS CASE.

1 I'VE CONSIDERED THE FACT THAT HE'S WALKING AWAY
2 WITH A RELATIVELY MINOR SENTENCE. I'VE CONSIDERED THE FACT
3 THAT HE'S OLDER THAN YOU. I'VE CONSIDERED THE FACT THAT HE
4 HAS TESTIFIED THAT HE INITIATED THIS WHOLE INCIDENT, THAT
5 HE WAS THE ONE WHO TOLD YOU TO COMMIT THIS MURDER. I'VE
6 CONSIDERED THE FACT THAT YOU ARE JUST A YOUNG MAN, THAT YOU
7 WERE ONLY 19 I THINK WHEN THIS OCCURRED. WHAT A WAY TO
8 START YOUR LIFE. WHAT A WAY TO WASTE, WASTE YOUR
9 PRODUCTIVE ADULTHOOD. I AM SORRY TO HAVE TO SENTENCE YOU,
10 MR. SPEARS, BUT I MUST.

11 THE SENTENCE OF THIS COURT AS TO THE OFFENSE OF
12 MURDER IS THAT YOU BE INCARCERATED AT THE STATE DEPARTMENT
13 OF CORRECTIONS FOR A PERIOD OF 30 YEARS.

14 AS TO EACH COUNT OF ASSAULT AND BATTERY WITH
15 INTENT TO KILL IT'S MY SENTENCE THAT YOU BE INCARCERATED
16 FOR A PERIOD OF 20 YEARS. THESE SENTENCES ARE TO RUN
17 CONCURRENTLY. GOOD LUCK TO YOU, MR. SPEARS. ANYTHING
18 FURTHER FROM THE STATE?

19 MS. ELDER: NO, YOUR HONOR, IF I CAN GET A
20 SENTENCING SHEET?

21 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

22 MS. PRATT: NO, YOUR HONOR.

23 THE COURT: LADIES AND GENTLEMEN OF THE JURY, I
24 WANT TO THANK YOU FOR THE HARD WORK YOU DID. THIS WAS NOT
25 AN EASY CASE I CAN TELL YOU. I DID NOT KNOW HOW YOU WERE

1 GOING TO, TO VOTE. I DID NOT KNOW WHEN THIS CASE BEGAN
2 WHAT THE OUTCOME WOULD BE AND I'LL BE QUITE HONEST WITH YOU
3 I COULD HAVE SEEN YOU GOING EITHER WAY, BUT YOUR COLLECTIVE
4 LOGIC IS MUCH BETTER THAN MINE. I'M JUST ONE PERSON.
5 THAT'S THE REASON WE HAVE THE 12 JURORS. YOU LISTENED
6 INTENTLY. I HAVE NEVER HAD A JURY COME BACK AND WANT TO
7 HEAR FIVE MORE HOURS OF TESTIMONY, NEVER HAD THAT HAPPEN.
8 THAT TELLS ME HOW DILIGENT YOU WERE IN PERFORMING YOUR
9 DUTY. I WANT TO THANK YOU FOR WHAT YOU'VE DONE. AS I SAID
10 IT IS A DIFFICULT PROCESS TO, TO JUDGE ANOTHER HUMAN BEING
11 BUT YOU HAVE STEPPED UP TO THE PLATE. YOU ACCEPTED YOUR
12 RESPONSIBILITY. YOU FULFILLED YOUR DUTY.

13 I HOPE THAT IN THE FUTURE YOU'LL HAVE AN
14 OPPORTUNITY OR I'LL HAVE AN OPPORTUNITY TO RUN INTO YOU OR
15 SEE YOU. I MIGHT NOT RECOGNIZE YOU BUT IF YOU RECOGNIZE ME
16 PLEASE DON'T HESITATE TO STOP ME WHEREVER I AM AND REMIND
17 ME THAT YOU WERE ON MY JURY. I'D LOVE TO TALK WITH YOU
18 ABOUT YOUR EXPERIENCE AND NOT ABOUT THE CASE JUST JURY
19 SERVICE AND, AND WHAT YOU LEARNED OR WHAT YOU THOUGHT ABOUT
20 THIS PROCESS. IT'S A GREAT PROCESS. IT'S THE ONLY PROCESS
21 THAT I KNOW OF IN THE WORLD THAT GIVES THE DEFENDANT THE
22 PROTECTION OF 12 OF HIS FELLOW CITIZENS.

23 THANK YOU AGAIN, I APPRECIATE YOU BEING HERE.
24 YOU MAY DISCUSS THIS CASE WITH ANYONE YOU PLEASE. YOU MAY
25 DECIDE YOU DON'T WANT TO DISCUSS THIS CASE WITH ANYONE.

1 THAT IS YOUR PREROGATIVE BUT IF YOU ARE PRESSED BY ANYONE
2 AND YOU TELL THEM YOU DO NOT WANT TO DISCUSS THIS CASE OR
3 YOU'RE BOTHERED ABOUT THIS CASE OR CONTACTED ABOUT THIS
4 CASE AND YOU ASK THAT PERSON NOT TO CONTACT YOU AND THEY
5 PERSIST YOU BRING IT TO MY ATTENTION. YOU CONTACT SHERIFF
6 PHILLIP THOMPSON AND WE'LL TAKE CARE OF IT FOR YOU. OKAY.
7 THANK YOU VERY MUCH. MR. ROPP, WOULD YOU PLEASE ESCORT THE
8 JURY OUT OF THE COURTROOM?

9 OFFICERS, COULD YOU MAKE SURE THAT WE HAVE
10 SECURITY FOR THESE JURORS GOING TO THEIR AUTOMOBILES.
11 THANK YOU VERY MUCH, IT'S BEEN A PLEASURE.

12 (WHEREUPON, THE JURY WAS EXCUSED AT 10:47 P.M.)
13 END OF REQUESTED TRANSCRIPT- - - -

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HULL/MBPD

WITNESSES

CERTIFIED COPY

2010 MAY 20 AM 9:04

Melanie Magallon-Ward

CLERK OF COURT
HORRY COUNTY

ARREST WARRANT NO. _____

J-735111

CDR: 0014 16-03-0620

CDR:

DOA: 07/08/2007

ACTION OF GRAND JURY

TRAVIS DILL

AUG 23 2007

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury Date:

DOCKET NO. 2007-GS-26-3387

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY

85959-3

DEE

COURT OF GENERAL SESSIONS

AUGUST

TERM 2007

THE STATE

vs.

BRIAN FREDERICK SPEARS B/M

DOB

SSN:

ATTORNEY: BARBARA WILSON PRATT

INDICTMENT FOR:
ASSAULT AND BATTERY WITH INTENT TO KILL

ORIGINAL

J. GREGORY HEMBREE, SOLICITOR

HULL/MBPD
WITNESSES

DOCKET NO. 2007-GS-26-3388

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY
85959-3 DEE

COURT OF GENERAL SESSIONS

AUGUST TERM 2007

THE STATE

vs.

BRIAN KENDRICK SPEARS B/M

DOB:
SSN:

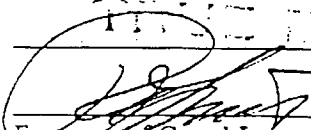
ARREST WARRANT NO. _____

J-735112
CDR: 0116 16-03-0010,0020

CDR: _____

DOA: 07/08/2007

ACTION OF GRAND JURY


AUG 9 3 2007
Foreman of Grand Jury

ATTORNEY: BARBARA WILSON PRATT

VERDICT

Foreman of Petit Jury Date: _____

INDICTMENT FOR:
MURDER

ORIGINAL

J. GREGORY HEMBREE, SOLICITOR

CLERK OF COURT
HORRY COUNTY
Barbara Wilson Pratt
2010 MAY 20 AM 9:04
CERTIFIED COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

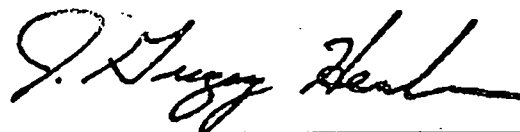
INDICTMENT FOR:
MURDER

At a Court of General Sessions, convened on August 23, 2007, the Grand Jurors of Horry County present upon their oath:

MURDER
CDR: 0116 16-03-0010,0020

That BRIAN KENDRICK SPEARS along with codefendants did in Horry County, on or about May 27, 2007, willfully, feloniously, and intentionally kill the victim, Aaron Hammonds, with malice aforethought, either express or implied, by means of shooting the victim, and the victim did die as a proximate result thereof on or about May 27, 2007 in Horry County, in violation of Section 16-3-10, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

CERTIFIED COPY

2010 MAY 20 AM 9:04

Melanie [unclear]

CLERK OF COURT
HORRY COUNTY

HULL/MBPD
WITNESSES

ARREST WARRANT NO. _____

J-735113
CDR: 0014 16-03-0620

CDR: _____

DOA: 07/08/2007

ACTION OF GRAND JURY

[Signature]
AUG 23 2007
Foreman of Grand Jury

VERDICT

Foreman of Petit Jury Date: _____

DOCKET NO. 2007-GS-26- 3389

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY
85959-3 DEE

COURT OF GENERAL SESSIONS

AUGUST TERM 2007

THE STATE

vs.

BRIAN FREDERICK SPEARS B/M

DOB: _____
SSN: _____

ATTORNEY: BARBARA WILSON PRATT

**INDICTMENT FOR:
ASSAULT AND BATTERY WITH INTENT TO KILL**

J. GREGORY HEMBREE, SOLICITOR

2010 MAY 20 AM 9:04
CERTIFIED COPY
Horry County Clerk of Court
[Signature]

HULL/MBPD
WITNESSES

DOCKET NO. 2007-GS-26- 3390

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY
85959-3 DEE

COURT OF GENERAL SESSIONS

AUGUST TERM 2007

THE STATE

vs.

BRIAN FREDERICK SPEARS B/M

DOB:
SSN:

ARREST WARRANT NO. _____


J-735114
CDR: 0014 16-03-0620

CDR: _____

DOA: 07/08/2007

ACTION OF GRAND JURY

TRUE BILL


AUG 23 2007
Foreman of Grand Jury

VERDICT

Foreman of Petit Jury Date: _____

ATTORNEY: BARBARA WILSON PRATT

INDICTMENT FOR:
ASSAULT AND BATTERY WITH INTENT TO KILL

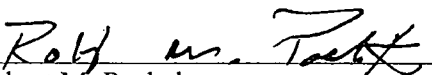
J. GREGORY HEMBREE, SOLICITOR

2010 MAY 20 AM 9:04
CERTIFIED COPY
CLERK OF COURT
HORRY COUNTY

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

August 22nd, 2011


Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT