

VOLUME THREE OF THREE

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Orangeburg County

Honorable Kristi Lea Harrington, Circuit Court Judge

MARIO SHIVERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000855

APPENDIX

TAYLOR D GILLIAM
Appellate Defender

ALAN WILSON
Attorney General

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

RUSTON NEELY
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

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CROSS - JAMES SHUMPERT BY MR. KOGER

836

- 1 YOU WOULD PARTICIPATE OR HAVE SOME INPUT IN
2 WHETHER A SEARCH WARRANT IS EXECUTED OR NOT,
3 CORRECT?
- 4 A. CORRECT.
- 5 Q. ALRIGHT. OF COURSE, THE MAGISTRATE - - -
6 A. RIGHT, YES.
- 7 Q. --- SIGNS OFF ON IT, BUT YOU PROVIDE THE INPUT TO
8 THE MAGISTRATE?
- 9 A. YES, SIR.
- 10 Q. OKAY. NOW, I THINK YOU TESTIFIED TOO THAT YOU
11 RECEIVED SOME INFORMATION SOON AFTER THE INCIDENT
12 FROM LIEUTENANT CARTER?
- 13 A. ABOUT THE TYPES OF WEAPONS WE'RE LOOKING FOR?
- 14 Q. RIGHT.
- 15 A. YES, SIR.
- 16 Q. AND WHAT WERE THOSE TYPES OF WEAPONS AGAIN?
- 17 A. A NINE MILLIMETER, A FORTY CALIBER AND ANY TYPE
18 OF WEAPON THAT WOULD SHOOT A SIX, I MEAN, A SEVEN
19 POINT SIX TWO.
- 20 Q. OKAY. AND YOU ARRESTED MR. SHIVERS WITH A
21 WARRANT THAT WAS OBTAINED ON MARCH EIGHTEENTH,
22 CORRECT?
- 23 A. YEAH - LET ME LOOK BACK FOR SURE.
- 24 Q. YOU CAN REFRESH YOUR MEMORY.
- 25 A. CORRECT, YES, SIR.

CROSS - JAMES SHUMPERT BY MR. KOGER

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1 Q. OKAY. AND ACCORDING TO THE WARRANT WHAT IS THE
2 DATE OF HIS ARREST?

3 A. THE TWENTY-FIRST.

4 Q. AND BY VIRTUE OF THAT, THE ADDRESSES, OR ADDRESS
5 ON THE WARRANT YOU HAD CREDIBLE INFORMATION WHERE
6 HE WAS STAYING AT THAT PARTICULAR TIME, CORRECT?

7 A. I BELIEVE, YES, SIR, I THINK, AND CORRECT ME IF
8 I'M WRONG, BUT I BELIEVE THE ADDRESS THAT WE GOT
9 WAS OFF OF HIS DMV PHOTO.

10 Q. OKAY. DOES [REDACTED] LEQUINTA DRIVE HERE IN
11 ORANGEBURG JOG YOUR MEMORY?

12 A. HOLD ON ONE SECOND.

13 Q. YOU CAN REVIEW THE WARRANT. I HAVE A COPY OF THE
14 WARRANT OR ONE OF THE WARRANTS IF YOU WANT TO
15 VIEW IT.

16 A. OKAY. I'LL LOOK AT YOURS. YES, SIR.

17 Q. OKAY. AND IT'S ALSO ANOTHER ADDRESS ON THERE?

18 A. SOMEBODY HAND WRITTEN IN THERE, [REDACTED]
19 RODNEY STREET.

20 Q. AND FROM YOUR KNOWLEDGE, IS RODNEY STREET IN
21 ORANGEBURG COUNTY?

22 A. I BELIEVE SO. I'M NOT SURE WHERE IT IS, BUT I
23 BELIEVE SO.

24 Q. OKAY. IS IT IN THE CITY OF ORANGEBURG?

25 A. IT COULD BE, I DON'T KNOW.

CROSS - JAMES SHUMPERT BY MR. KOGER

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1 Q. OKAY. SO, AROUND MARCH, A COUPLE OF DAYS AFTER,
2 LIEUTENANT CARTER COMMUNICATED TO YOU THE TYPE OF
3 WEAPONS THAT YOU WERE LOOKING FOR?

4 A. YES, SIR.

5 Q. OKAY. AND THEN YOU TOOK THE STATEMENT FROM MR.
6 TYLER ON MARCH EIGHTEENTH?

7 A. YES, SIR.

8 Q. OKAY. AND MR. SHIVERS WAS IMPLICATED IN THAT
9 PARTICULAR STATEMENT?

10 A. YES, SIR.

11 Q. OKAY. AND THAT WAS THE BASIS FOR HIS ARREST?

12 A. NO, THAT WASN'T THE ONLY BASIS FOR HIS ARREST.

13 Q. OKAY. ALRIGHT.

14 A. MS. PARSLEY HAS ALSO PICKED HIM OUT.

15 Q. OKAY. DID YOU EVER EXECUTE A SEARCH WARRANT OF
16 [REDACTED] LEQUINTA DRIVE?

17 A. NO, I DID NOT.

18 Q. DID YOU EVER EXECUTE A SEARCH WARRANT FOR [REDACTED]
19 [REDACTED] RODNEY STREET?

20 A. NO, SIR, I DID NOT.

21 Q. DID YOU EVER EXECUTE A SEARCH WARRANT FOR THE
22 WOODBINE LOCATION WITH CHRISTOPHER AND RALPH
23 COLEMAN?

24 A. NO, SIR.

25 Q. OKAY. DID YOU EVER EXECUTE A SEARCH WARRANT FOR

1 THE RESIDENCE, OR ADDRESS OF DANNY RYANT?

2 A. NO, SIR.

3 Q. OKAY. DID YOU EVER EXECUTE A SEARCH WARRANT FOR
4 PATRICK TYLER'S RESIDENCE?

5 A. NO, SIR.

6 Q. OKAY. WHAT EFFORTS DID ORANGEBURG COUNTY
7 SHERIFF'S OFFICE PLACE FOR IN TRYING TO LOCATE
8 THESE MURDER WEAPONS?

9 A. WELL, THIS IS, IN MY EXPERIENCE, SIR, NORMALLY
10 WHEN YOU HAVE INDIVIDUALS THAT COMMIT CRIMES AND
11 THEY TURN THEMSELVES IN THEY'RE NOT GOING TO
12 LEAVE THE EVIDENCE AT THEIR HOUSE ONCE THEY TURN
13 THEMSELVES IN. SO, I MEAN, I JUST DIDN'T SEE NO
14 POINT IN GOING AND TEARING UP OTHER PEOPLE'S
15 HOUSES ONCE THESE GUYS TURNED THEMSELVES IN. I
16 MOST CERTAIN THEY'RE NOT GOING TO LEAVE A MURDER
17 WEAPON AT THEIR HOME, SO THAT'S WHY THE WARRANTS
18 WASN'T EXECUTED.

19 Q. DID YOU LOCATE AROUND, ANY TYPE OF SURROUNDING
20 AREAS, WOODED AREAS AROUND WHERE THESE DEFENDANTS
21 WAS LOCATED?

22 A. THEY TURNED THEMSELVES IN.

23 Q. BUT DID YOU -- SO, YOUR TESTIMONY IS THAT WE'VE
24 STILL GOT MURDER WEAPONS OUT HERE?

25 A. YES.

CROSS - JAMES SHUMPERT BY MR. KOGER

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1 Q. AND THE ORANGEBURG COUNTY SHERIFF'S OFFICE DIDN'T
2 PUT FORTH ANY EFFORT TO FIND THESE MURDER
3 WEAPONS?

4 A. NO, THAT IS NOT WHAT I'M SAYING. AND IT'S A SCARY
5 THOUGHT ONE OF THE WEAPONS IS STILL OUT THERE,
6 BUT WHAT I'M SAYING IS, EVEN ON THE WARRANT THAT
7 ADDRESS WITH A SIMILAR WARRANT IS TOTALLY
8 DIFFERENT FROM THE ADDRESS WHERE HE RESIDES. WE
9 ONLY COULD GET THE ADDRESSES THAT'S OFF THE DMV
10 PHOTOS BECAUSE YOU CANNOT OBTAIN A WARRANT
11 WITHOUT AN ADDRESS. SO, WE GO BY THE LAST KNOWN
12 ADDRESS. SO, IF YOU'RE ASKING ME DID WE PUT FORTH
13 AN EFFORT, WE PUT FORTH THE BEST EFFORT THAT WE
14 CAN TO FIND WEAPONS. AND I THINK WE DID A GOOD
15 JOB BECAUSE WE GOT ONE OF THEM BACK.

16 Q. DURING THIS INVESTIGATION THOUGH, IN RELATION TO
17 MARIO SHIVERS, Y'ALL WAS ABLE TO ASCERTAIN HIS
18 CORRECT RESIDENCE, CORRECT?

19 A. NO.

20 Q. AFTER HE WAS LOCKED UP Y'ALL WERE ABLE - - -

21 A. AFTER HE WAS LOCKED UP.

22 Q. OKAY. ALRIGHT.

23 A. AFTER HE TURNED HIMSELF IN.

24 Q. SO, YOU HAD THE INFORMATION?

25 A. AFTER HE TURNED HIMSELF IN.

1 Q. AFTER HE TURNED HIMSELF IN?

2 A. RIGHT.

3 Q. DID Y'ALL MAKE ANY EFFORT WITH THAT INFORMATION
4 TO LOOK FOR ANY MURDER WEAPONS?

5 A. ONCE AGAIN, I STATE, ONCE A PERSON TURNS
6 THEMSELVES IN, I MEAN, THEY'RE NOT GOING TO LEAVE
7 EVIDENCE OF A CRIME THEY COMMITTED AT THEIR
8 NORMAL ADDRESS. IT JUST DON'T MAKE SENSE. SO,
9 NO, THERE WAS NO WARRANT TO SEARCH FOR ONE
10 ISSUED.

11 Q. ISN'T IT TRUE, INVESTIGATOR SHUMPERT, THAT THERE,
12 THAT THE ORANGEBURG COUNTY SHERIFF'S OFFICE HAS
13 NOT LOCATED ANY TYPE OF GUN, ANY TYPE OF RIFLE
14 THAT CONNECTS MARIO SHIVERS TO THESE CRIMES?

15 A. NO.

16 MR. KOGER: THANK YOU, NO FURTHER QUESTIONS.

17 THE COURT: ALRIGHT, THANK YOU, SIR.

18 ANYTHING ON REDIRECT?

19 SOLICITOR SORENSON: NO, SIR.

20 THE COURT: ALRIGHT. THANK YOU, LIEUTENANT
21 SHUMPERT, I APPRECIATE IT.

22 LIEUTENANT SHUMPERT: THANK YOU, SIR.

23 THE COURT: LADIES AND GENTLEMEN, I'M GOING TO
24 ASK Y'ALL TO GO BACK -- YOU CAN STEP DOWN, I'M SORRY.
25 I'M TALKING TO THE JURY RIGHT NOW. OKAY?

1 LADIES AND GENTLEMEN, I'M GOING TO ASK Y'ALL TO
2 GO BACK INTO THE JURY ROOM. I'M NOT EXCUSING YOU FOR
3 LUNCH RIGHT NOW, IT'S NOT BECAUSE I'M GOING TO CALL
4 YOU BACK IMMEDIATELY, IT'S BECAUSE I WANT TO TALK WITH
5 THE ATTORNEYS FOR A MINUTE AND DECIDE HOW LONG I'M
6 GOING TO GIVE Y'ALL FOR LUNCH. OKAY? SO, Y'ALL GO
7 BACK IN THE JURY ROOM. AGAIN, YOU HAVE NOT HEARD ALL
8 THE EVIDENCE IN THIS CASE, YOU CANNOT BEGIN TALKING
9 AMONG YOURSELVES ABOUT THIS CASE. OKAY? THANK Y'ALL.
10 (Whereupon, the jury retires
11 to the jury room and the following
12 takes place out of the presence
13 of the jury.)

14 THE COURT: OKAY. NOW, I'M NOT ASKING YOU TO REST
15 ON THE RECORD, BUT IT'S MY UNDERSTANDING THAT'S
16 Y'ALL'S LAST WITNESS?

17 SOLICITOR PASCOE: YES, SIR.

18 THE COURT: OKAY. AND SO, THEN, I KNOW I'VE GOT
19 MOTIONS TO HEAR FROM Y'ALL. OKAY?

20 SOLICITOR PASCOE: OKAY. AND WE'RE GOING TO
21 CHECK AND MAKE SURE EVERYTHING IS IN IF THAT'S OKAY.

22 THE COURT: YEAH.

23 SOLICITOR PASCOE: BUT THE STATE RESTS.

24 THE COURT: RIGHT, RIGHT. NOW, WHEN DO Y'ALL
25 WANT ME TO QUESTION THE WITNESSES, I MEAN, YOUR

1 CLIENTS ABOUT WHETHER OR NOT THEY'RE GOING TO TESTIFY
2 OR NOT?

3 MS. ULLMAN: I WOULD PREFER AFTER THE STATE
4 RESTED AND AFTER WE HAD A MOMENT, AFTER I HAVE A
5 MOMENT TO SPEAK WITH MR. COLEMAN TO SEE WHAT HIS
6 INTENTIONS ARE.

7 THE COURT: OKAY. WELL, THAT'S WHAT I WAS
8 ASKING, DO Y'ALL WANT TO -- BECAUSE I'M TRYING TO FIND
9 OUT WHEN I WANT THE JURY TO COME BACK, BECAUSE IT'S
10 GOING TO TAKE ME SOME TIME, I KNOW, TO LISTEN TO THE
11 MOTIONS, IT'S GOING TO TAKE ME SOME TIME TO GO OVER
12 THE QUESTIONING WITH ALL FIVE OF THEM. SO, AND THEN
13 GO ON AND EAT LUNCH IN BETWEEN?

14 MR. PALMER: I WOULD JOIN IN WHAT JILL SAID, BUT
15 I THINK I'LL NEED MORE THAN A MOMENT. I CAN DO IT OVER
16 THE LUNCH BREAK BUT - - -

17 THE COURT: OKAY. IS THAT WHAT Y'ALL WANT TO DO?
18 AND THEN I'LL QUESTION THEM WHEN WE COME BACK FROM
19 LUNCH. OKAY. WHAT I'M THINKING ABOUT DOING IS
20 LETTING THE JURY -- TELL THE JURY TO COME BACK AT,
21 SAY, TWO. THAT WILL GIVE US TIME TO DO THE MOTIONS
22 AND GO OVER THE QUESTIONS. Y'ALL HAVE A BREAK FOR
23 LUNCH, TALK WITH YOUR CLIENTS. OKAY?

24 ALRIGHT, WOULD YOU TELL THE JURY THEY ARE EXCUSED
25 AND ASK THEM TO BE BACK IN THE JURY ROOM AT TWO?

1 OKAY. THANK YOU.

2 ALRIGHT. ANYTHING FROM THE STATE BEFORE WE
3 BREAK?

4 SOLICITOR SORENSON: NO, YOUR HONOR, THANK YOU.

5 THE COURT: ANYTHING FROM THE DEFENDANTS BEFORE
6 WE BREAK?

7 MS. ULLMAN: NO, SIR.

8 THE COURT: Y'ALL WANT TO DO, ARE YOU GOING TO DO
9 YOUR MOTIONS NOW OR DO YOU WANT TO DO THEM WHEN WE
10 COME BACK?

11 MS. ULLMAN: YOUR HONOR, I DON'T THINK THEY'VE
12 OFFICIALLY RESTED.

13 SOLICITOR SORENSON: WELL, WE CAN STILL DO THEM
14 IF YOU WANT TO, WE'RE GOING TO REST AS LONG AS
15 EVERYTHING IS IN.

16 THE COURT: I MEAN, THEY'RE GOING TO REST WHEN
17 THE JURY COMES -- IT'S MY UNDERSTANDING THEY'RE GOING
18 TO REST WHEN THE JURY COMES BACK.

19 SOLICITOR SORENSON: YES, SIR.

20 THE COURT: AND SO, I WAS JUST TRYING - - -

21 SOLICITOR SORENSON: WE COULD JUST ASK MS. WALKER
22 IF THERE'S ANYTHING THAT'S NOT IN EVIDENCE RIGHT NOW,
23 I MEAN, THAT WILL ANSWER THEIR QUESTION, I MEAN, - - -

24 THE COURT: OKAY. LOOK AND SEE IF THERE'S
25 SOMETHING THAT'S NOT IN EVIDENCE, MS. WALKER.

1 COURT REPORTER: JUST A MINUTE.

2 THE COURT: UNFORTUNATELY, SHE'S GOT TO DO TWO
3 JOBS, SO -- OH, YEAH, YOU WANT TO GET YOUR NOTES.
4 THANK YOU FOR REMINDING ME.

5 COURT REPORTER: SOLICITOR, - - -

6 SOLICITOR SORENSON: UH-HUH.

7 COURT REPORTER: ON SEVENTY-SIX, CRIMINAL
8 INVESTIGATIVE SOMETHING, ID PHOTO LINEUP AND AFFIDAVIT
9 -- OH, THAT'S CHECKED OFF.

10 SOLICITOR SORENSON: YES.

11 COURT REPORTER: I SEE IT. OKAY, HOLD ON.
12 SOLICITOR, COME BACK. STATEMENT OF BUSBY, ID?

13 SOLICITOR SORENSON: YES, THAT'S ID, THAT IS NOT
14 IN.

15 COURT REPORTER: OKAY, JUST ONE MORE. HOLD ON.

16 SOLICITOR SORENSON: THAT SHOULD BE THE ONLY
17 THING.

18 COURT REPORTER: I'VE GOT ONE MORE SHEET. THAT'S
19 IT, THEY ARE ALL IN.

20 THE COURT: OKAY, ONLY ONE PERTAINING TO - - -

21 COURT REPORTER: WITH THE EXCEPTION OF THE
22 STATEMENT OF, NUMBER EIGHTY, THE STATEMENT OF BUSBY IS
23 ONLY ID, IT HAS NOT BEEN PUT IN.

24 THE COURT: ALRIGHT, THANK YOU, MA'AM.

25 AND MR. WISE, YOU WANTED TO CLEAR UP, YOU HAD,

1 WANTED TO ASK QUESTIONS ABOUT STATISTICAL MURDERS AND
2 ROBBERIES OR WHATEVER IN ORANGEBURG, OF LIEUTENANT
3 SHUMPERT, IS THAT CORRECT?

4 MR. WISE: YES, SIR, YOUR HONOR.

5 THE COURT: AND I SUSTAINED THE STATE'S
6 OBJECTION, BUT YOU WANTED TO PUT THE REASONS FOR YOUR
7 REQUEST ON THE RECORD?

8 MR. WISE: I DO, YOUR HONOR, AND THE REASON I
9 WANTED TO DO THAT IS, THERE'S GOING TO COME A POINT
10 WHERE REVIEWING THE CHARGES IN THIS CASE, AND ONE OF
11 THE CHARGES I'M GOING TO ASK THE COURT TO CONSIDER IS
12 THE CHARGE THAT'S BASED ON THE CASE, AND I'M SURE THE
13 COURT'S AWARE OF IT, THAT SAYS, WHEN PEOPLE BAND
14 TOGETHER TO COMMIT AN ILLEGAL ACT LIKE A ROBBERY, AND
15 A MURDER OCCURS, THAT YOU CAN'T CONVICT SOMEBODY WHO
16 IS A PARTICIPANT IF THE MURDER WASN'T A NATURAL AND
17 PROBABLE CONSEQUENCE OF WHAT THEY WERE BANDING
18 TOGETHER TO DO. SO, THE PURPOSE OF ASKING LIEUTENANT
19 SHUMPERT ABOUT THE CRIMES IN ORANGEBURG COUNTY WAS SO
20 THAT THERE WOULD BE A FOUNDATION FOR THE COURT TO BE
21 ABLE TO CONSIDER WHETHER OR NOT IT WAS AN APPROPRIATE
22 CHARGE.

23 THE COURT: OKAY. ALRIGHT, THANK YOU, SIR.

24 MR. WISE: THANK YOU, YOUR HONOR.

25 THE COURT: I APPRECIATE IT. WE HAVE NOW MADE

1 THAT A PART OF THE RECORD, AND THE OBJECTION.

2 ALRIGHT, NOW, DO Y'ALL WANT -- YOU KNOW, IT'S MY
3 UNDERSTANDING THE STATE'S NOT GOING TO PUT UP ANYMORE
4 EVIDENCE, THEY'RE GOING TO REST ON THE RECORD IN FRONT
5 OF THE JURY, YOU KNOW, WHEN WE COME BACK, AND I WAS
6 GOING TO GO AHEAD AND HEAR OUR MOTIONS NOW, BUT IF
7 Y'ALL WANT TO WAIT -- BECAUSE OTHERWISE WE COME BACK,
8 WE REST ON THE RECORD, THEN I LET THEM GO BACK OUT AND
9 THEN YOU MAKE YOUR MOTIONS FOR A DIRECTED VERDICT OR
10 WHATEVER YOU WANT TO MAKE. IS THAT, THAT'S WHAT Y'ALL
11 WERE PLANNING ON DOING, RIGHT?

12 MS. ULLMAN: YES, SIR.

13 THE COURT: OKAY. ANY PROBLEM WITH THEM PUTTING
14 ON THE RECORD THAT THEY ARE RESTING AND THEN WE'LL
15 JUST VERIFY IT WITH THE JURY WHEN THEY COME OUT, AND
16 THEN Y'ALL MAKE YOUR MOTIONS NOW? DOES ANYBODY HAVE
17 ANY PROBLEMS WITH THAT?

18 MR. LACKEY: YOUR HONOR, I THINK IT WOULD BE, IF
19 WE COULD, WE'VE HEARD THIS TESTIMONY TODAY, TO GIVE
20 THE ATTORNEYS HERE A LITTLE TIME TO TALK ABOUT THOSE
21 MOTIONS, SO I DON'T KNOW WHETHER IT WOULD MORE - - -

22 THE COURT: OKAY. THAT WILL BE FINE, WE'LL DO
23 THAT.

24 MR. LACKEY: - EXPEDIENT TO JUST DO IT WHEN WE
25 COME BACK FROM LUNCH.

1 THE COURT: OKAY.

2 MS. ULLMAN: I WOULD ACTUALLY AGREE WITH THAT,
3 AND IF WE'RE TRYING TO SAVE THE JURY COMING OUT JUST
4 TO GO BACK IN, WE CERTAINLY, WHEN WE GET BACK, COULD
5 UNDERSTAND THEY'VE RESTED, MAKE OUR MOTIONS, LET THE
6 JURY COME IN, AND DO THEM RESTING ON THE RECORD.

7 THE COURT: OKAY.

8 MS. ULLMAN: WE DON'T, WE'RE NOT REQUIRING THE
9 MOVEMENT, WE JUST WOULD LIKE A MINUTE TO TALK ABOUT
10 IT.

11 THE COURT: OH, THAT'S NO PROBLEM. I WASN'T
12 TRYING TO HURRY Y'ALL ALONG. OKAY.

13 ALRIGHT, THEN WE'RE IN RECESS. WHAT TIME DO YOU
14 WANT -- THE JURY'S COMING BACK AT TWO, YOU WANT TO BE
15 BACK HERE AT, WHAT, TWENTY TIL TWO? ALRIGHT, Y'ALL,
16 DO Y'ALL WANT TO BE BACK AT TWO? Y'ALL TELL ME.

17 MR. LACKEY: I WOULD SAY, TWO, BECAUSE WE'VE GOT
18 TO TALK TO OUR CLIENTS.

19 THE COURT: OKAY, TWO O'CLOCK. ALRIGHT, WE'LL BE
20 BACK AT TWO. THANK Y'ALL. WE'RE IN RECESS UNTIL TWO.

21 (Recess)

22 THE COURT: OKAY. ANYTHING FROM THE STATE?

23 SOLICITOR SORENSON: NO, YOUR HONOR.

24 THE COURT: ANYTHING FROM THE DEFENDANTS?

25 MS. ULLMAN: YES, SIR.

1 THE COURT: OKAY. MS. ULLMAN.

2 MS. ULLMAN: THANK YOU. I BELIEVE THE STATE HAS
3 RESTED, AND I WOULD MAKE A MOTION FOR A DIRECTED
4 VERDICT ON BEHALF OF MR. COLEMAN. MR. COLEMAN IS HERE
5 TODAY CHARGED WITH THREE CHARGES. I'LL START WITH THE
6 ARMED ROBBERY.

7 THE COURT: YOU MEAN RALPH COLEMAN?

8 MS. ULLMAN: I'M SORRY, YES, SIR, MR. RALPH
9 COLEMAN. ARMED ROBBERY, THE ELEMENTS ARE TAKING
10 PERSONAL PROPERTY FROM ANOTHER WITHOUT THEIR CONSENT,
11 AGAINST THEIR WILL, WITH THE INTENT TO STEAL IT, DOING
12 IT IN THAT PERSON'S PRESENCE, AND DOING SO BY VIOLENCE
13 OR THREAT OF VIOLENCE OR INTIMIDATION. IN THIS
14 SITUATION, YOUR HONOR, WE'VE CERTAINLY HAD EVIDENCE --
15 LET ME REPHRASE THAT, I APOLOGIZE. I DON'T BELIEVE
16 THERE'S BEEN ANY EVIDENCE THAT ANYTHING'S BEEN
17 ACTUALLY TAKEN AWAY FROM ANOTHER. THE INDICTMENT
18 AGAINST RALPH COLEMAN IS AN INDICTMENT THAT STATES
19 THAT ON MARCH TWELFTH, ON OR ABOUT MARCH TWELFTH MR.
20 COLEMAN DID TAKE AND CARRY AWAY THE PERSONAL PROPERTY
21 OF CHARLES PRINGLE. I DON'T THINK THAT THERE'S BEEN
22 ANY EVIDENCE IN THIS CASE AS TO WHAT IT IS THAT WAS
23 ALLEGEDLY TAKEN. REALISTICALLY, THE ONLY WITNESSES
24 THAT WERE PRESENTED THAT COULD POSSIBLY SAY THAT
25 SOMETHING WAS MISSING FROM THAT HOUSE WOULD BE ASHLEY

1 PARSLEY OR SHANNON MITCHELL. CERTAINLY, NOBODY ELSE
2 THAT TESTIFIED HAS PERSONAL KNOWLEDGE AS TO WHAT WAS
3 IN THE HOUSE AND WAS NOT IN THE HOUSE AFTERWARDS.
4 CERTAINLY, SHANNON MITCHELL HAS NO KNOWLEDGE AS TO
5 WHAT WAS NOT IN THE HOUSE AFTERWARDS BECAUSE HE WAS
6 NOT ALLOWED BACK ON THE SCENE AND CERTAINLY NEVER WENT
7 BACK INTO THE HOUSE. ASHLEY PARSLEY DID NOT STATE
8 THAT ANYTHING WAS TAKEN FROM THAT RESIDENCE. THERE'S
9 NO EVIDENCE THAT ANYTHING WAS FOUND ON MR. COLEMAN. I
10 UNDERSTAND THAT HE DID TURN HIMSELF IN BUT THERE'S
11 CERTAINLY NO REASON THEY COULDN'T HAVE TRIED TO SEARCH
12 HIS HOUSE, THEY COULD HAVE GOTTEN A WARRANT.
13 INVESTIGATOR SHUMPERT ACTUALLY STATED THAT HE TURNED
14 HIMSELF IN I THINK ON THE TWENTY-SECOND OR TWENTY-
15 THIRD. HIS WARRANT HAD BEEN ISSUED ON THE NINETEENTH.
16 OBVIOUSLY, THEY HAD PROBABLY CAUSE AGAINST HIM ON THE
17 NINETEENTH, THEY CERTAINLY COULD HAVE GOTTEN A SEARCH
18 WARRANT AND LOOKED FOR ANYTHING TO SEE IF THERE WAS
19 SOMETHING TAKEN. THE ALLEGATION THAT WE'VE HEARD FROM
20 EVERYBODY, INCLUDING PATRICK TYLER, THE ONLY PERSON
21 WHO WAS ALLEGEDLY THERE DURING THIS INCIDENT, SAYS
22 THAT THEY WENT THERE WITH THE INTENT TO ROB MONEY AND
23 DRUGS. THEY FOUND MONEY IN THE KITCHEN, FOUND DRUGS
24 IN THE KITCHEN. I UNDERSTAND THERE MAY BE EVIDENCE
25 THAT THINGS WERE LOOKED FOR, TURNED UP CUSHIONS,

1 THINGS OF THAT NATURE, BUT ARMED ROBBERY IS NOT
2 SOMEONE TRIES TO TAKE SOMETHING, IT'S SOMEONE DID TAKE
3 SOMETHING, AND I CERTAINLY DON'T THINK THERE'S BEEN
4 EVIDENCE OF ANYTHING THAT'S BEEN TAKEN.

5 IN REGARDS TO THE MURDER, YOUR HONOR, I WOULD
6 ALSO MOTION THIS COURT FOR A FINDING, OR A DIRECTED
7 VERDICT. MURDER AS IT IS STATED IS AN INTENTIONAL
8 KILLING OF ANOTHER WITH MALICE AND MALICE
9 AFORETHOUGHT. YOUR HONOR, THERE'S BEEN NO TESTIMONY
10 AT ALL THAT THERE HAS BEEN ANY MALICE AFORETHOUGHT. I
11 THINK ANOTHER WAY TO EXPLAIN THAT IS KIND OF A
12 PREMEDITATION. I UNDERSTAND THE LAW DOESN'T SAY THAT
13 THERE HAS TO BE LOTS OF PREMEDITATION, BUT THE ONLY
14 TESTIMONY HERE THAT WE'VE HEARD IS BASICALLY THAT
15 PEOPLE ENTERED THIS HOUSE WITH THE INTENT TO ROB, THAT
16 THEY RANSACKED THE HOUSE AND THINGS WENT BAD
17 OBVIOUSLY, AND SOMEONE GOT SHOT. CERTAINLY, THAT IS
18 NOT MALICE AFORETHOUGHT. IT MAY BE -- I'M LOOKING FOR
19 THE WORD, I'M SORRY, YOUR HONOR -- IT MAY BE HEAT OF
20 PASSION. IF THEY WERE CHARGED WITH VOLUNTARY
21 MANSLAUGHTER I DON'T THINK I'D BE STANDING HERE MAKING
22 THIS MOTION, BUT THEY ARE NOT. I CERTAINLY THINK
23 ACCEPTING THE EVIDENCE AS TRUE, WHICH IN A DIRECTED
24 MOTION IS WHAT YOU MUST DO, LOOK AT IT IN THE LIGHT
25 MOST FAVORABLE TO THE STATE, TAKING PATRICK TYLER'S

1 STATEMENT AS IT IS IN THE LIGHT MOST FAVORABLE TO THE
2 STATE, IT IS THAT THEY WENT IN THERE TO ROB, AND WHILE
3 THEY WERE TRYING TO ROB HIM THE VICTIM MADE SOME
4 STATEMENTS, MADE SOME MOVEMENTS, AND AT THAT POINT
5 PATRICK TYLER HEARD GUNSHOTS. HE CERTAINLY NEVER SAID
6 THERE WAS INTENT TO GO IN THERE AND KILL ANYBODY, HE
7 NEVER SAID THEY SPOKE ABOUT IT, HE NEVER SAID WHILE
8 THEY WERE IN THERE ANYBODY SAID, HE'S NOT GIVING US
9 WHAT WE WANT, KILL HIM, NOTHING LIKE THAT. WHAT HE
10 SAID IS, THINGS WENT CRAZY, I HEARD GUNSHOTS AND RAN.
11 SO, I DON'T THINK THERE'S BEEN ANY EVIDENCE OF MALICE
12 AFORETHOUGHT.

13 LASTLY, YOUR HONOR, IN REGARDS TO - - -

14 THE COURT: BURGLARY, ONE.

15 MS. ULLMAN: EXCUSE ME?

16 THE COURT: BURGLARY.

17 MS. ULLMAN: YES, SIR. IN REGARDS TO THE
18 BURGLARY, IN REGARDS TO RALPH COLEMAN, BASICALLY,
19 AGAIN TAKING THE EVIDENCE IN THE LIGHT MOST FAVORABLE
20 TO THE STATE, IF YOU BELIEVE PATRICK TYLER THAT HE AND
21 RALPH COLEMAN WENT IN, THEY WENT IN THERE WITH THE
22 INTENTION OF BUYING WEED. THEY WERE LET IN BY THE
23 VICTIM. PATRICK TYLER ACTUALLY BOUGHT MARIJUANA WHILE
24 THEY WERE IN THERE. ACCORDING TO PATRICK TYLER, SO I
25 DON'T THINK THAT THEY ENTERED WITHOUT CONSENT. I

1 THINK WHEN YOU'RE A DRUG DEALER YOU HAVE YOUR DOOR
2 OPEN TO WHOEVER IS COMING IN TO BUY DRUGS, AND
3 CERTAINLY, YOU'RE CONSENTING TO THEM COMING IN FOR
4 THAT PURPOSE. THAT'S WHAT THEY WENT IN TO DO AND
5 THAT'S CERTAINLY WHAT THEY STARTED TO DO.

6 AND THAT WOULD BE MY BASIS FOR MY MOTION ON RALPH
7 COLEMAN.

8 THE COURT: THANK YOU. DO Y'ALL WANT TO RESPOND?

9 SOLICITOR PASCOE: I CAN, YOUR HONOR.

10 THE COURT: IF YOU WANT TO BRIEFLY RESPOND.

11 SOLICITOR PASCOE: OR I CAN WAIT UNTIL THE END,
12 IT DOESN'T MATTER.

13 THE COURT: IS EVERYBODY GOING TO MAKE SEPARATE
14 MOTIONS?

15 MR. PALMER: I'M GOING TO MAKE A MOTION.

16 THE COURT: OKAY. WELL, THEN, I'LL LET YOU WAIT
17 UNTIL THE END. OKAY. WHO WANTS TO GO NEXT?

18 MR. PALMER: I'LL GO NEXT, YOUR HONOR.

19 THE COURT: ALRIGHT, YES, SIR.

20 MR. PALMER: FIRST AND FOREMOST, YOUR HONOR, I
21 WOULD JOIN IN THE MOTION ALREADY MADE BY CO-COUNSEL,
22 BUT WITH REGARD TO MR. HARRIS ON THE SAME GROUNDS. AND
23 THEN ADDITIONALLY, YOUR HONOR, I WOULD MAKE AN
24 ADDITIONAL MOTION FOR A DIRECTED VERDICT ON THE CHARGE
25 OF MURDER WITH REGARD TO WALTER LEE HARRIS. THE

1 GROUND OF MY MOTION ARE AS FOLLOWS, YOUR HONOR.
2 THERE'S BEEN A LOT OF CIRCUMSTANTIAL EVIDENCE THAT
3 SUGGESTS MR. HARRIS HAD A GUN AND SO FORTH AND SO ON,
4 BUT THE ONLY THAT THE EVIDENCE THAT THE JURY HAS TO
5 SUPPORT THE CHARGE OF MURDER IS THE STATE'S WITNESS,
6 MR. TYLER, THAT DESCRIBED WHAT HAPPENED AT THE
7 APARTMENT. AND MR. TYLER'S TESTIMONY IS THAT MY
8 CLIENT RELINQUISHED HIS WEAPON AND INSTEAD HAD A ROLL
9 OF TAPE. AND YOUR HONOR, THERE'S NO EVIDENCE IN THE
10 RECORD THAT THE ORIGINAL PLAN WAS TO MURDER THIS
11 GENTLEMAN OR THAT THE PLAN DEVELOPED ON THE WAY TO THE
12 INCIDENT, OR EVEN THAT THESE DEFENDANTS ALLEGEDLY HAD
13 THE INTENT TO MURDER WHEN THEY ENTERED THE APARTMENT.
14 THE ONLY INFORMATION THE JURY HAS TO INFER INTENT IS
15 WHAT HAPPENED AFTER THEY GOT THERE BECAUSE EVERYONE
16 AGREES THAT THE PLAN WAS TO COMMIT A ROBBERY, AND
17 WHETHER OR NOT ALL OF THEM OR SOME OF THEM WERE IN ON
18 IT IS A FACTUAL DETERMINATION. BUT IF YOU BELIEVE MR.
19 TYLER, WHICH IS WHAT THE STATE'S RELYING THEIR CASE ON
20 PRIMARILY, IS THAT MR. HARRIS WAS IN THERE WITH A ROLL
21 OF TAPE, IN THE PROCESS OF RESTRAINING THE VICTIM,
22 AND HE HAD ALREADY GIVEN UP HIS WEAPON. SO, YOUR
23 HONOR, WHEN THE INTENT, IF THE JURY FINDS THERE WAS
24 INTENT TO MURDER, I THINK UNDER THE FACTS THE JURY
25 WOULD HAVE TO FIND THAT THE INTENT FORMED AFTER THE

1 DEFENDANTS WERE INSIDE THE APARTMENT IN THE PROCESS OF
2 CARRYING OUT THE ALLEGED ROBBERY, AND AT THAT POINT MY
3 CLIENT DID NOT HAVE THE MEANS TO COMMIT THE MURDER,
4 BECAUSE AS THE STATE'S WITNESS TESTIFIED, THE CAUSE OF
5 DEATH WAS FROM GUN SHOT WOUNDS AND NOT ANYTHING TO DO
6 WITH DUCT TAPE. SO, ON THAT BASIS I WOULD MAKE AN
7 ADDITIONAL MOTION FOR A DIRECTED VERDICT ON BEHALF OF
8 MR. HARRIS ON THE CHARGE OF MURDER.

9 THE COURT: ADDITIONAL REASON? AN ADDITIONAL
10 REASON REGARDING YOUR CLIENT?

11 MR. PALMER: YES, SIR, YES, SIR, THANK YOU.

12 THE COURT: OKAY. I JUST WANTED TO MAKE SURE.
13 OKAY.

14 MR. MELLARD.

15 MR. MELLARD: YES, SIR, I WOULD ALSO JOIN IN
16 THOSE MOTIONS. AS FAR AS THE ARMED ROBBERY, ON THE
17 SAME GROUNDS THAT MS. ULLMAN MADE, AND ALSO TO THE
18 EXTENT THAT IT APPLIES TO DANNY RYANT, THE SAME
19 GROUNDS THAT MR. PALMER MADE.

20 THE COURT: OKAY.

21 MR. MELLARD: AS FAR AS THE ARMED ROBBERY, AGAIN,
22 THERE'S NO EVIDENCE THAT ANY PROPERTY OF CHARLES
23 PRINGLE WAS TAKEN. ASHLEY PARSLEY, AGAIN, WAS THE ONLY
24 WITNESS WHO COULD HAVE TESTIFIED TO THAT, AND FROM
25 WHAT I HEARD I DON'T BELIEVE SHE PROVIDED ANY

1 TESTIMONY THAT MR. PRINGLE'S PROPERTY WAS TAKEN.

2 AS FAR AS THE BURGLARY, FIRST, MS. PARSLEY DID
3 NOT SEE DANNY RYANT ON MARCH THE TWELFTH, I BELIEVE
4 THAT WAS ESTABLISHED BY HER TESTIMONY AND ALSO BY
5 OFFICER SHUMPERT'S TESTIMONY.

6 AND AS FAR AS THE MURDER, AGAIN I WOULD REITERATE
7 WHAT EVERYBODY ELSE SAYS, THAT THE PURPOSE OF GOING
8 THERE WAS TO ROB, IT WAS NOT TO KILL.

9 THE COURT: OKAY. THANK YOU, SIR.

10 WHO'S NEXT? MR. KOGER?

11 MR. KOGER: YOUR HONOR, MAY IT PLEASE THE COURT.

12 THE COURT: YES, SIR.

13 MR. KOGER: I, TOO, JOIN IN WITH SEVERAL OF MY
14 COLLEAGUES AS FAR AS DIRECTED VERDICT ON THESE THREE
15 PARTICULAR CHARGES. IN RELATION TO THE MURDER IT'S
16 BEEN TESTIFIED TO IN RELATION TO MARIO SHIVERS AGAIN
17 AND AGAIN THAT THERE'S NO PHYSICAL EVIDENCE, NO MURDER
18 WEAPON THAT CONNECTS MR. SHIVERS TO THESE PARTICULAR
19 CRIMES. SO THEREFORE, NO EVIDENCE EXISTS FOR, ON THE
20 MURDER CHARGE TO GET TO THE JURY FOR A JURY TO MAKE A
21 DETERMINATION. THERE'S NOTHING THAT PLACES MARIO
22 SHIVERS THERE IN RELATION TO THE MURDER.

23 AS FAR AS WITH THE ARMED ROBBERY, I AGAIN JOIN IN
24 WITH THE GROUNDS SET FORTH BY CO-COUNSEL ON THAT
25 PARTICULAR INSTANCE. THERE HAS BEEN NO TESTIMONY OF

1 ANY TYPE OF GOODS OR ANY TYPE OF MONIES TAKEN OFF OF
2 THE PERSON OF CHARLES PRINGLE IN THIS PARTICULAR
3 TRIAL. AS SET FORTH BY ASHLEY PARSLEY, PARSLEY DID
4 NOT TESTIFY TO ANYTHING, AND MR. TYLER, HIS STATEMENT
5 WAS RATHER VAGUE WHEN HE CAME TO THAT. AND I'M
6 READING THE INDICTMENT HERE, AND THERE HAS BEEN NO
7 TESTIMONY FOR THE TAKING AND CARRYING AWAY OF ANY
8 GOODS OR MONIES FROM THE PERSON OR THE PRESENCE OF THE
9 VICTIM, CHARLES PRINGLE, SO I ASK THAT YOUR HONOR
10 WOULD CONSIDER GRANTING A DIRECTED VERDICT ON THAT
11 PARTICULAR CHARGE.

12 IN RELATION TO THE BURGLARY IN THE FIRST DEGREE,
13 I AM AWARE THAT EVEN THOUGH THERE WAS AN ATTEMPTED
14 IDENTIFICATION BY ASHLEY PARSLEY TO PUT MY GUY AT THE
15 DOOR, AND THAT MAY BE A JURY QUESTION, BUT I WOULD
16 JUST ASK YOUR HONOR, IN YOUR DISCRETION TO DETERMINE
17 WHETHER TO GRANT A DIRECTED VERDICT IN RELATION TO
18 THAT PARTICULAR CHARGE.

19 THE COURT: ALRIGHT, THANK YOU, SIR.

20 AND MR. LACKEY.

21 MR. LACKEY: THANK YOU, YOUR HONOR. AGAIN, I
22 WOULD JOIN IN THESE MOTIONS FOR A DIRECTED VERDICT.
23 AND TO FURTHER SPECIFY AS TO MY CLIENT, CHRISTIAN
24 COLEMAN, FIRST TO THE MURDER, I BELIEVE THAT THERE WAS
25 TESTIMONY THAT, FROM THE STATEMENT OF PATRICK TYLER

1 THAT PUT THE GUN IN EVERYBODY'S, OR WEAPONS IN
2 EVERYONE'S HANDS EXCEPT MY CLIENT, CHRISTIAN COLEMAN.
3 ALSO, AS FAR AS THE MALICE AFORETHOUGHT, NUMBER ONE,
4 THERE'S BEEN NO TESTIMONY OF ANY PLANNING OF A MURDER.
5 NUMBER TWO, IF THERE WAS PLANNING, THAT PLANNING DID
6 NOT INCLUDE MY CLIENT AT ALL FROM WHAT CO-DEFENDANT
7 PATRICK TYLER SAID.

8 MOVING ON TO THE ARMED ROBBERY AGAIN, THERE IS
9 EVIDENCE IN THE RECORD OF NO WEAPON THAT MY CLIENT HAD
10 EITHER BEFORE OR UPON ENTRANCE INTO THE APARTMENT.
11 AND ALSO, AGAIN, NOTHING WAS TAKEN FROM THE PREMISES
12 THAT BELONGED TO CHARLES PRINGLE, NOTHING TAKEN AT
13 ALL. THERE WAS A LOT OF SPECULATION ABOUT THE ROBBERY
14 AND LOOKING FOR ITEMS, BUT AFTER LOOKING, NO EVIDENCE
15 OF ACTUAL REMOVAL OF SOMETHING.

16 AND AS TO THE BURGLARY, FIRST, I THINK AGAIN THE
17 ABSENCE OF A WEAPON IN MY CLIENT'S HAND. ALSO, BOTH
18 THE TESTIMONY THAT, IF YOU WOULD EVEN INFER THAT MY
19 CLIENT WERE AT THE SCENE, BOTH ASHLEY PARSLEY AND
20 PATRICK TYLER USED THE WORD, CONSENT UPON THE ENTRANCE
21 INTO THE APARTMENT THAT NIGHT.

22 AND THOSE WOULD BE MY GROUNDS ON THOSE THREE
23 CHARGES FOR A DIRECTED VERDICT.

24 THE COURT: OKAY. SOLICITOR PASCOE.

25 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

1 THE COURT: YES, SIR.

2 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

3 YOUR HONOR, WHEN YOU LOOK AT THE EVIDENCE IN THIS
4 CASE IN THE LIGHT MOST FAVORABLE TO THE STATE, WHICH
5 IS THE STANDARD, THIS CASE WOULD CERTAINLY GO TO THE
6 JURY TO MAKE THE DETERMINATION OF WHETHER EACH OF
7 THESE DEFENDANTS IS GUILTY OF MURDER, BURGLARY AND
8 ARMED ROBBERY. PATRICK TYLER'S TESTIMONY AND ASHLEY
9 PARSLEY'S TESTIMONY BY ITSELF IS ENOUGH TO GET THIS
10 CASE TO THE JURY. PATRICK TYLER TESTIFIED THAT ALL
11 FIVE OF THESE DEFENDANTS PARTICIPATED IN THE MURDER,
12 BURGLARY AND ARMED ROBBERY OF THE VICTIM, CHARLES
13 PRINGLE. MS. PARSLEY TESTIFIED THAT DURING THE
14 BURGLARY AND ROBBERY, THE VICTIM'S GUN WAS TAKEN FROM
15 THE SCENE. SHUMPERT, INVESTIGATOR SHUMPERT TESTIFIED
16 THAT THAT GUN WAS NEVER RECOVERED FROM THE SCENE. THAT
17 IS ENOUGH TO GET AN ARMED ROBBERY CHARGE TO THE JURY.

18 ADDRESSING SOME OF THE SPECIFICS BROUGHT UP BY
19 SOME OF THE DEFENSE ATTORNEYS, I THINK MS. ULLMAN AND
20 SOME OF THE OTHER ATTORNEYS INADVERTENTLY MIS-STATED
21 THE LAW. WITH REGARDS TO MALICE ON MURDER, THE LAW
22 SAYS SPECIFICALLY IT DOESN'T HAVE TO BE ANY
23 PREMEDITATION. FOR MURDER THERE JUST HAS TO BE MALICE
24 AFORETHOUGHT, AND THE MERE USE OF A DEADLY WEAPON, AND
25 WE HAD A MINIMUM OF FOUR WEAPONS USED IN THIS CASE, IS

1 EVIDENCE BY ITSELF OF MALICE. IT'S EVIDENCE OF MALICE.

2 WITH REGARDS TO WALTER LEE HARRIS, AGAIN, THE
3 TESTIMONY FROM PATRICK TYLER, MR. HARRIS PARTICIPATED
4 IN THIS HOME INVASION, HE GAVE HIS GUN, ACCORDING TO
5 PATRICK TYLER, TO ANOTHER PERSON TO USE DURING THIS
6 HOME INVASION, AND ACCORDING TO PATRICK TYLER WALTER
7 HARRIS PUT THE TAPE OVER THE VICTIM'S MOUTH DURING
8 THIS HOME INVASION. AND UNDER THE HAND OF ONE IS THE
9 HAND OF ALL, IT WOULD CERTAINLY PROVE GUILT ON BEHALF
10 OF MR. HARRIS AND ALL OF THESE DEFENDANTS.

11 SO, IT'S THE STATE'S POSITION THAT ALL OF THESE
12 CHARGES SHOULD OBVIOUSLY GO BEFORE THE JURY.

13 THE COURT: ALRIGHT, SIR.

14 ALRIGHT, WITH REGARD TO YOUR MOTIONS, I AM
15 DENYING THE MOTIONS. I BELIEVE THERE IS EVIDENCE IN
16 THE RECORD REGARDING ALL OF THE CHARGES. I BELIEVE
17 THE RECORD ESTABLISHES THAT THEY WERE, WITH REGARDS TO
18 THE ARMED ROBBERY, THEY WERE PLANNING A ROBBERY.
19 THERE IS EVIDENCE IN THE RECORD THAT A GUN WAS TAKEN.
20 THERE IS CIRCUMSTANTIAL EVIDENCE THAT THEY WERE
21 LOOKING FOR OTHER THINGS BY SLITTING THE SOFA AND
22 GOING THROUGH THE HOUSE.

23 IN REGARD TO THE BURGLARY, THEY MAY -- I DON'T
24 THINK YOU CAN GET AROUND JUST INTENT OR AN INVITATION
25 IN IF YOU'RE DOING IT ON A DECEITFUL BASIS. I DON'T

1 THINK YOU CAN GET AROUND, THEY WERE TRYING TO USE
2 DECEIT TO COME INTO THE HOUSE AND I THINK THAT IS
3 PROPER TO GO FORWARD ON THE BURGLARY CHARGE. WHEN
4 Y'ALL WERE MAKING THE ARGUMENT ABOUT WHETHER AT LEAST
5 ONE PERSON WAS ALLOWED TO COME IN, MR. TYLER I THINK
6 WENT IN UNDER THE AUSPICES TO BUY THE DRUGS AND THEN
7 WAS FOLLOWED IN ALLEGEDLY BY ANOTHER ONE OF THE
8 GENTLEMAN.

9 IN REGARD TO THE MURDER AND WHETHER OR NOT THERE
10 WAS ANY MALICE, I THINK YOU CAN INFER MALICE, AGAIN,
11 FROM THE USE OF THE WEAPONS, BUT ALSO YOU CAN INFER
12 MALICE ON THE FACT THAT HE WAS SHOT, I BELIEVE TWENTY
13 SOMETHING TIMES ACCORDING TO THE NUMBER OF ENTRANCE
14 WOUNDS THAT WAS FOUND IN HIS BODY.

15 AND SO, I THINK THERE IS ENOUGH EVIDENCE BEFORE
16 THE JURY FOR THEM TO MAKE A DETERMINATION WITH REGARD
17 TO ALL THREE OF THESE CHARGES, SO I WILL DENY YOUR
18 MOTIONS AND NOTE OUR OBJECTIONS TO MY DENIAL OF YOUR
19 MOTIONS. OKAY?

20 WHAT ELSE?

21 MS. ULLMAN.

22 MS. ULLMAN: YES, SIR. I WOULD ALSO RENEW ALL
23 OTHER MOTIONS AND OBJECTIONS THAT I HAVE MADE DURING
24 THIS TRIAL, - - -

25 THE COURT: OKAY.

1 MS. ULLMAN: --- INCLUDING MY MOTION TO SEVER.
2 AND I UNDERSTAND YOUR RULING BUT I WOULD LIKE TO PUT A
3 COUPLE OF THINGS ON THE RECORD THAT I THINK ARE NEW
4 COMPARED TO WHAT I HAVE PREVIOUSLY STATED.

5 THE COURT: OKAY.

6 MS. ULLMAN: AT THE BEGINNING OF THIS WHEN I
7 DISCUSSED OR ARGUED THIS MOTION TO SEVER PART OF THE
8 QUESTION I BELIEVE FROM YOUR HONOR IN REGARDS TO THE
9 STATE WAS THE WITNESSES. THEY STATED THAT PRETTY MUCH
10 THE SAME WITNESSES WOULD BE CALLED AT EACH SEPARATE
11 TRIAL, ALL FIVE SEPARATE TRIALS. WHILE I DISAGREED
12 WITH THAT YOUR HONOR QUESTIONED THEM AND I THINK THE
13 NUMBER THAT WE HAD COME UP WITH WAS ABOUT NINETY PER
14 CENT OF THESE WITNESSES WOULD BE THE SAME.

15 THE COURT: UH-HUH.

16 MS. ULLMAN: IN COUNTING WHAT OCCURRED DURING
17 THIS WEEK I COUNT TWELVE WITNESSES, AND LOOKING AT THE
18 TESTIMONY THAT THEY HAVE PROVIDED I WOULD SAY HALF OF
19 THEM ARE NOT RELEVANT AT ALL TO RALPH COLEMAN. DARIUS
20 GARDNER DOES NOT PUT RALPH COLEMAN AT ANY CERTAIN
21 LOCATION EXCEPT HIS OWN HOUSE AND IT'S CERTAINLY NOT
22 ILLEGAL TO BE AT YOUR OWN HOUSE.

23 YVONNE SHARPERSON HAS NO KNOWLEDGE OF RALPH
24 COLEMAN.

25 MONEAK BUSBY HAS NO KNOWLEDGE OF RALPH COLEMAN.

1 ANDRE WASHINGTON HAS NO KNOWLEDGE OF RALPH
2 COLEMAN.

3 SHANNON MITCHELL HAD NO KNOWLEDGE OF RALPH
4 COLEMAN.

5 NATHANIEL HUBBARD HAD NO KNOWLEDGE OF RALPH
6 COLEMAN.

7 AND WHEN I SAY KNOWLEDGE, I MEAN TESTIMONY REGARDING
8 HIM IN ANY FASHION. AND CERTAINLY, THAT'S HALF, THAT
9 IS FIFTY PER CENT.

10 NOW, I UNDERSTAND YVONNE SHARPERSON, MONEAK BUSBY
11 MAY BE RELEVANT TO DANNY RYANT'S CASE, I UNDERSTAND
12 ANDRE WASHINGTON MAY BE RELEVANT TO WALTER HARRIS'S
13 CASE, BUT THEY ARE NOT RELEVANT AND THEY CERTAINLY
14 WERE PRESENTED DURING THIS TRIAL AGAINST RALPH
15 COLEMAN.

16 ALSO, YOUR HONOR, IN THE BEGINNING OF THIS I
17 STATED THAT I DID BELIEVE THAT WE WOULD HAVE
18 ANTAGONISTIC VIEWS. THERE IS CASE LAW THAT SAYS THAT
19 ANTAGONISTIC VIEWS IN AND OF ITSELF IS NOT A REASON TO
20 SEVER A TRIAL, BUT WHERE THE COURT CAN FIND THAT THOSE
21 ANTAGONISTIC VIEWS WHEN PRESENTED TO A JURY WOULD
22 REQUIRE THE JURY TO DETERMINE EITHER BASICALLY THAT
23 THE VIEWS ARE SO ANTAGONISTIC THAT THEY ALL MUST BE
24 INCORRECT, THEREFORE, EVERYONE MUST BE GUILTY. BASED
25 ON THE TESTIMONY THAT'S COME OUT I FEEL THAT WE'RE IN

1 THAT POSITION. IF I STAND UP AND ARGUE AS I INTENDED
2 TO ORIGINALLY, THAT RALPH COLEMAN WAS MISTAKENLY
3 PICKED OUT DUE TO CHRISTIAN COLEMAN'S INVOLVEMENT,
4 THEY'RE GOING TO CONVICT ON ALL. THE STATE HAS
5 PRESENTED ITS CASE IN SUCH A WAY, AS THE STATE SAID IN
6 THEIR OPENING, AS JIG SAW PUZZLES AND WHEN THEY FIT
7 ALL THOSE PIECES TOGETHER THE RESULT'S GOING TO BE
8 THAT THEY ALL MUST HAVE DONE THIS. AND MY POINT IS,
9 IF THE JURY BELIEVES THAT WALTER HARRIS THAT FORTY AND
10 THAT HE SOLD THAT FORTY, AND HAT FORTY WAS USED IN
11 THIS, HE'S SITTING HERE NEXT TO MY CLIENT, THEY'RE
12 GOING TO FIND HIM GUILTY, THEY'RE GOING TO FIND RALPH
13 COLEMAN GUILTY. AND IT'S GOING TO BE BASED ON THE
14 EVIDENCE THAT WAS ENTERED BY ANDRE WASHINGTON AND
15 OTHERS RELATING TO THAT FORTY CALIBER WEAPON THAT HAS
16 NO RELATION TO MY CLIENT. I THINK THERE'S BEEN
17 WITNESSES THAT WOULDN'T HAVE BEEN PRODUCED AT MY TRIAL
18 SEPARATELY FOR RALPH COLEMAN. I THINK THERE'S BEEN
19 EVIDENCE INTRODUCE THAT WOULDN'T HAVE BEEN INTRODUCED.
20 I WOULD NOTE FOR THE RECORD ALSO THAT INVESTIGATOR
21 SHUMPERT DID MENTION TODAY THAT WALTER HARRIS TOLD HIM
22 SOMETHING, OFF THE TOP OF MY HEAD I DON'T REMEMBER
23 RIGHT NOW EXACTLY WHAT IT WAS, BUT MY POINT IS, THE
24 FACT THAT WALTER HARRIS TALKED TO INVESTIGATOR
25 SHUMPERT CERTAINLY CAME OUT TODAY, AND I DON'T BELIEVE

1 THAT WOULD HAVE BEEN SOMETHING THAT COULD HAVE BEEN
2 DONE AT A TRIAL AGAINST RALPH COLEMAN ON HIS OWN,
3 BECAUSE AS FAR AS I UNDERSTAND, AND I UNDERSTAND WE
4 HAVEN'T GOTTEN TO THAT POINT YET, BUT IF WALTER HARRIS
5 DOESN'T TAKE THE STAND I HAVE NO ABILITY TO QUESTION
6 HIM ABOUT, DID HE TALK TO HIM, WAS IT VOLUNTARY, DID
7 HE MEAN WHAT HE SAID, WAS HE LYING TO GET OTHER PEOPLE
8 OUT OF IT, WHY DID HE SAY IT? I CANNOT QUESTION HIM
9 ON ANY OF THAT. SO, I WOULD RENEW MY MOTION SEVER FOR
10 ALL OF THE GROUNDS THAT I PREVIOUSLY STATED PLUS THE
11 NEW GROUNDS THAT I'VE STATED JUST NOW.

12 THE COURT: OKAY. THANK YOU, MA'AM, AND I
13 APPRECIATE YOU NOW HAVE THAT ON THE RECORD. I AGAIN
14 STAND BY MY DECISION NOT TO SEVER THIS TRIAL. OKAY?

15 MR. MELLARD: JUST ONE MORE, YOUR HONOR.

16 THE COURT: YES, SIR. NO, I'M NOT TRYING TO
17 HURRY YOU THROUGH.

18 MR. MELLARD: I'M NOT, I'M NOT NECESSARILY
19 JOINING MS. ULLMAN'S GROUNDS ON THE SEVERANCE PART,
20 BUT IT'S MY ARGUMENT THAT THIS TRIAL, BECAUSE OF THE
21 LACK TO SEVER HAS VIOLATED DANNY RYANT'S RIGHT TO DUE
22 PROCESS. MS. ULLMAN HAS STATED SOME OF THE GROUNDS.
23 OBVIOUSLY, WE HAVE LOST THE RIGHT TO MAKE LAST
24 ARGUMENT, WE'VE PUT -- DANNY RYANT HAS PUT NO EVIDENCE
25 UP, HE MAY DECIDE TO DO IT, BUT IF HE DOES DO IT, IT

1 IS DETERMINED STRATEGY IN THIS CASE, BECAUSE ANOTHER
2 DEFENDANT HAS ALREADY ADMITTED EVIDENCE INTO THIS CASE
3 AND IT'S AFFECTED THAT PART OF OUR TRIAL. CROSS-
4 EXAMINATION HAS BEEN AFFECTED. AS MS. ULLMAN SAYS, IF
5 WE START POINTING FINGERS AT EVERYBODY IT'S NOT GOING
6 TO HELP ANYBODY, SO CROSS-EXAMINATION HAS BEEN
7 AFFECTED BY THIS. JUST, THE OVERALL STRATEGY, THE
8 OVERALL PROCEDURAL ASPECTS OF IT, IT'S OUR, IT'S DANNY
9 RYANT'S POSITION THAT BECAUSE THESE DEFENDANTS WERE
10 TRIED JOINTLY, THAT HIS RIGHT TO DUE PROCESS HAS BEEN
11 VIOLATED, YOUR HONOR.

12 THE COURT: OKAY. THANK YOU, SIR.

13 MS. ULLMAN: AND YOUR HONOR, IF I MIGHT REFLECT,
14 I WOULD ACTUALLY JOIN THAT MOTION AND STATE THAT AS
15 OBVIOUSLY HAS HAPPENED, WE HAVE ALL BEEN FORCED TO
16 WORK AS A GROUP, WE PICKED A JURY AS A GROUP, WE
17 DECIDED ON WHETHER WE WOULD AGREE TO THE JURY MEMBER
18 BEING EXCUSED AS A GROUP, WE HAVE ACTUALLY DISCUSSED
19 DIRECTED VERDICT MOTIONS AS A GROUP. AT THIS POINT,
20 UNFORTUNATELY, WE DIDN'T KNOW THAT WE NEED TO DISCUSS
21 WHETHER EVIDENCE WAS BEING PRESENTED AS A GROUP OR
22 NOT, AND MR. KOGER HAS ENTERED EVIDENCE AND THAT HAS
23 RUINED OUR RIGHT TO LAST CLOSE. OBVIOUSLY, YOUR HONOR
24 KNOWS WE DID NOT KNOW THAT. I BELIEVE THE STATE WAS
25 AWARE AT THE BEGINNING AND WE WERE NOT, AND

1 UNFORTUNATELY, HERE WE STAND. IT CERTAINLY HAS
2 AFFECTED HOW I WOULD HAVE QUESTIONED PEOPLE, JUST AS
3 MR. MELLARD SAID, AND CERTAINLY, ABSOLUTELY IT'S GOING
4 TO AFFECT MY CLOSING ARGUMENT.

5 THE COURT: THANK YOU, MA'AM.

6 MR. KOGER.

7 MR. KOGER: YOUR HONOR, MAY IT PLEASE THE COURT.
8 I ALSO WOULD LIKE TO JOIN IN ON THE GROUNDS SET FORTH
9 BY ATTORNEY MELLARD, THIS TRIAL MAY HAVE RESULTED IN
10 SOME LOSS OF SOME CONSTITUTIONAL RIGHTS FOR MY CLIENT,
11 MR. SHIVERS. AS ATTORNEY ULLMAN JUST SET FORTH BEFORE
12 THE COURT, OF COURSE, I REPRESENT MR. SHIVERS, I DID
13 NOT KNOW BEFOREHAND, BECAUSE YOU STATED FROM THE
14 BENCH, YOUR HONOR, AND WE ALL STATED IN OUR OPENINGS
15 THAT THESE ARE FIVE SEPARATE TRIALS. I DIDN'T KNOW
16 BEFOREHAND THAT I'M SUPPOSED TO CONFER WITH FOUR OTHER
17 ATTORNEYS WITH THEIR SEPARATE CLIENTS BEFORE I
18 SUBMITTED EVIDENCE ON BEHALF OF MY CLIENT. I THINK
19 MS. ULLMAN JUST STATED THEY DIDN'T EVEN KNOW THAT. WE
20 WAS FORCED TO, AGAIN, SELECT THE JURY TOGETHER, AND
21 IT'S BEEN A GOING BACK AND FORTH TYPE THING HERE, YOU
22 KNOW. SOMETIMES WE ARE TOGETHER, WE'RE SUPPOSED TO BE
23 TOGETHER, AND THEN WE'RE SUPPOSED TO SEPARATELY IN
24 DEPTH, YOUR HONOR, REPRESENT OUR CLIENT. SO, I JOIN
25 IN ON THE DUE PROCESS ISSUE ON THE GROUNDS SET FORTH

1 BY MR. MELLARD IN RELATION TO THIS CASE.

2 MR. PALMER: YOUR HONOR, - - -

3 THE COURT: YES, SIR.

4 MR. PALMER: --- JUST BRIEFLY, - - -

5 THE COURT: YES, SIR.

6 MR. PALMER: --- I JOIN IN ALL OF THAT ON BEHALF
7 OF MY CLIENT. I WANT TO ADD SOMETHING THAT - - -

8 THE COURT: ADD ANOTHER TWIST TO IT, PLEASE, SIR.

9 MR. PALMER: JUST ANOTHER TWIST, PLEASE, SIR.

10 THE COURT: YES, SIR.

11 MR. PALMER: --- THAT AT FIRST GLANCE MAY SEEM
12 KIND OF FRIVOLOUS BUT SITTING HERE ALL WEEK IT'S GIVEN
13 ME MORE AND MORE CONCERN, IT'S JUST THE LOGISTICS OF
14 THIS TRIAL, YOUR HONOR, AND I'M NOT, YOU KNOW, CASTING
15 ANY ASPERSIONS ON ANYONE, BUT JUST THE WAY WE'RE
16 CLUTTERED AT THE DEFENSE TABLE AND BUNCHED UP LIKE
17 THIS, AND YOU KNOW, IT JUST LOOKS LIKE THE PROSECUTION
18 HAS MORE ROOM TO WORK, AND AGAIN, NO REFLECTION ON
19 THEM, BUT THEY JUST LOOK MORE ORGANIZED AND CONFIDENT
20 THAN WE DO. WE'RE STEPPING OVER EACH OTHER TO GET OUT
21 TO CONDUCT OUR CROSS-EXAMINATIONS AND DO OTHER THINGS
22 IN THE COURTROOM, AND I THINK JUST THE APPEARANCE OF
23 IT WITH THE JURY, YOUR HONOR, MAY BE PREJUDICING OUR
24 CLIENTS' RIGHT TO A FAIR TRIAL. THANK YOU VERY MUCH.

25 THE COURT: AN INTERESTING TWIST, MR. PALMER.

1 THANK YOU FOR THAT.

2 OKAY, AND MR. LACKEY.

3 MR. LACKEY: YES, SIR, YOUR HONOR, JUST BRIEFLY,
4 I WOULD, TOO, JOIN IN THE MOTION MR. MELLARD MAKES. IT
5 IS DIFFICULT AS YOU REPRESENT YOUR CLIENT TO ALSO HAVE
6 TO CONFER WITH THESE OTHER ATTORNEYS, WHICH ARE GREAT
7 ATTORNEYS, BUT WE EACH HAVE OUR OWN TRIAL STRATEGY,
8 AND AT THAT POINT IT DOES AFFECT CERTAIN DECISIONS,
9 WHETHER THEY BE LARGE OR SMALL, BUT TO BE MADE IN
10 PUTTING UP A DEFENSE FOR YOUR CASE. SO, WE WOULD ALSO
11 JOIN IN ON BEHALF OF MY CLIENT, CHRISTIAN COLEMAN.

12 THE COURT: ALRIGHT, THANK YOU.

13 SOLICITOR PASCOE: YOUR HONOR, - - -

14 THE COURT: OH, YES, SIR.

15 SOLICITOR PASCOE: I ASK, OBVIOUSLY FEEL
16 PREJUDICED AS WELL. I WANT TO JOIN IN THEIR MOTION
17 BECAUSE IT IS, AFTER ALL, SIX AGAINST TWO, AND MY
18 WITNESSES HAD TO BE CROSS-EXAMINED BY FIVE DEFENSE
19 ATTORNEYS INSTEAD OF ONE. ON A SERIOUS NOTE, THOUGH,
20 I WANT TO CORRECT SOME MIS-STATEMENTS.

21 FIRST OF ALL, MS. ULLMAN TWICE SAID THAT WE
22 WOULDN'T HAVE CALLED THE SAME WITNESSES AGAINST HER
23 CLIENT THAT WE CALLED IN THIS TRIAL. EVERY SINGLE
24 WITNESS WE CALLED IN THIS TRIAL WOULD HAVE BEEN CALLED
25 IN THE TRIALS AGAINST EVERYONE OF THOSE DEFENDANTS,

1 EVERY SINGLE WITNESS. THAT IS A MIS-STATEMENT AND I
2 WANT TO CLARIFY THAT ON THE RECORD.

3 HAVING TO BE FORCED TO WORK IN A GROUP? NO, SIR,
4 THAT WAS ONE OF THE LAWYER'S STATEMENTS. THAT WAS
5 THEIR CHOICE TO WORK IN A GROUP. AS MR. KOGER POINTED
6 OUT, REALLY, THEY AREN'T SUPPOSED TO CONFER IF THEY
7 DON'T WANT TO. SO, THEY'RE NOT PREJUDICED IN ANY
8 MANNER, AND I JUST WANTED TO MAKE THAT PART OF THE
9 RECORD.

10 THE COURT: OKAY. THANK YOU, SIR. ON BEHALF --
11 WITH Y'ALL'S MOTIONS, LET ME TELL YOU, I UNDERSTAND
12 THE DIFFICULTIES THAT Y'ALL HAD, AND I CAN APPRECIATE
13 THE DIFFICULTIES THAT Y'ALL HAD, BUT -- AND YOU KNOW,
14 I UNDERSTAND EVERYTHING THAT Y'ALL SAID ABOUT, YOU
15 KNOW, HAVING TO WORK TOGETHER AND TRYING TO DETERMINE
16 WHETHER YOU WERE GOING TO WORK AS A GROUP IN CERTAIN
17 SITUATIONS AND THEN HAVING TO ALSO JUST WORRY ABOUT
18 REPRESENTING YOUR CLIENTS INDIVIDUALLY. OKAY? I WANT
19 TO TELL YOU THAT I THINK Y'ALL HAVE THUS FAR DONE A
20 WONDERFUL JOB IN REPRESENTING YOUR CLIENTS THROUGH ALL
21 THESE DIFFICULTIES. AS I MENTIONED EARLIER, I AM NOT
22 CHANGING MY POSITION WITH REGARD TO SEVERANCE AND I AM
23 DENYING YOUR MOTIONS THAT YOU HAVE, THAT WE HAVE JUST
24 GONE THROUGH. SO, I THINK Y'ALL HAVE DONE A GREAT
25 JOB. I REALIZE IT WAS UNDER DIFFICULT CIRCUMSTANCES,

1 I DO THINK THAT THIS WOULD HAVE BEEN THE SAME CASE
2 TRIED FIVE TIMES, AND I WAS, I THINK THAT Y'ALL WERE
3 ALSO ABLE TO CROSS -- FIVE DIFFERENT PEOPLE WERE ABLE
4 TO CROSS-EXAMINE ANY ONE OF THE WITNESSES, AND BY
5 VIRTUE OF THE FACT THAT Y'ALL ALL HAD DIFFERENT STYLES
6 I THOUGHT IT WAS EFFECTIVE, WHEREAS IF WE WERE DOING
7 SINGLE TRIALS YOU WOULD HAVE ONLY HAD ONE STYLE
8 ATTORNEY CROSS-EXAMINING ANOTHER. AND IN REGARD TO
9 MR. PALMER'S COMMENT, WHICH I THOUGHT WAS INTERESTING
10 ABOUT -- ACTUALLY, I THINK THAT EVEN THOUGH Y'ALL DID
11 HAVE TO STEP UP, AND I APOLOGIZE FOR Y'ALL NOT HAVING
12 AS MUCH SPACE, BUT I THINK Y'ALL ACTUALLY SEEMED TO
13 WORK VERY WELL TOGETHER IN FRONT OF THE JURY, AND I
14 THINK THAT THAT CAME ACROSS TO THE JURY. BUT I NOTE
15 ALL THE PROBLEMS THAT Y'ALL HAVE RECITED, OKAY, AND
16 DENY YOUR MOTIONS. THANKS.

17 ANYTHING ELSE?

18 MR. LACKEY: NO, SIR.

19 MS. ULLMAN: NO, SIR.

20 MR. PALMER: NO, SIR.

21 MR. MELLARD: NO, SIR.

22 MR. KOGER: NO, SIR.

23 THE COURT: OKAY. NOW, DO YOU WANT ME TO CALL
24 THE JURY BACK IN SO THAT THE STATE CAN REST AND THEN
25 EXCUSE THEM WHILE Y'ALL, SO Y'ALL CAN TELL ME, SO I

1 CAN THEN QUESTION THE DEFENDANTS?

2 MS. ULLMAN: YES, SIR.

3 THE COURT; OKAY. BRING THE JURY BACK IN SO WE
4 CAN PROCEED.

5 (Whereupon, the jury enters
6 the courtroom and the following
7 takes place in the presence of
8 the jury.)

9 THE COURT: I APPRECIATE YOU GETTING BACK IN A
10 TIMELY FOR LUNCH, OR FROM LUNCH, EXCUSE ME. WE HAD
11 SOME THINGS TO TAKE CARE OF BEFORE I COULD BRING YOU
12 BACK OUT, AND NOW WE'RE READY TO PROCEED.

13 MR. PASCOE.

14 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

15 THE COURT: YES, SIR.

16 SOLICITOR PASCOE: YOUR HONOR, AT THIS TIME THE
17 STATE RESTS.

18 THE COURT: ALRIGHT. THANK YOU, SIR.

19 ALRIGHT, LADIES AND GENTLEMEN, THE STATE HAS NOW
20 PUT UP ALL THE EVIDENCE THAT THEY ARE GOING TO PUT UP
21 IN THIS CASE, AND SO IT WILL BE NOW, WE'RE GOING TO
22 FIND OUT WHAT THE DEFENDANTS ARE GOING TO CHOOSE TO
23 DO. BEFORE I CAN DO THAT I HAVE GOT TO ASK THEM SOME
24 QUESTIONS BEFORE THEY TESTIFY OR ANY EVIDENCE IS PUT
25 UP, SO I'M GOING TO EXCUSE YOU TO GO BACK INTO THE

1 JURY ROOM FOR A FEW MINUTES WHILE WE MAKE SOME
2 DETERMINATIONS, AND THEN I'LL BRING Y'ALL BACK OUT.
3 OKAY? THANK YOU. AND REMEMBER, YOU'VE HEARD ALL THE
4 EVIDENCE ONLY FROM THE STATE'S PERSPECTIVE SO YOU
5 STILL CANNOT BEGIN DISCUSSING THIS CASE. THANK YOU.

6 (Whereupon, the jury retires
7 to the jury room and the following
8 takes place out of the presence
9 of the jury.)

10 THE COURT: ALRIGHT, ARE Y'ALL'S CLIENTS READY
11 FOR ME TO GO OVER THEIR RIGHTS WITH THEM?

12 MS. ULLMAN: YES, SIR.

13 THE COURT: OKAY. AND EACH ONE OF YOU HAVE HAD A
14 CHANCE TO MEET WITH THEM AND DISCUSS THIS WITH THEM?

15 MR. LACKEY: YES, SIR.

16 MS. ULLMAN: YES, SIR.

17 MR. PALMER: YES, SIR.

18 MR. MELLARD: YES, SIR.

19 MR. KOGER: YES, SIR.

20 THE COURT: OKAY. ALRIGHT, MR. CHRISTIAN
21 COLEMAN, WOULD YOU PLEASE STAND, PLEASE, SIR? OKAY.

22 AND MR. RALPH COLEMAN, WOULD YOU STAND?

23 AND MR. WALTER LEE HARRIS?

24 AND MR. DANNY RYANT?

25 AND MR. MARIO SHIVERS.

1 IF Y'ALL WANT TO MOVE -- YEAH, IF Y'ALL WANT TO
2 MOVE AND JUST STAND OVER TO THE STAND THAT WILL BE
3 HELPFUL, IF YOU DON'T MIND.

4 MADAM CLERK, WOULD YOU MIND SWEARING THEM IN?

5 CLERK: ALL RAISE YOUR RIGHT HAND.

6 (Whereupon, Ralph Coleman, Christian
7 Coleman, Walter Lee Harris, Danny Ryant
8 and Mario Shivers are duly sworn.)

9 (NOTE: Blank lines on this page do not indicate any
10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

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EXAMINATION, IN CAMERA, OF RALPH COLEMAN,
CHRISTIAN COLEMAN, WALTER LEE HARRIS, DANNY
RYANT AND MARIO SHIVERS BY THE COURT:

Q. ALRIGHT, GENTLEMEN, AT THIS TIME I'M GOING TO GO
OVER AND EXPLAIN CERTAIN OF YOUR RIGHTS TO YOU
AND IF WHILE I'M DOING THE EXPLANATIONS I SAY
SOMETHING THAT YOU DON'T UNDERSTAND IF YOU WILL
PLEASE STOP ME OR ASK ME TO GO INTO FURTHER
DETAIL I WILL BE HAPPY TO DO SO, BUT I WANT TO
MAKE SURE Y'ALL UNDERSTAND THAT FIRST OFF. DO
Y'ALL ALL UNDERSTAND THAT, THAT YOU HAVE A RIGHT
TO QUESTIONING?

A. (RALPH COLEMAN) YES, SIR.

A. (CHRISTIAN COLEMAN) YES, SIR.

A. (WALTER LEE HARRIS) YES, SIR.

A. (DANNY RYANT) YES, SIR.

A. (MARIO SHIVERS) YES, SIR.

Q. OKAY. MR. CHRISTIAN COLEMAN?

A. YES, SIR.

Q. OKAY. MR. RALPH COLEMAN?

A. YES, SIR.

Q. MR. HARRIS?

A. YES, YOUR HONOR.

Q. MR. RYANT?

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

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1 A. YES, SIR.

2 Q. MR. SHIVERS?

3 A. YES, SIR.

4 Q. OKAY. NOW, WE ARE, AS YOU KNOW, THE STATE HAS
5 ALREADY PRESENTED THEIR CASE, AND IT'S NOW UP TO
6 Y'ALL TO DECIDE WHAT Y'ALL ARE GOING TO DO AS FAR
7 AS PRESENTING A DEFENSE OR NOT. YOU HAVE THE
8 RIGHT TO CLAIM THE PROTECTIONS OF THE FIFTH
9 AMENDMENT WHICH SAYS THAT NO ONE, -- IN PERTINENT
10 PART, SAYS THAT NO PERSON SHALL BE COMPELLED IN
11 ANY CRIMINAL CASE TO BE A WITNESS AGAINST
12 HIMSELF. THIS MEANS THAT YOU CANNOT BE REQUIRED
13 TO TESTIFY IN THIS CASE. YOU DO HAVE THE RIGHT
14 TO TESTIFY IN YOUR OWN BEHALF, BUT NO ONE CAN
15 MAKE YOU TESTIFY. THIS IS A PERSONAL RIGHT THAT
16 YOU HAVE AND ONLY YOU CAN WAIVE. IF YOU DECIDE TO
17 TESTIFY YOU WILL BE SUBJECT TO THE SAME RULES
18 THAT GOVERN THE OTHER WITNESSES AND YOU MAY BE
19 EXAMINED AND CROSS-EXAMINED ON ANY RELEVANT ISSUE
20 IN THIS CASE JUST AS ALL THE WITNESSES FROM THE
21 STATE'S CASE WERE CROSS-EXAMINED.
22 ADDITIONALLY, IF YOU HAVE ANY CONVICTIONS
23 INVOLVING DISHONESTY OR FALSE STATEMENTS OR FOR
24 CRIMES PUNISHABLE BY IMPRISONMENT FOR MORE THAN

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

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1 ONE YEAR AND I DETERMINE THAT THE PROBATIVE VALUE
2 OF ADMITTING THIS EVIDENCE OUTWEIGHS ITS
3 PREJUDICIAL EFFECT TO YOU THE SOLICITOR WILL BE
4 ABLE TO INTRODUCE YOUR RECORD TO ATTACK YOUR
5 CREDIBILITY.

6 IF YOU DECIDE TO TESTIFY THIS DECISION ON YOUR
7 PART MUST BE FREELY, VOLUNTARILY AND
8 INTELLIGENTLY MADE, WITH KNOWLEDGE OF THE
9 PROTECTIONS GIVEN TO YOU BY THE FIFTH AMENDMENT
10 AND THE CONSEQUENCES OF YOUR DECISION TO TESTIFY.
11 IF YOU DECIDE NOT TO TESTIFY I WILL INSTRUCT THE
12 JURORS THAT THEY CANNOT GIVE THE FACT THAT YOU
13 DID NOT TESTIFY ANY CONSIDERATION WHATSOEVER, AND
14 THAT THERE IS TO BE ABSOLUTELY NO PREJUDICE TO
15 YOU BECAUSE YOU DID NOT TESTIFY. IT IS LEFT
16 ENTIRELY UP TO YOU WHETHER OR NOT YOU TESTIFY. I
17 KNOW THAT YOU HAVE ALL -- LET'S SEE, FIRST I JUST
18 NEED TO FIND OUT.

19 MR. CHRISTIAN COLEMAN, YOU HAVE TALKED WITH YOUR
20 ATTORNEY?

21 A. YES, SIR.

22 Q. ABOUT THIS?

23 A. YES, SIR.

24 Q. HAVE YOU TALKED WITH ANY FAMILY MEMBERS ABOUT IT

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

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- 1 AS WELL?
- 2 A. NO, SIR.
- 3 Q. OKAY. HAVE YOU UNDERSTOOD EVERYTHING YOUR
- 4 ATTORNEY HAS TOLD YOU?
- 5 A. YES, SIR.
- 6 Q. OKAY. MR. RALPH COLEMAN, HAVE YOU TALKED WITH
- 7 YOUR ATTORNEYS ABOUT THIS?
- 8 A. YES, SIR.
- 9 Q. HAVE YOU TALKED WITH ANY FAMILY MEMBERS ABOUT IT?
- 10 A. NO, SIR.
- 11 Q. OKAY. HAVE YOU UNDERSTOOD EVERYTHING YOUR
- 12 ATTORNEYS HAVE TOLD YOU?
- 13 A. YES, SIR.
- 14 Q. OKAY. MR. HARRIS, HAVE YOU TALKED WITH YOUR
- 15 ATTORNEY ABOUT THIS?
- 16 A. YES, YOUR HONOR.
- 17 Q. HAVE YOU TALKED WITH ANY FAMILY MEMBERS ABOUT
- 18 THIS?
- 19 A. YES, YOUR HONOR.
- 20 Q. OKAY. HAVE YOU UNDERSTOOD EVERYTHING YOUR
- 21 ATTORNEY HAS SAID?
- 22 A. YES, YOUR HONOR.
- 23 Q. OKAY. MR. RYANT, HAVE YOU TALKED WITH YOUR
- 24 ATTORNEY ABOUT THIS?

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

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1 A. YES, SIR.

2 Q. HAVE YOU UNDERSTOOD EVERYTHING HE'S TOLD YOU?

3 A. YES, SIR.

4 Q. HAVE YOU TALKED WITH ANY FAMILY MEMBERS ABOUT
5 THIS?

6 A. NO, SIR.

7 Q. OKAY. AND MR. SHIVERS, HAVE YOU TALKED WITH YOUR
8 ATTORNEY ABOUT THIS?

9 A. YES, SIR.

10 Q. OKAY. HAVE YOU TALKED WITH ANY FAMILY MEMBERS
11 ABOUT IT?

12 A. NO, SIR.

13 Q. OKAY. HAVE YOU UNDERSTOOD EVERYTHING THAT YOUR
14 ATTORNEY HAS TOLD YOU ABOUT THIS?

15 A. YES, SIR.

16 Q. ALRIGHT. DO EACH ONE OF YOU GENTLEMEN UNDERSTAND
17 THAT THE DECISION YOU MAKE NOW WILL BE YOUR FINAL
18 DECISION? DO YOU UNDERSTAND THAT, MR. CHRISTIAN
19 COLEMAN?

20 A. YES, SIR.

21 Q. OKAY, MR. RALPH COLEMAN?

22 A. YES, SIR.

23 Q. MR. HARRIS?

24 A. YES, YOUR HONOR.

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

- 1 Q. MR. RYANT?
- 2 A. YES, SIR.
- 3 Q. AND MR. SHIVERS?
- 4 A. YES, SIR.
- 5 Q. ALRIGHT. HAS EVERYONE UNDERSTOOD WHAT I HAVE
- 6 TOLD YOU? ALRIGHT, MR. CHRISTIAN COLEMAN?
- 7 A. YES, SIR.
- 8 Q. MR. RALPH COLEMAN?
- 9 A. YES, SIR.
- 10 Q. MR. HARRIS?
- 11 A. YES, YOUR HONOR.
- 12 Q. MR. RYANT?
- 13 A. YES, SIR.
- 14 Q. AND MR. SHIVERS?
- 15 A. YES, SIR.
- 16 Q. ALRIGHT. DO ANY OF Y'ALL HAVE ANY QUESTIONS
- 17 ABOUT WHAT I'VE EXPLAINED TO YOU? IF YOU DO, I
- 18 NEED, IF YOU'LL JUST RAISE YOUR HAND. ALRIGHT,
- 19 NO ONE HAS ANY QUESTIONS. DOES ANYBODY NEED TO
- 20 TALK TO THEIR ATTORNEY ONE MORE TIME? MR.
- 21 CHRISTIAN COLEMAN?
- 22 A. NO, SIR.
- 23 Q. MR. RALPH COLEMAN?
- 24 A. NO, SIR.

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

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1 Q. MR. HARRIS?

2 A. NO, YOUR HONOR.

3 Q. MR. RYANT?

4 A. NO, SIR.

5 Q. MR. SHIVERS?

6 A. NO, SIR.

7 Q. ALRIGHT. MR. CHRISTIAN COLEMAN, DO YOU WISH TO
8 TESTIFY?

9 A. NO, SIR.

10 Q. ALRIGHT. AND MR. COLEMAN, HAS ANYBODY THREATENED
11 YOU TO GET YOU TO DECIDE THIS?

12 A. NO, SIR.

13 Q. HAS ANYBODY PROMISED YOU ANYTHING TO GET YOU TO
14 DECIDE THIS?

15 A. NO, SIR.

16 Q. YOU'RE DOING IT FREELY AND VOLUNTARILY?

17 A. YES, SIR.

18 Q. YOU UNDERSTAND WHAT YOU'RE DOING?

19 A. YES, SIR.

20 Q. ALRIGHT, SIR. MR. RALPH COLEMAN, DO YOU WISH TO
21 TESTIFY?

22 A. NO, SIR.

23 Q. ALRIGHT, SIR. HAS ANYBODY THREATENED YOU TO GET
24 YOU TO NOT TESTIFY?

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

- 1 A. NO, SIR.
- 2 Q. HAS ANYBODY PROMISED YOU ANYTHING TO GET YOU TO
- 3 NOT TESTIFY?
- 4 A. NO, SIR.
- 5 Q. ARE YOU DOING IT FREELY AND VOLUNTARILY?
- 6 A. YES, SIR.
- 7 Q. YOU UNDERSTAND WHAT YOU'RE DOING?
- 8 A. YES, SIR.
- 9 Q. ALRIGHT, SIR. MR. HARRIS, DO YOU WISH TO
- 10 TESTIFY?
- 11 A. NO, YOUR HONOR.
- 12 Q. ALRIGHT, SIR. MR. HARRIS, HAS ANYBODY THREATENED
- 13 YOU TO GET YOU TO NOT TESTIFY?
- 14 A. NO, YOUR HONOR.
- 15 Q. HAS ANYBODY PROMISED YOU ANYTHING TO GET YOU TO
- 16 NOT TESTIFY?
- 17 A. NO, YOUR HONOR.
- 18 Q. ALRIGHT, SIR. YOU'RE DOING IT FREELY AND
- 19 VOLUNTARILY?
- 20 A. YES, SIR.
- 21 Q. YOU UNDERSTAND WHAT YOU'RE DOING?
- 22 A. YES, SIR.
- 23 Q. ALRIGHT. MR. RYANT, DO YOU WISH TO TESTIFY?
- 24 A. NO, SIR.

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

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1 Q. ALRIGHT, SIR. MR. RYANT, HAS ANYBODY PROMISED
2 YOU ANYTHING TO GET YOU TO NOT TESTIFY?

3 A. NO, SIR.

4 Q. HAS ANYBODY THREATENED YOU TO GET YOU TO NOT
5 TESTIFY?

6 A. NO, SIR.

7 Q. YOU'RE DOING IT FREELY AND VOLUNTARILY?

8 A. YES, SIR.

9 Q. YOU UNDERSTAND WHAT YOU'RE DOING?

10 A. YES, SIR.

11 Q. ALRIGHT. MR. SHIVERS, DO YOU WISH TO TESTIFY?

12 A. NO, SIR.

13 Q. OKAY. HAS ANYBODY PROMISED YOU ANYTHING TO GET
14 YOU TO NOT TESTIFY?

15 A. NO, SIR.

16 Q. HAS ANYBODY THREATENED YOU TO GET YOU TO NOT
17 TESTIFY?

18 A. NO, SIR.

19 Q. YOU'RE DOING IT FREELY AND VOLUNTARILY?

20 A. YES, SIR.

21 Q. YOU UNDERSTAND WHAT YOU'RE DOING?

22 A. YES, SIR.

23 THE COURT: ALRIGHT, SIR. ALRIGHT, THANK YOU,
24 GENTLEMEN, YOU MAY BE SEATED. APPRECIATE IT.

1 ALRIGHT, NOW, I KNOW THAT THERE WERE SOME OTHER
2 ISSUES BESIDES -- IS THERE GOING TO BE ANY EVIDENCE
3 PUT UP BY THE DEFENSE AT ALL, ANY WITNESSES? I KNOW
4 THERE WERE SOME ALLEGATION OF SOME OTHER THINGS. I
5 WAS PUT ON NOTICE OF SOME OTHER WITNESSES.

6 MS. ULLMAN: YOUR HONOR, RALPH COLEMAN IS NOT
7 PUTTING UP ANY WITNESSES.

8 THE COURT: OKAY. MR. LACKEY?

9 MR. LACKEY: YOUR HONOR, NONE ON BEHALF OF
10 CHRISTIAN COLEMAN.

11 THE COURT: MR. PALMER?

12 MR. PALMER: NONE ON BEHALF OF MR. HARRIS, YOUR
13 HONOR.

14 THE COURT: OKAY. AND MR. MELLARD?

15 MR. MELLARD: NONE ON BEHALF OF DANNY RYANT.

16 THE COURT: AND MR. KOGER?

17 MR. KOGER: NONE ON BEHALF OF MR. SHIVERS, YOUR
18 HONOR.

19 THE COURT: ALRIGHT. SO, WHEN THE JURY COMES IN
20 YOU'RE JUST GOING TO TELL THEM, LET EACH ONE OF Y'ALL
21 TELL THE JURY THAT THE DEFENSE RESTS, EACH ONE OF
22 Y'ALL RESTS.

23 NOW, ARE Y'ALL PREPARED TO GO FORWARD WITH THE
24 ARGUMENTS RIGHT NOW OR DO WE NEED A BREAK, OR HOW DO
25 Y'ALL WANT TO HANDLE THAT? MR. LACKEY, I'LL LET YOU

1 GO FIRST SINCE YOU'RE IN LINE.

2 MR. LACKEY: YOUR HONOR, I THINK WHAT WE WOULD
3 NEED TO DO AT THAT POINT IS THEN MEET WITH, MEET WITH
4 YOUR HONOR AND GO OVER THE REQUESTS TO CHARGE TO MAKE
5 SURE - - -

6 THE COURT: OH, YEAH, WE'VE GOT A LOT, I WILL
7 TELL YOU WHAT I'M PLANNING ON CHARGING AND THEN Y'ALL
8 CAN TELL ME WHAT -- BUT I MEAN, OTHER THAN THAT ARE
9 Y'ALL PREPARED TO GO FORWARD AFTER WE DO THAT?

10 MR. LACKEY: YOUR HONOR, I WOULD -- JUST IN THE
11 INTEREST OF TIME, AFTER ALL THAT IS DONE I WOULD -- IT
12 APPEARS TO ME THAT WE WOULD PROBABLY RUN PAST THE HOUR
13 TONIGHT, AND I CERTAINLY DO NOT WANT TO BIFURCATE
14 CLOSING ARGUMENTS.

15 THE COURT: YOU'RE SUGGESTING THAT WE COME BACK
16 IN THE MORNING AND DO CLOSINGS?

17 MR. LACKEY: EVEN IF WE WANT TO START EARLIER, I
18 THINK THAT WOULD BE MORE FUNDAMENTALLY FAIR TO EACH OF
19 OUR CLIENTS SINCE THE STATE DOES GET LAST CLOSE AND
20 THEY'D HAVE OVERNIGHT WHEREVER WE BROKE IT IF A COUPLE
21 OF US HAD TO ARGUE.

22 THE COURT: ALRIGHT. MS. ULLMAN?

23 MS. ULLMAN: I AGREE COMPLETELY. IT'S OBVIOUS TO
24 ME, BASED ON TIME, THE STATE WOULD GO THE FIRST TIME
25 LIKE THEY DID TO, MAYBE MR. LACKEY AND I WOULD GO AND

1 THEN THEY WOULD HAVE ALL NIGHT TO DEVELOP THEIR
2 RESPONSE TO US, AND THE OTHER ATTORNEYS WOULD GET TO
3 GO TOMORROW, BUT CERTAINLY, THE LAST TIME THE JURY
4 WOULD HEAR ME SPEAK ON BEHALF OF RALPH COLEMAN WOULD
5 BE TODAY, AND I CERTAINLY THINK THAT'S UNFAIR.

6 THE COURT: OKAY. MR. PALMER?

7 MR. PALMER: AGREED, YOUR HONOR.

8 THE COURT: MR. MELLARD?

9 MR. MELLARD: YES, I THINK WE NEED TO START
10 TOMORROW MORNING, YOUR HONOR.

11 THE COURT: OKAY. MR. KOGER?

12 MR. KOGER: I AGREE, YOUR HONOR.

13 THE COURT: OKAY. AND MR. PASCOE?

14 SOLICITOR PASCOE: I'LL DO WHATEVER YOUR HONOR
15 WANTS TO DO.

16 THE COURT: OKAY. ALRIGHT. I DON'T HAVE ANY
17 HOPE THAT ANYBODY IS GOING TO BE SHORT WINDED IN THEIR
18 CLOSINGS, SO I WILL, WE WILL START BACK IN THE
19 MORNING. LET'S GET THE JURY BACK OUT THERE. I'LL LET
20 EACH ONE OF Y'ALL REST AND THEN I'LL EXCUSE THE JURY
21 FOR THE DAY. I'M NOT GOING TO TELL THEM TO COME BACK
22 ANY EARLIER THAN NINE, AND WE'LL JUST START AT NINE.
23 OKAY?

24 ALRIGHT, ANYTHING ELSE BEFORE I BRING THE JURY
25 BACK OUT?

1 SOLICITOR PASCOE: NO, SIR.

2 MR. LACKEY: NO, SIR, YOUR HONOR.

3 THE COURT: OKAY. THANK YOU. IF YOU'LL BRING
4 THE JURY ON BACK OUT.

5 (Whereupon, the jury enters
6 the courtroom and the following
7 takes place in the presence
8 of the jury.)

9 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, I
10 APPRECIATE YOUR PATIENCE. RIGHT NOW WE ARE READY TO
11 PROCEED WITH THE REMAINING PORTION OF THIS TRIAL.

12 MR. LACKEY.

13 MR. LACKEY: YOUR HONOR, AT THIS TIME ON BEHALF
14 OF MY CLIENT, MR. CHRISTIAN COLEMAN, THE DEFENSE WOULD
15 REST.

16 THE COURT: OKAY. THANK YOU, SIR.

17 MS. ULLMAN.

18 MS. ULLMAN: THANK YOU, YOUR HONOR. ON BEHALF OF
19 RALPH COLEMAN THE DEFENSE RESTS.

20 THE COURT: OKAY. MR. PALMER.

21 MR. PALMER: THANK YOU, YOUR HONOR. ON BEHALF OF
22 WALTER LEE HARRIS, THE DEFENSE RESTS.

23 THE COURT: OKAY. AND MR. MELLARD.

24 MR. MELLARD: YES, SIR. ON BEHALF OF THE
25 DEFENDANT, DANNY RYANT, THE DEFENSE RESTS.

1 THE COURT: ALRIGHT. AND MR. KOGER.

2 MR. KOGER: YOUR HONOR, ON BEHALF OF MARIO
3 SHIVERS THE DEFENSE RESTS.

4 THE COURT: THANK YOU, SIR.

5 ALRIGHT, LADIES AND GENTLEMEN, WHAT YOU HAVE NOW
6 HEARD IS THAT THE DEFENDANTS HAVE RESTED ON THE
7 TESTIMONY THAT IS BEFORE YOU. OKAY? WHAT WE HAVE TO
8 DO NOW IS GO FORWARD AND DO THE CLOSING ARGUMENTS AND
9 I NEED TO CHARGE YOU WITH THE LAW. OKAY? IT IS NOW
10 NEARLY THREE O'CLOCK IN THE AFTERNOON. Y'ALL HAVE
11 BEEN WITH ME ALL WEEK, Y'ALL HAVE A GOOD IDEA, I GUESS
12 YOU HAVE A GOOD GUESS THAT THE ATTORNEYS AND THE COURT
13 HAVE A LOT TO SAY, TO ADVISE YOU ABOUT AT THE END OF
14 TRIAL, AND SINCE IT IS LATE IN THE AFTERNOON AND I
15 DON'T WANT TO KEEP Y'ALL INTO THE EVENING WITH THE
16 CLOSINGS AND THEN TO BEGIN YOUR DELIBERATIONS, WHAT
17 I'M GOING TO ALLOW Y'ALL TO DO IS GO HOME EARLY, COME
18 BACK HERE AT NINE O'CLOCK IN THE MORNING. WHEN YOU
19 GET BACK HERE AT NINE O'CLOCK IN THE MORNING WE WILL
20 BEGIN IMMEDIATELY WITH THE CLOSING ARGUMENTS OF THE
21 ATTORNEYS, AND THEN I WILL CHARGE YOU WITH THE LAW,
22 AND THEN AND ONLY THEN WILL YOU BE TOLD THAT YOU CAN
23 BEGIN TALK ABOUT THIS CASE AMONG YOURSELVES AND BEGIN
24 YOUR DELIBERATIONS.

25 NOW, AGAIN, I AM GOING TO EXCUSE YOU FOR THE REST

1 OF THE AFTERNOON AND I ASK YOU TO BE BACK IN THE JURY
2 ROOM AT NINE O'CLOCK. REMEMBER, YOU CAN'T TALK ABOUT
3 IT, YOU HAVE NOT HEARD THE CLOSING ARGUMENTS OR MY
4 INSTRUCTIONS ON THE LAW SO YOU CANNOT TALK ABOUT THIS
5 CASE AMONG YOURSELVES OR TO ANYONE. AGAIN, YOU CANNOT
6 READ ANYTHING IN THE PAPER, LISTEN TO ANYTHING ON T.V.
7 OR THE INTERNET OR THE RADIO ABOUT THIS CASE. AND
8 AGAIN, I APPRECIATE Y'ALL'S ATTENTION THAT YOU HAVE
9 GIVEN TO ALL THE WITNESS AND THE ATTORNEYS IN THIS
10 MATTER, AND WE WILL BE BACK HERE TOMORROW SO WE CAN
11 FINALIZE THIS. OKAY? THANK Y'ALL SO MUCH AND Y'ALL
12 ARE NOW EXCUSED FOR THE REMAINDER OF THE AFTERNOON.

13 (Whereupon, the jury leaves
14 the courtroom for the day
15 and the following takes place
16 out of the presence of the
17 jury.)

18 THE COURT: ALRIGHT, WE'LL TAKE A SHORT BREAK,
19 LET THE COURTROOM CLEAR, AND THEN, YOU KNOW, WE'LL
20 COME BACK AND GO OVER THE CHARGES AND ALL LIKE THAT.
21 OKAY? THANK Y'ALL.

22 (Recess)

23 THE COURT: MS. HARRY DOT, ARE YOU READY?

24 COURT REPORTER: YES, SIR.

25 THE COURT: OKAY. LET ME GO THROUGH, I THINK, I

1 DON'T KNOW IF THIS IS GOING TO BE THE WAY TO DO IT OR
2 NOT, BUT THIS IS GOING TO BE, WE'LL AT LEAST START
3 THIS WAY. I'M GOING TO GO THROUGH WHAT MY USUAL, WHAT
4 I SEE, CHARGES FOR, I THINK -- Y'ALL HAVE EXCHANGED
5 CHARGES?

6 MS. ULLMAN: YES, SIR.

7 THE COURT: OKAY. Y'ALL KNOW WHAT EACH ONE OF YOU
8 HAS? OKAY. YOU KNOW, I START OFF WITH THE FACT THAT
9 INDICTMENT IS NOT EVIDENCE. I DO THE CHARGE ON
10 MULTIPLE CHARGES, YOU'VE GOT, EACH ONE IS SEPARATE AND
11 DISTINCT. I'M GOING OVER THE MULTIPLE DEFENDANTS
12 CHARGE AND THAT SAYS THAT, YOU KNOW, YOU CAN FIND ONE
13 GUILTY OR ONE INNOCENT, YOU KNOW, TRY AND SEPARATE --
14 YEAH, EVERYBODY IS HERE. OKAY. TRY AND SEPARATE IT
15 OUT. I GO OVER THE PRESUMPTION OF INNOCENCE, THAT'S
16 THE ONE, BECAUSE I CAN'T FIND ANYTHING ELSE I LIKE I'M
17 STILL DOING THAT ROBE OF RIGHTEOUSNESS THAT YOU
18 MENTIONED WHICH I STILL DISLIKE THAT PHRASE TO NO END,
19 BUT I HAVEN'T FOUND ANOTHER WAY TO DESCRIBE IT, SO I'M
20 STILL DESCRIBING IT THAT WAY.

21 MR. LACKEY: I THINK I USE THE CLOAK RATHER THAN
22 ROBE.

23 THE COURT: WELL, IF YOU'LL SAY CLOAK AND I'LL
24 SAY ROBE I'LL FEEL MUCH BETTER. OKAY. THEN I'LL DO
25 BOTH REASONABLE DOUBTS, I DO THE SHORT ONE AND THE

1 LONG ONE, BECAUSE SOME SIDES WANT IT LONG, SOME WANT
2 IT SHORT, SO I DO IT BOTH. OKAY? I GO OVER THE
3 DUTIES OF THE TRIAL JUDGE AND THE JURY, DIRECT AND
4 CIRCUMSTANTIAL EVIDENCE, CREDIBILITY OF WITNESSES.
5 SINCE WE HAD AN EXPERT WITNESS I WILL GIVE AN EXPERT
6 WITNESS CHARGE, THE FAILURE OF THE DEFENDANTS TO
7 TESTIFY THE FACT THAT THEY CANNOT EVEN BE DISCUSSED IN
8 THE JURY ROOM. THE HAND OF ONE IS THE HAND OF ALL,
9 IN THAT REGARD, SOLICITOR SORENSON, YOU HANDED ME YOUR
10 HAND OF ONE, YOUR REQUEST TO CHARGE NUMBER FIVE?

11 SOLICITOR SORENSON: YES, SIR.

12 THE COURT; MINE, THAT'S INCLUDED IN MINE, MY
13 HAND OF ONE, HAND OF ALL IS THE LONGEST.

14 SOLICITOR SORENSON: THE WAY I'VE GOT IT,
15 ACTUALLY, SOME JUDGES CHARGE IT THAT WAY.

16 THE COURT; OKAY. I'VE GOT -- I HAVE A CHARGE --
17 I'M GOING TO CHARGE IDENTIFICATION, YOU KNOW, INTENT,
18 ARMED ROBBERY, FIRST DEGREE BURGLARY, AND MURDER, AND
19 I USUALLY LEAVE OUT -- WELL, NOT USUALLY LEAVE OUT,
20 BUT WHEN I'M GOING THROUGH, THE MALICE CAN BE INFERRED
21 BY THE USE OF A DEADLY WEAPON, I DON'T MENTION A DIRK.
22 EVEN THOUGH I KNOW IT'S IN THERE, I USUALLY LEAVE DIRK
23 OUT BECAUSE I DON'T KNOW IF ANYBODY KNOWS WHAT IT IS
24 ON THE JURY. I DOUBT THAT TOO MANY PEOPLE IN THIS ROOM
25 KNOW WHAT A DIRK IS, YOU KNOW, BUT, SO I LEAVE THAT

1 OUT UNLESS SOMEBODY REALLY WANTS ME TO MENTION IT. YOU
2 KNOW, I CAN SEE THE LOOK. OKAY.

3 SOLICITOR SORENSON: I THINK TO ACCURATELY STATE
4 THE LAW, YOUR HONOR.

5 THE COURT: SIR?

6 SOLICITOR SORENSON: TO ACCURATELY STATE THE LAW.

7 THE COURT: SURE. OKAY. LET'S SEE, Y'ALL HAVE
8 LOOKED -- LET'S SEE, MS. ULLMAN, YOU GAVE ME THE BASIC
9 CHARGE.

10 MS. ULLMAN: YOUR HONOR, MY ACCOMPLICE LIABILITY
11 AND THEN THE CASE I GAVE YOU WHICH ACTUALLY HAS TWO
12 SEPARATE POINTS OF LAW IN IT THAT I WAS RELYING UPON.
13 THEY'RE BOTH RELATED TO IDENTIFICATION TESTIMONY, BUT
14 ONE IS IN RELATION TO AN INFORMER IDENTIFICATION
15 TESTIMONY, AND THEN THE OTHER IS IN RELATION TO EYE
16 WITNESS IDENTIFICATION WHEN THERE'S BEEN TESTIMONY
17 THAT IT IS NOT A - - -

18 THE COURT: OKAY, YOUR ACCOMPLICE LIABILITY
19 CHARGE?

20 MS. ULLMAN: YES, SIR.

21 THE COURT: OKAY. AND I THINK -- YOU DON'T HAVE
22 YOURS NUMBERED. YOU SAID, ACCOMPLICE LIABILITY, BUT
23 MR. SORENSON, YOU HAVE ONE THAT SAYS, IF TWO OR MORE
24 PEOPLE ACT TOGETHER TO COMMIT AN UNLAWFUL ACT, IS YOUR
25 CHARGE, THAT'S YOUR FIRST CHARGE?

1 SOLICITOR SORENSON: YES, SIR.

2 THE COURT: OKAY. ALRIGHT, OKAY, I DON'T HAVE
3 ANY PROBLEMS WITH CHARGING BOTH OF THESE. I'LL CHARGE
4 YOUR NUMBER ONE, AND FOLLOW IT UP WITH HER ONE
5 SENTENCE THING ABOUT ACCOMPLICE LIABILITY, I'LL PUT
6 THOSE BOTH TOGETHER.

7 SOLICITOR PASCOE: I DON'T THINK WE HAVE ANY
8 OBJECTION TO THAT, BUT I MEAN, WE'D JUST KIND OF LOOK
9 STATE VERSUS PETERSON TO SEE WHAT CONTEXT THAT IS IN.

10 THE COURT: YEAH, AND I'M GOING TO DOUBLE CHECK,
11 I'M GOING TO DOUBLE CHECK BOTH OF THESE CITES JUST TO
12 MAKE SURE MYSELF, BUT ON MY INITIAL READING OF IT,
13 SINCE I KNOW Y'ALL WANT SOME KIND OF AN IDEA. OKAY?

14 SOLICITOR PASCOE: YES, SIR.

15 THE COURT: YOUR REQUEST NUMBER TWO, VOLUNTARY
16 INTOXICATION OR USE OF DRUGS DOES NOT CONSTITUTE A
17 DEFENSE FOR A CRIME. I DON'T KNOW THAT THERE WAS ANY
18 EVIDENCE -- TELL ME - - -

19 SOLICITOR PASCOE: OH, YEAH, THERE'S TESTIMONY
20 THROUGHOUT THE TRIAL THAT THEY WERE SMOKING MARIJUANA,
21 YOUR HONOR, THAT MARIO SHIVERS WAS SMOKING MARIJUANA,
22 PATRICK TYLER WAS SMOKING MARIJUANA WITH THEM, RALPH
23 COLEMAN, SO THAT - - -

24 THE COURT: OKAY. OH, YEAH, THAT'S RIGHT, THEY
25 HAD BEEN. OKAY, WELL, LET ME CHECK THAT, AND I'LL

1 READ THAT CASE AS WELL, YOU KNOW, JUST TO BE ON THE
2 SAFE SIDE.

3 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

4 THE COURT: THE -- AND YOU'VE GOT CHARGES THREE
5 AND FOUR LOOK FINE. OKAY?

6 OKAY. WITH REGARD TO -- LET ME SEE, LET ME GO
7 THROUGH THE BASIC CHARGE. OKAY, MS. ULLMAN, I GO
8 THROUGH THE FACT THEY PLED NOT GUILTY, I DON'T -- AND
9 TOWARD THE END OF IT I REMIND EVERYBODY, SOLE JUDGES
10 OF THE FACTS, CREDIBILITY OF THE WITNESSES. I'VE GOT,
11 I'VE GOT PRETTY MUCH EVERYTHING IN YOUR BASIC CHARGE
12 IN MY CHARGES SO, REASONABLE DOUBT, I'VE ALREADY SAID
13 I'M CHARGING BOTH THE LONG AND THE SHORT. I'VE GOT MY
14 PRESUMPTION OF INNOCENCE THING. I'M GOING OVER THE
15 FACT THAT THEY CAN'T INFER ANYTHING ABOUT THE
16 DEFENDANTS NOT TAKING THE STAND, THEY CAN'T EVEN TALK
17 ABOUT THE DEFENDANTS NOT TAKING THE STAND. LET'S SEE
18 -- I THINK I ALREADY TOLD Y'ALL I'M CHARGING CRIMINAL
19 INTENT, DIDN'T I?

20 MS. ULLMAN: YES, SIR.

21 THE COURT: OKAY. THE, AT THE END OF THE CASE I
22 REMIND EVERY ONE OF THEM THAT IT IS EACH AND EVERY ONE
23 OF THEM, UNANIMITY OF VERDICT, I REMIND THEM OF THAT.
24 MY MURDER CHARGE IS ABOUT THE SAME, IT'S THE STANDARD
25 MURDER CHARGE.

1 NOW, MERE PRESENCE, YOU HAVE MERE PRESENCE.
2 WELL, I'M NOT GOING TO USE, I WON'T USE YOUR LONG -- I
3 HAVE A SHORTER ONE THAT JUST REMINDS THE, IT JUST SAYS
4 THAT IT'S NOT -- PRESENCE AT THE SCENE IS NOT
5 SUFFICIENT TO PROVE SOMEONE GUILTY OF IT. MERE
6 ASSOCIATION WITH A PERSON WHO COMMITS A CRIME DOES NOW
7 MAKE THEM -- AND JUST REMIND EVERYBODY -- AND THEN THE
8 NEXT PARAGRAPH THAT THE BURDEN IS ON THE STATE TO
9 PROVE THAT THEY WERE ALL THERE, AND THAT'S WHY WE'VE
10 GOT THE ACCOMPLICE CHARGE IN THERE LIKE THAT. SO MY,
11 I'VE GOT A SHORTER MERE PRESENCE CHARGE THAT I WILL
12 USE.

13 WHY DO YOU HAVE VOLUNTARY MANSLAUGHTER?

14 MS. ULLMAN: YOUR HONOR, WE WOULD ASK THAT YOU
15 CHARGE THE JURY ON VOLUNTARY MANSLAUGHTER, I THINK
16 WHAT PATRICK TYLER STATED WAS THAT THEY WENT THERE
17 INTENDING TO ROB THIS PERSON AND THAT WHILE THEY WERE
18 THERE ROBBING HIM THINGS WENT CRAZE AND STUFF JUST
19 HAPPENED. YOU KNOW, THAT'S MY - - -

20 THE COURT: WELL, THAT IS - - -

21 MS. ULLMAN: --- SYNOPSIS OF WHAT HE SAID.

22 THE COURT: --- THAT IS THE SYNOPSIS OF WHAT HE
23 SAID.

24 MS. ULLMAN: I THINK THE JURY COULD FIND THAT
25 THERE WAS NO MALICE AND THAT IN THE HEAT OF PASSION IT

1 HAPPENED.

2 THE COURT: SO, YOU WANT ME TO MAKE THAT AN
3 OPTION ON THE VERDICT FORM, VOLUNTARY MANSLAUGHTER?

4 MS. ULLMAN: WELL, TO BE QUITE HONEST, YOUR
5 HONOR, I KIND OF THINK AT THIS POINT MAYBE WE SHOULD
6 DISCUSS THAT SINCE WE KIND OF ALL ARE SITTING IN THE
7 SAME BOAT AND WE'VE HAD TO DISCUSS OTHER THINGS.

8 THE COURT: OKAY. ALRIGHT -- YES?

9 SOLICITOR PASCOE: AND OF COURSE, I'M GOING TO
10 OBJECT, BECAUSE IF THEY HAD FOUND THEM GUILTY OF
11 VOLUNTARY MANSLAUGHTER IT'S GOING TO GET THROWN OUT.
12 THERE'S NO EVIDENCE OF LEGAL PROVOCATION, HEAT OF
13 PASSION. YOU WILL NEVER FIND A CASE IN THE HISTORY OF
14 SOUTH CAROLINA WHERE A HOME INVASION WAS A VOLUNTARY
15 MANSLAUGHTER.

16 THE COURT: WELL, LET ME -- OH, YEAH, I MEAN, I'M
17 SORRY, I'M JUST READING OVER THE CHARGE. I SEE, HEAT
18 OF PASSION WILL NOT SUFFICE. WHAT'S THE SUFFICIENT
19 LEGAL PROVOCATION IN THIS ONE?

20 MS. ULLMAN: YOUR HONOR, I WOULD SIMPLY SAY THAT
21 IF THE JURY COULDN'T FIND THE MALICE THEN THEY MIGHT
22 FIND THAT IN THE HEAT OF PASSION. THERE'S TESTIMONY
23 THAT WHEN - - -

24 THE COURT: IF THEY DON'T FIND THE MALICE THEY
25 MIGHT FIND THEM NOT GUILTY OF MURDER.

1 MS. ULLMAN: YES, SIR.

2 THE COURT: OKAY. SO, I'M NOT GOING TO CHARGE
3 VOLUNTARY MANSLAUGHTER. OKAY?

4 OBJECTIONS.

5 MR. PALMER: EXCUSE ME, YOUR HONOR, ONE MOMENT.

6 THE COURT: OKAY. YOU'VE GOT A CHARGE ABOUT
7 OBJECTIONS. YOU KNOW, MY CHARGE IS GOING TO BE LONG
8 ENOUGH WITHOUT GOING INTO THAT. I DON'T THINK THAT
9 THERE IS ANYTHING IN HERE TO MAKE ME THINK THAT, YOU
10 KNOW, WE NEED TO SAY ANYTHING ABOUT OBJECTING IN THE
11 CHARGE. I'M JUST CHARGING THEM ON THE LAW SO THEY CAN
12 MAKE A DETERMINATION ABOUT WHETHER THEY'RE GOING TO
13 FIND SOMEBODY GUILTY OR NOT. SO, DID YOU MAKE A COPY
14 OF THIS AND GIVE IT TO - - -

15 MR. PALMER: I HAVE, YOUR HONOR, YES.

16 THE COURT: ALRIGHT. OKAY, I'VE GOT MY EXPERT
17 WITNESS AND I'VE GOT IDENTIFICATION. I'VE ALREADY GOT
18 THOSE CHARGES. OKAY. AND THEN, WHAT WAS THE -- MS.
19 ULLMAN, WHAT DID YOU -- I'VE GOT YOUR -- OKAY.

20 MS. ULLMAN: YOUR HONOR, THE U.S. VERSUS BROOKS
21 CASE THAT I'VE HANDED TO YOU ACTUALLY CITES THE CASE
22 OF U.S. VERSUS TELFARE, I BELIEVE IS HOW IT'S SAID,
23 AND VERY BRIEFLY, BASICALLY, THAT STATES THAT WHEN
24 THERE IS EVIDENCE THAT AN EYE WITNESS HAS MADE AN
25 IDENTIFICATION, THAT EYE IDENTIFICATION IS CERTAINLY

1 NOT CERTAIN, WHICH MS. PARSLEY IN REGARDS TO RALPH
2 COLEMAN ABSOLUTELY STATED THAT SHE IS NOT SURE, SHE
3 COULDN'T BE SURE, IT'S POSSIBLE IT WASN'T HIM, THAT
4 THERE BE A SPECIAL INSTRUCTION GIVEN TO THE JURY THAT
5 STATES, I BELIEVE THE INSTRUCTION IS IN THERE, BUT IT
6 BASICALLY IS A CAUTIONARY INSTRUCTION STATING THAT
7 JUST BECAUSE SHE PICKS THAT PICTURE DOESN'T GUARANTEE
8 THAT PERSON WAS THERE, THEY NEED TO PAY ATTENTION TO
9 WHAT SHE SAID ABOUT HER ABILITY TO SEE, HER ABILITY TO
10 PERCEIVE WHAT IT IS THAT SHE IDENTIFIED.

11 THE COURT: OKAY. MY CHARGE ON IDENTIFICATION
12 SAYS THAT IDENTIFICATION TESTIMONY IS EXPRESSION OF
13 BELIEF OR AN IMPRESSION BY A WITNESS, AND IT GOES ON
14 DOWN TO SAY, YOU MAY CONSIDER WHETHER A WITNESS HAD AN
15 ADEQUATE TO OBSERVE THE OFFENDER. THIS WOULD BE
16 AFFECTED BY THINGS, ABOUT HOW LONG OR SHORT A TIME IS
17 AVAILABLE, HOW FAR OR CLOSE, LIGHTING CONDITIONS,
18 WHETHER THEY HAD A CHANCE TO SEE OR KNOW THE PERSON IN
19 THE PAST. ONCE AGAIN, I INSTRUCT YOU, THE BURDEN IS
20 ON THE STATE. OKAY? SO, I THINK THAT'S INCLUDED IN
21 MY GENERAL INSTRUCTION.

22 MS. ULLMAN: JUST FOR THE RECORD, I NOTE THE
23 TELFARE INSTRUCTION.

24 THE COURT: MA'AM?

25 MS. ULLMAN: THE RECORD CALLS IT A TELFARE

1 INSTRUCTION, A CAUTIONARY INSTRUCTION UNDER THE
2 TELFARE CASE.

3 THE COURT: WELL, THE REQUIREMENT OF A CAUTIONARY
4 INSTRUCTION, IT SAYS, "THE CAUTIONARY INSTRUCTION OF
5 IDENTIFICATION IS NOT AN ABSOLUTE RULE BUT IT'S A
6 FLEXIBLE ONE TO BE APPLIED IN CONNECTION WITH THE
7 FACTS IN A PARTICULAR CASE UNDER REVIEW." IN MY
8 INSTRUCTIONS I'M GOING TO TELL THEM TO PAY ATTENTION
9 TO WHAT THEY SAID, HOW FAR OR CLOSE, LIGHTING
10 CONDITIONS IS SOMETHING THAT Y'ALL HAVE MADE A BIG
11 ISSUE ABOUT, AND I'M CHARGING THEM ON THAT. I MEAN,
12 ISN'T THAT WHAT - - -

13 MS. ULLMAN: WHAT I MEANT SIR, WAS - - -

14 THE COURT: OH, I'M SORRY, I MUST BE MISSING THE
15 WHOLE POINT.

16 MS. ULLMAN: YES, SIR, THE CASE, I BELIEVE IN A,
17 I WANT TO SAY, FOOTNOTE ACTUALLY GAVE THE EXACT
18 INSTRUCTION. THE FOOTNOTE MAY NOT BE THERE NOW THAT
19 I'M THINKING ABOUT THIS, I MAY HAVE TO RUN DOWNSTAIRS
20 TO GET IT FOR YOU, BUT THE POINT OF WHAT I'M GETTING
21 AT IS, I UNDERSTAND YOUR INSTRUCTION TALKS ABOUT THE
22 LIGHTING AND ALL OF THAT. THE TELFARE INSTRUCTION
23 ITSELF IS ACTUALLY A SPECIALLY CAUTIONARY INSTRUCTION
24 THAT JUDGES CHOOSE TO GIVE AT CERTAIN POINTS, AND I
25 UNDERSTAND THAT CASE THAT I GAVE YOU IS A FOURTH

1 CIRCUIT CASE SAYING THAT IT IS NOT A -- IT IS A
2 FLEXIBLE RULE IN THE JUDGE'S DISCRETION. I'M NOT
3 SAYING YOU HAVE TO GIVE IT, I'M JUST ASKING, AND
4 AGAIN, I MAY NOT HAVE THE ACTUAL INSTRUCTION FOR YOU,
5 I AN GRAB IT IN ABOUT TWO MINUTES, BUT THE TELFARE
6 INSTRUCTION I'M SPEAKING OF IS AN ACTUAL SPECIAL
7 CAUTIONARY INSTRUCTION ASIDE FROM THE NORMAL EYE
8 WITNESS IDENTIFICATION INSTRUCTION THAT'S GIVEN THAT
9 STATES, LOOK AT THE LIGHTING, LOOK AT THE DISTANCE,
10 THINGS OF THAT NATURE.

11 THE COURT: OKAY. WELL, I'LL LET YOU -- SINCE I
12 MUST BE MISSING IT - - -

13 MS. ULLMAN: I'M THINKING I HAD TO PULL IT IN A
14 DIFFERENT CASE BECAUSE I COULDN'T GET THE FOOTNOTE,
15 AND I FORGOT TO BRING THAT CASE OVER HERE, BUT I CAN
16 GET IT FROM MY OFFICE IN ABOUT A MINUTE.

17 THE COURT: AND MAYBE I'M JUST MISSING IT IN
18 HERE, BUT IF YOU'LL BRING IT TO MY ATTENTION I'LL LOOK
19 BACK OVER IT. OKAY?

20 MS. ULLMAN: YES, SIR. THE FURTHER INSTRUCTION,
21 YOUR HONOR, IS THE INFORMER'S IDENTIFICATION
22 INSTRUCTION, AND IT'S ALSO STATED IN THAT BROOKS CASE
23 THAT I HANDED YOU. AND I THINK IT'S ACTUALLY STATED IN
24 THE BROOKS CASE CLOSE TO THE LAST PAGE, IT'S KIND OF
25 INDENTED UPON ITSELF, AND BASICALLY, THAT INSTRUCTION

1 STATES THAT WHEN A PARTICIPANT IN THE ACT PRESENTS EYE
2 WITNESS IDENTIFICATION ABOUT WHO PARTICIPATED, A
3 CAUTIONARY INSTRUCTION CAN BE GIVEN IF THAT PERSON HAS
4 BEEN PAID FOR THEIR TESTIMONY OF IF THEY'VE RECEIVED
5 IMMUNITY FOR THEIR TESTIMONY, WHICH THEY HAVE NOT - -

6 -

7 THE COURT: RIGHT.

8 MS. ULLMAN: --- OF IF THEY'VE RECEIVED ANY SORT
9 OF PERSONAL BENEFIT. I UNDERSTAND THERE HAS BEEN NO
10 PROMISE REGARDING SENTENCING, AND OUTSIDE OF THE
11 JURY'S PRESENCE, I CERTAINLY CAN SAY, PLEADING TO
12 VOLUNTARY MANSLAUGHTER GIVES A PERSON A BENEFIT. I
13 MEAN, THE IDEA OF HIM COMING IN HERE AND TESTIFYING
14 AND GETTING LIFE WITHOUT PAROLE IS PRETTY ABSURD. SO,
15 THE REALITY IS, HE'S GOING TO GET SOME SORT OF
16 SENTENCE THAT EVERYBODY IN THIS COURT KNOWS HE WILL
17 SERVE EIGHTY-FIVE PER CENT OF, AND NOT DAY FOR DAY FOR
18 MURDER. SO, CERTAINLY, HIS TESTIMONY HAS PROVIDED A
19 BENEFIT TO HIM. EVEN IF HE DOESN'T UNDERSTAND THAT,
20 WE ALL UNDERSTAND THAT. HE HAS CERTAINLY BEEN
21 PROVIDED A BENEFIT, AND I BELIEVE THAT THE CAUTIONARY
22 INSTRUCTION REGARDING AN INFORMER'S TESTIMONY SHOULD
23 ALSO BE GIVEN.

24 THE COURT: OKAY. YOU KNOW, I KNOW THAT EACH ONE
25 OF Y'ALL, EACH AND EVERY ONE OF Y'ALL, WHEN YOU STAND

1 UP AND DO YOUR CLOSING ARGUMENTS IS GOING TO MAKE SOME
2 COMMENT ABOUT THAT, OR I WILL BE STUNNED, YOU KNOW,
3 BUT THE WAY THIS READS IS, IT SAYS, -- THIS IS FOR AN
4 INFORMER, THIS IS A CO-DEFENDANT. I UNDERSTAND YOU
5 WANT TO SAY HE'S AN INFORMER BECAUSE HE SQUEALED, YOU
6 KNOW, AND SO, I DON'T SEE, -- GIVEN THAT, BUT ASIDE
7 FROM THAT, THE EXAMPLE, IT SAYS, "TESTIMONY OF AN
8 INFORMANT WHO PROVIDES EVIDENCE AGAINST A DEFENDANT
9 FOR PAY OR FOR IMMUNITY FROM PUNISHMENT, OR FOR A
10 PERSONAL ADVANTAGE OR VINDICATION MUST BE EXAMINED AND
11 WEIGHED BY THE JURY." OKAY. EVERYTHING THAT I CAN
12 SEE IS, OKAY, HE HASN'T BEEN PAID. OKAY. HE'S NOT
13 GETTING ANY IMMUNITY FROM PUNISHMENT, AND I --
14 PERSONAL ADVANTAGE OR VINDICATION, I DON'T KNOW
15 EXACTLY WHAT THAT MEANS, I'D HAVE TO READ IT, BUT THAT
16 SOUNDS MORE LIKE SOME PERSONAL VENDETTA THAT HE WOULD
17 HAVE AGAINST SOMEBODY ELSE. I REALIZE WHAT YOU'RE
18 SAYING, HE'S ALLOWED TO PLEAD TO, WHAT, VOLUNTARY?

19 SOLICITOR PASCOE: YES, SIR.

20 THE COURT: BUT THAT'S NOT, IT'S NOT IMMUNITY
21 FROM PUNISHMENT. HE'S STILL GOT TO WORRY ABOUT
22 WHATEVER SOME CRAZY JUDGE IS GOING TO DO, YOU KNOW.
23 SO, YOU CAN BRING ME THAT TELEFARE THING BUT I'M - - -

24 MS. ULLMAN: I'M GETTING IT RIGHT NOW.

25 THE COURT: OKAY. IF YOU'LL DO THAT. OKAY. SO,

1 IS THERE ANYTHING THAT Y'ALL, ANYTHING ELSE THAT Y'ALL
2 THINK -- MR. PALMER? OH, YEAH, YOUR WITHDRAWAL,
3 EXCUSE ME.

4 MS. PALMER: AND YOUR HONOR, I, QUITE CANDIDLY, I
5 HAD HOPED THAT MY CLIENT WOULD WANT TO TESTIFY,
6 BECAUSE I THINK THAT WOULD MAKE HIS DEFENSE WITH
7 REGARD TO WITHDRAWAL EVEN STRONGER, BUT I THINK AS IT
8 STANDS THERE'S STILL SOME EVIDENCE IN THE RECORD, EVEN
9 FROM THE STATE'S PRINCIPLE WITNESS THAT MY CLIENT, YOU
10 KNOW, HAD A CHANGE OF HEART, HANDED OVER HIS GUN, AND
11 AT LEAST TRIED TO WITHDRAW FROM THE SITUATION. OF
12 COURSE, A LOT OF IT DEPENDS ON HOW CREDIBLE THE JURY
13 FINDS PATRICK TYLER IN DIFFERENT PARTS OF HIS
14 STATEMENT TO BE, BUT I DO THINK THERE IS ENOUGH
15 FACTUAL MATTER IN THE EVIDENCE TO SUPPORT THAT CHARGE,
16 AND I SURE WOULD LIKE TO MAKE THE ARGUMENT.

17 THE COURT: OKAY. WELL, YOU'RE MAKING THE
18 ARGUMENT NOW, I MEAN, TO ME.

19 MR. PALMER: YES, SIR.

20 THE COURT: BUT IT SAYS, "WITHDRAWAL MAY BE SHOWN
21 IF HE WITHDREW ENTIRELY FROM THE ENTERPRISE." THAT'S
22 ONE THING. SO, WE KNOW THAT'S NOT TRUE.

23 MR. PALMER: I GUESS IT DEPENDS ON WHETHER THEY
24 BELIEVE TYLER, BECAUSE HE SAYS THAT HE CAME BACK WITH
25 DUCT TAPE.

1 THE COURT: WELL, YOU KNOW, WITHDRAWAL IS BEFORE
2 SOME ACT IN FURTHERANCE. I MEAN, THIS WHOLE CASE IS
3 GOING TO DETERMINE WHETHER OR NOT THEY BELIEVE P.T.,
4 YOU KNOW, THAT'S WHERE WE ARE WITH THIS. I DON'T KNOW
5 THAT I -- I MEAN, I'M LOOKING OVER THE DIFFERENT
6 CHARGES, I MEAN, THE DIFFERENT ELEMENTS OF WITHDRAWAL,
7 AND THE ONLY ONE I SEE THAT EVEN MAY BE ARGUMENT IS
8 THE SECOND, NUMBER TWO, WHICH IT'S GOT FOUR DIFFERENT
9 THINGS, IT'S GOT ONE, TWO, TWO AND THREE.

10 MR. PALMER: IT'S SUPPOSED TO BE FOUR OF THEM.

11 THE COURT: I KNOW, IT SOUNDS LIKE SOMETHING I
12 WOULD BE DRAWING UP, SO I WAS IMPRESSED WITH THAT.
13 BUT ANYWAY, IT SAYS, "THERE WAS AN AFFIRMATIVE ACT BY
14 THE DEFENDANT SUCH AS VOICING WITHDRAWAL WHICH
15 ANNOUNCED WITHDRAWAL TO THE OTHERS INVOLVED IN THE
16 CRIME." NOW, I DO REMEMBER P.T. SAYING SOMETHING TO
17 THE EFFECT THAT YOUR CLIENT SAID, HE KNOWS SOMEBODY
18 THERE, AND LET'S GO. AND I, AND - - -

19 MR. PALMER: AND THAT'S WHEN THEY WENT AND GOT
20 THE OTHER GUNMAN.

21 THE COURT: YEAH. NOW, I, I'M, I WILL LOOK OVER
22 THAT CASE JUST TO SEE, THAT STATE VERSUS WALTER LEE
23 HARRIS, I MEAN, -- I THOUGHT YOU HAD A CITE UP THERE,
24 I'M SORRY, STATE VERSUS WALTER LEE HARRIS, EXCUSE ME.

25 MR. PALMER: IT'S KIND OF ROUGH SHOD CAPTION.

1 THE COURT: THANK YOU, THANK YOU. UNLESS YOU'VE
2 GOT -- UNLESS YOU CAN FIND ME A CASE THAT WOULD LEAD
3 ME -- WELL, THERE'S ONE DOWN HERE STATE V. VANG, LET
4 ME LOOK AT THAT ONE, TWO THOUSAND THREE. RIGHT NOW I
5 WANT TO TELL YOU THAT IT'S NOT LOOKING GOOD. OKAY?

6 MR. PALMER: AND YOUR HONOR, JUST TO SHIFT GEARS
7 FOR JUST A SECOND - - -

8 THE COURT: SURE.

9 MR. PALMER: --- AND GO BACK TO THE -- THE FACT
10 THAT MR. TYLER TESTIFIED AND HE'S GETTING A DEAL AND
11 THAT SORT OF THING, I MEAN, YOU SAID THAT YOU WOULD BE
12 SURPRISED IF WE DIDN'T ALL GET INTO THAT, BUT JUST FOR
13 MY -- SO I DON'T STEP IN IT, HOW FAR CAN WE GO WITH
14 THAT?

15 THE COURT: WELL, ACTUALLY, I DON'T HAVE -- IT'S
16 HARD FOR ME TO TELL Y'ALL HOW FAR TO GO, BECAUSE
17 THAT'S NOT MY JOB. I JUST FIGURED Y'ALL WERE GOING TO
18 MENTION -- I FIGURED Y'ALL WERE JUST GOING TO MENTION
19 THE FACT, HE IS GETTING THIS AND HE'S HERE, AND YOU'LL
20 NOTICE, LIKE MR. LACKEY SAID, HE'S THE ONLY ONE THAT
21 DIDN'T PUT A GUN IN HIS HAND, YOU KNOW, AND GET
22 WHATEVER IMPLICATION YOU CAN GET OUT OF THAT. BUT - -
23 -

24 SOLICITOR PASCOE: BUT THE ONLY GUIDANCE I WOULD
25 PROVIDE, YOUR HONOR, WOULD BE, THEY CAN GET INTO WHAT

1 CAME OUT DURING HIS TESTIMONY, THAT INSTEAD OF LOOKING
2 AT THIRTY TO LIFE, DAY FOR DAY, HE'S LOOKING AT
3 FIFTEEN TO LIFE, EIGHTY-FIVE PER CENT, WITHOUT PAROLE.

4 MR. PALMER: BUT WE CAN'T - - -

5 SOLICITOR PASCOE: I'M SORRY, SCOTT, THERE WAS
6 NOTHING, YOU KNOW, ABOUT INDIVIDUAL CHARGES,
7 OBVIOUSLY, OR ANYTHING LIKE THAT, JUST THAT THAT'S
8 WHAT HIS SENTENCE IS.

9 THE COURT: COULD BE.

10 SOLICITOR PASCOE: COULD BE, YES, SIR.

11 MR. PALMER: I THINK MY SPECIFIC QUESTION WOULD
12 BE, WOULD IT BE APPROPRIATE TO ARGUE THAT HE STATED
13 THAT HE INTENDS TO PLEAD GUILTY TO EACH OF THE CHARGES
14 THAT HE SAID HE WAS GETTING?

15 SOLICITOR PASCOE: YES, SIR.

16 MR. PALMER: OKAY.

17 THE COURT: YEAH, HE SAID THAT.

18 SOLICITOR PASCOE: HE'S GOING TO PLEAD GUILTY TO
19 THOSE CHARGES.

20 MR. PALMER: OKAY.

21 THE COURT: WHAT ELSE, WHAT ELSE HAVE WE GOT?

22 MS. ULLMAN: YOUR HONOR, I'VE GOT TELFARE.

23 THE COURT: OH, YOU'VE GOT TELFARE. DID MR.
24 CHISOLM BRING IT?

25 MS. ULLMAN: HE DID.

1 THE COURT: THAT'S TAINTED, THEN. NEVER MIND,
2 OKAY.

3 MS. ULLMAN: OKAY. HE WAS DIDN'T WANT ME TO GO
4 UP AND DOWN THE STAIRS A COUPLE OF TIMES - - -

5 THE COURT: I JUST WANTED YOU TO DO THAT A COUPLE
6 OF TIMES.

7 MS. ULLMAN: YOU KNOW, IN MY HEELS IT'S
8 DANGEROUS.

9 THE COURT: LET ME READ THIS OVER AND JUST SEE.
10 OKAY. BUT SO YOU'LL KNOW, I'M -- YOU KNOW, UNLESS YOU
11 CAN HAVE MR. CHISOLM ARGUE IT FOR ME, BECAUSE I'VE
12 ALREADY HEARD FROM YOU AND MR. WISE ENOUGH, SO LET ME
13 SEE IF MR. CHISOLM HAS A FRESH TASTE ON SOMETHING.
14 NO, I'LL READ THIS OVER AND I'LL PULL THAT VANG CASE,
15 AND HAVE Y'ALL HAD A CHANCE TO LOOK AT THE VERDICT
16 FORM? OH, I'M SORRY.

17 SOLICITOR PASCOE: YES, SIR, I HAVE, AND THE ONLY
18 THING I DID SEE WAS JUST A TYPO ON NUMBER TWO,
19 UNANIMOUSLY.

20 THE COURT: OKAY.

21 MS. ULLMAN: UNANIMOUSLY.

22 THE COURT: OKAY.

23 SOLICITOR PASCOE: I OBJECT TO THE NOT GUILTY
24 PART OF THESE JURY VERDICT FORMS.

25 MS. ULLMAN: WELL, WE OBJECT TO THE GUILTY PART.

1 SOLICITOR PASCOE: I HAD A JUDGE SHULER ONCE, I
2 WAS TRYING A CASE, AND HE HAD THE FORMS AND HE MADE A
3 MISTAKE AND HAD HIM GUILTY, GUILTY, AND I, OF COURSE,
4 HAD NO OBJECTION TO THAT. JUDGE SHULER MIGHT NOT HAVE
5 EVEN - - -

6 THE COURT: DO Y'ALL -- WHEN WE DID THE ROMAN
7 NUMERAL AFTER BURGLARY, YOU WOULD HAVE PUT BURGLARY IN
8 THE FIRST DEGREE, OR SINCE I'M GOING TO BE CHANGING
9 THIS ANYWAY, OR - IT SAYS, BURGLARY, ONE.

10 SOLICITOR PASCOE: FIRST DEGREE, YES.

11 MR. LACKEY: I THINK JUST FOR - - -

12 THE COURT: CLARIFICATION.

13 MR. LACKEY: IT WOULD BE PARALLEL TO THE
14 INDICTMENT, YES, SIR.

15 THE COURT: OKAY. I'LL MAKE THAT CHANGE, AND
16 HOPEFULLY I'LL SPELL UNANIMOUSLY CORRECTLY NEXT TIME,
17 SINCE I'M RESPONSIBLE FOR MY LOYAL AND DEVOTED STAFF.
18 I TOOK RESPONSIBILITY. OKAY.

19 OKAY. ALRIGHT, THANK Y'ALL -- ANYTHING - - -

20 MS. ULLMAN: I HAVE JUST ONE MORE.

21 THE COURT: YES, MA'AM.

22 MS. ULLMAN: I THINK IT'S MORE OF A QUESTION TO
23 THE STATE.

24 THE COURT: YES, MA'AM.

25 MS. ULLMAN: EVERYBODY HAS HEARD, GOING ON AND ON

1 AND ON ABOUT THE LIGHTS BEING BLACK LIGHTS, THINGS OF
2 THAT NATURE. I WOULD LIKE TO BRING A BLACK LIGHT IN
3 TO SHOW THE JURY. I UNDERSTAND THAT I CAN'T SAY THAT'S
4 THE BLACK LIGHT THAT CAME FROM THE HOUSE, JUST AS MUCH
5 AS THEY CAN'T SAY THAT THE PICTURE OF THE GUN IS THE
6 GUN THAT CAME FROM THIS INCIDENT, AND I CERTAINLY --
7 AND IT'S JUST A MATTER OF, I'D LIKE FOR THEM TO SEE A
8 BLACK LIGHT. I MEAN, I UNDERSTAND THAT IN MY MIND I
9 KNOW WHAT A BLACK LIGHT IS, BUT REALISTICALLY, I THINK
10 MOST PEOPLE COULD PROBABLY SAY, YEAH, I KNOW WHAT A
11 BLACK LIGHT IS, BUT COULD MOST PEOPLE SAY THAT THEY
12 UNDERSTAND HOW BRIGHT OR HOW DIM IT REALLY IS. I WOULD
13 SAY NOT. I WOULD JUST ASK FOR ME TO BE ALLOWED TO
14 PLUG IN A BLACK LIGHT AND TURN IT ON.

15 THE COURT: WELL, I UNDERSTAND YOUR REQUEST. ARE
16 YOU THEN ASKING US TO TURN OFF THE LIGHTS IN HERE SO
17 WE CAN THEN SEE? AND THEN, THE OTHER QUESTION IS,
18 EVEN THOUGH THEY SAID IT WAS A BLACK LIGHT, OKAY,
19 NOBODY SAID WHAT THE WATTAGE WAS, AND JUST SO Y'ALL
20 WILL KNOW, WHEN I WAS IN COLLEGE I HAD A FLORESCENT
21 BLACK LIGHT THAT WAS REALLY, REALLY BRIGHT, YOU KNOW.
22 SO, YOU KNOW, -- SO - - -

23 MS. ULLMAN: ACTUALLY, I DO BELIEVE, YOUR HONOR,
24 THAT ASHLEY PARSLEY TESTIFIED THAT THE WATTAGE OF THE
25 BULBS IN THE HOUSE WAS SIXTY WATTS.

1 THE COURT: SHE DID?

2 MS. ULLMAN: AND ON TOP OF THAT, YOUR HONOR, I
3 WOULD NOT ASK THAT WE TURN THE COURTROOM OFF. I MEAN,
4 I UNDERSTAND WE'VE ALREADY GOT A BUNCH OF SECURITY IN
5 HERE. TWO THINGS COULD HAPPEN, WE COULD HAVE ONE OF
6 THE BAILIFFS PUT THE LIGHT IN THE JURY ROOM AND THEY
7 COULD GO IN THERE AND SEE IT AND COME BACK OUT. OR - -
8 -

9 THE COURT: NO, I'M NOT GOING TO LET THEM - I'M
10 NOT GOING TO DO THAT.

11 MS. ULLMAN: THERE WAS ONE OTHER SUGGESTION, YOUR
12 HONOR.

13 THE COURT: OKAY.

14 MS. ULLMAN: I'VE PLAYED WITH THE LIGHTS IN THE
15 ROOM.

16 THE COURT: HUH?

17 MS. ULLMAN: I'VE ACTUALLY PLAYED WITH ALL OF THE
18 LIGHTS IN THE ROOM, AND I'VE FOUND THAT YOU CAN TURN
19 JUST THOSE BROWN LIGHTS OVER THE JURY OFF, JUST THOSE,
20 AND NOT AFFECT ANYBODY ELSE. SO, THAT WOULD BE MY
21 OTHER SUGGESTION.

22 THE COURT: YOU'VE GOT A SIXTY WATT BLACK LIGHT?

23 MS. ULLMAN: YES, SIR.

24 SOLICITOR PASCOE: IT'S - - -

25 THE COURT: GO AHEAD.

1 SOLICITOR PASCOE: IT'S ONE HUNDRED PER CENT
2 IMPROPER, YOUR HONOR, WE CAN'T DO THAT, WE CAN'T HAVE
3 SCIENCE EXPERIMENTS IN FRONT OF THE JURY. I MEAN,
4 THAT'S SOMETHING SHE COULD HAVE ASKED THE WITNESSES
5 ABOUT AND MAYBE HAD A DEMONSTRATION THEN. I'M NOT SO
6 SURE SHE COULD HAVE EVEN DONE IT THEN.

7 THE COURT: WELL, I THINK SHE COULD HAVE HAD A
8 DEMONSTRATION IF SHE WANTED TO SAY, IS THIS BLACK
9 LIGHT, IS THIS ABOUT THE RIGHT LIGHTING, I THINK SHE
10 COULD HAVE DONE THAT. I'M -

11 SOLICITOR PASCOE: NOT TO MENTION, I DON'T THINK
12 THE SIXTY WATT INFORMATION CAME OUT DURING THE TRIAL.
13 IT MIGHT HAVE COME OUT IN PRETRIAL.

14 SOLICITOR SORENSON: I KNOW IT DID DURING THE
15 PRETRIAL, I DON'T THINK SHE TESTIFIED TO THAT DURING
16 THE -- I COULD BE WRONG, BUT - - -

17 THE COURT: I DON'T, I HONESTLY DON'T REMEMBER HER
18 OR ANYBODY TESTIFYING TO THE WATTAGE.

19 SOLICITOR SORENSON: SHE DID IN THE PRETRIAL, I
20 KNOW THAT, BECAUSE I'VE EVEN GOT THE TRANSCRIPT. I
21 DON'T BELIEVE SHE DID TUESDAY.

22 THE COURT: I'M - - -

23 SOLICITOR PASCOE: AND THERE'S BEEN GOOD
24 TESTIMONY THAT THEY CAN USE IN THEIR CLOSING. DIDN'T
25 ONE OF THE WITNESSES TALK ABOUT HOW YOU COULDN'T SEE

1 SOMEONE FROM - - -

2 THE COURT: YEAH, MR. WISE GOT UP AND, I THINK IT
3 WAS MR. WISE, - - -

4 SOLICITOR PASCOE: YES, MR. WISE.

5 THE COURT: --- AND ASKED, COULD YOU SEE ME FROM
6 HERE? AND OF COURSE, WHEN HE WAS STANDING BACK TOWARD
7 RICHARD AND HE SAID IT WAS EIGHT FEET, I THOUGHT, OH,
8 YEAH. I THOUGHT THAT WAS GOOD, YOU KNOW, I REMEMBERED
9 THAT PART AND I WAS THINKING, OH, GOOD. HE'S A GOOD
10 JUDGE OF DISTANCE. OKAY. BUT, I MEAN, YOU GET TO MAKE
11 THE EIGHT FOOT ARGUMENT EVEN THOUGH HE WAS FOURTEEN,
12 FIFTEEN FEET AWAY, WHICH I THOUGHT THAT WAS CLEVER THE
13 WAY HE DIDN'T SAY, NO, ISN'T IT MORE LIKE FIFTEEN?

14 MR. WISE: I SAID OVER EIGHT FEET, YOUR HONOR.

15 THE COURT: I KNOW, I KNOW. NO, MA'AM.

16 MS. ULLMAN: YES, SIR.

17 THE COURT: OKAY. I APPRECIATE IT. OKAY. DOES
18 ANYBODY WANT TO DO A DEMONSTRATION OF DUCT TAPING
19 SOMEBODY'S MOUTH AND SEE IF THEY CAN STILL TALK?

20 MS. ULLMAN: I ACTUALLY WOULD KIND OF - - -

21 THE COURT: NO, NO, NO. OKAY. ALRIGHT, ANYTHING
22 ELSE FROM - - -

23 MR. MELLARD: YES, SIR.

24 THE COURT: MR. MELLARD, YES, SIR.

25 MR. MELLARD: I BELIEVE THE DEFENSE HAS RESTED,

1 SO AT THIS TIME I WOULD RENEW OUR DIRECTED VERDICT
2 MOTIONS.

3 THE COURT: OH, YEAH, LET'S -- YEAH, SINCE WE'RE
4 ON THE RECORD NOW, ALL OF Y'ALL ARE RENEWING YOUR
5 DIRECTED VERDICT MOTIONS.

6 COURT REPORTER: JUDGE, ALL OF THIS I HAVE BEEN
7 PUTTING ON THE RECORD.

8 THE COURT: YOU HADN'T BEEN DOING THIS ON THE
9 RECORD?

10 COURT REPORTER: I HAVE.

11 THE COURT: OKAY. OKAY. NO, I WANT THIS, ON THE
12 RECORD IS FINE. OKAY?

13 COURT REPORTER: THAT'S ALL. OKAY.

14 THE COURT: OKAY. AND NOW, JUST CONTINUING ON
15 THE RECORD, I'M SORRY, I DIDN'T MEAN TO IMPLY THAT YOU
16 WEREN'T DOING IT, OKAY, ALL OF THE DEFENDANTS ARE
17 RENEWING THEIR DIRECTED VERDICT MOTION AND THE OTHER
18 MOTION YOU MADE ABOUT VIOLATION OF DUE PROCESS.

19 MR. MELLARD: FAIR TRIAL AND DUE PROCESS, YES,
20 SIR.

21 THE COURT: THAT I THINK EVERYBODY JOINED IN.

22 MR. MELLARD: YES, SIR.

23 THE COURT: LET'S SEE, AND I DID ENJOY THE WAY
24 Y'ALL DANCED AROUND THE FACT THAT -- WHO MADE THE
25 DECISION TO GO FORWARD ON THIS?

1 MR. MELLARD: ON WHAT?

2 THE COURT: THE COURT. NO, OF DENYING SEVERANCE
3 AND DENYING YOUR CLIENTS A RIGHT TO A FAIR AND
4 IMPARTIAL TRIAL AND LIKE THAT WAS ALL DONE BY THIS
5 COURT, AND I AM AGAIN DENYING YOUR MOTIONS FOR
6 DIRECTED VERDICT AND I'M DENYING THE MOTION THAT THEY
7 DIDN'T GET A FAIR TRIAL, THEY GOT ONE. AND I THOUGHT
8 Y'ALL DID A GREAT JOB. OKAY. I THINK THAT'S IT.
9 HAVE WE GOT ALL THE OBJECTIONS PRESERVED FOR THE
10 RECORD, I THINK, ALL YOUR COMPLAINTS ABOUT WHAT I DID
11 IS PRESERVED, SO WE OUGHT TO BE DOING PRETTY GOOD.
12 OKAY.

13 ANYTHING ELSE FROM THE STATE?

14 SOLICITOR PASCOE: NO, YOUR HONOR.

15 THE COURT: ANYTHING ELSE FROM DEFENDANTS?

16 MS. ULLMAN: NO, YOUR HONOR.

17 MR. LACKEY: NO, YOUR HONOR.

18 MR. PALMER: NO, YOUR HONOR.

19 MR. MELLARD: NO, YOUR HONOR.

20 MR. KOGER: NO, YOUR HONOR.

21 THE COURT: AND I'LL EXPECT TO SEE YOU IN A WHITE
22 SHIRT AND A STRIPED TIE, MR. PASCOE.

23 SOLICITOR PASCOE: YES, SIR.

24 THE COURT: OKAY. THANK YOU, SIR. Y'ALL HAVE A
25 GOOD EVENING, OKAY, AND WE'LL SEE Y'ALL AT NINE IN THE

1 MORNING. AND I'LL LOOK -- AGAIN, I WILL LOOK OVER
2 THIS VANG CASE AND TELFARE.

3 MS. ULLMAN: THANK YOU, YOUR HONOR.

4 (Recess for the day.)

5 DATE:

6 DECEMBER 17, 2010

7 THE COURT: ALRIGHT, Y'ALL HAD, Y'ALL CAME BACK
8 INTO CHAMBERS AND STARTED DISCUSSING THINGS THAT WE
9 DECIDED WE NEEDED TO COME AND PUT THOSE, THAT STUFF ON
10 THE RECORD, SO LET'S GO AHEAD AND DO THAT.

11 MR. PASCOE.

12 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

13 THE COURT: YES, SIR.

14 SOLICITOR PASCOE: ONE THING WE WOULD ASK FOR,
15 SINCE THERE HAS BEEN TESTIMONY ABOUT SENTENCES, A
16 CHARGE FOR THE JURY THAT THEY'RE NOT TO CONSIDER
17 SENTENCING IN THEIR DELIBERATIONS, THAT YOU ARE THE
18 ONLY PERSON WHO CONSIDER WHAT SENTENCE SOMEONE GETS.

19 THE COURT: AND WHAT I'M GOING TO DO IN MY CHARGE
20 WHERE I DISCUSS THE DUTIES OF THE JUDGE AND THE JURY,
21 I'M GOING TO REMIND THE JURY IT'S THEIR JOB TO
22 DETERMINE GUILT OR INNOCENCE, AND IT'S MY JOB TO,
23 BASED UPON THEIR DECISION, TO DETERMINE WHAT SENTENCE,
24 IF ANY, WILL BE GIVEN TO THE DEFENDANTS, AND THAT THEY
25 AREN'T TO CONSIDER ANY OF THAT IN COMING TO THEIR

1 DETERMINATION OF THAT GUILT OR INNOCENCE. I'M GOING
2 TO ADD THAT AS PART OF MY JURY CHARGES.

3 ANY OBJECTION TO THAT FROM ANY OF THE DEFENSE
4 ATTORNEYS?

5 MR. LACKEY: NO, YOUR HONOR.

6 MS. ULLMAN: NO, SIR, YOUR HONOR.

7 MR. PALMER: NO, YOUR HONOR.

8 MR. MELLARD: NO, YOUR HONOR.

9 MR. KOGER: NO, YOUR HONOR.

10 THE COURT: ALRIGHT. WHAT'S NEXT, MR. PASCOE?

11 SOLICITOR PASCOE: YOUR HONOR WAS GOING TO LOOK
12 AT THE -- AND I DON'T HAVE IT IN FRONT OF ME, THE JURY
13 REQUEST TO CHARGE ON ACCOMPLICE LIABILITY BY MS.
14 ULLMAN.

15 THE COURT: YES, IT WAS A ONE SENTENCE REQUEST --
16 I'VE GOT IT SOMEWHERE IN THERE -- CITING STATE VERSUS
17 PETERSON - - -

18 SOLICITOR PASCOE: YES, SIR.

19 THE COURT: --- THE ACCOMPLICE LIABILITY THING.
20 I HAVE READ THE STATE VERSUS PETERSON THING, THE
21 PARTIES WERE KIND ENOUGH TO PROVIDE ME A COPY OF IT.
22 IN THAT CASE IT APPEARED TO BE THE UNARMED LARCENY OF
23 A CAR, AND THERE WAS AN ISSUE ABOUT WHETHER IT WOULD
24 HAVE BEEN THE NATURAL AND PROBABLE CONSEQUENCE OF THAT
25 SITUATION WHEN IT WAS A NON LIFE THREATENING CRIME.

1 AND AFTER REVIEWING THAT I KNOW THAT I AM GOING TO NOT
2 MAKE THAT CHARGE. AND SO, I WILL NOTE Y'ALL'S
3 OBJECTION TO MY FAILURE TO DO THAT IN THE RECORD.

4 MR. WISE, IS THERE ANYTHING ELSE YOU WANT TO PUT
5 ON THE ABOUT THAT?

6 MR. WISE: NO, YOUR HONOR.

7 THE COURT: OKAY. OH, YES, SIR?

8 MR. WISE: CAN YOU MAKE THAT PART OF THE COURT'S
9 EXHIBITS?

10 THE COURT: YEAH, I'LL BE GLAD TO. I WILL MAKE
11 THAT ACCOMPLICE LIABILITY, I DON'T KNOW WHAT COURT'S
12 EXHIBIT THAT WAS. WHERE ARE WE ON THAT, MS. - - -

13 COURT REPORTER: IT WILL BE -- HOLD ON ONE
14 MOMENT. IT WILL BE COURT'S THREE.

15 THE COURT: COURT'S THREE? OKAY.

16 COURT REPORTER: FOUR, I'M SORRY.

17 THE COURT: NUMBER FOUR?

18 COURT REPORTER: YES, SIR.

19 THE COURT: OKAY. IF YOU'D MARK THAT NUMBER FOUR
20 AND GOING ALONG WITH MR. WISE'S OBJECTION. OKAY?

21 COURT REPORTER: YES, SIR.

22 (Court's Exhibit Four
23 marked and filed.)

24 THE COURT: ALRIGHT. YES, SIR?

25 SOLICITOR PASCOE: ALSO, YOUR HONOR, I THINK IT

1 WAS AN AGREEMENT IN CHAMBERS WITH THE STATE AND THE
2 DEFENSE ATTORNEYS THAT WE'RE GOING TO REQUEST AN
3 ATTEMPTED ARMED ROBBERY CHARGE IN THIS CASE AS WELL.

4 THE COURT: ALRIGHT. THE, AND WE'RE IN THE
5 PROCESS OF DOING THE VERDICT FORM RIGHT NOW. AND THE
6 VERDICT FORM, I BELIEVE, Y'ALL HAD SEEN A COPY BUT THE
7 LAST ONE, OR THE LAST CHARGE THAT'S ON IT, I BELIEVE
8 IS ARMED ROBBERY, IS THAT CORRECT?

9 SOLICITOR PASCOE: YES, SIR.

10 THE COURT: AND WHAT I'M GOING TO DO IS, I HAVE
11 AN INSTRUCTION ON THAT VERDICT FORM THAT READS, "IF
12 YOU FIND THE DEFENDANT GUILTY OF NUMBER THREE" WHICH
13 IS THE THIRD CHARGE, "YOU CAN END YOUR DELIBERATIONS."
14 IF YOU FIND THE DEFENDANT NOT GUILTY AS TO NUMBER
15 THREE," WHICH IS THE ARMED ROBBERY CHARGE, "YOU WILL
16 GO ON AND CONSIDER QUESTION NUMBER FOUR" WHICH IS THE
17 ATTEMPTED ARMED ROBBERY CHARGE. OKAY? AT SOME POINT
18 THEY WILL BE PRINTED UP AND I'LL GET EACH ONE OF Y'ALL
19 TO LOOK IT OVER FOR, -- Y'ALL ARE MY OFFICIAL SPELL
20 CHECKS. SO, WE'LL GET Y'ALL TO DOUBLE CHECK AND SEE IF
21 YOU HAVE ANY OBJECTION TO IT, SO WE CAN HAVE THOSE
22 READY TO GIVE TO THE JURY UPON THE CONCLUSION OF THE
23 CLOSINGS.

24 ANYTHING ELSE, MR. PASCOE?

25 SOLICITOR PASCOE: NO, YOUR HONOR.

1 THE COURT: ANYTHING ELSE FROM THE DEFENDANTS,
2 ANY OF THE DEFENDANTS?

3 MR. PALMER: YES, YOUR HONOR.

4 THE COURT: YEAH, WE'VE GOT -- I'M SORRY, WE DO
5 HAVE TWO OTHER THINGS. MR. PALMER, YOU MADE THE
6 REQUEST OF THE WITHDRAWAL CHARGE?

7 MR. PALMER: YES, SIR.

8 THE COURT: AND YOU WERE KIND ENOUGH TO POINT OUT
9 STATE VERSUS VANG, - - -

10 MR. PALMER: YES, SIR.

11 THE COURT: --- AND WE MENTIONED HOW IN CHAMBERS
12 IT WAS AN INTERESTING GROUP OF DEFENDANTS IN THAT
13 CASE.

14 MR. PALMER: YES, SIR.

15 THE COURT: IN THAT CASE IT APPEARS TO ME THAT,
16 THAT MR. VANG ACTIVELY PARTICIPATED IN HIS DEFENSE IN
17 THE CASE. I MEAN, HE PUT UP A DEFENSE. I REALIZE THAT
18 FROM, FROM, IN MY CHARGE TO THE JURY WITH REGARD TO
19 YOUR CLIENT IN THIS CASE, THEY CAN'T MAKE ANY
20 INFERENCE WITH REGARD TO THAT, YOU KNOW. BUT IT SEEMS
21 TO ME IN THIS CASE THAT MR. VANG ACTIVELY PARTICIPATED
22 IN THE DEFENSE OF HIS CASE AND PUT UP A DEFENSE, IS
23 THAT CORRECT?

24 MR. PALMER: I AGREE THAT VANG MADE AN
25 AFFIRMATIVE DEFENSE IN THE CASE, YOUR HONOR, - - -

1 THE COURT: YES, SIR.

2 MR. PALMER: --- AND HAD MY CLIENT DONE THAT, OF
3 COURSE, WE'D HAVE A DIFFERENT SITUATION. HOWEVER, I
4 BELIEVE THERE IS -- IT'S NOT JUST MY BELIEF, IT'S
5 OBVIOUS THAT THERE IS SOME EVIDENCE IN THE STATE'S
6 CASE FROM THEIR PRINCIPLE WITNESS THAT MY CLIENT TOOK
7 SOME ACTION TO WITHDRAW FROM THIS CHAIN OF EVENTS.
8 NOW, WHETHER OR NOT HE RE-ENTERED, IT IS A QUESTION OF
9 FACT AS WELL, BUT I THINK IT'S CERTAINLY ENOUGH TO GET
10 IT TO THE JURY.

11 THE COURT: WELL, YOUR CHARGE IS DIFFERENT FROM
12 EVEN THE CHARGE THAT THEY GAVE IN VANG -- IN VANG,
13 EXCUSE ME, I GET CONFUSED WITH THE TWO DEFENDANTS.
14 AND THAT CHARGE THAT WAS GIVEN IN VANG AND APPROVED,
15 THE JUDGE ADDED THE PART THAT A PERSON WHO CONTINUES
16 IN THE COMMON DESIGN CANNOT CLAIM WITHDRAWAL, YOU
17 KNOW, AND I REALIZE THERE IS AN INFERENCE FROM, FROM
18 THE STATE'S PRIMARY WITNESS THAT AT LEAST YOUR CLIENT
19 MENTIONED THAT THEY SHOULD NOT GO THROUGH WITH THIS.

20 MR. PALMER: YOUR HONOR, IN ADDITION, HE GAVE UP
21 HIS WEAPON, ACCORDING TO THE WITNESS.

22 THE COURT: RIGHT. BUT HE STILL CAME AND
23 ACTIVELY PARTICIPATED IN THE CRIME, ACCORDING TO ALL
24 THE TESTIMONY I'VE HEARD SO FAR AS WELL.

25 MR. PALMER: YES, SIR, AND CERTAINLY, THE JURY

1 CAN BELIEVE PART OF THAT AND NOT PART OF -- THE OTHER
2 PART.

3 THE COURT: I AGREE.

4 MR. PALMER: AND I'M FINE WITH YOUR HONOR
5 CHARGING THE CHARGE THAT'S IN THE CASE LAW ITSELF
6 ABOUT CONTINUING, BECAUSE THAT'S, YOU KNOW, I
7 ACKNOWLEDGE THAT'S A QUESTION OF FACT, BUT CERTAINLY,
8 I THINK MY CLIENT HAS THE RIGHT TO AT LEAST ARGUE
9 THAT, SINCE THERE ARE SOME FACTS IN THE RECORD, AND
10 THE JURY CAN GIVE THOSE FACTS WHATEVER WEIGHT OR
11 CREDIBILITY THEY WANT TO.

12 THE COURT: ALRIGHT. MR. PASCOE, ANYTHING FROM
13 YOU?

14 SOLICITOR PASCOE: WELL, CAN I HAVE TIME LATER TO
15 LOOK AT THE CASE, I APOLOGIZE, I JUST HAVEN'T LOOKED
16 AT THE CASE.

17 THE COURT: OKAY.

18 SOLICITOR PASCOE: I WILL SAY THIS, THOUGH,
19 WITHOUT HAVING LOOKED AT IT, ONE PROBLEM IS, FOR THE
20 DEFENSE, THAT ONCE ALLEGATIONS ARE MADE AND THE ONLY
21 EVIDENCE IS THAT A DEFENDANT GOES IN THERE TO START
22 THE PROCESS OF THE ROBBERY AND THE BURGLARY, IT, I
23 DON'T THINK IT MATTERS UNDER THE LAW EVEN IF HE WALKS
24 AWAY THEN, EVEN IF THE EVIDENCE WAS, I WENT IN THERE
25 AND SCOPED IT OUT AND CAME OUT AND SAID, I CAN'T GO

1 BACK IN THERE WITH YOU, AND HE WALKS AWAY, HE'S STILL
2 PART OF THE ROBBERY AND THE BURGLARY.

3 THE COURT: OH, I AGREE, AND THE CHARGE THAT
4 JUDGE KEISLEY GAVE WAS, IF A PERSON COMPLETELY
5 WITHDRAWS FROM THE COMMON DESIGN. SO, I MEAN, IT'S --
6 AND MAKES IT CLEAR THAT IT'S COMMUNICATED TO ALL OF
7 THE OTHER PARTICIPANTS, YOU KNOW. AND FINALLY, HE
8 SAYS, IF HE CONTINUES HE CANNOT CLAIM IT. SO, YOU
9 KNOW, I THINK IT -- I UNDERSTAND -- I'LL GIVE YOU A
10 CHANCE TO READ THE CASE, - - -

11 SOLICITOR PASCOE: THANK YOU, YES, SIR.

12 THE COURT: --- AND THEN I'LL MAKE THAT DECISION
13 IN A FEW MINUTES -- AS SHORTLY AS WE CAN. I'VE GOT
14 THE CASE HERE IF YOU WANT TO SEE IT.

15 SOLICITOR PASCOE: YES, SIR, THANK YOU.

16 THE COURT: HERE, I'VE GOT IT RIGHT HERE, AND YOU
17 CAN LOOK IT OVER. OKAY?

18 SOLICITOR PASCOE: YOU SAID, THE DEFENDANT
19 TESTIFIED IN THIS CASE, YOUR HONOR?

20 THE COURT: WELL, HE -- IT APPEARS, I CANNOT TELL
21 FOR SURE. IT APPEARS THAT HE TESTIFIED. IT SAYS IN
22 THERE THAT HE, HIS TESTIMONY FROM A PREVIOUS TRIAL WAS
23 READ INTO THE RECORD, AND THEN IT SEEMS TO APPEAR THAT
24 HE -- YOU TAKE YOUR TIME, YOU DON'T HAVE TO DO IT
25 RIGHT NOW. I'M GOING TO GO ON TO THE OTHER THING, TO

1 THE OTHER THING RIGHT NOW.

2 SOLICITOR PASCOE: YES, SIR, THANK YOU.

3 THE COURT: --- AND WE'LL COME BACK TO THAT.

4 AND FINALLY, MS. ULLMAN, YOU ASKED ME TO GIVE A
5 TELFARE CHARGE?

6 MS. ULLMAN: YES, SIR.

7 THE COURT: AND I AM CURIOUS, DID YOU HAPPEN TO
8 READ STATE VERSUS PATTERSON OR STATE VERSUS ROBINSON?

9 MS. ULLMAN: YOUR HONOR, I DID NOT, I READ THE
10 BROOKS CASE THAT I PRESENTED TO YOU.

11 THE COURT: OKAY. ALRIGHT, ANYWAY, IT APPEARS
12 FROM MY READING OF THOSE CASES, STATE VERSUS PATTERSON
13 IS FIVE TWENTY-TWO SOUTHEASTERN, SECOND, EIGHT FORTY-
14 FIVE -- AND HAVE YOU GOT THE CITE FOR ROBINSON? AND
15 I'LL GIVE YOU THE CITE FOR ROBINSON, - - -

16 MS. ULLMAN: YES, SIR.

17 THE COURT: --- BUT IT APPEARS TO ME THAT I AM
18 NOT GOING TO CHARGE, FROM MY READING OF STATE LAW THAT
19 I AM NOT GOING TO CHARGE THE TELFARE INSTRUCTIONS IN
20 THIS MATTER. AND THE ROBINSON CASE IS TWO SEVENTY-
21 FOUR SOUTH CAROLINA ONE NINETY-EIGHT. AND I WILL GET
22 Y'ALL - I WILL NOTE YOUR OBJECTION TO MY RULING, - - -

23 MS. ULLMAN: YES, SIR.

24 THE COURT: --- AND THEN IF YOU NEED TO PUT
25 ANYTHING ELSE IN THE RECORD AFTER YOU'VE READ THOSE

1 SOUTH CAROLINA CASES YOU MAY FEEL FREE TO DO SO.

2 MS. ULLMAN: YES, SIR.

3 THE COURT: OKAY?

4 MS. ULLMAN: YES, SIR.

5 THE COURT: ALRIGHT, I'M GOING TO GIVE Y'ALL A
6 CHANCE TO FINISH READING THE CASE, SINCE THIS IS NOT A
7 TIMED EVENT. OKAY? MR. SORENSON, YOU CAN TAKE --
8 OKAY.

9 SOLICITOR PASCOE: HE HAS NOTHING ELSE TO DO.

10 THE COURT: HE DOESN'T HAVE ANYTHING ELSE TO DO,
11 SO YOU'RE GOING TO DO THE OPENING?

12 SOLICITOR PASCOE: YES, SIR, I'M GOING TO DO ALL
13 THE CLOSINGS.

14 THE COURT: OKAY. AND YOU CAN DO YOUR OPENING
15 WITHOUT ME MAKING A DECISION ON THAT?

16 SOLICITOR PASCOE: I CAN, YES, SIR.

17 THE COURT: ALRIGHT. WHAT I'M GOING TO DO, SINCE
18 THE JURY HAS BEEN HERE FOR A WHILE, IF THERE'S NO
19 OBJECTION FROM ANY OF THE PARTIES HERE I'M GOING TO
20 ALLOW THE SOLICITOR TO GO AHEAD AND DO HIS OPENING IN
21 THIS CASE, AND THEN WE'LL TAKE A BREAK AND THAT WILL
22 GIVE EVERYBODY A CHANCE, AND I'LL TELL YOU AT THAT
23 TIME WHETHER I'M GOING TO CHARGE THE WITHDRAWAL THAT
24 JUDGE KEISLEY DID IN THAT CASE, AND THEN WE'LL ALLOW
25 Y'ALL TO ALL GO FORWARD AND DO YOUR CLOSINGS.

1 SOLICITOR PASCOE: I JUST WANT TO -- AND THAT'S
2 FINE WITH ME, I'LL LET YOU KNOW THAT MY OPENING ISN'T
3 GOING TO BE MORE THAN TEN MINUTES, FIFTEEN MINUTES.

4 THE COURT: NOW, YOU KNOW, I AM STUNNED, JUST --
5 WELL, NEVER MIND, YOU KNOW. I APPRECIATE YOU DOING IT
6 IN SUCH A PRECISE FASHION.

7 SOLICITOR PASCOE: YES, SIR. WE CAN STILL TAKE A
8 BREAK.

9 THE COURT: OKAY.

10 SOLICITOR PASCOE: I INTENTIONALLY ONLY HAD ONE
11 CUP OF COFFEE TODAY, THINKING I WAS GOING TO HAVE TO
12 SIT A LONG TIME.

13 THE COURT: WELL, I JUST FEEL LIKE IF WE CAN AT
14 LEAST GET THE JURY OUT AND DO THAT, AND THEN THAT WILL
15 GIVE US SOME TIME.

16 MS. ULLMAN, YOU LOOKED LIKE YOU WANTED TO SAY
17 SOMETHING.

18 MS. ULLMAN: YES, SIR, I HAVE A QUESTION. IF MR.
19 PASCOE IS GOING TO USE THOSE BOARDS IS THERE ANY WAY
20 HE COULD JUST SHOW - - -

21 SOLICITOR PASCOE: SHE CAN DO IT, RIGHT, YES,
22 SIR, I'LL LET HER - - -

23 MS. ULLMAN: JUST SO WE DON'T HAVE TO GET UP AND
24 EVERYTHING, I MEAN, IF WE COULD JUST SEE THEM
25 BEFOREHAND.

1 THE COURT: SURE.

2 SOLICITOR PASCOE: COULD WE JUST DO THAT NOW JUST
3 TO SAVE TIME?

4 THE COURT: YES, GO AHEAD AND DO THAT.

5 OKAY. ARE THE DEFENDANTS READY?

6 MR. PALMER: YES, SIR.

7 THE COURT: ALRIGHT, BRING THE JURY IN.

8 (Whereupon, the jury enters
9 the courtroom and the following
10 takes place in the presence
11 of the jury.)

12 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN, I
13 HOPE YOU ALL HAD A GOOD EVENING.

14 AGAIN, BEFORE I GET READY TO GET STARTED TODAY I
15 WANT TO JUST GO THROUGH AND ASK YOU THE SAME QUESTIONS
16 I'VE BEEN ASKING Y'ALL ALL WEEK, AND ASK YOU TO RAISE
17 YOUR HANDS IF YOU NEED TO ANSWER IN THE AFFIRMATIVE AS
18 TO ANY OF MY QUESTIONS.

19 HAS ANYBODY READ ANYTHING IN THE PAPER ABOUT THIS
20 CASE?

21 ALRIGHT, NO ONE HAS RAISED THEIR HANDS.

22 HAS ANYBODY SEEN ANYTHING ON T.V., LISTED TO
23 ANYTHING ON THE RADIO OR READ OR SEEN ANYTHING ON THE
24 INTERNET ABOUT THIS CASE?

25 HAS ANYBODY TRIED TO CONTACT YOU ABOUT THIS CASE?

1 ALRIGHT, NO ONE HAS ANSWERED IN THE AFFIRMATIVE,
2 SO LADIES AND GENTLEMEN, WHAT WE ARE NOW -- AS I TOLD
3 YOU YESTERDAY, YOU HAVE HEARD ALL OF THE EVIDENCE --
4 ALL OF THE TESTIMONY IN THIS CASE, AND WE ARE NOW
5 GETTING READY TO BEGIN THE CLOSING ARGUMENTS IN THIS
6 TRIAL, AND AFTER YOU'VE HEARD THE CLOSING ARGUMENTS OF
7 THE ATTORNEYS I WILL THEN CHARGE YOU ON THE LAW AND
8 THEN I WILL TELL YOU -- I WILL GO OVER THE VERDICT
9 FORM WITH YOU, MADAM FORELADY, AND THEN I WILL TELL
10 Y'ALL TO BEGIN Y'ALL'S DELIBERATIONS IN THIS CASE.

11 NOW, UNTIL I TELL YOU YOU CAN BEGIN YOUR
12 DELIBERATIONS IN THIS CASE YOU STILL MAY NOT TALK
13 ABOUT THIS CASE, UNTIL I TELL YOU TO BEGIN
14 DELIBERATIONS, BECAUSE THERE WILL BE A LOT OF
15 ATTORNEYS SPEAKING TO YOU TODAY. WE WILL BE TAKING
16 BREAKS DURING THESE CLOSING ARGUMENTS. OKAY? RIGHT
17 NOW THE SOLICITOR IS GOING TO DO HIS OPENING PART OF
18 HIS CLOSING ARGUMENT.

19 ALRIGHT, MR. PASCOE.

20 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

21 THE COURT: YES, SIR.

22 CLOSING ARGUMENT BY SOLICITOR PASCOE

23 MADAM FORELADY, AND LADIES AND GENTLEMEN OF THE
24 JURY, GOOD MORNING. I WANT TO START OFF BY THANKING
25 EACH AND EVERY ONE OF YOU FOR YOUR SERVICE THIS WEEK.

1 IT'S OFTEN SAID THAT JURY DUTY IS ONE OF THE MOST
2 IMPORTANT DUTIES YOU CAN PERFORM FOR YOUR COUNTRY, AND
3 I CERTAINLY CONCUR WITH THAT. YOUR SERVICE IS NOT
4 ONLY IMPORTANT TO THE FIVE DEFENDANTS, IT'S IMPORTANT
5 TO THE STATE OF SOUTH CAROLINA, TO CHARLES PRINGLE'S
6 FAMILY, AND IT'S IMPORTANT TO THE CITIZENS OF
7 ORANGEBURG COUNTY. AND IT'S IMPORTANT BECAUSE WE ALL
8 HAVE OUR JOBS TO DO IN THIS COURTROOM. UNDER THE CODE
9 OF ETHICS IT'S THE STATE'S JOB TO BE MINISTERS OF
10 JUSTICE, IT'S DEFENSE COUNSELS' JOB TO REPRESENT THEIR
11 CLIENTS ZEALOUSLY, IT'S THE JUDGE'S JOB TO ADMINISTER
12 THE LAW, AND IT'S YOUR JOB, MOST IMPORTANT OF ALL, TO
13 RENDER A VERDICT. WHETHER YOUR VERDICT IS GUILTY OR
14 NOT GUILTY, AS LONG AS IT SPEAKS THE TRUTH NO ONE WILL
15 BE ABLE TO QUESTION IT. IF YOU RECALL, THE MOST
16 IMPORTANT THING YOU'VE DONE UP TO NOW IS, YOU TOOK AND
17 OATH. YOU TOOK AN OATH ON MONDAY THAT YOU WOULD PUT
18 ASIDE ANY BIAS OR PREJUDICE THAT YOU MAY HAVE EITHER
19 AGAINST THE STATE OF SOUTH CAROLINA OR THE DEFENDANTS,
20 AND BASE YOUR VERDICT ON JUST TWO THINGS, THE EVIDENCE
21 AND THE LAW, NOT ON ASSERTION, NOT ON FICTION, NOT ON
22 SPECULATION, BUT ON THE EVIDENCE AND THE LAW. AND
23 WHAT I'M GOING TO DO IS, I'M GOING TO TAKE NO MORE
24 THAN MAYBE TEN TO TWELVE MINUTES MORE OF YOUR TIME
25 RIGHT NOW AND I'M GOING TO TALK TO YOU A LITTLE BIT

1 ABOUT THE LAW IN THIS CASE. AND THEN I'M GOING TO SIT
2 DOWN, THE DEFENSE ATTORNEYS ARE GOING TO PRESENT THEIR
3 CLOSING ARGUMENTS, AND I'M GOING TO GET ONE MORE
4 OPPORTUNITY TO COME UP HERE AND TALK TO YOU ABOUT THE
5 FACTS IN THIS CASE.

6 NOW, AS I GO OVER THE LAW WITH YOU, LET ME GIVE
7 YOU ONE CAVEAT, WHICH IS, IF I EVER SAY ANYTHING THAT
8 CONTRADICTS THE LAW THAT THE JUDGE TELLS YOU, YOU TAKE
9 THE LAW ACCORDING TO JUDGE DICKSON, AND NOT THE LAW
10 ACCORDING TO PASCOE, BECAUSE JUST LIKE YOU ARE THE
11 SOLE TRIERS OF THE FACTS IN THIS CASE, HE IS THE SOLE
12 TRIER OF THE LAW.

13 AND AS WE ALL KNOW BY THE DEFENDANT IS CHARGE --
14 ALL THE DEFENDANTS ARE CHARGED WITH MURDER, BURGLARY
15 IN THE FIRST DEGREE, AND ARMED ROBBERY. AND WHILE
16 MURDER -- AND I THINK MR. SORENSON TOLD YOU THIS IN
17 HIS OPENING, IS THE MOST HEINOUS CRIME A PERSON CAN
18 COMMIT, IT HAS PROBABLY THE SHORTEST AND SIMPLEST
19 DEFINITION OF ANY CRIME ON OUR BOOKS. MURDER IS
20 DEFINED AS THE UNLAWFUL KILLING OF ANOTHER WITH MALICE
21 AFORETHOUGHT, EITHER EXPRESSED OR IMPLIED. THAT'S IT.
22 PREMEDITATION IS AN ELEMENT OF MURDER, BECAUSE AS YOU
23 CAN IMAGINE, YOU CAN'T PROVE USUALLY WHAT'S IN
24 SOMEBODY'S HEAD. PREMEDITATION IS NOT AN ELEMENT OF
25 MURDER. ALL YOU HAVE TO HAVE IS MALICE AFORETHOUGHT,

1 THE UNLAWFUL KILLING OF ANOTHER WITH MALICE
2 AFORETHOUGHT. AND MALICE HAS A NUMBER OF DEFINITIONS.

3 MALICE IS AN INTENTIONAL ACT OF VIOLENCE, SUCH AS
4 COMMITTING A BURGLARY OR A ROBBERY. MALICE IS RECKLESS
5 DISREGARD FOR THE WELFARE OF ANOTHER. I MEAN, HOW
6 MUCH MORE RECKLESS CAN YOU GET THAN STICKING ONE GUN
7 IN SOMEBODY'S FACE? MALICE IS CONDUCT THAT SIGNIFIES
8 A CONSCIOUS EFFORT OF CREATING A HIGH RISK OF BODILY
9 INJURY TO ANOTHER. MALICE HAS NO TIME LIMIT. IT CAN
10 HAPPEN AT THE SNAP OF A FINGER OR THE BLINK OF AN EYE.
11 I CAN HAPPEN AT THE PULLING OF THE TRIGGER ONE TIME,
12 MUCH LESS TWENTY-FOUR TIMES. AND AS I SAID, MALICE
13 CAN BE EITHER EXPRESSED OR IMPLIED. AND EXAMPLES OF
14 EXPRESSED OR IMPLIED MALICE WOULD BE WHEN THE HOMICIDE
15 OCCURRED DURING A ROBBERY. ANOTHER EXAMPLE OF MALICE
16 WOULD BE JUST THE MERE USE OF ONE DEADLY WEAPON, MUCH
17 LESS, MULTIPLE DEADLY WEAPONS. SIMPLY PUT, YOU SHOOT
18 SOMEBODY WITH A GUN YOU'RE GUILTY OF MURDER, THE
19 UNLAWFUL KILLING OF ANOTHER WITH MALICE AFORETHOUGHT.

20 THE JUDGE IS ALSO GOING TO CHARGE YOU WITH
21 REGARDS TO MURDER ON ACCOMPLICE LIABILITY. SOMETIMES
22 IT'S REFERRED TO AS FELONY MURDER, BUT IT'S REALLY,
23 IT'S ACCOMPLICE LIABILITY MURDER. AND THIS ONLY
24 APPLIES -- LET ME GET THIS CLEAR, THIS ONLY APPLIES TO
25 NON-TRIGGER MEN, PEOPLE WHO GO IN A HOME WITHOUT A

1 GUN, THAT'S WHO IT APPLIES TO. AND UNDER THE
2 ACCOMPLICE LIABILITY FOR MURDER THE LAW IS, AND HE'S
3 GOING TO CHARGE YOU, IS SEVERAL PEOPLE AGREE TO COMMIT
4 A FELONY, SUCH AS A ROBBERY OR A BURGLARY, EACH OF
5 THOSE PERSONS IS CRIMINALLY RESPONSIBLE FOR THE ACTS
6 OF HIS ASSOCIATES. THE COMMON PURPOSE MAY NOT HAVE
7 INCLUDED THE KILLING AND MURDER OF ANYONE. LET ME
8 READ THAT AGAIN, THE COMMON PURPOSE MAY NOT HAVE
9 INCLUDED THE KILLING AND MURDER OF ANYONE, BUT IF IN
10 EXECUTING THE CRIME A HOMICIDE IS COMMITTED BY ONE OF
11 THE DEFENDANTS, ALL WHO ARE PRESENT ARE AS GUILTY AS
12 THE SLAYER HIMSELF. AND THE REASON FOR THAT, VERY
13 SIMPLY, IS BECAUSE HOMICIDE IS A NATURAL CONSEQUENCE
14 OF HAVING A GUN STUCK IN YOUR FACE, BECAUSE ARMED
15 ROBBERY AND BURGLARY ARE DANGEROUS CRIMES. IF SIX
16 PEOPLE DECIDE TO GO INTO A HOME TO ROB SOMEBODY OR
17 BURGLARIZE THE HOME, IF SIX PEOPLE GO INTO THAT HOME
18 AND ONLY ONE PERSON TAKES A GUN, AND THAT ONE PERSON
19 SHOOTS AND KILLS SOMEONE IN THAT HOME DURING THE
20 ROBBERY, UNDER THE LAW ALL SIX PEOPLE ARE GUILTY OF
21 MURDER, NOT JUST THE GUNMAN, BECAUSE THE LAW STATES
22 THAT YOU SHOULD KNOW THAT IT IS AN INHERENTLY
23 DANGEROUS THING TO GO INTO ANOTHER PERSON'S HOME ARMED
24 WITH A WEAPON, EVEN IF SOMEBODY ELSE HAS A GUN, FOR
25 THE PURPOSE OF COMMITTING A ROBBERY. AND THAT'S JUST

1 IF ONE PERSON HAS A GUN, ALL SIX PEOPLE ARE GUILTY OF
2 MURDER.

3 THE NEXT CRIME IS BURGLARY IN THE FIRST DEGREE.
4 AND BURGLARY IN THE FIRST DEGREE IS WHERE YOU ENTER A
5 DWELLING, OR APARTMENT OR HOUSE, WITHOUT CONSENT OR BY
6 DECEPTION OR MISREPRESENTATION WITH JUST THE INTENT TO
7 COMMIT A CRIME AND IT'S EITHER DONE DURING THE HOURS
8 OF DARKNESS, SUCH AS TEN O'CLOCK AT NIGHT, OR WHILE
9 ARMED WITH A DEADLY WEAPON, MUCH LESS FOUR, OR THE
10 VICTIM IS INJURED DURING THE BURGLARY, THAT'S IT. IF
11 SIX PEOPLE GO INTO A HOME, EVEN THEY'RE UNARMED, AT
12 NIGHT TIME WITH JUST THE INTENT TO COMMIT A CRIME,
13 EVEN IF THEY DON'T COMMIT A CRIME IN THERE, IN THE
14 HOUSE LIKE A MURDER AND A ROBBERY, THEY'RE GUILTY OF
15 BURGLARY IN THE FIRST DEGREE, VERY SIMPLE.

16 AND FINALLY, THE DEFENDANTS ARE ALL CHARGED WITH
17 ARMED ROBBERY. AND ARMED ROBBERY IS THE TAKING OF
18 PROPERTY FROM THE PRESENCE OF ANOTHER BY MEANS OF
19 FORCE OR INTIMIDATION WHILE ARMED WITH A DEADLY
20 WEAPON. IF YOU STICK A GUN INTO SOMEBODY'S FACE, OR
21 ONE OF YOUR ACCOMPLICES STICKS A GUN INTO SOMEBODY'S
22 FACE AND THEY TAKE MONEY OR THEY TAKE DRUGS, OR THEY
23 TAKE A GUN, AS IN THIS CASE, IT'S ARMED ROBBERY.

24 NOW, THE JUDGE, REGARDS TO THE ARMED ROBBERY
25 VERDICT, IS GOING TO GIVE YOU TWO POSSIBLE VERDICTS

1 WITH REGARDS TO GUILT. YOU CAN FIND THE DEFENDANTS
2 GUILTY OF ARMED ROBBERY, OR IF FOR SOME REASON YOU
3 DON'T FIND THAT A GUN WAS TAKEN AT THE SCENE, THEY CAN
4 BE FOUND GUILTY OF JUST ATTEMPTED ARMED ROBBERY. SO,
5 YOU'LL HAVE THE OPPORTUNITY TO FIND THE DEFENDANTS
6 EITHER GUILTY OF ARMED ROBBERY, WHICH I SUBMIT DID
7 OCCUR, BECAUSE A GUN WAS TAKEN, OR ATTEMPTED ARMED
8 ROBBERY IF NOTHING WAS TAKEN.

9 THE JUDGE IS ALSO GOING TO CHARGE YOU THAT IN
10 SOUTH CAROLINA, AND ANYWHERE, MERE PRESENCE TO A CRIME
11 BY ITSELF IS NOT ENOUGH TO CONVICT SOMEBODY. NOW,
12 THAT DOESN'T MEAN THAT MERE PRESENCE AND MERE
13 ASSOCIATION WITH DEFENDANTS IS AN EVIDENCE OF GUILT,
14 IT IS DEFINITELY EVIDENCE OF GUILT WHICH YOU CAN
15 CONSIDER IN YOUR VERDICT, IT JUST MEANS THAT BY ITSELF
16 IT'S NOT ENOUGH TO CONVICT SOMEONE. AND IN SOUTH
17 CAROLINA, MUCH LIKE THE ACCOMPLICE LIABILITY CRIME I
18 TOLD YOU ABOUT WITH MURDER, IF TWO OR MORE PEOPLE SET
19 OUT TO COMMIT A CRIME TOGETHER EACH IS GUILTY NO
20 MATTER WHAT ROLES THEY PLAY. THE HAND OF ONE IS THE
21 HAND OF ALL. IT DOESN'T MATTER WHAT ROLE YOU PLAY,
22 WHETHER YOU WERE THE PERSON THAT PUT DUCT TAPE ON
23 SOMEBODY'S MOUTH, OR YOU WERE THE PERSON THAT WOULD GO
24 IN THE HOUSE WITH A GUN, EVERYBODY IS GUILTY OF ARMED
25 ROBBERY, MURDER AND BURGLARY IN THE FIRST DEGREE.

1 NOW, LADIES AND GENTLEMEN, I SUBMIT, YOUR JOB IS
2 SIMPLE IN THIS CASE, YOU'VE HAD A DIFFICULT WEEK,
3 YOU'VE HAD A LONG WEEK, YOU'VE HAD TO PUT UP WITH THE
4 COLD, IF YOU'RE LIKE ME YOU HAD A HARD TIME GETTING
5 YOUR CAR STARTED ON MONDAY AND TUESDAY MORNINGS,
6 TAKING CARE OF YOUR CHILDREN, YOUR JOBS, BUT YOUR JOB
7 IS SIMPLE IN THIS RESPECT, IT'S NOT TO TELL US WHAT
8 HAPPENED, THERE IS NO DOUBT WHATSOEVER THAT CHARLES
9 PRINGLE WAS MURDERED, ROBBED, AND HIS HOUSE WAS
10 BURGLARIZED. YOUR JOB IS JUST TO TELL US WHETHER
11 THEY'RE INVOLVED OR NOT, DID THEY PARTICIPATE? AND
12 WHEN YOU DO THAT YOU LOOK AT THE EVIDENCE.

13 THERE ARE TWO TYPES OF EVIDENCE, BOTH OF WHICH
14 EXIST IN THIS CASE, AND BOTH ARE EQUAL UNDER THE LAW.
15 THERE'S DIRECT EVIDENCE AND THERE'S CIRCUMSTANTIAL
16 EVIDENCE. DIRECT EVIDENCE IS EVIDENCE THAT A WITNESS
17 SEES, HEARS, TOUCHES, SMELLS. ASHLEY'S TESTIMONY, I
18 COULD HEAR THE FOOTPRINTS, I COULD HEAR THE DUCT TAPE.
19 PATRICK TYLER'S TESTIMONY THAT WALTER HARRIS GAVE HIS
20 BLACK GUN TO RALPH COLEMAN. HE SAW THAT. THAT'S
21 DIRECT EVIDENCE. CIRCUMSTANTIAL EVIDENCE IS WHERE YOU
22 CAN INFER SOMETHING FROM THE CIRCUMSTANCES. IT'S A
23 CHAIN OF EVENTS THAT PROVE THE EXISTENCE OF A FACT.
24 JUST ONE EXAMPLE OF CIRCUMSTANTIAL EVIDENCE IN THIS
25 CASE IS THAT A BLACK GUN, THE FORTY CALIBER THAT

1 WALTER HARRIS SOLD ON SATURDAY IS ONE OF THE GUNS USED
2 TO MURDER CHARGES PRINGLE. THAT'S AN EXAMPLE OF
3 CIRCUMSTANTIAL EVIDENCE. BOTH ARE EQUAL UNDER THE
4 LAW.

5 AND THE JUDGE IS GOING TO TELL YOU THAT YOU ALSO
6 ASSESS THE CREDIBILITY OF THE WITNESSES. AND WHEN YOU
7 ASSESS THE CREDIBILITY OF THE WITNESSES THAT TOOK THAT
8 WITNESS STAND ALL I ASK IS THAT YOU USE YOUR EVERY DAY
9 LIFE EXPERIENCES. YOU DEAL WITH PEOPLE EVERY SINGLE
10 DAY. YOU KNOW WHEN SOMEBODY IS LYING, YOU KNOW WHEN
11 SOMEBODY IS TELLING THE TRUTH. AND SOME OTHER THINGS
12 YOU CAN CONSIDER WHEN DETERMINING THE CREDIBILITY OF
13 THE WITNESSES, WHAT WAS THEIR DEemeanOR ON THE WITNESS
14 STAND? WERE THEY FORTHRIGHT OR HESITANT? IS THEIR
15 TESTIMONY CONSISTENT? WAS THE TESTIMONY CORROBORATED
16 BY THE EVIDENCE? AND DOES THE WITNESS HAVE A REASON
17 TO BE BIASED OR PREJUDICED?

18 AND LET ME TELL YOU WHAT IS NOT A DEFENSE TO A
19 CRIME IN SOUTH CAROLINA. VOLUNTARY INTOXICATION IS
20 NEVER A DEFENSE TO A CRIME, NEVER A DEFENSE. GETTING
21 HIGH ON MARIJUANA, HIGH ON DRUGS AND THEN DECIDING TO
22 ROB SOMEBODY AND END UP MURDERING THEM, IS NEVER A
23 DEFENSE TO A CRIME. NOW, IT MAY BE EVIDENCE AS TO WHY
24 SOMEBODY COMMITTED THE CRIME, BUT IT IS NEVER A
25 DEFENSE TO A CRIME IN SOUTH CAROLINA.

1 AND THE LAST LEGAL PHRASE I'M GOING TO TALK TO
2 YOU ABOUT IS PROOF BEYOND A REASONABLE DOUBT. THIS
3 PHRASE MEANS EXACTLY AS IT SOUNDS. IT'S NOT PROOF
4 BEYOND ANY DOUBT, IT'S NOT PROOF BEYOND ANY POSSIBLE
5 DOUBT, IT'S PROOF BEYOND A REASONABLE DOUBT. THE
6 SIMPLE FACT OF THE MATTER IS, WE ALL HAVE DOUBTS IN
7 THIS WORLD. SOME MAY DOUBT WHETHER THE EARTH REVOLVES
8 AROUND THE SUN, BUT YOU HAVE TO ASK YOURSELF, IS IT
9 REASONABLE? AND IN ESSENCE, WHAT PROOF BEYOND A
10 REASONABLE DOUBT MEANS IS, AFTER YOU'VE LOOKED AT ALL
11 THE EVIDENCE COLLECTED, NOT JUST ONE PIECE, BUT AFTER
12 YOU'VE LOOKED AT ALL THE EVIDENCE, IF YOU ARE FIRMLY
13 CONVINCED, JUST FIRM CONVINCED THAT THE DEFENDANTS ARE
14 GUILTY, YOU MUST FIND THEM GUILTY. AND I SUBMIT, THE
15 EVIDENCE IN THIS CASE LEAVES YOU MUCH, MUCH MORE THAN
16 FIRMLY CONVINCED.

17 IN CLOSING, I AGAIN WANT TO THANK YOU FOR YOUR
18 SERVICE. YOU'VE BEEN EXTREMELY ATTENTIVE THIS ENTIRE
19 WEEK AND I'M SURE YOU'RE GOING TO CONTINUE THAT TODAY.
20 AND ALL I ASK IS THAT DURING THE DEFENSE ATTORNEYS'
21 CLOSING ARGUMENTS, THE ONLY THING I ASK IS THAT YOU
22 KEEP AN OPEN MIND AND YOU GIVE ME ONE MORE OPPORTUNITY
23 TO COME UP HERE AND TALK TO YOU ABOUT THE FACTS IN
24 THIS CASE.

25 THANK YOU.

1 THE COURT: ALRIGHT, THANK YOU, MR. PASCOE.

2 ALRIGHT, LADIES AND GENTLEMEN, WHAT WE'RE GOING
3 TO DO RIGHT NOW BEFORE THE DEFENSE ATTORNEYS BEGIN
4 MAKING THEIR CLOSING ARGUMENTS, I'VE GOT SOMETHING
5 THAT I'VE GOT TO TAKE UP WITH THEM, AND SO I WILL HAVE
6 A SHORT BREAK, LET Y'ALL HAVE JUST A QUICK SHORT
7 BREAK, HOPEFULLY, ABOUT TEN MINUTES BACK IN THE JURY
8 ROOM, AND THEN WE'LL COME BACK AND YOU'LL START
9 HEARING THE CLOSING ARGUMENTS OF THE ATTORNEYS.
10 AGAIN, LET ME REMIND YOU, YOU CANNOT BEGIN TALKING
11 ABOUT THIS CASE NOW. OKAY? THANK Y'ALL VERY MUCH.

12 (Whereupon, the jury retires
13 to the jury room and the following
14 takes place out of the presence
15 of the jury.)

16 THE COURT: ALRIGHT, MR. SORENSON, OR MR. PASCOE.
17 SINCE MR. SORENSON IS DOING ALL THE READING I'M GOING
18 TO LET HIM DO IT RATHER THAN YOU TRANS - - -

19 SOLICITOR SORENSON: OKAY. YOUR HONOR, I THINK
20 WE'LL LEAVE IT UP TO YOUR HONOR INITIALLY WHETHER
21 YOU'RE GOING TO CHARGE WITHDRAWAL. I WOULD ASK IF YOU
22 DO DECIDE TO CHARGE IT, TO CHARGE WHAT, THAT
23 ADDITIONAL KIND OF LANGUAGE.

24 THE COURT: OH, YEAH, I'M GOING TO CHARGE, I'M
25 GOING TO MAKE THE CHARGE THAT JUDGE KEISLEY MADE IN

1 THAT CASE, BECAUSE I THINK IT MORE ACCURATELY REFLECTS
2 WHAT POSSIBLY COULD HAVE HAPPENED HERE.

3 SOLICITOR SORENSON: YES, SIR.

4 THE COURT: BUT I NEED THAT SO I CAN DO IT.

5 SOLICITOR SORENSON: YES, SIR.

6 THE COURT: OKAY. AND SO, MR. PALMER, I'M GOING
7 TO CHARGE JUDGE KEISLEY'S CHARGE FROM STATE VERSUS
8 VANG. OKAY?

9 MR. PALMER: THANK YOU, YOUR HONOR.

10 THE COURT: NOW, IF ANYBODY NEEDS A -- NOW, WE'RE
11 GOING TO DO CLOSINGS IN THE SAME ORDER WE'VE BEEN
12 DOING EVERYTHING ELSE? AND IS IT -- MS. ULLMAN,
13 YOU'VE BEEN POINTED TO BY MR. WISE, SO I'LL EXPECT YOU
14 TO BE BATTING NUMBER TWO. OKAY?

15 YES, MA'AM, MS. ULLMAN.

16 MS. ULLMAN: I HATE TO ASK, BUT COULD WE HAVE
17 MORE THAN TWENTY-FIVE SECONDS, MR. MELLARD AND I NEED
18 TO GO TO THE RESTROOM.

19 THE COURT: OH, YEAH.

20 MS. ULLMAN: IT WON'T TAKE ME MORE THAN TWENTY-
21 FIVE SECONDS, I PROMISE YOU.

22 THE COURT: WELL, I WAS GOING TO GIVE -- IF Y'ALL
23 WILL BE BACK HERE ABOUT TWENTY AFTER, WE'LL BE READY
24 TO GO. THAT WAY I CAN FIX MYSELF A CUP OF COFFEE.
25 OKAY. THANK Y'ALL. ALRIGHT, WE'RE IN RECESS FOR

1 ABOUT TEN MINUTES.

2 (Recess)

3 THE COURT: IS THE JURY READY? OKAY. BRING THEM
4 ON OUT.

5 (Whereupon the jury enters
6 the courtroom and the following
7 takes place in the presence
8 of the jury.)

9 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, WE'RE
10 GETTING READY TO BEGIN THE CLOSING ARGUMENTS OF
11 DEFENSE COUNSEL. AGAIN, I WOULD ASK YOU AS YOU HAVE
12 DONE THROUGHOUT THE TRIAL TO CONTINUE TO GIVE THEM
13 YOUR COMPLETE ATTENTION. ALRIGHT? THANK YOU.

14 MR. LACKEY.

15 MR. LACKEY: THANK YOU, YOUR HONOR.

16 THE COURT: YES, SIR.

17 MR. LACKEY: MAY IT PLEASE THE COURT.

18 THE COURT: YES, SIR.

19 CLOSING ARGUMENT BY MR. LACKEY

20 LADIES AND GENTLEMEN OF THE JURY, MY CLIENT,
21 CHRISTIAN COLEMAN, DID NOT HAVE A PART IN PLAYING THIS
22 EVENT. I SUBMIT TO YOU, HE DID NOT HAVE A GUN, AND
23 HIS MERE PRESENCE THAT DAY DOES NOT CARRY TO THAT.

24 NOW, YOU SAW ME OVER HERE, AND I DIDN'T ASK MANY
25 QUESTIONS THROUGH THE TRIAL. A LOT OF TIMES I'D SAY,

1 NO QUESTIONS, YOUR HONOR. WHAT I DON'T WANT YOU TO
2 TAKE THAT AS IS A LACK OF CONCERN, LACK OF
3 PREPARATION. WHAT IT WAS IS A LACK OF EVIDENCE
4 AGAINST MY CLIENT. AS WE'VE SAID, WE'VE EACH GOT
5 SEPARATE TRIALS FOR EACH OF OUR SEPARATE CLIENTS, AND
6 THE ONLY PERSON WHO, THE ONLY LAY PERSON WHO MENTIONED
7 MY CLIENT WAS PATRICK TYLER, THE CO-DEFENDANT WHO
8 TESTIFIED. PATRICK TYLER IS THE GUY WHO, ONE OF THE
9 STATE'S WITNESSES, SAID SMOKED WEED SEVEN DAYS A WEEK
10 FOR THE LAST THREE YEARS. LET'S TALK ABOUT HIS
11 TESTIMONY A LITTLE BIT.

12 HE ALSO MADE THE STATEMENT, WHICH YOU'LL HAVE IN
13 THE JURY ROOM TO LOOK AT. WHAT DOES HE SAY? HE SAID
14 THE DAY STARTED OFF ON MARCH TWELFTH, HE CALLED LITTLE
15 M, MARIO SHIVERS. THAT'S THE FIRST THING THAT HE
16 CONTRADICTS IN HIS STATEMENT, BECAUSE THAT DAY HE SAID
17 LITTLE M CALLED HIM, SO, IT'S FULL OF INCONSISTENCIES.
18 HOWEVER, WHAT DID HE DECIDE TO DO THAT DAY? HE WENT
19 OVER TO LOOK AT SOME GUYS. MR. WISE QUESTIONED MR.
20 TYLER AND SAID, HAVE YOU SEEN A GUN BEFORE? AND HE
21 COULDN'T HELP HIMSELF, HE SAID, I'VE SEEN PLENTY OF
22 GUNS. WHAT WE'RE LOOKING AT HERE IS A GUY WHO IS
23 FAMILIAR WITH GUNS, HE'S FAMILIAR WITH WEED. JUST
24 THINK ABOUT THAT. WHAT DID HE DO NEXT? HE WENT OVER
25 TO SEE THE GUNS, AND HE NAMED HIMSELF AND TWO OTHERS

1 WAS THE GUYS THAT WERE PLANNING THIS EVENT THAT NIGHT,
2 THIS CRIME. IT WAS HIMSELF, MARIO SHIVERS AND RALPH
3 COLEMAN. THAT'S WHO HE NAMED FROM THIS WITNESS STAND.
4 YOU SAW HIM HERE IN SHACKLES, YOU SAW HIM HERE IN THE
5 ORANGE JUMP SUIT. HE NEVER SAID MY CLIENT, CHRISTIAN
6 COLEMAN, HAD A THING TO DO WITH IT. WHAT DID HE SAY
7 ABOUT CHRISTIAN COLEMAN? HE SAID -- HE DIDN'T SAY
8 ANYBODY CALLED THEM, ALL HE SAID WAS, THE UNKNOWN
9 DRIVER AND CHRISTIAN COLEMAN CAME BY THAT NIGHT. THEY
10 DIDN'T GET OUT OF THE CAR, ALL THEY DID WAS GET INTO
11 THE BACK. MR. TYLER SAID THEY PUT THE GUNS IN THE
12 BACK.

13 AND LET'S TALK HIS STATEMENTS, HIS WRITTEN
14 STATEMENT AND HIS TESTIMONY, AND INCONSISTENCIES
15 THERE. WHAT DO WE HAVE? WE'VE GOT SOMEBODY WHO WROTE
16 A LENGTHY STATEMENT AND HE -- AND YOU'LL HAVE IT BACK
17 IN THE JURY ROOM TO CONSIDER -- HE WROTE A LENGTHY
18 STATEMENT AND HE SAID ON THE STAND, AFTER BEING
19 QUESTIONED ABOUT THAT LENGTHY STATEMENT, HE SAID,
20 WELL, I WASN'T TRUTHFUL IN ALL OF IT. AND I SAID, DO
21 YOU MEAN YOU LIED? AND HE SAID, YEAH, I LIED. SO, IT
22 WAS APPARENT THAT HE DID IT. IN THERE HE NAMED EVERY
23 OTHER PERSON BESIDES HIMSELF THAT HAD A GUN. HE
24 DIDN'T PUT A GUN IN PATRICK TYLER'S HAND, HE PUTS FOUR
25 GUNS IN FIVE OTHER PEOPLE'S HANDS. EVEN LIEUTENANT

1 SHUMPERT SAID, CRIMINALS DON'T PUT THEMSELVES IN
2 DIRECT LINE OF FIRE WHEN YOU'VE GOT A CONFESSION
3 GOING. LIEUTENANT SHUMPERT SAID HE HAD TO FOLLOW UP
4 WITH SOME QUESTIONS, HE WROTE THE QUESTIONS, AND I
5 WANT YOU TO LOOK AT THIS, HE ASKED TWO TIMES ABOUT
6 GUNS. AND PATRICK TYLER, IN HIS HANDWRITING, NAMED
7 FOUR PEOPLE THAT HAD GUNS. I THINK THE FIRST QUESTION
8 THAT WAS STATED IS, WHO ALL HAD GUNS? IT WAS -- HIS
9 RESPONSE WAS, LITTLE M, PETE, RALPH AND S FOURTH CO-
10 DEFENDANT. HE ASKED HIM AGAIN, WHO TOOK THEM INTO --
11 WHO TOOK THE GUNS INTO THE APARTMENT? AGAIN, LITTLE
12 M, RALPH, PETE, AND POKE, DANNY RYANT. HE NEVER
13 MENTIONED CHRISTIAN COLEMAN.

14 NOW, LET ME TALK TO YOU A LITTLE BIT, SWITCHING
15 GEARS HERE, ABOUT A FELLOW NAMED RONNIE WASHINGTON.
16 RONNIE WASHINGTON. RONNIE WASHINGTON, SOLICITOR
17 SORENSON GAVE THE OPENING STATEMENT AND HE PROMISED
18 YOU RONNIE WASHINGTON, WHO WAS THE DRIVER, WAS GOING
19 TO COME IN HERE AND TESTIFY. RONNIE WASHINGTON DID
20 NOT GET ON THAT STAND, DID NOT PUT HIS HAND ON THAT
21 BIBLE, AND DID NOT TESTIFY. I DO, IN MY CIVIL
22 PRACTICE I DO A LOT OF WORK FOR A LUMBER COMPANY, AND
23 THE EIGHTY-SIX YEAR OLD FOUNDER OFTENTIMES SAYS, WITH
24 THE CUSTOMERS, YOU DON'T WANT TO OVER PROMISE AND
25 UNDER DELIVER. DON'T OVER PROMISE AND UNDER DELIVER.

1 WELL, THAT'S EXACTLY WHAT THE STATE DID, ESPECIALLY
2 WITH REGARD TO RONNIE WASHINGTON. NOW, LIEUTENANT
3 SHUMPERT SAID THEY DID FIND THE DRIVER, RONNIE
4 WASHINGTON, ABOUT SOME TWO WEEKS AGO. HE SAID HE
5 ADMITTED TO BEING THE DRIVER THAT NIGHT. OKAY. DID
6 YOU CHARGE HIM WITH ANYTHING? NO. OKAY. WELL, AS
7 THE SOLICITOR JUST GAVE YOU THE CHARGES ON THE LAW, HE
8 WOULD HAVE YOU BELIEVE THAT THE HAND OF ONE IS THE
9 HAND OF ALL, LET'S GO AHEAD AND PICK HIM AND CHARGE
10 HIM WITH THE SAME THING THESE GUYS ARE CHARGED WITH.
11 WELL, NO CHARGES, HE'S WALKING FREE ON THE STREETS.
12 THAT'S BECAUSE, I ASSUME, BECAUSE OF MERE PRESENCE,
13 THEY DIDN'T WANT TO CHARGE HIM WITH THAT.

14 LET'S GO BACK TO PATRICK TYLER. ONE OF THE FEW
15 CONSISTENT THINGS HE SAID IN HIS TESTIMONY WAS THAT
16 THE UNKNOWN DRIVER WHO WE NOW KNOW AS RONNIE
17 WASHINGTON WAS SITTING IN THE FRONT SEAT DRIVING AND
18 CHRISTIAN COLEMAN WAS IN THE PASSENGER SEAT. WHAT
19 BETTER WITNESS TO COME IN HERE AND TESTIFY OF
20 CHRISTIAN COLEMAN'S ACTIVITIES THAT NIGHT THAN RONNIE
21 WASHINGTON? WHO COULD HAVE TOLD YOU BETTER IF
22 CHRISTIAN COLEMAN GOT OUT OF THAT CAR THAT NIGHT AND
23 WENT INTO THIS APARTMENT? WHO COULD HAVE HAD A BETTER
24 SHOT OF LOOKING TO SEE IF CHRISTIAN COLEMAN HAD A GUN
25 IN THE CAR THAT NIGHT THAN RONNIE WASHINGTON? NOW,

1 WHY WAS RONNIE WASHINGTON NOT HERE? NOW, IF THAT
2 CAUSES YOU PAUSE FOR CONCERN OR THAT MAKES YOU
3 HESITATE TO ACT, YOU'VE JUST HAD REASONABLE DOUBT.
4 AND THE JUDGE WILL TALK TO YOU MORE ABOUT THAT AND
5 HE'LL SAY THOSE WORDS, HE'LL STATE THAT THAT'S
6 REASONABLE DOUBT. I WANT YOU TO THINK ABOUT THAT.
7 OVER PROMISE, UNDER DELIVER.

8 NOW, THE JUDGE, AS I SAID, AND I'M NOT GOING TO
9 STAND UP TOO LONG, I'M JUST GOING TO TALK TO YOU ABOUT
10 THE LAW. HE'LL TALK TO YOU ABOUT THE HAND OF ONE, THE
11 HAND OF ALL, AND AS WE ALSO SAID, MERE PRESENCE, THE
12 MERE PRESENCE ON THE SCENE, THE MERE PRESENCE IN THE
13 CAR DOES NOT MAKE YOU GUILTY. IF YOU'RE GOING INTO
14 THE MALL WITH A GROUP OF FRIENDS CHRISTMAS SHOPPING
15 AND THEY START SHOOTING UP PEOPLE, JUST BECAUSE YOU'RE
16 THERE YOU'RE NOT GOING TO BE ARRESTED. PATRICK TYLER
17 TESTIFIED THAT CHRISTIAN COLEMAN DID NOT PLAN THIS
18 EVENT.

19 NOW, AS FAR AS MY CLIENT, CHRISTIAN, HE DIDN'T
20 TESTIFY. NOT ONLY CAN YOU NOT HOLD THAT AGAINST HIM,
21 THE JUDGE IS GOING TO TELL YOU, YOU CAN'T EVEN TALK
22 ABOUT THAT. THAT'S A FUNDAMENTAL CONSTITUTIONAL
23 RIGHT. THE STATE HAS TO PROVE THEIR CASE, THEY HAVE
24 THE BURDEN OF PROOF. HAVE THEY DONE THAT HERE? AS TO
25 CHRISTIAN COLEMAN, THEY HAVE NOT. BEYOND A REASONABLE

1 DOUBT, AS I SAID, MY CLIENT HAS TO PROVE NOTHING. THEY
2 HAVE TO PROVE THEIR CASE BEYOND A REASONABLE DOUBT.
3 THAT MAKES A REASONABLE MAN HESITATE TO ACT, HESITATE
4 TO ACT. THINK ABOUT THAT.

5 THE JUDGE WILL ALSO TELL YOU, AS I STATED
6 EARLIER, WE HAVE SEPARATE TRIALS FOR EACH OF THESE
7 SEPARATE DEFENDANTS. I WOULD SUBMIT TO YOU, MY CLIENT
8 HAS A FACT PATTERN THAT'S MUCH DIFFERENT FROM THE
9 OTHER FOUR, AND YOU HAVE TO CONSIDER THE EVIDENCE
10 AGAINST MY CLIENT DISTINCTLY FROM THE EVIDENCE AGAINST
11 THE OTHER CLIENTS. AND WHEN YOU DO THAT YOU'RE GOING
12 TO SEE THE STATE HAS FAILED TO MEET THEIR BURDEN OF
13 PROOF. YOU'RE GOING TO SEE THAT THE ONLY VERDICT YOU
14 CAN RETURN IS A NOT GUILTY ON ARMED ROBBERY, A NOT
15 GUILTY ON BURGLARY, AND A NOT GUILTY ON MURDER.

16 I THANK YOU FOR YOUR TIME AND ATTENTION.

17 THE COURT: THANK YOU, MR. LACKEY.

18 MS. ULLMAN.

19 CLOSING ARGUMENT BY MS. ULLMAN

20 GOOD MORNING. AS MR. LACKEY JUST SAID, THIS IS
21 FIVE SEPARATE TRIALS. I UNDERSTAND WE'RE ALL SITTING
22 HERE, WE'RE ALL SITTING AS A GROUP OVER THERE, BUT THE
23 REALITY IS, THAT IS FOR JUDICIAL ECONOMY. WHAT DO I
24 MEAN BY THAT? IT'S CHEAPER FOR THE STATE TO DO IT
25 THIS WAY, WE DON'T HAVE TO HAVE MORE THAN ONE JURY

1 HERE, WE DON'T HAVE TO HAVE THE LAWYERS HERE MORE THAN
2 ONCE, WE DON'T HAVE TO HAVE THE WITNESSES HERE MORE
3 THAN ONCE. THAT SHOULD NOT MATTER TO YOU, THOUGH, YOU
4 NEED TO GO INTO THAT JURY DELIBERATION ROOM AND THINK
5 OF EACH PERSON SITTING THERE SEPARATELY. YOU WILL
6 ACTUALLY HAVE A FORM THAT THE JUDGE IS GOING TO GIVE
7 YOU TO FILL OUT WHEN YOU DELIBERATE TO DECIDE WHETHER
8 A PERSON IS GUILTY OR NOT GUILTY. EACH ONE OF THOSE
9 FORMS IS PER PERSON, YOU WILL HAVE FIVE FORMS BACK
10 THERE. SO, I JUST REMIND YOU TO PLEASE SEPARATE THIS.
11 IF YOU DECIDE THAT ONE PERSON OVER THERE IS GUILTY,
12 THAT IS NOT A REASON THAT YOU MUST DECIDE THAT THEY
13 ARE ALL GUILTY. ONE PERSON COULD BE GUILTY, THE REST
14 COULD BE NOT GUILTY, THEY COULD ALL BE NOT GUILTY.

15 I REPRESENT RALPH COLEMAN.

16 PLEASE STAND UP, RALPH.

17 THIS IS RALPH COLEMAN, HE IS MY CLIENT. I'M HERE
18 TO TALK ABOUT RALPH TODAY AND THE EVIDENCE THE STATE
19 WAS NOT ABLE TO PRODUCE FOR RALPH.

20 NOW, MR. PASCOE GOT UP HERE AND PUT SOME BOARDS
21 UP HERE THAT TOLD YOU WHAT HE SAYS THE LAW IS. AND AS
22 HE TOLD YOU, WHAT HE SAID REALLY DOESN'T MATTER, THE
23 JUDGE IS GOING TO TELL YOU WHAT THE LAW IS. WHEN WE
24 ALL GET DONE TALKING YOU WILL GET TO TAKE THE EVIDENCE
25 THAT YOU'VE HEARD FROM THE WITNESS STAND, ALL THE

1 EXHIBITS, THE PICTURES, EVERYTHING THAT YOU SAW BACK
2 INTO THAT DELIBERATION ROOM AND YOU'LL GET TO USE ALL
3 OF THAT, PUT IT AGAINST THE LAW THE JUDGE GIVES YOU TO
4 DECIDE INNOCENCE OR GUILT.

5 ONE THING I'D LIKE TO POINT OUT THAT THE
6 SOLICITOR DID SAY THAT I AGREE WITH, THOUGH, IS, I DO
7 WANT YOU TO PAY ATTENTION TO EVIDENCE, DIRECT
8 EVIDENCE, CIRCUMSTANTIAL EVIDENCE, AND PART OF THAT IS
9 PAYING ATTENTION TO THE WITNESSES. THE STATE ASKED
10 YOU TO LOOK AT THE TESTIMONY GIVEN AND CONSIDER
11 WHETHER A PERSON WAS BIASED OR PREJUDICED, WHETHER
12 THEY HAD A REASON TO LIE, WHAT THEIR DEMEANOR WAS ON
13 THE STAND, AND I'LL TELL YOU, THAT IS VERY IMPORTANT,
14 PLEASE KEEP THAT IN YOUR MIND.

15 I UNDERSTAND THIS HAS BEEN A LONG TRIAL, IT'S
16 BEEN LONG FOR EVERYBODY. AND THIS IS A VERY IMPORTANT
17 TRIAL. THERE'S ONE PERSON THAT'S LOST THEIR LIFE,
18 THERE'S NO QUESTION ABOUT THAT. WE ARE NOT
19 QUESTIONING WHAT HAPPENED, IT CERTAINLY DID HAPPEN.
20 RIGHT NOW RALPH COLEMAN IS FIGHTING FOR HIS LIFE, AND
21 NOTHING I'VE SAID TODAY, NOTHING I'M GOING TO SAY, AND
22 NOTHING THAT I'VE SAID OVER THE LAST WEEK IN ANY WAY
23 WAS MEANT BY ME OR RALPH COLEMAN AS DISRESPECT TO MR.
24 PRINGLE OR TO HIS FAMILY. BUT RALPH HAS NOTHING TO
25 PROVE HERE TODAY. HE SITS HERE AN INNOCENT MAN, AND

1 HE'S GOING TO REMAIN INNOCENT UNTIL YOU DELIBERATE. I
2 SUBMIT TO YOU THAT WHEN YOU ARE DONE DELIBERATING HE
3 WILL REMAIN AN INNOCENT MAN. YOU ARE THE ONLY PEOPLE
4 WHO CAN DETERMINE WHETHER HE IS INNOCENT OR GUILTY.

5 RALPH DOES NOT HAVE TO TESTIFY, THE JUDGE WILL
6 TELL YOU THAT. THE JUDGE WILL TELL YOU THAT YOU
7 CANNOT CONSIDER WHETHER HE TESTIFIED OR NOT, AS ANY
8 SORT OF EVIDENCE, HE DOES NOT HAVE TO TESTIFY. HE
9 DOESN'T HAVE TO GET UP THERE AND TELL YOU HE WASN'T
10 THERE ON THE MARCH TWELFTH. HE DOESN'T HAVE TO
11 PRODUCE SOMEBODY ELSE THAT CAN TELL YOU HE WASN'T
12 THERE ON THE NIGHT OF MARCH TWELFTH. IT'S ACTUALLY
13 YOUR DUTY AS THE JURY TO ASSUME HE WAS NOT THERE ON
14 THE MARCH TWELFTH. YOU MUST GO INTO THAT ROOM
15 ASSUMING HE WAS NOT THERE, AND THE ONLY WAY YOU CAN
16 CHANGE YOUR MIND ABOUT THAT IS IF THE STATE HAS
17 PROVIDED EVIDENCE TO YOU BEYOND A REASONABLE DOUBT
18 THAT HE WASN'T. AND NOT JUST THAT HE WAS THERE, AS
19 THE JUDGE WILL TELL YOU, MERE PRESENCE DOES NOT
20 MATTER, BUT THAT HE WAS THERE, KNEW WHAT WAS GOING ON
21 AND PARTICIPATED IN SOME FASHION.

22 NOW, FOR YOU TO BE CONVINCED BEYOND A REASONABLE
23 DOUBT THAT RALPH COLEMAN WAS PRESENT AND THAT HE
24 PARTICIPATED YOU NEED TO LOOK AT THE EVIDENCE AS IT
25 CAME FROM THE WITNESSES' MOUTHS. I SUBMIT TO YOU THAT

1 NONE OF THE EVIDENCE, PICTURES OR THE BALLISTICS, THE
2 BULLETS, ANY OF THAT STUFF, REALLY MATTERS. WE'VE
3 ALREADY STATED, UNFORTUNATELY, THERE IS A PERSON WHO
4 PASSED AWAY. HE DEFINITELY WAS SHOT, WE'RE NOT
5 CONTENDING THAT, BUT BULLETS DON'T PROVE ANYTHING.

6 NOW, I ASK YOU TO PAY ATTENTION TO ACTUALLY WHAT
7 CAME OUT OF THE WITNESSES' MOUTHS, NOT WHAT THEY WERE
8 PROMPTED TO SAY. IF I SAY, ON MARCH SEVENTEENTH, YOU
9 SPOKE TO SOMEONE, THE WITNESS DIDN'T TELL YOU IT
10 HAPPENED ON MARCH SEVENTEENTH, THE ATTORNEY PROMPTED
11 THEM TO SAY YES TO THAT. I SUBMIT TO YOU THAT WHEN
12 THE STATE IS QUESTIONING THEIR WITNESSES THE WITNESS
13 SHOULD BE TELLING YOU WHAT HAPPENED, WHEN IT HAPPENED,
14 WHAT DATE IT HAPPENED, ALL OF THAT. THEY SHOULD BE
15 COMPLETING THE STORY, NOT, SO ON MARCH SEVENTEENTH,
16 WHO DID YOU TALK TO, AT FIVE P.M. ON MARCH
17 SEVENTEENTH, WHO DID YOU TALK TO? THAT'S THE STATE
18 THROWING IN THOSE FACTS FOR YOU, AND WHAT THE STATE
19 SAYS IS NOT EVIDENCE. WHAT CAME OUT OF THEIR MOUTHS
20 AS THEY STOOD AT THE PODIUM ASKING QUESTIONS OR AS
21 THEY SIT HERE AS I AM TALKING TO YOU IS NOT EVIDENCE.

22 NOW, PART OF THE PROBLEM IN THIS CASE AND PART OF
23 THE REASON I KNOW THAT AFTER YOU DELIBERATE YOU WILL
24 FIND RALPH COLEMAN INNOCENT, IS THAT THE STATE DID NOT
25 INVESTIGATE THIS CASE VERY WELL. AND THAT IS VERY

1 UNFORTUNATE BECAUSE THERE IS SOMEONE WHO PASSED AWAY.
2 INVESTIGATOR SHUMPERT WAS THE LEAD INVESTIGATOR, HE
3 TOLD YOU THAT HE WAS RESPONSIBLE FOR THE ENTIRE
4 INVESTIGATION. HE TOLD YOU THAT TIPS COME IN, THEY
5 GET PHONE CALLS, PEOPLE IN THE COMMUNITY, TALKING
6 ABOUT WHO MIGHT HAVE DONE SOMETHING. AND THEY, OF
7 COURSE, WEIGH THOSE TIPS AND GO FROM THERE AND DECIDE
8 WHETHER TO INVESTIGATE OR NOT INVESTIGATE. THEY
9 INVESTIGATED A FEW PEOPLE, THEY TESTIFIED THAT THERE
10 WERE SOME SUSPECTS, BUT THEN THEY TALKED TO PATRICK
11 TYLER, PATRICK TYLER GAVE THEM NAMES, AND THAT WAS THE
12 END OF IT. THEY DECIDE THOSE PEOPLE WERE WHO DID THIS,
13 THEY GOT WARRANTS, THAT WAS THE END OF IT. WHAT ELSE
14 DID THEY DO? THEY DID NOT GET SEARCH WARRANTS FOR
15 ANYBODY'S HOUSE EXCEPT ONE PERSON. NOW, I UNDERSTAND
16 INVESTIGATOR SHUMPERT GOT ON THE STAND AND SAID, WELL,
17 ONCE A PERSON'S BEEN ARRESTED WE'RE NOT GOING TO
18 SEARCH THEIR HOUSE BECAUSE ONCE THEY'VE BEEN ARRESTED
19 ONCE THEY, OR TURN THEMSELVES IN AS RALPH COLEMAN DID,
20 THEY'RE NOT GOING TO HAVE EVIDENCE AT THEIR HOUSE.
21 AND THAT'S BASED ON HIS EXPERIENCE, THAT'S JUST TRUE.
22 WELL, THE PROBLEM IS, HE GOT ON THE STAND AND TOLD YOU
23 THAT RALPH COLEMAN'S WARRANT WAS ISSUED ON MARCH
24 NINETEENTH RALPH COLEMAN TURNED HIMSELF IN ON MARCH
25 TWENTY-SECOND. I SUBMIT TO YOU THAT THE PROBABLE

1 CAUSE NECESSARY TO GET AN ARREST WARRANT WOULD
2 CERTAINLY SUFFICE TO GET A SEARCH WARRANT, ON THE SAME
3 DATE FROM THE SAME MAGISTRATE THE ARREST WARRANT WAS
4 ISSUED A SEARCH WARRANT COULD HAVE BEEN ISSUED. NOW,
5 INVESTIGATOR SHUMPERT SAID THERE'S NO POINT IN GETTING
6 A SEARCH WARRANT IF YOU DON'T KNOW WHERE THE PERSON
7 LIVES. BUT HE ALSO TESTIFIED THAT HE KNEW MY CLIENT
8 LIVED ON WOODBINE DRIVE. THAT WAS HIS GRANDMOTHER'S
9 HOUSE. HE EVEN KNEW WHOSE HOUSE IT WAS. SO,
10 CERTAINLY, HE COULD HAVE INVESTIGATED THIS FURTHER. HE
11 GOT ON THE STAND AND SAID THAT THERE ARE MURDER
12 WEAPONS IN THE COMMUNITY, AND THAT'S A SCARY THOUGHT,
13 BUT WHAT DID THEY DO TO TRY TO GET THOSE WEAPONS?
14 THEY DIDN'T SEARCH CHRISTOPHER DWIGHT'S HOUSE, HE WAS
15 THE PERSON WHO HAD THIS WEAPON THAT THEY'RE SAYING WAS
16 ONE OF THE MURDER WEAPONS. THEY DIDN'T INVESTIGATE
17 HIM ANY FURTHER. HE HAD A MURDER WEAPON AND THEY
18 DIDN'T DECIDE TO SEARCH HIS HOUSE TO SEE HE MAYBE HAD
19 ONE OF THE OTHER WEAPONS, TO SEE IF HE WAS INVOLVED,
20 THEY JUST GOT THE WEAPON FROM HIM AND MOVED ON. WHY IS
21 THAT? BECAUSE PATRICK TYLER SAID WHO DID IT.

22 NOW, CHRISTOPHER DWIGHT ALSO, THEY COULD HAVE
23 MADE A LINEUP FOR HIM, THEY COULD HAVE PUT HIM IN A
24 LINEUP AND SHOWED HIM TO PATRICK TYLER OR ASHLEY
25 PARSLEY, BUT THEY DIDN'T DO THAT. HIS NAME IS

1 CHRISTOPHER, HE COULD BE LITTLE CHRIS, BUT THEY DIDN'T
2 DO THAT.

3 ANDRE WASHINGTON CAME INTO COURT, HE HAD THE, HE
4 WAS THE PERSON THAT SAID HE HAD ORIGINALLY PURCHASED
5 THE FORTY CALIBER PISTOL FROM CHRISTOPHER DWIGHT. HE
6 GOT ON THE STAND AND SAID HE BOUGHT IT FOR PROTECTION,
7 DIDN'T HAVE ANY SORT OF DANGEROUS JOB, HAD BEEN IN
8 SOME KIND OF SCUFFLE, SO OBVIOUSLY, HE THOUGHT
9 SOMEBODY MIGHT SHOOT HIM AND HE MIGHT NEED TO SHOOT
10 SOMEBODY. HE ALSO SAID THAT WHEN HE BOUGHT THAT GUN
11 HE TRADED A GUN HE ALREADY HAD. ALL OF THIS IS
12 EVIDENCE THAT HE HAD NUMEROUS WEAPONS. DID THEY TRY
13 TO SEARCH HIS HOUSE TO FIND ANY OTHER OF THESE GUNS?
14 NO. THEY JUST TOOK HIS WORD THAT THIS IS WHO I GOT IT
15 FROM, THIS IS WHERE IT CAME FROM, AND THEY TOOK IT.
16 NOW, DOES MR. WASHINGTON'S POSSESSION OF ONE OF THESE
17 WEAPONS GIVE PROBABLE CAUSE TO SEARCH HIS HOUSE?
18 ABSOLUTELY.

19 NOW, ANOTHER PROBLEM THAT WE HAD WAS AT THE CRIME
20 SCENE. AND I UNDERSTAND INVESTIGATOR SHUMPERT WAS NOT
21 AT THE CRIME SCENE, HE'S NOT THE CRIME SCENE
22 INVESTIGATOR, BUT HE IS IN CHARGE OF THE
23 INVESTIGATION. HE DIDN'T ASK WHY, AND LIEUTENANT
24 CARTER DIDN'T BOTHER FINGERPRINTING THE ENTIRE LIVING
25 ROOM. WHERE DID THEY FINGERPRINT? ONE PLACE, THE

1 DOOR KNOB. AND I BELIEVE IT WAS LIEUTENANT CARTER
2 THAT ACTUALLY STATED, A DOOR KNOB IS USUALLY A PLACE
3 THAT FINGERPRINTS AREN'T THE BEST PLACE, AREN'T LEFT
4 WELL. WHY IS THAT? BECAUSE IF I GO THROUGH A DOOR
5 AND I TOUCH IT, AND YOU GO THE DOOR AND YOU TOUCH IT,
6 AND YOU GO THROUGH THE DOOR AND YOU TOUCH IT,
7 FINGERPRINTS ARE GOING TO BE WIPED AWAY, THEY'RE NOT
8 GOING TO BE SOMETHING THAT'S VALUABLE. THEY DIDN'T
9 FINGERPRINT THE TABLE, THEY DIDN'T FINGERPRINT ANY
10 PART OF THE WOOD THAT WAS ON EITHER OF THE COUCHES,
11 THEY DIDN'T FINGERPRINT ANYTHING IN THAT LIVING ROOM.
12 THEY SAY THAT WAS OBVIOUSLY THE PLACE THAT EVERYTHING
13 WENT DOWN, NO FINGERPRINTS.

14 THEY DIDN'T SEARCH THE OUTSIDE AREA OF THIS
15 APARTMENT. YOU'LL HAVE THE PICTURES BACK THERE, AND
16 IN ONE OF THE PICTURES IS A DEPICTION OF THE ACTUAL
17 APARTMENT BUILDING. AT THE END OF THE APARTMENT
18 BUILDING RIGHT NEXT TO THE LAST APARTMENT, WHICH IS
19 KINGS ROAD, YOU WILL SEE THERE'S, I
20 DON'T KNOW HOW BIG IT IS, TO BE QUITE HONEST, BUT
21 THERE'S AN OPENING, AN OPEN FIELD. IT'S NOT A HOUSE OR
22 ANOTHER PARKING LOT OR ANYTHING LIKE THAT. THEY
23 DIDN'T SEARCH THAT AREA. WHOEVER DID THIS CERTAINLY
24 COULD HAVE THROWN A GUN WHEN THEY RAN OUT OF THE
25 SEARCH, BUT THEY DIDN'T SEARCH. THERE'S A BACK DOOR,

1 AND THEY DIDN'T SEARCH BEHIND THE HOUSE. I SUBMIT TO
2 YOU, THERE IS AREA BEHIND THE HOUSE. THERE IS
3 OBVIOUSLY NOT A BUILDING BUTTED UP AGAINST THIS
4 BUILDING, THERE'S AREA BACK THERE. THERE WAS ACTUALLY
5 EVEN TESTIMONY FROM PATRICK TYLER THAT THE, THAT MR.
6 PRINGLE WAS SAYING DURING THIS INCIDENT, THE STUFF'S
7 OUTSIDE, THE STUFF'S OUTSIDE. BUT THEY DIDN'T LOOK
8 OUTSIDE. AND WHEN I SAY, THEN, I MEAN, THE POLICE.
9 THEY DIDN'T LOOK OUTSIDE FOR ANYTHING.

10 NOW, DUE TO THE POLICE NOT INVESTIGATING PROPERLY
11 THE STATE HAS NOT BEEN ABLE TO PROVIDE YOU WITH
12 EVIDENCE BEYOND A REASONABLE DOUBT AGAINST RALPH
13 COLEMAN. NOW, CERTAINLY, AT THE BEGINNING OF THIS
14 TRIAL YOU HEARD THE ATTORNEYS GIVE AN OPENING
15 STATEMENT, AND IT'S NOT EVIDENCE, IT'S NOT ANYTHING
16 YOU CAN USE TO DECIDE WHETHER A PERSON IS GUILTY OR
17 INNOCENCE, BUT IT'S CERTAINLY SOMETHING THAT YOU CAN
18 TAKE TO SEE WHAT THE ATTORNEYS ARE TELLING YOU. WHAT
19 ARE WE TELLING YOU THIS CASE IS GOING TO SHOW? THE
20 STATE SAID THEY'RE GOING TO BE ABLE TO SHOW YOU BEYOND
21 ANY DOUBT, ANY DOUBT THAT RALPH COLEMAN WAS GUILTY.
22 THAT MEANS THAT YOU HAVE NO DOUBT AT ALL, NOT A
23 REASONABLE DOUBT, NO DOUBT AT ALL THAT HE IS GUILTY,
24 AND I SUBMIT TO YOU, THEY HAVE NOT DONE THAT.

25 NOW, RALPH COLEMAN WAS NOT PRESENT DURING THIS

1 INCIDENT. THE STATE HAS NOT PROVEN THAT HE WAS
2 PRESENT DURING THIS INCIDENT, BUT FOR ARGUMENT'S SAKE,
3 FOR JUST ONE SECOND LET'S PRETEND HE WAS. NOW,
4 PRETENDING RALPH COLEMAN WAS PRESENT, THE STATE STILL
5 HASN'T PROVEN THAT HE'S GUILTY OF MURDER. AS THEY
6 EXPLAINED TO YOU, MURDER IS THE KILLING OF ANOTHER
7 WITH MALICE AFORETHOUGHT. THERE'S CERTAINLY SOMEONE
8 WHO'S PASSED AWAY, WE'VE STATED THAT. MALICE
9 AFORETHOUGHT, THEY WENT THROUGH A BUNCH OF DEFINITIONS
10 OF WHAT THAT MEANS. THE JUDGE WILL GO THROUGH MORE
11 DEFINITIONS. MALICE IS VERY HARD TO UNDERSTAND. AS A
12 LAWYER I DON'T NECESSARILY HAVE A PERFECT DEFINITION
13 EITHER. IT IS NOT SOMETHING THAT IS EASILY
14 UNDERSTOOD. IT'S SOMETHING THAT I'VE OFTEN READ IS,
15 IT'S A DEPRAVED HEART, A MATTER OF ILL WILL. AND
16 THEY'RE NOT GOING TO BE ABLE TO PROVE THAT. THEY'RE
17 NOT GOING TO BE ABLE TO PROVE THAT RALPH COLEMAN HAD A
18 DEPRAVED HEART IN ANY SORT OF ACTIONS THAT HE HAD.

19 NOW, REGARDING ARMED ROBBERY, THE JUDGE IS GOING
20 TO EXPLAIN TO YOU THAT ARMED ROBBERY IS THE TAKING OF
21 PROPERTY FROM ANOTHER PERSON BY FORCE. AND HE'S GOING
22 TO GIVE YOU A BETTER DEFINITION BUT THAT'S THE SHORT
23 VERSION, BUT IT'S THE TAKING OF PROPERTY. THE STATE
24 HAS NOT PROVEN THAT PROPERTY WAS TAKEN BY RALPH
25 COLEMAN IN THIS CASE. NOW, THERE IS, I THINK, AN

1 ALLEGATION THAT ASHLEY PARSLEY HAD A GUN. NOW, SHE
2 SAYS IT WASN'T HER GUN, SHE SAYS IT WAS CHARLES
3 PRINGLE'S GUN. AND THEY SAID THAT THEY COULD NEVER
4 RECOVER THAT GUN. NOW, DOES THAT MEAN THAT RALPH
5 COLEMAN TOOK THAT GUN, THAT HE ARM ROBBED CHARLES
6 PRINGLE OF THAT GUN? NO, IT DOES NOT. THAT GUN AGAIN
7 COULD HAVE BEEN OUTSIDE, MAYBE WHEN THIS WAS ALL OVER
8 ASHLEY WAS CONCERNED ABOUT WHAT HAD JUST HAPPENED, THE
9 POLICE OBVIOUSLY THOUGHT AT ONE POINT SHE WAS
10 INVOLVED, AND SHE THREW THE GUN OUT BACK, OR SHE THREW
11 THE GUN OUT THE FRONT DOOR. IT COULD HAVE BEEN IN THE
12 AREA WHERE I SAID, ANY OF THESE GUNS COULD BE. THEY
13 DIDN'T FIND IT BUT THAT DOESN'T PROVE RALPH COLEMAN
14 TOOK IT.

15 NOW, LET'S STEP AWAY FROM THAT AND GO BACK TO THE
16 TRUTH. AND THE TRUTH IS, RALPH COLEMAN WAS NOT
17 PRESENT DURING THIS. REMOVE ANY IDEA THAT I SAID,
18 LET'S ASSUME HE WAS PRESENT, BECAUSE YOUR JOB AS A THE
19 JURY, AS I SAID, IS TO ASSUME HE WAS NOT PRESENT UNTIL
20 YOU FIND THAT THE STATE HAS PROVEN BEYOND A REASONABLE
21 DOUBT THAT HE WAS.

22 NOW, WE HEARD A LOT OF TESTIMONY OVER THE LAST
23 WEEK, BUT WHAT WE REALLY NEED TO FOCUS ON IS WHAT OF
24 THAT TESTIMONY PERTAINS TO RALPH COLEMAN AND WHETHER
25 OR NOT HE COMMITTED THESE ACTS. WE SUBMIT TO YOU THAT

1 THERE ARE TWO PEOPLE, TWO WITNESSES OUT OF EVERYBODY
2 YOU SAW, I BELIEVE THERE WERE TWELVE WITNESSES, TWO
3 PERTAIN TO THIS. THAT WOULD BE ASHLEY PARSLEY AND
4 PATRICK TYLER. INVESTIGATOR SHUMPERT GOT UP, HE WAS
5 THE LAST WITNESS YESTERDAY, AND HE TALKED A LOT ABOUT
6 WHO PATRICK TYLER SAID DID WHAT, AND WHAT ASHLEY
7 PARSLEY WAS ABLE TO TELL HIM, BUT HE HAD NO PERSONAL
8 KNOWLEDGE. HIS TESTIMONY IS JUST BASICALLY EXPLAINING
9 HIS INVESTIGATION. SO, JUST BECAUSE HE GOT UP THERE
10 AND SAID, ASHLEY PARSLEY PICKED THIS PHOTO OUT OF THIS
11 LINEUP DOESN'T MAKE IT ANYMORE TRUE, IT JUST MEANS
12 THAT HE WAS THE INVESTIGATOR SHOWING THE LINEUPS.
13 IT'S BASICALLY A MATTER OF EVIDENCE, THE STATE CAN'T
14 SHOW YOU THOSE LINEUPS WITHOUT THE INVESTIGATOR
15 SAYING, YES, I MADE THAT LINEUP. IT DOESN'T MAKE IT
16 MORE TRUE JUST BECAUSE IT CAME FROM THE INVESTIGATOR'S
17 MOUTH. HE CAN'T MAKE ANOTHER WITNESS BE TRUTHFUL.

18 NOW, LOOKING AT ASHLEY PARSLEY FIRST, HER
19 STATEMENT TO THE POLICE, AND YOU'LL HAVE THAT IN YOUR
20 JURY ROOM WITH YOU, HAD ABOUT FOUR LINES, AND IT'S A
21 GOOD LONG PAGE, THAT ACTUALLY DISCUSSED WHAT HAPPENED
22 DURING THIS INCIDENT. SHE STATED TO THE POLICE THAT
23 ONE DARK SKINNED DUDE IN BLUE CAME IN. NOW, ON THE
24 STAND SHE ACTUALLY ADMITTED THAT SHE COULDN'T SEE THAT
25 PERSON'S FACE, SHE SAW HIS EYES, THAT HE HAD SOMETHING

1 COVERING HIS FACE, A MASK. NOW, I SUBMIT TO YOU, IT'S
2 A LITTLE STRANGE THAT YOU WOULD OPEN A DOOR TO A
3 MASKED MAN AND LET HIM IN, BUT SHE SAID SHE DID. NOW,
4 OBVIOUSLY, THAT PERSON, THAT ONE DARK SKINNED DUDE IN
5 THE BLUE WAS NOT RALPH COLEMAN. SHE NEVER SAID THAT
6 WAS RALPH COLEMAN.

7 NOW, IN HER STATEMENT TO THE POLICE THE DAY THAT
8 IT HAPPENED, THAT MORNING THIS HAPPENED, SHE NEVER
9 TALKED ABOUT SEEING A SECOND PERSON. SHE MENTIONED ON
10 THE STAND SHE MIGHT HAVE CAUGHT A GLIMPSE OF A CHUBBY
11 PERSON, BUT SHE NEVER TOLD THE POLICE THAT ORIGINALLY.
12 SHE DIDN'T RELAY ANY OF THAT INFORMATION TO THE
13 DISPATCH WHEN SHE CALLED NINE ONE ONE, SHE COULDN'T
14 IDENTIFY ANYBODY, SHE COULDN'T GIVE ANY DESCRIPTION.
15 SHE SAID NOTHING. SHE SAID, SEVERAL MEN, THAT WAS HER
16 DESCRIPTION. SHE DIDN'T TALK TO THE RESPONDING
17 OFFICER ABOUT, I ACTUALLY SAW TWO PEOPLE, SHE DIDN'T
18 EVEN SAY SHE SAW ONE. SHE DIDN'T TALK TO INVESTIGATOR
19 SHUMPERT ABOUT SEEING TWO PEOPLE. EIGHT MONTHS AFTER
20 THIS INCIDENT SHE GOT ON THE STAND AND SAID NOW SHE
21 REMEMBERED SEEING TWO PEOPLE.

22 NOW, THAT SECOND PERSON SHE SAW, SHE SAID SHE
23 CAUGHT A GLIMPSE OF, HE WAS CHUBBY, MIGHT HAVE BEEN
24 WEARING GREEN, YOU KNOW, WHY COULD SHE NOT SAY WHAT
25 HAPPENED? HER FACE WAS DOWN ON THE GROUND. SHE SAW

1 ONE PERSON, AND BEYOND THAT YOU REMEMBER TESTIMONY
2 FROM JUST ABOUT EVERY WITNESS THAT WAS ACTUALLY AT THE
3 SCENE THAT THERE WAS ONE LIGHT IN THIS HOUSE IN THE
4 CEILING, AND IT WAS A BLACK LIGHT. NOW, I KNOW WE'RE
5 ALL DIFFERENT AGES, SO BLACK LIGHTS MIGHT MEAN
6 DIFFERENT THINGS TO EVERYBODY, BUT FOR ME, THINK OF A
7 SKATE RINK WHEN YOU'RE A KID GOING SKATING, THEY HAVE
8 BLACK LIGHTS A LOT OF TIMES. IN THE EVENINGS THEY'LL
9 PUT MUSIC ON, BLACK LIGHTS. COSMIC BOWLING, IF YOU'VE
10 EVER BEEN COSMIC BOWLING OR TAKING YOUR CHILDREN
11 BOWLING, THEY TURN OFF ALL THE LIGHTS, TURN ON BLACK
12 LIGHTS, PLAY MUSIC, YOU BOWL. THEY USED TO HAVE BLACK
13 LIGHTS A LOT OF TIMES IN CLUBS, I THINK SOMETIMES THEY
14 STILL DO, BUT I KNOW IT USED TO BE MUCH MORE POPULAR.
15 LASER TAG, I'M NOT FROM SOUTH CAROLINA, WHERE I'M FROM
16 WE USED TO LAY LASER TAG, AND THAT'S THE SAME THING,
17 IN A BUILDING YOU'RE PLAYING TAG AND YOU TURN OFF THE
18 LIGHTS AND THERE'S BLACK LIGHTS. THE REASON I BRING
19 THIS UP, AND I HOPE YOU ALL HAVE A REFERENCE OF WHAT A
20 BLACK IS, A BLACK LIGHT IS NOT MEANT TO ILLUMINATE A
21 ROOM. A BLACK LIGHT, THE PURPOSE OF A BLACK LIGHT IS
22 TO CHANGE COLORS. IF YOU WALK INTO A ROOM WITH A
23 BLACK LIGHT, I SUBMIT TO YOU, YOU WOULD NOT BE ABLE TO
24 TELL THAT I HAD A GREEN SHIRT ON VERSUS A BROWN SUIT.
25 YOU WOULDN'T EVEN BE ABLE TO TELL I HAVE A BROWN SUIT

1 ON. IT WOULD LOOK ALL BLACK TO YOU. NOW, MY HAIR
2 WOULD GLOW, AND MY NAILS MIGHT GLOW, BECAUSE THEY'RE
3 WHITE AT THE ENDS. WHITE GLOWS IN THE DARK, IN BLACK
4 LIGHT. LIGHTER COLORS GLOW IN BLACK LIGHT. DARKER
5 COLORS ALL LOOK THE SAME IN BLACK LIGHT. BEYOND THAT
6 IT IS NOT BRIGHT. EVERYBODY TESTIFIED THAT IT WAS
7 DIM. I BELIEVE SHANNON MITCHELL, WHEN MY CO-COUNSEL
8 WAS QUESTIONING HIM, SAID THAT THIS FAR AWAY HE MIGHT
9 BE ABLE TO SEE SOMEBODY, BUT NOT THIS FAR AWAY. WHEN
10 I SPEAK OF A BLACK LIGHT, IT'S NOT MEANT TO ILLUMINATE
11 THE ROOM. NOBODY IN THAT ROOM COULD SEE WHAT WAS
12 GOING ON.

13 NOW, GETTING BACK TO WHAT ASHLEY SAID ABOUT THE
14 PERSON THAT SHE MIGHT HAVE SEEN, IN HER AFFIDAVIT OF
15 THE LINEUP SHE SAID THAT IT'S POSSIBLE THAT PERSON WAS
16 THERE, I DIDN'T REALLY SEE HIS FACE. WHEN I
17 QUESTIONED HER ON THE STAND I SAID, ARE YOU SURE THAT
18 THE PERSON YOU PICKED IN THAT LINEUP IS THE PERSON YOU
19 SAW? SHE SAID, NO, I CAN'T BE SURE, I CAN'T BE SURE.
20 NOW, THE ONLY DESCRIPTION WE GOT OF THAT PERSON WAS,
21 HE'S CHUBBY.

22 RALPH COULD YOU PLEASE STAND UP.

23 I SUBMIT TO YOU, THERE'S NOTHING CHUBBY ABOUT
24 RALPH COLEMAN. HE'S ACTUALLY A PRETTY WELL BUILT MAN,
25 NOTHING CHUBBY ABOUT HIM. NOW, WHAT IS NOTICEABLE

1 ABOUT HIM? I WOULD SAY HIS LONG DREDS ARE PRETTY
2 NOTICEABLE. THAT'S NOT SOMETHING THAT YOU GROW
3 OVERNIGHT. SHE MENTIONED NOTHING ABOUT ANYBODY HAVING
4 ANY DREDS.

5 THANK YOU, RALPH.

6 NOW, I UNDERSTAND SHE DID PICK HIM OUT OF THE
7 LINEUP, AND THAT'S CURIOUS, THAT'S QUESTIONABLE. BUT
8 YOU HEARD INVESTIGATOR SHUMPERT SAY, WHEN THEY PUT A
9 LINEUP TOGETHER THE PURPOSE IS TO MAKE THESE SIX
10 PEOPLE LOOK AS MUCH ALIKE AS POSSIBLE. AND THE REASON
11 IS, THEY DON'T WANT WITNESSES TO MAKE A MISTAKE OR TO
12 NOT BE SURE, JUST AS ASHLEY PARSLEY SAID, SHE WAS NOT
13 SURE. THEY MAKE EVERYBODY LOOK AS CLOSE ALIKE AS THEY
14 CAN SO THAT WHEN YOU TRULY GET A GOOD LOOK AT SOMEBODY
15 YOU COULD PICK THAT PERSON OUT EVEN THOUGH THE OTHER
16 FIVE PICTURES LOOK LIKE THEM. NOW, I'LL ASK YOU, WHEN
17 YOU GO BACK INTO THAT JURY ROOM LOOK AT THIS LINEUP.
18 I WILL TELL YOU THAT THE MAN IN NUMBER TWO IS PRETTY
19 DARN CLOSE TO THE MAN IN NUMBER ONE. BOTH HAVE DREDS,
20 BOTH HAVE THE SAME FACE STRUCTURE, BOTH HAVE THE SAME
21 NOSE STRUCTURE, THEY LOOK VERY SIMILAR, VERY SIMILAR.
22 NOW, WHY DID SHE PICK NUMBER ONE? WE CAN ONLY GUESS
23 AS TO THAT, BUT IF YOU THINK ABOUT IT, RALPH COLEMAN'S
24 PICTURE IN THIS SIX PERSON LINEUP WAS NUMBER ONE, THE
25 FIRST ONE. WHEN YOU'RE A CHILD, VERY YOUNG, YOU START

1 TO LEARN TO READ. HOW DO WE READ, LEFT TO RIGHT, TOP
2 TO BOTTOM? YOUR EYE IS NATURALLY DRAWN TO THAT PART
3 OF THE PAPER, START AT THE TOP, WORK TO THE BOTTOM,
4 LEFT TO RIGHT, THAT'S THE WAY WE READ, THAT'S THE WAY
5 WE'VE BEEN TAUGHT TO READ SINCE THREE, FOUR, FIVE
6 YEARS OLD, A VERY NATURAL THING TO DO. YOU'RE GOING
7 TO HAVE ALL THESE LINEUPS BACK THERE, AND I ASK YOU TO
8 LOOK AT THEM.

9 NOW, THEY SHOWED PATRICK TYLER LINEUPS. HE
10 PICKED MARIO SHIVERS, HIS PICTURE WAS NUMBER THREE, HE
11 PICKED DANNY RYANT, HIS PICTURE WAS NUMBER TWO, HE
12 PICKED CHRISTIAN COLEMAN, HIS PICTURE WAS NUMBER TWO,
13 HE PICKED RALPH COLEMAN, AGAIN, HIS PICTURE WAS NUMBER
14 ONE. GRANTED, PATRICK TYLER KNEW ALL OF THESE PEOPLE.
15 HE WAS ALSO SHOWN DMV PHOTOS PREVIOUSLY WHO THESE
16 PEOPLE WERE, SO, REALISTIC HIS LINEUPS DON'T MATTER.
17 BUT THE POINT IS, WHERE THE PEOPLE WERE IN THESE
18 LINEUPS. ASHLEY PARSLEY LOOKED AT LINEUPS, THE THREE
19 SHE PICKED, MARIO SHIVERS WAS NUMBER THREE, WALTER
20 HARRIS WAS NUMBER THREE, AGAIN RALPH COLEMAN WAS
21 NUMBER ONE. WHEN MONEAK BUSBY LOOKED AT LINEUPS, AND
22 GRANTED, MONEAK BUSBY HAS NOTHING TO DO WITH RALPH
23 COLEMAN, KNOWS NOTHING ABOUT RALPH COLEMAN, BUT WHEN
24 SHE LOOKED AT LINEUPS SHE PICKED TWO PEOPLE. PATRICK
25 TYLER WAS NUMBER FOUR, MARIO SHIVERS WAS NUMBER

1 THREE. OUT OF ALL THE LINEUPS THAT ANYBODY WAS ABLE
2 TO BE IDENTIFIED, RALPH COLEMAN IS THE ONLY ONE THAT
3 HIS PICTURE WAS NUMBER ONE, AND I SUBMIT TO YOU, SHE
4 PICKED HIM BECAUSE IT WAS THE FIRST IN THE LINE, SHE
5 WASN'T REAL SURE, IT LOOKED LIKE IT COULD HAVE BEEN
6 THAT GUY, SO SHE PICKED HIM.

7 NOW, HEARING ASHLEY PARSLEY ADIT ON THE STAND SHE
8 WAS NOT SURE AT ALL IF IT WAS RALPH COLEMAN OR NOT,
9 SHE COULDN'T BE SURE, IS THAT REASONABLE DOUBT AS TO
10 WHETHER RALPH COLEMAN WAS PRESENT? YES. THAT'S
11 ABSOLUTELY REASONABLE DOUBT. AND I UNDERSTAND, THE
12 SOLICITOR ORIGINALLY GOT UP HERE AND TALKED ABOUT
13 REASONABLE DOUBT AND SAID, YOU KNOW, SOME PEOPLE MAY
14 DOUBT THAT THE EARTH REVOLVES AROUND THE SUN. IS THAT
15 REASONABLE? I WOULD SAY, NO. I MEAN, AT THIS POINT
16 WE'VE GOT SCIENTIFIC PROOF, WE'VE HAD -- WE'VE GOT
17 SATELLITES, WE'VE HAD PEOPLE ON THE MOON, WE CAN TELL
18 THE EARTH REVOLVES AROUND THE SUN. THAT IS NOT A
19 REASONABLE DOUBT. IS IT REASONABLE TO DOUBT THAT
20 RALPH COLEMAN WAS THERE WHEN THE ONLY PERSON PRESENT
21 DURING THE ROBBERY THAT HAS NO INTEREST IN THIS CASE
22 CAN'T BE SURE IF HE WAS THERE? IT'S ABSOLUTELY
23 REASONABLE TO DOUBT HE WAS THERE.

24 NOW, PATRICK TYLER GOT ON THE STAND AND SAID A
25 LOT OF INTERESTING THINGS. MOST INTERESTING I FOUND

1 WAS HIS NEW DESIRE TO DO THE RIGHT THING. NOW, HE
2 SAID, WHY WAS HE DOING THE RIGHT THING? FOR HIM AND
3 HIS FAMILY. WELL, THAT DOESN'T MEAN HE'S TELLING THE
4 TRUTH, THAT JUST MEANS HE'S TRYING TO GET HIMSELF OUT
5 OF TROUBLE. HE'S SEVENTEEN YEARS OLD. HIS FAMILY
6 DOESN'T WANT HIM IN PRISON FOR THE REST OF HIS LIFE,
7 SO HE'S DOING WHAT HE CAN TO GET HOME AS QUICK AS HE
8 CAN.

9 NOW, HE TURNED HIMSELF IN, PATRICK TYLER KNEW HE
10 WAS WANTED. HE KNEW WHAT THE POLICE WANTED HIM FOR.
11 INVESTIGATOR SHUMPERT SAID THEY HAD GOTTEN TIPS ABOUT
12 WHAT WAS GOING ON, INVESTIGATOR, OR EXCUSE ME, ANDRE
13 WASHINGTON SAID THAT HE HAD HEARD THAT THIS GUN THAT
14 HE HAD PURCHASED WAS STOLEN. WELL, WHO DID HE HEAR
15 THAT FROM? PEOPLE ON THE STREET. WE KNOW HOW IT
16 WORKS. EVERYBODY TALKS. ORANGEBURG COUNTY IS HUGE,
17 AND I UNDERSTAND THAT. BASED ON SIZE AND LAND IT IS
18 BIG. BUT COMMUNITY, THE COMMUNITY AROUND HERE IS
19 SMALL. AND WHAT I MEAN BY THAT IS, PEOPLE TALK.
20 PEOPLE STICK TOGETHER, PEOPLE TALK ABOUT WHAT'S GOING
21 ON, AND THAT'S HOW PATRICK TYLER KNEW WHO THE POLICE
22 WERE LOOKING FOR AND KNEW WHAT THEY WANTED TO HEAR.
23 PATRICK TYLER GOT ON THE STAND AND ACTUALLY TOLD YOU,
24 HE TOLD THE POLICE WHAT THEY WANTED TO HEAR. HE TOLD
25 YOU HE LIED. HE DIDN'T SAY AT ANYTIME HE WAS TELLING

1 THE TRUTH, HE SAID HE WAS DOING WHAT HE NEEDED TO DO,
2 DOING WHAT WAS RIGHT FOR HIS FAMILY.

3 NOW, I UNDERSTAND PATRICK TYLER CAME, AND
4 EVERYONE OF THE DEFENSE ATTORNEYS QUESTIONED HIM ABOUT
5 HIS BENEFIT FOR TESTIFYING, AND HE SAID HE HAD GOTTEN
6 NO PROMISE. AND I'M SURE THAT'S TRUE, THE STATE
7 WOULDN'T MAKE A PROMISE SO HE COULD COME IN HERE AND
8 TESTIFY THEY PROMISED HIM SOMETHING. BUT HE DID TELL
9 YOU HE'S PLEADING TO A REDUCED CHARGE. NOW, I
10 UNDERSTAND THAT A REDUCED CHARGE DOESN'T GET HIM OUT
11 OF TROUBLE, ABSOLUTELY DOESN'T GET HIM OUT OF TROUBLE.
12 HE SHOULDN'T BE OUT OF TROUBLE. HE ADMITTED ON THIS
13 STAND HE WAS PRESENT WHEN CHARLES PRINGLE WAS KILLED.
14 HE SHOULDN'T BE OUT OF TROUBLE. NOW, HE'S FACING
15 FIFTEEN YEARS TO LIFE, HE TOLD YOU THAT. BUT
16 REALISTICALLY -- AND HE SAID THAT HE WOULDN'T BE
17 SURPRISED IF HE GOT LIFE. IS THAT REAL? IS THAT
18 REALISTIC? NO. HE'S NOT GOING TO GET LIFE, HE'S
19 GOING TO GET A BENEFIT FROM TESTIFYING, OR HE WOULD
20 HAVE NEVER DONE IT. NOW, HE CAN GET FIFTEEN TO LIFE,
21 BUT WHATEVER HE GETS HE'S ALSO PAROLE ELIGIBLE, HE'LL
22 SERVE EIGHTY-FIVE PER CENT OF HIS SENTENCE. SO, LET'S
23 PRETEND HE GETS FIFTEEN YEARS. WHAT DOES THAT MEAN?
24 THAT MEANS HE'S GOING TO SERVE ABOUT TWELVE AND A
25 HALF, GIVE OR TAKE A MONTH OR TWO, I'M NOT A

1 MATHEMATICIAN, BUT MY POINT IS, HIS TESTIMONY COULD
2 VERY WELL GET HIM TWELVE AND A HALF YEARS IN PRISON
3 FOR HIS ADMISSION THAT HE WAS PRESENT AND PARTICIPATED
4 IN THE MURDER OF CHARLES PRINGLE. DOES HE HAVE A
5 BENEFIT FOR GETTING UP HERE AND TELLING YOU WHAT THE
6 POLICE WANTED TO HEAR? ABSOLUTELY.

7 NOW, HE ALSO GOT UP HERE AND SAID THAT HE WASN'T
8 LYING, BUT HE KNEW HE COULDN'T CHANGE HIS STORY
9 EITHER, BECAUSE IF HE CHANGES HIS STORY HE WOULDN'T
10 GET ANY BENEFIT. I SUBMIT TO YOU, HE DID CHANGE HIS
11 STORY. LOOK AT HIS STATEMENT AND THEN LISTEN TO WHAT
12 HE SAID ON THE STAND. IT IS NOT THE SAME. NOW,
13 OBVIOUSLY, THERE IS ONE PART THAT IS THE SAME, AND
14 THAT'S WHO PARTICIPATED. BUT WHY DID HE NOT CHANGE
15 THAT? BECAUSE HE KNEW BETTER. THAT WAS THE PART THE
16 POLICE WANTED TO HEAR. THEY DIDN'T REALLY CARE ABOUT
17 WHO HAD A GUN AND WHO DIDN'T. I MEAN, THEY'RE TELLING
18 YOU THAT IT DIDN'T MATTER WHO HAD A GUN. SO, IF HE'S
19 CHANGING HIS STORY ABOUT WHO HAD A GUN, OR IF HE'S
20 CHANGING HIS STORY ABOUT WHO WENT WHERE WHEN, THAT'S
21 NOT GOING TO AFFECT HIS BENEFIT. BUT HE CAN'T NOW
22 COME IN HERE AND TELL YOU THAT ANYBODY ELSE DID IT, HE
23 HAD TO STICK TO RALPH COLEMAN BEING THERE, HE HAD TO,
24 OR HE WOULDN'T GET THE BENEFIT.

25 NOW, THE SOLICITOR MADE A BIG POINT ABOUT

1 PATRICK TYLER BEING SIXTEEN YEARS OLD WHEN THIS
2 HAPPENED. SIXTEEN IS YOUNG, I'M NOT SAYING THAT IT'S
3 NOT. HE'S SEVENTEEN NOW, BUT THAT DOESN'T MATTER. THE
4 POINT IS, HE MADE AN ADULT DECISION. THE SOLICITOR
5 AND PATRICK TYLER CAN'T COME IN HERE AND ACT LIKE HE
6 WAS YOUNG AND DIDN'T WANT TO DO THIS, AND THESE OLDER
7 GUYS JUST MADE HIM DO THIS, AND YOU KNOW, HE JUST, HE
8 JUST COULDN'T STOP HIMSELF, HE WAS JUST TOO YOUNG AND
9 TOO DUMB TO KNOW BETTER. I SUBMIT TO YOU THAT
10 EVERYBODY KNOWS BETTER. I THINK AT FIVE YEARS OLD YOU
11 KNOW BETTER.

12 NOW, WHAT ELSE DID PATRICK TYLER TELL US? WHAT
13 ELSE IS GOING TO HELP MAKE SURE THAT HE DOESN'T GET
14 LIFE IN PRISON? HIS STORY. PATRICK TYLER DIDN'T
15 HAVE A GUN, ACCORDING TO PATRICK TYLER. PATRICK TYLER
16 WASN'T PRESENT WHEN MR. PRINGLE GOT SHOT, EXCUSE ME,
17 ACCORDING TO PATRICK TYLER. WHAT DID HE SAY ON THE
18 STAND? HE SAID, HE WAS IN THE HOUSE WITH ALL THESE
19 OTHER PEOPLE, AND THAT HE HEARD A GUN SHOT BECAUSE
20 SOMEONE SHOT THE DOG. AND GRANTED, NO OTHER PERSON
21 GOT ON THAT STAND AND SAID THAT DOG WAS HURT, EVER. I
22 THINK WE ACTUALLY ASKED ONE OF THE INVESTIGATORS IF
23 THE DOG WAS HURT IN ANY FASHION, WAS HE INJURED, WAS
24 HE SHOT, WAS HE DEAD? AND I BELIEVE IT WAS LIEUTENANT
25 CARTER WHO SAID, NO, HE WAS FINE, HE WAS TIED TO A

1 BRICK IN THE KITCHEN. BUT PATRICK TYLER HAS THAT, HAS
2 SOMEBODY, HE DOESN'T KNOW WHO, DEFINITELY NOT HIM,
3 SHOOTING THE DOG, AND HE RUNS OUT. HE RUNS OUT TO THE
4 CAR, RIGHT, BECAUSE HE DOESN'T WANT TO BE IN THERE, HE
5 DOESN'T KNOW WHO SHOT WHAT, AND HE DIDN'T EVEN KNOW
6 CHARLES PRINGLE GOT SHOT BECAUSE HE DIDN'T SEE IT.
7 THEY ONLY SHOT THE DOG AS FAR AS HE KNEW.

8 WHAT ELSE DID HE DO TO MAKE SURE THAT HE DOESN'T
9 GET LIFE? HE WAS ONLY SUPPOSED TO BUY WEED. HE
10 DIDN'T HAVE A GUN, HIS ONLY PARTICIPATION WAS GOING IN
11 TO BUY THE WEED. HE WAS JUST TO GO IN, BUT WHAT HE
12 FORGOT TO TELL YOU WAS, HE WAS SUPPOSED TO GO IN AND
13 LEAVE THAT DOOR OPEN TO MAKE SURE THAT SOMEBODY ELSE
14 COULD GET IN. THAT DOESN'T MAKE HIM INNOCENT. HE WAS
15 PRESENT, HE WILL BE PUNISHED, AND HE NEEDS TO BE
16 PUNISHED.

17 NOW, OTHER INTERESTING THINGS CAME OUT OF PATRICK
18 TYLER'S TESTIMONY. HE SAID THAT HE AND RALPH HAD WENT
19 INTO THIS HOUSE TOGETHER WHEN THEY GOT THERE, THE
20 SECOND TIME, AND YOU'VE HEARD ABOUT THEM GOING ONE
21 TIME AND THEN GOING BACK A SECOND TIME. THE SECOND
22 TIME IS WHAT REALLY MATTERS. HE SAID HE AND RALPH
23 WENT IN TOGETHER. ASHLEY PARSLEY, THE PERSON WHO WAS
24 THERE, THE PERSON WHO HAS NO REASON TO CHANGE ANY SORT
25 OF STORY, SHE SAID, ONE PERSON CAME IN, NOT TWO. SHE

1 SAID IT WAS ONE DARK SKINNED GUY WITH A MASK ON HIS
2 FACE, WHICH AGAIN, IS ODD, BUT THAT'S WHAT SHE SAID.
3 SHE DIDN'T SAY TWO PEOPLE CAME IN.

4 NOW, PATRICK TYLER SAID THAT WALTER HARRIS HAD
5 GIVEN RALPH HIS GUN BEFORE HE HAD GONE INTO THE
6 APARTMENT. ASHLEY PARSLEY SAID THAT THE PERSON THAT
7 CAME IN AND PUT A GUN IN HER FACE HAD A NINE
8 MILLIMETER CHROME, AND I BELIEVE THAT'S IN HER
9 AFFIDAVIT ON THE LINEUPS THAT SHE PICKED, NOT ON RALPH
10 COLEMAN'S LINEUP, BUT THE PERSON THAT PUT THE GUN IN
11 HER FACE HAD A NINE MILLIMETER CHROME GUN. THAT IS
12 CERTAINLY NOT THE BLACK FORTY THAT THEY ARE TRYING TO
13 SAY WALTER GAVE TO RALPH, THAT THEY'RE TRYING TO SAY
14 RALPH WENT INTO THAT HOUSE WITH. ASHLEY PARSLEY SAID
15 IT WAS A CHROME NINE MILLIMETER. DOES SHE HAVE ANY
16 REASON TO LIE? NO.

17 NOW, PATRICK TYLER GAVE US TWO STORIES. IN COURT
18 HE TESTIFIED, I BELIEVE IT WAS DARIUS GARNER HAD TAKEN
19 HIM TO RALPH COLEMAN'S HOUSE AND WHILE THEY WERE THERE
20 THEY DISCUSSED A ROBBERY. NOW, IN HIS FIRST STORY YOU
21 WILL SEE, HE DOESN'T SAY THAT, HE SAYS, LITTLE M
22 CALLED HIM AND THAT THEY ALL RODE OVER THERE TO PICK
23 PATRICK TYLER UP OFF BROOKDALE, UP AROUND BROOKDALE
24 SCHOOL. OBVIOUSLY, THAT'S WAY DIFFERENT THAN HIM
25 BEING AT RALPH COLEMAN'S HOUSE.

1 NOW, WHEN YOU GET BACK IN THE JURY ROOM REMEMBER
2 WHAT HE ORIGINALLY TOLD THE POLICE. HE PUT FOUR GUNS
3 IN FIVE PEOPLE'S HANDS. HE SAID, ME AND RALPH WENT IN
4 AND RALPH HAD A GUN, AND THEN WALTER, PETE, POKE --
5 WHO AM I MISSING, THE OTHER FOUR, EXCUSE ME, CAME IN
6 WITH GUNS OUT. THAT'S FIVE PEOPLE, FOUR GUNS. NOT
7 POSSIBLE.

8 NOW, WHAT WAS CONSISTENT WITH PATRICK TYLER'S
9 STORY? HE'S NOT THE BAD GUY. NOW, WHY WOULD PATRICK
10 TYLER SAY RALPH COLEMAN WAS THERE IF HE WASN'T? WHY
11 WOULD HE PICK HIM? WELL, IF YOU BELIEVE DARIUS
12 GARNER'S STORY THAT HE DID TAKE PATRICK TYLER OVER TO
13 RALPH COLEMAN'S HOUSE, MAYBE HE KNEW THAT SOMEONE
14 COULD PUT RALPH COLEMAN WITH HIM. DARIUS COULD SAY, I
15 TOOK HIM TO RALPH COLEMAN'S HOUSE. NOW, DARIUS
16 COULDN'T TRULY SAY IT WAS RALPH COLEMAN'S HOUSE, WE
17 LEARNED THAT THROUGH SOMEBODY ELSE, AND HE COULDN'T
18 TRULY SAY IT WAS ACTUALLY RALPH COLEMAN, HE SAID IT
19 WAS A STOCKY GUY WITH DREDS. I SUBMIT TO YOU, RALPH
20 COLEMAN IS CERTAINLY NOT THE ONLY PERSON STOCKY WITH
21 DREDS. DARIUS GRANT, OR GARNER, EXCUSE ME, COULD NOT
22 PUT RALPH COLEMAN WITH PATRICK TYLER AFTER THIS EVENT,
23 AFTER HIS HOUSE. HE LEFT HIM THERE, THAT'S ALL HE
24 COULD SAY. BUT THAT TIED PATRICK TYLER TO RALPH
25 COLEMAN ON THIS DATE, SO PATRICK KNEW HE COULD PICK

1 RALPH AND THERE WOULD BE SOME EVIDENCE THAT THEY HAD
2 BEEN TOGETHER. WHY ELSE WOULD BE PICK RALPH? WELL,
3 THERE'S SOME REASON TO BELIEVE THAT THERE HAD BEEN
4 SOME CONFRONTATION BETWEEN THE TWO OF THEM. I BELIEVE
5 PATRICK TYLER DENIED IT, BUT I BELIEVE THERE - - -

6 SOLICITOR PASCOE: SO, WHERE IS HER EVIDENCE OF
7 IT? OBJECTION, YOUR HONOR. THERE IS NO EVIDENCE OF
8 IT. I WITHDRAW MY OBJECTION, I APOLOGIZE. I WITHDRAW
9 IT, GO AHEAD.

10 THE COURT: YES, SIR.

11 MS. ULLMAN: JUST BECAUSE PATRICK TYLER SAID THAT
12 HE AND RALPH NEVER HAD PROBLEMS DOESN'T MEAN IT'S
13 TRUE.

14 WHEN YOU GO BACK IN THAT JURY ROOM TO DELIBERATE
15 PLEASE PAY ATTENTION TO THE TESTIMONY OF THE
16 WITNESSES, AGAIN, WHAT CAME OUT OF THEIR MOUTHS.
17 ALSO, PLEASE REMEMBER TWO THINGS THE STATE PROMISED AT
18 THE BEGINNING OF THIS TRIAL, THEY PROMISED THAT ONCE
19 PATRICK TYLER EXPLAINED EVERYBODY THAT WAS INVOLVED
20 AND EVERYTHING THAT WAS DONE THEY WOULD HAVE AT LEAST
21 ONE MORE WITNESS, IF NOT MORE, THAT WOULD BACK UP WHAT
22 HE SAID. NOW, WHAT WITNESS DID THEY PROVIDE TO BACK
23 UP HIS STORY? DARIUS GARNER. WHAT DID HE BACK UP?
24 HE BACKED UP THAT HE DROPPED PATRICK TYLER OFF AT
25 SOMEBODY'S HOUSE AND THAT HOURS LATER HE PICKED HIM UP

1 IN THE RAIN. I SUBMIT TO YOU THAT THAT DOES NOT
2 CORROBORATE PATRICK TYLER'S STORY OF WHAT HAPPENED IN
3 BETWEEN. HE COULD HAVE BEEN ANYWHERE WITH ANYBODY.
4 DARIUS GARNER HAS NO IDEA.

5 THEY ALSO PROMISED THEY WERE GOING TO PRODUCE
6 RONNIE WASHINGTON. RONNIE WASHINGTON HAS ADMITTED HE
7 WAS THE DRIVER IN THIS INCIDENT. THEY DID NOT PRODUCE
8 HIM. THEY DID NOT PRODUCE THE PERSON WHO WAS
9 ALLEGEDLY IN HIS CAR WHO ADMITTED TO BEING IN HIS CAR,
10 WHO SUPPOSEDLY DROVE ALL THESE PEOPLE, INCLUDING
11 PATRICK TYLER, TO THIS RESIDENCE. THEY DIDN'T PRODUCE
12 HIM. HE DID NOT GET ON THAT STAND AND NAME RALPH
13 COLEMAN AS EVER BEING IN THAT CAR. AS A MATTER OF
14 FACT, DURING OPENING STATEMENTS THE STATE ACTUALLY
15 PROMISED YOU THAT RONNIE WASHINGTON WOULD COME IN HERE
16 AND CORROBORATE ALL SIX PEOPLE WERE IN THAT CAR, AND
17 WHEN I SAY, SIX, I'M INCLUDING PATRICK TYLER. HE
18 DIDN'T SAY ANYTHING, HE DID NOT COME IN HERE. RONNIE
19 WASHINGTON WAS SUPPOSED TO TELL YOU THAT HE TOOK ALL
20 SIX OF THOSE PEOPLE TO THE KINGS ROAD APARTMENT, THEY
21 WERE GOING THERE TO BUY WEED IS WHAT HE KNEW, BUT HE
22 DIDN'T COME IN AND TELL YOU THAT. THE STATE HAS NOT
23 PRODUCED THAT. SO, THEY HAVE NOT CORROBORATED PATRICK
24 TYLER'S STORY. NOBODY HAS CORROBORATED PATRICK
25 TYLER'S STORY EXCEPT FOR WHERE HE WAS AROUND, I THINK,

1 FIVE O'CLOCK, AND WHERE HE WAS AROUND MAYBE TEN:THIRTY
2 OR ELEVEN O'CLOCK. THAT DOES NOT CORROBORATE HIS
3 STORY.

4 ASHLEY PARSLEY, THE ONLY OTHER PERSON WHO HAD ANY
5 TESTIMONY ABOUT WHAT DID OR DID NOT HAPPEN IN THAT
6 APARTMENT, DOES NOT CORROBORATE HIS STORY. SHE SAYS
7 ONE PERSON CAME IN, HE SAYS TWO. SHE NEVER BROUGHT UP
8 THE DOG IN HER STATEMENT. HE NEVER TALKED ABOUT ANY OF
9 THAT.

10 THE STATE HAS NOT MADE GOOD ON THEIR PROMISES,
11 THEY DID NOT CORROBORATE PATRICK TYLER'S STORY, THEY
12 DID NOT PRODUCE SUFFICIENT EVIDENCE TO PROVE RALPH
13 COLEMAN GUILTY BEYOND A REASONABLE DOUBT, OR AS THEY
14 SAID, BEYOND ANY DOUBT. ALL THEY'VE PRODUCED IS A
15 LYING CO-DEFENDANT AND A WITNESS THAT DID NOT SEE
16 RALPH, ID'D HIM POSSIBLY BECAUSE MAYBE, MAYBE SHE SAW
17 HIM. I SUBMIT TO YOU THAT THAT IS REASONABLE DOUBT, A
18 LYING CO-DEFENDANT AND A WITNESS WHO CANNOT BE SURE IS
19 REASONABLE DOUBT. IT IS NOT WHETHER OR NOT THE EARTH
20 REVOLVES AROUND THE SUN, IT IS A QUESTION THAT A
21 REASONABLE PERSON WOULD ASK THEMSELVES, IT WOULD CAUSE
22 YOU TO HESITATE.

23 NOW, AS I STATED EARLIER, I DID NOT HAVE TO
24 PROVE, NOR DOES RALPH COLEMAN HAVE TO PROVE THAT HE
25 DID NOT DO THIS. HE DOESN'T HAVE TO PROVE THAT HE WAS

1 NOT THERE. THE STATE MUST PROVE TO YOU BEYOND A
2 REASONABLE DOUBT THAT HE WAS, AND THEY HAVE NOT. AND
3 I ASK YOU TO RETURN A VERDICT OF NOT GUILTY FOR RALPH
4 COLEMAN.

5 THANK YOU.

6 THE COURT: THANK YOU, MS. ULLMAN.

7 MR. PALMER.

8 MR. PALMER: THANK YOU, YOUR HONOR, MAY IT PLEASE
9 THE COURT.

10 THE COURT: YES, SIR.

11 CLOSING ARGUMENT BY MR. PALMER

12 LADIES AND GENTLEMEN, WEED AND GUNS, I'M SURE
13 YOU'RE TIRED OF HEARING ABOUT WEED AND GUNS, AS I AM,
14 BUT WE HAVE TO TALK ABOUT WEED AND GUNS FOR A MINUTE,
15 BECAUSE THE DEFENDANTS ARE ALLEGED TO HAVE BEEN
16 INVOLVED IN THIS. NOW PART OF WHAT THEY'RE BEING
17 ACCUSED OF IS BEING INVOLVED WITH WEED AND GUNS. BUT
18 LET ME SUGGEST TO YOU, AND MY NEXT COMMENT
19 SPECIFICALLY EXCLUDES THE EXPERT WITNESSES THAT
20 TESTIFIED IN THIS TRIAL. WHAT I'M TALKING ABOUT IS
21 THE LAW ENFORCEMENT OFFICERS, I'M NOT REFERRING TO
22 THEM, BUT EVERY OTHER FACTUAL WITNESS THAT TOOK THIS
23 STAND IS ALSO HEAVILY INVOLVED IN WEED AND GUNS. SO,
24 IF YOU'RE GOING TO JUDGE MY CLIENT, MR. HARRIS IN THE
25 RED TIE OVER THERE, BECAUSE HE IS INVOLVED, OR HAS

1 BEEN INVOLVED IN WEED AND GUNS, THEN YOU'VE GOT TO
2 GIVE THESE WITNESSES THE SAME JUDGEMENT. NOW, THEY'RE
3 NOT HERE ON TRIAL FOR SMOKING WEED OR POSSESSING GUNS,
4 THEY'RE HERE FOR A MUCH GRIMMER PURPOSE. AND AS THE
5 SOLICITOR SAID, WHICH I AGREE, MR. HARRIS IS CHARGED
6 WITH THE MOST HEINOUS CRIME ON THE BOOKS, MURDER. BUT
7 LET'S GET ONE THING OUT OF THE WAY, EVEN IF YOU
8 BELIEVE EVERY WORD OF TESTIMONY, EVEN IF YOU BELIEVE
9 WHAT'S ON EVERY WRITTEN STATEMENT, WALTER LEE HARRIS
10 DID NOT ACTUALLY KILL ANYBODY. THERE'S NOT A SHRED OF
11 EVIDENCE THAT HE PULLED THE TRIGGER IN ANY SEQUENCE OF
12 EVENTS THAT LED UP TO THESE CHARGES. AND THAT'S OUT
13 OF THE WAY.

14 NOW, LET'S LOOK AT THE STATE'S CASE BECAUSE WE
15 WERE -- YOU KNOW, THEY WROTE A CHECK AT THE BEGINNING
16 OF THIS TRIAL, AND WE NEED TO SEE IF THEY CAN CASH IT.
17 AND I KNOW MR. SORENSON TO BE A GREAT LAWYER, BUT HE
18 TOLD YOU THERE WAS NO DOUBT AT ALL, AND AT THE END OF
19 THE TRIAL YOU WOULD HAVE NO DOUBT AS TO WHAT HAPPENED.
20 WELL, I AGREE WITH HIM AND THEN I DON'T. LET'S TALK
21 ABOUT WHAT THERE'S NO DOUBT ABOUT.

22 THERE'S NO DOUBT THAT THIS GENTLEMAN IS DECEASED.
23 THERE'S NO DOUBT THAT THE CAUSE OF HIS DEMISE WAS
24 INJURY BY GUN SHOT WOUNDS. THERE'S NO DOUBT THAT IT
25 HAPPENED AT KINGS ROAD, AND I HOPE I

1 GOT THE ADDRESS RIGHT.

2 BUT NOW THE DOUBT COMES IN. AND I'LL TELL YOU
3 WHY, BECAUSE THE STATE'S CASE IS BUILT ON A FOUNDATION
4 OF SAND. THE STATE'S CASE DEPENDS AND REVOLVES SOLELY
5 ON THE TESTIMONY OF PATRICK TYLER WHO TOOK THIS -- WHO
6 CAME INTO THIS COURTROOM, TOOK THIS STAND AND TOLD US
7 THAT HE HAD EVERY REASON TO TESTIFY AGAINST WALTER LEE
8 HARRIS, AND THE REASON IS, IS THAT HE'S GOT A DEAL.
9 AND WE ALL KNOW WHAT THAT MEANS. AND IF YOU REMEMBER,
10 WHEN I CROSS-EXAMINED THIS GENTLEMAN, THIS YOUNG MAN I
11 ASKED HIM OVER AND OVER AGAIN, PLEASE ADMIT THAT YOU
12 WILL BENEFIT FROM TESTIFYING AGAINST MY CLIENT.
13 EVERYBODY IN THE ROOM KNOWS HE'S GOING TO. AND YOU
14 KNOW WHAT? HE WOULD NOT ADMIT IT. AND IF HE HAD
15 ADMITTED IT, IT WOULD HAVE BEEN OKAY, BUT HE WOULDN'T.
16 AND THAT'S GOT TO TELL YOU THAT HE'S NOT BEING HONEST
17 WITH US.

18 NOW, HIS TESTIMONY IS THAT HE AND TWO OTHERS, NOT
19 INCLUDING MR. HARRIS, TWO OTHER GUYS STARTED TO PLAN
20 THIS WHOLE CAPER. THEY STARTED LONG BEFORE WALTER
21 HARRIS WAS EVEN AROUND. THEY GOT THE GUNS, THEY LOADED
22 THEM IN THE TRUCK IN THE BACK, THEY WERE SMOKING WEED,
23 THEY GOT IN, AND THE PLAN WAS UNDERWAY. AND I'M JUST,
24 I'M NOT SAYING THAT THESE ARE FACTS, I'M SAYING THAT
25 THIS IS WHAT HE SAID. AT SOME POINT THEY DECIDED THEY

1 NEED ANOTHER STRAP, AND LIEUTENANT SHUMPERT CONFIRMED
2 WHEN I ASKED HIM THAT THE STRAP IS A TERM FOR THE GUN
3 NOT THE GUNMAN. THEY NEEDED ANOTHER GUN. OKAY. SO,
4 THEY CALLED MR. HARRIS. NOW, THERE'S NOT A SHRED OF
5 EVIDENCE WHAT THEY TOLD HIM, AND THERE'S NO EVIDENCE
6 THAT HE HAD ANYTHING TO BELIEVE OTHER THAN THEY WERE
7 GOING TO GO OUT AND BUY SOME WEED. NOW, THE ORIGINAL
8 PLAN, ACCORDING TO TYLER, WAS THAT HE WAS GOING TO GO
9 IN AND GET THE WEED, BUT IT DIDN'T TURN OUT THAT WAY.
10 THERE'S NO EVIDENCE BEEN SUPPLIED TO SAY WHAT CHANGED
11 THE PLAN. WHY DID TYLER NOT GO IN TO INITIALLY BUY
12 THE WEED? AND LET ME SUGGEST SOMETHING, THERE'S A
13 THEME THAT JUST JUMPS OUT AT ME IN THIS CASE. THERE'S
14 TWO KINDS OF PLAYERS THAT ARE BECOMING APPARENT IN
15 THIS TRIAL, THERE'S THE BAD GUYS AND THERE'S THE FALL
16 GUY. THEY CALL UP MR. HARRIS, AND THIS IS ACCORDING
17 TO HIM, IF YOU CHOOSE TO BELIEVE ANY OF HIS TESTIMONY
18 THIS IS WHAT HIS VERSION OF THE PLAN WAS, THEY CALL
19 MR. HARRIS, AND APPARENTLY SEND HIM IN TO BUY THE
20 WEED. THERE'S NOT A SHRED OF EVIDENT THAT EVEN IF YOU
21 BELIEVE THAT IT HAPPENED THAT WAY, THAT WALTER HARRIS
22 KNEW ANYTHING OTHER THAN HE WAS SUPPOSED TO GO IN AND
23 BUY SOME WEED. BUT THEN PATRICK TYLER SAYS HE COMES
24 OUT AND SAYS, I'M NOT DOING THIS ANYMORE, I QUIT,
25 HERE'S MY GUN.

1 NOW, JUDGE DICKSON IS GOING TO CHARGE YOU ON THE
2 LAW, AND PART OF WHAT HE'S GOING TO CHARGE YOU IS THE
3 DEFENSE OF WITHDRAWAL. AND WHAT WITHDRAWAL MEANS IS,
4 IF YOU ARE INVOLVED IN SOME SORT OF PLAN OR
5 CONSPIRACY, AND I'M NOT SAYING THAT MY CLIENT WAS, BUT
6 IF YOU ARE, AND AT SOME POINT BEFORE THE ACTUAL PLAN
7 IS UNDERWAY YOU WITHDRAW, YOU TAKE YOURSELF OUT OF IT,
8 IT'S AN ABSOLUTE DEFENSE. NOW, DON'T TAKE MY WORD FOR
9 IT, -- AND BY THE WAY, ANYTHING THE LAWYERS TELL YOU
10 IN THIS CASE ARE NOT NECESSARILY FACTS AND ARE NOT
11 NECESSARILY THE LAW. THE FACTS COME FROM YOU FINE
12 LADIES AND GENTLEMEN, THAT'S YOUR JOB IN THIS CASE,
13 AND THE LAW COMES FROM JUDGE DICKSON.

14 OKAY, SO WHERE ARE WE? WALTER HARRIS, ACCORDING
15 TO PATRICK TYLER, COMES OUT AND SAYS, FOR WHATEVER
16 REASON, THERE'S A GUY IN THERE I KNOW, I'M OUT, HERE'S
17 MY GUN. AND YOU KNOW WHAT CORROBORATES THAT ACCORDING
18 TO TYLER IS, HE MUST HAVE MADE, BEEN SO ASSERTED THAT
19 THE BAD GUYS SAID, OKAY, WELL, WE NEED ANOTHER GUY, SO
20 LET'S GO OVER TO THE CORNER POCKET AND GET ANOTHER
21 GUY, MEANING MR. RYANT. OKAY. AND THIS IS RIGHT OUT
22 OF HIS STATEMENT AND HIS TESTIMONY.

23 NOW, THIS IS WHERE IT GETS INTERESTING, BECAUSE
24 NOW WE'VE GOT FOUR GUYS -- EXCUSE ME, FOUR GUNS,
25 ACCORDING TO HIS TESTIMONY, AND FIVE GUYS. AND SO,

1 WHAT TYLER WANTS US TO BELIEVE IS, HE WENT IN TO BUY
2 THE WEED TO BUY THE WEED THE SECOND TIME AND THE REST
3 OF THE OTHER GUYS DID EVERYTHING, ALL THE BAD STUFF.
4 AND IN ORDER FOR HIM TO PULL THAT OFF, TO MAKE THE
5 MATH WORK HE NEEDS FOUR GUNMEN AND HE NEEDS A GUY WITH
6 TAPE. HERE COMES THE FALL GUY. THE ONLY WAY TO MAKE
7 THAT WORK IS TO PUT WALTER HARRIS BACK IN THE MIX WITH
8 THE DUCT TAPE. AND YOU KNOW WHAT? THIS IS ALL FROM
9 HIS STATEMENT, WHICH, THIS VERSION I'VE MARKED UP A
10 LITTLE BIT, BUT YOU'LL HAVE THE STATEMENT, IT'S IN
11 EVIDENCE, IT WAS PUT IN EVIDENCE BY THE DEFENDANT AND
12 NOT THE STATE, BUT READ THIS STATEMENT CAREFULLY,
13 BECAUSE IT DOESN'T EVEN AGREE WITH ITSELF. THERE ARE
14 SOME PARTS THAT SAY THAT MR. HARRIS DID ONE THING,
15 THERE ARE SOME PARTS THAT SAY HE DID ANOTHER THING,
16 THAT HE HAD THIS AND HE HAD THAT, AND I SUBMIT TO YOU,
17 IF YOU'RE GOING TO CONVICT A MAN BASED ON A WRITTEN
18 STATEMENT THAT WAS MADE BACK IN MARCH, AT LEAST
19 REQUIRE, DEMAND THAT IT AGREE WITH ITSELF. AND NOT
20 ONLY THAT, EVEN THOUGH, EVEN IF IT DOESN'T AGREE WITH
21 ITSELF, WHAT HE TOLD YOU THIS WEEK DOESN'T EVEN AGREE
22 WITH THAT.

23 THERE'S ONE THING I'VE LEARNED IN TRYING CASES
24 AND LISTENING TO WITNESSES, IS THAT THE TRUTH IS THE
25 SAME EVERY TIME YOU TELL IT. THINGS CHANGE WHEN YOU

1 START TO PUT THE SPIN ON IT, AND I WILL SUBMIT TO YOU
2 THAT THIS WITNESS WAS SPINNING LIKE A TOP, AND THAT
3 THE STATE'S CASE IS HANGING BY THE THREAD OF PATRICK
4 TYLER. BECAUSE IF YOU CHOOSE NOT TO BELIEVE PATRICK
5 TYLER, GUESS WHAT? IT'S GAME OVER. THAT'S ALL
6 THEY'VE GOT. OF COURSE, THEY CAN PROVE THE VICTIM
7 DIED. OF COURSE, THEY CAN PROVE HE WAS KILLED WITH
8 GUNS. OF COURSE, THEY CAN PROVE THEY'VE GOT BULLETS
9 AND FRAGMENTS AND SHELLS AND CASINGS AND ALL THAT.
10 BUT WITHOUT PATRICK TYLER THEY DON'T HAVE THE WHO, AND
11 THEY DON'T HAVE THE HOW, AND THEY DON'T HAVE THE WHO
12 DID WHAT. AND THEY DON'T EVEN HAVE THESE GUYS AT THIS
13 SCENE, ESPECIALLY WALTER HARRIS.

14 NOW, CIRCUMSTANTIAL EVIDENCE IS VERY REAL, AND I
15 DON'T AGREE -- EXCUSE ME, I DON'T DISAGREE WITH
16 ANYTHING MR. PASCOE TOLD YOU ABOUT CIRCUMSTANTIAL
17 EVIDENCE. WHAT DO THEY HAVE TO OFFER? THE BLACK
18 FORTY CAL. NOW, LAW ENFORCEMENT TESTIFIED THAT THEY
19 EXECUTED A SEARCH WARRANT WHERE MR. HARRIS STAYS. DID
20 THEY FIND THE BLACK FORTY CAL THERE? NO. DID THEY
21 FIND IT IN HIS POSSESSION? NO. WHAT DO THEY HAVE TO
22 PUT THE FORTY CAL IN HIS HAND? ANOTHER GUY THAT
23 SMOKES WEED AND LIKES TO HAVE GUNS, THAT BUYS THEM ON
24 THE STREET, CAME UP AND SAID, I BOUGHT THE GUN FROM
25 PETE. BAD GUY OR FALL GUY, WHY SHOULD YOU BELIEVE

1 THIS GUY? WHO WAS HE? AND THE REASON, THE ONLY WAY
2 LAW ENFORCEMENT RECOVERED IT IS, HE SOLD IT TO ANOTHER
3 GUY.

4 YOU KNOW, WALTER HARRIS WAS MENTIONED A LOT IN
5 THIS CASE, BUT THINK ABOUT IT, WALTER HARRIS BECAME A
6 PART OF THIS CASE, AND YOU HEARD ME ASK LIEUTENANT
7 SHUMPERT TO CONSIDER THESE TWO INCIDENTS IN THIS
8 APARTMENT, ALLEGED VISIT NUMBER ONE AND ALLEGED VISIT
9 NUMBER TWO. ALLEGED VISIT NUMBER ONE IS WHEN WALTER
10 HARRIS WAS SUPPOSED TO HAVE APPEARED IN THE APARTMENT,
11 ASKED FOR THE PARTICULAR TYPE OF WEED THAT HE
12 APPARENTLY LIKES. THEY DIDN'T HAVE IT AND HE LEFT.
13 NO CRIME, AT LEAST ANY CRIME THAT'S CHARGED WAS
14 COMMITTED DURING ALLEGED VISIT NUMBER ONE. BUT GUESS
15 WHAT? THE ONLY WITNESS THAT HAS IDENTIFIED MR. HARRIS
16 AS BEING IN THAT APARTMENT THROUGH A PHOTO LINEUP WAS
17 DURING ALLEGED VISIT NUMBER ONE, AND THAT'S MS.
18 PARSLEY. AND NO, MR. MITCHELL, TOO. THOSE ARE TWO
19 STATE'S WITNESSES THAT BRING WALTER HARRIS INTO THIS
20 CASE, BUT IT WAS DURING THE FIRST VISIT, WHEN NOTHING
21 HAPPENED. THAT'S HOW HE GOT INVOLVED IN THIS CASE.
22 AND YOU HEARD LIEUTENANT SHUMPERT SAY, WHEN THIS
23 STATEMENT WAS WRITTEN WALTER HARRIS WAS ALREADY UNDER
24 ARREST. SO, HOW COULD HE BE A SUSPECT IN THIS CHAIN
25 OF EVENTS, BECAUSE THE STATEMENT HADN'T EVEN BEEN

1 WRITTEN WHEN HE WAS PICKED UP? HE WAS PICKED UP BASED
2 ON ALLEGED VISIT NUMBER ONE, WHEN NOTHING HAPPENED.

3 BACK TO PATRICK TYLER, IN ORDER FOR HIS STORY TO
4 WORK HE NEEDS TO PUT MY CLIENT IN THAT APARTMENT. AND
5 YOU KNOW HOW THAT HELPS HIM? IT'S BECAUSE WHEN HE
6 STANDS BEFORE THE COURT, WHENEVER THAT IS, AND PLEADS
7 GUILTY, HE WANTS TO BE ABLE TO SAY, I WAS JUST THERE
8 BUT I DIDN'T DO ANYTHING. BECAUSE IT'S GOING TO HELP
9 HIM. SO, WITH FOUR GUNS, AND A ROLL OF DUCT TAPE, HE
10 NEEDS TO PUT ALL OF THESE GUYS IN THE APARTMENT, EVEN
11 THOUGH BY HIS OWN TESTIMONY MY CLIENT HAD OPTED OUT
12 BEFORE ANY OF THE VIOLENCE STARTED. AND THE ONLY
13 EVIDENCE TO SHOW THAT HE, TO SHOW YOU THAT HE WENT IN
14 THAT APARTMENT IS THIS GUY'S TESTIMONY. AND YOU'VE
15 GOT TO THINK ABOUT WHY HE'S SAYING THAT, WHY HE'S
16 TRYING TO THROW MY CLIENT UNDER THE BUS, BECAUSE
17 WITHOUT MY CLIENT, THE FALL GUY, IT DOESN'T WORK.

18 SO, YOU KNOW, KEEP IN MIND THAT ALL OF THESE
19 WITNESSES HAD SOMETHING TO GAIN. NOW, I CAN'T TELL
20 YOU EXACTLY WHAT THE GUY THAT CAME IN ABOUT THE GUN,
21 WHERE HE WAS COMING FROM. MAYBE HE DID BUY THE GUN
22 FROM WALTER HARRIS, AND MAYBE WALTER HARRIS ENDED UP
23 WITH THE GUN. BUT HE'S NOT CHARGED WITH POSSESSION OF
24 A FIREARM, HE'S CHARGED WITH SOMETHING MUCH WORSE, AND
25 THE ONLY STATE'S WITNESS SAID, EVEN IF YOU BELIEVE

1 THIS, SAID HE DIDN'T HAVE A GUN WHEN ALL THIS
2 HAPPENED.

3 AND LET'S SAY THAT YOU DO BELIEVE IT, THAT
4 WALTER HARRIS WENT IN AND TAPED THIS GUY UP, AND
5 THAT'S THE ONLY EVIDENCE, BECAUSE WHEN SLED GOT THE
6 DUCT TAPE, THEY DID AN ANALYSIS, THEY DID THEIR
7 SCIENTIFIC THING ON IT, INCONCLUSIVE. THEY CAN'T PUT
8 THAT DUCT TAPE IN WALTER HARRIS'S HAND. BUT EVEN IF
9 YOU BELIEVE HIM, THE PLAN WAS ROBBERY. AND AT SOME
10 POINT, AND I'M SURE IT HAPPENED QUICKLY, THE PLAN
11 CHANGED FROM ROBBERY TO HOMICIDE, IF YOU BELIEVE THIS.
12 WELL, AT THAT POINT, ACCORDING TO THIS TESTIMONY,
13 THERE WERE FOUR GUYS WITH GUNS, AND ONE GUY WITH DUCT
14 TAPE. AND THE VICTIM DIDN'T DIE FROM DUCT TAPE. SO,
15 AT THAT INSTANT, AT THAT FLASH IN TIME WHEN THE PLAN
16 CHANGED FROM ROBBERY TO MURDER, EVEN IF YOU BELIEVE
17 THIS, WHICH YOU SHOULDN'T, MR. HARRIS DIDN'T EVEN HAVE
18 THE MEANS TO CARRY OUT THE CRIME.

19 LADIES AND GENTLEMEN, THIS IS AMERICA, WE'RE
20 WORKING UNDER THE SAME LAWS THAT PROTECT US, THAT
21 PROTECT MY CLIENT, THAT PROTECT EVERYONE IN THIS
22 COURTROOM AND EVERY U. S. CITIZEN. THE STATE HAS THE
23 BURDEN OF CARRYING THE PROOF IN THIS CASE, AND THAT
24 BURDEN IS GREAT. IF ANYTHING ABOUT THIS CASE,
25 ESPECIALLY WITH REGARD TO MR. HARRIS, GIVES YOU A

1 DOUBT TO WHICH YOU CAN ASSIGN A REASON IT'S YOUR DUTY
2 TO FIND HIM NOT GUILTY. I WOULD SUBMIT THAT THERE'S
3 ALL KIND OF DOUBT, AND I HOPE I'VE COVERED IT, I HOPE
4 I'VE DONE A GOOD JOB PLAYING THIS OUT FOR MY CLIENT,
5 BECAUSE WE CAN'T DECIDE THINGS ON IMPRESSIONS OR
6 PROBABILITIES OR WHAT MIGHT HAVE HAPPENED OR, YOU
7 KNOW, THIS GUY'S OUT THERE SMOKING WEED OR THIS OR
8 THAT, WE'RE NOT RUNNING HIM FOR COUNTY COUNCIL, WE'RE
9 NOT AUDITIONING HIM FOR THE CHURCH CHOIR, WE'RE TRYING
10 HIM FOR MURDER, WE'RE TRYING HIM FOR ARMED ROBBERY,
11 AND WE'RE TRYING HIM BURGLARY, FIRST DEGREE. THE
12 PROOF HAS TO BE, THE PROOF HAS TO BE MAD, IT HAS TO BE
13 MET, THE BURDEN HAS TO BE MET. IT HASN'T. WALTER LEE
14 HARRIS IS NOT GUILTY OF ANY OF THESE CRIMES.

15 THANK YOU VERY MUCH.

16 THE COURT: THANK YOU, MR. PALMER.

17 ALRIGHT, LADIES AND GENTLEMEN OF THE JURY, MR.
18 MELLARD IS ANXIOUS TO GET UP HERE AND DO HIS CLOSING
19 FOR MR. RYANT, BUT WE'VE BEEN GOING FOR A LITTLE OVER
20 AN HOUR, AND I REMEMBER WHEN I WAS IN SCHOOL I HATED
21 SITTING IN CLASS FOR OVER AN HOUR, SO I'M GOING TO
22 GIVE Y'ALL A BREAK. YOU HAVEN'T HEARD ALL THE
23 CLOSING STATEMENTS, SO AGAIN, I'M REMINDING YOU, YOU
24 CANNOT TALK ABOUT THIS CASE AT THIS TIME, BUT WE'RE
25 GOING TO TAKE A SHORT TEN MINUTE BREAK, LET Y'ALL GET

1 UP, STRETCH YOUR LEGS, MAYBE GET SOME WATER OR
2 SOMETHING LIKE THAT, AND THEN COME ON BACK IN HERE AND
3 WE'LL FINISH UP WITH THE DEFENDANTS' CLOSING
4 ARGUMENTS.

5 ALRIGHT, THANK Y'ALL.

6 (Whereupon, the jury retires
7 to the jury room and the
8 following take place out
9 of the presence of the jury.)

10 THE COURT: ALRIGHT, MR. MELLARD, I APOLOGIZE, I
11 KNOW YOU'RE READY TO GO, BUT A BREAK WOULDN'T HURT
12 ANYBODY SO, WE'LL BE IN RECESS FOR ABOUT TEN MINUTES.
13 OKAY? THANK Y'ALL.

14 (Recess)

15 THE COURT: ALRIGHT, MR. MELLARD, ARE YOU READY?

16 MR. MELLARD: YES, SIR.

17 THE COURT: ALRIGHT, IF YOU'LL GET THE JURY ON
18 OUT.

19 (Whereupon, the jury enters
20 the courtroom and the following
21 takes place in the presence
22 of the jury.)

23 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, I
24 APPRECIATE Y'ALL'S CONTINUED ATTENTION.

25 MR. MELLARD.

1 MR. MELLARD: YOUR HONOR, THANK YOU.

2 THE COURT: YES, SIR.

3 CLOSING ARGUMENT BY MR. MELLARD

4 I JUST WANT TO TALK TO Y'ALL BRIEFLY ABOUT THE
5 FACTS AGAINST MY CLIENT, DANNY RYANT, BUT BEFORE I DO
6 I WANT TO TALK TO Y'ALL ABOUT THE SCALES OF JUSTICE.
7 ALRIGHT, NOW, THE SCALES OF JUSTICE, SOMETIMES YOU'LL
8 SEE THEM IN A COURTROOM. AND WHAT THEY ARE IS, IS
9 USUALLY A WOMAN, AND SHE'S HOLDING THESE TWO SCALES,
10 AND THE WAY THESE SCALES USUALLY WORK IS, AT THE
11 BEGINNING OF THE TRIAL THE SCALES ARE EVEN. ONE
12 PERSON PUTS UP EVIDENCE, THE OTHER SIDE PUTS UP
13 EVIDENCE, AT THE END OF THE TRIAL YOU LOOK TO SEE
14 WHICH WAY THE SCALES TIP. THAT'S THE WAY IT USUALLY
15 WORKS, BUT IN A CRIMINAL CASE IT'S ENTIRELY
16 DIFFERENT. IN A CRIMINAL CASE THE SCALES OF JUSTICE
17 DO NOT START OFF EVEN. IN A CRIMINAL CASE THE SCALES
18 OF JUSTICE ARE TIPPED IN FAVOR OF THE DEFENDANT.
19 THAT'S HOW THEY START OFF. AND THEY START OFF LIKE
20 THAT BECAUSE OF TWO THINGS: NUMBER ONE, BECAUSE THE
21 DEFENDANT IS PRESUMED INNOCENT, THAT'S THE FIRST
22 REASON. THE SECOND REASON IS BECAUSE THE DEFENDANT
23 DOESN'T HAVE TO PUT ANYTHING UP. HE DOESN'T HAVE TO
24 DO ANYTHING. IT'S THE SOLICITOR WHO HAS THE DUTY TO
25 ADD TO HIS SIDE OF THE SCALES, WHILE AT THE SAME TIME

1 REMOVING REASONABLE DOUBT FROM THE DEFENDANT'S SIDE OF
2 THE SCALES. SO, WITH THAT IN MIND I WANT TO TALK TO
3 Y'ALL ABOUT THE EVIDENCE AGAINST DANNY RYANT.

4 Y'ALL HEARD FROM SERGEANT CRAIG DAVIS, HE WAS THE
5 FIRST WITNESS. AND WHAT DID HE TELL YOU? HE WAS THE
6 PATROL OFFICER. HE GOT THE CALL, HE CAME TO THE
7 SCENE, HE LOOKED AROUND, HE SECURED IT, AND THEN HE
8 CALLED THE CRIMINAL ENFORCEMENT DIVISION. THAT'S WHAT
9 HE TOLD Y'ALL. THE SCALES OF JUSTICE DIDN'T MOVE,
10 NOTHING AGAINST DANNY RYANT.

11 THEN YOU HEARD FROM ASHLEY PARSLEY. SHE IS,
12 WE'VE ALL HEARD ABOUT HER, SHE WAS THE LADY THAT WAS
13 LIVING WITH CHARLES PRINGLE AT THIS TIME. SHE MET HIM
14 AT A BAR, SHE MOVED IN WITH HIM. SHE'S IMPORTANT
15 BECAUSE SHE'S AN EYE WITNESS TO THIS CASE. AND AS AN
16 EYE WITNESS, WHAT DID SHE SAY? WELL, SHE SAID THAT
17 PEOPLE CAME IN. THEY WERE, SHE HEARD, SHE WAS PUT
18 FACE DOWN ON THE GROUND, SHE HEARD GUN SHOTS. SHE
19 PICKED SOME PEOPLE OUT OF A LINEUP, BUT SHE DID NOT
20 PICK DANNY RYANT OUT OF ANY LINEUP. ASHLEY PARSLEY
21 DID NOT SEE DANNY RYANT AT THE SCENE OF THE CRIME.
22 ASHLEY PARSLEY DID NOT PUT DANNY RYANT ANYWHERE NEAR
23 THE SCENE OF THIS CRIME. THE SCALES, THEY HAVEN'T
24 MOVED.

25 NEXT YOU HEARD FROM LIEUTENANT CARTER. HE'S THE

1 CRIME SCENES OPERATION FELLOW. HE'S THE GUY THAT GOES
2 TO THE CRIME SCENE AND TAKES THE PICTURES, LOOKS AT
3 THE EVIDENCE, COLLECTS THE EVIDENCE, SENDS IT OFF TO
4 BE TESTED. NOW, HE'S THE EXPERT ON CRIME SCENE
5 INVESTIGATION. WHAT DID HE DO? WELL, HE GETS THERE,
6 HE SEES THIS BLACK LIGHT. THAT'S THE ONLY THING THAT
7 WAS ILLUMINATING THIS HOUSE WAS THIS ONE BLACK LIGHT.
8 SO, HE CAN'T SEE ANYTHING, SO HE TAKES A FLASH LIGHT
9 AND HE STARTS LOOKING AROUND. ANOTHER OFFICER COMES,
10 THEY CHANGE THE LIGHT BULB, PUT IN A LIGHT BULB THAT
11 THEY COULD SEE, AND THEN HE STARTS HIS INVESTIGATION.
12 WELL, HE DETERMINES THERE WAS NO FORCED ENTRY, NO
13 FORCED ENTRY AT THE FRONT DOOR, THE BACK DOOR, OF
14 COURSE, WAS LOCKED. HE STARTS TAKING PHOTOGRAPHS OF
15 THE SCENE, AND Y'ALL HAVE SOME OF THE PHOTOGRAPHS INTO
16 EVIDENCE HERE. AND THEN HE TAKES SOME YELLOW MARKERS,
17 AND WE'VE HEARD WHAT THOSE YELLOW MARKERS ARE, SOME OF
18 THEM ARE BULLET FRAGMENTS, SOME OF THEM ARE SHELL
19 CASINGS, BUT HE STARTS GOING AROUND AND MARKING THOSE
20 THINGS. AND REMEMBER, THIS GUY IS THE EXPERT IN CRIME
21 SCENE INVESTIGATION. AND THEN -- AFTER HE PUTS THE
22 MARKERS DOWN HE TAKES SOME MORE PICTURES. ALRIGHT, AT
23 THAT POINT HE DECIDES HE SHOULD FINGERPRINT THE DOOR.
24 NOW, WE'VE HEARD THAT HE FINGERPRINTS THE DOOR, HE
25 DOESN'T FIND ANYTHING. WE'VE ALSO HEARD HE DIDN'T

1 FINGERPRINT ANYTHING ELSE IN THE HOUSE. HE DIDN'T
2 FINGERPRINT THE LOVE SEAT, THE SOFA, THE END TABLE, HE
3 DIDN'T FINGERPRINT ANYTHING. ALRIGHT, THEN HE FINDS
4 SOME DUCT TAPE AND HE SENDS IT OFF TO SLED TO BE
5 TESTED, AND SLED DOESN'T FIND ANY FINGERPRINTS ON THE
6 DUCT TAPE, SLED DOESN'T FIND ANY DNA ON THE DUCT TAPE.
7 WHETHER YOU FEEL LIEUTENANT CARTER DID A GOOD JOB OR
8 A BAD JOB WITH HIS INVESTIGATION, ONE THINGS IS FOR
9 CERTAIN, FOR PURPOSES OF DANNY RYANT, IT DOESN'T
10 MATTER, BECAUSE HE FOUND NO EVIDENCE IN THAT HOME
11 AGAINST DANNY RYANT. AGAIN, THREE WITNESSES, THOSE
12 SCALES HAVEN'T MOVED.

13 SHANNON MITCHELL, WHAT DID HE SAY? HE WAS AT THE
14 HOUSE BEFORE THIS THING EVEN OCCURRED. DID HE SEE
15 DANNY RYANT THERE? NO. DID HE EVE KNOW ABOUT DANNY
16 RYANT? NO. SHANNON MITCHELL DOESN'T KNOW ANYTHING,
17 HE ADDS NO EVIDENCE TO THE SOLICITOR'S SIDE OF THE
18 SCALE, AND HE REMOVES NO REASONABLE DOUBT FROM THE
19 DEFENDANT'S SIDE OF THE SCALE. THE SCALES HAVEN'T
20 MOVED.

21 WE HEARD FROM ANDRE WASHINGTON. HE'S THE GUY
22 THAT BOUGHT A GUN FROM, SUPPOSEDLY FROM WALTER HARRIS
23 AND THEN TURNED AROUND AND HE SELLS THE GUN TO SOME
24 OTHER FELLOW, CHRISTOPHER DWIGHT. ANDRE WASHINGTON,
25 HE DOESN'T KNOW DANNY RYANT AT ALL, DOESN'T EVEN KNOW

1 HIM. ONCE AGAIN, NO EVIDENCE PRESENTED BY THE STATE
2 AGAINST DANNY RYANT, NO, NOTHING REMOVED ANY
3 REASONABLE DOUBT FROM OUR SIDE OF THE SCALES.

4 ALRIGHT, WHAT ABOUT MONEAK BUSBY? MONEAK BUSBY
5 WAS AT THE CORNER POCKET ON THE NIGHT OF MARCH THE
6 TWELFTH. ALRIGHT, SHE SAID SHE GOT THERE AROUND EIGHT
7 OR EIGHT:THIRTY, AND THE REASON SHE GOT THERE EARLY,
8 OF COURSE, IS BECAUSE SHE SAID YOU'VE GOT TO PAY LIKE
9 FIVE BUCKS TO GET INTO THE CLUB AND SHE DIDN'T WANT TO
10 PAY. ALRIGHT, SO SHE GETS THERE EARLY. AND WHAT DOES
11 SHE SEE? SHE SEES DANNY RYANT. NOW, THE CORNER
12 POCKET, AS WE'VE HEARD, IT'S A BAR, IT'S A POOL ROOM,
13 IT'S A PLACE WHERE YOU CAN EAT, AND IT'S GOT A PLACE
14 WHERE YOU CAN DANCE. ALRIGHT, IT'S GOT FIVE DIFFERENT
15 PLACES IN THERE THAT YOU CAN DO FIVE DIFFERENT THINGS.
16 AND AS YOU REMEMBER, SHE SAID SHE DID NOT, MONEAK
17 BUSBY DID NOT LEAVE THE CORNER POCKET. AND WHY?
18 BECAUSE IF SHE LEAVES SHE WOULD HAVE TO PAY MORE MONEY
19 TO GET BACK IN. SO, SHE STAYS THERE FROM AROUND EIGHT
20 OR EIGHT:THIRTY UNTIL SHE LEAVES AROUND TWELVE O'CLOCK
21 AT NIGHT. OKAY. AND SHE TESTIFIES THAT SHE SEE A
22 PERSON THAT SHE IDENTIFIED AS MARIO SHIVERS COME TO
23 THE DOOR. ALRIGHT, YOU KNOW, WHETHER YOU BELIEVE THAT
24 OR NOT IT DOESN'T MATTER BECAUSE WHAT MATTER FROM THE
25 POINT OF DANNY RYANT IS, THERE'S NO TESTIMONY THAT SHE

1 SAW DANNY RYANT LEAVE THE CORNER POCKET, NONE, NO
2 TESTIMONY. THERE'S NO TESTIMONY THAT SHE SAW HIM GET
3 INTO A CAR WITH ANYBODY, NO TESTIMONY. ALRIGHT, THE
4 ONLY THING MONEAK BUSBY KNOWS IS THAT HE WASN'T IN THE
5 SAME PART OF -- DANNY RYANT WAS NOT IN THE SAME PART
6 OF THE CLUB THAT SHE WAS. THAT'S THE ONLY THING SHE
7 KNOWS. SO, THE SOLICITOR IS MAKING A BIG DEAL ABOUT
8 THE FACT THAT MONEAK BUSBY DOESN'T KNOW WHERE DANNY
9 RYANT IS EVERY MINUTE OF THAT NIGHT, BUT YOU'VE GOT TO
10 REMEMBER, MONEAK BUSBY IS IN A BAR, RIGHT. SHE'S
11 SITTING THERE, SHE'S THERE TO DRINK BEER AND SHE'S
12 THERE TO SOCIALIZE. SHE'S NOT THERE TO LOOK FOR DANNY
13 RYANT. SO, AGAIN, THE SCALES HAVEN'T MOVED. THEY
14 HAVE NOT ADDED EVIDENCE THAT SHOWS DANNY RYANT'S PART
15 OF THE CRIME, AND THEY HAVE NOT REMOVED REASONABLE
16 DOUBT FROM OUR SIDE OF THE SCALES.

17 YVONNE SHARPERSON, SHE WAS AT THE CORNER POCKET.
18 WHAT DID SHE SAY? WELL, SHE SAID AT SOME POINT
19 DANNY'S MOM WAS LOOKING FOR HIM. THE STATE ASKED HER,
20 YOU KNOW, DID SHE SEE DANNY RYANT IN THE CLUB WHEN SHE
21 WAS LOOKING? AND SHE SAID, LOOK, I WAS IN THERE
22 DRINKING, I WASN'T IN THERE LOOKING FOR DANNY RYANT.
23 SO, AGAIN, WE'VE GOT THE SCALES, THOSE SCALES HAVEN'T
24 MOVED, HAVEN'T MOVED AN INCH.

25 THEN WE HEARD FROM JANET ROSS, SHE'S THE

1 PATHOLOGIST. ALRIGHT, SHE'S THE PERSON THAT DID THE
2 AUTOPSY. SHE TOLD YOU HOW SHE EXAMINED THE BODY, SHE
3 TOLD YOU HOW SHE REMOVED BULLETS AND BULLET FRAGMENTS
4 AND THEY WERE SENT TO SLED. BUT SHE DIDN'T PROVIDE
5 ANY EVIDENCE THAT YOU CAN LINK DANNY RYANT TO THIS
6 CRIME, NONE WHATSOEVER. AGAIN, THE SCALES HAVE NOT
7 MOVED.

8 JAMES GREEN, HE'S THE SLED FIREARMS EXPERT, HE
9 TOLD US ABOUT GUNS AND GUN CASINGS. THE SCALES HAVEN'T
10 MOVED.

11 DARIUS GARNER, HE'S THE FELLOW THAT'S BEEN
12 SMOKING DOPE EVERY DAY SINCE HE WAS ABOUT FOURTEEN
13 YEARS OLD. HE SAYS HE KNOWS PATRICK TYLER, THAT'S HIS
14 DOPE SMOKING FELLOW, THEY LIVE IN THE SAME
15 NEIGHBORHOOD, HANG OUT EVERY DAY, BEEN SMOKING DOPE
16 TOGETHER FOR ABOUT THE LAST THREE YEARS. WHAT DID HE
17 TELL YOU? DID HE TELL YOU ANYTHING ABOUT DANNY RYANT?
18 NO, NOTHING. NO EVIDENCE ABOUT DANNY RYANT.

19 AND THEN YOU HEARD FROM LIEUTENANT JAMES
20 SHUMPERT, AND WHAT DID HE SAY? WELL, HE'S THE
21 INVESTIGATOR, HE DOESN'T KNOW FIRST HAND KNOWLEDGE AS
22 ALL THESE OTHERS HAVE TOLD YOU, NO FIRST HAND
23 KNOWLEDGE ABOUT WHAT WENT ON. HE SHOWED ASHLEY
24 PARSLEY A LINEUP AND THIS LINEUP CONTAINED DANNY RYANT
25 IN IT. AND WHAT YOU HEARD WAS, ASHLEY PARSLEY DID NOT

1 PICK DANNY RYANT OUT OF ANY LINEUP. ASHLEY PARSLEY
2 DID NOT PUT DANNY RYANT AT THE SCENE OF THE CRIME.
3 AND AGAIN, NO MOVEMENT.

4 SO, WE'VE GOT ELEVEN WITNESSES HERE, DAVIS,
5 PARSLEY, CARTER, MITCHELL, WASHINGTON, BUSBY,
6 SHARPERSON, ROSS, GREEN, GARNER AND SHUMPERT, ELEVEN
7 STATE'S WITNESSES, AND THEY HAVEN'T MOVE THAT SCALE
8 ONE BIT. AND WHAT DID THESE WITNESSES DETERMINE?
9 WELL, THEY DETERMINED THAT A MAN WAS SHOT AND A MAN
10 WAS KILLED ON MARCH THE TWELFTH. BUT WHAT DID THESE
11 WITNESSES ALSO SHOW YOU? THEY SHOW YOU THAT DANNY
12 RYANT WAS PROBABLY AT THE CORNER POCKET WHEN THIS
13 OCCURRED. SO, AGAIN, NO MOVEMENT.

14 NOW, THEN THERE'S THE LAST WITNESS, AND THAT'S
15 THE PATRICK TYLER WITNESS, AND THAT'S THE ONE
16 EVERYBODY IS TALKING ABOUT BECAUSE THAT'S THEIR WHOLE
17 CASE. LIKE EVERYBODY SAID, THAT IS THEIR WHOLE CASE
18 AGAINST DANNY RYANT. NOW, WHAT YOU HEARD -- WELL,
19 WHAT YOU SAW, THE SOLICITOR PUT UP A BOARD HERE ABOUT
20 THE CREDIBILITY OF WITNESSES. ALRIGHT, AND ONE OF THE
21 THINGS YOU NEED TO DO WHEN YOU DETERMINE HIS
22 CREDIBILITY IS LOOK AT HIS APPEARANCE, LOOK A PATRICK
23 TYLER'S APPEARANCE AND HIS DEMEANOR. NOW, Y'ALL WERE
24 WATCHING HIM ON THIS STAND, AND WHAT DID HE DO? WHEN
25 HE WAS TALKING TO THE SOLICITOR, WHEN THEY WERE

1 PRESENTING THEIR CASE, HE WAS ALL, SITTING UP, HE WAS
2 TALKING TO THEM, HE WAS ANSWERING THEIR QUESTIONS.
3 BUT AS SOON AS HE GOT THROUGH, WHAT HAPPENED TO HIS
4 DEMEANOR? HE KICKED BACK IN THE CHAIR, STARTED
5 YAWNING. HE DIDN'T CARE. AND HE DIDN'T CARE BECAUSE HE
6 KNEW ONCE HE TESTIFIED FOR THE STATE HIS JOB WAS DONE.
7 HE HAD DONE WHAT HE WAS SUPPOSED TO DO IN ORDER TO GET
8 A DEAL, AND HE DID WHAT HE WAS SUPPOSED TO DO, SO HE
9 DIDN'T CARE AFTER HE TESTIFIED. HE WASN'T WORRIED ONE
10 BIT AFTER HE TESTIFIED.

11 NOW, YOU'VE GOT TO ASK WHETHER PATRICK TYLER'S
12 TESTIMONY WAS CONSISTENT. AND YOU'VE HEARD THE OTHER
13 ATTORNEYS, AND THEY SAY IT IS NOT, AND I WOULD ASK
14 THAT YOU LOOK AT THIS EVIDENCE AND DETERMINE FOR
15 YOURSELF WHETHER YOU FIND PATRICK TYLER'S TESTIMONY IS
16 CONSISTENT. AND IF YOU FIND THAT IT IS NOT
17 CONSISTENT, THEN YOU NEED TO QUESTION HIS CREDIBILITY,
18 BUT MOST IMPORTANTLY, YOU NEED TO CONSIDER WHETHER
19 PATRICK TYLER HAD AN INTEREST IN THE OUTCOME OF THIS
20 TRIAL. WE'VE ALL TALKED ABOUT THAT. AND THE ANSWER
21 IS DEFINITELY, YES. BECAUSE I WOULD SUBMIT TO YOU
22 THAT PATRICK TYLER IS GUILTY OF MURDER. PATRICK TYLER
23 IS GUILTY OF ARMED ROBBERY. PATRICK TYLER IS GUILTY
24 OF BURGLARY. AND PATRICK TYLER, BY HIS OWN
25 ADMISSION, IS LOOKING AT SPENDING THE REST OF HIS LIFE

1 IN PRISON. AND SO, PATRICK TYLER IS GOING TO DO
2 EVERYTHING HE CAN TO HELP THE STATE AND GET HIMSELF
3 OUT OF TROUBLE.

4 NOW, IN AMERICA WE ALL ENJOY FREEDOM TO THINK AND
5 BELIEVE WHAT WE WANT TO BELIEVE. YOU KNOW, EVERY DAY
6 IN OUR LIVES WE DRAW CONCLUSIONS WHEN THERE ARE
7 ABSOLUTELY NO FACTS. FOR INSTANCE, IF YOU HEAR THAT
8 YOUR NEIGHBOR IS HAVING AN AFFAIR YOU MIGHT CHOOSE TO
9 BELIEVE IT, YOU MAY CHOOSE NOT TO BELIEVE IT. YOU
10 DON'T HAVE ANY FACTS BUT YOU CAN JUST CHOOSE TO
11 BELIEVE IT AND THAT IS YOUR RIGHT TO DO THAT IF YOU
12 WANT TO DO IT. THE SAME WITH POLITICS, EVERY COUPLE
13 OF YEARS SOME FELLOW OR SOME LADY RUNS FOR OFFICE, I
14 DON'T KNOW ANYTHING ABOUT THEM, BUT EVERY COUPLE OF
15 YEARS I LOOK AT HIM, AND I SAY, WELL, THIS PERSON
16 LOOKS OKAY, AND THEN I GO AND VOTE FOR HIM. I HAVE NO
17 FACTS, BUT I GO AND VOTE FOR HIM. AND THEN, IN A
18 COUPLE OF YEARS, OR A COUPLE OF MONTHS I'M USUALLY
19 DISAPPOINTED. BUT WE IN OUR EVERY DAY LIFE CAN DRAW
20 CONCLUSIONS WHENEVER WE WANT TO. AND THAT'S FINE.
21 BUT WHEN Y'ALL WALKED INTO THIS COURTROOM AND YOU ALL
22 GOT CHOSEN FOR THIS JURY THINGS CHANGED. ALRIGHT,
23 BECAUSE IT'S DIFFERENT, BECAUSE THERE IS SO MUCH AT
24 STAKE HERE. SO, WHEN YOU'RE IN THIS COURTROOM AND YOU
25 HAVE TO MAKE A DECISION IT DOESN'T MATTER WHAT YOU

1 THINK OR WHAT YOU BELIEVE OR WHAT YOU EVEN KIND OF
2 FIGURE WHAT HAPPENED. THE ONLY THING THAT MATTER IS
3 WHAT THE STATE PROVED BEYOND A REASONABLE DOUBT. AND
4 IF YOU WANT A REASONABLE DOUBT, THE OFFICER WHO
5 RESPONDED TO THE SCENE, CRAIG DAVIS, FOUND NO EVIDENCE
6 LINKING DANNY RYANT TO THE CRIME. IF YOU WANT A
7 REASONABLE DOUBT, ASHLEY PARSLEY, THE EYE WITNESS,
8 CANNOT PUT DANNY RYANT AT THE SCENE OF THIS CRIME. IF
9 YOU WANT A REASONABLE DOUBT, LIEUTENANT GERALD CARTER,
10 HE'S AN EXPERT IN CRIME SCENE INVESTIGATION, HE CAN'T
11 PUT DANNY RYANT AT THE CRIME. IF YOU WANT REASONABLE
12 DOUBT, SHANNON MITCHELL, HE WAS THERE BEFORE THE CRIME
13 OCCURRED, HE CAN'T PUT DANNY RYANT AT THE CRIME.
14 ANDRE WASHINGTON, REASONABLE DOUBT, HE CAN'T PUT DANNY
15 RYANT AT THE CRIME. MONEAK BUSBY, SHE DIDN'T SEE
16 DANNY RYANT LEAVE, REASONABLE DOUBT. YVONNE
17 SHARPERSON, SHE DIDN'T SEE DANNY RYANT LEAVE THE
18 CORNER POCKET, THAT'S REASONABLE DOUBT. JANET ROSS IS
19 REASONABLE DOUBT, JAMES GREEN IS REASONABLE DOUBT,
20 DARIUS GARNER IS REASONABLE DOUBT, SHUMPERT, HE DIDN'T
21 FIND ANYTHING, REASONABLE DOUBT, AND THEN THERE'S
22 PATRICK TYLER. PATRICK TYLER HAS EVERY REASON TO GET
23 ON THAT STAND AND LIE, THAT'S REASONABLE DOUBT.

24 THE STATE OF SOUTH CAROLINA HAS THE BURDEN OF
25 PROVING DANNY RYANT GUILTY BEYOND A REASONABLE DOUBT.

1 IF YOU THINK ABOUT THE SCALES OF JUSTICE YOU'LL SEE
2 THEY DIDN'T ADD ANYTHING TO THEIR SIDE, AND THEY
3 DIDN'T TAKE AWAY ANY REASONABLE DOUBT FROM OURS. WE'D
4 ASK THAT YOU FIND DANNY RYANT NOT GUILTY.

5 THE COURT: THANK YOU, MR. MELLARD.

6 MR. KOGER.

7 MR. KOGER: MAY IT PLEASE THE COURT.

8 THE COURT: YES, SIR.

9 MR. KOGER: MR. PASCOE, AND MR. SORENSON.

10 CLOSING ARGUMENT BY MR. KOGER

11 MR. SHIVERS, STAND UP, TO CLEAR UP ANY CONFUSION.

12 I REPRESENT MARIO SHIVERS ON THE CHARGES OF
13 MURDER, ARMED ROBBERY -- YOU CAN SIT DOWN -- AND
14 BURGLARY IN THE FIRST DEGREE.

15 WE ALL HAVE A QUIET PLACE, WE HAVE A QUIET PLACE
16 THAT WE HAVE IN OUR HOMES THAT THERE'S A ROOM THAT WE
17 GO TO REST, THERE'S A ROOM THAT WE GO TO PRAY, THERE'S
18 A ROOM THAT WE GO TO READ. AND WHEN WE ARE NOT
19 PHYSICALLY ABLE TO GET TO THAT QUIET PLACE, THINK OF A
20 QUIET PLACE IN OUR MIND, BECAUSE THERE'S A PORTION OF
21 OUR MIND THAT WE CAN GO TO, AND WE CAN THINK AND
22 REFLECT. AND THIS IS WHAT I WANT YOU TO DO NOT ONLY
23 NOW BUT WHEN YOU GO INTO THAT JURY ROOM, I WANT YOU TO
24 GO TO THAT PLACE RIGHT NOW AND CONCENTRATE ON MARIO
25 SHIVERS' CASE.

1 NOW, THE FIRST THING I'M GOING TO ADDRESS IS THE
2 IDENTIFICATION BY ASHLEY PARSLEY. SHE IDENTIFIED, OR
3 SHE ATTEMPTED TO IDENTIFY THAT MR. SHIVERS WAS AT THE
4 SCENE ON THAT PARTICULAR EVENING. AND YOU CAN RECALL
5 IN HER STATEMENT SHE STATED IT WAS A DARK SKINNED
6 PERSON IN BLUE. AND AS YOU MAY RECALL FROM THE
7 TESTIMONY, I HAD HER TO GO OVER DIFFERENT COMPLEXIONS,
8 BECAUSE WE AS AFRICAN AMERICANS KNOW COMPLEXIONS, AND
9 WE SIMPLY IDENTIFY EACH OTHER BY DIFFERENT
10 COMPLEXIONS. AND I ASKED HER ON THE STAND, AND I
11 MIGHT HAVE ASKED MY CLIENT, MARIO SHIVERS, TO STAND OR
12 NOT, I CAN'T RECALL, BUT SHE SAID MARIO SHIVERS WAS
13 LIGHT SKINNED. SHE SAID ATTORNEY WISE WAS FAIR OR
14 LIGHT SKINNED, AND STATED THAT INVESTIGATOR SHUMPERT
15 WAS MORE LIKE HER COMPLEXION, DARK SKINNED. BUT SHE
16 GAVE A STATEMENT THAT THE PERSON WHO HAD THE WEAPON ON
17 THAT PARTICULAR NIGHT WAS DARK SKINNED. NOW, DO I
18 THINK SHE HAS SOME TYPE OF EVIL INTENT WHEN SHE MADE
19 THAT IDENTIFICATION IN MARCH OF THIS YEAR? NO, SHE
20 WAS JUST BASICALLY MISTAKEN, AND THOSE THINGS HAPPEN.
21 AS A MATTER OF FACT, I HATE TO ADMIT IT BUT SOMETHING
22 SIMILAR HAPPENED TO ME TWO WEEKS AGO. MY OFFICE IS
23 LOCATED AT [REDACTED] ST. PAUL STREET IN THE
24 CAROLINA BUILDING, AND I'M IN THE VERY FRONT BUILDING,
25 SUITE ONE HUNDRED. AND I HAVE A LARGE WINDOW. AND I

1 THINK IT HAPPENED ABOUT WEDNESDAY OR THURSDAY ABOUT
2 TWO WEEKS AGO. AND I SAW THIS, TWO THOUSAND ONE
3 BURGUNDY CHEVROLET SILVERADO DRIVE UP WITH A COPPER
4 BOTTOM, AND I GOT KIND OF EXCITED BECAUSE THAT WAS THE
5 TRUCK OF MY FATHER. YOU KNOW, USUALLY HE IS IN TOWN
6 OR WORKING ON A JOB HE'LL COME BY AND WE HAVE GOOD
7 CONVERSATION, YOU KNOW, AND I REALLY LOVE MY DAD, AND
8 SO I GOT KIND OF EXCITED BECAUSE AT THREE O'CLOCK IN
9 THE AFTERNOON, TO SEE WHAT DADDY HAD TO TELL ME TODAY.
10 SO, I SAW THE TRUCK DRIVE UP RIGHT IN FRONT OF MY
11 WINDOW, WE KEEP OUR BLINDS OPEN, AND I WAS WALKING TO
12 THE DOOR, I SAW THE PERSON GET OUT OF THE TRUCK, HAD
13 ON A HAT, AND MY FATHER IS KNOWN FOR HIS CAPS
14 ESPECIALLY WHEN HE'S WORKING ON A JOB, HAD ON A PLAID
15 WORK SHIRT, AND MY FATHER WEARS PLAID WORK SHIRTS WHEN
16 HE WORKS ON HIS IRON WORKS AND STEEL JOB, SO I WENT TO
17 THE DOOR, I OPENED MY DOOR AND WENT TO THE FRONT DOOR
18 OF THE BUILDING, AND DISCOVERED THAT IT WAS LINFIELD,
19 THE MAINTENANCE MAN IN THE BUILDING. NOW, THIS IS
20 SOMEONE THAT I'VE KNOWN FOR FORTY-FOUR YEARS, RAISED
21 ME, FED ME UNTIL AGE EIGHTEEN, I TRY TO GET FED NOW ON
22 SUNDAYS, AND I MADE A MISTAKE IN IDENTIFICATION OF MY
23 VERY OWN FATHER. SO, AGAIN, ASHLEY PARSLEY MIGHT HAVE
24 THOUGHT THAT SHE SAW MARIO SHIVERS ON THAT PARTICULAR
25 EVENING BUT SHE WAS MISTAKEN. AND THAT'S VERY

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1 IMPORTANT BECAUSE -- AND YOU'RE GOING TO RECEIVE AN
2 INSTRUCTION AT THE END OF THIS STATEMENT THAT THE
3 STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT AN
4 IDENTIFICATION IS CORRECT, THAT AN IDENTIFICATION IS
5 ACCURATE, THAT AN IDENTIFICATION IS TRUTHFUL, AND THAT
6 AN IDENTIFICATION IS RELIABLE. AND IF THE STATE
7 CANNOT PROVE, JUST ABOUT IDENTIFICATION, MEET THOSE
8 THREE CRITERIA, YOU HAVE TO DISREGARD IT.

9 THE SECOND PERSON WHO MADE AN ATTEMPT AT
10 IDENTIFICATION, NOT AT THE SCENE BUT AT THE CORNER
11 POCKET WAS MONEAK BUSBY, AND SHE STATED THAT SHE COULD
12 HAVE POSSIBLY SEEN MR. SHIVERS, MARIO SHIVERS AT THE
13 DOOR. NOW, SHE STATED ON THE STAND WHEN I WENT INTO,
14 WELL, WHAT TYPE OF CONDITION SHE WAS IN ON THAT
15 PARTICULAR NIGHT, HOW MUCH SHE HAD TO DRINK, SHE SAID
16 TWO TWELVE OUNCE BEERS. NOW, I NOTICE IN THE
17 COURTROOM WE HAVE NUMEROUS LAW ENFORCEMENT HERE, AND
18 SOME PROBABLY HAVE WORKED THE ROAD, BUT USUALLY IF A
19 PERSON SAY THEY HAVE TWO BEERS THEY'RE ALWAYS UNDER
20 REPORT, IT'S USUALLY FOUR. NOW, THIS IS WHAT I'M
21 SAYING, THE SAME STANDARD THT WAS APPLIED TO MS.
22 PARSLEY'S IDENTIFICATION THAT THE STATE MUST PROVE
23 BEYOND A REASONABLE DOUBT THAT HER IDENTIFICATION WAS
24 CORRECT, ACCURATE, TRUTHFUL AND RELIABLE, THE SAME
25 STANDARD APPLIES TO MS. BUSBY. SO, YOU CAN TAKE THAT

1 INTO THE JURY ROOM, INTO THAT QUIET PLACE IN RELATION
2 TO MARIO SHIVERS WHEN YOU GO BACK THERE, TO DETERMINE
3 WHETHER MS. BUSBY, UNDER THE INFLUENCE OF ALCOHOL, SHE
4 SAID TWO, IT COULD HAVE BEEN THREE, COULD HAVE BEEN
5 FOUR, USE YOUR COMMON SENSE AND LIFE EXPERIENCES, AND
6 SEE WHETHER THAT IDENTIFICATION WAS CORRECT, ACCURATE,
7 TRUTHFUL AND RELIABLE.

8 NOW, LET'S GET TO, WE HAD SEVERAL WITNESSES
9 DEALING WITH THE INVESTIGATION AT THE SCENE AND, OF
10 CORSE, WHAT WAS FOUND AT THAT PARTICULAR SCENE. AND I
11 THINK THE FIRST LAW ENFORCEMENT OFFICER WAS MR., WAS A
12 LIEUTENANT GERALD CARTER WHO -- EXCUSE ME, CRAIG DAVIS
13 WAS THE FIRST ONE. AND BASICALLY, SERGEANT DAVIS WENT
14 TO THE SCENE, DID HIS JOB, SECURED THE SCENE TO MAKE
15 SURE THE INTEGRITY OF THE SCENE WAS NOT COMPROMISED.
16 I THINK HE STATED HE STAYED ABOUT SEVERAL HOURS UNTIL
17 ABOUT TWO O'CLOCK IN THE MORNING. HE DID HIS JOB, HE
18 KEPT OTHER PERSONS NOT INVOLVED FROM COMPROMISING THE
19 SCENE. SO, IT WAS LAID OUT, IT WAS LAID OUT FOR THE
20 CRIME SCENE INVESTIGATOR.

21 NOW, LIEUTENANT CARTER TESTIFIED AFTER, AFTER HE
22 SECURED THE EXTERIOR OF THE APARTMENT THAT THEY CAME
23 IN TO COLLECT EVIDENCE. AND HE STATED THAT HIS
24 PRIMARY CONCERN -- AGAIN, I DISAGREE, BUT I'M NOT IN
25 LAW ENFORCEMENT -- THAT HIS PRIMARY CONCERN WAS THE

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1 INVESTIGATIONS IN THE LIVING ROOM. AND HE SAID HE
2 CAME -- THE FIRST THING, THE FIRST ITEM THAT HE DUSTED
3 FOR PRINTS WAS THE DOOR KNOB WITH NO SUCCESS, AND I
4 THINK SEVERAL OF MY COLLEAGUES MENTIONED THAT. THEN I
5 THINK HE ALSO STATED THAT HE DUSTED THE DOOR, THE
6 ACTUAL SURFACE AREA OF THE DOOR FOR PRINTS. AGAIN, NO
7 PRINTS FOUND. BUT THEN ON CROSS I STARTED ASKING HIM,
8 OKAY, SOME ADDITIONAL THINGS. IF WE HAVE SOMEONE
9 ENTERING A ROOM DID YOU DUST THE DOOR FRAME? HE SAID,
10 NO. THEN HE WENT IN HERE AND YOU NOTICE THE BODY IS
11 NEAR A TELEVISION, WELL, A T.V. TABLE AND A
12 TELEVISION. I ASKED LIEUTENANT CARTER, WELL, DID YOU
13 DUST FOR PRINTS, YOU KNOW, IF SOMEONE IS IN THERE
14 INADVERTENTLY SOMETHING CAN, YOU CAN SWIPE SOMETHING.
15 IT HAPPENS ALL THE TIME. PEOPLE ARE NOT CONSCIOUS OF
16 WHAT THEY TOUCH WHEN THEY'RE DOING THINGS. HE SAID,
17 NO, MR. KOGER, I DIDN'T DUST THE T.V. TABLE. WELL,
18 LIEUTENANT CARTER, DID YOU DUST THIS BIG FLAT SCREEN
19 T.V. NEAR THE BODY? NO, MR. KOGER, I DIDN'T DUST THAT
20 FOR PRINTS. WELL, YOU'RE PRIMARILY CONCERNED WITH THE
21 LIVING ROOM, DID YOU DUST THIS COFFEE TABLE? NO, MR.
22 KOGER, I DIDN'T. ANY ITEMS ON THE COFFEE TABLE? NO,
23 MR. KOGER, I DIDN'T. THE END TABLE? NO, MR. KOGER, I
24 DIDN'T. NOW, THIS RIGHT HERE -- AND AGAIN, YOU KNOW,
25 I'M NOT SAYING ANYTHING ABOUT LIEUTENANT CARTER, THERE

1 WAS A LOT OF BULLETS AND PROJECTILES AND CASINGS ON
2 THE SCENE, SO MAYBE IT WAS AN OVERSIGHT. OKAY?
3 INEXCUSABLE, BUT MAYBE IT WAS. BUT WHEN YOU HAVE THE
4 COUCH AND THE LOVE SEAT RIPPED, NO DOUBT IN ANYONE'S
5 MIND THAT THESE TWO ITEMS WERE TOUCHED, AND EVEN
6 THOUGH HE OFFERED A PRE-EMPTIVE EXPLANATION, WELL,
7 THIS SUEDE MATERIAL ON THIS COUCH AND LOVE SEAT, IT'S
8 HARD TO TAKE PRINTS, BUT IT'S POSSIBLE. BUT HE
9 WOULDN'T KNOW, AND EVENTUALLY YOU WOULDN'T KNOW AS
10 JURORS IN THIS CASE BECAUSE HE DIDN'T DO IT. AND
11 THEN, YOU KNOW, AND YOU'LL SEE IT IN THE EXHIBITS, IS
12 THAT THIS COUCH AND LOVE SEAT HAD THIS SIMULATED WOOD
13 SIMILAR TO WHAT WE HAVE HERE THAT NO DOUBT THAT YOU
14 COULD HAVE LIFTED SOME PRINTS. AND HE STATED, MR.
15 KOGER, I DIDN'T DUST THE FRONT NOR THE SIDE OF THE
16 COUCH OR LOVE SEAT. AND THEN ALSO, TOO, AGAIN, HIS
17 EXPLANATION WAS, WELL, IT PRIMARILY HAPPENED IN THE
18 LIVING ROOM BUT IT SEEMS LIKE TO ME, AS HE TESTIFIED,
19 IF THE DRUGS AND SOME OF THE MONEY IS LOCATED IN THE
20 KITCHEN AND SUPPOSEDLY THEY WERE THERE TO GET SOME
21 MONEY OR MAYBE DRUGS, IT SEEMS LIKE OUT OF AN
22 ABUNDANCE OF CAUTION WOULD YOU HAVE DUSTED FOR PRINTS
23 IN THE KITCHEN? IT SEEMS LIKE YOU WOULD HAVE DUSTED
24 FOR PRINTS EVERYWHERE, BECAUSE GUESS WHAT? AN
25 ESSENTIAL PART OF THE STATE PROVING THEIR CASE BEYOND

1 A REASONABLE DOUBT IS TO PROVE THE PRESENCE OF THE
2 DEFENDANTS HERE.

3 NOW, LET'S FAST FORWARD TO INVESTIGATOR SHUMPERT.
4 AGAIN, AND I CAN'T RECALL WHICH ONE OF MY COLLEAGUES
5 STATED IT, BUT ESSENTIALLY, BASED UPON THE
6 INVESTIGATIVE PROCEDURES AFTER THE EXISTENCE OF THIS
7 FACT, IT SEEMS TO BE TRUE IS THAT FOR ALL INTENTS AND
8 PURPOSES THE INVESTIGATION WAS OVER AFTER A STATEMENT
9 WAS RECEIVED FROM PATRICK TYLER. I ASKED INVESTIGATOR
10 SHUMPERT ON THE STATE, WELL, WHAT ABOUT, WHAT ABOUT,
11 WHAT ABOUT THE ALLEGED MURDER WEAPONS, DID YOU EXECUTE
12 A SEARCH WARRANT IN PARTICULAR TO MY CLIENT, MARIO
13 SHIVERS? IF YOU DIDN'T HAVE HIS CORRECT ADDRESS
14 BEFORE HE ARRESTED, AFTER HE WAS ARRESTED -- AND HE
15 STATED THAT HE ASCERTAINED THAT INFORMATION. DID YOU
16 EXECUTE A SEARCH WARRANT TO SEE WHETHER -- AND OF
17 COURSE, WE DON'T HAVE THEM HERE IN EVIDENCE BECAUSE
18 IT'S PHANTOM EVIDENCE OF ANY RIFLES, OF ANY NINE
19 MILLIMETER CHROME PISTOL OR ANY OTHER EVIDENCE OF THE
20 CRIME, BE IT MONEY, BE IT THE THREE FIFTY-SEVEN
21 REVOLVER THAT MR. PRINGLE POSSESSED. NOT ONLY THEY
22 DIDN'T EXECUTE A SEARCH WARRANT ON MR. SHIVERS'S
23 RESIDENCE NEITHER ON MR. RYANT'S, NEITHER ON MR. RALPH
24 COLEMAN AND MR. CHRISTIAN COLEMAN. NOW, SOME OF YOU
25 MAY THINK, WELL, MR. KOGER, WHERE ARE YOU GOING WITH

1 THIS HERE? THE STATE HAS AN OBLIGATION THAT WHEN THEY
2 BRING A CASE BEFORE A JURY HERE IN ORANGEBURG COUNTY
3 TO BRING FORTH THE BEST EVIDENCE, THE BEST EVIDENCE.
4 AND IN ORDER FOR YOU AS A JURY TO MAKE THE BEST
5 DECISION IN THE CASE AND IN ORDER FOR THE STATE TO
6 RECEIVE THE BEST EVIDENCE, THEN THE BEST EVIDENCE HAS
7 TO BE PLACED AT THE BEGINNING TO GET IT TO THIS POINT.
8 SO, IT IS YOU, THE JURY, THAT DON'T HAVE THE PROPER
9 INFORMATION TO MAKE DETERMINATION WHETHER MR. SHIVERS
10 IS GUILTY OR NOT GUILTY OF THE CRIMES CHARGED.

11 NOW, WE HAD MR. GREEN FROM SLED WHO TESTIFIED TO
12 PROJECTILES, CASINGS, BULLETS IN THIS PARTICULAR CASE,
13 AND YOU KNOW, I'M NOT GOING TO GO OVER IT, BUT YOU
14 KNOW, HE TESTIFIED THE CASINGS TO THIS FORTY CALIBER
15 GUN, I BELIEVE THAT'S THE BAG THAT IT CAME OUT OF, AND
16 HE TESTIFIED ABOUT FORTY-FIVE MINUTES THAT HE FOUND
17 ALL THESE CASINGS AND PROJECTILES AND BULLETS ON THE
18 FLOOR. BUT WHAT HE STATED ON CROSS, MAYBE WITH ME,
19 MAYBE WITH ONE OF THE CO-DEFENDANTS, IS THAT IN
20 RELATION TO MARIO SHIVERS THERE IS NOTHING THAT WAS
21 FOUND ON THE SCENE AT KINGS ROAD THAT
22 EVER INDICATES THAT MR. SHIVERS WAS ON THE PREMISES,
23 NOTHING.

24 NOW, THE STATE HAD A PHOTOGRAPH OF A GUN, OF A
25 RIFLE, AND THEY HAD THIS FORTY CALIBER IN WHICH THE

1 EXPERT TESTIFIED THAT MR. SHIVERS HAD NOTHING TO DO
2 WITH IT, BUT THEN THEY BROUGHT IN ALL THIS, THE
3 CASINGS AND PROJECTILES OF TWO RIFLES AND A NINE
4 MILLIMETER. I'M USING CUPS BECAUSE THEY DON'T HAVE
5 THEM. THEY DON'T HAVE THE MURDER WEAPONS, THE ALLEGED
6 MURDER WEAPONS. AND THAT GOES BACK TO THE BEST
7 EFFORTS AT THE BEGINNING TO TRY TO OBTAIN THAT
8 INFORMATION. SO, YOU HAVE TO MAKE A DECISION, YOU
9 HAVE TO MAKE A DETERMINATION WHETHER THE STATE IN
10 THEIR ATTEMPT TO PROVE THEIR CASE BEYOND A REASONABLE
11 DOUBT THAT THEY CAN DO THAT.

12 NOW, GOING OVER SOME OTHER WITNESSES, ANDRE
13 WASHINGTON TESTIFIED, HE TESTIFIED TO HIS INVOLVEMENT
14 WITH THE FORTY CALIBER GUN, NO TYPE OF CONNECTION WITH
15 MARIO SHIVERS.

16 SHANNON MITCHELL, WHO WAS ON THE SCENE FOR A
17 PARTICULAR PERIOD OF TIME TESTIFIED THAT MR. SHIVERS,
18 MARIO SHIVERS WAS NOT ON THE SCENE.

19 NOW WE'RE GOING TO FAST FORWARD TO, WHY I SAY,
20 TWO OF THE STAR WITNESSES HERE, ONE MORE THAN THE
21 OTHER. OF COURSE, YOU'VE HEARD OVER THE LAST HOUR AND
22 A HALF ABOUT PATRICK TYLER. YOU HEARD ABOUT THE
23 STATEMENT THAT HE GAVE THAT ALLEGEDLY CONNECTS
24 EVERYONE TO THIS PARTICULAR CRIME. NOW, MR. TYLER'S
25 STATEMENT AND TESTIMONY IS UNDER THE SAME CRITERIA AS

1 I STATED FOR IDENTIFICATION. IT IS YOUR JOB TO PROVE
2 BEYOND A REASONABLE DOUBT THAT HIS STATEMENT IS
3 CORRECT, ACCURATE AND TRUTHFUL. THE STATE EVEN STATED
4 IN THEIR OPENING PORTION OF THE CLOSING THAT YOU ARE
5 TO LOOK FOR ANY TYPE OF BIAS, ANY TYPE OF PREJUDICE,
6 ANY TYPE OF HESITANCY, BUT THIS FOURTH ONE, THIS
7 FOURTH LISTING IS VERY IMPORTANT BECAUSE IT WAS AN
8 ADMISSION BY THE DEFENDANT HIMSELF THAT HIS STATEMENT
9 AT TIMES IS NOT ENTIRELY TRUTHFUL. THAT GOES TO
10 WHETHER IT WAS CONSISTENT OR NOT. AND INVESTIGATOR
11 SHUMPERT, THE LEAD INVESTIGATOR, TESTIFIED ON THE
12 STAND THERE MAY BE, THERE ARE SOME INCONSISTENCIES IN
13 HIS STATEMENT. SO, IF THAT'S THE CASE, HOW CAN YOU AS
14 THE JURY DETERMINE THAT HIS STATEMENT IS CORRECT,
15 ACCURATE AND TRUE BEYOND A REASONABLE DOUBT? BECAUSE
16 THAT'S WHAT YOUR JOB IS TO DO, BUT THOSE ARE FACTORS
17 THAT YOU NEED TO KEEP IN MIND. AS FAR AS ALONG WITH
18 THE OTHER SEVERAL, OR MAY OTHER INCONSISTENCIES, MR.
19 TYLER IN HIS STATEMENT SAID THAT MR. SHIVERS CALLED
20 HIM. ON THE STAND HE STATED HE CALLED MR. SHIVERS.
21 OKAY. ANOTHER ONE, HE SAID IN HIS STATEMENT THAT A
22 GROUP OF DEFENDANTS WENT TO BROOKDALE AND GOT HIM.
23 GARNER TESTIFIED THAT THEY ENDED UP AT WOODBINE. NOW,
24 AGAIN, WHAT I SAY IS NOT EVIDENCE, WHAT MY COLLEAGUES
25 SAY IS NOT EVIDENCE, WHAT THE SOLICITOR SAYS WHEN HE

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1 GETS A SECOND CHANCE IS NOT EVIDENCE. SO, YOU RECALL
2 WHAT YOU HEARD ON THE STAND. BUT THAT IS AN EXAMPLE
3 OF THE INCONSISTENCIES. AND ALSO, YOU KNOW, I GOT
4 SOME STRANGE LOOKS WHEN I KIND OF ASKED ABOUT THE DOG
5 WITH LIEUTENANT CARTER, BECAUSE MR. TYLER SAID ON THE
6 STAND THE DOG WAS SHOT. AND AS YOU CAN RECALL,
7 LIEUTENANT CARTER STATED THAT DOG WAS VERY MUCH ALIVE,
8 TIED TO A CEMENT BLOCK, ANOTHER INCONSISTENCY.

9 WHAT DOES SOMEONE HAVE TO LOSE, WHAT DOES SOMEONE
10 HAVE TO GAIN? IT IS NOT BELIEVABLE FOR MR. TYLER TO
11 SIT IN THAT CHAIR, OR TO HAVE SAT IN THAT CHAIR AND
12 STATED, I EXPECT NO BENEFIT, NO EXPECTATIONS FOR MY
13 TESTIMONY, THAT I'M DOING THIS OUT OF THE GOODNESS OF
14 MY HEART. THIS IS FROM A PERSON THAT ACCORDING TO HIS
15 WEED BUDDY HAS SMOKED MARIJUANA CONTINUOUSLY FOR THREE
16 YEARS, SEVEN DAYS A WEEK, FIFTY-TWO WEEKS A YEAR. AS
17 ATTORNEY WISE STATED SO APTLY, HE SUDDENLY DEVELOPED A
18 STREAM OF CONSCIOUS. BUT YOU ARE ENTITLED, YOU ARE
19 ENTITLED AS JURORS WHEN YOU LOOK AT MR. TYLER'S
20 DEMEANOR ON THE STAND, HOW HE REACTED ON THE STAND,
21 YOU ARE ENTITLED TO USE THOSE FACTORS TO DETERMINE
22 WHETHER HIS TESTIMONY AND HIS STATEMENT IS CORRECT,
23 ACCURATE OR TRUTHFUL. AND IF THE STATE CANNOT PROVE
24 BEYOND A REASONABLE DOUBT THAT THOSE THINGS, THAT THAT
25 BURDEN IS MET, THEN YOU ARE OBLIGATED TO FIND NOT

1 GUILTY FOR MR. MARIO SHIVERS, AND THE REST IF YOU SO
2 CHOOSE, THE REST OF THE DEFENDANTS.

3 I'M NOT GOING TO BELABOR THE POINT, BUT DON'T
4 MAKE THIS EASY FOR THE PROSECUTION. DON'T LET THE
5 PROSECUTION COME UP HERE AND IMPLORE YOU TO TREAT ALL
6 OF THESE DEFENDANTS AS A GROUP, TO TRY TO SAY IF ONE
7 KNEW, ALL KNEW, IF ONE ACTS, ALL ACTS. DON'T ALLOW
8 THAT. DON'T ALLOW THE STATE, AS SOLICITOR PASCOE
9 ATTEMPTED TO DO IN HIS OPENING, TO CHANGE THE STANDARD
10 FROM BEYOND A REASONABLE DOUBT TO FIRMLY CONVINCED.
11 EACH ONE OF THESE DEFENDANTS HAVE A QUIET ROOM. WHEN
12 YOU GO BACK IN THERE PROVIDE A QUIET ROOM FOR
13 CHRISTIAN COLEMAN, PROVIDE A QUIET ROOM FOR RALPH
14 COLEMAN, PROVIDE A QUIET ROOM FOR WALTER HARRIS,
15 PROVIDE A QUIET ROOM FOR DANNY RYANT, AND PROVIDE A
16 QUIET ROOM FOR MARIO SHIVERS, AND MAKE Y'ALL'S
17 DETERMINATION BASED ON EACH AND EVERY ONE OF THEM AND
18 NOT UNDER SOME THEORY, HAND OF ONE, HAND OF ALL.

19 I SUBMIT TO YOU THAT THE STATE HAS NOT PROVED
20 THEIR CASE OF MURDER BEYOND A REASONABLE DOUBT AGAINST
21 MARIO SHIVERS. I SUBMIT TO YOU THAT THE STATE HAS NOT
22 PROVED THEIR CASE BEYOND A REASONABLE DOUBT ON ARMED
23 ROBBERY FOR MARIO SHIVERS. AND I SUBMIT TO YOU THAT
24 THE STATE HAS NOT PROVED THEIR CASE BEYOND A
25 REASONABLE DOUBT ON THE BURGLARY, FIRST DEGREE, FOR

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1 MARIO SHIVERS. AND I SUBMIT TO YOU, NOT ONLY THEY
2 HAVE NOT PROVED IT, BUT THEY HAVE FAILED MISERABLY IN
3 ATTEMPTING TO DO SO.

4 THANK YOU.

5 THE COURT: THANK YOU, MR. KOGER.

6 ALRIGHT, LADIES AND GENTLEMEN, WHAT WE'RE GOING
7 TO DO RIGHT NOW IS, WE'RE GOING TO TAKE ABOUT A TEN
8 MINUTE BREAK, AND LET Y'ALL GO BACK INTO THE JURY ROOM
9 SO YOU CAN ORDER YOUR LUNCH. OKAY? AFTER ABOUT A TEN
10 MINUTE BREAK YOU'LL COME BACK OUT HERE AND THEN,
11 WHILE WE WAIT FOR THE FOOD, MR. PASCOE WILL FINISH UP
12 WITH HIS CLOSING ARGUMENTS, AND THEN I WILL CHARGE YOU
13 WITH THE LAW. OKAY? NOW, REMEMBER, AGAIN, YOU HAVE
14 NOT HEARD ALL THE CLOSING ARGUMENTS YET SO YOU CANNOT
15 BEGIN DISCUSSING THIS CASE. OKAY, Y'ALL ARE NOW
16 EXCUSED TO GO BACK INTO THE JURY ROOM.

17 (Whereupon, the jury retires
18 to the jury room and the following
19 takes place out of the presence
20 of the jury.)

21 THE COURT: ALRIGHT, WE'LL BE IN RECESS FOR ABOUT
22 TEN MINUTES.

23 (Recess)

24 THE COURT: ALRIGHT, MR. PASCOE, ARE YOU READY?

25 SOLICITOR PASCOE: YES, SIR.

1 THE COURT: ALRIGHT, BRING THE JURY BACK IN.
2 (Whereupon, the jury enters
3 the courtroom and the following
4 takes place in the presence
5 of the jury.)

6 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, I HOPE
7 Y'ALL HAVE GOT YOUR LUNCH ORDERED. OKAY? WE'RE GOING
8 TO CONTINUE WITH THE CLOSING.

9 SOLICITOR PASCOE.

10 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

11 THE COURT: YES, SIR.

12 FINAL CLOSING ARGUMENT BY SOL. PASCOE

13 ON THE NIGHT OF MARCH THE TWELFTH, TWO THOUSAND
14 TEN, THIS YEAR, CHARLES PRINGLE DIDN'T STAND A CHANCE
15 WHEN SIX MEN, CRIS COLEMAN, RALPH COLEMAN, WALTER
16 HARRIS, DANNY RYANT, MARIO SHIVERS AND PATRICK TYLER
17 WENT STORMING INTO HIS HOUSE ARMED WITH AT LEAST FOUR
18 GUNS AND DUCT TAPE. HE DIDN'T STAND A CHANCE.

19 CHARLES PRINGLE WASN'T PERFECT, WE DIDN'T COME IN
20 HERE AND TELL YOU HE WAS PERFECT, ALTHOUGH YOU HEARD
21 ON THE WITNESS STAND UNDER THEIR CROSS-EXAMINATION, HE
22 WAS A NICE GUY. BUT HE WASN'T PERFECT, HE SOLD
23 MARIJUANA. BUT HE WAS SOMEBODY'S SON, HE WAS
24 SOMEBODY'S NEPHEW, HE WAS SOMEBODY'S FRIEND. AND HE
25 GOT GUNNED DOWN BY SIX PEOPLE TWENTY-FOUR TIMES,

1 TWENTY-FOUR TIMES BY SIX PEOPLE WHO HAVE ABSOLUTELY NO
2 RESPECT FOR HUMAN LIFE. PATRICK TYLER, TOO, PATRICK
3 TYLER, HE'S NOT MY FRIEND, HE WASN'T MY FRIEND IN
4 MARCH, HE WAS THEIR FRIEND. ONE THING I WILL AGREE
5 WITH WITH MS. ULLMAN ON, PATRICK TYLER NEEDS TO BE
6 PUNISHED. PATRICK TYLER WILL BE PUNISHED. BUT TODAY
7 THEY ARE GOING TO BE PUNISHED FOR THE MALICIOUS AND
8 VICIOUS ACT THEY DID ON THAT NIGHT, ON MARCH THE
9 TWELFTH.

10 THE THING ABOUT MARCH THE TWELFTH IS, WE
11 WITNESSED TWO SEPARATE ACTS IN ORANGEBURG COUNTY, TWO
12 SEPARATE ACTS, THE FIRST ACT, EVIL, THE WORST OF
13 ORANGEBURG COUNTY, THE COWARDLY ACTS OF THE
14 DEFENDANTS. BUT IN THE SECOND ACT AS A RESULT OF
15 MARCH THE TWELFTH WE GOT TO SEE THE BEST OF ORANGEBURG
16 COUNTY. LET'S TALK ABOUT THOSE COWARDLY ACTS, THE
17 WORST OF ORANGEBURG COUNTY.

18 THE WORST OF ORANGEBURG COUNTY WAS WHEN PATRICK
19 TYLER, MARIO SHIVERS AND RALPH COLEMAN GOT TOGETHER AT
20 RALPH COLEMAN'S FAMILY'S HOME ON WOODBINE AND DECIDED
21 TO COMMIT AN ARMED ROBBERY OF CHARLES PRINGLE, WHO
22 MARIO SHIVERS KNEW. CHRIS COLEMAN SHOWS UP WITH HIS
23 BUDDY, RONNIE WASHINGTON. THEY'VE GOT A RIDE NOW,
24 THEY'RE INVOLVED IN IT. THEY GO AND PICK UP WALTER
25 HARRIS WHO HAS A FORTY CALIBER HAND GUN, A BLACK

1 PISTOL. WALTER HARRIS GOES INSIDE, SCOPES IT OUT,
2 THEY THEN GO TO THE CORNER POCKET WHICH IS ABOUT A
3 HALF A MILE FROM THE VICTIM'S HOME, AND THEY PICK UP
4 DANNY RYANT. AND CHRISTOPHER COLEMANA GOES INTO THAT
5 HOME WITH A NINE MILLIMETER PISTOL, RALPH COLEMAN GOES
6 INTO THAT HOME WITH A FORTY CALIBER PISTOL, WALTER
7 HARRIS WITH DUCT TAPE, DANNY RYANT AND MARIO SHIVERS
8 WITH SKS RIFLES. PATRICK TYLER GOES IN THERE AND HE'S
9 INVOLVED, TOO, AND THEY GUN HIM DOWN TWENTY-FOUR TIMES
10 LIKE THEY'RE USING HIS BODY FOR TARGET PRACTICE, AND
11 THEY RUN LIKE COWARDS. THAT'S THE FIRST ACT, THE
12 VIOLENT SIDE, THE EVIL PART OF WHAT HAPPENED IN THIS
13 COUNTY.

14 BUT WE ALSO GOT TO WITNESS THE GREAT SIDE OF
15 ORANGEBURG COUNTY, COURAGE, AND I'M TALKING ABOUT THE
16 COURAGE OF WITNESSES COMING FORWARD BACK IN MARCH TO
17 TELL THE POLICE WHAT HAPPENED. I'M TALKING ABOUT THE
18 COURAGE OF PEOPLE THAT ARE FRIENDS WITH DANNY RYANT
19 WHO CAME FORWARD AND SAID, DANNY RYANT, YEAH, HE WAS
20 AT THE CORNER POCKET WHICH IS JUST ABOUT A HALF A MILE
21 FROM THE VICTIM, BUT WE COULDN'T FIND HIM FOR A WHILE.
22 AND ONE WITNESS WHO I'LL TALK ABOUT IN A MINUTE WHO
23 ACTUALLY SAID, HEY, AND I SAW HIM GETTING IN THE CAR
24 WITH TWO PEOPLE. AND SHE PICKS OUT MARIO SHIVERS AND
25 PATRICK TYLER. I'M TALKING ABOUT THE COURAGE OF A

1 SHANNON MITCHELL WHO GETS ON THE WITNESS STAND AND
2 TELLS THE POLICE, WALTER HARRIS WAS IN THAT HOUSE
3 RIGHT BEFORE THE MURDER. AND THAT'S KIND OF UNUSUAL,
4 I DON'T KNOW WHY HE WOULD BE IN THERE, I'VE NEVER
5 KNOWN HIM TO BE IN THERE. AND WHY WOULD HE GO IN
6 THERE? BECAUSE CHARLES PRINGLE KNOWS MARIO SHIVERS
7 BUT HE DOESN'T KNOW WALTER HARRIS, PART OF THE
8 CONSPIRACY. I'M TALKING ABOUT THE COURAGE, YES, OF A
9 PATRICK TYLER, A SIXTEEN YEAR OLD CHILD. YOU THINK
10 YOU'RE A MAN WHEN YOU'RE SIXTEEN, YOU'RE NOT A MAN,
11 YOU'RE STILL A KID, BREAKING DOWN AND CRYING IN FRONT
12 OF HIS PARENTS WITH INVESTIGATOR SHUMPERT AND FINALLY
13 TELLING HIM ON MARCH THE EIGHTEENTH, NOT JUST ON
14 TUESDAY, BUT MARCH THE EIGHTEENTH WHO WAS INVOLVED IN
15 THIS MURDER, HE AND HIS BUDDIES. AND NOT JUST THE
16 COURAGE BACK IN MARCH OF THESE WITNESSES TO COME
17 FORWARD, BUT THE COURAGE OF THEM TO THEN COME INTO
18 THIS COURTROOM, PUT THEIR HAND ON THAT BIBLE, GET ON
19 THAT WITNESS STAND, FACE THOSE ATTORNEYS, FACE ME,
20 FACE THOSE DEFENDANTS, AND TESTIFY. YOU SAW THE
21 GRILLING YOU GET WHEN YOU GET ON A WITNESS STAND, YOU
22 SAW WHAT YOU HAVE TO GO THROUGH. AND THEY HAD THE
23 COURAGE TO GET ON THAT WITNESS STAND AND TESTIFY
24 AGAINST THOSE FIVE DEFENDANTS. EVEN THOUGH SOME OF
25 THEM WERE FRIENDS WITH THEIR FAMILY, EVEN THOUGH SOME

1 FO THEM WERE FRIENDS WITH THE DEFENDANTS. THAT'
2 COURAGE. AND WHAT I'M ASKING OF YOU TODAY, LADIES AND
3 GENTLEMEN, IS THAT YOU DISPLAY THAT SAME DEGREE OF
4 COURAGE THAT EVERY SINGLE ONE OF THOSE WITNESSES HAD
5 WHEN YOU REACH YOUR VERDICT TODAY. HAVE THE COURAGE TO
6 DO THE RIGHT THING LIKE THOSE WITNESSES AND FIND THOSE
7 DEFENDANTS GUILTY OF MURDER, ARMED ROBBERY, AND
8 BURGLARY IN THE FIRST DEGREE. BECAUSE, LADIES AND
9 GENTLEMEN, HOW IS THERE ANY DOUBT WHATSOEVER, MUCH
10 LESS A REASONABLE DOUBT -- I'M GOING TO SAY IT BECAUSE
11 IM' GOING TO PROVE IT -- HOW IS THERE ANY DOUBT, MUCH
12 LESS A REASONABLE DOUBT THAT ALL FIVE OF THEM, AND
13 PATRICK TYLER ARE GUILTY. AND IF I'M WRONG, FIND THEM
14 NOT GUILTY, FIND THEM NOT GUILTY.

15 THERE WAS A BUNCH OF ASSERTIONS DURING THE TRIAL
16 AND IN CLOSING ARGUMENTS, WHERE ARE THE GUNS, WHERE
17 ARE THE GUNS? WELL, THEY KNOW WHERE THE GUNS ARE.
18 THEY'RE MARIO SHIVERS'S GUNS. THEY USED THEM. FIND
19 THEM NOT GUILTY, LET THEM GO BACK TO THEM. BUT TO
20 THAT, I SUBMIT YOU'D HAVE TO DISREGARD EVERY PIECE OF
21 EVIDENCE IN THIS CASE. BECAUSE THE EVIDENCE DOESN'T
22 JUST PROVE THE DEFENDANTS' GUILT BEYOND A REASONABLE
23 DOUBT, IT PROVES IT BEYOND ANY DOUBT WHATSOEVER.
24 THERE'S AN OLD EXPRESSION, FACTS ARE STUBBORN THINGS,
25 FACTS ARE STUBBORN THINGS, AND IN A MINUTE I'M GOING

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1 TO TALK TO YOU ABOUT THOSE STUBBORN FACTS OF GUILT.
2 BUT FIRST I'M GOING TO PUT ONE THING TO REST RIGHT
3 NOW, WHICH IS WHY THE STATE OF SOUTH CAROLINA, WE HAVE
4 THE SOLE BURDEN OF PROOF. THE DEFENSE DOESN'T HAVE TO
5 ASK ONE QUESTION, THEY DON'T HAVE TO THROW UP ANY
6 ASSERTIONS OR SAY A WORD. BUT ONCE THEY DO START
7 THROWING UP ASSERTIONS, ONCE THEY DO START TALKING
8 THEY'RE SUBJECT TO SCRUTINY JUST LIKE ANYTHING ELSE.
9 AND FIRST AND FOREMOST, THINGS WE SAY AS ATTORNEYS,
10 QUESTIONS WE ASK ARE NOT EVIDENCE. THE ONLY THING YOU
11 AN CONSIDER FOR YOUR VERDICT IS WHAT YOU HEARD FROM
12 THAT WITNESS STAND AND WHAT YOU GET TO TAKE BACK WITH
13 YOU, THAT'S IT. NOT STATEMENTS FROM ATTORNEYS, JUST
14 THE EVIDENCE. BUT THE DEFENSE DOESN'T WANT YOU TO
15 BASE YOUR VERDICT ON THE EVIDENCE, THEY WANT YOU TO
16 BASE IT ON ASSERTIONS, ASSERTIONS, LIKE NO GUNS,
17 REASONABLE DOUBT, NO GUNS. THAT'S RIDICULOUS. WE
18 DON'T REWARD MURDERERS FOR WAITING A WEEK, TEN DAYS,
19 ALMOST TWO WEEKS BEFORE THEY TURN THEMSELVES IN. THEY
20 DON'T GET REWARD FOR THAT. AND BESIDES, WE GOT TO
21 SEE, YOU GOT TO WITNESS WHAT MURDERERS DO WITH THEIR
22 WEAPONS, THEY SELL THEM, LIKE WALTER HARRIS SOLD HIS
23 FORTY CALIBER PISTOL SATURDAY, I SUBMIT, THE DAY AFTER
24 THE MURDER, TO ANDRE WASHINGTON. WE DON'T REWARD
25 MURDERERS FOR GETTING RID OF THEIR WEAPONS AFTER A

1 MURDER AND WAITING TEN DAYS TO TURN THEMSELVES IN.

2 OH, ASSERTIONS LIKE, NO FINGERPRINTS, REASONABLE
3 DOUBT. THAT IS, THAT'S JUST UNTRUE. I HOPE IF
4 THERE'S ANYTHING YOU LEARNED DURING THE COURSE OF THIS
5 TRIAL, AND IT DRIVES ME UP A WALL, AND I HAVE TO
6 EXPLAIN IT TO MY FAMILY AND I HAVE TO EXPLAIN IT TO
7 FRIENDS, LIKE GERALD CARTER SAID, HE'S THE EXPERT, IT
8 IS A MISCONCEPTION THAT PEOPLE LEAVE FINGERPRINTS AND
9 DNA AT CRIME SCENES. AS HE SAID, JUST BECAUSE YOU
10 TOUCH SOMETHING DOESN'T MEAN YOU'RE GOING TO LEAVE A
11 FINGERPRINT WITH SUFFICIENT RIDGE DETAIL THAT YOU CAN
12 COMPARE IT WITH SOMETHING ELSE. YOU MIGHT LEAVE,
13 MIGHT LEAVE SMUDGES, BUT YOU'RE NOT GOING TO LEAVE
14 NECESSARILY FINGERPRINTS. THIS IS NOT CSI, IT'S NCIS,
15 IT'S NOT T.V., IT'S THE REAL WORLD. AND BESIDES, HOW
16 DO WE PROVE THAT, HOW DO YOU KNOW THAT? WHAT DOES
17 EVERYBODY TOUCH? A DOOR KNOB. AND THERE ARE NO
18 IDENTIFIABLE PRINTS ON THE DOOR KNOB BECAUSE IT IS A
19 MISCONCEPTION THAT WHEN YOU TOUCH SOMETHING YOU LEAVE
20 DNA OR A FINGERPRINT. IT'S CHARLES PRINGLE'S HOME,
21 COULDN'T FIND ANY OF HIS FINGERPRINTS IN THERE. WE
22 KNOW SOMEBODY MURDERED AND SHOT CHARLES PRINGLE
23 TWENTY-FOUR TIMES, BUT THERE ARE NO PRINTS OR DNA.
24 MISCONCEPTION. DON'T LET THEM GET AWAY WITH IT,
25 BECAUSE YOUR JOB IS NOT TO LOOK AT WHAT'S NOT THERE,

1 YOUR JOB IS TO LOOK AT WHAT IS THERE AND ASK
2 YOURSELVES, AM I FIRMLY CONVINCED OF THE DEFENDANT'S
3 GUILT?

4 ASSERTIONS LIKE, WHERE IS RONNIE WASHINGTON?
5 WELL, LET'S TALK ABOUT RONNIE WASHINGTON. WHERE IS
6 HE? WHY ISN'T HE CHARGED WITH MURDER YET? SOMEONE
7 SAID IN THEIR CLOSING STATEMENT, I ASSUME IT'S BECAUSE
8 THE PROSECUTION IN THEIR DEFENSE OF MAYBE MERE
9 PRESENCE. WELL, I APPRECIATE THEIR INDIGNATION
10 TOWARDS THE GET AWAY DRIVER, RONNIE WASHINGTON, IT
11 PROVES THAT THE DEFENDANTS ARE GUILTY. I APPRECIATE
12 THAT. BUT LET'S TALK ABOUT RONNIE. IT IS NOT
13 REASONABLE, HE CAME FORTH, AS YOU HEARD, TWO WEEKS
14 AGO, WHILE WE WERE GETTING READY FOR THIS TRIAL,
15 RONNIE WASHINGTON GOES TO THE SHERIFF'S OFFICE, THIS
16 CAME OUT, AND ADMITTED, I WAS THE GET AWAY DRIVER.
17 HOW DOES THAT HELP THEM? AND WE'LL TALK MORE ABOUT
18 THAT IN A MINUTE. I WAS THE GET AWAY DRIVER, AND I'M
19 FRIENDS WITH CHRIS COLEMAN, JUST LIKE PATRICK TYLER
20 TOLD YOU ON THE WITNESS STAND. HOW DOES THAT HELP
21 THEM? BUT HOW IS IT REASONABLE FOR RONNIE WASHINGTON
22 TO DRIVE THOSE SIX INDIVIDUALS ARMED WITH SKS'S, ARMED
23 WITH PISTOLS, DUCT TAPE, AS PATRICK TYLER TOLD YOU,
24 TALKING ABOUT THE ROBBERY IN THE CAR, HOW WOULD IT BE
25 REASONABLE FOR RONNIE WASHINGTON NOT TO KNOW WHAT'S

1 GOING TO HAPPEN? I SUBMIT, IT'S NOT. WELL, WHAT DOES
2 THAT MEAN? IT MEANS, AS THEY SAID, HE NEEDS TO BE
3 CHARGED. HOW CAN I ETHICALLY CALL A WITNESS IF I'M
4 ABOUT TO CHARGE HIM WITH A CRIME? I CAN'T. THAT'S
5 WHY RONNIE WASHINGTON IS NOT HERE. THAT'S THE TRUTH.
6 WELL, HOW CAN RONNIE WASHINGTON IN ANY WAY HELP THEM?
7 NOT AT ALL. IT KILLS THEM. HE CORROBORATES PATRICK
8 TYLER FROM THE TESTIMONY YOU GOT TO HEAR ABOUT RONNIE
9 WASHINGTON. HE WAS THE GET AWAY DRIVER, THAT'S THE
10 ONLY EVIDENCE IN THIS CASE, HE'S FRIENDS WITH
11 CHRISTOPHER COLEMAN, AND HE DROVE AN SUV, A JEEP TYPE
12 CAR, AN EXPLORER. AND THEY ACCURATELY POINT OUT THE
13 LAW WITH REGARD TO RONNIE WASHINGTON, I REALLY
14 APPRECIATED THAT AGAIN. YOU DO NOT HAVE TO BE THE
15 GUNMAN, YOU DO NOT EVEN HAVE TO GO IN THE HOUSE TO BE
16 GUILTY OF MURDER, ARMED ROBBERY, AND BURGLARY, THAT'S
17 EXACTLY RIGHT. BUT THEN THEY GET UP HERE AND
18 SOMETIMES MIS-STATE THE LAW WITH REGARDS TO THEIR
19 CLIENT.

20 AND ONE MIS-STATEMENT THAT WAS MADE, AND I DON'T
21 THINK IT WAS INTENTIONAL, BUT I WANT TO CORRECT
22 SOMETHING, THAT I CHANGED THE STANDARD OF PROOF FROM
23 BEYOND A REASONABLE DOUBT TO FIRMLY CONVINCED. WHEN
24 YOU LISTEN TO THE JUDGE'S CHARGE, LISTEN CAREFULLY
25 ABOUT REASONABLE DOUBT, YOU WILL HEAR THE WORDS,

1 FIRMLY CONVINCED. HE'S GOING TO TELL YOU IF YOU'RE
2 FIRMLY CONVINCED OF THE DEFENDANT'S GUILT THAT MEANS
3 THAT'S PROOF BEYOND A REASONABLE DOUBT, THAT MEANS YOU
4 MUST CONVICT THEM. I DIDN'T MIS-STATE ANYTHING.

5 INCONSISTENCIES. THERE ARE BROAD ASSERTIONS,
6 WHETHER ALL KINDS OF INCONSISTENCIES IN THE
7 STATEMENTS, INCONSISTENCIES ON THE WITNESS STAND, I
8 HOPE SO. THAT'S HOW YOU KNOW THINGS ARE CREDIBLE. YOU
9 KNOW THIS FROM YOUR OWN EXPERIENCE. TWO PEOPLE, JUST
10 TWO PEOPLE WITNESS THE SAME EVENT, YOU ASK THEM A
11 MINUTES LATER TO RECOUNT IT, THEY'RE ALL GOING TO HAVE
12 DIFFERENT DETAILS. THAT'S HOW YOU KNOW THEY'RE
13 CREDIBLE. IF THEY'RE GOING TO GET UP AND LIE, GET UP
14 THERE AND SAY THE SAME THING. BUT WE DON'T WANT THAT,
15 WE WANT THE TRUTH, WE WANT THE TRUTH. IT'S ABSOLUTELY
16 UNTRUE TO SAY THAT INCONSISTENCIES ARE ALWAYS A LACK
17 OF CREDIBILITY.

18 AND TALK ABOUT A LACK OF CREDIBILITY, LET'S SEE,
19 WHEN YOU GET UP IN AN OPENING STATEMENT AND SAY, WELL,
20 THE STATE WON'T PROVE THAT MY CLIENT WAS THERE, BUT IF
21 THEY DO PROVE HE WAS THERE, THEY WONT' PROVE HE
22 PARTICIPATED. NOW, I KNOW I HAVE THE SOLE BURDEN OF
23 PROOF, BUT HOW IS THAT CREDIBLE? COME ON.

24 MR. PALMER ADDRESSED, ACCURATELY SO, HE SPOKE
25 ABOUT THE LAW OF WITHDRAWAL, ABOUT HOW YOU CAN

1 WITHDRAW FROM A CRIME. HE WAS VERY ACCURATE IN THE
2 WAY HE EXPLAINED IT, AND I WOULD ALSO ASK THAT YOU
3 LISTEN TO THE JUDGE WHEN HE TELLS YOU ABOUT HOW YOU
4 CAN WITHDRAW FROM A CRIME. OKAY? THE PROBLEM FOR MR.
5 HARRIS IS, IN ORDER TO BE NOT GUILTY TO WITH DRAW FROM
6 THE CRIME YOU HAVE TO WITHDRAW BEFORE THE CONSPIRACY
7 STARTS. THE CONSPIRACY STARTED WHEN HE WENT IN THAT
8 HOUSE AND SCOPED IT OUT. YOU ALSO HAVE TO WITHDRAW
9 DURING THE ENTIRETY OF THE CRIME, AND AS WE KNOW, THE
10 ONLY EVIDENCE IN THIS CASE IS, HE WENT IN THERE WITH
11 DUCT TAPE AND PUT DUCT TAPE OVER THE VICTIM'S MOUTH.
12 BUT AGAIN, LISTEN TO THE JUDGE'S CHARGE ON THAT.

13 MISREPRESENTATIONS, AND I KNOW Y'ALL SAW, I WAS
14 OPENING A VESSEL OVER HERE AT ONE POINT AND I'M SORRY,
15 I APOLOGIZE, BUT TO GET UP HERE AND SAY TWO THINGS,
16 FIRST OF ALL, THAT CHRISTOPHER DWIGHT SHOULD HAVE BEEN
17 INVESTIGATED, THERE IS NO EVIDENCE, IT IS OFFENSIVE TO
18 COME IN A COURTROOM AND POINT THE FINGER AT SOMEBODY
19 WHEN THERE'S NO EVIDENCE THAT THEY HAD ANY INVOLVEMENT
20 IN THIS CRIME. THE ONLY EVIDENCE IS THAT MR. DWIGHT
21 ASSISTED LAW ENFORCEMENT IN FINDING THAT WEAPON. NONE
22 WHATSOEVER, IT'S OFFENSIVE TO MR. DWIGHT, WHO IS NOT
23 EVEN IN THIS COURTROOM TO ANSWER THAT. IT'S OFFENSIVE
24 TO THE PROCESS TO GET UP HERE IN FRONT OF YOU AND SAY
25 THAT THERE'S EVIDENCE THAT RALPH COLEMAN HAD PROBLEMS

1 WITH PATRICK TYLER, THAT PATRICK TYLER HAD ISSUES WITH
2 RALPH COLEMAN, WHEN THERE'S NO EVIDENCE OF THAT
3 WHATSOEVER, THAT'S A BLATANT UNTRUTH, BLATANT UNTRUTH.
4 THE ONLY EVIDENCE IS, THEY WERE BUDDIES, THEY WERE
5 HANGING OUT THAT NIGHT SMOKING MARIJUANA AT COLEMAN'S
6 FAMILY'S PLACE. THAT'S BLATANT UNTRUTH, NO EVIDENCE
7 OF THAT.

8 WE ALL HAD TO HEAR A BUNCH OF OLD PHRASES THAT WE
9 ALL HEARD IN LAW SCHOOL, MY FIRST DAY OF LAW SCHOOL,
10 THE FIRST PHRASE I EVER HEARD FOR LAWYERS, IF THE
11 FACTS AREN'T ON YOUR SIDE, ARGUE THE LAW. IF THE LAW
12 IS NOT ON YOUR SIDE, ARGUE THE FACTS. IF NEITHER ARE
13 ON YOUR SIDE TRY TO CONFUSE THE JURY. THAT'S ALL
14 THEY'RE TRYING TO DO. NONE OF THEM, THE FACTS OR THE
15 LAW, NONE OF IT IS ON THEIR SIDE. CONFUSE THE JURY.

16 LADIES AND GENTLEMEN, ALL THESE DIVERSIONS, THESE
17 ASSERTIONS, THEY'RE JUST ATTEMPTS TO DIVERT YOUR
18 ATTENTION AWAY FROM THE FACTS OF THIS CASE. QUICK
19 STORIES, QUICK STORIES. I WAS THINKING ABOUT IT WHEN
20 I WAS SITTING THERE, I LOVED BASEBALL GROWING UP, I
21 LOVED IT. MY FAVORITE BASEBALL TO THIS DAY IS HANK
22 AARON. EVERY TIME HE WAS ON T.V. I'D GO WATCH IT, I'D
23 WATCH. I BEGGED MY FATHER TO TAKE ME TO GAMES IN
24 ATLANTA. AND ONE SATURDAY I'M WATCHING THE SATURDAY
25 AFTERNOON GAME ON NBC, I'LL NEVER FORGET IT, AND

1 YOU'RE GOING TO HAVE TO EXPLAIN TO SOME OF THE YOUNGER
2 JURORS HOW WE ONLY HAD THREE CHANNELS BACK THEN AND IT
3 WAS A BIG DEAL TO GET A BASEBALL ON SATURDAY, TO WATCH
4 A GAME WITH JOE GRAGIOLI AND TONY CUBECK. AND HANK
5 AARON WAS GETTING UP THERE IN AGE AND HE WAS FACING A
6 GUY NAMED NOLAN RYAN, THE HARDEST PITCHER IN THE
7 HISTORY OF BASEBALL. AND HANK AARON -- AND I WAS WITH
8 MY GRANDFATHER, MY UNCLE, AND I WATCHED HANK AARON HIT
9 A HOME RUN ON NOLAN RYAN, AND I SAW TONY CUBECK
10 INTERVIEW HANK AARON AT THE END OF THE GAME. AND HE
11 ASKED HIM, HANK, YOU'RE GETTING UP THERE IN AGE, HOW
12 IS IT THAT YOU'RE ABLE TO HIT THAT FAST BALL SO WELL
13 WHEN IT'S OVER A HUNDRED MILES AN HOUR? AND HANK
14 AARON SMILED AND HE SAID, IT'S EASY, I JUST KEEP MY
15 EYE ON THE BALL. I MEAN, TALK ABOUT ADVICE FOR, NOT
16 JUST HITTING A BASEBALL, BUT FOR LIFE. VERDICT COMES
17 FROM THE LATIN WORD, VERE DICTO, IT MEANS TO SPEAK THE
18 TRUTH. IF YOU KEEP YOUR EYE ON THE BALL IN THIS CASE,
19 IF YOU STAY FOCUSED ON WHAT'S IN FRONT OF YOU AND NOT
20 ON THE DIVERSIONS AND THE ASSERTIONS, THE ONLY VERDICT
21 YOU CAN RENDER IS GUILTY. BECAUSE AS THE JUDGE IS
22 GOING TO TELL YOU, THERE ARE VERY FEW THINGS IN THIS
23 WORLD WE KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL
24 CASES THE STATE DOESN'T HAVE TO PROVE A DEFENDANT'S
25 GUILT BEYOND ANY AND ALL CERTAINTY. BUT IF THERE'S

1 EVER A CASE WHERE THAT'S DONE, IT'S THIS ONE. LET'S
2 START TALKING ABOUT THOSE STUBBORN FACTS VERY BRIEFLY,
3 THOSE STUBBORN FACTS OF GUILT.

4 FIRST, PATRICK TYLER, AND LOOK AT THE
5 CIRCUMSTANCES WITH PATRICK TYLER WHEN YOU'RE ASSESSING
6 HIS CREDIBILITY. OKAY? HE WAS SIXTEEN YEARS OLD.
7 AGAIN, IT DOESN'T MINIMIZE WHAT HE DID, HE HAS TO BE
8 TREATED AS AN ADULT EVEN AT SIXTEEN. I AIN'T CUTTING
9 HIM A DEAL. HE ISN'T GOING TO GET TO BE TREATED AS A
10 JUVENILE. YOU SAW HIM, I WASN'T PROUD OF THIS. IT
11 DOESN'T MAKE ME FEEL GOOD TO BRING PEOPLE IN HERE IN
12 ORANGE JUMP SUITS AND CHAINS. BUT HE COMMITTED A
13 HORRIBLE ACT AND HE HAS TO PAY FOR IT. SIXTEEN YEARS
14 OLD, AND HE'S HANGING OUT WITH PEOPLE THREE, FOUR,
15 FIVE YEARS OLDER THAN HIM. AND NOW, BECAUSE OF THAT -
16 - AND I'M NOT EXCUSING IT, BUT BECAUSE OF WHAT HE
17 DECIDED TO DO AT SIXTEEN, HANGING OUT WITH THEM, HE'S
18 LOOKING AT A SENTENCE OF FIFTEEN YEARS TO LIFE. THINK
19 ABOUT HIS CIRCUMSTANCES WHEN YOU ASSESS WHAT HE TOLD
20 THE POLICE AND NOW. HOW SHOULD HE BE HELD RESPONSIBLE
21 AND THEY NOT? AND HE WAS ASKED AT ONE POINT ON CROSS-
22 EXAMINATION, AREN'T YOU JUST MINIMIZING WHAT YOU DID,
23 MR. TYLER? YOU'RE MINIMIZING WHAT YOU DID, BECAUSE
24 YOU CLAIM YOU DIDN'T HAVE A GUN. WELL, TWO QUICK
25 POINTS, HOW DO THEY KNOW HE'S MINIMIZING WHAT HE DID

1 IF THEY DIDN'T GO IN THERE? AND MORE IMPORTANTLY, HIS
2 ANSWER, HOW AM I MINIMIZING IT, SIR, WHEN, YEAH, I
3 SAID I DIDN'T GO IN THREE WITH A GUN, BUT I'M STILL
4 PLEADING GUILTY TO BURGLARY IN THE FIRST DEGREE. I'M
5 STILL PLEADING GUILTY TO ARMED ROBBERY, AND I'M STILL
6 PLEADING GUILTY TO THE HOMICIDE. HOW IS THAT
7 MINIMIZING YOUR GUILT? SAY WHAT YOU WANT ABOUT
8 PATRICK TYLER, BUT HE ACCEPTED RESPONSIBILITY IN THIS
9 COURTROOM, AND HE ACCEPTED RESPONSIBILITY ON MARCH THE
10 EIGHTEENTH WITH INVESTIGATOR SHUMPERT.

11 AND LET'S TALK ABOUT THAT, THE STATEMENT THAT HE
12 GAVE TO INVESTIGATOR SHUMPERT AT FOUR FORTY-THREE P.M.
13 ON MARCH THE EIGHTEENTH. HE TOLD INVESTIGATOR
14 SHUMPERT THAT DAY, AFTER HE BROKE DOWN AND CRIED,
15 EVERYBODY THAT WSA INVOLVED IN THIS MURDER, INCLUDING
16 HIMSELF, EVERYBODY. HE ALSO TOLD YOU, HE WAS HONEST
17 ABOUT HIS STATEMENT, WHICH IS DEFENSE EXHIBIT TWO, HE
18 TOLD YOU ON THE WITNESS STAND, I WASN'T A HUNDRED PER
19 CENT ACCURATE IN THE STATEMENT. I DIDN'T WANT TO TELL
20 THE POLICE THAT I KNEW EVERYBODY'S REAL NAME. I WASN'T
21 A HUNDRED PER CENT ACCURATE, I WAS SCARED, I WAS
22 CRYING, BUT I TOLD THEM WHO THE SIX PEOPLE WERE. AND
23 WHAT MAKES THIS STATEMENT REALLY CREDIBLE? TWO
24 THINGS: NUMBER ONE, THE STATEMENT BY ITSELF CONVICTS
25 ALL SIX OF THEM. SO IF HE WANTED TO LIE, ALL HE NEEDS

1 TO DO IS GET ON THE WITNESS STAND AND SAY EXACTLY
2 WHAT'S IN THE STATEMENT. IF HE WAS GOING TO LIE TO
3 YOU, JUST GET UP THERE AND SAY THE EXACT SAME THAT'S
4 IN THE STATEMENT BECAUSE IT CONVICTS ALL SIX OF THEM,
5 HIMSELF AND THE FIVE DEFENDANTS. BUT HE DIDN'T DO
6 THAT, HE TOLD YOU THE TRUTH. THERE ARE SOME THINGS IN
7 THE STATEMENT THAT AREN'T TRUE THAT Y'ALL NEED TO KNOW
8 ABOUT, LIKE, HOW I GOT A RIDE TO THE WOODBINE ADDRESS;
9 LIKE, WHO HAD WHICH GUN; LIKE WHO WENT IN THE HOUSE AT
10 WHAT TIME; AND WHAT WAS SAID AND DONE AFTER THE
11 MURDER. AND HOW ELSE DO WE KNOW THAT'S TRUE? LIKE
12 INVESTIGATOR SHUMPERT TOLD YOU, WHAT'S GREAT ABOUT
13 THAT STATEMENT, WHAT MAKES IT TRUSTWORTHY IS, HE
14 IMPLICATES HIMSELF. THAT'S WHAT MAKES A DEFENDANT'S
15 STATEMENT TRUSTWORTHY, WHEN YOU IMPLICATE YOURSELF
16 AND, YOU SAY, YEAH, I'M GUILTY, TOO. IT'S NOT LIKE HE
17 WENT TO THE POLICE AND SAID, I DIDN'T HAVE ANYTHING TO
18 DO WITH IT, I WAS JUST IN THE CAR, THEY DID IT. HE
19 IMPLICATED HIMSELF, AND THAT'S WHAT MAKE THAT
20 STATEMENT TRUSTWORTHY. STUBBORN FACTS OF GUILT. AND
21 WHAT MAKES IT TRUSTWORTHY IS, HE GOT ON THAT WITNESS
22 STAND AND HAD THE GUTS TO FACE THOSE FIVE LAWYERS AND
23 TESTIFY. AND LET'S TALK ABOUT WHAT HE TESTIFIED TO.

24 HE TESTIFIED THAT THAT EARLY, LATE AFTERNOON,
25 EARLY EVENING HE WAS HANGING OUT WITH HIS FRIEND,

1 DARIUS GARNER. HE GETS A PHONE CALL, OR HE TALKS ON
2 THE PHONE WITH DANNY RYANT. DURING THAT CONVERSATION
3 DANNY RYANT TELLS HIM, HEY, MARIO SHIVERS HAS SOME
4 GUNS, YOU NEED TO GO CHECK THESE GUNS OUT. RIGHT
5 AFTER HE TALKS TO DANNY RYANT HE GETS ON THE PHONE
6 WITH MARIO SHIVERS. SOMETIME AROUND SEVEN:THIRTY HE
7 HAS DARIUS TAKE HIM TO WOODBINE STREET WHERE THE FOUR
8 OF THEM AT THAT TIME, RALPH COLEMAN AND MARIO SHIVERS
9 ARE SMOKING MARIJUANA AT WOODBINE STREET, COLEMAN'S
10 PLACE. DARIUS LEAVES, AND HE ADMITTED TO YOU THAT
11 THAT'S WHEN THEY STARTED TALKING ABOUT ROBBING CHARLES
12 PRINGLE. HE DIDN'T LIE. HE DIDN'T SAY, OH, I DIDN'T
13 HAVE ANYTHING TO DO WITH IT. HUH-UH. HE ADMITTED TO
14 THAT.

15 HE ALSO TOLD YOU THAT CHRIS COLEMAN ARRIVES WITH
16 A DRIVER, AND I DON'T KNOW WHO THE DRIVER IS, BUT THEY
17 ARRIVE IN AN SUV. THEY GET IN THE CAR, THEY TALK
18 ABOUT THE ROBBERY, AND THE DRIVER, WHO I DON'T KNOW,
19 IS DRIVING US IN THAT SUV, THE DRIVER IS CHRIS
20 COLEMAN'S FRIEND.

21 HE TELLS YOU THAT AT ONE POINT WALTER SHIVERS
22 CALLS WALTER HARRIS, THAT THEY GO AND PICK UP WALTER
23 HARRIS, AND WALTER HARRIS IS PACKING A BLACK GUN.
24 WALTER HARRIS GOES INTO CHARLES PRINGLE'S APARTMENT.
25 WHY WOULD THEY PICK WALTER HARRIS, WHY DOES HE NEED TO

1 GO IN? BECAUSE THEY KNOW THAT CHARLES PRINGLE WON'T
2 KNOW WALTER HARRIS. SO, HE GOES IN THERE TO SCOPE IT
3 OUT. HE COMES BACK OUT AND HE SAYS, THERE'S SOMEBODY
4 IN THERE I KNOW. SO, ACCORDING TO PATRICK TYLER -- AND
5 I WANT YOU TO REMEMBER THE TESTIMONY BECAUSE AT THE
6 END I'M GOING TO CORROBORATE THESE PHONE CALLS --
7 PATRICK TYLER SAYS THEY THEN CALL DANNY RYANT, AND
8 THEY GO AND PICK DANNY RYANT UP ABOUT A HALF A MILE
9 FROM CHARLES PRINGLE'S AT THE CORNER POCKET. AND THEN
10 ALL SIX OF THEM GO INTO CHARLES PRINGLE'S APARTMENT
11 ARMED WITH GUNS AND DUCT TAPE TO ROB HIM, TO
12 BURGLARIZE HIS HOME, AND THEY KILL HIM. ALL FOUR
13 WEAPONS WERE USED TO GUN HIM DOWN.

14 THE TESTIMONY OF PATRICK TYLER IS THE ONLY
15 EVIDENCE IN THIS CASE. THINK ABOUT THAT. IT IS THE
16 ONLY EVIDENCE IN THIS CASE. HIS TESTIMONY BY ITSELF
17 PROVES THE DEFENDANTS' GUILT BEYOND A REASONABLE
18 DOUBT. BUT WHAT MAKES THIS CASE EVEN MORE THAN BEYOND
19 A REASONABLE DOUBT IS THE UNBELIEVABLE AMOUNT OF
20 CORROBORATION TO PATRICK TYLER'S TESTIMONY,
21 UNBELIEVABLE AMOUNT OF CORROBORATION. FIRST, WE HAVE
22 ASHLEY PARSLEY, ASHLEY PARSLEY. AND SHE WAS HONEST
23 WITH YOU. SHE OBVIOUSLY TOLD YOU, SHE'S NOT PERFECT,
24 BUT SHE TOLD YOU THE TRUTH. SHE SOLD MARIJUANA. SHE
25 ALSO TOLD YOU HOW SOMEONE HAD COME INTO THE HOUSE

1 EARLIER, TO THE APARTMENT EARLIER TO OSTENSIBLY BUY
2 MARIJUANA AND THAT LATER ON THAT NIGHT THE HOME
3 INVASION OCCURRED. SHE TOLD YOU SHE DIDN'T SEE
4 EVERYBODY, THAT ONE PERSON CAME IN THERE, I SUBMIT,
5 PATRICK TYLER, WHY SHE COULDN'T PICK HIM OUT, COVERING
6 HIS FACE UP, AND THE SECOND PERSON BEHIND HIM HAD A
7 GUN, SHOVED IT INTO HER FACE AND SAID, GET ON THE
8 GROUND. SHE HEARD THE FOOTSTEPS, SHE HEARD THE DUCT
9 TAPE, SHE HEARD THE GUN SHOTS. SHE HEARD THE MALICE,
10 SHE HEARD THE HORRIFYING ACTS OF THAT NIGHT WHEN HER
11 FRIEND WAS GUNNED DOWN. AND SHE WAS HONEST WITH YOU,
12 AND SHE WAS HONEST WITH THE POLICE. SHE COULDN'T --
13 THEY SHOWED HER MULTIPLE LINEUPS. TALK ABOUT
14 CREDIBILITY, SHE CALLED NINE ONE ONE, OF CORSE, BUT
15 TALK ABOUT CREDIBILITY, IF WE'RE GOING TO GET HER TO
16 LIE, ESPECIALLY AFTER THEY KNOW WHO'S INVOLVED, GET
17 HER TO PICK THEM ALL OUT OF THE PHOTO LINEUP, PICK
18 THEM ALL. SHE'S NOT GOING TO DO THAT, BUT ISN'T IT
19 INTERESTING WHO SHE IS ABLE TO PICK OUT? SHE PICKS
20 OUT RALPH COLEMAN. WHY WOULD SHE PICK OUT RALPH
21 COLEMAN? IS IT BECAUSE PATRICK TYLER SAYS THAT HE WAS
22 RIGHT BEHIND HIM, AND HE'S THE ONE THAT SHOVED THE GUN
23 IN HER FACE? THAT WOULD BE ONE OF THE DEFENDANTS THAT
24 SHE GOT THE BEST LOOK AT, RALPH COLEMAN. WHY WOULD
25 YOU BE ABLE TO MAYBE PICK OUT MARIO SHIVERS AND THINK

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1 THAT HE WAS IN THERE? IS IT BECAUSE MARIO SHIVERS IS
2 THE MAIN GUY GOING IN THERE CALLING THE SHOTS, THE
3 MAIN ONE TALKING THAT YOUR ATTENTION WOULD GO TOWARDS?
4 AND OF COURSE, SHE PICKS OUT WALTER HARRIS FROM COMING
5 IN THERE EARLIER THAT NIGHT. PROOF BEYOND A
6 REASONABLE DOUBT? ARE YOU KIDDING ME?

7 AND THEN THE ATTORNEYS, NOT ONLY IN CLOSING BUT
8 DURING THE QUESTIONING OF WITNESSES, THEY SAID, WELL,
9 THERE'S A BLACK LIGHT, OR A LIGHT BULB, AND YOU CAN'T
10 SEE AS WELL. UNDER THEIR OWN CROSS-EXAMINATION, HE
11 ASKED SHANNON MITCHELL, MR. WISE DID, WITH THAT
12 LIGHTING, COULD YOU SEE MY FACIAL FEATURES FROM HERE?
13 AND HE SAID, YES, SIR. WELL, COULD YOU SEE SOMEBODY'S
14 FACIAL FEATURES FROM HERE?

15 YOU HEARD FROM SHANNON MITCHELL. HE TOLD THE
16 POLICE THAT HOURS, JUST HOURS AFTER THE MURDER, HOURS
17 AFTER THE MURDER THAT WALTER HARRIS WAS IN THAT
18 APARTMENT, AND HE TOLD Y'ALL, I DON'T KNOW OF WALTER
19 HARRIS EVER COMING IN THERE BEFORE. WHY WOULD WALTER
20 HARRIS BE THERE UNLESS HE'S GETTING READY TO HELP THEM
21 DO A ROBBERY, JUST AS PATRICK TYLER TESTIFIED TO,
22 THAT WALTER HARRIS WENT IN THERE FIRST AND THEN CAME
23 BACK OUT?

24 YOU HEARD FROM DARIUS GARNER. HE TOLD YOU HOW HE
25 AND PATRICK TYLER HAD BEEN HANGING OUT TOGETHER, AND

1 THAT HE TOOK THE DEFENDANT, OR TOOK PATRICK TYLER TO
2 WOODBINE, JUST LIKE PATRICK TYLER TOLD YOU. AND IF WE
3 WERE GOING TO GET DARIUS TO LIE, HE SAID THAT THERE
4 WERE TWO OTHER PEOPLE THERE, ONE OF THEM HE KNEW,
5 LITTLE M, MARIO SHIVERS. THE OTHER ONE I DIDN'T KNOW
6 BUT HE HAD DREDS, AND HE WAS STOCKY. WE KNOW IT WAS
7 RALPH COLEMAN BECAUSE PATRICK TOLD US THAT. AND WHAT
8 ELSE DOES DARIOUS SAY, BEFORE I FORGET? HE DOESN'T LIE
9 AND SAY, I SAW THE GUNS, BUT HE DOES SAY, I SAW A
10 RIFLE BAG, A CAMOUFLAGE RIFLE BAG. ANYBODY WANT TO
11 GUESS WHAT WAS IN THAT BAG? PROOF BEYOND A REASONABLE
12 DOUBT?

13 THEN YOU HEARD ABOUT THE FORD EXPLORER. I'VE
14 ALREADY TALKED ABOUT IT SOME, BUT AGAIN, IT
15 CORROBORATES PATRICK TYLER. HE TOLD Y'ALL, HE TOLD
16 THE POLICE THAT HE WAS PICKED UP IN AN SUV, A JEEP
17 LIKE VEHICLE. HE TOLD YOU AN EXPLORER. AND WE KNOWN
18 IT HAD TO BE SOME KIND OF SUV, I MEAN, I KNOW THEY'RE
19 ONLY DRIVING A HALF A MILE FROM CORNER POCKET AND FROM
20 HOUSE TO THE VICTIM'S PLACE, BUT WE KNOW IT'S NOT
21 GOING TO BE A PINTO WITH SIX PEOPLE IN IT, OR A GOLF
22 CART. AND WHAT DO WE FIND OUT? RONNIE WASHINGTON WAS
23 THE GET AWAY DRIVER, RONNIE WASHINGTON DROVE THEM IN
24 THIS VEHICLE, SOMEBODY PATRICK TYLER DIDN'T KNOW,
25 CHRIS COLEMAN'S FRIEND. CORROBORATION.

1 YOU HEARD FROM MONEAK BUSBY AND YVONNE
2 SHARPERSON. AND I WANT TO MAKE SURE THAT I GET THIS
3 RIGHT. I DON'T WANT TO MISREPRESENT ANYTHING, BUT BOTH
4 OF THEM ARE FRIENDS OF DANNY RYANT. IT WAS NOT EASY
5 FOR THEM TO COME IN HERE AND TESTIFY, IT COULDN'T BE.
6 WELL, YOU KNOW THEY DIDN'T WANT TO COME IN HERE AND
7 TESTIFY AGAINST HIM. BUT WHAT DID, I BELIEVE IT WAS
8 MS. SHARPERSON, TELL THE POLICE BACK THEN AND TELL YOU
9 TODAY, OR IN THE COURTROOM, THIS WEEK? SHE'S THE ONE
10 WHO TOLD THE POLICE RYANT'S FAMILY WAS EVEN LOOKING
11 FOR HIM IN THE CORNER POCKET. FOR A WHILE THEY
12 COULDN'T FIND HIM. AND MORE IMPORTANTLY, WHAT DID
13 MONEAK BUSBY TELL THE POLICE, AND SHE GOT HERE AND
14 TESTIFIED TO? SHE TOLD THEM THAT NOT ONLY WAS DANNY
15 RYANT MISSING, BUT HE WENT TO THE DOOR AND LEFT WITH
16 TWO PEOPLE, AND SHE PICKED OUT MARIO SHIVERS AND
17 PATRICK TYLER. PROOF BEYOND ANY DOUBT, CORROBORATING
18 PATRICK TYLER.

19 WE HEARD FROM ANDRE WASHINGTON, A
20 MISREPRESENTATION THAT WAS BROUGHT UP IN THE CLOSING
21 AND I JUST REMEMBERED, SHE SAID, ONE OF THE ATTORNEYS
22 SAID THAT ANDRE WASHINGTON BOUGHT THIS GUN FROM
23 CHRISTOPHER DWIGHT. NO, NO, NO, THAT'S NOT TRUE. THE
24 EVIDENCE IS, ANDRE WASHINGTON BOUGHT THIS GUN FROM
25 WALTER HARRIS ON SATURDAY, BEFORE HE SOLD THE GUN ON

1 MARCH THE SEVENTEENTH. THAT WOULD BE SATURDAY, MARCH
2 THE THIRTEENTH, THE DAY AFTER THAT GUN IS USED TO KILL
3 CHARLES PRINGLE. THE DAY AFTER WALTER HARRIS GAVE
4 THAT GUN TO RALPH COLEMAN TO KILL CHARLES PRINGLE HE'S
5 SELLING IT TO ANDRE WASHINGTON.

6 PATRICK TYLER, HE WASN'T GOING TO LIE, HE WASN'T
7 GOING TO SAY, YES, THAT'S THE GUN. HE WAS HONEST, HE
8 SAID, I DIDN'T GET AS GOOD A LOOK AT RALPH, OR EXCUSE
9 ME, AT WALTER HARRIS'S GUN, THE ONE RALPH USED,
10 BECAUSE IT WAS HARRIS'S GUN. I SAW THE NINE
11 MILLIMETER THAT BELONGED TO MARIO SHIVERS THAT CHRIS
12 COLEMAN, BUT I NEVER HANDLED THIS, I JUST REMEMBER IT
13 WAS A BLACK GUN. AND WE GOT LUCKY AND WE GOT THIS GUN
14 RIGHT AFTER THE MURDER, WALTER HARRIS'S FORTY CALIBER,
15 BLACK, JUST LIKE PATRICK TYLER TOLD YOU IT WOULD BE,
16 USED TO KILL CHARLES PRINGLE.

17 YOU HEARD FROM THE CRIME SCENE, BALLISTICS, AND
18 DR. ROSS ABOUT THIS CRIME. WE LEARNED THAT THERE WERE
19 AT LEAST FOUR FIREARMS USED, TWO SKS RIFLES, ONE NINE
20 MILLIMETER PISTOL AND ONE FORTY CALIBER PISTOL, JUST
21 LIKE PATRICK TYLER TOLD US, CORROBORATION. YOU
22 LEARNED THAT TWENTY-FOUR BULLET WOUNDS WENT INTO THE
23 VICTIM, WITH THE BULLETS GOING IN DIFFERENT
24 DIRECTIONS, LACERATING HIS HEART, HIS LUNGS, HIS
25 LIVER. DANNY RYANT AND MARIO SHIVERS POSSESSED THE

1 SKS'S AND ONE OF THEM FIRED ONE SHOT, THE OTHER FIRED
2 FOUR. IT DOESN'T MATTER WHO FIRED WHICH ONE, THEY'RE
3 BOTH GUILTY OF MURDER, BURGLARY, AND ARMED ROBBERY.
4 WE LEARNED THAT CHRIS COLEMAN HAD A NINE MILLIMETER,
5 HE FIRED ELEVEN SHOTS, MANY OF THOSE SHOTS INTO THE
6 VICTIM AT POINT BLANK RANGE WHILE HE'S LYING ON THE
7 GROUND. WE LEARNED THAT RALPH COLEMAN HAD WALTER
8 HARRIS'S FORTY CALIBER, EIGHT SHOTS INTO THE VICTIM BY
9 RALPH COLEMAN. A LOT OF THOSE SHOTS WHILE THE VICTIM
10 IS LYING ON THE GROUND. AND WALTER HARRIS GAVE RALPH
11 COLEMAN THIS GUN, AND THAT WALTER HARRIS HAD THE DUCT
12 TAPE, AND HE PUT THE DUCT TAPE OVER THE VICTIM'S
13 MOUTH. AND I REMEMBER, THEY WERE TRYING TO IMPEACH
14 PATRICK ON THE WITNESS STAND ABOUT HOW, HOW COULD HE
15 TALK WITH DUCT TAPE OVER HIS MOUTH? AND THEY WOULDN'T
16 LET PATRICK ANSWER THE QUESTION. YOU LOOK AT THE
17 PICTURE WHEN YOU TAKE IT BACK IN CHAMBERS. YOU CAN
18 TELL IT'S OVER HIS MOUTH, OVER THE TOP, SO HE COULD
19 TALK.

20 HOW MUCH MORE MALICIOUS CAN YOU GET THAN INVADING
21 ANOTHER PERSON'S HOME WITH FOUR WEAPONS? I'M ALMOST
22 DONE. THE FINAL PIECE OF CORROBORATION I WANT TO TALK
23 TO YOU ABOUT ARE THE PHONE RECORDS AND THE TIME LINE
24 THAT CORROBORATE PATRICK TYLER. AND YOU'LL HAVE THE
25 ACTUAL PHONE RECORDS IN CHAMBERS, AND THIS IS A BLOW

1 UP USED TO HELP ME. AND YOU'RE GOING TO HAVE THESE
2 RECORDS BACK THERE, AND YOU'RE GOING TO HAVE --
3 BECAUSE REMEMBER, THE POLICE GOT LUCKY, WITHIN LESS
4 THAN A WEEK OF THIS CRIME THEY WERE ABLE TO GET TYLER
5 AND GET HARRIS SO THEY WERE ABLE TO GET THEIR RECORDS.
6 AND THEY GOT THE PHONE RECORDS. NOW, WHAT DO WE FIND
7 OUT WHEN WE LOOK AT THEIR PHONE RECORDS DURING THIS
8 TRIAL? THAT AT SIX:THIRTY-ONE TO SIX:FORTY RYANT
9 CALLS PATRICK TYLER, JUST LIKE PATRICK TYLER TOLD US,
10 I GOT A PHONE CALL FROM DANNY RYANT. NUMBER OF PHONE
11 CALLS FROM SIX:THIRTY-ONE TO ABOUT, IT LOOKS LIKE
12 SIX:FORTY-FOUR, ACTUALLY, WHERE HE'S TELLING ME ABOUT
13 THE GUNS MARIO HAS. WHAT WAS PATRICK'S NEXT
14 TESTIMONY? THAT I GOT A HOLD OF MARIO SHIVERS. AND
15 FROM SIX:FORTY-SIX TO SEVEN:TWENTY-SIX, YOU'RE GOING
16 TO SEE PHONE CALLS ON PATRICK TYLER'S PHONE RECORDS
17 FROM MARIO SHIVERS, EIGHTEEN:FORTY-FOUR HOURS TO
18 NINETEEN:TWENTY-SIX HOURS, MARIO SHIVERS. AND THEN WE
19 THEN KNOW THAT SOMETIME AFTER SEVEN:THIRTY, ACCORDING
20 TO NOT ONLY THEIRS BUT PATRICK TYLER, THEY GO TO THE
21 HOME ON WOODBINE. WE ALSO KNOW THAT THEY CONSPIRED TO
22 COMMIT THE ROBBERY, THEY'RE PICKED UP BY CHRIS AND
23 RONNIE WASHINGTON. WE ALSO KNOW FROM PATRICK TYLER,
24 MARIO SHIVERS CALLED WALTER HARRIS, AND SURE ENOUGH,
25 ON WALTER HARRIS'S PHONE RECORDS, AT EIGHT:FIFTY-TWO,

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1 WHICH IS TWENTY:FIFTY-TWO HOURS, HE GETS A PHONE CALL
2 FORM MARIO SHIVERS. THIS IS PROOF BEYOND A REASONABLE
3 DOUBT. CORROBORATION. EIGHT:FIFTY-TWO, AND THERE ARE
4 THREE CONVERSATIONS UP TO EIGHT:FIFTY-SEVEN, WHICH I
5 SUBMIT WAS RIGHT AFTER THAT TIME THEY PICKED HIM UP.

6 WE ALSO LEARNED FROM PATRICK TYLER THAT AFTER
7 HARRIS GOES IN THEY DECIDE TO GET ANOTHER GUN, ANOTHER
8 PERSON INVOLVED, DANNY RYANT. AND PATRICK TYLER TOLD
9 YOU, I CALLED DANNY RYANT. WELL, IF THAT'S TRUE THAT
10 WOULD BE ON PATRICK TYLER'S PHONE RECORDS. TWENTY-
11 ONE:THIRTY-FOUR HOURS, WHICH IS NINE:THIRTY-FOUR, HE
12 CALLS DANNY RYANT. THEY TALK FOR A COUPLE OF MINUTES.
13 AT NINE:FORTY HE CALLS HIM BACK, I SUBMIT PROBABLY TO
14 SAY, I'M OUTSIDE, AND DANNY RYANT IS GONE FROM THE
15 CORNER POCKET, ACCORDING TO MONEAK BUSBY.
16 CORROBORATION.

17 AT NINE:FORTY CHARLES PRINGLE DOESN'T HAVE MORE
18 THAN FIFTEEN MINUTES TO LIVE, BECAUSE SIX MEN, SEVEN
19 COUNTING RONNIE WASHINGTON, ARE ON THE WAY TO HIS
20 HOUSE TO ROB AND BURGLARIZE HIM AND THEN GUN HIM DOWN,
21 LESS THAN FIFTEEN MINUTES FOR HER SON TO LIVE.

22 NINE:FIFTY-EIGHT, SERGEANT CARTER OF THE
23 SHERIFF'S DEPARTMENT IS DISPATCHED TO KINGS ROAD.
24 CHARLES PRINGLE IS DEAD. AT TEN:O-TWO, PATRICK TYLER
25 TOLD Y'ALL, AS DID DARIUS, THAT HE CALLED HIS FRIEND

1 TO COME PICK HIM UP IN THAT COLEMAN AREA OFF OF
2 BELLEVILLE AND GIVE HIM A RIDE TO SANTEE. THAT'S WHAT
3 ONE THE PHONE RECORDS, AT TEN:O-TWO HE'S CALLING
4 DARIUS GARNER TO PICK HIM UP. THREE PHONE CALLS, IT'S
5 THE ONES AT TWENTY-TWO:O-ONE TO TWENTY-TWO:O-SEVEN,
6 JUST LIKE PATRICK TYLER TOLD YOU.

7 ONE MORE INTERESTING THING ABOUT THESE PHONE
8 RECORDS, BETWEEN THE HOURS OF THE CONSPIRACY AFTER
9 WALTER HARRIS GETS PICKED UP TO START THE ROBBERY OF
10 CHARLES PRINGLE, HE MAKES NO MORE PHONE CALLS OR GETS
11 NO MORE PHONE CALLS UNTIL TEN:O-FIVE P.M., AFTER THE
12 MURDER OF CHARLES PRINGLE. HE GOES OVER AN HOUR
13 WITHOUT ANY PHONE CALLS TO OR FROM HIS PHONE. WHY?
14 BECAUSE HE'S INVOLVED IN THE ROBBERY AND MURDER OF
15 CHARLES PRINGLE.

16 NOT PROOF BEYOND A REASONABLE DOUBT, LADIES AND
17 GENTLEMEN, YES, PROOF BEYOND ANY POSSIBLE DOUBT
18 WHATSOEVER. YOUR JOB IS EASY. DO THE RIGHT THING AND
19 CONVICT THOSE FIVE MEN FOR WHAT THEY DID. IT'S BEEN
20 MADE EASY BECAUSE PEOPLE HAD THE COURAGE TO COME INTO
21 THIS COURTROOM AND TESTIFY . THEY HAD THE COURAGE TO
22 COME FORWARD IN MARCH. DO THE RIGHT THING. ON MARCH
23 THE TWELFTH OF THIS YEAR WHEN PATRICK TYLER AND THOSE
24 FIVE DEFENDANTS WENT INTO CHARLES PRINGLE'S HOME TO
25 ROB HIM THEY THOUGHT NOBODY CARED. WHEN THEY GUNNED

1 HIM DOWN TWENTY-FOUR TIMES THEY THOUGHT THEY HAD GOT
2 AWAY WITH MURDER. PROVE THEM WRONG.

3 IN CLOSING, I WANT TO THANK YOU AGAIN. YOU HAVE
4 BEEN UNBELIEVABLY ATTENTIVE. I'VE NEVER HAD A JURY
5 THIS ATTENTIVE, AND I MEAN THAT, AND ALL FIVE OF THE
6 ATTORNEYS WOULD JOIN ME IN THAT, AND PROBABLY THE
7 JUDGE. INCREDIBLE, NO FOOD, UNBELIEVABLE. I CAN'T
8 IMAGINE WHAT YOU'VE HAD TO GO THROUGH, YOU'VE HAD TO
9 HEAR ABOUT THINGS THAT YOU DON'T WANT TO HEAR ABOUT.
10 YOU'VE HAD TO LOOK AT THINGS THAT YOU DON'T CARE TO
11 LOOK AT, AND YOU'VE HAD TO DO IT ALL SITTING THERE
12 QUIET. BUT SOON, THE IRONY IS, YOU'RE GOING TO HAVE
13 THE MOST POWERFUL VOICE IN THIS COURTROOM, AND WITH
14 ONE WORD YOU CAN LET THE DEFENDANTS KNOW WHAT THEY DID
15 WA WRONG. WITH ONE WORD YOU CAN LET THEM KNOW YOU
16 CANNOT TAKE THAT WOMAN'S SON AND GET AWAY WITH IT.
17 WITH ONE WORD YOU CAN LET THEM KNOW THAT THERE IS
18 JUSTICE IN ORANGEBURG COUNTY. AND THAT ONE WORD IS
19 GUILTY.

20 ON BEHALF OF THE STATE OF SOUTH CAROLINA, AS YOUR
21 SOLICITOR I RESPECTFULLY ASK THAT YOU FIND THE
22 DEFENDANTS, CHRIS COLEMAN, RALPH COLEMAN, WALTER
23 HARRIS, DANNY RYANT AND MARIO SHIVERS GUILTY OF
24 MURDER, GUILTY OF BURGLARY IN THE FIRST DEGREE, AND
25 GUILTY OF ARMED ROBBERY.

1 THANK YOU.

2 THE COURT: THANK YOU, MR. PASCOE. DO YOU MIND
3 TAKING THOSE DOWN?

4 SOLICITOR PASCOE: YES, SIR.

5 THE COURT: I HATE TO BOTHER YOU BUT ...

6 ALRIGHT, LADIES AND GENTLEMEN, I DON'T THINK YOUR
7 LUNCH HAS GOTTEN HERE YET, SO I'M GOING TO GO AHEAD
8 AND CHARGE Y'ALL WITH THE LAW RIGHT NOW.

9 CHARGE BY THE COURT

10 LET ME TELL Y'ALL AT THE VERY FIRST OF THIS CASE,
11 THE INDICTMENTS THAT ARE IN THIS CASE CHARGE EACH OF
12 THESE YOUNG MEN, CHRISTIAN COLEMAN, RALPH COLEMAN,
13 WALTER HARRIS, DANNY RYANT, AND MARIO SHIVERS, WITH
14 ARMED ROBBERY, FIRST DEGREE BURGLARY AND MURDER. BUT
15 THE FACT THAT THESE DEFENDANTS WERE ARRESTED, CHARGED
16 AND INDICTED IN THIS CASE IS NOT EVIDENCE IN THIS CASE
17 AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE OF GUILT
18 IN THIS CASE, NOR DOES IT CREATE ANY PRESUMPTION OR
19 INFERENCE OF GUILT. THE INDICTMENTS ARE SIMPLY THE
20 FORMAL WRITTEN INSTRUMENTS WHICH CONTAIN THE CHARGES
21 MADE AGAINST THE DEFENDANTS. IT IS THE FORMAL
22 DOCUMENTS BY WHICH THIS CASE IS BROUGHT TO THIS COURT.

23 NOW, EACH INDICTMENT CHARGES A SEPARATE AND
24 DISTINCT OFFENSE. YOU MUST DECIDE EACH INDICTMENT
25 SEPARATELY ON THE EVIDENCE AND THE LAW APPLICABLE TO

1 IT UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER
2 INDICTMENT. EACH DEFENDANT MAY BE CONVICTED OR
3 ACQUITTED ON ANY OR ALL OF THE OFFENSES CHARGED. YOU
4 WILL BE ASKED TO WRITE A SEPARATE VERDICT OF GUILTY OR
5 NOT GUILTY FOR EACH INDICTMENT. AND MADAM FORELADY,
6 AT THE CLOSE MY CHARGE I WILL GO OVER THESE VERDICT
7 FORMS WITH YOU TO MAKE SURE YOU UNDERSTAND THEM.
8 OKAY?

9 NOW, THE CASE OF EACH DEFENDANT AND THE EVIDENCE
10 AND LAW CONCERNING THAT DEFENDANT SHOULD BE CONSIDERED
11 SEPARATELY AND INDIVIDUALLY. THE DEFENDANTS HAVE BEEN
12 TRIED TOGETHER BUT YOU MUST DETERMINE EACH DEFENDANT'S
13 GUILT OR INNOCENCE SEPARATELY AS TO EACH CHARGE. YOUR
14 VERDICT DOES NOT HAVE TO BE THE SAME FOR ALL THE
15 DEFENDANTS. THE FACT THAT YOU MAY FIND ONE DEFENDANT
16 GUILTY OR NOT GUILTY SHOULD NOT CONTROL YOUR VERDICT
17 AS TO THE OTHER DEFENDANTS. WHERE MORE THAN ONE
18 PERSON IS CHARGED WITH A CRIME, IF THE EVIDENCE
19 WARRANTS IT YOU MAY CONVICT ONE AND ACQUIT THE OTHERS,
20 OR YOU MAY ACQUIT ALL, OR YOU MAY CONVICT ALL. IT
21 WILL DEPEND UPON YOUR VIEW OF THE TESTIMONY AND THE
22 EVIDENCE. YOU MUST TAKE EACH DEFENDANT AND CONSIDER
23 THE EVIDENCE AS TO THAT DEFENDANT AND MY INSTRUCTIONS
24 TO YOU ON THE LAW. YOU WILL THEN WRITE A SEPARATE
25 VERDICT OF GUILTY OR NOT GUILTY FOR EACH INDIVIDUAL

1 DEFENDANT AS TO EACH CHARGE.

2 EVERY ONE OF THE DEFENDANTS HAS PLED NOT GUILTY
3 TO THESE INDICTMENTS, AND THAT PUTS THE BURDEN ON THE
4 STATE TO PROVE EACH ONE OF THE DEFENDANTS GUILTY. A
5 PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN
6 SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF
7 INNOCENT. I CHARGE YOU THAT IT IS AN IMPORTANT RULE
8 OF LAW THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO
9 MATTER WHAT THE SERIOUSNESS OF THE CHARGE MAY BE, WILL
10 ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIMES FOR
11 WHICH THE INDICTMENTS WERE ISSUED UNLESS THE GUILT HAS
12 BEEN PROVEN BY EVIDENCE SATISFYING YOU, THE JURY, OF
13 THAT GUILT BEYOND A REASONABLE DOUBT. THIS
14 PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU BEGIN
15 YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE DEFENDANTS
16 THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT OF
17 GUILT BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT.
18 BEYOND A REASONABLE DOUBT. THE PRESUMPTION OF
19 INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS PLACED ABOUT
20 THE DEFENDANT, OF EACH OF THE DEFENDANT, WHICH REMAINS
21 WITH THE DEFENDANT UNTIL IT HAS BEEN STRIPPED FROM THE
22 DEFENDANT BY EVIDENCE SATISFYING YOU OF THE
23 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT. THE
24 PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL THEORY,
25 IT IS NOT JUST A LEGAL PHRASE, IT IS A SUBSTANTIAL

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1 RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU,
2 THE JURY, ARE SATISFIED FROM THE EVIDENCE OF THE
3 DEFENDANT'S GUILTY BEYOND A REASONABLE DOUBT. THE
4 DEFENDANTS ARE ENTITLED TO EVERY INFERENCE IN THEIR
5 FAVOR WHICH CAN REASONABLY BE DRAWN FROM THE EVIDENCE.
6 WHEN TWO INFERENCES MAY BE DRAWN FROM THE SAME SET OF
7 FACTS, ONE CONSISTENT WITH THE VERDICT OF GUILTY, AND
8 ONE INFERENCE CONSISTENT WITH A VERDICT OF NOT GUILTY,
9 THE DEFENDANTS ARE ENTITLED TO THE INFERENCE WHICH IS
10 CONSISTENT WITH A VERDICT OF NOT GUILTY. YOU CANNOT
11 FIND THE DEFENDANTS GUILTY BASED UPON SUSPICION,
12 CONJECTURE OR SPECULATION, NO MATTER HOW STRONG. A
13 CONVICTION CAN ONLY BE BASED UPON PROOF OF GUILT
14 BEYOND A REASONABLE DOUBT. IF THE PROOF DOES NOT MEET
15 THAT STANDARD YOU MUST FIND THE DEFENDANT NOT GUILTY.

16 WHAT IS REASONABLE DOUBT IN THE LAW? A
17 REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE
18 A REASONABLE PERSON TO HESITATE TO ACT. THE STATE HAS
19 THE BURDEN OF PROVING EACH DEFENDANT GUILTY BEYOND A
20 REASONABLE DOUBT. IN CRIMINAL CASES, AS I'VE SAID,
21 THE STATE'S PROOF MUST BE BEYOND A REASONABLE DOUBT.
22 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES
23 YOU FIRMLY CONVINCED OF THE DEFENDANTS' GUILT. THERE
24 ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH
25 ABSOLUTE CERTAINTY. IN CRIMINAL CASES THE LAW DOES

1 NOT REQUIRE PROOF THAT OVERCOMES VERY POSSIBLE. IF
2 BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU ARE
3 FIRMLY CONVINCED THAT A DEFENDANT IS GUILTY OF THE
4 CRIME CHARGED, YOU MUST FIND THAT DEFENDANT GUILTY.
5 IF, ON THE OTHER HAND, YOU THINK THERE IS A REAL
6 POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST
7 GIVE THAT DEFENDANT THE BENEFIT OF THE DOUBT AND FIND
8 HIM NOT GUILTY.

9 DURING THIS TRIAL YOU AND I HAVE CERTAIN DUTIES
10 TO PERFORM. AS THE TRIAL JUDGE IS IT MY
11 RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE,
12 AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY
13 FO THE EVIDENCE OFFERED DURING THE TRIAL.

14 YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE
15 BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED
16 STRICKEN FROM THE RECORD IN THIS CASE DURING THIS
17 TRIAL YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO
18 CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED
19 FROM THIS WITNESS STAND, FROM ANY EXHIBITS WHICH HAVE
20 BEEN MADE A PART OF THE RECORD IN THIS CASE, AND
21 STIPULATIONS OF COUNSEL.

22 I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW
23 APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE I AM
24 THE SOLE JUDGE OF THE LAW IN THIS CASE AND IT IS YOUR
25 DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I STATE

1 IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO WHAT
2 THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT
3 AGREE WITH WHAT I TELL YOU THE LAW IS, YOU MUST
4 ABANDON THIS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE
5 LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

6 IN EVERY CASE TRIED BEFORE A JURY THE JURY IS THE
7 SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN THE CASE. A
8 TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON OR MAKE
9 ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN THE
10 CASE. SINCE YOU ARE THE SOLE JUDGES OF THE FACTS IN
11 THE CASE YOU ARE NOT TO INFER FROM WHAT I HAVE SAID
12 DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE
13 ADMISSIBILITY OF THE EVIDENCE OR OTHERWISE, OR
14 ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS
15 INSTRUCTION TO YOU THAT I HAVE ANY OPINION ABOUT THE
16 FACTS IN THE CASE. THE LAW DOES NOT ALLOW ME TO HAVE
17 AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A
18 MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE. AS
19 JURORS IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE,
20 WEIGHT AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS
21 TRIAL.

22 NOW, DURING THIS TRIAL YOU'VE HEARD SOME
23 TESTIMONY OF THE POSSIBLE LENGTH OF PUNISHMENT FOR
24 CERTAIN CRIMES. YOU AS JURORS ARE NOT TO CONSIDER
25 POSSIBLE SENTENCES IN ANY MANNER WHATSOEVER IN

1 DETERMINING YOUR VERDICT. DEPENDING ON YOUR VERDICT
2 IT IS MY DUTY AS JUDGE TO DO THE SENTENCING. SO, I
3 REMIND YOU, YOU ARE NOT CONSIDER SENTENCING OR
4 PUNISHMENT. YOUR DUTY IS TO DETERMINE THE GUILT OR
5 INNOCENCE OF EACH DEFENDANT AS TO EACH CHARGE AND
6 RENDER A FAIR AND JUST VERDICT.

7 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
8 GENERALLY PRESENTED DURING A TRIAL, DIRECT EVIDENCE
9 AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS THE
10 TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL
11 KNOWLEDGE OF A FACT, SUCH AS AN EYE WITNESS. IT IS
12 EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT
13 TO BE PROVED. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A
14 CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE
15 EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY
16 ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT
17 MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON
18 INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR
19 OBSERVATION. THE LAW MAKES ABSOLUTELY NO DISTINCTION
20 BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER
21 DIRECT OR CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER
22 DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
23 EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH
24 ALL OF THE EVIDENCE IN THIS CASE, AND AFTER WEIGHING
25 ALL OF THE EVIDENCE, IF YOU ARE NOT CONVINCED OF THE

1 GUILT OF A DEFENDANT BEYOND A REASONABLE DOUBT YOU
2 MUST FIND THAT DEFENDANT NOT GUILTY.

3 YOU MUST DETERMINE THE CREDIBILITY OF THE
4 WITNESSES WHO HAVE TESTIFIED IN THIS CASE.
5 CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT IS YOUR
6 DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE
7 AND DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS
8 TRUTH. IN DETERMINING THE BELIEVABILITY OF WITNESSES
9 WHO HAVE TESTIFIED IN THIS CASE YOU MAY BELIEVE ONE
10 WITNESS OVER SEVERAL WITNESSES, OR SEVERAL WITNESSES
11 OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE
12 TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART
13 OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY
14 BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY, OR
15 YOU MAY REJECT THE TESTIMONY OF A WITNESS IN ITS
16 ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS
17 EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE OR
18 OTHER MOTIVE IN THIS CASE. YOU MAY ALSO CONSIDER THE
19 APPEARANCE AND MANNER OF THE WITNESS STAND.

20 THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
21 WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSION. AN
22 EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL
23 EXPERT WITNESSES. A WITNESS WHO BY EDUCATION AND
24 EXPERIENCE HAS BECOME EXPERT IN SOME ART, SCIENCE,
25 PROFESSION OR CALLING MAY STATE AN OPINION AS TO

1 RELEVANT AND MATERIALS IN WHICH THE WITNESS CLAIMS TO
2 BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THAT
3 OPINION. YOU SHOULD CONSIDER ANY EXPERT OPINION
4 RECEIVED INTO EVIDENCE IN THIS CASE, AND LIKE OTHER
5 EVIDENCE, GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF
6 YOU DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS
7 NOT BASED ON SUFFICIENT EDUCATION AND EXPERIENCE, OR
8 IF YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF
9 THE OPINION ARE NOT SOUND, OR THAT THE OPINION IS
10 OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE
11 OPINION ENTIRELY. AN EXPERT WITNESS'S TESTIMONY IS TO
12 BE GIVEN NO GREATER WEIGHT THAN THAT OF OTHER
13 WITNESSES SIMPLY BECAUSE A WITNESS IS AN EXPERT.
14 FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN EXPERT'S
15 OPINION EVEN THOUGH IT IS NOT CONTRADICTED.

16 I INSTRUCT YOU AND EMPHASIZE TO YOU THAT THE FACT
17 THAT THE DEFENDANTS DID NOT TESTIFY IS NOT A FACTOR TO
18 BE CONSIDERED BY YOU IN ANY WAY IN YOUR DELIBERATIONS
19 AND IN YOUR CONSIDERATION OF THE QUESTIONS OF THE
20 GUILT OR INNOCENCE OF EACH OF THE DEFENDANTS. IT MUST
21 NOT BE CONSIDERED BY YOU IN ANY MANNER WHATSOEVER. A
22 DEFENDANT HAS THE CONSTITUTIONAL RIGHT TO REMAIN
23 SILENT, AND THE ASSERTION OF THIS RIGHT MUST NOT BE
24 CONSIDERED BY YOU IN YOUR DELIBERATIONS. I REPEAT,
25 UNDER YOUR OATH AS JURORS YOU ARE TO DRAW NO

1 CONCLUSION WHATSOEVER FROM THE FACT THAT THE
2 DEFENDANTS IN THIS CASE DID NOT TESTIFY. THE FACT
3 THAT THE DEFENDANTS DID NOT TESTIFY SHOULD NOT EVEN BE
4 DISCUSSED IN THE JURY ROOM. THE BURDEN OF PROOF, AS I
5 HAVE STATED TO YOU, IS ON THE STATE. A DEFENDANT IS
6 NOT REQUIRED TO PROVE HIS INNOCENCE, THE BURDEN OF
7 PROOF REMAINS ON THE STATE TO PROVE GUILT BEYOND A
8 REASONABLE DOUBT AS TO EACH DEFENDANT AND AS TO EACH
9 CHARGE.

10 IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE WHO
11 ARE ACTING TOGETHER IN COMMITTING A CRIME, THE ACT OF
12 ONE IS THE ACT OF ALL. A PERSON WHO JOINS WITH
13 ANOTHER TO COMMIT AN UNLAWFUL ACT IS CRIMINALLY
14 RESPONSIBLE FOR EVERYTHING DONE BY THE OTHER PERSON
15 WHICH HAPPENS AS A PROBABLE OR NATURAL CONSEQUENCE OF
16 THE ACTS DONE IN THE CARRYING OUT THE COMMON PLAN AND
17 PURPOSE. IF TWO OR MORE PEOPLE ARE TOGETHER, ACTING
18 TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE
19 OFFENSE, THE ACT OF ONE IS THE ACT OF ALL, OR AS IT IS
20 SOMETIMES SAID, THE HAND OF ONE IS THE HAND OF ALL.

21 PRIOR KNOWLEDGE THAT A CRIME IS GOING TO BE
22 COMMITTED, WITHOUT MORE, IS NOT SUFFICIENT TO MAKE A
23 PERSON GUILTY OF THAT CRIME. MERE KNOWLEDGE THAT
24 ANOTHER PERSON IS GOING TO COMMIT A CRIME, EVEN IF THE
25 DEFENDANT IS PRESENT WHEN THE CRIME IS COMMITTED, IS

1 NOT SUFFICIENT TO CONVICT THE DEFENDANT AS A
2 PRINCIPAL. GUILT AS A PRINCIPAL IS SHOWN BY ACTUAL OR
3 CONSTRUCTIVE PRESENCE AT THE SCENE AS THE RESULT OF
4 PRIOR ARRANGEMENT. THEREFORE, A FINDING OF A PRIOR
5 ARRANGED PLAN OR COMMON SCHEME IS NECESSARY FOR A
6 FINDING OF GUILT AS A PRINCIPAL. THE STATE MUST PROVE
7 BEYOND A REASONABLE DOUBT BY COMPETENT EVIDENCE THE
8 THEORY OF THE HAND OF ONE IS THE HAND OF ALL. A
9 PRINCIPAL IN A CRIME IS ONE WHO EITHER ACTUALLY
10 COMMITS THE CRIME OR WHO IS PRESENT, AIDING, ABETTING
11 OR ASSISTING IN COMMITTING THE CRIME. WHEN A PERSON
12 DOES AN ACT IN THE PRESENCE OF AND WITH THE ASSISTANCE
13 OF ANOTHER THE ACT IS DONE BY BOTH. WHERE TWO OR MORE
14 ARE ACTING WITH A COMMON PLAN OR INTENT OR PRESENT AT
15 THE COMMISSION OF A CRIME IT IS NOT, IT DOES NOT
16 MATTER WHO ACTUALLY COMMITS THE CRIME, ALL ARE GUILTY.
17 THE HAND OF ONE IS THE HAND OF ALL. PRESENT AT THE
18 COMMISSION OF A CRIME MEANS TO BE SUFFICIENTLY NEAR TO
19 AID AND ABET AND ASSIST IN THE COMMISSION OF THE
20 CRIME. HOWEVER, MERE PRESENCE AT THE SCENE OF A CRIME
21 IS NOT SUFFICIENT TO CONVICT ONE AS A PRINCIPAL ON THE
22 THEORY OF AIDING AND ABETTING. INTENT IS ALSO A
23 NECESSARY ELEMENT, FOR THERE MUST HAVE BEEN A COMMON
24 DESIGN OR INTENT TO COMMIT THE CRIME, AND THE CRIME
25 MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE

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1 PERSON AIDING AND ABETTING BY SOME OVERT ACT. INTENT
2 MEANS INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT
3 ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE SHOWN BY
4 ACTS AND CONDUCT OF THE DEFENDANT AND OTHER
5 CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND
6 REASONABLY INFER INTENT. THE STATE MUST PROVE THESE
7 ELEMENTS BEYOND A REASONABLE DOUBT.

8 MERE PRESENCE AT THE SCENE IS NOT SUFFICIENT TO
9 PROVE SOMEONE GUILTY OF A CRIME. A DEFENDANT'S MERE
10 PRESENCE WHERE A CRIME IS BEING COMMITTED, OR MERE
11 ASSOCIATION WITH A PERSON WHO COMMITS A CRIME DOES NOT
12 MAKE A DEFENDANT AN ACCOMPLICE, OR AN AIDER OR AN
13 ABETTER OF THE PERSON COMMITTING THE CRIME. THE
14 BURDEN IS ON THE STATE TO PROVE EVERY ELEMENT OF THE
15 CRIME CHARGED. IF YOU FIND AFTER REVIEWING ALL OF THE
16 EVIDENCE THAT THE STATE HAS PROVEN THAT THE DEFENDANT
17 WAS ONLY PRESENT AT THE SCENE OF A CRIME AND THAT THEY
18 HAVE NOT PROVED BEYOND A REASONABLE DOUBT ANY OTHER
19 PARTICIPATION IN THE CRIME, THEN YOU MUST FIND THE
20 DEFENDANT NOT GUILTY. THE LAW IS THAT PROOF OF
21 PRESENCE AT THE SCENE OF A CRIME IS NOT SUFFICIENT TO
22 FIND SOMEONE GUILTY.

23 IF TWO OR MORE COMBINE TOGETHER TO COMMIT AN
24 UNLAWFUL ACT AND IN THE EXECUTION OF THAT CRIMINAL ACT
25 A HOMICIDE IS COMMITTED BY ONE OF THE ACTORS AS A

1 PROBABLE OR NATURAL CONSEQUENCE OF THE ACTS DONE IN
2 PURSUANCE OF THE COMMON DESIGN, ALL PRESENT,
3 PARTICIPATING IN THE UNLAWFUL UNDERTAKING ARE AS
4 GUILTY AS THE ONE WHO COMMITTED THE FATAL ACT. THE
5 COMMON PURPOSE MAY NOT HAVE BEEN TO KILL OR MURDER,
6 BUT IF IT WAS UNLAWFUL AND IN THE EXECUTION OF THIS
7 COMMON PURPOSE A HOMICIDE IS COMMITTED BY ONE AS A
8 PROBABLE OR NATURAL CONSEQUENCE OF THE ACTS DONE IN
9 PURSUANCE OF THE COMMON DESIGN, THEN ALL PRESENT AND
10 PARTICIPATING IN THE UNLAWFUL DESIGN ARE AS GUILTY AS
11 THE SLAYER.

12 AN ISSUE IN THIS CASE IS THE IDENTIFICATION OF
13 THE DEFENDANTS AS A PERSON WHO COMMITTED THE CRIME
14 CHARGED. THE STATE HAS THE BURDEN OF PROVING IDENTITY
15 BEYOND A REASONABLE DOUBT. YOU MUST BE SATISFIED
16 BEYOND A REASONABLE DOUBT OF THE ACCURACY OF THE
17 IDENTIFICATION OF THE DEFENDANT BEFORE YOU MAY CONVICT
18 THE DEFENDANT. IDENTIFICATION TESTIMONY IS AN
19 EXPRESSION OF BELIEF OR IMPRESSION BY A WITNESS. YOU
20 MUST DETERMINE THE ACCURACY OF THE IDENTIFICATION OF
21 THE DEFENDANT. YOU MUST CONSIDER THE BELIEVABILITY OF
22 EACH IDENTIFICATION WITNESS IN THE SAME WAY AS ANY
23 OTHER WITNESS. YOU MAY CONSIDER WHETHER THE WITNESS
24 HAD AN ADEQUATE OPPORTUNITY TO OBSERVE THE OFFENDER AT
25 THE TIME OF THE OFFENSE. THIS WILL BE AFFECTED BY

1 THINGS LIKE, HOW LONG OR SHORT A TIME WAS AVAILABLE;
2 HOW FAR OR CLOSE THE WITNESS WAS; THE LIGHTING
3 CONDITION, AND WHETHER THE WITNESS HAD THE CHANCE TO
4 SEE OR KNOW THE PERSON IN THE PAST. ONCE AGAIN I
5 INSTRUCT YOU, THE BURDEN OF PROOF ON THE STATE EXTENDS
6 TO EVERY ELEMENT OF EACH CRIME CHARGED, AND THIS
7 SPECIFICALLY INCLUDES THE BURDEN OF PROVING BEYOND A
8 REASONABLE DOUBT THE IDENTITY OF THE DEFENDANT AS THE
9 PERSON WHO COMMITTED THE CRIME. IF AFTER EXAMINING
10 THE TESTIMONY YOU HAVE A REASONABLE DOUBT AS TO THE
11 ACCURACY OF THE IDENTIFICATION YOU MUST FIND THE
12 DEFENDANT NOT GUILTY.

13 IN ORDER TO ESTABLISH CRIMINAL LIABILITY,
14 CRIMINAL INTENT IS REQUIRED. FOR EXAMPLE, THE MENTAL
15 STATE REQUIRED TO BE PROVEN BY THE STATE FOR A
16 PARTICULAR CRIME MIGHT BE PURPOSE, INTENT, KNOWLEDGE,
17 RECKLESS OR CRIMINAL NEGLIGENCE. CRIMINAL INTENT MUST
18 BE PROVEN BY THE STATE BEYOND A REASONABLE DOUBT.
19 CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST BE
20 DETERMINED BY THE JURY FROM THE CIRCUMSTANCES
21 SURROUNDING THE SITUATION. THERE IS NOT WAY TO PROVE
22 INTENT TO A MATHEMATICAL CERTAINTY. THERE IS NO WAY
23 MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN AND
24 DETERMINE WHAT THE PERSON HAD IN MIND, SO THE LAW SAYS
25 THAT CRIMINAL INTENT MAY BE INFERRED FROM THE

1 CIRCUMSTANCES SHOW TO HAVE EXISTED. THIS IS HOW YOU
2 MAKE A DETERMINATION OF WHETHER OR NOT THE ELEMENT
3 REQUIRING INTENT WAS PRESENT. IT IS NOT NECESSARY TO
4 ESTABLISH BY DIRECT AND POSITIVE, BUT INTENT MAYBE
5 ESTABLISHED BY INFERENCE IN THE SAME WAY AS ANY OTHER
6 FACT, BY TAKING INTO CONSIDERATION THE ACTS OF THE
7 PARTIES AND ALL THE FACTS AND CIRCUMSTANCES OF THE
8 CASE. CRIMINAL INTENT IS A MENTAL STATE, A CONSCIOUS
9 WRONG DOING. IT IS UP TO YOU DETERMINE THAT THE
10 DEFENDANT INTENDED -- WHAT THE DEFENDANT INTENDED TO
11 DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE EXISTED.
12 CRIMINAL INTENT CAN ARISE FROM ACTION OR A FAILURE TO
13 ACT. IT MAY ARISE FROM NEGLIGENCE, RECKLESSNESS, OR
14 INDIFFERENCE TO DUTY, OR TO CONSEQUENCES THAT ARE
15 CONSIDERED BY THE LAW TO BE THE EQUIVALENT OF CRIMINAL
16 INTENT.

17 THE DEFENDANTS ARE CHARGED WITH ARMED ROBBERY.
18 IN ORDER TO PROVE THIS OFFENSE THE STATE MUST FIRST
19 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
20 TOOK PERSONAL PROPERTY FROM THE PERSON OR PRESENCE OF
21 ANOTHER PROPERTY. PROPERTY IS IN THE PRESENCE OF A
22 PERSON IF IT IS WITHIN THE PERSON'S REACH, INSPECTION,
23 OBSERVATION OR CONTROL SO THAT A PERSON COULD, IF NOT
24 OVERCOME WITH VIOLENCE OR PREVENTED BY FEAR, KEEP
25 POSSESSION OF THE PROPERTY. THE STATE MUST ALSO PROVE

1 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT CARRIED
2 THE PROPERTY AWAY INTENDING TO PERMANENTLY DEPRIVE THE
3 OWNER OF THE PROPERTY AND TO KEEP THE PROPERTY FOR THE
4 DEFENDANT'S OWN USE. THE SLIGHTEST REMOVAL OF THE
5 PROPERTY OR THE COMPLETE POSSESSION OF THE PROPERTY,
6 EVEN FOR AN INSTANT, BY THE DEFENDANT IS SUFFICIENT TO
7 SHOW A TAKING AND CARRYING AWAY OF THE PROPERTY. THE
8 TAKING AND CARRYING AWAY OF THE PROPERTY MUST HAVE
9 BEEN DONE WITH VIOLENCE OR BY PUTTING THE OWNER OF THE
10 PROPERTY IN FEAR OF VIOLENCE. AND FINALLY, THE STATE
11 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
12 DEFENDANT WAS ARMED WITH A DEADLY WEAPON DURING THE
13 ROBBERY. A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT
14 OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
15 BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS A
16 DEADLY WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES
17 IN EACH CASE. THE FOLLOWING ARE EXAMPLES OF
18 INSTRUMENTS WHICH MAY BE DEADLY WEAPONS: A PISTOL,
19 SHOT GUN, A RIFLE, A DAGGER, A KNIFE, A SLING SHOT,
20 METAL KNUCKLES, A RAZOR, GASOLINE, A FIRE BOMB OR A
21 MOLOTOV COCKTAIL; AND LIGHTER FLUID. A GUN MAY BE A
22 DEADLY WEAPON EVEN IF IT IS NOT OPERATING.

23 AN ATTEMPT IS AN EFFORT TO ACCOMPLISH A CRIME
24 WHICH DOES NOT SUCCEED. AN ATTEMPT INCLUDES A
25 SPECIFIC INTENT TO DO A PARTICULAR CRIMINAL ACT ALONG

1 WITH AN ACT FALLING SHORT OF THE ACT INTENDED. THE
2 STATE MUST SHOW MORE THAN MERE PREPARATION AND INTENT.
3 THERE MUST BE SOME OVERT ACT ACCOMPANIED IN THE EFFORT
4 TO COMMIT THE CRIME. INTENT MEANS INTENDING THE
5 RESULT WHICH ACTUALLY OCCURS NOT ACCIDENTALLY OR
6 INVOLUNTARILY. INTENT MAY BE SHOWN BY ACTS AND
7 CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM
8 WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT.

9 THE DEFENDANTS ARE ALSO CHARGED WITH FIRST DEGREE
10 BURGLARY. THE STATE MUST FIRST PROVE BEYOND A
11 REASONABLE DOUBT THAT THE DEFENDANT ENTERED A DWELLING
12 WITHOUT CONSENT. A DWELLING IS ANY BUILDING OR
13 PORTION OF A BUILDING IN WHICH A PERSON ORDINARILY
14 SLEEPS. A BUILDING CONSTRUCTED AS A DWELLING THAT HAS
15 NEVER BEEN OCCUPIED CANNOT BE CONSIDERED A DWELLING
16 FOR PURPOSES OF BURGLARY, BUT A BUILDING IS A DWELLING
17 EVEN IF THE RESIDENTS ARE TEMPORARILY ABSENT FROM THE
18 BUILDING. IN ORDER TO PROVE THAT THE DEFENDANT
19 ENTERED THE DWELLING THE STATE DOES NOT HAVE TO SHOW
20 THAT THE DEFENDANT'S ENTIRE BODY ENTERED THE
21 DWELLING, THE SMALLEST ENTRY IS SUFFICIENT. IT MAY BE
22 ANY PART OF THE BODY SUCH AS A HAND, A FOOT, OR EVEN
23 AN INSTRUMENT SUCH AS A HOOK OR OTHER INSTRUMENT. IN
24 ADDITION, THE STATE DOES NOT HAVE TO PROVE THAT FORCE
25 WAS USED TO GAIN ENTRY. IF A PERSON ENTERS A

1 BUILDING BY USING DECEPTION, ARTIFICE, TRICK OR
2 MISREPRESENTATION TO GET CONSENT TO ENTER, THIS IS AN
3 ENTRY WITHOUT CONSENT. NEXT, THE STATE MUST PROVE
4 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT INTENDED
5 TO COMMIT A CRIME, EITHER A FELONY OR A MISDEMEANOR,
6 AT THE TIME OF THE ENTRY. THE MERE ENTRY INTO A
7 DWELLING WITHOUT CONSENT IS NOT BURGLARY. IF THE
8 INTENT TO COMMIT A CRIME IS FORMED AFTER THE ENTRY IT
9 IS NOT BURGLARY. ON THE OTHER HAND, IF THE DEFENDANT
10 INTENDED TO COMMIT A CRIME AT THE TIME OF THE ENTRY IT
11 IS BURGLARY, EVEN IF THE INTENT WAS ABANDONED AFTER
12 ENTRY. IT DOES NOT MATTER THAT THE INTENDED CRIME WAS
13 NOT COMPLETED. INTENT MAY BE SHOWN BY ACTS AND
14 CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM
15 WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT.
16 AND FINALLY, THE STATE MUST PROVE BEYOND A REASONABLE
17 DOUBT THAT WHEN ENTERING, WHILE IN THE DWELLING, OR
18 WHILE FLEEING, THE DEFENDANT OR AN ACCOMPLICE, WAS
19 ARMED WITH A DEADLY WEAPON OR EXPLOSIVE. AS I'VE SAID
20 BEFORE, A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT OR
21 SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
22 BODILY HARM, WHETHER THE INSTRUMENT HAS BEEN USED AS A
23 DEADLY WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES
24 IN EACH CASE. I HAVE ALREADY GIVEN YOU EXAMPLES OF
25 THOSE INSTRUMENTS THAT MAY BE DEADLY WEAPONS AND I'M

1 NOT GOING TO REPEAT THAT.

2 COURT REPORTER: JUST A MINUTE, JUDGE. OKAY, I'M
3 READY.

4 THE COURT: OKAY, THANK YOU.

5 BREAKING IN IS NOT AN ELEMENT OF THE CRIME OF
6 BURGLARY. THE PHRASE, ENTERS A BUILDING WITHOUT
7 CONSENT IS DEFINED AS, TO ENTER WITHOUT THE CONSENT OF
8 A PERSON IN LAWFUL POSSESSION OR TO ENTER BY USING
9 DECEPTION, ARTIFICE, TRICK OR MISREPRESENTATION TO
10 GAIN CONSENT TO ENTER FROM THE PERSON IN LAWFUL
11 POSSESSION. DECEPTION IS DEFINED AS USE OF DECEIT.
12 ARTIFICE IS DEFINED AS SUBTLE BUT BASE DECEPTION.
13 TRICK IS DEFINED AS AN ACTION DESIGNATED TO ACHIEVE AN
14 END BY DECEPTION OR FRAUDULENT MEANS.
15 MISREPRESENTATION IS DEFINED AS TO GIVE AN INCORRECT
16 OR MISLEADING REPRESENTATION OF.

17 THE DEFENDANTS IN THIS CASE ARE ALSO CHARGED WITH
18 MURDER. THE STATE MUST PROVE BEYOND A REASONABLE
19 DOUBT THAT THE DEFENDANT KILLED ANOTHER PERSON WITH
20 MALICE AFORETHOUGHT. MALICE IS HATRED, ILL WILL OR
21 HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE
22 INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE
23 OR EXCUSE AND WITH AN INTENT TO INFLECT AN INJURY OR
24 UNDER CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL
25 INTENT. MALICE AFORETHOUGHT DOES NOT REQUIRE THAT

1 MALICE EXIST FOR ANY PARTICULAR TIME BEFORE THE ACT IS
2 COMMITTED, BUT MALICE MUST EXIST IN THE MINDS OF THE
3 DEFENDANTS JUST BEFORE AND AT THE TIME THE ACT IS
4 COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF
5 THE PREVIOUS EVIL INTENT AND THE ACT. MALICE
6 AFORETHOUGHT MAY BE EXPRESSED OR INFERRED. THE TERMS,
7 EXPRESS AND INFERRED DO NOT MEAN DIFFERENT KINDS OF
8 MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE
9 SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR
10 BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH
11 ARE PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON
12 SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR
13 ANOTHER OR WHEN THE PERSON PREPARED BEFOREHAND TO DO
14 THE ACT WHICH WAS LATER ACCOMPLISHED. FOR EXAMPLE,
15 LYING IN WAIT FOR A PERSON OR ANY OTHER ACTS OF
16 PREPARATION GOING TO SHOW THAT THE DEED WAS WITHIN THE
17 DEFENDANT'S MIND WOULD BE EXPRESS MALICE. MALICE MAY
18 ALSO BE INFERRED FROM THE CONDUCT SHOWING A TOTAL
19 DISREGARD FOR HUMAN LIFE. INFERRED MALICE MAY ALSO
20 ARISE WHEN THE DEED IS DONE WITH A DEADLY WEAPON. AS
21 I TOLD YOU BEFORE, A DEADLY WEAPON IS ANY ARTICLE,
22 INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH
23 OR GREAT BODILY HARM, AND WHETHER AN INSTRUMENT HAS
24 BEEN USED AS A DEADLY WEAPON DEPENDS ON THE FACTS AND
25 CIRCUMSTANCES IN EACH CASE. AGAIN, I REFER YOU TO YOU

1 THE EXAMPLES OF INSTRUMENTS WHICH MAY BE DEADLY
2 WEAPONS WHICH I HAVE STATED EARLIER.

3 IF A PERSON COMPLETELY WITHDRAWS FROM THE COMMON
4 DESIGN OR PLAN AND COMMUNICATES HIS WITHDRAWAL TO HIS
5 ASSOCIATES UNDER CIRCUMSTANCES THAT PERMIT THE
6 ASSOCIATES TO WITHDRAW THEN THE PERSON ESCAPES
7 CRIMINAL RESPONSIBILITY FOR THE ACTS OF THE
8 ASSOCIATES. HOWEVER, IF THE WITHDRAWAL WAS NOT
9 COMMUNICATED TO A PARTICULAR ASSOCIATE OR IF THAT
10 ASSOCIATE DID NOT HAVE THE OPPORTUNITY TO WITHDRAW
11 AFTER THE COMMUNICATION THEN THE PERSON REMAINS
12 RESPONSIBLE FOR THE ACTIONS OF THAT ASSOCIATE THAT
13 WERE THE NATURAL AND PROBABLE CONSEQUENCES OF THEIR
14 COMMON DESIGN.

15 NOW, THE LAW REQUIRES THAT A PERSON INVOLVED IN A
16 COMMON DESIGN MUST WITHDRAW ENTIRELY AND COMPLETELY
17 FROM IT, AND MUST COMMUNICATE THAT WITHDRAWAL TO HIS
18 ASSOCIATE. A PERSON WHO CONTINUES IN THE COMMON
19 DESIGN CANNOT CLAIM WITHDRAWAL. IT IS THE BURDEN ON
20 THE STATE TO PROVE THAT THE DEFENDANT HAD NOT
21 WITHDRAWN FROM AN UNLAWFUL COMMON DESIGN OR PLAN AT
22 THE RELEVANT TIME.

23 VOLUNTARY INTOXICATION OR THE USE OF DRUGS DOES
24 NOT CONSTITUTE A DEFENSE TO A CRIME.

25 I AM REQUIRED TO DECLARE THE LAW TO YOU AS I HAVE

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1 DONE THROUGH THESE INSTRUCTIONS TO HELP GUIDE YOU TO A
2 JUST AND LAWFUL VERDICT. WHETHER SOME OF THESE
3 INSTRUCTIONS WILL APPLY WILL DEPEND UPON WHAT YOU FIND
4 TO BE THE FACTS IN THIS CASE. THE FACT THAT I HAVE
5 INSTRUCTED YOU ON VARIOUS SUBJECTS IN THIS CASE MUST
6 NOT BE TAKEN AS INDICATING AN OPINION OF THIS COURT AS
7 TO WHAT YOU SHOULD FIND TO BE THE FACTS OR AS TO WHAT
8 YOUR VERDICT SHOULD BE.

9 YOUR VERDICT MUST REPRESENT THE CONSIDERED
10 JUDGEMENT OF EACH JUROR. IN ORDER TO RETURN A VERDICT
11 IT IS NECESSARY THAT EACH ONE OF YOU AGREE. YOUR
12 VERDICT MUST BE UNANIMOUS, ALL TWELVE OF YOU MUST
13 AGREE ON THE VERDICT. YOUR VERDICT CANNOT BE BASED ON
14 SYMPATHY, PASSION, PREJUDICE, EMOTION OR ANY OTHER
15 CONSIDERATION NOT IN EVIDENCE IN THIS CASE. REMEMBER,
16 YOU ARE NOT PARTISANS FAVORING ONE PARTY OVER ANOTHER,
17 YOU ARE THE JUDGES OF THE FACTS. YOUR SOLE INTEREST IS
18 TO SEEK THE TRUTH FROM THE EVIDENCE IN THIS CASE AND
19 RENDER A FAIR AND JUST VERDICT.

20 NOW, LADIES AND GENTLEMEN OF THE JURY, I HAVE
21 FIVE DIFFERENT VERDICT FORMS FOR EACH ONE OF THE FIVE
22 DEFENDANTS, AS YOU HAVE GOT TO JUDGE THEM EACH
23 SEPARATELY, AND I'M GOING TO GO OVER JUST ONE OF THEM,
24 JUST TO GIVE YOU AN IDEA OF HOW YOU ARE TO FILL THEM
25 OUT. THIS IS THE VERDICT FORM, MADAM FORELADY. IT

1 SAYS, "PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW AND
2 FOLLOW THE ACCOMPANYING INSTRUCTIONS CAREFULLY." AND
3 THE FIRST QUESTION IS, "WE, THE JURY, UNANIMOUSLY FIND
4 THE DEFENDANT AS TO THE CHARGE OF MURDER," AND THEN
5 Y'ALL HAVE TO DECIDE WHETHER THAT DEFENDANT IS GUILTY
6 OR NOT GUILTY, AND YOU WILL CIRCLE WHICHEVER ONE YOU
7 FIND. THE NEXT QUESTION, "WE, THE JURY, UNANIMOUSLY
8 FIND THE DEFENDANT AS TO THE CHARGE OF BURGLARY IN THE
9 FIRST DEGREE," EITHER GUILTY OR NOT GUILTY. NOW EACH
10 ONE OF THESE IS FOR EACH SEPARATE DEFENDANT. YOU HAVE
11 GOT TO DETERMINE EACH DEFENDANT'S GUILT AS TO EACH
12 CHARGE SEPARATELY. THE THIRD QUESTION, "WE, THE JURY,
13 UNANIMOUSLY FIND THE DEFENDANT AS TO THE CHARGE OF
14 ARMED ROBBERY," EITHER GUILTY OR NOT GUILTY. NOW, ON
15 THIS CHARGE IF YOU FIND THE DEFENDANT NOT GUILTY OF
16 NUMBER THREE -- IF YOU FIND THE DEFENDANT GUILTY OF
17 NUMBER THREE, EXCUSE ME, THEN SKIP FOUR, STOP AND END
18 YOUR DELIBERATIONS. OKAY? IF YOU FIND THE DEFENDANT
19 NOT GUILTY OF NUMBER THREE, THEN YOU GO TO NUMBER
20 FOUR. AND IF I CAN SEPARATE THIS I'LL TELL YOU WHAT
21 NUMBER FOUR IS. AND NUMBER FOUR READS, "WE, THE JURY,
22 UNANIMOUSLY FIND THE DEFENDANT AS TO THE CHARGE OF
23 ATTEMPTED ARMED ROBBERY," EITHER GUILTY OR NOT
24 GUILTY. OKAY? AND THEN, STOP AND END YOUR
25 DELIBERATIONS. AND MADAM FORELADY, YOU'LL HAVE TO

1 SIGN AND DATE IT. OKAY?

2 ALRIGHT, NOW, I'M NOT GIVING YOU THESE VERDICT
3 FORMS YET, BECAUSE WHAT'S GOING TO HAPPEN NOW IS, I'M
4 GOING TO EXCUSE Y'ALL TO GO BACK TO THE JURY ROOM.
5 AGAIN, YOU CANNOT BEGIN YOUR DELIBERATIONS YET, I HAVE
6 NOT TOLD YOU TO BEGIN YOUR DELIBERATIONS. WHILE YOU
7 ARE BACK IN THE JURY ROOM I WILL GO OVER WITH THE
8 LAWYERS INVOLVED IN THIS CASE AND SEE IF THEY HAVE ANY
9 CORRECTIONS OR ADDITIONS THAT I NEED TO MAKE TO THE
10 CHARGES THAT I GAVE TO YOU. IF I HAVE TO MAKE ANY
11 CORRECTIONS OR ADDITIONS TO THESE CHARGES I WILL BRING
12 YOU BACK OUT HERE AND I WILL DO THAT.

13 NOW, IF THEY TELL ME THAT EVERYTHING IS OKAY, I
14 DON'T NEED TO CHARGE YOU ON ANYTHING, I DON'T NEED TO
15 CORRECT ANYTHING, THEN WHAT I WILL DO IS, I WILL SEND
16 THE VERDICT FORMS BACK INTO THE JURY ROOM WITH YOU,
17 ALL THE EVIDENCE WILL GO BACK INTO THE JURY ROOM WITH
18 YOU, AND YOU WILL BE TOLD TO BEGIN YOUR DELIBERATIONS.
19 OKAY? BUT UNTIL YOU ARE TOLD TO BEGIN YOUR
20 DELIBERATIONS YOU MAY NOT DISCUSS THIS CASE.

21 ALRIGHT, I'M GOING TO LET Y'ALL GO BACK INTO THE
22 JURY ROOM NOW WHILE I GO OVER THIS WITH THE ATTORNEYS.
23 (Whereupon, the jury retires
24 to the jury room and the following
25 takes place out of the presence

1 of the jury.)

2 THE COURT: ALRIGHT, ANYTHING FROM THE STATE?

3 SOLICITOR PASCOE: YES, YOUR HONOR, UNLESS I
4 MISSED IT, WHEN YOU WERE GOING OVER THE CHARGE ON
5 BURGLARY IN THE FIRST DEGREE I DIDN'T HEAR -- HEARD
6 THE AGGRAVATING CIRCUMSTANCES ABOUT THE USE OF A
7 DEADLY WEAPON, BUT I DIDN'T HEAR ABOUT OTHER
8 AGGRAVATING CIRCUMSTANCES SUCH AS INJURY TO THE
9 VICTIM, HOURS OF DARKNESS.

10 THE COURT: OH, YEAH, I'M SORRY, I'VE GOT --
11 THAT'S WHEN WE WERE CHANGING THE TAPE, WEREN'T WE?

12 SOLICITOR PASCOE: PROBABLY WAS, YES, SIR RIGHT
13 AROUND THERE, YES, SIR.

14 THE COURT: YEAH, I APOLOGIZE.

15 SOLICITOR PASCOE: IT'S MS HARRY DOT'S FAULT.

16 THE COURT: NO, NO, NO, IT'S MY FAULT, BUT I DID
17 NOT FINISH LISTING -- YOU'RE CORRECT ABOUT THAT.
18 OKAY. ALRIGHT. ANYTHING FROM THE DEFENDANTS?

19 MR. LACKEY: NO, SIR.

20 MS. ULLMAN: NO SIR.

21 MR. PALMER: NO, SIR, YOUR HONOR.

22 MR. MELLARD: NO, YOUR HONOR.

23 MR. KOGER: NO, YOUR HONOR.

24 THE COURT: OKAY. I'M GOING TO HAVE TO CALL THE
25 JURY BACK OUT HERE AND FINISH READING OVER THAT PART

1 OF THE BURGLARY CHARGE.

2 SOLICITOR PASCOE: AND JUST WHILE I'M THINKING
3 ABOUT IT, BEFORE THEY COME OUT, AND YOUR HONOR WAS
4 PROBABLY GOING TO DO THIS ANYWAY, I WOULD ASK THAT THE
5 ALTERNATE NOT BE EXCUSED, BECAUSE WE DON'T KNOW HOW
6 LONG THIS JURY MIGHT DELIBERATE. I WOULD ASK THAT SHE
7 JUST BE ISOLATED FROM THE OTHER JURORS IN CASE
8 SOMETHING HAPPENS, IF THAT'S OKAY.

9 THE COURT: OKAY. WELL, I'LL DO THAT.

10 OKAY, WOULD YOU BRING THE JURY BACK OUT. I'M
11 JUST GOING TO PICK UP WHERE I LEFT OFF ON THAT CHARGE,
12 I'M NOT GOING TO GO BACK OVER THE WHOLE CHARGE.

13 SOLICITOR PASCOE: YES, SIR, THAT'S FINE.

14 THE COURT: AND I'M NOT GOING TO SEND THE STUFF
15 BACK IN THERE UNTIL THEY FINISH EATING.

16 SOLICITOR PASCOE: YES, SIR. SO, YOU'RE JUST
17 GOING TO TELL THEM NOT TO DELIBERATE UNTIL THEY GET
18 THE EVIDENCE?

1 THE COURT: YES, I'LL LET THEM EAT AND THEN WE'LL
2 GET EVERYTHING BACK IN THERE.

3 OKAY, TELL, THEM TO COME ON OUT.
4 (Whereupon, the jury enters
5 the courtroom and the following
6 takes place in the presence
7 of the jury.)

8 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, WHEN I
9 WAS DOING THE CHARGE ON BURGLARY, I THINK YOU MAY
10 RECALL, MS. WALKER HAD TO STOP AND CHANGE THE TAPE,
11 AND UNFORTUNATELY I DROPPED, I FORGOT TO FINISH
12 READING YOU ON THE CHARGES ABOUT CIRCUMSTANCES WITH
13 DIFFERENT EXAMPLES REGARDING BURGLARY, SO I'M GOING TO
14 FINISH THAT UP. AND THIS IS ON THE BURGLARY CHARGE.

15 FINALLY, THE STATE MUST PROVE BEYOND A REASONABLE
16 DOUBT THAT WHEN ENTERING OR WHILE IN THE DWELLING, OR
17 WHEN FLEEING THE DEFENDANT OR AN ACCOMPLICE CAUSE
18 PHYSICAL INJURY TO ANYONE NOT PARTICIPATING IN THE
19 CRIME OR WHEN ENTERING, WHILE IN THE DWELLING, OR WHEN
20 FLEEING THE DEFENDANT OR AN ACCOMPLICE USED OR
21 THREATENED TO USE A DANGEROUS OBJECT, OR WHEN
22 ENTERING, WHILE IN THE DWELLING, OR WHEN FLEEING THE
23 DEFENDANT OR AN ACCOMPLICE DISPLAYED WHAT WAS OR
24 APPEARED TO BE A KNIFE, PISTOL, REVOLVER, RIFLE, SHOT
25 GUN, MACHINE GUN OR OTHER FIREARM OR THE DEFENDANT OR

1 REMAINED IN THE DWELLING IN THE NIGHT TIME. NIGHT
2 TIME IS THE PERIOD BETWEEN SUNSET AND SUNRISE, DURING
3 WHICH THERE IS NOT ENOUGH DAYLIGHT TO RECOGNIZE A
4 PERSON'S FACE EXCEPT BY ARTIFICIAL LIGHT OR MOONLIGHT.

5 ALRIGHT. ALRIGHT, NOW, HAVING SAID, THAT I
6 UNDERSTAND YOUR LUNCH IS THERE. OKAY? I'M GOING TO
7 EXCUSE Y'ALL TO GO BACK INTO THE JURY ROOM. I WILL LET
8 YOU EAT YOUR LUNCH. WHEN Y'ALL ARE THROUGH EATING
9 YOUR LUNCH IF YOU WILL LET THE BAILIFF KNOW AND SHE
10 WILL LET ME KNOW, AND THEN I'LL SEND THE EVIDENCE BACK
11 IN THERE AND THE VERDICT FORMS AND TELL YOU TO BEGIN
12 YOUR DELIBERATIONS.

13 NOW, WHILE YOU ARE EATING LUNCH YOU ARE NOT TO
14 DISCUSS THIS CASE. OKAY? YOU CANNOT DISCUSS THE CASE.
15 YOU'VE NOW HEARD EVERYTHING, BUT YOU CANNOT DISCUSS
16 THIS CASE UNTIL I SEND THE VERDICT FORMS BACK IN THERE
17 ALONG WITH THE EVIDENCE AND TELL YOU TO BEGIN YOUR
18 DELIBERATIONS. OKAY? Y'ALL ARE NOW EXCUSED TO GO
19 BACK INTO THE JURY ROOM.

20 (Whereupon, the jury retires
21 to the jury room and the following
22 takes place out of the presence
23 of the jury.)

24 THE COURT: ALRIGHT, ANYTHING ELSE FROM THE
25 STATE?

1 SOLICITOR PASCOE: NO, YOUR HONOR.

2 THE COURT: OKAY. ANYTHING FROM ANY OF THE
3 DEFENDANTS?

4 MR. LACKEY: NO, YOUR HONOR.

5 MS. ULLMAN: NO, YOUR HONOR.

6 MR. PALMER: NO, YOUR HONOR.

7 MR. MELLARD: NO, SIR.

8 MR. KOGER: NO, SIR.

9 THE COURT: ALRIGHT, GENTLEMEN, IF Y'ALL WANT TO
10 GO AHEAD AND EAT LUNCH, AND LADIES, IF Y'ALL WANT TO
11 GO GET SOMETHING TO EAT, IT'S GOING TO BE A WHILE
12 BEFORE THE JURY FINISHES. AS SOON AS THEY TELL ME
13 THEY'RE THROUGH I WILL -- WELL, YOU KNOW WHAT, I NEED
14 FOR Y'ALL, BEFORE Y'ALL LEAVE, IF Y'ALL WILL SIT DOWN,
15 MAKE SURE WE'VE GOT ALL THE EVIDENCE STRAIGHT SO
16 THEY'LL BE READY TO GO BACK, YOU KNOW, WHENEVER THE
17 JURY TELLS ME THAT THEY'RE READY TO BEGIN THEIR
18 DELIBERATIONS.

19 SOLICITOR PASCOE: YES, SIR, AND WE DON'T HAVE TO
20 BE HERE TO DO THAT BECAUSE THE BAILIFFS WILL JUST DO
21 THAT?

22 THE COURT: YEAH, THE BAILIFFS ARE GOING TO TAKE
23 IT BACK THERE, BUT I WANT Y'ALL TO MAKE SURE IT'S ALL
24 HERE, AND I THINK THERE WAS ONLY ONE THAT ONLY MARKED
25 FOR IDENTIFICATION - OKAY, MS. HARRY DOT'S GOT THAT.

1 OKAY.

2 SOLICITOR PASCOE: YOUR HONOR, I WANT TO MAKE
3 SURE THAT THE BAILIFFS -- MAKE SURE THAT THE ALTERNATE
4 IS TAKEN OUT AND ISOLATED SOMEWHERE?

5 THE COURT: YEAR, BEFORE THEY BEGIN THEIR
6 DELIBERATIONS. WHAT I WANT YOU TO DO -- THEY CAN EAT,
7 SHE CAN, YEAH, WHENEVER THE EVIDENCE GOES BACK THERE
8 IF YOU WILL HAVE HER GO SIT IN THE, ISN'T THERE
9 ANOTHER ROOM? OKAY. IF YOU WILL DO THAT I'LL
10 APPRECIATE IT.

11 ALRIGHT, WE ARE IN RECESS. THANK Y'ALL.

12 (Recess)

13 (Whereupon, the jury begins
14 their deliberations at 3:15 p.m.)

15 (Whereupon, the jury sends in
16 a note at 5:00 p.m.)

17 COURT REPORTER: THIS WILL BE COURT'S FIVE.

18 (Court's Exhibit Five
19 marked and filed.)

20 THE COURT: ALRIGHT, MS. WALKER, ARE YOU READY?

21 COURT REPORTER: YES, SIR.

22 THE COURT: LADIES AND GENTLEMEN, THE JURY HAS
23 SENT A QUESTION OUT TO ME. IT SAYS, "MAY WE PLEASE
24 HAVE THE CHARGES OF LAW IN RELATION TO HAND OF ONE,
25 HAND OF ALL." SO, WHAT I WAS PLANNING ON DOING WAS

1 READING MY HAND OF ONE, HAND OF ALL CHARGE AGAIN TO
2 THEM EXACTLY AS I GAVE IT TO THEM LAST TIME.

3 ANY OBJECTION FROM THE STATE?

4 SOLICITOR PASCOE: NO, SIR.

5 THE COURT: ANY OBJECTION, MR. LACKEY?

6 MR. LACKEY: NO, SIR, YOUR HONOR.

7 THE COURT: OKAY. MS. ULLMAN?

8 MS. ULLMAN: I GUESS THE ONLY THING I WOULD ASK
9 IF YOU'RE GOING TO DO THAT IS MAYBE ALSO AGAIN CHARGE
10 THEM ON THE MERE PRESENCE.

11 THE COURT: I UNDERSTAND YOUR REQUEST BUT THEY
12 DIDN'T ASK FOR THAT.

13 MS. ULLMAN: YES, SIR.

14 THE COURT: OKAY. MR. PALMER?

15 MR. PALMER: OH, I WAS GOING TO SUGGEST THE
16 SAME, YOUR HONOR, BUT - - -

17 THE COURT: OKAY.

18 MR. PALMER: --- IF YOUR HONOR CONSIDERS THOSE
19 TWO SEPARATE CHARGES ...

20 THE COURT: YEAH, ACTUALLY, IN THE HAND OF ONE
21 CHARGE IT HAS, IT HAS, IT SAYS SOMETHING ABOUT
22 PRESENCE AT THE SCENE NOT BEING ENOUGH. SO, MY HAND
23 OF ONE CHARGE ALREADY HAS THAT IN THERE, SO I'M NOT
24 GOING TO -- IT SAYS, "HOWEVER, MERE PRESENCE AT THE
25 SCENE AT THE CRIME IS NOT SUFFICIENT TO CONVICT ONE AS

1 A PRINCIPAL ON THE THEORY OF AIDING AND ABETTING."

2 MR. PALMER: YES, SIR, THAT WILL BE FINE.

3 MS. ULLMAN: YES, SIR.

4 THE COURT: SO, YEAH, OKAY.

5 MR. MELLARD: YES, THAT WILL BE FINE.

6 MR. KOGER: NO OBJECTION, YOUR HONOR.

7 THE COURT: OKAY. ALRIGHT, IF YOU'LL BRING THE
8 JURY ON OUT. EVEN THOUGH THE ALTERNATE HAS NOT BEEN
9 PART OF THE DELIBERATIONS, SINCE I'M GOING TO MAKE A
10 CHARGE I'M GOING TO BRING HER BACK OUT HERE ALSO JUST
11 SO SHE'LL BE IN THE SAME POSITION Y'ALL ARE IN.

12 (Whereupon, the jury enters
13 the courtroom and the following
14 takes place in the presence
15 of the jury.)

16 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, I HAD
17 THE REQUEST THAT Y'ALL WANTED THE CHARGE OF HAND OF
18 ONE, HAND OF ALL AGAIN. SO, I'M GOING TO READ THAT
19 CHARGE TO YOU AGAIN, AND THIS IS IT.

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

1 THE ACTS DONE IN CARRYING OUT THE COMMON PLAN AND
2 PURPOSE. IF TWO OR MORE PEOPLE ARE TOGETHER, ACTING
3 TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE
4 OFFENSE, THE ACT OF ONE IS THE ACT OF ALL, OR AS IS
5 SOMETIMES SAID, THE HAND OF ONE IS THE HAND OF ALL.
6 PRIOR KNOWLEDGE THAT A CRIME IS GOING TO BE COMMITTED
7 WITHOUT MORE IS NOT SUFFICIENT TO MAKE A PERSON GUILTY
8 OF THAT CRIME. MERE KNOWLEDGE THAT ANOTHER PERSON IS
9 GOING TO COMMIT A CRIME, EVEN IF THE DEFENDANT IS
10 PRESENT WHEN THE CRIME IS COMMITTED IS NOT SUFFICIENT
11 TO CONVICT THE DEFENDANT AS A PRINCIPAL. GUILT AS A
12 PRINCIPAL IS SHOWN BY ACTUAL OR CONSTRUCTIVE PRESENCE
13 AT THE SCENE AS A RESULT OF PRIOR ARRANGEMENT.
14 THEREFORE, A FINDING OF A PRIOR ARRANGED PLAN OR
15 COMMON SCHEME IS NECESSARY FOR A FINDING OF GUILT AS A
16 PRINCIPAL. THE STATE MUST PROVE BEYOND A REASONABLE
17 DOUBT BY COMPETENT EVIDENCE, THE THEORY OF, THE HAND
18 OF ONE IS THE HAND OF ALL. A PRINCIPAL IN A CRIME IS
19 ONE WHO EITHER ACTUALLY COMMITS THE CRIME OR WHO IS
20 PRESENT, AIDING, ABETTING OR ASSISTING IN COMMITTING
21 THE CRIME. WHEN A PERSON DOES AN ACT IN THE PRESENCE
22 OF AND WITH THE ASSISTANCE OF ANOTHER THE ACT IS DONE
23 BY BOTH. WHERE TWO OR MORE ACTING WITH A COMMON PLAN
24 OR INTENT ARE PRESENT AT THE COMMISSION OF A CRIME IT
25 DOESN'T MATTER WHO ACTUALLY COMMITS THE CRIME, ALL ARE

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1 GUILTY. THE HAND OF ONE IS THE HAND OF ALL. PRESENT
2 AT THE COMMISSION OF A CRIME MEANS TO BE SUFFICIENTLY
3 NEAR TO AID AND ABET AND ASSIST IN THE COMMISSION OF
4 THE CRIME. HOWEVER, MERE PRESENCE AT THE SCENE OF A
5 CRIME IS NOT SUFFICIENT TO CONVICT ONE AS A PRINCIPAL
6 ON THE THEORY OF AIDING AND ABETTING. INTENT IS ALSO
7 A NECESSARY ELEMENT, FOR THERE MUST HAVE BEEN A COMMON
8 DESIGN OR INTENT TO COMMIT THE CRIME, AND THE CRIME
9 MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE
10 PERSON AIDING AND ABETTING BY SOME OVERT ACT. INTENT
11 MEANS INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT
12 ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE SHOWN BY
13 ACTS AND CONDUCT OF THE DEFENDANT AND OTHER
14 CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND
15 REASONABLY INFER INTENT. THE STATE MUST PROVE THESE
16 ELEMENTS BEYOND A REASONABLE DOUBT.

17 ALRIGHT, LADIES AND -- YOU CAN'T ASK A QUESTION,
18 NO, MA'AM. I KNOW YOU'RE GETTING TO ASK SOMETHING,
19 YOU LOOKED LIKE YOU WERE. I'VE READ THE CHARGES TO
20 YOU. OKAY? NOW, IF Y'ALL HAVE ANOTHER QUESTION YOU
21 CAN GO BACK THERE AND IF YOU WANT TO REWORD THE
22 QUESTION. OKAY? SO, I'VE READ THE CHARGE TO YOU, AND
23 Y'ALL ARE NOW EXCUSED TO GO BACK AND RESUME YOUR
24 DELIBERATIONS.

25 AND IF YOU WILL KEEP THE ALTERNATE IN THE

1 SEPARATE ROOM. OKAY?

2 THANK Y'ALL.

3 (Whereupon, the jury retires
4 to the jury room and continues
5 their deliberations.)

6 THE COURT: AND THIS IS COURT'S EXHIBIT FIVE.

7 FROM THE FOREPERSON -- IT LOOKED LIKE SHE WAS
8 TRYING TO SAY SOMETHING, AND I DIDN'T -- SO, IF YOU
9 WANT TO SIT TIGHT AND LET'S SEE. BUT WE'LL BE IN
10 RECESS, TO SEE IF THERE IS ANOTHER QUESTION.

11 OH, AND WHILE WE'RE HERE I'M GOING TO MAKE
12 ANOTHER COURT'S EXHIBIT. WHILE WE WERE IN COURT THIS
13 WEEK, AND THIS IS JUST FOR THE COURT RECORD, THERE WAS
14 A -- ON TUESDAY, DECEMBER FOURTEENTH, THERE WAS
15 LOCATED AN UNFIRED TWENTY-TWO LONG RIFLE CARTRIDGE WAS
16 UNDER ONE OF THE BENCHES IN THE SECOND FLOOR
17 COURTROOM, AND THERE IS A REPORT THAT WAS FILED BY --
18 WHO IS THIS, KEN KINSEY? AND I'M JUST GOING TO HAVE A
19 -- JUST FOR THE RECORD, I'M JUST GOING TO HAVE A COPY
20 -- OH, THERE IT IS UP AT THE TOP, KENNY KINSEY, I'M
21 JUST MAKING THIS A COURT'S EXHIBIT SO IT WILL BE PART
22 OF THE RECORD, JUST TO SHOW, INDICATE WHAT WAS GOING
23 ON IN THE COURTROOM DURING THAT TIME. AND THIS WOULD
24 BE COURT'S EXHIBIT NUMBER SIX. OKAY? THAT'S A COPY.
25 AND IF ANYBODY NEEDS A COPY I'VE GOT A COPY FOR YOU.

1 THAT'S THE ORIGINAL, YOU CAN GIVE IT BACK TO HIM.

2 OKAY?

3 (Court's Exhibit Six
4 marked and filed.)

5 THE COURT: ALRIGHT, WE'RE IN RECESS UNTIL
6 SOMETHING ELSE HAPPENS. OKAY? THANK Y'ALL.

7 (Recess)

8 THE COURT: I HAVE BEEN TOLD THAT THE JURY HAS
9 REACHED A VERDICT.

10 MS. ULLMAN: YOUR HONOR, - - -

11 THE COURT: YES, MA'AM. MARK RAN DOWNSTAIRS, I
12 JUST TRIED TO CALL TO GET HIM.

13 THE COURT: OKAY. WELL, THEN, WE'LL -- OKAY,
14 WELL ...

15 MS. ULLMAN: IT CAN'T BE MORE THAN TWENTY SECONDS.

16 THE COURT: YEAH, YOU CAN ...

17 MS. ULLMAN: I'M SORRY.

18 THE COURT: OKAY. I HAVE BEEN TOLD THAT THE JURY
19 HAS REACHED A VERDICT, AND WE'VE HAD SOME DIFFERENT
20 SUGGESTIONS ABOUT HOW TO HANDLE THAT. I THINK THE
21 SHERIFF'S OFFICE IS CONCERNED A LITTLE BIT ABOUT
22 SECURITY AT THIS STAGE OF THE GAME, AND WHAT I THINK
23 WE WOULD LIKE TO DO IF THERE'S NO OBJECTION FROM THE
24 DEFENSE ATTORNEYS IS TO BRING OUT EACH DEFENDANT,
25 AFTER I BRING THE JURY OUT, BRING OUT A DEFENDANT AT A

1 TIME, AND THEN GO THROUGH WITH THAT DEFENDANT WHAT THE
2 VERDICT IS, AND WHATEVER WE NEED TO DO WITH THAT
3 DEFENDANT. ANY OBJECTION FROM YOU, MR. LACKEY?

4 MR. LACKEY: I DON'T BELIEVE SO, YOUR HONOR.

5 THE COURT: OKAY. MS. ULLMAN?

6 MS. ULLMAN: NO, SIR.

7 THE COURT: MR. PALMER.

8 MR. PALMER: NO OBJECTION.

9 MR. MELLARD: NO OBJECTION.

10 MR. KOGER: NONE, YOUR HONOR.

11 THE COURT: ALRIGHT. IS THE STATE READY?

12 SOLICITOR PASCOE: YES, SIR.

13 THE COURT: OKAY. ARE DEFENDANTS READY?

14 MR. LACKEY: YES, SIR.

15 THE COURT: OKAY. IF YOU WILL BRING OUT
16 CHRISTIAN, HE'S FIRST ON THE LIST. OKAY? AND BRING
17 THE JURY ON OUT. AND THEN WHAT I'M GOING TO HAVE HIM
18 GO BACK ONE AT A TIME, AND SO WE'LL JUST HAVE ONE
19 PERSON OUT HERE AT A TIME.

20 MR. LACKEY: WOULD YOU LIKE US TO STAND, YOUR
21 HONOR?

22 THE COURT: YOU CAN STAND RIGHT THERE. THAT WILL
23 BE FINE.

24 AND EVERYONE IN THE AUDIENCE, LET ME TELL YOU,
25 WE'RE GETTING READY TO ANNOUNCE THE VERDICTS, AND

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1 WHATEVER THE VERDICT IS WE'RE NOT GOING TO HAVE ANY
2 OUTCRIES, NO TALKING, NO YELLING, NO, YOU KNOW,
3 NOTHING. AND IF YOU DON'T THINK YOU CAN SIT QUIETLY
4 YOU NEED TO EXIT THE COURTROOM NOW, BECAUSE IF I HAVE
5 ANY OUTBURSTS OR ANYTHING LIKE THAT YOU WILL BE DEALT
6 WITH. OKAY.

7 (Whereupon, the jury and
8 defendant Christian Coleman
9 enter the courtroom and
10 the following takes place
11 in the presence of the jury.)

12 THE COURT: ALRIGHT, LADIES AND GENTLEMEN OF THE
13 JURY, IT'S MY UNDERSTANDING THAT Y'ALL HAVE REACHED A
14 VERDICT, IS THAT TRUE, MADAM FORELADY?

15 JURY FORELADY: YES.

16 THE COURT: OKAY. AND YOUR VERDICT IS
17 UNANIMOUS?

18 JUROR FORELADY: YES.

19 THE COURT: AND YOUR VERDICT IS, REGARDING EACH
20 ONE OF THE DEFENDANTS AND EACH ONE OF THE CHARGES?

21 JUROR FORELADY: YES.

22 THE COURT: OKAY. NOW, MADAM FORELADY, WHAT
23 WE'RE GOING TO DO IS, WE'RE GOING TO DO EACH DEFENDANT
24 ONE AT A TIME. OKAY? SO, WHAT I'M GOING TO ASK YOU
25 TO DO IS, THE FIRST DEFENDANT THAT WE'RE GOING TO DEAL

1 WITH IS MR. CHRISTIAN COLEMAN. OKAY? SO, IF YOU
2 WOULD GET HIS VERDICT FORM OUT FOR ME, PLEASE, MA'AM,
3 AND IF YOU'LL GET READY. AND MADAM FORELADY, WITH
4 REGARD TO THE DEFENDANT, CHRISTIAN COLEMAN, THE JURY
5 HAS REACHED A UNANIMOUS VERDICT REGARDING ALL OF THE
6 CHARGES AGAINST MR. CHRISTIAN COLEMAN, IS THAT
7 CORRECT?

8 JURY FORELADY: YES, SIR.

9 THE COURT: OKAY. IF YOU WOULD HAND THAT VERDICT
10 FORM TO THE BAILIFF, PLEASE, MA'AM.

11 (Whereupon, the Court examines
12 the verdict forms.)

13 THE COURT: ALRIGHT, MADAM CLERK, IF YOU WOULD
14 PLEASE PUBLISH THE VERDICT.

15 VERDICT OF THE JURY

16 AS TO CHRISTIAN COLEMAN

17 CLERK: IN THE MATTER OF THE STATE VERSUS
18 CHRISTIAN COLEMAN, THE JURY UNANIMOUSLY FINDS THE
19 DEFENDANT AS TO THE CHARGE OF MURDER, GUILTY.

20 AS TO THE CHARGE OF BURGLARY IN THE FIRST DEGREE,
21 GUILT.

22 AS TO THE CHARGE OF ARMED ROBBERY, GUILTY.

23 THE COURT: AND ON THE BACK PAGE, IT WAS SIGNED
24 AND DATED BY THE FORELADY?

25 CLERK: KELLY WILLIAMS, DECEMBER SEVENTEENTH, TWO

1 THOUSAND TEN.

2 THE COURT: ALRIGHT. IS THAT THE DECISION OF THE
3 JURY?

4 JURY FORELADY: YES, SIR.

5 THE COURT: IS THAT STILL YOUR DECISION? IS THAT
6 A YES?

7 JURY FORELADY: YES, SIR.

8 THE COURT: OKAY. ALRIGHT, ANYTHING FROM THE
9 DEFENSE?

10 MR. LACKEY: NOT AT THIS TIME.

11 THE COURT: OKAY. THANK YOU, SIR. ALRIGHT, MR.
12 COLEMAN, YOU'RE EXCUSED TO GO BACK IN THE HOLDING CELL
13 FOR RIGHT NOW. OKAY? IF YOU'D BRING OUT MR. RALPH
14 COLEMAN.

15 (Whereupon, Christian Coleman
16 leaves the courtroom and Ralph
17 Coleman enters the courtroom.)

18 THE COURT: HAS THE JURY REACHED A VERDICT
19 REGARDING MR. RALPH COLEMAN?

20 JURY FORELADY: YES, SIR.

21 THE COURT: IS THAT VERDICT UNANIMOUS?

22 JURY FORELADY: YES, SIR.

23 THE COURT: AND THAT VERDICT IS REGARD TO ALL OF
24 THE CHARGES AGAINST MR. RALPH COLEMAN?

25 JURY FORELADY: YES, SIR.

1 THE COURT: OKAY. IF YOU'D PLEASE HAND THE
2 BAILIFF THE VERDICT FORM, PLEASE, MA'AM.

3 (Whereupon, the Court examines
4 the verdict.)

5 THE COURT: ALRIGHT, MADAM CLERK, IF YOU WILL
6 PUBLISH THE VERDICT FOR ME, PLEASE, MA'AM.

7 VERDICT OF THE JURY

8 AS TO RALPH COLEMAN

9 CLERK: IN THE MATTER OF STATE OF SOUTH CAROLINA
10 VERSUS RALPH BERNARD COLEMAN, THE JURY HAS UNANIMOUSLY
11 FOUND THE DEFENDANT AS TO THE CHARGE OF MURDER,
12 GUILTY.

13 AS TO THE CHARGE OF BURGLARY IN THE FIRST DEGREE,
14 GUILTY.

15 AS TO THE CHARGE OF ARMED ROBBERY, GUILTY.

16 AND IT WAS SIGNED BY KELLY WILLIAMS,
17 TWELVE/SEVENTEEN/TWO THOUSAND TEN.

18 THE COURT: THANK YOU, MA'AM. IS THAT THE
19 DECISION OF THE JURY?

20 JURY FORELADY: YES, SIR.

21 THE COURT: AND IS THAT STILL THE DECISION?

22 JURY FORELADY: YES, SIR.

23 THE COURT: OKAY. ALRIGHT, ANYTHING FROM THE
24 DEFENSE AT THIS TIME?

25 MS. ULLMAN: YOUR HONOR, I DO HAVE A POST TRIAL

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1 MOTION BUT I DON'T KNOW IF YOU WANT ME TO ...

2 THE COURT: NO, WE'LL DO THE POST TRIAL MOTIONS
3 IN A MINUTE IF THAT'S OKAY.

4 MS. ULLMAN: YES, SIR.

5 THE COURT: OKAY. ALRIGHT, THANK YOU, MA'AM.

6 MS. ULLMAN: YOUR HONOR, COULD YOU POLL THE JURY?

7 THE COURT: YES, MA'AM. MADAM CLERK, IF YOU
8 WOULD POLL THE JURY FOR ME, PLEASE, MA'AM.

9 LADIES AND GENTLEMEN OF THE JURY, WHEN THEY
10 REQUEST THAT THE JURY BE POLLED, THE CLERK IS GOING TO
11 ASK EACH ONE OF YOU INDIVIDUALLY IF THIS IS STILL YOUR
12 VERDICT, AND YOU WILL NEED TO RESPOND WHEN SHE CALLS
13 YOUR NAME.

14 YES, MA'AM.

15 CLERK: KELLY WILLIAMS.

16 JUROR WILLIAMS: YES.

17 CLERK: DID YOU FIND THE DEFENDANT GUILTY?

18 JUROR WILLIAMS: I DID.

19 CLERK: DO YOU NOW STATE THAT THE DEFENDANT IS
20 STILL GUILTY?

21 JUROR WILLIAMS: I DO.

22 CLERK: CHARLES STRECKER, DID YOU, WAS THAT
23 CHOICE OF FINDING THE DEFENDANT GUILTY?

24 JUROR STRECKER: YES.

25 CLERK: IS THAT STILL YOUR DECISION?

1 JUROR STRECKER: YES.

2 CLERK: WAYNE LOVETTE.

3 JUROR LOVETTE: YES.

4 CLERK: DID YOU FIND THE DEFENDANT GUILTY?

5 JUROR LOVETTE: YES.

6 CLERK: IS THAT STILL YOUR DECISION?

7 JUROR LOVETTE: YES.

8 CLERK: TAMEKA JOHNSON.

9 JUROR JOHNSON: YES.

10 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON
11 ALL CHARGES?

12 JUROR JOHNSON: YES.

13 CLERK: IS THAT STILL YOUR DECISION?

14 JUROR JOHNSON: YES.

15 CLERK: INDIA JAMISON.

16 JUROR JAMISON: YES.

17 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
18 CHARGES?

19 JUROR JAMISON: YES.

20 CLERK: IS THAT STILL YOUR DECISION?

21 JUROR JAMISON: YES.

22 CLERK: JAMIE HEADDEN, DID YOU FIND THE DEFENDANT
23 GUILTY ON ALL CHARGES?

24 JUROR HEADDEN: YES.

25 CLERK: IS THAT STILL YOUR DECISION?

1 JUROR HEADDEN: YES.

2 CLERK: BRENDA HAYWARD.

3 THE COURT: NO, NO, SHE'S THE ALTERNATE.

4 CLERK: JEROME FRANKLIN.

5 JUROR FRANKLIN: YES.

6 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
7 CHARGES?

8 JUROR FRANKLIN: YES.

9 CLERK: IS THAT STILL YOUR DECISION?

10 JUROR FRANKLIN: YES.

11 CLERK: LORETTA COLTER.

12 JUROR COLTER: YES.

13 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
14 CHARGES?

15 JUROR COLTER: YES.

16 CLERK: IS THAT STILL YOUR DECISION?

17 JUROR COLTER: YES.

18 CLERK: MERLINDA BUTLER.

19 JUROR BUTLER: YES.

20 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
21 CHARGES?

22 JUROR BUTLER: YES.

23 CLERK: IS THAT STILL YOUR DECISION?

24 JUROR BUTLER: YES.

25 CLERK: OTIS BOYD.

1 JUROR BOYD: YES.

2 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
3 CHARGES?

4 JUROR BOYD: YES.

5 CLERK: IS THAT STILL YOUR DECISION?

6 JUROR BOYD: YES.

7 CLERK: SAMANTHA BENTON.

8 JUROR BENTON: YES.

9 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
10 CHARGES?

11 JUROR BENTON: YES.

12 CLERK: IS THAT STILL YOUR DECISION?

13 JUROR BENTON: YES.

14 CLERK: COURTNEY ASBERRY.

15 JUROR ASBERRY: YES.

16 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
17 CHARGES?

18 JUROR ASBERRY: YES.

19 CLERK: IS THAT STILL YOUR DECISION?

20 JUROR ASBERRY: YES.

21 THE COURT: ALRIGHT, THANK Y'ALL.

22 MS. ULLMAN: THANK YOU, JUDGE.

23 THE COURT: ANYTHING ELSE? ALRIGHT, MR. COLEMAN,
24 YOU'RE EXCUSED TO GO BACK TO THE HOLDING CELL FOR A
25 MINUTE.

1 IF YOU WOULD BRING OUT MR. WALTER LEE HARRIS.
2 (Whereupon, Ralph Coleman
3 leaves the courtroom and
4 Walter Lee Harris enters
5 the courtroom.)

6 THE COURT: ALRIGHT, MADAM FORELADY, HAS THE JURY
7 REACHED A DECISION REGARDING WALTER LEE HARRIS?

8 JURY FORELADY: YES, SIR.

9 THE COURT: OKAY. IS THE DECISION OF THE JURY
10 UNANIMOUS?

11 JURY FORELADY: YES, SIR.

12 THE COURT: OKAY. AND IT WAS UNANIMOUS REGARDING
13 ALL THREE OF THE CHARGES?

14 JURY FORELADY: YES, SIR.

15 THE COURT: OKAY. IF YOU'D HAND THE VERDICT FORM
16 TO THE BAILIFF, PLEASE, MA'AM.

17 (Whereupon, the Court examines
18 the verdict.)

19 THE COURT: ALRIGHT, MADAM CLERK, WOULD YOU
20 PUBLISH THE VERDICT FOR ME, PLEASE, MA'AM.

21 VERDICT OF THE JURY

22 AS TO WALTER LEE HARRIS

23 CLERK: IN THE MATTER OF THE STATE OF SOUTH
24 CAROLINA VERSUS WALTER LEE HARRIS, THE JURY HAS
25 UNANIMOUSLY FOUND THE DEFENDANT AS TO THE CHARGE OF

1 MURDER, GUILTY.

2 AS TO THE CHARGE OF BURGLARY IN THE FIRST DEGREE,
3 GUILTY.

4 AS TO THE CHARGE OF ARMED ROBBERY, GUILTY.

5 AND IT HAS BEEN SIGNED BY KELLY WILLIAMS,
6 TWELVE/SEVENTEEN/TWO THOUSAND TEN.

7 THE COURT: AND MADAM FORELADY, THAT IS THE
8 JURY'S VERDICT, IS THAT CORRECT?

9 JURY FORELADY: YES, SIR.

10 THE COURT: OKAY. ALRIGHT, ANYTHING FROM THE
11 DEFENDANT?

12 MR. PALMER: WE WOULD RESPECTFULLY ASK THAT THE
13 JURY BE POLLED, YOUR HONOR.

14 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, YOU'RE
15 GOING TO BE POLLED AGAIN. OKAY?

16 CLERK: COURTNEY ASBERRY.

17 JUROR ASBERRY: YES.

18 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
19 CHARGES?

20 JUROR ASBERRY: YES.

21 CLERK: IS THAT STILL YOUR DECISION?

22 JUROR ASBERRY: YES.

23 CLERK: SAMANTHA BENTON.

24 JUROR BENTON: YES.

25 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL

1 CHARGES?

2 JUROR BENTON: YES.

3 CLERK: IS THAT STILL YOUR DECISION?

4 JUROR BENTON: YES.

5 CLERK: OTIS BOYD.

6 JUROR BOYD: YES.

7 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
8 CHARGES?

9 JUROR BOYD: YES.

10 CLERK: IS THAT STILL YOUR DECISION?

11 JUROR BOYD: YES.

12 CLERK: MERLINDA BUTLER.

13 JUROR BUTLER: YES.

14 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
15 CHARGES?

16 JUROR BUTLER: YES.

17 CLERK: IS THAT STILL YOUR DECISION?

18 JUROR BUTLER: YES.

19 CLERK: LORETTA COLTER.

20 JUROR COLTER: YES.

21 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
22 CHARGES?

23 JUROR COLTER: YES.

24 CLERK: IS THAT STILL YOUR DECISION?

25 JUROR COLTER: YES.

1 CLERK: JEROME FRANKLIN.

2 JUROR FRANKLIN: YES.

3 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
4 CHARGES?

5 JUROR FRANKLIN: YES.

6 CLERK: IS THAT STILL YOUR DECISION?

7 JUROR FRANKLIN: YES.

8 CLERK: JAMIE HEADDEN.

9 JUROR HEADDEN: YES.

10 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
11 CHARGES?

12 JUROR HEADDEN: YES.

13 CLERK: IS THAT STILL YOUR DECISION?

14 JUROR HEADDEN: YES.

15 CLERK: INDIA JAMISON.

16 JUROR JAMISON: YES.

17 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
18 CHARGES?

19 JUROR JAMISON: YES.

20 CLERK: IS THAT STILL YOUR DECISION?

21 JUROR JAMISON: YES.

22 CLERK: TAMEKA JOHNSON.

23 JUROR JOHNSON: YES.

24 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
25 CHARGES?

1 JUROR JOHNSON: YES.

2 CLERK: IS THAT STILL YOUR DECISION?

3 JUROR JOHNSON: YES.

4 CLERK: WAYNE LOVETTE.

5 JUROR LOVETTE: YES.

6 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
7 CHARGES?

8 JUROR LOVETTE: YES.

9 CLERK: IS THAT STILL YOUR DECISION?

10 JUROR LOVETTE: YES.

11 CLERK: CHARLES STRECKER.

12 JUROR STRECKER: YES.

13 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
14 CHARGES?

15 JUROR STRECKER: YES.

16 CLERK: IS THAT STILL YOUR DECISION?

17 JUROR STRECKER: YES.

18 CLERK: KELLY WILLIAMS.

19 JUROR WILLIAMS: YES.

20 CLERK: DID YOU FIND THE DEFENDANT ON ALL
21 CHARGES?

22 JUROR WILLIAMS: YES.

23 CLERK: IS THAT STILL YOUR DECISION?

24 JUROR WILLIAMS: YES.

25 THE COURT: ALRIGHT, THANK YOU, MA'AM.

1 ALRIGHT, THANK YOU, MR. HARRIS, YOU ARE EXCUSED
2 TO GO BACK INTO THE HOLDING CELL.

3 ALRIGHT, WOULD YOU CALL OUT DANNY RYANT, JUNIOR,
4 PLEASE.

5 (Whereupon, Walter Lee Harris
6 leaves the courtroom and Danny
7 Ryant, Jr., enters the courtroom.)

8 THE COURT: ALRIGHT, LADIES AND GENTLEMEN OF THE
9 JURY, HAVE YOU REACHED A DECISION REGARDING DANNY
10 RYANT, JUNIOR?

11 JURY FORELADY: YES.

12 THE COURT: IS THAT DECISION UNANIMOUS?

13 JURY FORELADY: YES, SIR.

14 THE COURT: AND THAT IS IN REGARD TO ALL OF THE
15 CHARGES FACING MR. RYANT?

16 JUROR FORELADY: YES, SIR.

17 THE COURT: OKAY. WOULD YOU PASS THE VERDICT
18 FORM OVER TO THE BAILIFF FOR ME, PLEASE, MA'AM.

19 (Whereupon, the Court examines
20 the verdict.)

21 THE COURT: ALRIGHT, MADAM CLERK, WOULD YOU
22 PUBLISH THE VERDICT FOR ME, PLEASE, MA'AM.

23 VERDICT OF THE JURY

24 AS TO DANNY RYANT, JR.

25 CLERK: IN THE MATTER OF STATE OF SOUTH CAROLINA

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1 VERSUS DANNY RYANT, JUNIOR, THE JURY UNANIMOUSLY FINDS
2 THE DEFENDANT, AS TO THE CHARGE OF MURDER, GUILTY.

3 AS TO THE CHARGE OF BURGLARY IN THE FIRST DEGREE,
4 GUILTY.

5 AND AS TO THE CHARGE OF ARMED ROBBERY, GUILTY.

6 AND IT HAS BEEN SIGNED BY KELLY WILLIAMS,
7 TWELVE/SEVENTEEN/TWO THOUSAND TEN.

8 THE COURT: ALRIGHT, MADAM FORELADY, THAT IS
9 YOUR, THE JURY'S DECISION, AND IT IS UNANIMOUS, IS
10 THAT CORRECT?

11 JURY FORELADY: YES, SIR.

12 THE COURT: OKAY.

13 MR. MELLARD: WE WOULD ASK THAT THE JURY BE
14 POLLED ON ALL CHARGES, YOUR HONOR.

15 THE COURT: OKAY.

16 CLERK: KELLY WILLIAMS.

17 JUROR WILLIAMS: YES.

18 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
19 CHARGES?

20 JUROR WLLIAMS: YES.

21 CLERK: IS THAT STILL YOUR DECISION?

22 JUROR WILLIAMS: YES.

23 CLERK: CHARLES STRECKER.

24 JUROR STRECKER: YES.

25 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL

1 CHARGES?

2 JUROR STRECKER: YES.

3 CLERK: IS THAT STILL YOUR DECISION?

4 JUROR STRECKER: YES.

5 CLERK: WAYNE LOVETTE.

6 JUROR LOVETTE: YES.

7 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
8 CHARGES?

9 JUROR LOVETTE: YES.

10 CLERK: IS THAT STILL YOUR DECISION?

11 JUROR LOVETTE: YES.

12 CLERK: TAMEKA JOHNSON.

13 JUROR JOHNSON: YES.

14 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
15 CHARGES?

16 JUROR JOHNSON: YES.

17 CLERK: IS THAT STILL YOUR DECISION?

18 JUROR JOHNSON: YES.

19 CLERK: INDIA JAMISON.

20 JUROR JAMISON: YES.

21 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
22 CHARGES?

23 JUROR JAMISON: YES.

24 CLERK: IS THAT STILL YOUR DECISION?

25 JUROR JAMISON: YES.

1 CLERK: JAMIE HEADDEN.

2 JUROR HEADDEN: YES.

3 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
4 CHARGES?

5 JUROR HEADDEN: YES.

6 CLERK: IS THAT STILL YOUR DECISION?

7 JUROR HEADDEN: YES.

8 CLERK: JEROME FRANKLIN.

9 JUROR FRANKLIN: YES.

10 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
11 CHARGES?

12 JUROR FRANKLIN: YES.

13 CLERK: IS THAT STILL YOUR DECISION?

14 JUROR FRANKLIN: YES.

15 CLERK: LORETTA COLTER.

16 JUROR COLTER: YES.

17 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
18 CHARGES?

19 JUROR COLTER: YES.

20 CLERK: IS THAT STILL YOUR DECISION?

21 JUROR COLTER: YES.

22 CLERK: MERLINDA BUTLER.

23 JUROR BUTLER: YES.

24 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
25 CHARGES?

1 JUROR BUTLER: YES.

2 CLERK: IS THAT STILL YOUR DECISION?

3 JUROR BUTLER: YES.

4 CLERK: OTIS BOYD.

5 JUROR BOYD: YES.

6 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
7 CHARGES?

8 JUROR BOYD: YES.

9 CLERK: IS THAT STILL YOUR DECISION?

10 JUROR BOYD: YES.

11 CLERK: SAMANTHA BENTON.

12 JUROR BENTON: YES.

13 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
14 CHARGES?

15 JUROR BENTON: YES.

16 CLERK: IS THAT STILL YOUR DECISION?

17 JUROR BENTON: YES.

18 CLERK: COURTNEY ASBERRY.

19 JUROR ASBERRY: YES.

20 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
21 CHARGES?

22 JUROR ASBERRY: YES.

23 CLERK: IS THAT STILL YOUR DECISION?

24 JUROR ASBERRY: YES.

25 THE COURT: ALRIGHT, THANK YOU.

1 ALRIGHT, MR. RYANT.

2 ALRIGHT, IF YOU'LL BRING OUT MARIO SHIVERS,
3 PLEASE.

4 (Whereupon, Danny Ryant, Jr.,
5 leaves the courtroom and Mario
6 Shivers enters the courtroom.)

7 THE COURT: ALRIGHT, MADAM FORELADY, HAS THE JURY
8 REACHED A DECISION REGARDING MARIO SHIVERS?

9 JURY FORELADY: YES, SIR.

10 THE COURT: IS THAT DECISION UNANIMOUS?

11 JURY FORELADY: YES, SIR.

12 THE COURT: AND IT'S REGARDING ALL OF THE CHARGES
13 AGAINST HIM?

14 JURY FORELADY: YES, SIR.

15 THE COURT: OKAY. IF YOU WOULD HAND THE VERDICT
16 FORM TO THE BAILIFF, PLEASE, MA'AM. THANK YOU.

17 (Whereupon, the Court
18 examines the verdict.)

19 THE COURT: ALRIGHT, MADAM CLERK, IF YOU WOULD
20 PUBLISH THE VERDICT FOR ME, PLEASE.

21 VERDICT OF THE JURY

22 AS TO MARIO SHIVERS

23 CLERK: IN THE MATTER OF THE STATE OF SOUTH
24 CAROLINA VERSUS MARIO MONTEZ SHIVERS, THE JURY HAS
25 UNANIMOUSLY FOUND THE DEFENDANT AS TO THE CHARGE OF

1 MURDER GUILTY.

2 AS TO THE CHARGE OF BURGLARY IN THE FIRST DEGREE,
3 GUILTY.

4 AS TO THE CHARGE OF ARMED ROBBERY, GUILTY.

5 AND IT HAS BEEN SIGNED BY KELLY WILLIAMS,
6 TWELVE/SEVENTEEN/TWO THOUSAND TEN.

7 THE COURT: OKAY. THANK YOU, MA'AM.

8 ALRIGHT, MADAM FORELADY, THAT IS THE VERDICT OF
9 THE JURY?

10 JURY FORELADY: YES, SIR.

11 THE COURT: AND IT WAS A UNANIMOUS DECISION?

12 JURY FORELADY: YES, SIR.

13 THE COURT: OKAY. ANYTHING FROM THE DEFENDANT?

14 MS. KOGER: YES, YOUR HONOR, I'D LIKE THE JURY TO
15 BE POLLED.

16 THE COURT: OKAY. WOULD YOU PLEASE POLL THE JURY
17 FOR ME, MADAM CLERK.

18 CLERK: COURTNEY ASBERRY.

19 JUROR ASBERRY: YES.

20 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
21 CHARGES?

22 JUROR ASBERRY: YES.

23 CLERK: IS THAT STILL YOUR DECISION?

24 JUROR ASBERRY: YES.

25 CLERK: SAMANTHA BENTON.

1 JUROR BENTON: YES.

2 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
3 CHARGES?

4 JUROR BENTON: YES.

5 CLERK: IS THAT STILL YOUR DECISION?

6 JUROR BENTON: YES.

7 CLERK: OTIS BOYD.

8 JUROR BOYD: YES.

9 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
10 CHARGES?

11 JUROR BOYD: YES.

12 CLERK: IS THAT STILL YOUR DECISION?

13 JUROR BOYD: YES.

14 CLERK: MERLINDA BUTLER.

15 JUROR BUTLER: YES.

16 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
17 CHARGES?

18 JUROR BUTLER: YES.

19 CLERK: IS THAT STILL YOUR DECISION?

20 JUROR BUTLER: YES.

21 CLERK: LORETTA COLTER.

22 JUROR COLTER: YES.

23 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
24 CHARGES?

25 JUROR COLTER: YES.

1 CLERK: IS THAT STILL YOUR DECISION?

2 JUROR COLTER: YES.

3 CLERK: JEROME FRANKLIN.

4 JUROR FRANKLIN: YES.

5 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
6 CHARGES?

7 JUROR FRANKLIN: YES.

8 CLERK: IS THAT STILL YOUR DECISION?

9 JUROR FRANKLIN: YES.

10 CLERK: IS THAT STILL YOUR DECISION?

11 JUROR FRANKLIN: YES.

12 CLERK: JAMIE HEADDEN.

13 JUROR HEADDEN: YES.

14 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
15 CHARGES?

16 JUROR HEADDEN: YES.

17 CLERK: IS THAT STILL YOUR DECISION?

18 JUROR HEADDEN: YES.

19 CLERK: INDIA JAMISON.

20 JUROR JAMISON: YES.

21 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
22 CHARGES?

23 JUROR JAMISON: YES.

24 CLERK: IS THAT STILL YOUR DECISION?

25 JUROR JAMISON: YES.

1 CLERK: TAMEKA JOHNSON.

2 JUROR JOHNSON: YES.

3 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
4 CHARGES?

5 JUROR JOHNSON: YES.

6 CLERK: IS THAT STILL YOUR DECISION?

7 JUROR JOHNSON: YES.

8 CLERK: WAYNE LOVETTE.

9 JUROR LOVETTE: YES.

10 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
11 CHARGES?

12 JUROR LOVETTE: YES.

13 CLERK: IS THAT STILL YOUR DECISION?

14 JUROR LOVETTE: YES.

15 CLERK: CHARLES STRECKER.

16 JUROR STRECKER: YES.

17 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
18 CHARGES?

19 JUROR STRECKER: YES.

20 CLERK: IS THAT STILL YOUR DECISION?

21 JUROR STRECKER: YES.

22 CLERK: KELLY WILLIAMS.

23 JUROR WILLIAMS: YES.

24 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
25 CHARGES?

1 JUROR WILLIAMS: YES.

2 CLERK: IS THAT STILL YOUR DECISION?

3 JUROR WILLIAMS: YES.

4 THE COURT: ALRIGHT, THANK YOU, MA'AM.

5 ALRIGHT, ANYTHING FROM THE STATE BEFORE I RELEASE
6 THE JURY?

7 SOLICITOR PASCOE: NO, YOUR HONOR, THANK YOU.

8 THE COURT: ANYTHING FROM THE DEFENDANTS BEFORE I
9 RELEASE THE JURY?

10 MS. ULLMAN: NO, SIR.

11 MR. PALMER: I'D JUST LIKE TO THANK THE JURY FOR
12 THEIR SERVICE, YOUR HONOR.

13 THE COURT: OKAY. I'M GOING TO DO THAT.

14 ALRIGHT, LADIES AND GENTLEMEN, IT'S BEEN A LONG
15 WEEK. I WANT TO TELL Y'ALL, AND THE ATTORNEYS
16 MENTIONED IT TO YOU IN THEIR CLOSINGS AND BEFORE WE
17 STARTED HOW MUCH THEY APPRECIATED YOUR SERVICE. THEY
18 STILL MEAN THAT, AND ONE OF THE THINGS I WANT TO THANK
19 YOU ABOUT, BUT ONE OF THE IMPORTANT THINGS I WANT TO
20 THANK YOU ABOUT DOING WAS SHOWING UP ON A TIMELY
21 FASHION, YOU KNOW, COMING TO WORK EVERY DAY. DURING
22 THE TRIAL I APPRECIATE ALL THE ATTENTION THAT YOU GAVE
23 TO EVERYBODY. Y'ALL, I KNOW MORE THAN ONE ATTORNEY
24 MENTIONED TO ME THAT Y'ALL WERE INTERESTED IN THE
25 TRIAL, AND I APPRECIATE YOU SHOWING YOUR INTEREST IN

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1 THE TRIAL, AND I APPRECIATE YOU TAKING THE TIME TO BE,
2 TO DELIBERATE LIKE YOU DID. AND NOW, Y'ALL ARE FREE
3 TO GO. AND IF YOU REMEMBER, YOU DON'T HAVE TO SERVE
4 ANYMORE THIS YEAR, BUT YOU ALSO GET FOR THE NEXT TWO
5 YEARS, TOO, YOU GET THAT, YOU CAN CLAIM AN EXEMPTION
6 FOR THE NEXT TWO YEARS IF YOU NEED TO.

7 NOW, MADAM CLERK, MS. CLARK IS GOING TO STEP DOWN
8 AND GO OVER THERE BECAUSE I THINK SHE HAS YOUR CHECKS,
9 MILEAGE CHECKS AND EXCUSES AND ALL LIKE THAT SO YOU
10 CAN TELL AT WORK THAT YOU WERE REALLY THERE, AND I'LL
11 LET HER GIVE THOSE OUT TO YOU IN THE ROOM.

12 AGAIN, I WANT TO THANK Y'ALL FOR YOUR SERVICE,
13 AND I HOPE Y'ALL HAVE A MERRY CHRISTMAS AND A HAPPY
14 NEW YEAR. THANK YOU.

15 (Whereupon, the jury leaves
16 the courtroom.)

17 THE COURT: ALRIGHT, MR. LACKEY, ANYTHING FROM
18 THE DEFENDANT?

19 MR. LACKEY: YOUR HONOR, YOU NEED MY MOTION FOR
20 DIRECTED VERDICT.

21 THE COURT: OKAY.

22 MR. LACKEY: NOTHING NEW TO ADD IN THAT REGARD.

23 THE COURT: ALRIGHT, MS. ULLMAN.

24 MS. ULLMAN: YES, SIR. FIRST OFF, I OBVIOUSLY
25 RENEW ALL MOTIONS AND OBJECTIONS I HAVE MADE PRIOR TO,

1 DURING AND AFTER THIS TRIAL. I ALSO MAKE A MOTION FOR
2 A NEW TRIAL. I DON'T FEEL THAT THERE WAS EVIDENCE TO
3 SUPPORT THE CONVICTION AGAINST RALPH COLEMAN, SO I
4 WOULD ASK YOUR HONOR FOR A NEW TRIAL.

5 THE COURT: OKAY. MR. PALMER.

6 MR. PALMER: I LIKEWISE WOULD RENEW ALL MOTIONS
7 AND OBJECTIONS AND EXCEPTIONS FOR THE RECORD, YOUR
8 HONOR.

9 THE COURT: OKAY, AND THEY ARE PRESERVED, I HOPE.

10 MR. PALMER: AND I'D LIKEWISE MOVE FOR A NEW
11 TRIAL, ON THE SAME GROUNDS.

12 THE COURT: ALRIGHT. MR. MELLARD.

13 MR. MELLARD: YES, SIR, I WOULD RENEW MY MOTION
14 FOR A DIRECTED VERDICT, ALL MY OBJECTIONS. I WOULD
15 ALSO RENEW MY DUE PROCESS ARGUMENT, AND THE COURT'S
16 AWARE OF THAT.

17 THE COURT: YES, SIR.

18 MR. MELLARD: I JUST WANT TO MAKE SURE THAT
19 THAT'S PRESERVED FOR THE RECORD.

20 THE COURT: YES, SIR. I BELIEVE WE WERE TRYING
21 TO PRESERVE EVERYTHING.

22 MR. MELLARD: AND I WOULD JOIN IN THE MOTION FOR
23 A NEW TRIAL. I, TOO, DON'T BELIEVE THERE'S ENOUGH
24 EVIDENCE FOR A CONVICTION, YOUR HONOR.

25 THE COURT: OKAY. AND MR. KOGER?

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1 MR. KOGER: YOUR HONOR, MAY IT PLEASE THE COURT.

2 THE COURT: YES, SIR.

3 MR. KOGER: I ASK THAT ALL MY EARLIER OBJECTIONS
4 AND DIRECTED VERDICT BE RENEWED, AND ALSO, I JOIN IN
5 WITH ATTORNEY ULLMAN AND ATTORNEY PALMER AND ATTORNEY
6 MELLARD AND FILE A MOTION FOR A NEW TRIAL BASED UPON
7 INSUFFICIENT EVIDENCE, AND ALSO THE DUE PROCESS MOTION
8 THAT WAS MADE BY MR. MELLARD, I'D LIKE TO RENEW THAT,
9 TOO.

10 THE COURT: OKAY. THANK YOU, SIR. AND WITH
11 REGARD TO THE DIRECTED VERDICT MOTIONS, I WILL STAND
12 BY MY EARLIER DECISION REGARDING THAT. REGARDING THE
13 DUE PROCESS ARGUMENTS, I HAVE ADDRESSED THOSE EARLIER.
14 MY DENIAL OF YOUR MOTION BASED ON THAT WILL BE
15 MAINTAINED. I NOTE YOUR OBJECTION SO THAT IS STILL
16 MAINTAINED FOR THE RECORD. AND I'M GOING TO DENY YOUR
17 MOTIONS FOR A NEW TRIAL. I BELIEVE THAT IT WAS, WE
18 HAD A REPRESENTATIVE JURY, AND I FEEL LIKE ALL THE
19 EVIDENCE WAS PLACED IN THE RECORD, YOU KNOW, IN A
20 PROPER FASHION, AND I FIND THAT THE DEFENDANTS, YOU
21 KNOW, CHOSE HOW THEY WISHED TO PROCEED WITH THIS, EVEN
22 THOUGH NOTING YOUR DUE PROCESS ARGUMENT THAT THEY WERE
23 FORCED TO TRY THIS CASE TOGETHER, BUT I AM GOING TO
24 DENY YOUR MOTION FOR A NEW TRIAL. OKAY?

25 ALRIGHT, WITH REGARD TO THE SENTENCING, IF Y'ALL

1 WANT TO GET A FEW MINUTES TO GET -- I DON'T KNOW IF
2 YOU HAVE ANYBODY THAT YOU WANT TO TALK ON YOUR BEHALF
3 OR ANYTHING LIKE THAT, BUT IF YOU HAVE THOSE I'LL GIVE
4 Y'ALL A FEW MINUTES TO DO THAT, AND THEN WE'LL GO
5 THROUGH THE SENTENCING IN THE ORDER IN WHICH WE'VE
6 DONE EVERYTHING ELSE. OKAY? BUT I'LL GIVE Y'ALL
7 ABOUT FIFTEEN MINUTES TO GET EVERYTHING READY AND THEN
8 WE'LL COME BACK AND DO THAT. OKAY? GET THE
9 SENTENCING SHEETS TO ME. WE'LL BE IN RECESS FOR ABOUT
10 FIFTEEN MINUTES.

11 (Recess)

12 THE COURT: ALRIGHT, AGAIN, LADIES AND GENTLEMEN,
13 LET ME REMIND EVERYBODY IN THE AUDIENCE THAT THERE
14 WILL BE NO OUTBURSTS DURING THE SENTENCING PHASE OF
15 THIS TRIAL.

16 ALRIGHT, MR. LACKEY, REPRESENTING CHRISTIAN
17 COLEMAN.

18 MR. LACKEY: YES, SIR, YOUR HONOR.

19 THE COURT: OKAY.

20 MR. LACKEY: I'LL BRING MY CLIENT UP, BUT I
21 BELIEVE HIS FIANCÉ AND THE MOTHER OF HIS CHILD WALKED
22 OUT A LITTLE WHILE AGO, AND I'M JUST REQUESTING IF SHE
23 COULD COME BACK IN FOR THE SENTENCING PHASE.

24 THE COURT: DIDN'T SHE ...

25 MR. LACKEY: I'M NOT SURE.

1 THE COURT: WASN'T SHE ESCORTED OUT BECAUSE SHE
2 ...

3 DEPUTY: SHE LEFT OUT IN THE MIDDLE OF THE
4 GUILTY. AND SHE LEFT OUT ON HER OWN BEFORE ...

5 THE COURT: OKAY, SO YOU THINK SHE'S COMPOSED
6 ENOUGH TO COME BACK IN?

7 DEPUTY: WELL, EVERYONE THAT WALKED OUT LIKE
8 THAT, YOUR HONOR, WE MADE THEM STAY OUTSIDE.

9 THE COURT: OKAY.

10 DEPUTY: SO, I DON'T KNOW, IT'S UP TO YOU NOW IF
11 YOU WANT TO LET THEM COME IN.

12 THE COURT: IS SHE THE ONLY PERSON YOU HAVE?

13 MR. LACKEY: YES, SIR, YOUR HONOR.

14 THE COURT: OKAY. WELL, SINCE THAT'S THE ONLY
15 PERSON HE HAS TO STAND WITH HIM I WILL LET HER COME
16 IN, BUT YOU REMIND HER, ANY OUTBURSTS AND SHE'S BACK
17 OUT AT ANYTIME. OKAY?

18 DEPUTY: YES, SIR.

19 THE COURT: AND NOBODY ELSE THAT'S HAD AN
20 OUTBURST IS ALLOWED BACK IN. OKAY?

21 MR. LACKEY: THANK YOU, YOUR HONOR.

22 THE COURT: YES, SIR.

23 SOLICITOR PASCOE: CAN I GIVE YOU, PASS THESE
24 SENTENCING SHEETS UP, YOUR HONOR?

25 THE COURT: OH, YEAH, IF YOU DON'T MIND. THANK

1 YOU.

2 SOLICITOR PASCOE: LET ME MAKE SURE I'VE GOT ALL
3 OF THEM. THESE ARE CHRISTIAN COLEMAN'S, YES, SIR.

4 THE COURT: OKAY. AND DO Y'ALL HAVE -- ALRIGHT.
5 OKAY, MR. COLEMAN, HOW ARE YOU SIR?

6 DEFENDANT CHRISTIAN COLEMAN: HOW YOU DOING?

7 THE COURT: I'M DOING ALRIGHT, SIR. MR. COLEMAN,
8 LET'S SEE -- SOLICITOR PASCOE, LET ME MAKE SURE -- THE
9 ARMED ROBBERY CARRIES A MINIMUM OF TEN?

10 SOLICITOR PASCOE: TEN TO THIRTY, YOUR HONOR,
11 YES, SIR.

12 THE COURT: AND THE BURGLARY, ONE, AND THE
13 MURDER, THE MAXIMUM IS LIFE?

14 SOLICITOR PASCOE: YES, SIR.

15 THE COURT: OKAY. ALRIGHT, LET ME HEAR FROM YOU.

16 MR. LACKEY: THANK YOU, YOUR HONOR. OF COURSE,
17 MY CLIENT, CHRISTIAN COLEMAN, IS TWENTY-ONE YEARS OF
18 AGE. STANDING WITH US HERE IS LASHEKA PAGE, THE
19 MOTHER OF HIS CHILD AND FIANCÉ`. YOUR HONOR, JUST
20 BRIEFLY, MY CLIENT ATTENDED O-W THEN, FOR A WHILE,
21 THEN WENT TO THE ALTERNATIVE SCHOOL HERE IN
22 ORANGEBURG. HE WAS ESSENTIALLY RAISED BY HIS FOSTER
23 MOTHER, MS. CHERRY CHRISTY, WHO DOES LIVE AT THAT
24 WOODBINE ADDRESS. HIS MOTHER WAS, HIS REAL MOTHER
25 ACTUALLY WAS OUT OF THE PICTURE BECAUSE OF A DRUG

1 ADDICTION. HE IS, DOES HAVE OTHER BROTHERS, AND
2 YOUNGER BROTHER, SHAWN COLEMAN, AS WELL, WHO HE HAS
3 NOT SEEN IN QUITE A WHILE. HE BASICALLY, OF COURSE,
4 HAS HIS OTHER BROTHER, RALPH. HE'S HAD AN EXTREMELY
5 ROUGH UPBRINGING AND ROUGH LIFE WITH LITTLE OR NO
6 FAMILY, AND NOW WITH THIS, OF COURSE, HIS OLDER
7 BROTHER IS IN THE SAME SITUATION, TOO. HE DID, OF
8 COURSE, WAS TRYING TO MAKE HIS WAY WITH THE CHILD AND
9 SUCH BEFOREHAND, AND THEN, OF COURSE, HE'S HERE BEFORE
10 YOU AFTER THIS WEEK LONG TRIAL.

11 I GUESS JUST ADDRESSING BRIEFLY THE FACTS OF THIS
12 CASE, I THINK IT SHOWS THAT MR. CHRISTIAN COLEMAN WAS
13 NOT A RING LEADER HERE. I THINK IT'S SOMETHING THAT, A
14 SITUATION THAT HE KIND OF FELL INTO, AND NOW HE'S IN
15 THE POSITION OF HAVING TO STAND BEFORE YOU IN THIS
16 SENTENCING. WE WOULD JUST ASK AT THIS TIME THAT THE
17 COURT HAVE MERCY ON MR. COLEMAN.

18 THE COURT: ALRIGHT, THANK YOU, SIR.

19 MR. LACKEY: ANYTHING FROM YOU, SOLICITOR?

20 SOLICITOR PASCOE: VERY BRIEFLY, YOUR HONOR, MR.
21 CHRISTIAN COLEMAN'S ONLY CONVICTIONS ARE AN
22 ADJUDICATION IN FAMILY COURT IN TWO THOUSAND AND THREE
23 FOR CONTEMPT OF COURT. I THINK THAT WAS FOR A STATUS
24 OFFENSE OF NOT GOING TO SCHOOL. ALSO, YOUR HONOR,
25 WHEN YOUR HONOR FEELS IT'S APPROPRIATE I THINK MS.

1 PRINGLE AT SOME TIME WOULD LIKE TO ADDRESS THE COURT.

2 THE COURT: YES, S IR, OKAY, IF SHE WOULD LIKE TO
3 DO IT NOW.

4 SOLICITOR PASCOE: THANK YOU. THIS IS CHARLES
5 PRINGLE'S MOTHER, YOUR HONOR.

6 THE COURT: HEY, MS. PRINGLE. AND MS. PRINGLE, I
7 KNOW YOU'VE BEEN HERE ALL WEEK, AND I KNOW IT'S BEEN
8 TOUGH TO LISTEN TO ALL OF THIS.

9 MRS. PRINGLE: YES, SIR.

10 THE COURT: YES, MA'AM. LET ME HEAR FROM YOU.

11 MRS. PRINGLE: JUDGE DICKSON, WE JUST WANT TO, MY
12 HUSBAND AND I, WE JUST WANT TO THANK YOU, THANK THE
13 COURT. WE WANT TO THANK ORANGEBURG COUNTY, AND
14 CERTAINLY, OUR PRAYERS HAVE BEEN ANSWERED. SO, WE
15 HAVE NO OTHER REQUEST, AND WE CERTAINLY LEAVE
16 SENTENCING IN YOUR HANDS.

17 THE COURT: OKAY. THANK YOU, MRS. PRINGLE.

18 MRS. PRINGLE: THANK YOU.

19 THE COURT: OKAY. MR. COLEMAN, YOU KNOW, THIS IS
20 THE TOUGHEST PART OF MY JOB WHEN I HAVE TO SENTENCE
21 YOUNG MEN THAT SHOULD HAVE MADE OTHER DECISION, AND
22 NOW YOU'RE GOING TO BE RESPONSIBLE FOR THE DECISIONS
23 THAT YOU MADE.

24 DEFENDANT CHRISTIAN COLEMAN: YES, SIR.

25 THE COURT: OKAY.

SENTENCE BY THE COURT OF CHRISTIAN COLEMAN

ALRIGHT, REGARDING THE ARMED ROBBERY CHARGE,
INDICTMENT NUMBER 2010-802, THE SENTENCE OF THIS COURT
IS YOU ARE COMMITTED TO THE STATE DEPARTMENT OF
CORRECTIONS FOR A PERIOD OF THIRTY YEARS.

REGARDING BURGLARY IN THE FIRST DEGREE,
INDICTMENT NUMBER 2010-803, AND THE MURDER CHARGE,
2010-805, THE SENTENCE OF THE COURT IN EACH ONE OF
THESE CHARGES IS THAT YOU'RE COMMITTED TO THE STATE
DEPARTMENT OF CORRECTIONS FOR A PERIOD OF FORTY-FIVE
YEARS.

THE SENTENCES ARE CONCURRENT, AND YOU WILL GET
CREDIT FOR TIME SERVED.

THANK YOU, SIR.

(Whereupon, Christian Coleman
leaves the courtroom and
Ralph Coleman enters the
courtroom.)

THE COURT: MS. ULLMAN.

MS. ULLMAN: YOUR HONOR, I UNFORTUNATELY, AM ALSO
IN THE SAME POSITION. MR. COLEMAN'S FIANCÉ, WHO IS
THE ONLY PERSON HERE FOR HIM, STEPPED OUT WHEN HE,
WHEN THE VERDICT WAS BEING READ AND SHE DID NOT MAKE
ANY SORT OF SCENE OR ANYTHING.

THE COURT: SHE'S THE ONLY PERSON HERE FOR HIM?

1 MS. ULLMAN: THE ONLY PERSON, AND SHE'S STANDING
2 OUTSIDE.

3 THE COURT: ALRIGHT. DEPUTY ASBERRY, I'M SORRY,
4 MR. RALPH COLEMAN HAS HIS FIANCÉ`, IF YOU WILL REMIND
5 HER, THAT'S THE ONLY PERSON HE HAS TO STAND WITH HIM,
6 SO IF YOU'LL REMIND HER THERE WILL BE NO OUTBURST OR
7 SHE WILL BE REMOVED.

8 MS. ULLMAN: AGAIN, YOUR HONOR, I THINK IT WAS AN
9 OUTBURST WHEN LAKESHA WALKED OUT. I DON'T THINK IT
10 WILL BE AN ISSUE.

11 THE COURT: OKAY. ALRIGHT, MS. ULLMAN, WHAT
12 WOULD YOU LIKE TO TELL ME?

13 MS. ULLMAN: MR. COLEMAN IS TWENTY-TWO YEARS OLD.
14 PART OF WHAT I'VE GOT TO SAY YOU'VE KIND OF ALREADY
15 HEARD. HE'S THE OLDEST OF THREE BROTHERS. HE WAS
16 RAISED BY A FOSTER MOTHER ALONG WITH HIS SIBLINGS. HE
17 CERTAINLY WAS RAISED IN A ROUGH LIFE, HIS PARENTS HAD
18 DRUG ADDICTIONS, HE ENDED UP IN FOSTER CARE. YOUR
19 HONOR, I DO BELIEVE HE DOES HAVE A JUVENILE
20 ADJUDICATION FOR A TRUANCY, AND THEN I DO ACTUALLY
21 THINK HE HAS A SIMPLE ASSAULT FROM QUITE A FEW YEARS
22 WHEN HE WAS A YOUNG KID. HE HAS NO PRIOR RECORD OTHER
23 THAN THAT. YOUR HONOR, IN SPEAKING WITH HIS FIANCÉ`
24 SHE TELLS ME THAT HE'S QUIET PERSON, HE'S A HOME
25 PERSON, HE'S A FAMILY MAN. THEY HAVE TWO CHILDREN,

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1 SHE HAS A CHILD OF HER OWN THAT HE ACTUALLY HELPS
2 RAISE AND TAKES CARE OF. HER CHILD IS THE OLDEST OF
3 THE CHILDREN. HE HAD BEEN WORKING BUT RECENTLY HE HAD
4 QUIT WORKING TO STAY HOME. HIS FOSTER MOTHER, MS.
5 CHRISTIE, THAT WE HEARD OF, SHE HAD SOME MAJOR SURGERY
6 DONE TO HER LEG, SHE CANNOT GET AROUND, SHE'S IN A
7 WHEEL CHAIR, HE HAD BEEN HELPING TAKE CARE OF HER
8 BEFORE THIS INCIDENT, AND HIS FIANCÉ` WAS ALSO LIVING
9 WITH HIM AT HIS FOSTER MOTHER'S, I THINK THEY CALL HER
10 GRANDMA, BUT AT THAT HOME. HE WAS HELPING TAKE CARE
11 OF HER. UNFORTUNATELY, ABOUT THE WEEK BEFORE THIS
12 TRIAL STARTED MS. MOORE, HIS FIANCÉ`, FOUND OUT THAT
13 SHE HAS CANCER. SHE WAS ACTUALLY SUPPOSED TO START
14 CHEMOTHERAPY THIS WEEK BUT SHE FOREWENT THAT AND PLANS
15 TO START HOPEFULLY NEXT WEEK, OBVIOUSLY SO SHE COULD
16 BE HERE TO SUPPORT MR. COLEMAN. MR. COLEMAN MAINTAINS
17 HIS INNOCENCE, AND WHILE I SAY THAT I WILL NOTE,
18 ACCEPTING, WHILE ACCEPTING THE VERDICT, I MEAN, HE'S
19 ACCEPTING THIS AND HE'S STANDING HERE BEFORE. YOUR
20 HONOR, IN THE EVIDENCE THAT CAME OUT, TAKING IT FOR
21 WHAT IT IS, HE WAS NOT THE PERSON WHO CAME UP WITH
22 THIS IDEA, HE WAS NOT THE PERSON WHO BROUGHT THE GUNS
23 ALONG. THE PLANNING, ACCORDING TO WHAT CAME OUT IN
24 THE TESTIMONY, MAY HAVE STARTED AT MS. CHRISTIE'S
25 HOUSE BUT IT CERTAINLY HAS NEVER BEEN PRESENTED THAT

1 IT WAS MR. COLEMAN'S IDEA, THAT HE MADE ANY OF THESE
2 PHONE CALLS TO WRAP THESE PEOPLE TOGETHER, BROUGHT ANY
3 OF THE WEAPONS. SO, I WOULD ASK YOU TO CONSIDER ALL
4 OF THAT, CONSIDER THAT THIS WAS COMPLETELY OUT OF
5 CHARACTER AND TO HAVE MERCY ON HIM. AND I BELIEVE
6 THAT I'VE SAID EVERYTHING THAT I NEEDED TO SAY.

7 THE COURT: OKAY.

8 SOLICITOR PASCOE: YOUR HONOR, I HAVE MR.
9 SORENSON GETTING MR. COLEMAN'S RAP SHEET JUST IN CASE
10 I WROTE IT DOWN WRONG, BUT ACCORDING TO THE
11 INFORMATION I HAD AND WHAT I WROTE DOWN WAS THAT, IT'S
12 A JUVENILE ADJUDICATION, A NINETEEN NINETY-FOUR
13 TRUANCY, TWO THOUSAND, CONTEMPT OF COURT, TWO THOUSAND
14 ONE, SIMPLE ASSAULT, TWO THOUSAND AND FOUR CONTEMPT OF
15 COURT, PROBABLY FOR TRUANCY. BUT THEN AS AN ADULT
16 I'VE GOT TWO THOUSAND AND EIGHT BURGLARY, THIRD,
17 CONVICTION, POSSESSION OF A STOLEN MOTOR VEHICLE
18 CONVICTION, FAILURE TO STOP FOR A BLUE LIGHT, AND
19 INTIMIDATION OF A WITNESS OR A COURT HOUSE OFFICIAL,
20 AND ALSO A POINTING AND PRESENTING OF A FIREARM.

21 MS. ULLMAN: YOUR HONOR, I WOULD - - -

22 SOLICITOR PASCOE: AND I SEE HE'S SHAKING HIS
23 HEAD. I'LL GET HIS RAP SHEET AND CHECK IT. THAT WAS -
24 - - -

25 MS. ULLMAN: --- I ACTUALLY REPRESENTED MR.

1112

1 COLEMAN BEFORE ON A CASE THAT WAS DISMISSED, AND IN
2 THAT I NEVER LEARNED OF ANY OF THIS, AND IN THIS
3 SITUATION I'VE NEVER RECEIVE A RAP SHEET THAT SAID ANY
4 OF THAT, YOUR HONOR. THE ONLY INFORMATION THAT I
5 WOULD SAY, AND FROM MY KNOWLEDGE PREVIOUSLY OF MR.
6 COLEMAN, LIKE I SAID, I REPRESENTED HIM AND WHEN WE
7 GOT THE CHARGE DISMISSED HE CERTAINLY WAS NOT GUILTY
8 OF THAT, IS THIS JUVENILE TRUANCY ISSUE AND THE
9 CONTEMPT OF COURTS ARE TRUANCY RELATED.

10 SOLICITOR PASCOE: IT'S NOT HIM, YOUR HONOR. MR.
11 SORENSON CHECKED AND IT'S NOT HIM.

12 MS. ULLMAN: I DIDN'T THINK SO.

13 THE COURT: OKAY. ALRIGHT.

14 SOLICITOR PASCOE: I WILL JUST ADD, THOUGH, THAT
15 IT'S THE STATE'S POSITION THAT MR. COLEMAN AND MR.
16 SHIVERS WERE INVOLVED IN THIS AT THE INCEPTION, AND
17 ONE OF THE REASONS CHRISTOPHER COLEMAN GOT IN TROUBLE,
18 HE'S IN THIS BECAUSE HE'S A FOLLOWER OF HIS OLDER
19 BROTHER, RALPH COLEMAN.

20 THE COURT: ALRIGHT.

21 SENTENCE BY THE COURT OF RALPH COLEMAN

22 RALPH COLEMAN, THE SENTENCE OF THIS COURT IS,
23 REGARDING INDICTMENT NUMBER 2010-811, THE ARMED
24 ROBBERY, THE SENTENCE OF THIS COURT IS THAT YOU'RE
25 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A

1 PERIOD OF THIRTY YEARS.

2 REGARDING THE INDICTMENTS NUMBER 2010-808 AND
3 2010-810, WHICH IS THE BURGLARY, FIRST DEGREE AND THE
4 MURDER, THE SENTENCE OF THIS COURT IS THAT YOU'RE
5 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A
6 PERIOD OF FORTY-FIVE YEARS.

7 THESE SENTENCES ARE CONCURRENT AND I'LL GIVE YOU
8 CREDIT FOR YOUR TIME SERVED.

9 MS. ULLMAN: THANK YOU, YOUR HONOR.

10 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

11 THE COURT: THANK YOU.

12 (Whereupon, Ralph Coleman
13 leaves the courtroom and
14 Walter Lee Harris enters
15 the courtroom.)

16 SOLICITOR PASCOE: THESE ARE WALTER HARRIS'S.

17 THE COURT: OH, THANK YOU, SIR.

18 COURT REPORTER: WALTER HARRIS?

19 THE COURT: WALTER LEE HARRIS. MS. WALKER, THIS
20 IS WALTER LEE HARRIS.

21 COURT REPORTER: YES, SIR.

22 THE COURT: MR. PALMER

23 MR. PALMER: THANK YOU, YOUR HONOR, MAY IT PLEASE
24 THE COURT.

25 THE COURT: YES, SIR.

1114

1 MR. PALMER: OBVIOUSLY, THE JURY HAS SPOKEN, YOUR
2 HONOR. MR. HARRIS HAD SOME FAMILY MEMBERS HERE BUT AT
3 HIS REQUEST THEY'VE BEEN EXCUSED FROM THE COURTROOM.
4 I'D JUST LIKE TO SAY A FEW WORDS ABOUT MY CLIENT, YOUR
5 HONOR, HE'S TWENTY-ONE YEARS OLD, AND I DON'T BELIEVE
6 THAT THEY'RE GOING TO HAVE ANY KIND OF RECORD EXCEPT
7 MAYBE A JUVENILE INFRACTION THAT WAS RESOLVED IN
8 FAMILY COURT. I MIGHT BE MISTAKEN BUT I BELIEVE
9 THAT'S IT. BUT, YOUR HONOR, I THINK THE IMPORTANT
10 INFORMATION IS THAT, YOU KNOW, OBVIOUSLY, THE JURY HAS
11 CONVICTED MR. HARRIS, BUT IT WAS OBVIOUS FROM THE
12 TESTIMONY IN THE STATE'S CASE THAT, TWO THINGS, YOUR
13 HONOR, MR.,-- OR ACTUALLY MORE THAN THAT. MR. HARRIS
14 WAS INCLUDED IN THIS CHAIN OF EVENTS RELATIVELY LATE
15 IN THE GAME. THERE CERTAINLY IS NO ALLEGATION OR
16 PROOF THAT HE WAS ANY KIND OF MASTER MIND OR, IN THE
17 INITIAL PLANNING STAGES. AND EVEN MORE IMPORTANTLY,
18 YOUR HONOR, THERE'S EVIDENCE THAT AT SOME POINT HE
19 TRIED TO EXTRACT HIMSELF, GAVE UP HIS WEAPON, AND
20 TRIED TO EXTRACT HIMSELF FROM THIS GROUP. WHY HE
21 CONTINUED, I DON'T KNOW IF WE'LL EVER KNOW THAT, BUT
22 CERTAINLY, AT THE MOMENT OF TRUTH THE EVIDENCE IS THAT
23 HE DID NOT HAVE A WEAPON, HE WAS AN ACCOMPLICE. AND
24 YOUR HONOR, WHAT DIDN'T COME OUT BECAUSE HE EXERCISED
25 HIS RIGHT OF NOT SELF INCRIMINATION IS, HE WAS THE

1 FIRST ONE TO PROVIDE A STATEMENT IN THIS CASE, YOUR
2 HONOR, TO LAW ENFORCEMENT. AND IN FACT, HE PROVIDED
3 THREE SEPARATE STATEMENTS. AND I WOULD SUBMIT, YOUR
4 HONOR, THAT THOSE STATEMENTS AND THE INFORMATION THAT
5 THIS MAN PROVIDED GREATLY ASSISTED LAW ENFORCEMENT IN
6 MAKING THIS CASE AGAINST THE REST OF THE DEFENDANTS.
7 AND I'M SIMPLY ASKING THAT YOUR HONOR CONSIDER THAT
8 MR. HARRIS CAN BE DISTINGUISHED FROM THE REST OF THESE
9 DEFENDANTS FOR THOSE REASONS, AND I BELIEVE THAT HE IS
10 DUE YOUR HONOR'S UTMOST CONSIDERATION FOR THOSE
11 REASONS. THANK YOU.

12 THE COURT: OKAY. THANK YOU, SIR. MR. PASCOE.

13 SOLICITOR PASCOE: YES, SIR, I AGREE WITH
14 EVERYTHING MR. PALMER SAID, YOUR HONOR, AS FAR AS MR.
15 HARRIS DID GIVE STATEMENTS TO THE POLICE, AND HIS ONLY
16 CONVICTION IS AN ADJUDICATION IN TWO THOUSAND AND FOR
17 BURGLARY IN THE THIRD DEGREE.

18 THE COURT: OKAY. THAT'S GOING TO, IT HELPS YOU
19 OUT SOME, YOU KNOW.

20 SENTENCE BY THE COURT OF WALTER LEE HARRIS

21 THE SENTENCE OF THIS COURT REGARDING INDICTMENT
22 NUMBER 2010-814, THE ARMED ROBBERY, THE SENTENCE OF
23 THIS COURT IS, YOU'RE COMMITTED TO THE STATE
24 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF THIRTY
25 YEARS.

1116

1 REGARDING INDICTMENTS NUMBER 2010-813 AND 812,
2 BURGLARY IN THE FIRST DEGREE AND MURDER, THE SENTENCE
3 OF THIS COURT IS, YOU'RE COMMITTED TO THE STATE
4 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF THIRTY-FIVE
5 YEARS.

6 THESE SENTENCES ARE CONCURRENT, AND I WILL GIVE
7 YOU CREDIT FOR TIME SERVED.

8 OKAY. THANK YOU, SIR.

9 MR. PALMER: THANK YOU, YOUR HONOR.

10 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

11 THE COURT: YES, SIR.

12 (Whereupon, Walter Lee Harris
13 leaves the courtroom and
14 Danny Ryant, Jr., enters
15 the courtroom.)

16 SOLICITOR PASCOE: HERE'S DANNY RYANT, YOUR
17 HONOR.

18 THE COURT: OKAY. YOU ARE HIS?

19 BROTHER OF DEFENDANT RYANT: BROTHER.

20 THE COURT: OKAY. HOW ARE YOU DOING, SIR?

21 BROTHER OF DEFENDANT RYANT: ALRIGHT.

22 THE COURT: ALRIGHT, MS. WALKER, THIS IS DANNY
23 RYANT, JUNIOR.

24 ALRIGHT, LET ME HEAR FROM YOU, MR. MELLARD.

25 MR. MELLARD: YES, SIR. MR. RYANT IS TWENTY

1 YEARS OLD. HE HAS FAMILY HERE, HIS MOM IS HERE, HIS
2 SISTER IS HERE. AS YOU CAN SEE, HIS BROTHER IS HERE.
3 HIS FAMILY HAS INFORMED ME THAT HE HAS ALWAYS BEEN A
4 VERY HELPFUL PERSON. HE, IF THEY NEED HELP HE'S
5 ALWAYS THERE FOR THEM. HE DOES WHAT HE CAN DO TO BE
6 PART OF THIS FAMILY. SO, HE DOES HAVE THE SUPPORT OF
7 FAMILY, YOUR HONOR.

8 THE COURT: YES, SIR.

9 MR. MELLARD: HE HAS ONE CHILD. THE FAMILY SAYS
10 HE'S A VERY GOOD FATHER. OBVIOUSLY, HE MAINTAINS HIS
11 INNOCENCE, BUT I WOULD ASK THE COURT TO NOTE THAT THE
12 EVIDENCE PRESENTED HERE SHOWED THAT HE WAS NOT
13 INVOLVED IN THE PLANNING IN ANY WAY, THAT HE WAS NOT
14 INVOLVED IN FURNISHING ANY FIREARMS IN ANY WAY, THAT
15 HIS INVOLVEMENT WITH THE GROUP WAS PROBABLY NO MORE
16 THAN FIVE MINUTES BEFORE THE CRIME OCCURRED. AND
17 THERE'S AN ALLEGATION THAT HE HAD AN SKS. IF THAT'S
18 TRUE THEN HE EITHER FIRED ONE SHOT OR FOUR, NOT THE
19 BULK OF WHAT THE EVIDENCE WAS.

20 SO, YOUR HONOR, IT'S OUR POSITION THAT HE WAS
21 NOT, HE WAS NOT A PLANNER, HE WAS NOT A PERSON WHO
22 PROVIDED THE FIREARMS, AND THAT HE GOT PICKED UP MERE
23 MINUTES BEFORE THIS HAPPENED. SO, HE WAS NOT PART OF
24 ANY, ANY PLAN.

25 WE WOULD SUBMIT THAT HE SHOULD NOT BE GIVEN THE

1118

1 SAME SENTENCE AS THE PEOPLE WHO PLANNED THIS THING,
2 HE SHOULD NOT BE GIVEN THE SAME SENTENCE AS THE
3 PEOPLE WHO PROVIDED THE FIREARMS AND WENT IN, YOUR
4 HONOR. SO, WE WOULD JUST ASK FOR THE MERCY OF THIS
5 COURT.

6 THE COURT: OKAY. ALRIGHT, MR. PASCOE.

7 SOLICITOR PASCOE: YOUR HONOR, MR. RYANT, THE
8 ONLY THING HE HAS IS AN ADJUDICATION IN FAMILY COURT
9 FOR TRUANCY, I DIDN'T EVEN WRITE DOWN THE YEAR. AND
10 AGAIN, I'D HAVE TO AGREE WITH MR. MELLARD IN ONE
11 REGARDS, MR. RYANT MADE A HORRIBLE DECISION, TWENTY
12 MINUTES, HE WAS WITH THEM FOR NO MORE THAN TWENTY
13 MINUTES, AND THAT'S WHAT GOT HIM INVOLVED IN THIS
14 ARMED ROBBERY AND MURDER.

15 THE COURT: ALRIGHT.

16 DEFENDANT RYANT: I AIN'T PARTICIPATED IN THESE
17 CRIME, SIR, I WAS IN THE AREA, I AIN'T SHOT NOBODY,
18 SIR.

19 COURT REPORTER: I'M SORRY.

20 DEFENDANT RYANT: I WAS IN THE AREA, I AIN'T SHOT
21 NOBODY, SIR.

22 SOLICITOR PASCOE: AND LIKE I SAID, WE GOT - - -

23 DEFENDANT RYANT: ALL I WANTED TO DO WAS ENJOY MY
24 MOTHER, I WAS IN THE CLUB. I JUST GOT IMPLICATED IN
25 THIS, BUT I AIN'T TOOK NO PART, LIKE, NO PART IN

1 NOTHING. I WAS JUST AROUND, BUT I AGREE WITH THE
2 COURT, AND I'VE JUST GOT TO ACCEPT IT.

3 THE COURT: MR. PASCOE, THE ONLY THING YOU SAID
4 IS, YOU AGREED THAT IT WAS A BAD DECISION, IS THAT
5 CORRECT?

6 SOLICITOR PASCOE: YES, SIR, TWENTY MINUTES. HE
7 WAS GONE FOR TWENTY MINUTES AND THAT GOT HIM INVOLVED
8 IN THIS MURDER. AND AS MR. MELLARD SAID, THE EVIDENCE
9 IS, HE HAD ONE OF THE SKSES.

10 DEFENDANT RYANT: THAT'S NOT TRUE, SIR.

11 THE COURT: OKAY.

12 SOLICITOR PASCOE: AND CAN I SAY ONE THING? THE
13 REASON I MENTIONED ABOUT THE SKSES IS, AND THAT'S AN
14 EVIL THING, BUT THE PEOPLE THAT HAD THE PISTOLS, RALPH
15 AND CHRIS COLEMAN, FIRED AT THAT VICTIM AT POINT BLANK
16 RANGE WHEN HE WAS LYING ON THE GROUND NINETEEN, A
17 TOTAL OF NINETEEN SHOTS. AND THAT'S WHY I'M
18 DIFFERENTIATING BETWEEN WHO HAD THE RIFLE AND THE
19 PISTOLS.

20 THE COURT: SO, YOU WOULD SAY A DIFFERENTIATED
21 SENTENCE WOULD BE APPROPRIATE?

22 SOLICITOR PASCOE: YES, SIR, YES, SIR.

23 THE COURT: OKAY.

24 SOLICITOR PASCOE: ABSOLUTELY, FROM MR. RALPH
25 COLEMAN, CHRIS COLEMAN, AND WALTER HARRIS. THERE'S NO

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1 QUESTION, THE STATE'S OPINION, THEY'RE THE THREE
2 WORST, -- NOT WALTER HARRIS, -- MARIO SHIVERS, MARIO
3 SHIVERS.

4 THE COURT: ALRIGHT, SIR.

5 SENTENCE BY THE COURT OF DANNY RYANT, JR.

6 ALRIGHT, MR. RYANT, REGARDING INDICTMENT NUMBER
7 2010-819, THE ARMED ROBBERY, THE SENTENCE OF THIS
8 COURT IS YOU'RE COMMITTED TO THE STATE DEPARTMENT OF
9 CORRECTIONS FOR A PERIOD OF THIRTY YEARS.

10 REGARDING INDICTMENTS NUMBER 2010-818 AND 817,
11 THIS WAS THE BURGLARY IN THE FIRST DEGREE AND THE
12 MURDER, THE SENTENCE OF THIS IS COURT IS YOU'RE
13 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A
14 PERIOD OF FORTY YEARS.

15 THESE SENTENCES ARE CONCURRENT, AND I'LL GIVE YOU
16 CREDIT FOR YOUR TIME SERVED.

17 OKAY.

18 MR. MELLARD: THANK YOU, YOUR HONOR.

19 THE COURT: THANK YOU.

20 (Whereupon, Danny Ryant, Jr.,
21 leaves the courtroom and
22 Mario Shivers enters
23 the courtroom.)

24 THE COURT: ALRIGHT, MR. KOGER AND MR. SHIVERS.

25 ALRIGHT, MR. KOGER.

1 MR. KOGER: YOUR HONOR, MAY IT PLEASE THE COURT.

2 THE COURT: YES, SIR.

3 MR. KOGER: I'M HERE, OF COURSE, ON BEHALF OF
4 MARIO SHIVERS, WHO WAS ONE OF THE DEFENDANTS IN THE
5 TRIAL HERE THIS WEEK. AS YOU CAN SEE, YOUR HONOR,
6 MR. SHIVERS HAS SIGNIFICANT FAMILY SUPPORT HERE. THIS
7 IS HIS MOTHER, CAROLYN BUSBY -- I'M SORRY, CAROLYN
8 BROWN, HIS FATHER, REGGIE SHIVERS. THIS IS THE MOTHER
9 OF HIS CHILD, DANIELLE MONROE. THIS IS THE PERSON
10 THAT HE STAYED WITH FOR THE LAST YEAR, MS. HOWLE, AND
11 HIS BROTHER, KENDRAE, IN THE BACK.

12 THE COURT: OKAY. THANK YOU.

13 MR. KOGER: BASICALLY, WE WANTED TO POINT OUT
14 THAT MR. SHIVERS CAME FROM A SUPPORTIVE FAMILY. FROM
15 OUR CONVERSATIONS WITH MS. BROWN, THE MOTHER, SHE IS
16 CURRENTLY EMPLOYED A PALMETTO RICHLAND AS A
17 HOUSEKEEPER AND HAS HAD SIGNIFICANT EMPLOYMENT IN THE
18 PAST. MARIO IS JUST ONE OF FIVE CHILDREN. HIS OLDEST
19 BROTHER WORKS AT HOME DEPOT AND DISTRIBUTION CENTER IN
20 CAYCE. HIS OTHER SISTER IS IN THE UNITED STATES ARMY
21 AND HAS BEEN THERE ON ACTIVE DUTY FOR TWO YEARS.
22 KENDRAE IS HERE TODAY IN THE BACK, AND ERIC, HIS
23 YOUNGEST BROTHER, IS A STUDENT AT EDISTO.

24 BEFORE MR. SHIVERS FOUND HIMSELF IN THIS
25 PREDICAMENT HE ACTUALLY WAS GAINFULLY EMPLOYED AND HE

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1 WAS LAID OFF JUST BEFORE THIS HAPPENED, HE WAS
2 GAINFULLY EMPLOYED IN CONSTRUCTION AT THE NEW AQUATIC
3 CENTER ON THE OLD ST. MATTHEWS ROAD.

4 FROM TALKING WITH HIS FAMILY AND TALKING WITH
5 PEOPLE THAT HE'S BEEN INVOLVED WITH, THEY BASICALLY
6 SAID THAT MR. SHIVERS IS A GOOD PERSON. AND, OF
7 COURSE, YOU KNOW, HE FOUND HIMSELF IN A VERY
8 DIFFICULTY SITUATION. MY CONVERSATIONS WITH HIM OVER
9 AT THE DETENTION CENTER, HE WAS ALWAYS VERY
10 RESPECTFUL, AND SEEMED THAT IF HE HAD MADE SOME
11 DIFFERENT CHOICES THEN, OF COURSE, HE WOULD END UP AT
12 A DIFFERENT PLACE.

13 WE'D JUST ASK THAT YOUR TAKE INTO CONSIDERATION
14 THAT HE IS TWENTY-TWO YEARS OF AGE. I KNOW YOUR HONOR
15 HAS TO BALANCE THAT WE HAD A DEATH HERE, AND THE
16 STATE'S INTEREST MUST BE BALANCED WITH THE INTEREST OF
17 THE DEFENSE. AS STATED, HE HAS A SON FOUR YEARS OF
18 AGE, AND WE'D JUST ASK THAT YOU COULD CONSIDER SOME
19 TYPE AMOUNT OF TIME THAT HE WILL BE ABLE TO GET OUT TO
20 BE A PRODUCTIVE MEMBER OF SOCIETY AND TO, I GUESS, AT
21 THAT POINT TO RE-ESTABLISH A RELATIONSHIP WITH HIS
22 SON.

23 THE COURT: THANK YOU, SIR. MR. PASCOE.

24 SOLICITOR PASCOE: YOUR HONOR, HE'S GOT
25 ADJUDICATIONS IN FAMILY COURT, TWO THOUSAND AND TWO

1 MALICIOUS INJURY, AND TWO THOUSAND AND THREE, ASSAULT
2 AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

3 THE COURT: THAT WAS IN FAMILY COURT?

4 SOLICITOR PASCOE: YES, SIR, THOSE WERE
5 ADJUDICATIONS IN FAMILY COURT. IT'S THE STATE'S
6 POSITION THAT FROM THE RECORD THE EVIDENCE IN THIS
7 CASE, MR. SHIVERS PLANNED THIS ROBBERY, MR. SHIVERS
8 OWNED THREE OF THE WEAPONS THAT WERE USED IN THIS
9 MURDER AND BURGLARY, AND HE SHOULD BE HELD ACCOUNTABLE
10 FOR THAT.

11 SENTENCE BY THE COURT OF MARIO MONTEZ SHIVERS

12 WITH REGARD TO 2010-824, THE ARMED ROBBERY
13 CHARGE, THE SENTENCE OF THIS COURT, MR. SHIVERS, IS
14 THAT YOU ARE COMMITTED TO THE STATE DEPARTMENT OF
15 CORRECTIONS FOR A PERIOD OF THIRTY YEARS.

16 WITH REGARD TO INDICTMENTS NUMBER 2010-822 AND
17 2010-823, THE BURGLARY IN THE FIRST DEGREE AND THE
18 MURDER, THE SENTENCE OF THIS COURT, MR. SHIVERS, IS
19 THAT YOU ARE COMMITTED TO THE STATE DEPARTMENT OF
20 CORRECTIONS FOR A PERIOD OF FIFTY YEARS.

21 THESE SENTENCES ARE CONCURRENT. I WILL GIVE YOU
22 CREDIT FOR TIME SERVED.

23 THANK YOU.

24 MR. KOGER: THANK YOU, YOUR HONOR.

25 THE COURT: APPRECIATE IT.

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1 ALRIGHT, IF YOU'LL LET THE PEOPLE IN THE AUDIENCE
2 LEAVE, YOU CAN DIRECT THEM OUT AS YOU WANT TO DIRECT
3 THEM OUT. OKAY?

4 SOLICITOR PASCOE: THANK YOU, JUDGE.

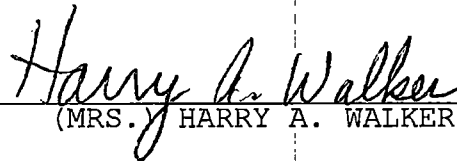
5 THE COURT: THANK YOU.

CERTIFICATE

I, THE UNDERSIGNED, MRS. HARRY A. WALKER, OF ROWESVILLE, SOUTH CAROLINA, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE TENTH THROUGH SEVENTEENTH DAYS OF DECEMBER, 2010.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

DATE: MARCH 2, 2010


(MRS.) HARRY A. WALKER

COUNTY: ORANGEBURG DATE: DECEMBER 13, 2010

VOIR DIRE (PAGE 1 OF 3)

Judge: EDGAR DICKSON

Pl./State: State/Pl's Atty:
STATE OF SOUTH CAROLINA DAVID PASCOE & DON SORENSON

Defendant: Defense Atty:
CHRISTIAN COLEMAN RICHARD LACKEY
RALPH BERNARD COLEMAN JILLIAN ULLMAN & MARK WISE
WALTER LEE HARRIS SCOTT PALMER
DANNY RYANT, JR. DOUGLAS MELLARD
MARIO MONTEZ SHIVERS JOSHUA KOGER

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Sex	Pl.	Def.	Accept
77	JAMIE HEADDEN	W	M			X
169	CHARLES STRECKER	W	M			X
94	INDIA JAMISON	B	F			X
11	JANICE BOGLIN	B	F		X	
38	GUY CROUT	W	M		X	
198	AUSIA WINE	B	F	X		
193	KELLY WILLIAMS	W	F			X
97	DELORIS JEFFERSON	B	F	X		
66	JOSEPH GRIFFIN	W	M		X	
112	LORETTA LADSON	B	F		X	
98	EMMA JEFFERSON	B	F	X		
160	TAMMY SEAWRIGHT	B	F	X		
110	WANDA KITTRELL	W	F		X	
78	THOMASENIA HICKS	B	F		X	
84	SUSAN HUGHES	W	F		X	

COUNTY: ORANGEBURGDATE: DECEMBER 13, 2010VOIR DIRE (PAGE 2 OF 3)Judge: EDGAR DICKSON

Pl./State:

STATE OF SOUTH CAROLINA

State/Pl's Atty:

DAVID PASCOE & DON SORENSON

Defendant:

CHRISTIAN COLEMANRALPH BERNARD COLEMANWALTER LEE HARRISDANNY RYANT, JR.MARIO MONTEZ SHIVERS

Defense Atty:

RICHARD LACKEYJILLIAN ULLMAN & MARK WISESCOTT PALMERDOUGLAS MELLARDJOSHUA KOGERCourt Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Sex	Strikes:			Def.	Accept
				Pl.				
166	ALVIN SMOAK	W	M				X	
48	JEROME FRANKLIN	B	M					X
14	OTIS BOYD	B	M					X
114	CLAREY LIVINGSTON	B	M		X			
7	LADSON BEACH	W	M		X			
131	CANNETTE MOORER	B	F		X			
3	VIVIAN BAIR	W	F				X	
92	HATTIE JAMES	B	F		X			
141	JERRY POOR	W	M				X	
93	KIA JAMES	B	F					X
152	DAVID ROBERTS	W	M				X	
2	COURTNEY ASBERRY	B	F					X
23	MERLINDA BUTLER	B	F					X
123	ALLEN MILLER	W	M				X	

COUNTY: ORANGEBURGDATE: DECEMBER 13, 2010VOIR DIRE (PAGE 3 OF 3)Judge: EDGAR DICKSON

Pl./State:

STATE OF SOUTH CAROLINA

State/Pl's.Atty:

DAVID PASCOE & DON SORENSON

Defendant:

CHRISTIAN COLEMANRALPH BERNARD COLEMANWALTER LEE HARRISDANNY RYANT, JR.MARIO MONTEZ SHIVERS

Defense Atty:

RICHARD LACKEYJILLIAN ULLMAN & MARK WISESCOTT PALMERDOUGLAS MELLARDJOSHUA KOGERCourt Reporter: (Mrs.) Harry A. Walker

Juror

Strikes:

No.	Name	Race	Sex	Pl.	Def.	Accept

34	LORETTA COLTER	B	F			X

9	SAMANTHA BENTON	W	F			X

176	ELLIS THIGPEN	W	M		X	

103	TAMEKA JOHNSON	B	F			X

ALTERNATE NO. 1

165	LEON SMITH	B	M		X	

115	WAYNE LOVETTE	W	M			X

ALTERNATE NO. 2

76	BRENDA HAYWARD	B	F			X

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg S.C.

IN THE COURT OF COMMON PLEAS

Mario Shivers #344174
 Full name and prison number (if any) of Applicant.

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Institution
386 Redemption Way, McCormick, South Carolina 29344
2. Name and location of Court which imposed sentence Orangeburg County Court of
General Sessions Orangeburg, South Carolina
3. Name(s) of co-defendant(s) (if any) Christian Coleman, Ralph Bernard Coleman, Walter Lee Hart
Danny Ryan, JR, PATRICK TYLER
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010-GS-38-822-Murder
 - (b) 2010-GS-38-823-Burglary First
 - (c) 2010-GS-38-824-Armed Robbery
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 12/17/10 50 years
 - (b) 12/17/10 30 years

- (c) 12/17/10 50 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty DECEMBER 17, 2010-50 years
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?

8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. 12/15/2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. State v. Shivers Unpublished opinion NO.
- ii. 2012-UP-646
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
 (b) _____
 (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Counsel was ineffective for failing to investigate this case
 (b) by failing to interview potential witnesses. Counsel has a
 (c) duty to investigate, see Ardy v. Catoe, 442 S.E.2d 590, 597 (2007)

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 i. N/A
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. N/A
 ii. _____
 iii. _____
 iv. _____
 (c) the disposition thereof:
 i. N/A
 ii. _____
 iii. _____

iv. _____

(d) the date of each such disposition:

i. 12/5/2012

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. See copy of order, page 8 of this

ii. application

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. N/A

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) This is the first opportunity the Applicant has

(b) have to present these issues.

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
- i. JOSHUA KOGER, ESQUIRE Orangeburg J.C.
 - ii. Elizabeth A. Franklin-Best Appellate Defender
 - iii. Susan B. Hackett Appellate Defender
- (b) the proceedings at which each such attorney represented you:
- i. 18(a)(1)-17(a)(b)(c)
 - ii. 18(a)(1)-17(d)
 - iii. 18(a)-17(e)

19. State clearly the relief you seek in filing this application:

Reverse conviction and sentence and remand for a new trial

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Orangesburg S.C.)Mario Montez Shivers

I, Mario Montez Shivers, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Mario Shivers

SWORN to and subscribed before me this 07
day of January, 2013.

J. J. Rankler (L.S.)
Notary Public

My Commission Expires: 12-16-2019

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Mavis Mireles

Applicant

SWORN or affirmed to and subscribed before me this
07 day of January, 2013.

J. C. Franklin
Notary Public

My Commission Expires: 12-16-2019

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Mario Shivers, Appellant.

Appellate Case No. 2010-181547

Appeal From Orangeburg County
Edgar W. Dickson, Circuit Court Judge

Unpublished Opinion No. 2012-UP-646
Submitted October 1, 2012 – Filed December 5, 2012

AFFIRMED

Appellate Defender Elizabeth Anne Franklin-Best, of
Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney
General John W. McIntosh, Senior Assistant Deputy
Attorney General Donald J. Zelenka, and Senior
Assistant Attorney General Melody Jane Brown, all of
Columbia; and Solicitor David Michael Pascoe, Jr., of
Orangeburg, for Respondent.

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Mario Shivers, #344174,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No. 2013-CP-38-00016

RETURN

In response to the post-conviction relief application filed January 10, 2013, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Orangeburg County. The Applicant was true bill indicted during the May 2010 term of the Orangeburg County Grand Jury under a five count indictment for murder (2010-GS-38-0822), burglary in the first degree (2010-GS-38-0823), armed robbery (2010-GS-38-0824), possession of a weapon during the commission of a violent crime (2010-GS-38-0825), and kidnapping (2010-GS-38-0826). Joshua Koger, Esquire represented the Applicant. On December 10, 2010, the Applicant proceeded to a jury trial alongside his four co-defendants before the Honorable Edgar W. Dickson. On December 17, 2010, the jury convicted Applicant of murder, armed robbery, and burglary in first degree. Judge Dickson sentenced the Applicant to fifty years imprisonment for the murder, fifty years imprisonment for the burglary first degree, and thirty years imprisonment for the armed robbery, with sentences to be served concurrently. The possession of a weapon during the commission of a violent crime and kidnapping charges were *nolle prossed*.

A Notice of Appeal was filed with the South Carolina Court of Appeals and an appeal was perfected on the Applicant's behalf. The Court of Appeals denied the appeal, State v. Shivers, Op. No. 2012-UP-646 (S.C. Ct. App. filed May 5, 2012). The Remittitur was issued on January 4, 2013.

Attached herewith and incorporated herein are the records of the Orangeburg County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reason:

1. Ineffective Assistance of Counsel
 - a. "Counsel was ineffective for failing to investigate this case by failing to interview potential witnesses. Counsel has a duty to investigate."

Any claims not specifically enumerated in the post-conviction relief application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In his application, the Applicant alleges ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's

conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: Megan E. Harrigan
Attorneys for the Respondents

April 24, 2013.

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
) FIRST JUDICIAL CIRCUIT
 COUNTY OF ORANGEBURG) CASE NO.: 2013-CP-38-00016

MARIO SHIVERS,)
)
 APPLICANT,)
)
 VS.)
)
 THE STATE OF SOUTH CAROLINA,)
)
 RESPONDENT.)
)

POST CONVICTION RELIEF HEARING

held before the Honorable Kristi L. Harrington
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Dorchester County Courthouse
 Saint George, South Carolina
 on Monday, October 27, 2014, Commencing at 2:43 p.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 31865
 Charleston, South Carolina 29417-1865
 1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE APPLICANT: Charles T. Brooks, Esquire
Attorney at Law
309 Broad Street
Sumter, South Carolina 29150

FOR THE RESPONDENT: James C. Mitchell, Esquire
Assistant Attorney General
Office of The Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

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EXHIBITS

[None]

Mario Shivers vs. The State of South Carolina
Proceedings
October 27, 2014

PROCEEDINGS

1
2 MR. MITCHELL: Your Honor, may it please the
3 Court?

4 THE COURT: Yes.

5 MR. MITCHELL: The next matter is Mario Shivers
6 versus The State of South Carolina, docket number
7 2013-CP-38-0016.

8 Applicant was indicted in the May 2010 term of
9 the Orangeburg County Grand Jury for murder on a five-
10 count indictment: for murder, burglary first, armed
11 robbery, kidnaping, and possession of a weapon during
12 the commission of a violent crime. He was represented
13 by Mr. Joshua Koger on those charges.

14 He was tried between December 10th and December
15 17th of 2010 before the Honorable Edgar Dixon, where
16 he was convicted of murder, burg first, and armed
17 robbery. The kidnaping and weapons charges were
18 dismissed by the State. Judge Dixon sentenced the
19 applicant to fifty years for murder, fifty years for
20 burg first, and thirty years for armed robbery, all of
21 the sentences to be served concurrently.

22 Notice of appeal was filed and the appeal was
23 perfected on applicant's behalf. South Carolina Court
24 of Appeals affirmed applicant's conviction.
25 Remittitur was issued January 4th, 2013. Applicant

MIA PERRON, CVR-CM-M

Mario Shivers vs. The State of South Carolina
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1 filed this application for post conviction relief on
2 January 10th, 2013, where he has alleged ineffective
3 assistance of counsel and that counsel failed to
4 investigate the case by interviewing potential
5 witnesses.

6 Applicant is present here today and is
7 represented by Mr. Charles Brooks. And I'll turn it
8 over to him now.

9 THE COURT: Mr. Brooks?

10 MR. BROOKS: Judge, if you're ready, we'll call
11 our first witness. That will be Mario Shivers.

12 THE COURT: Mr. Brooks, did you explain to your
13 client the benefits, as well as the consequences, of a
14 granting of a post conviction relief application?

15 MR. BROOKS: Yes, ma'am.

16 THE COURT: And the way I see this, he was
17 facing two life sentences, plus thirty; is that
18 correct?

19 MR. BROOKS: Yes. That is correct.

20 THE COURT: And he received a fifty-year
21 sentence, concurrent?

22 MR. BROOKS: Yes, ma'am.

23 MR. MITCHELL: Your Honor, I'm sorry.

24 I left out that applicant, in the previous term,
25 moved for funding for an investigator and that was

MIA PERRON, CVR-CM-M

Mario Shivers vs. The State of South Carolina
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1 denied by Judge Murphy.

2 THE COURT: All right.

3 MR. BROOKS: And, Judge, on a piggy-back on
4 that: we addressed some potential conflict issues. I
5 represent another codefendant in the case. When I say
6 a conflict issue, two guys who were tried together but
7 had separate lawyers so actually their claims of
8 ineffective assistance of counsel are totally
9 different. It is different individuals. We laid that
10 out. Actually had a continuance hearing once before
11 with a prior Attorney General, as well as the hearing
12 in front of Judge Murphy in regards to investigating.
13 So I just wanted to put that on the record for you.

14 THE COURT: Mr. Shivers, please stand and be
15 sworn.

16 THE CLERK OF COURT: Please raise your right
17 hand.

18 State your full name for the record.

19 MR. SHIVERS: Mario Mathee [phonetic] Shivers.

20 [Whereupon, Mr. Shivers is duly sworn by the
21 clerk of court as follows: do you solemnly swear or
22 affirm to tell the truth, the whole truth, and nothing
23 but the truth, so help you God]

24 MR. SHIVERS: I do.

25 THE COURT: Mr. Shivers, you understand what

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October 27, 2014

1 would happen today if I grant your application for
2 post conviction relief?

3 MR. SHIVERS: Yes, ma'am.

4 THE COURT: What will happen?

5 MR. SHIVERS: I will start over, ma'am.

6 THE COURT: And you will start over on the
7 murder and a burglary first and an armed robbery; is
8 that correct?

9 MR. SHIVERS: Yes, ma'am.

10 THE COURT: And you understand that you are
11 facing two life sentences plus thirty years?

12 MR. SHIVERS: Yes, ma'am.

13 THE COURT: And you received a sentence of fifty
14 years --

15 MR. SHIVERS: Yes, ma'am.

16 THE COURT: -- to run concurrent.

17 You understand that would not be back on the
18 table?

19 MR. SHIVERS: Yes, ma'am.

20 THE COURT: That would not be available to you.

21 MR. SHIVERS: I understand.

22 THE COURT: Knowing that, do you still wish to
23 go forward here today?

24 MR. SHIVERS: Yes, ma'am.

25 THE COURT: All right. Mr. Brooks?

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MR. BROOKS: We call Mr. Shivers to the stand.

[Whereupon, Mr. Brooks takes the witness stand]

THE COURT: All right.

MR. BROOKS: Ready, Judge?

THE COURT: Yes. He's already been sworn.

MR. BROOKS: Mario, how have you been?

MR. SHIVERS: I'm doing good.

- - -
- - -
- - -

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

MARIO SHIVERS,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. BROOKS:

Q. Josh Koger was your attorney?

A. Yes, sir.

Q. And he was court-appointed to represent you?

A. Yes, sir.

Q. And you understand we're here to deal with
allegations of ineffective assistance of counsel?

A. Yes, sir.

Q. One of the things that you wanted to talk about
was you put that Mr. Koger failed to research and
investigate the facts involving your case.

A. Yes, sir.

Q. Do you want to tell the judge about that?

A. Dealing with the failure to research and
investigate the facts on my case with potential witnesses,
he failed to contact and investigate my alibi.

Q. Alibi? Who were your alibi witnesses that you
gave Mr. Koger?

A. My younger brother Eric Bovine [phonetic], and
my son mother Danielle Monroe.

Q. And you gave these names to Mr. Koger?

MIA PERRON, CVR-CM-M

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 A. Yes, sir.

2 Q. And none of these people testified in your
3 trial?

4 A. No, sir.

5 Q. And what's your understanding as to what they
6 would have testified to and how would they have been
7 helpful in your trial?

8 A. They would have testified to me being --

9 MR. MITCHELL: Objection. It's hearsay.

10 MR. BROOKS: Well, it's not necessarily --

11 THE COURT: Well, he --

12 MR. BROOKS: -- hearsay.

13 THE COURT: I'm going to allow it. Thank you.

14 MR. BROOKS: Okay.

15 A. They would have testified to me being at my
16 designated area at the time that the incident took place,
17 which I was home.

18 Q. [Mr. Brooks] And these people, once again, they
19 did not testify in your trial?

20 A. No, sir.

21 Q. Now, one of the other issues that you raised was
22 at the end of the trial when Judge Dixon had given you the
23 fifty-year sentence, did Mr. Koger make any motions to
24 reconsider that sentence?

25 A. No, sir.

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 Q. Did you feel that's something he should have
2 done?

3 A. Yes, sir.

4 Q. Now, in addition to that, one issue you talked
5 about was Mr. Koger put some evidence in. Can you explain
6 that?

7 A. Yes, sir.

8 The evidence that Mr. Koger placed in evidence
9 was State's Exhibit Number 2, which is Patrick Tyler's
10 statement.

11 Q. Now, who is Patrick Tyler?

12 A. The codefendant that testified on me.

13 Q. It was five people charged, four people went to
14 trial, one of the five ended up testifying?

15 A. Yes, sir.

16 Q. And that was Patrick Tyler?

17 A. Yes, sir.

18 Q. And are you saying he put in a statement by
19 Patrick Tyler?

20 A. Yes, sir.

21 Q. And how did that prejudice you? Explain that to
22 the Court.

23 A. He prejudiced me because it really affected the
24 outcome of my trial, how it would have taken place if he
25 wouldn't have placed the evidence into evidence. Which

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 that caused me to lose closing argument.

2 Q. More specifically, are you saying it caused you
3 to lose the last argument to --

4 A. Yes, sir.

5 Q. -- the jury?

6 A. Yes, sir, the last closing argument.

7 Q. Okay. Now, one other issue you wanted to raise
8 was the identification issue --

9 A. Yes, sir.

10 Q. -- by Ashley Parsley, who was a victim -- or a
11 witness in this case --

12 A. Yes, sir.

13 Q. -- for the State?

14 A. Yes, sir.

15 Q. And why is that important? Can you elaborate on
16 that?

17 A. You mean identification; right?

18 Q. That's correct.

19 A. Okay. Concerning that specific situation right
20 there with that implication, it was two photos of me in
21 the case. And one of the photos that Ms. Parsley circled
22 was not of how I looked at the time I was arrested. She
23 circled a picture of me when I was seventeen-years-old.
24 I'm -- four years later -- I had dreds. I looked nothing
25 like the picture she circled.

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 Q. Now, specifically, at the time -- at this time
2 you had dreds?

3 A. At this time this incident took place, I had
4 dreds.

5 Q. And you think that that would have been very
6 important to bring out in the identification hearing?

7 A. Yes, sir.

8 Q. Are you saying that Mr. Koger did not do that?

9 A. No, sir, he did not.

10 Q. And was there any testimony about light-skin
11 versus dark skin?

12 A. Yes, sir.

13 Q. And can you elaborate on that for the Court?

14 A. When Ms. Parsley was on the stand testifying,
15 Mr. Koger, he was crossing her and he asked her several
16 questions about skin complection. He asked her what color
17 would she consider her skin complection. She said dark
18 skin. And then he asked her what color would she consider
19 Mr. Schumpert's skin complection, she said dark-skinned.
20 Then he asked her again about Attorney Wise's skin
21 complection and she said fair-skinned.

22 And that's when he told me to stand. That's
23 when I stood up. And he pointed at me and said, this is
24 my client and I'm representing him. What color would you
25 consider his skin color, and she said light-skinned.

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 Q. Now, why is that -- why is that chain of events
2 important?

3 A. Because on the affidavit that she filled out,
4 she had circled me and said that I was the one that came
5 through the door with my face covered, wearing blue, dark-
6 skinned, dark-skinned individual. And when she was on the
7 stand testifying, she said I was as light-skinned.

8 So I felt like Mr. Koger, he should have dugged
9 deep when he had her against the wall. But when he had
10 her against the wall, he just let her go. He didn't
11 really come up with any details about the identification
12 situation.

13 Q. So, in essence, you felt like he should have
14 thoroughly cross-examined her on that issue?

15 A. Yes, sir.

16 And he should have bring up the fact that it was
17 two different photos of me in the case. Two different
18 photos. Not one, but two. She only circled that one.
19 The one she circled out, like I say again, I was
20 seventeen, I had no dreds. I'm twenty-one. I had dreds.
21 Came down to my chest. She couldn't circle that one out.
22 So when I asked Mr. Koger to mention that, he told me that
23 he didn't feel a need to bring that up because he didn't
24 want the jury to know that I had to turn myself in.

25 Q. And as far as that situation is concerned, you

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 were apprehended in Columbia?

2 A. Yes, sir.

3 Q. Because that's where your mother lived?

4 A. Yes, sir.

5 Q. And Officer Schumpert had gone to Columbia and
6 gotten you?

7 A. Yes, sir.

8 Q. And you think that was important that Mr. Koger
9 should have brought that out?

10 A. Yes, sir.

11 And to add on that, when Mr. Schumpert -- when I
12 was arrested in Columbia and I was at Columbia County,
13 Mr. Schumpert, he came there --

14 Q. You mean Richland County?

15 A. Yes, sir, Richland County.

16 Q. All right.

17 A. Richland County. Richland County.

18 And, now, Mr. Schumpert, he came there. And
19 when he approached the door where the cell I was in, he
20 came up to the cell door and he looked at me and he said,
21 no, this ain't him, when I'm standing to the door.

22 So I'm seeing everything that's taking place,
23 you know. So I stood to the door and I just looked at
24 him. And he came back to the door he said, no, this ain't
25 him.

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 So that's when I seen -- that's when I seen Mr.
2 Schumpert holding the photo in his hand. And I knocked on
3 the door and I said, man, that's me right there. So he
4 looked at me again, and he looked at the photo, and he
5 said, no, this ain't you. I said, man, the picture you
6 got, I'm seventeen years old in that picture.

7 Q. And you think that that would have been an
8 example of something Mr. Koger should have brought out in
9 front of the jury, that there was a big question about
10 being able to identify you?

11 A. Yes, sir.

12 Q. Okay.

13 A. Yes, sir.

14 Q. Now, one other issue you talked about was it was
15 four of y'all went to trial. And there was an issue about
16 severance that you wanted to tell the Court about?

17 A. Yes, sir.

18 Q. What issue is that?

19 A. Well, with the severance issue, Mr. Koger, he
20 never showed up on court during the severance motion
21 because he said he didn't feel the need that he needed to
22 be present.

23 Q. So it's your allegation that he wasn't present
24 when the severance issues were taken up?

25 A. No, sir, he wasn't present at all. It's in the

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 transcripts and everything.

2 Q. And you weren't there, either?

3 A. No, sir.

4 Q. Mario, is there anything we haven't covered?
5 We've kind of gone through the things that you and I
6 discussed. Is there anything we haven't covered?

7 A. The situation concerning the due process issue,
8 the severance issue, the -- okay. Well, we covered
9 Exhibit Number 2.

10 Well, the due process -- the due process issue,
11 do you want me to --

12 Q. Well, can you elaborate on the due process
13 issue?

14 A. I had concerns with the due process issue.
15 Counselor prejudiced me when he never argued how his
16 colleague's actions affected his cross-examination of the
17 State witness or violated my due process right.

18 Q. Explain that one to me, Mario.

19 A. When Mr. Koger -- he never went into details how
20 the other attorney's actions affected my due process
21 rights by voicing their opinion when he submitted
22 evidence, Patrick Tyler's statement into evidence.

23 Q. So is that why you should have had a separate
24 trial by yourself?

25 A. Yes, sir.

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 Q. And what your allegation is is that Mr. Koger
2 did not vigorously pursue that so that you could have your
3 own separate trial?

4 A. Right. He wasn't present during the severance
5 issue.

6 Q. Now, we've covered the severance issue. You
7 talked about how it prejudiced you. Is there anything
8 else we haven't covered?

9 A. Well, I mean, to add on to the prejudice, I felt
10 like Mr. Koger, he prejudiced me when he misinformed me.

11 Q. Misinformed you how?

12 A. That I shouldn't take the stand.

13 Q. So are you saying you should have taken the
14 stand?

15 A. Yes, sir.

16 I should have taken the stand, because there's
17 two sides to the story.

18 Q. Well, let me ask you this. If you had taken the
19 stand, what would you have said

20 A. What would I have said?

21 Q. Yes, sir.

22 A. I pretty much would have brought up everything
23 that I just stated to you about the two different photos,
24 the --

25 Q. Yeah, but if you had taken the stand, okay --

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 A. Yeah.

2 Q. -- obviously Mr. Koger would have asked a
3 situation -- a question like this, hey, were you here when
4 all this went down. And what would your response have
5 been?

6 A. No, sir, I was home.

7 Q. Is there anything else you would have testified
8 to pertinent to the case? Because, now, if you weren't
9 there, and you were at home, what else would you have
10 said?

11 A. There's not much more I can say about the
12 situation if I wasn't present.

13 Q. Is there anything else we haven't covered for
14 Judge Harrington today that you need to tell her about
15 your PCR?

16 A. Well, I did had a couple of issues in the
17 transcript concerning the PCR, about Patrick Tyler's
18 statement, Ashley Parsley's statement, and Investigator
19 Schumpert's testimony.

20 Q. Now, help me out, now, Mario --

21 A. Okay. Okay. I will.

22 Q. I think we've covered some of that, haven't we?

23 A. Yes, sir. Yes, sir. Yes, sir. We have covered
24 it.

25 Q. We covered Mr. Koger putting it in and you

Mario Shivers
Direct Examination by Mr. Brooks
October 27, 2014

1 losing the last argument.

2 A. You right. You right.

3 Q. We covered Ashley's identification, light skin
4 versus dark skin:

5 A. Yes, sir. Yes, sir.

6 Q. We covered Officer Schumpert: I don't know who
7 you are, picking you up at the jail, and then two
8 different pictures.

9 A. Yes, sir.

10 Q. So have we covered -- what else are we missing,
11 now?

12 A. We got everything, sir.

13 Q. Are you sure, now?

14 A. Yes, sir.

15 Q. This is your day.

16 A. That's right.

17 Q. We're trying to get you a new trial.

18 A. Yes, sir.

19 Q. And you told me -- I filed all the motions and
20 everything you wanted me to do; right?

21 A. Yes, sir.

22 MR. BROOKS: No other questions, Judge.

23 THE COURT: Your witness.

24 MR. MITCHELL: Good afternoon, Mr. Shivers.

25 MR. SHIVERS: Good afternoon.

Mario Shivers
Cross-Examination by Mr. Mitchell
October 27, 2014

CROSS-EXAMINATION

BY MR. MITCHELL:

Q. You talked about the misidentification --

A. Yes, sir.

Q. -- earlier; right?

A. Yes, sir.

Q. And your attorney, he crossed Ms. Parsley on that, didn't she -- didn't he? I mean, he asked her about it and he said, like you said, what color skin tone do you think I am, she said fair, and he went through that; right?

A. Yes, sir.

Q. So he brought that out at trial. He crossed on the ID, on that issue, didn't he?

A. Yes, sir.

Q. So he went over that in front of the jury, asked Ms. Parsley all those questions; is that right?

A. Well, my point is he never went into details. He never brought up the fact that it was two different photos of me in the case. Two different photos.

Q. Right.

A. Not one, but two.

Q. But he argued at closing, too, didn't he?

A. About the photo line-up?

Q. No. About the skin complexion and

Mario Shivers
Cross-Examination by Mr. Mitchell
October 27, 2014

1 misidentification. I mean, that was the theme of the
2 case, just about, wasn't it?

3 A. I can't recall that.

4 Q. Well, I mean, that was what you -- didn't you
5 discuss that with him, that it wasn't you at the scene,
6 right --

7 A. Uh-huh.

8 Q. -- about they misidentified you --

9 A. Yes, sir.

10 Q. -- from the beginning?

11 And the witness picked you out in that line-up;
12 isn't that right?

13 A. Yes, sir.

14 Q. And on the severance issue, that was actually
15 the issue on appeal, wasn't it?

16 A. Yes, sir.

17 Q. That was the only issue on appeal?

18 A. Yes, sir. Well, to go back --

19 Q. Well, hold on. Hold on.

20 Let's move to the alibi defense. That was also
21 a defense; right?

22 A. Yes, sir.

23 Q. And that was brought -- and you brought that up
24 with Mr. Koger?

25 A. Yes, sir.

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1 Q. And the two witnesses you gave him were your
2 younger brother; right?

3 A. Yes, sir. And --

4 Q. And then your --

5 A. -- and my son's mother.

6 Q. Okay. Your former girlfriend?

7 A. Uh-huh.

8 Q. And you served an alibi notice on the State; is
9 that right? Or the State knew that you were going to
10 allege an alibi, possibly?

11 A. Yes, sir.

12 Q. And your attorney filed the appropriate
13 paperwork to do so; right?

14 A. Not that I know of.

15 Q. So your alibi was that you were not at the scene
16 of the crime when it went -- when everything happened;
17 right?

18 A. I was not at the scene of the crime.

19 Q. Are those alibi witnesses here today?

20 A. No, sir.

21 MR. MITCHELL: All right. No further questions.

22 THE COURT: Mr. Brooks, redirect?

23 MR. BROOKS: No, ma'am.

24 THE COURT: You may step down. Thank you.

25 THE WITNESS: All right.

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1 [Whereupon, Mr. Shivers is excused and exits the
2 witness stand]

3 THE COURT: Call your next witness.

4 MR. BROOKS: That's it from us, Judge.

5 MR. MITCHELL: Your Honor, the State calls --

6 THE COURT: Do you have a witness?

7 MR. MITCHELL: -- Mr. Josh Koger.

8 [Whereupon, Mr. Koger comes forward]

9 THE CLERK OF COURT: Raise your right hand.

10 State your full name for the record.

11 MR. KOGER: Joshua Koger, Jr.

12 [Whereupon, Mr. Koger is duly sworn by the clerk
13 of court as follows: do you swear or affirm to tell
14 the truth, the whole truth, and nothing but the truth,
15 so help you God]

16 THE WITNESS: I do.

17 THE COURT: Mr. Mitchell?

18 MR. MITCHELL: Good afternoon, Mr. Koger.

19 THE WITNESS: Good afternoon.
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JOSHUA KOGER, JR.,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. MITCHELL:

Q. How long have you been practicing law?

A. Approximately twenty years.

Q. Twenty years. Okay.

How did you become involved in Mr. Shivers's
case?

A. I was appointed, by Orangeburg County, to
represent Mr. Shivers.

Q. Have you had an opportunity to review your file?

A. Yes, I have.

Q. Do you recall meeting with Mr. Shivers to
discuss the charges he was facing?

A. I met with him at the detention center.

Q. Did you go over the different offenses? Were
they covered?

A. Yes, I did. I went through the discovery with
him.

Q. What were the defenses that you came -- that you
decided were best?

A. Well, actually, he is correct. He did give me
some individual names, as far as the alibi: Danielle

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1 Monroe and Eric Bovine. And I filed the appropriate
2 paperwork with the solicitor's office. That was the major
3 one.

4 As far as going through the case, as he stated,
5 the reported misidentification: the strongest part of the
6 case, from our conversation with Mr. Shivers, is that
7 there were four other codefendants. There was four or
8 five tried in this particular case, and they was going to
9 all stick to the same story and be tried together.

10 The most damaging evidence was Patrick Tyler, a
11 sixth codefendant, who did not -- was not a part of the
12 trial. And I think that they all were thinking Patrick
13 Tyler was not going through with testifying in this
14 particular trial, since he was the youngest one of the
15 six. I think he was like sixteen or seventeen at the
16 time.

17 Q. And his testimony placed all five codefendants
18 at the incident?

19 A. That's correct.

20 Q. Moving on to identification or misidentification
21 as a defense. You crossed Ms. Parsley on that,
22 specifically, did you not?

23 A. Well, also, even before I crossed her in the
24 case-in-chief, we had Neil vs. Biggers I think about two
25 weeks earlier and we actually elicited the same

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1 information.

2 Mr. Shivers is mistaken. I did not submit
3 Patrick Tyler' statement. I submitted Ashley Parsley's --
4 I think that's her name -- statement to further drive home
5 that, you know, in the actual statement she stated that
6 the person at the door was dark-skinned. And I had her to
7 make an in-court identification that Mr. Shivers was
8 light-skinned.

9 As you stated, in the cross with Mr. Shivers,
10 one of the points that I hammered in on closing was
11 misidentification.

12 The State did not have really any physical
13 evidence in this particular trial. The theory that
14 convicted all five of them was primarily Mr. Tyler's
15 statement, a codefendant.

16 Q. With respect to the alibi, did you interview the
17 witnesses that he gave you, those two -- his younger
18 brother and his former girlfriend?

19 A. Yes, I did.

20 I actually called Ms. Danielle Monroe.

21 He gave me the number to give her a call. I
22 called her and we talked on the phone. She indicated to
23 me at that time that she would not be willing to help us
24 in this matter.

25 And actually, Eric Bovine, as well, at the time

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1 -- I think he was a senior at Wilkerson -- he actually
2 showed up at the courthouse. He was on the outside. And
3 once I spoke with him, I determined he was not -- he was
4 not going to be helpful to Mr. Shivers.

5 Q. That's why you didn't raise -- you didn't
6 present those two alibi witnesses at the trial?

7 A. That's correct.

8 And, also, too, because I had to, of course,
9 submit the alibi notice prior to trial, I'm kind of
10 unclear of whether law enforcement had also spoke to them
11 at that time. I know they was planning on speaking with
12 them.

13 Q. On to the closing -- losing closing statement,
14 as they put it, that was because you put in Ms. Parsley's
15 identification statement from a previous -- from the Neil
16 v. Biggers hearing; is that right?

17 A. That's correct.

18 Q. And that was to impeach her testimony, really?
19 To call into question what she was testifying to? Is that
20 right?

21 A. Well, I placed it in there because she -- she,
22 again -- I wanted to drive it home. And as contradictory
23 to what Mr. Shivers said, I wanted to drive it home that
24 she -- that there was a misidentification of Mr. Shivers
25 being on the scene.

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1 Now, and he remarked that we lost the right to a
2 last argument. As I stated, there were a total of five
3 defendants and we were actually the fifth in order, so we
4 was last in order.

5 And so being that we were last in order, we
6 had the benefit of four openings before the -- they got to
7 our opening statement. We had the benefit of four
8 closings before they got to our closing statements. So,
9 basically --

10 Of course, I represented primarily Mr. Shivers.
11 And for the most part, with the other four defendants,
12 there were some helpful things that were stated in both --
13 well, actually, throughout the trial. And it was my
14 belief all the time that they was working -- that they was
15 working together -- I'm talking defendants, not the
16 lawyers --

17 Q. Right.

18 A. -- the defendants, that they were banking on
19 that Mr. Tyler was not going to testify, or was not going
20 to be effectively testifying, against them.

21 Q. So you actually thought it was an advantage to
22 have -- to go fifth so you could impeach, impeach,
23 impeach?

24 A. Yes.

25 Q. So you gave the fifth opening? You were the

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1 fifth examiner of all the witnesses?

2 A. That's correct.

3 Q. And then gave the fifth closing?

4 A. That's correct.

5 Q. And each defendant kind of had their own theme
6 of the case but, you know, it was all kind of a common
7 defense, somewhat; is that right?

8 A. Somewhat. Somewhat.

9 Q. I'm moving on to severance. That was raised on
10 appeal; isn't that right?

11 A. Well, I think two other attorneys, two out of
12 the five -- I can't recall. I think Ms. Ulmer made a
13 motion, I can't recall who she represented, and I think
14 Mr. Palmer.

15 But I made the strategic decision to not join in
16 the motion for severance because I thought for Mr. Shivers
17 it would be strategically advantageous to try them
18 together, especially when we were in fifth position.

19 Q. The defendant did not testify at trial. Did you
20 discuss the advantages and disadvantages of testifying?

21 A. Yes, I did.

22 And the judge also, of course -- judge also
23 placed on the record, too, when we had decided not to
24 testify.

25 Q. Did you advise him how that would impact his

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1 defenses? Whether he was there, or misidentification?

2 A. I advised him of the peril of taking the stand,
3 as far as being on cross-examination.

4 Q. Judge Dixon, he went through I guess his normal
5 colloquy for defendants who were going to choose not to --
6 or not to testify?

7 A. That's correct.

8 MR. MITCHELL: No further questions. Thank you.
9 Please answer anything Mr. Brooks has for you.

10 THE COURT: Mr. Brooks?

11 MR. BROOKS: Yes, ma'am.

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Joshua Koger
Cross-Examination by Mr. Brooks --
October 27, 2014

CROSS-EXAMINATION

1
2 BY MR. BROOKS:

3 Q. Mr. Koger, you said that Mario's brother was not
4 going to be helpful?

5 A. That's correct.

6 Q. Did you tell him that?

7 A. I can't recall.

8 I spoke with him -- I think he came the day --
9 he came the day that the defendants had the opportunity to
10 take the stand, right before the end of the case, and I
11 was --

12 I think I might have alerted him or shared with
13 him that he was outside the courtroom, that once I spoke
14 with him, it was not going to work out. I didn't want to
15 put him on the stand if he -- he wanted to help his
16 brother, but it wasn't going to work out.

17 Q. Did you relay that to Mario, that you spoke with
18 his brother and that it wasn't going to work out?

19 A. I think I did when I came back in there.

20 Q. So all of these things that Mario testified to,
21 you don't have any necessary disagreement with those
22 facts?

23 A. Such as?

24 Q. The only disagreement was he said you put in
25 Patrick Tyler's statement, and you said you put in

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1 Ashley --

2 A. That's correct. That's in the transcript.

3 Q. -- Ashley Parsley's statement?

4 A. That's correct.

5 Q. And you said you didn't raise a severance issue
6 but you said you felt it was a strategic decision not to?

7 A. That's correct.

8 Q. You did cross-examine Ashley about her
9 identification?

10 A. That's correct.

11 Q. And skin complexion?

12 A. That's correct.

13 Q. You did not make a motion to reconsider the
14 sentence, at the conclusion of the trial, in the
15 sentencing?

16 A. I don't think -- I don't think I did because I
17 don't think, because I don't think, it's reflected in the
18 transcript.

19 MR. BROOKS: Court's indulgence, Your Honor?

20 THE COURT: Take your time.

21 [Whereupon, Mr. Brooks and Mr. Shivers confer]

22 Q. [Mr. Brooks] Mr. Koger, you remember Schumpert
23 testifying about going to pick up Mario in Columbia and
24 bringing him back to the detention center in Orangeburg?

25 A. Well, vaguely. I think that's it in the

Joshua Koger
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1 transcript.

2 Q. Do you remember the exchange about not being
3 able to identify him when he went to pick up Mario? Do
4 you recall that?

5 A. That's probably in discovery.

6 Q. Well, does your memory -- do you recollect that?

7 A. I can't recollect it.

8 I think my major point on cross-examination, if
9 I can remember, is about they didn't find the gun. The
10 gun goes into the lack of physical evidence that they had
11 in the trial.

12 As a matter of fact, I think the State -- I
13 think I made a point on cross, or in closing, that the
14 State had a forensic expert and had like a -- like over
15 fifty, fifty-one types of guns and none of them placed my
16 client on the scene.

17 Again, he was -- the most damaging piece of
18 evidence was the testimony of Patrick Tyler.

19 Q. So whatever your questioning to Schumpert, you
20 would just -- you rely on what's in the transcript?

21 A. I rely on what's in the transcript.

22 MR. BROOKS: Beg the Court's indulgence.

23 THE COURT: Take your time.

24 [Whereupon, Mr. Brooks and Mr. Shivers confer]

25 MR. BROOKS: No other questions, Judge.

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REDIRECT EXAMINATION

BY MR. MITCHELL:

Q. One quick thing.

A. Yes?

Q. About the motion for reconsideration, was -- did the applicant receive a legal sentence?

A. Yes.

Q. Did you think there was any merit to any kind of motion for consideration?

A. Not in this particular case because, as you notice on the transcript, this case was a week long. Judge Dixon had been -- he had been there since Monday. He heard all the testimony and at that particular time, to make an immediate motion for reconsideration wasn't too -- I felt it wasn't fair.

MR. MITCHELL: Thank you. No further questions.
And no further witnesses.

MR. BROOKS: That's it from us, Judge.

THE COURT: You may step down. Thank you.

THE WITNESS: Thank you.

THE COURT: And I think you are free to go.

THE WITNESS: Okay. Thank you.

THE COURT: Thank you.

[Whereupon, Mr. Koger is excused and exits the witness stand]

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1 THE COURT: Anything? Any rebuttal or anything?

2 MR. BROOKS: No rebuttal, Judge.

3 THE COURT: Let me hear arguments.

4 MR. BROOKS: Judge, briefly, if you recall my
5 client's testimony on the stand in regards to the
6 various issues, the alibi issues that we covered, the
7 failure to research and investigate the facts, the
8 identification, the submitting -- trial counsel
9 submitting a statement of an individual, giving up
10 that closing argument, all of those things combined,
11 and not making a motion for severance, prejudiced my
12 client in this case and if these things had been done
13 differently, would have changed the outcome of his
14 trial. And we submit to you, Judge, that all those
15 things that have been put forth to the Court, that my
16 client deserves to have a new trial and have his post
17 conviction relief granted.

18 MR. MITCHELL: Your Honor, we ask that the
19 application be denied.

20 To start with the mis-ID -- and I think that was
21 the theme of Mr. Koger's case -- he went through each
22 witness and tried to distance Mr. Shivers from the
23 scene in every single witness.

24 There was a forensic guy. He said, well, does
25 that gun link Mr. Shivers to the crime. He said no.

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1 so, you know, he did everything he could to show that
2 he was misidentified by Ms. Parsley. Also through --
3 in the Neil v. Biggers hearing went through all that,
4 argued at closing.

5 Onto the alibi: I think he filed the alibi
6 notice and intended to call those witnesses, until he
7 interviewed them, when he figured they would not be
8 helpful in his alibi that he was at the scene.

9 And one thing, I think Mr. Koger's mistaken. I
10 do believe he joined that motion to sever because
11 that's what the Court of Appeals's opinion -- that's
12 the only issue they addressed, and they didn't say it
13 was not preserved. So I do think he joined in that
14 motion to sever and that I think that issue has
15 already been raised and ruled upon by the South
16 Carolina Court of Appeals in affirming his convicting.

17 And that's all I have. Thank you.

18 THE COURT: Mr. Brooks?

19 MR. BROOKS: Just stand by what we submitted to
20 the Court.

21 THE COURT: All right. I'll take the matter
22 under advisement. I will accept proposed orders.
23 I'll give you fifteen days from today's date.

24 Good luck to you.

25 [PCR CONCLUDES AT 3:21 P.M.]

State vs. Mario Shivers

C E R T I F I C A T E

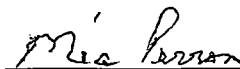
STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the PCR hearing held before the Honorable Kristi L. Harrington, on Monday, October 27, 2014.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 20th day of June, 2016.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Mario Shivers, #344174,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

CASE NO.: 2013-CP-38-00016

ORDER OF DISMISSAL

FILED FOR RECORD
WINNIE B. CLARK
CLERK OF COURT
ORANGEBURG, SC

2015 JAN 22 AM 11:32

THIS MATTER COMES BEFORE THE COURT pursuant to an application for post-conviction relief (PCR) filed January 10, 2013. Respondent made its Return on May 7, 2013, requesting an evidentiary hearing be convened. Charles T. Brooks, III, Esquire, was appointed by the Orangeburg County Clerk of Court. Applicant filed a Motion for Funding in order to hire an expert investigator. A hearing was held on said Motion on May 29, 2014, at the Dorchester County Courthouse. Applicant and Counsel Brooks were present. The Court denied that motion by written Order filed August 22, 2014.

An evidentiary hearing was held on October 27, 2014, at the Dorchester County Courthouse. Applicant was present and represented by Counsel Brooks. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

Applicant testified on his own behalf at the PCR hearing. Also testifying was Applicant's trial counsel, Joshua Koger, Jr., Esquire. The Court had before it the Orangeburg County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, the trial transcript, and the appellate records.

ATTEST: TRUE COPY

Winnie B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was true bill indicted during the May 2010 term of the Orangeburg County Grand Jury for Murder (2010-GS-38-0822), Burglary, First Degree (2010-GS-38-0823), Armed Robbery (2010-GS-38-0824), Possession of a Weapon during the Commission of a Violent Crime (2010-GS-38-0825), and Kidnapping (2010-GS-38-0826). Joshua Koger, Jr., Esquire represented Applicant.

On December 10, 2010, Applicant proceeded to a jury trial alongside his four co-defendants before the Honorable Edgar W. Dickson. On December 17, 2010, the jury convicted Applicant of Murder, Armed Robbery, and Burglary, First Degree. Judge Dickson sentenced Applicant to fifty years imprisonment for Murder, fifty years imprisonment for Burglary, First Degree, and thirty years imprisonment for the Armed Robbery, with all sentences to be served concurrently. The remaining indictments were *nolle prossed*.

A Notice of Appeal was filed with the South Carolina Court of Appeals and an appeal was perfected on the Applicant's behalf by Elizabeth A. Franklin-Best, Esquire, of the South Carolina Commission on Indigent Defense, Division of Appellate Defense. Counsel Best raised the following issue on appeal:

Whether the trial court judge erred when he did not sever the trials of Shivers and his four co-defendants, when his failure to do so violated Shiver's right to due process by forfeiting his right to last closing and affecting his cross-examination of state's witnesses?

The South Carolina Court of Appeals denied the appeal. *State v. Shivers*, Op. No. 2012-UP-646 (S.C. Ct. App. filed May 5, 2012). The Remittitur was issued on January 4, 2013.

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in that counsel failed to investigate the facts and circumstances of Applicant's case.

PCR HEARING

At the PCR hearing, Applicant alleged Counsel did not adequately investigate the case. He testified that if Counsel properly investigated the case, he would have discovered Applicant was at home when the incident occurred and that his younger brother and former girlfriend would have testified to that effect. Applicant asserted Counsel should have presented an alibi defense to the jury. Applicant testified he was misidentified from a photo lineup. He stated he had dread locks at the time the incident occurred but did not have them in the picture in the photo lineup. Applicant contended the victim's girlfriend, Ashley D. Parsley, gave conflicting statements, first describing Applicant as having dark skin, and then describing him as having light skin. Applicant testified that Counsel should have emphasized to the jury the discrepancies in Parsley's identifying him. Applicant did concede Counsel cross-examined Parsley on the identification and also argued it in closing arguments. Applicant testified he discussed the alleged misidentification with Counsel.

Applicant testified that Counsel introduced into evidence a prior statement of codefendant, as well as State's witness, Patrick Tyler and as a result, he and the other four (4) codefendants on trial would not be able to deliver the final closing argument.

Counsel testified that he has been practicing law for over twenty (20) years. Counsel testified he was appointed by the Orangeburg County Clerk to represent Applicant. He stated he met with Applicant numerous times and discussed discovery and defenses available to Applicant.

Counsel testified he submitted a Notice of Alibi where he listed Applicant's brother and former girlfriend as witnesses. Counsel testified he contacted both alibi witnesses. Counsel stated

Applicant's then-girlfriend was not willing to testify in the case and that after speaking with Applicant's younger brother he concluded his testimony would not be helpful.

Applicant testified the most damaging evidence was codefendant Tyler's statement that placed the other defendants at the scene of the crime. Counsel testified he cross-examined Parsley on her identification of Applicant. Counsel introduced a prior statement made by Parsley that was inconsistent with other statements and the testimony she gave at trial. Counsel testified this was to drive home the argument that Applicant was misidentified. Counsel also pointed out that he was the last attorney to do examinations which he thought was an advantage since he could build off the attorneys who proceeded before him.

APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); *Butler*, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Strickland*, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. *Id.* at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was

deficient. *Id.* Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." *Id.* (citing *Strickland*, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-18, 386 S.E.2d at 625.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, Applicant's appellate records, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

Failure to Investigate

Applicant's allegations that Counsel was ineffective for failing to investigate the facts and circumstances of the case must be denied. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. *Jackson v. State*, 329 S.C. 345, 495 S.E.2d 768 (1998).

Applicant specifically argues Counsel was ineffective for failing to investigate alibi witnesses. This allegation is without merit. This Court finds Counsel was not ineffective for failing to call an alibi witness for the Applicant during trial. To qualify as an alibi, a witness's testimony must account for the defendant's whereabouts during the time of the crime such that it would have been physically impossible for the defendant to commit the crime. *Walker v. State*, 397 S.C. 226, 237, 723 S.E.2d 610, 616 (Ct. App. 2012). When a PCR applicant alleges trial counsel failed to investigate or present an alibi witness, the PCR court must make two findings to determine if counsel's deficient performance constitutes prejudice under *Strickland*. *Id.* First, the court must find as a matter of law whether the witness's testimony meets the legal definition of an alibi. Second, the court must assess the witness's credibility. *Id.* In making the first finding, the court must consider the entire record to determine what the testimony would have been if it had been presented at trial. *Id.* The PCR court must consider the testimony as a whole, take it as true and credible, and view it in the light most favorable to the PCR applicant. *Id.*

This Court finds trial Counsel articulated a valid strategic reason for not presenting the testimony of the Applicant's alleged alibi witnesses at trial. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. *Roseboro v. State*, 317 S.C. 292, 454 S.E.2d 312 (1996); *Underwood v. State*, 309 S.C. 560, 425 S.E.2d 20 (1992); *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992).

This Court finds Counsel provided credible testimony that he decided not to call the Applicant's alleged alibi witnesses because their testimony would not be helpful to Applicant's

defense. Counsel investigated Applicant's alibi claims, spoke to the witnesses provided by Applicant, and filed a Notice of Alibi. Upon further investigation, Counsel determined neither witness was going to be helpful to Applicant's defense. This Court finds Counsel articulated a valid reason for employing such strategy and Applicant has failed to carry his burden of proving Counsel was deficient for failing to call the Applicant's alleged alibi witnesses.

This Court also finds Applicant failed to present the testimony of the alleged alibi witnesses at the evidentiary hearing for this Court to assess. In order to support a claim that trial counsel was ineffective for failing to interview or call potential alibi witnesses, an applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). This Court finds it will not speculate as to the substance of the testimony of Applicant's alleged alibi witnesses. This Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to call the his alleged alibi witnesses.

Failure to Present Misidentification Defense

This Court finds Applicant's contention that Counsel should have presented a defense of misidentification to the jury is without merit. Counsel argued that Applicant was misidentified by Parsley throughout the trial. Counsel highlighted Parsley's prior statements attempting to show they were inconsistent with her trial testimony. Counsel introduced this statement to show inconsistencies in her description of the assailant's skin tone. Counsel also argued this his closing argument. This issue became a question for the jury as misidentification was essentially Applicant's entire defense. *See State v. Pipkin* 359 S.C. 322, 327, 597 S.E.2d 831, 833 (Ct. App.

2004) (noting the jury is "the finder of fact and weigher of credibility."). It is clear the jury accepted the State's theory of the case. See *Craven v. Cunningham*, 292 S.C. 441, 443, 357 S.E.2d 23, 25 (1987) ("The credibility of witnesses is for the triers of fact.").

Failure to Preserve Final Closing Argument

Finally, this Court finds Applicant's allegation that Counsel was ineffective in introducing Parsley's prior statement to investigators because doing so waived final argument is without merit. Counsel articulated a valid strategic reason for introducing Parsley's prior statement, so therefore this Court finds Applicant has failed to prove Counsel was ineffective. *Abney v. State*, 408 S.C. 41, 48, 757 S.E.2d 544, 547 (Ct. App. 2014) (Pieper, J., concurring) (Whether to preserve final closing argument is a strategic decision to be made by trial counsel)(citation omitted). See *Rosoboro*; *Underwood*; *Stokes*. Counsel introduced Parsley's prior statement to investigators to emphasize that her identification was inaccurate.

Accordingly, this Court finds the Applicant failed to prove the first prong of the *Strickland* test – that trial Counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds the Applicant failed to prove the second prong of *Strickland* – that he was prejudiced by trial Counsel's performance. This Court concludes Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See *Frasier v. State*, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

CONCLUSION

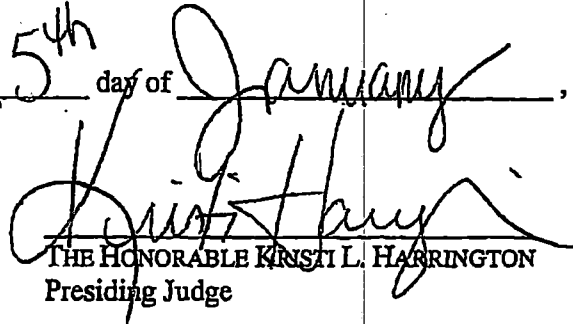
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate Counsel's performance was unreasonable under prevailing professional norms. *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625; *Stalk v. State*, 383 S.C. 559,

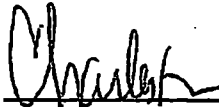
563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 15th day of January, 2015.


THE HONORABLE KRISTI L. HARRINGTON
Presiding Judge

 South Carolina

WITNESSES

James Shumpert

Orangeburg County Sheriff

2010002741

ARREST WARRANT NUMBER
M213380

Arrested: March 22, 2010

ACTION OF GRAND JURY
TRUE BILL
Mary E. W. Shaw
MAY 12 2010
Foreperson of Grand Jury

Date: May 12, 2010

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2010GS38-0822

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE
vs.

Mario Montez Shivers

Indictment for

MURDER

ATTEST: TRUE COPY

Winnifred Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
CLERK OF COURT
ORANGEBURG COUNTY, SC
2010 MAY 12 A 11:17

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

INDICTMENT
2010GS38-0822

At a Court of General Sessions, convened on May 12, 2010 the Grand Jurors of
Orangeburg County present upon their oath;

MURDER

That in Orangeburg County on or about March 12, 2010, with malice
aforethought, the defendant, Mario Montez Shivers did kill one Charles Pringle by
means of shooting the victim. The victim did die as a proximate result thereof.
This offense being in violation of the Common Law and Section 16-3-10, of the
South Carolina Code of Laws, as amended.

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


Donald N. Sorenson, Solicitor

WITNESSES

James Shumpert

Orangeburg County Sheriff

2010002741

ARREST WARRANT NUMBER

M293384

Arrested: March 22, 2010

ACTION OF GRAND JURY
TRUE BILL

Mary T. D. W. Brown

Date **MAY 12 2010**

Foreperson of Grand Jury

Date: May 12, 2010

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS38-0823

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE

vs.

Mario Montez Shivers

Indictment for

BURGLARY - FIRST DEGREE

ATTEST: TRUE COPY

Winnif B. Clark

**CLERK OF COURT
ORANGEBURG COUNTY, SC**

SC Code: 16-11-311

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2010 MAY 12 A 11:16
FILED FOR RECORD
CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2010GS38-0823

At a Court of General Sessions, convened on May 12, 2010 the Grand Jurors of Orangeburg County present upon their oath:

BURGLARY - FIRST DEGREE

That in Orangeburg County, South Carolina, on or about March 12, 2010, the Defendant, Mario Montez Shivers, did willfully and unlawfully enter the dwelling, Kings Rd., Orangeburg, SC, belonging to Charles Pringle, without consent and with the intent to commit a crime therein, and the defendant or another participant was armed with a deadly weapon and/or caused physical injury to a non-participant and/or used or threatened the use of a dangerous instrument and/or the offense occurred in the nighttime. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

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



Donald N. Sorenson, Solicitor

WITNESSES

James Shumpert

Orangeburg County Sheriff

2010002741

ARREST WARRANT NUMBER

M213385

Arrested: March 22, 2010

TRUE BILL
ACTION OF GRAND JURY

May 12, 2010

Date MAY 12 2010

Foreperson of Grand Jury

Date: May 12, 2010

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS38-0824

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE

vs.

Mario Montez Shivers

Indictment for

ARMED ROBBERY

ATTEST: TRUE COPY

Winnifred B. Clark

CLERK OF COURT
ORANGEBURG COUNTY, SC

SC Code: 16-11-330(A)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIFRED B. CLARK
CLERK OF COURT
ORANGEBURG, SC
2010 MAY 12 A 11:15

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

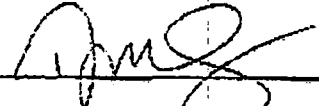
INDICTMENT
2010GS38-0824

At a Court of General Sessions, convened on May 10, 2010 the Grand Jurors of Orangeburg County present upon their oath:

ARMED ROBBERY

That on or about March 12, 2010, in Orangeburg County, the defendant, Mario Montez Shivers did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, Charles Pringle, with the intent to permanently deprive the victim of possession of the goods or monies. Such weapon or alleged weapon described as a handgun. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

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


Donald N. Sorensen, Solicitor