

W'W'W-01208-CCA-R3-CD

1 IN THE CIRCUIT COURT OF TENNESSEE AT SAVANNAH

2 THE TWENTY-FOURTH JUDICIAL DISTRICT

3 -----
4 STATE OF TENNESSEE,

5 Plaintiff,

6 vs.

7 ZACHARY ADAMS,

8 Defendant.

ORIGINAL

Case No. 17-CR-10

9 -----
10 JURY TRIAL

11 SEPTEMBER 9, 2017 - SEPTEMBER 23, 2017

12 VOLUME XVII OF XVII
13 -----

14
15 This cause came to be heard and was heard on
16 the 9th - 23rd days of September, 2017, before the
17 Honorable C. Creed McGinley, Judge, holding the
18 Circuit Court for Hardin County, at Savannah,
19 Tennessee.

20 FILED 3rd DAY OF NOV 2020 at 11:30 AM
BY Johne Popm D-100

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24 Reported by:
ERIN ANGEL
Court Reporter

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1 **VOLUME XVII**

2 **DAY 11**

3 **THURSDAY, SEPTEMBER 21, 2017**

4
5 (WHEREUPON, a conference was held in
6 chambers between counsel and the Court.)

7 THE COURT: The only purpose we're here,
8 I modifying what I charged. She sent you an e-mail
9 yesterday. I will charge alibi. Upon further
10 reflection, I said I wasn't inclined to do it, that's
11 when the three of them were alibiing each other. I
12 forgot how Dicus -- it was rubbage or trash or
13 whatever. That I would not really consider alibi,
14 but when I got to thinking about Reeses' testimony --
15 I'm -- concerning the location Adams' cell phone at
16 the Bobo kidnapping, they didn't join until like
17 after 9:00. So at least as to kidnapping some of
18 those, I think it could be considered, doesn't have
19 to be, could be considered by the jury as potential
20 alibi.

21 I will tell you, I would charge alibi if we
22 were charging Autry. I will charge alibi with Adams.
23 The other two I would not charge alibi, okay. That's
24 just -- I wanted to give you the benefit of my
25 thinking, okay. Everybody good to go?

1 They say -- here's what we'll do. I'll
2 charge them. And God, I dread this. I will charge
3 them. We will take a short recess. We'll get the
4 State's opening statement. Defense said they want
5 just a few minutes to make sure the machinery is
6 working before they do theirs, and hopefully we will
7 go all the until lunch after that, okay? Everybody
8 good?

9 GENERAL RAGLAND: Yes, sir.

10 THE COURT: Everybody feel good today.

11 GENERAL HAGERMAN: It's all good, let's
12 do it.

13 MR. GONZALEZ: We'll feel better after.

14 THE COURT: Hey, I told the attorneys in
15 a civil case one day, I said, I feel really good,
16 don't screw it up. So I'm in pretty good shape.
17 Like I say, this charge is just a booger bear. It
18 couldn't be anything else with eight and all the
19 lesser-includes. You folks all know know my view
20 concerning facilitation. I don't like to charge it,
21 I feel like it's absolutely necessary, so it's being
22 charged, okay. So it's up to the parties to focus
23 the jury on what they think the jury should do. It's
24 not up to the Court, I just put it out there.
25 Buffet. All right. Ready to go? Let's do it.

1 (WHEREUPON, the following proceedings
2 continued within the hearing of the courtroom:)

3 (WHEREUPON, the jury returned to the
4 courtroom, after which the following proceedings were
5 had:)

6 THE COURT: All right. Good morning.

7 THE JURY: Good morning.

8 THE COURT: I'll answer his question from
9 yesterday. Whoever is drawn at random as alternates,
10 they will need to stay present. They will remain
11 sequestered. We've got a separate location. And
12 then if we go to that second sentencing phase that we
13 talked about, they will actually be seated up there
14 listening to the evidence in case something comes up
15 and someone is discharged so that they can be
16 substituted in. But unfortunately, you don't get to
17 take off and be free, okay? We're going to keep you
18 involved.

19 Okay. We're ready to charge the jury at this
20 time. That has been placed in your notebook.

21

22 **CHARGE OF THE LAW**

23 THE COURT: All right. Be starting with
24 page 9. Everybody got a copy of that in your
25 notebook behind the next tab? They didn't mess with

1 your personal stuff. It was just inserted in the
2 notebook either by her or my secretary. Sherry put
3 it in. So she didn't go through your personal stuff
4 is what I'm saying. She's got other things to do.

5 So at this time we'll do the next charge.
6 Following that, we'll take a break, then we'll take
7 up closing statements, okay?

8 Okay. Ladies and gentlemen, the evidence in
9 this case has been completed, and it is my duty now
10 to instruct you further as to the law. As previously
11 instructed, the defendant, Zachary Rye Adams, is
12 charged in Hardin County case 17-CR-10. It was
13 originally Decatur County indictment 15-CR-30 with
14 the crimes of first degree felony murder, especially
15 aggravated kidnapping, aggravated rape, and first
16 degree premeditated murder.

17 Counts 1 and 4 charge the defendant with the
18 offense of first degree felony murder under
19 alternative theories. The offense of first degree
20 felony murder necessarily includes the lesser
21 offenses of facilitation of first degree felony
22 murder, second degree murder, facilitation of second
23 degree murder, reckless homicide, facilitation of
24 reckless homicide, criminally negligent homicide, and
25 facilitation of criminally negligent homicide.

1 Counts 2 and 3 charge the defendant with the
2 offense of especially aggravated kidnapping under
3 alternative theories. The offense of especially
4 aggravated kidnapping necessarily includes the lesser
5 offenses of facilitation of especially aggravated
6 kidnapping, aggravated kidnapping, facility of
7 aggravated kidnapping -- facilitation, kidnapping,
8 facilitation of kidnapping, false imprisonment, and
9 facilitation of false imprisonment.

10 Counts 5, 6, and 7 charge the defendant with
11 the offense of aggravated rape under alternative
12 theories. The offense of aggravated rape necessarily
13 includes lesser offenses of facilitation of
14 aggravated rape, rape, facilitation of rape,
15 aggravated sexual battery, facilitation of aggravated
16 sexual battery, sexual battery, and facilitation of
17 sexual battery.

18 Count 8 charges the defendant with the
19 offense of first degree premeditated murder. The
20 offense of first degree premeditated murder
21 necessarily includes the lesser offenses of
22 facilitation of first degree premeditated murder,
23 second degree murder, facilitation of second degree
24 murder, voluntary manslaughter, facilitation of
25 voluntary manslaughter, reckless homicide,

1 facilitation of reckless homicide, criminally
2 negligent homicide, and facilitation of criminally
3 negligent homicide.

4 The defendant pleads not guilty to each and
5 every offense embraced in the indictment.

6 Criminal responsibility for the conduct of
7 another: The defendant is criminally responsible as
8 a party to the offenses of first degree felony
9 murder, especially aggravated kidnapping, aggravated
10 rape, and/or first degree premeditated murder, or any
11 of the lesser included offenses if the offenses were
12 committed by the defendant's own conduct, by the
13 conduct of another for which the defendant is
14 criminally responsible, or by both. Each party to
15 the offense may be charged with the commission of the
16 offense.

17 The defendant is criminally responsible for
18 an offense committed by the conduct of another if
19 acting with the intent to promote or assist in the
20 commission of the offense or to benefit in the
21 proceeds or the results of the offense, the defendant
22 solicits, directs, aids, or attempts to aid another
23 person to commit the offense. A defendant who is
24 criminally responsible for an offense may be found
25 guilty not only of that offense but also for any

1 other offense or offenses committed by another if you
2 find beyond a reasonable doubt that the other offense
3 or offenses committed were natural and probable
4 consequences of the original offense for which the
5 defendant is found criminally responsible in the
6 elements of the other offense or offenses that
7 accompanied the original offense have been proven
8 beyond a reasonable doubt.

9 With regard to Counts 1 and 4 charging the
10 defendant with murder and perpetration of kidnapping
11 and rape respectfully, this natural and probable
12 consequences rule does not apply. There is no
13 requirement that the killing be foreseeable in order
14 to hold a defendant criminally responsible, only that
15 the defendant intended to commit the alleged
16 kidnapping or rape.

17 In deciding the criminal responsibility of
18 the defendant, the jury may also take into
19 consideration any evidence offered that the defendant
20 attempted to thwart or withdraw from any of the
21 offenses that followed from the original offense. To
22 find the defendant criminally responsible for the
23 acts of another, it is not necessary that you find
24 the defendant was present or that the defendant took
25 a physical part in the crime. Encouragement of the

1 principle offender is sufficient. However, mere
2 presence during the commission of the offense is not
3 sufficient to support a conviction. Before you find
4 the defendant guilty of being criminally responsible
5 for said offense or offenses committed by another --
6 by the conduct of another, you must find that all the
7 essential elements of the offense or offenses have
8 been proven by the State beyond a reasonable doubt.

9 Facilitation of a felony: Any person who
10 commits the offense of facilitation of a felony is
11 guilty of a crime. For you to find the defendant
12 guilty of this offense, the State must have proven
13 beyond a reasonable doubt the existence of the
14 following essential elements: Number 1, that the
15 defendant knew that another person intended to commit
16 the specific felony but did not have the intent to
17 promote or assist the commission of the offense or to
18 benefit in the proceeds or results of the offense.
19 And 2, that the defendant furnished substantial
20 assistance to that person in the commission of the
21 specific felony. And 3, that the defendant furnished
22 such assistance knowingly.

23 Counts 1 and 4, first degree felony murder:
24 Any person who commits the -- who commits first
25 degree felony murder is guilty of a crime. For you

1 to find the defendant guilty of this offense, the
2 State must have proven beyond a reasonable doubt the
3 existence of the following essential elements:
4 Number 1, that the defendant or one for whom the
5 defendant is criminally responsible unlawfully killed
6 the alleged victim. And 2, that the killing was
7 committed in the perpetration of or the attempt to
8 perpetrate the alleged kidnapping for Count 1 or the
9 alleged rape in Count 4. That is that the killing
10 was closely connected to the alleged kidnapping in
11 Count 1 or rape, Count 4, and was not a separate,
12 distinct, and independent event. And number 3, that
13 the defendant intended to commit the alleged
14 kidnapping, Count 1, or rape, Count 4.

15 Count 1 charges the defendant -- charges the
16 offense of first degree felony murder of Holly Lynn
17 Bobo during the perpetration of or the attempt to
18 perpetrate kidnapping.

19 Count 4 charges the offense of first degree
20 felony murder of Holly Lynn Bobo during the
21 perpetration or the attempt to perpetrate rape.
22 Kidnapping and rape are defined for you within these
23 instructions. Refer to those instructions.

24 The intent to commit the underlying felony
25 must exist prior to or concurrent with the commission

1 of the act causing the death of the victim. Proof of
2 such intent to commit the underlying felony existed
3 before or concurrent with the act of killing is a
4 question of fact to be decided by the jury after
5 consideration of all the facts and circumstances.
6 Consideration of such factors as time, place, and
7 causation is helpful in determining whether a killing
8 was committed in the perpetration of the alleged
9 kidnapping or rape. The killing may proceed,
10 coincide with, or follow the kidnapping or rape and
11 still be considered as occurring in the perpetration
12 of the kidnapping or rape so long as there is a
13 connection in time, place, and continuity of action.

14 When one enters into a scheme with another to
15 commit a kidnapping or rape and death ensues, all
16 defendants are responsible for the death regardless
17 of who actually committed the killing and whether the
18 killing was specifically contemplated by the other.

19 If you find from the proof beyond a
20 reasonable doubt that the defendant is guilty of
21 first degree felony murder, then it shall be your
22 duty after a separate sentencing hearing to determine
23 whether the defendant will be sentenced to death,
24 life imprisonment without the possibility of parole,
25 or life in prison, but you will not consider

1 punishment for this offense at this time.

2 If you find from the proof beyond a
3 reasonable doubt that the defendant is guilty of
4 first degree felony murder, you will so report your
5 verdict on your verdict form. If you have a
6 reasonable doubt as to the defendant's guilt of first
7 degree felony murder as charged in the indictment,
8 then your verdict must be not guilty as to this
9 offense, and then you shall proceed to determine his
10 guilt or innocence of facilitation of first degree
11 felony murder, a lesser-included offense.

12 Facilitation of first degree felony murder:
13 The essential elements to constitute facilitation of
14 a felony and first degree murder have previously been
15 set out in these instructions. Refer to these
16 instructions here. If you find from the proof beyond
17 a reasonable doubt that the defendant is guilty of
18 facilitation of first degree felony murder, you will
19 so report your verdict on your verdict form. If you
20 have a reasonable doubt as to the defendant's guilt
21 of facilitation of first degree felony murder as
22 charged in the indictment, then your verdict must be
23 not guilty as to this offense, and then you shall
24 proceed to determine his guilt or innocence of second
25 degree murder, a lesser-included offense.

1 Second degree murder: Any person who commits
2 second degree murder is guilty of a crime. For you
3 to find the defendant guilty of this offense, the
4 State must have proven beyond a reasonable doubt the
5 existence of the following essential elements:
6 Number 1, that the defendant unlawfully killed the
7 alleged victim. And number 2, that the defendant
8 acted knowingly.

9 If you find from the proof beyond a
10 reasonable doubt that the defendant is guilty of
11 second degree murder, you shall so report your
12 verdict on your verdict form. If you have a
13 reasonable doubt as to the element -- if you have a
14 reasonable doubt as to the defendant's guilt of
15 second degree murder as charged in the indictment,
16 then your verdict must be not guilty as to this
17 offense, and then you shall proceed to determine the
18 guilt or innocence of facilitation of second degree
19 murder, a lesser-included offense.

20 Facilitation of second degree murder: The
21 essential elements necessary to constitute
22 facilitation of a felony and second degree murder
23 have been previously set out in these instructions.
24 Refer to those instruction here. If you find from
25 the proof beyond a reasonable doubt that the

1 defendant is guilty of facilitation of second degree
2 murder, you will so report your verdict on your
3 verdict form. If you have a reasonable doubt as to
4 the defendant's guilt of facilitation of second
5 degree murder as charged in the indictment, then your
6 verdict must be not guilty as to this offense, and
7 then you shall proceed to determine his guilt or
8 innocence of reckless homicide, a lesser-included
9 offense.

10 Reckless homicide: Any person who commits
11 the offense of reckless homicide is guilty of a
12 crime. For you to find the defendant guilty of this
13 offense, the State must have proven beyond a
14 reasonable doubt the existence of the following
15 essential elements: Number 1, that the defendant
16 killed the alleged victim, and number 2, that the
17 defendant acted recklessly.

18 If you find from the proof beyond a
19 reasonable doubt that the defendant is guilty of
20 reckless homicide, you will so report your verdict on
21 your verdict form. If you have a reasonable doubt as
22 to the defendant's guilt of reckless homicide as
23 charged in the indictment, then your verdict must be
24 not guilty as to the offense, and then you shall
25 proceed to determine his guilt or innocence of

1 facilitation of reckless homicide, a lesser-included
2 offense.

3 Facilitation of reckless homicide: The
4 essential elements necessary to constitute
5 facilitation of a felony and reckless homicide have
6 been previously set out in these instructions. Refer
7 to those instructions here. If you find from the
8 proof beyond a reasonable doubt that the defendant is
9 guilty of facilitation of reckless homicide, you will
10 so report your verdict on your verdict form. If you
11 have a reasonable doubt as to the defendant's guilt
12 of facilitation of reckless homicide as charged in
13 the indictment, then your verdict must be not guilty
14 as to this offense, and then you shall proceed to
15 determine his guilt or innocence of criminally
16 negligent homicide, a reckless -- a lesser-included
17 offense.

18 Criminally negligent homicide: Any person
19 who commits criminally negligent homicide is guilty
20 of a crime. For you to find the defendant guilty of
21 this offense, the State must have proven beyond a
22 reasonable doubt the existence of the following
23 essential elements: Number 1, that the defendant's
24 conduct resulted in the death of the alleged victim,
25 and number 2, that the defendant acted with criminal

1 negligence.

2 If you find from the proof beyond a
3 reasonable doubt that the defendant is guilty of
4 criminally negligent homicide, you will so report
5 your verdict on your verdict form. If you have a
6 reasonable doubt as to the defendant's guilt of
7 criminally negligent homicide as charged in the
8 indictment, then your verdict must be not guilty as
9 to this offense, and then you shall proceed to
10 determine his guilt or innocence of facilitation of
11 criminally negligent homicide, a lesser-included
12 offense.

13 Facilitation of criminally negligent
14 homicide: The essential elements necessary to
15 constitute facilitation of a felony in criminally
16 negligent homicide have been previously set out in
17 these instructions. Refer to those instructions
18 here. If you find from the proof beyond a reasonable
19 doubt the defendant is guilty of facilitation of
20 criminally negligent homicide, you will so report
21 your verdict on your verdict form. If you have a
22 reasonable doubt as to the defendant's guilt of
23 facilitation of criminally negligent homicide as
24 charged in the indictment, then your verdict must be
25 not guilty as to this offense.

1 Counts 2 and 3, especially aggravated
2 kidnapping: Any person who commits an especially
3 aggravated kidnapping is guilty of a crime. For you
4 to find the defendant guilty of this offense, the
5 State must have proven beyond a reasonable doubt the
6 existence of the following essential elements:
7 Number 1, that the defendant knowingly removed or
8 confined another unlawfully so as to interfere
9 substantially with the other's liberty, and 2(a),
10 that the confinement or removal was accomplished with
11 a deadly weapon or by display of any article used or
12 fashioned to leave the alleged victim to reasonably
13 believe it was a deadly weapon. That's Count 2. Or
14 (b), that the alleged victim suffered serious bodily,
15 which was Count 3.

16 In this case, Count 2 alleges especially
17 aggravated kidnapping of Holly Lynn Bobo accomplished
18 with a deadly weapon. And Count 3 alleges especially
19 aggravated kidnapping of Holly Lynn Bobo with serious
20 bodily injury to Holly Lynn Bobo.

21 A removal or confinement is unlawful if it is
22 accomplished by force, threat, or fraud. Although
23 the law requires no specific period of time of
24 confinement or distance of removal, a removal or
25 confinement interferes substantially with another's

1 liberty if the time of confinement is significant or
2 the distance of removal is considerable.

3 Degree of confinement: To find the defendant
4 guilty of the offense of especially aggravated
5 kidnapping or any of its lesser-included offenses,
6 you must also find beyond a reasonable doubt that the
7 removal or confinement was to a greater degree than
8 that necessary to commit the offense of first degree
9 felony murder, aggravated rape, and first degree
10 premeditated murder and/or their lesser-included
11 offenses as charged and/or included in Counts 1, 4,
12 5, 6, 7, and 8.

13 In making this determination you may consider
14 all of the relevant facts and circumstances of the
15 case, including but not limited to the following
16 factors: (A), the nature and duration of the alleged
17 victim's removal or confinement by the defendant.
18 (B), whether the removal or confinement occurred
19 during the commission of a separate offense. (C),
20 whether the interference with the alleged victim's
21 liberty was inherent in the nature of the separate
22 offense. (D), whether the removal or confinement
23 prevented the alleged victim from summoning
24 assistance, although the defendant need not have
25 succeeded in preventing the alleged victim from doing

1 so. (E), whether the removal or confinement reduced
2 the defendant's risk of detection, although the
3 defendant need not have succeeded in this objective.
4 And (F), whether the removal or confinement created a
5 significant danger or increased the alleged victim's
6 risk of harm independent of that posed by the
7 separate offense.

8 Unless you find beyond a reasonable doubt
9 that the alleged victim's removal or confinement
10 exceeded that which was necessary to accomplish the
11 alleged offenses of first degree felony murder,
12 aggravated rape, and first degree premeditated
13 murder, and/or the lesser-included offenses as
14 charged and/or included in Counts 1, 4, 5, 6, 7, and
15 8 and was not essentially incidental to it, you must
16 find the defendant not guilty of especially
17 aggravated kidnapping.

18 If you find from the proof beyond a
19 reasonable doubt that the defendant is guilty of
20 especially aggravated kidnapping, you will so report
21 your verdict on your verdict form. If you have a
22 reasonable doubt as to the defendant's guilt of
23 especially aggravated kidnapping as charged in the
24 indictment, then your verdict must be not guilty as
25 to this offense, and then you shall proceed to

1 determine his guilt or innocence of facilitation of
2 especially aggravated kidnapping.

3 Facilitation of especially aggravated
4 kidnapping: The essential elements necessary to
5 constitute facilitation of a felony and especially
6 aggravated kidnapping have been previously set out in
7 these instructions. Refer to those instructions
8 here. If you find from the proof beyond a reasonable
9 doubt that the defendant is guilty of facilitation of
10 especially aggravated kidnapping, you will so report
11 your verdict on your verdict form. If you have a
12 reasonable doubt as to the defendant's guilt of
13 facilitation of especially aggravated kidnapping as
14 charged in the indictment, then your verdict must be
15 not guilty as to this offense, and then you shall
16 proceed to determine his guilt or innocence of
17 aggravated kidnapping.

18 Aggravated kidnapping: Any person who
19 commits an aggravated kidnapping is guilty of a
20 crime. For you to find the defendant guilty of this
21 offense, the State must have proven beyond a
22 reasonable doubt the existence of the following
23 essential elements: Number 1, that the defendant
24 knowingly removed or confined another unlawfully so
25 as to interfere substantially with the other's

1 liberty, and 2(a), that the defendant possessed or
2 threatened the use of a deadly weapon. That's Count
3 2. Or (b), that the alleged victim suffered bodily
4 injury. That's Count 3. A removal or confinement is
5 unlawful if it is accomplished by force, threat, or
6 fraud. Although the law requires no specific period
7 of time of confinement or distance of removal, a
8 removal or confinement interferes substantially with
9 another's liberty if the time of confinement is
10 significant or the distance of removal is
11 considerable. Here again, refer to the explanation
12 of degree of confinement in the instruction on
13 especially aggravated kidnapping.

14 If you find from the proof beyond a
15 reasonable doubt that the defendant is guilty of
16 aggravated kidnapping, you will so report your
17 verdict on your verdict form. If you have a
18 reasonable doubt as to the defendant's guilt of
19 aggravated kidnapping as charged in the indictment,
20 then your verdict must be not guilty as to the
21 offense, and then you shall proceed to determine his
22 guilt or innocence of facilitation of aggravated
23 kidnapping.

24 Facilitation of aggravated kidnapping: The
25 essential elements necessary to constitute

1 facilitation of a felony and aggravated kidnapping
2 have previously been set out in these instructions.
3 Refer to these instructions here. If you find from
4 the proof beyond a reasonable doubt that the
5 defendant is guilty of facilitation of aggravated
6 kidnapping, you will so report your verdict on your
7 verdict form. If you have a reasonable doubt as to
8 the defendant's guilt of facilitation of aggravated
9 kidnapping as charged in the indictment, then your
10 verdict must be not guilty as to this offense, and
11 then you shall proceed to determine his guilt or
12 innocence of kidnapping.

13 Any person who commits the offense of
14 kidnapping is guilty of a crime. For you to find the
15 defendant guilty of this offense, the State must have
16 proven beyond a reasonable doubt the existence of the
17 following essential elements: Number 1, that the
18 defendant knowingly removed or confined another
19 unlawfully so as to interfere substantially with the
20 other's liberty, and number 2, that the removal or
21 confinement was under circumstances that exposed the
22 other to a substantial risk of bodily injury.

23 A removal or confinement is unlawful if it is
24 accomplished by force, threat, or fraud. Although
25 the law requires no specific period of time of

1 confinement or distance of removal, a removal or
2 confinement interferes substantially with another's
3 liberty if at the time of confinement -- if the time
4 of confinement is significance -- significant or the
5 distance of removal is considerable. Here again,
6 refer to the explanation of degree of confinement in
7 the instruction on especially aggravated kidnapping.

8 If you find from the proof beyond a
9 reasonable doubt that the defendant is guilty of
10 kidnapping, you will so report your verdict on
11 your -- your verdict on your verdict form. If you
12 have a reasonable doubt as to the defendant's guilt
13 of kidnapping as charged in the indictment, then your
14 verdict must be not guilty as to this offense, and
15 then you shall proceed to determine his guilt or
16 innocence of facilitation of kidnapping.

17 Facilitation of kidnapping: The essential
18 elements necessary to constitute facilitation of a
19 felony and kidnapping have been previously set out in
20 these instructions. Refer to those instructions
21 here. If you find from the proof beyond a reasonable
22 doubt that the defendant is guilty of facilitation of
23 kidnapping, you will so report your verdict on your
24 verdict form. If you have a reasonable doubt as to
25 the defendant's guilt of facilitation of kidnapping

1 as charged in the indictment, then your verdict must
2 be not guilty as to this offense, and then you shall
3 proceed to determine his guilt or innocence of false
4 imprisonment.

5 False imprisonment: Any person who commits
6 the offense of false imprisonment is guilty of a
7 crime. For you to find the defendant guilty of this
8 offense, the State must have proven beyond a
9 reasonable doubt the existence of the following
10 essential elements: Number 1, that the defendant
11 removed or confined another unlawfully so as to
12 interfere substantially with the other's liberty, and
13 number 2, that the defendant acted knowingly.

14 A removal or confinement is unlawful if it
15 accomplished by force, threat, or fraud. Although
16 the law requires no specific period of time of
17 confinement or distance of removal, a removal or
18 confinement interferes substantially with another's
19 liberty if the time of confinement is significant or
20 the distance of removable is considerable. Here
21 again, refer to the explanation of degree of
22 confinement in the instruction on especially
23 aggravated kidnapping.

24 If you find from the proof beyond a
25 reasonable doubt that the defendant is guilty of

1 false imprisonment, you will so report your verdict
2 on your verdict form. If you have a reasonable doubt
3 as to the defendant's guilt of false imprisonment as
4 charged in the indictment, then your verdict must be
5 not guilty as to the offense, and then you shall
6 proceed to determine his guilt or innocence of
7 facilitation of false imprisonment.

8 The essential -- facilitation of false
9 imprisonment: The essential elements necessary to
10 constitute facilitation of a felony and false
11 imprisonment have been previously set out in these
12 instructions. Refer to those instructions here. If
13 you find from the proof beyond a reasonable doubt
14 that the defendant is guilty of facilitation of false
15 imprisonment, you will so report your verdict on your
16 verdict form. If you have a reasonable doubt as to
17 the defendant's guilt of facilitation of false
18 imprisonment as charged in the indictment, then your
19 verdict must be not guilty as to this offense.

20 Counts 5, 6, and 7, aggravated rape: Any
21 person who commits the offense of aggravated rape is
22 guilty of a crime. For you to find the defendant
23 guilty of this offense the State must have proven
24 beyond a reasonable doubt the existence of the follow
25 ing essential elements: Number 1, that the defendant

1 had unlawful sexual penetration of the alleged victim
2 or the alleged victim had unlawful sexual penetration
3 of the defendant. And number 2(a), that force or
4 coercion was used to accomplish the act, and the
5 defendant was armed with a weapon or any article used
6 or fashioned in a manner to lead the alleged victim
7 reasonably to believe it was to be a weapon. That's
8 as to Count 5. Or (b), that the defendant caused
9 bodily injury to the alleged victim. That's Count 6.
10 Or (c), that the defendant was aided or abetted by
11 one or more persons and that the force of coercion --
12 and that force or coercion was used to accomplish the
13 act. That's Count 7. And number 3, that the
14 defendant acted either intentionally, knowingly, or
15 recklessly.

16 In this case Count 5 alleges aggravated rape
17 of Holly Lynn Bobo by force or coercion with a deadly
18 weapon. Count 6 alleges aggravated rape of
19 Holly Lynn Bobo with bodily injury. And Count 7
20 alleges aggravated rape of Holly Lynn Bobo while the
21 defendant was aided or abetted by one or more persons
22 and that force was used to accomplish the act.

23 If you find from the proof beyond a
24 reasonable doubt that the defendant is guilty of
25 aggravated rape, you will so report your verdict on

1 your verdict form. If you have a reasonable doubt as
2 to the defendant's guilt of aggravated rape as
3 charged in the indictment, then your verdict must be
4 not guilty as to this offense, and then you shall
5 proceed to determine his guilt or innocence of
6 facilitation of aggravated rape, a lesser-included
7 offense.

8 Facilitation of aggravated rape: The
9 essential elements necessary to constitute
10 facilitation of a felony and aggravated rape have
11 been previously set out in these instructions. Refer
12 to those instructions here. If you find from the
13 proof beyond a reasonable doubt that the defendant is
14 guilty of facilitation of aggravated rape, you will
15 so report your verdict on your verdict form. If you
16 have a reasonable doubt as to the defendant's guilt
17 of facilitation of aggravated rape as charged in the
18 indictment, then your verdict must be not guilty as
19 to this offense, and then you shall proceed to
20 determine his guilt or innocence of rape, a
21 lesser-included offense.

22 Rape: Any person who commits the offense of
23 rape is guilty of a crime. For you to find the
24 defendant guilty of this offense, the State must have
25 proven beyond a reasonable doubt the existence of the

1 And 2(a), that force or coercion was used to
2 accomplish the act and that the defendant was armed
3 with a weapon or any article used or fashioned in a
4 manner to lead the alleged victim reasonably to
5 believe that it -- to be a weapon or that the
6 defendant caused bodily injury to the alleged victim.
7 Or (c), that the defendant was aided or abetted by
8 one or more persons and that force or coercion was
9 used to accomplish the act. And number three, that
10 the defendant acted either intentionally, knowingly,
11 or recklessly.

12 If you find from the proof beyond a
13 reasonable doubt that the defendant is guilty of
14 aggravated sexual battery, you will so report your
15 verdict on your form. If you have a reasonable doubt
16 as to the defendant's guilt of aggravated sexual
17 battery as charged in the indictment, then your
18 verdict must be not guilty as to this offense, and
19 then you shall proceed to determine his guilt or
20 innocence of facilitation of aggravated sexual
21 battery, a lesser-included offense.

22 Facilitation of aggravated sexual battery:
23 The essential elements necessary to constitute
24 facilitation of a felony and aggravated sexual
25 battery have been previously set out in these

1 instructions. Refer to these instructions here. If
2 you find from the proof beyond a reasonable doubt
3 that the defendant is guilty of facilitation of
4 aggravated sexual battery, you will so report your
5 verdict on your verdict form. If you have a
6 reasonable doubt as to the defendant's guilt of
7 facilitation of aggravated sexual battery as charged
8 in the indictment, then your verdict must be not
9 guilty as to this offense, and then you shall proceed
10 to determine his guilt or innocence of sexual
11 battery, a lesser-included offense.

12 Sexual battery: Any person who commits the
13 offense of sexual battery is guilty of a crime. For
14 you to find the defendant guilty of this offense, the
15 State must have proven beyond a reasonable doubt the
16 existence of the following essential elements:
17 Number 1(a), the defendant had unlawful sexual
18 contact with the alleged victim in which the
19 defendant intentionally touched the alleged victim's
20 intimate parts or the clothing covering the immediate
21 area of the alleged victim's intimate parts. Or (b),
22 that the alleged victim had unlawful sexual contact
23 with the defendant in which the victim intentionally
24 touched the defendant's or any other person's
25 intimate parts or the clothing covering the immediate

1 area of the defendant's or any other person's
2 intimate parts. And 2(a), that force or coercion was
3 used to accomplish the act. Or (b), that the sexual
4 contact was accomplished without the consent of the
5 alleged victim, and the defendant knew or had reason
6 to know at the time of contact that the alleged
7 victim did not consent. And 3, that the defendant
8 acted either intentionally, knowingly, or recklessly.

9 If you find from the proof beyond a
10 reasonable doubt that the defendant is guilty of
11 sexual battery, you will so report your verdict on
12 your verdict form. If you have a reasonable doubt as
13 to the defendant's guilt of sexual battery as charged
14 in the indictment, then your verdict must be not
15 guilty as to this offense. Then you shall proceed to
16 determine his guilt or innocence of facilitation of
17 sexual battery, a lesser-included offense.

18 Facilitation of sexual battery: The
19 essential elements necessary to constitute a
20 facilitation of A felony and sexual battery have been
21 previously set out in these instructions. Refer to
22 those instructions here. If you find from the proof
23 beyond a reasonable doubt that the defendant is
24 guilty of facilitation of sexual battery, then you
25 will so report your verdict on your verdict form. If

1 you have a reasonable doubt as to the defendant's
2 guilt of facilitation of sexual battery as charged in
3 the indictment, then your verdict must be not guilty
4 as to this offense.

5 Count 8, first degree premeditated murder:

6 Any person who commits the offense of first degree
7 premeditated murder is guilty of a crime. For you to
8 find the defendant guilty of this offense, the State
9 must have proven beyond a reasonable doubt the
10 existence of the following essential elements:

11 Number 1, that the defendant unlawfully killed the
12 alleged victim. And 2, that the defendant acted
13 intentionally. A person acts intentionally when it
14 is that person's conscious objective or desire to
15 cause the death of the alleged victim. And 3, that
16 the killing was premeditated.

17 A premeditated act is one done after the
18 exercise of reflection and judgment. Premeditation
19 means that the intent to kill must have been formed
20 prior to the act itself. It is not necessary that
21 the purpose to kill preexists in the mind of the
22 accused for any definite period of time. The mental
23 state of the accused at the time he allegedly decided
24 to kill must be carefully considered in order to
25 determine whether the accused was sufficiently free

1 from excitement and passion as to be capable of
2 premeditation.

3 If the design to kill was formed with
4 premeditation, it is immaterial that the accused may
5 have been in a state of passion or excitement when
6 the design was carried into effect. Furthermore,
7 premeditation can be found if the decision to kill is
8 first formed during the heat of passion but the
9 accused commits the act after the passion has
10 subsided.

11 If you find from the proof beyond a
12 reasonable doubt that the defendant is guilty of
13 murder in the first degree murder, then it shall be
14 your duty after a separate sentencing hearing to
15 determine whether the defendant will be sentenced to
16 death, life imprisonment without the possibility of
17 parole, or life in prison. But you will not consider
18 punishment for this offense at this time.

19 If you find from the proof beyond a
20 reasonable doubt that the defendant is guilty of
21 first degree premeditated murder, you will so report
22 your verdict on your verdict form. If you have a
23 reasonable doubt as to the defendant's guilt of first
24 degree premeditated murder as charged in the
25 indictment, then your verdict must be not guilty as

1 to this offense, and then you shall proceed to
2 determine his guilt or innocence of facilitation of
3 first degree premeditated murder, a lesser-included
4 offense.

5 Facilitation of premeditated first degree
6 murder: Essential elements necessary to constitute
7 facilitation of a felony and premeditated first
8 degree murder have been previously set out in these
9 instructions. Refer to those instructions here. If
10 you find from the proof beyond a reasonable doubt
11 that the defendant is guilty of facilitation of first
12 degree premeditated murder, you will so report your
13 verdict on your verdict form. If you have a
14 reasonable doubt as to the defendant's guilt of
15 facilitation of premeditated first degree murder as
16 charged in the indictment, then your verdict must be
17 not guilty as to this offense, and then you shall
18 proceed to determine his guilt or innocence of second
19 degree murder, a lesser-included offense.

20 Second degree murder: The essential elements
21 necessary to constitute second degree murder have
22 been previously set out in these instructions. Refer
23 to those instructions here. If you find from the
24 proof beyond a reasonable doubt that the defendant is
25 guilty of second degree murder, you will so report

1 your verdict on your verdict form. If you have a
2 reasonable doubt as to the defendant's guilt of
3 second degree murder as charged in the indictment,
4 then your verdict must be not guilty as to this
5 offense, and then you shall proceed to determine his
6 guilt or innocence of facilitation of second degree
7 murder, a lesser-included offense.

8 Facilitation of second degree murder: The
9 essential elements necessary to constitute
10 facilitation of a felony and second degree murder
11 have previously been set out in these instructions.
12 Refer to those instructions here. If you find from
13 the proof beyond a reasonable doubt that the
14 defendant is guilty of facilitation of second degree
15 murder, you will so report your verdict on your
16 verdict form. If you have a reasonable doubt as to
17 the defendant's guilt of facilitation of second
18 degree murder as charged in the indictment, then your
19 verdict must be not guilty as to this offense, and
20 then you shall proceed to determine his guilt or
21 innocence of voluntary manslaughter, a
22 lesser-included offense.

23 Voluntary manslaughter: Any person who
24 commits voluntary manslaughter is guilty of a crime.
25 For you to find the defendant guilty of this offense,

1 the State must have proven beyond a reasonable doubt
2 the existence of the following essential elements:
3 Number 1, that the defendant unlawfully killed the
4 alleged victim. And 2, that the defendant acted
5 intentionally or knowingly. And 3, that the killing
6 resulted from a state of passion produced by adequate
7 provocation sufficient to lead a reasonable person to
8 act in an irrational manner.

9 The distinction between voluntary
10 manslaughter and second degree murder is that
11 voluntary manslaughter requires that the killing
12 result from the state of passion produced by adequate
13 provocation sufficient to lead a reasonable person to
14 act in an irrational manner.

15 If you find from the proof beyond a
16 reasonable doubt that the defendant is guilty of
17 voluntary manslaughter, you will so report your
18 verdict on your verdict form. If you have a
19 reasonable doubt as to the defendant's guilt of
20 voluntary manslaughter as charged in the indictment,
21 then your verdict must be not guilty as to this
22 offense, and then you shall proceed to determine his
23 guilt or innocence of facilitation of voluntary
24 manslaughter, a lesser-included offense.

25 Facilitation of voluntary manslaughter: The

1 essential elements necessary to constitute
2 facilitation of a felony and voluntary manslaughter
3 have been previously set out in these instructions.
4 Refer to those instructions here. If you find from
5 the proof beyond a reasonable doubt that the
6 defendant is guilty of facilitation of voluntary
7 manslaughter, you will so report your verdict on your
8 verdict form. If you have a reasonable doubt as to
9 the defendant's guilt of facilitation of voluntary
10 manslaughter as charged in the indictment, then your
11 verdict must be not guilty as to this offense, and
12 then you shall proceed to determine his guilt or
13 innocence of reckless homicide, a lesser-included
14 offense.

15 Reckless homicide: The necessary element to
16 constitute reckless homicide have been previously set
17 out in these instructions. Refer to those
18 instructions here. If you find from the proof beyond
19 a reasonable doubt that the defendant is guilty of
20 reckless homicide, you will so report your verdict on
21 your verdict form. If you have a reasonable doubt as
22 to the defendant's guilt of reckless homicide as
23 charged in the indictment, then your verdict must be
24 not guilty as to this offense, and then you shall
25 proceed to determine his guilt or innocence of

1 facilitation of reckless homicide, a lesser-included
2 offense.

3 Facilitation of reckless homicide: The
4 essential elements necessary to constitute
5 facilitation of a felony and reckless homicide have
6 been previously set out in these instructions. Refer
7 to those instructions here. If you find from the
8 proof beyond a reasonable doubt that the defendant is
9 guilty of facilitation of reckless homicide, you will
10 so report your verdict on your verdict form. If you
11 have a reasonable doubt as to the defendant's guilt
12 of facilitation of reckless homicide as charged in
13 the indictment, then your verdict must be not guilty
14 as to this offense, and then you shall proceed to
15 determine his guilt or innocence of criminally
16 negligent homicide, a lesser-included offense.

17 Criminally negligent homicide: The essential
18 elements necessary to constitute criminally negligent
19 homicide have previously been set out in these
20 instructions. Refer to those instructions here. If
21 you find from the proof beyond a reasonable doubt
22 that the defendant is guilty of criminally negligent
23 homicide, you will so report your verdict on your
24 verdict form. If you have a reasonable doubt as to
25 the defendant's guilt of criminally negligent

1 homicide as charged in the indictment, then your
2 verdict must be not guilty as to this offense, and
3 then you shall proceed to determine his guilt or
4 innocence of facilitation of criminally negligent
5 homicide, a lesser-included offense.

6 Facilitation of criminally negligent
7 homicide: The essential elements necessary to
8 constitute facilitation of a felony and criminally
9 negligent homicide have been previously set out in
10 these instructions. Refer to those instructions
11 here. If you find from the proof beyond a reasonable
12 doubt that the defendant is guilty of facilitation of
13 criminally negligent homicide, you will so report
14 your verdict on your verdict form. If you have a
15 reasonable doubt as to the defendant's guilt of
16 facilitation of criminally negligent homicide as
17 charged in the indictment, then your verdict must be
18 not guilty as to this offense.

19 Definitions: Where appropriate the following
20 definitions apply in these instructions. You shall
21 refer to these definitions when considering any of
22 the offenses embraced in the indictment if so
23 specified for only to limited offenses if so
24 specified.

25 For the offenses and lesser-included

1 offenses, other than facilitation of first degree
2 felony murder and first degree premeditated murder
3 only: Here intentionally means that a person acts
4 intentionally with respect to the nature of the
5 conduct or to a result of the conduct when it is a
6 person's conscious objective or desire to engage in
7 the conduct or cause the result.

8 Here knowingly means that a person acts with
9 an awareness that his or her conduct is reasonably
10 certain to cause the death of the alleged victim.
11 The requirement of knowingly is also established if
12 it is shown that the defendant acted intentionally as
13 defined above.

14 Here recklessly means that a person acts
15 recklessly. When the person is aware of but
16 consciously disregards a substantial and
17 unjustifiable risk that the alleged victim will be
18 killed. The risk must be of such a nature and degree
19 that its disregard constitutes a gross deviation from
20 the standard of care that an ordinary person would
21 exercise under all the circumstances as viewed from
22 the accused person's standpoint. The requirement of
23 recklessly is also established if it shown that the
24 defendant acted intentionally or knowingly as defined
25 above.

1 Here criminal negligence means that a person
2 acts with criminal negligence when the person ought
3 to be aware of a substantial and unjustifiable risk
4 that the alleged victim will be killed. The risk
5 must be of such a nature and degree that the failure
6 to perceive it constitutes a gross deviation from the
7 standard of care that an ordinary person would
8 exercise under all the circumstances as viewed from
9 the accused person's standpoint. The requirement of
10 criminal negligence is also establish if it is shown
11 that the defendant acted intentionally, knowingly, or
12 recklessly as defined above.

13 For the offenses and lesser-included offenses
14 of especially aggravated kidnapping only: Here
15 knowingly means that a person acts knowingly with
16 respect to the conduct or to the circumstances
17 surrounding the conduct when the person is aware of
18 the nature of the conduct or that the circumstances
19 exist. A person acts knowingly with respect to the
20 result of a person's conduct when the person is aware
21 that the conduct is reasonably certain to cause the
22 result. The requirement of knowingly is also
23 established if it is shown that the defendant acted
24 intentionally.

25 Here intentionally means that a person acts

1 intentionally with respect to the nature of the
2 conduct or to a result of the conduct when it is the
3 person's conscious objective or desire to engage in
4 the conduct or cause the result.

5 For the offenses and lesser-included offenses
6 of aggravated rape only: Here intentionally means
7 that a person acts intentionally with respect to the
8 nature of the conduct or to the result of the conduct
9 when it is the person's conscious objective or desire
10 to engage in the conduct or to cause the result.

11 Here knowingly means that a person acts
12 knowingly with respect to the conduct or
13 circumstances surrounding the conduct when the person
14 is aware of the nature of the conduct or that the
15 circumstances exist. A person acts knowingly with
16 respect to the result of the person's conduct when
17 the person is aware that the conduct is reasonably
18 certain to cause the result.

19 Here recklessly means that a person acts
20 recklessly with respect to the circumstances
21 surrounding the conduct or the result of the conduct
22 when the person is aware of but consciously
23 disregards a substantial and unjustifiable risk that
24 the circumstances exist or that the result will
25 occur. The risk must be of such a nature and degree

1 that its disregard constitutes a gross deviation from
2 the standard of care that an ordinary person would
3 exercise under all the circumstances as viewed from
4 the accused person's standpoint.

5 Sexual penetration means sexual intercourse,
6 cunnilingus, fellatio, anal intercourse, or any other
7 intrusion however slight of any part of a person's
8 body or of any object into the genital or anal
9 openings of the alleged victims, the defendants, or
10 any other person's body, but emission of semen is not
11 required.

12 Cunnilingus means a sex act accomplished by
13 placing the mouth or tongue on or in the vagina of
14 another.

15 Fellatio means a sex act accomplished with
16 the male's sex organ and the mouth or lips of
17 another. Intrusion into the alleged victim's mouth
18 is not required.

19 Coercion means threat of kidnapping,
20 extortion, force, or violence to be performed
21 immediately or in the future or the use of parental
22 custodial or official authority over a child less
23 than 15 years of age.

24 Victim means the person alleged to have been
25 subjected to criminal sexual conduct.

1 An aider and abettor is one who advises,
2 counsels, procures, or encourages another to commit a
3 crime.

4 Sexual contact includes the intentional
5 touching of the alleged victim's, the defendant's, or
6 any other person's intimate parts or the intentional
7 touching of the clothing covering the immediate area
8 of the alleged victim's, the defendant's, or any
9 other person's intimate parts if that intentional
10 touching can be reasonably construed as being for the
11 purpose of sexual arousal or gratification.

12 Intimate parts include the primary genital
13 area, groin, inner thigh, buttock, or breast of a
14 human being.

15 For the offense of facilitation of a felony
16 only: Here knowingly means that a person acts
17 knowingly with respect to the conduct or the
18 circumstances surrounding the conduct when the person
19 is aware of the nature of the conduct or that a --
20 the circumstances exist. A person acts knowingly
21 with respect to the results of the person's conduct
22 when the person is aware that the conduct is
23 reasonably certain to cause the result.

24 Here the requirement of knowingly is also
25 established if it is shown that the defendant acted

1 intentionally.

2 Here intent means that a person acts
3 intentionally with respect to the nature of the
4 conduct or the result of the conduct when it is that
5 person's conscious objective or desire to engage in
6 the conduct or cause the result.

7 For any of the offenses: Deadly weapon means
8 a firearm or anything manifestly designed, made, or
9 adapted for the purpose of inflicting death or
10 serious bodily injury or anything that in the manner
11 of its use or intended use is capable of causing
12 death or serious bodily injury.

13 Force means compulsion by the use of physical
14 power or violence.

15 Fraud is defined as the term is used in
16 ordinary conversation and includes but is not limited
17 to deceit, trickery, misrepresentation, et cetera.

18 Serious bodily injury means bodily injury
19 that involves a substantial risk of death.
20 Protracted unconsciousness, extreme physical pain,
21 protracted or obvious disfigurement or protracted
22 loss or substantial impairment of a function of a
23 bodily member, organ, and mental faculty. Bodily
24 injury includes a cut, abrasion, bruise, burn, or
25 disfigurement and physical pain or temporary illness

1 or impairment of the function of a bodily member,
2 organ, or mental faculty.

3 Violence means evidence of physical force
4 unlawfully exercised so as to damage, injure, or
5 abuse. Physical contact is not required to prove
6 violence. Unlawful pointing of a deadly weapon at an
7 alleged victim is physical force directed toward the
8 body of the victim.

9 Deliberation, order of consideration: In
10 reaching your verdict you shall first consider the
11 offense charged in Count 1 of the indictment. If you
12 unanimously find the defendant guilty of that offense
13 beyond a reasonable doubt, you shall return a verdict
14 of guilty to that offense. If you unanimously find
15 the defendant not guilty of that offense or have a
16 reasonable doubt of the defendant's guilt of that
17 offense, then you shall proceed to consider whether
18 or not the defendant is guilty of the next
19 lesser-included offense in the order from greatest to
20 least within the count of that indictment. You shall
21 not proceed to consider any lesser-included offense
22 unless you have first made a unanimous determination
23 that the defendant is not guilty of the immediately
24 preceding greater offense or you unanimously have a
25 reasonable doubt of the defendant's guilt of that

1 offense.

2 If you have a reasonable doubt of the
3 defendant's guilt -- of the guilt of the defendant as
4 to all offenses charged and included in that count of
5 the indictment, you will -- you shall return a
6 verdict of not guilty on that count and then proceed
7 to the next count of the indictment. You'll do that
8 through the eight counts.

9 Identity: One of the issues in this case is
10 the identification of the defendant as the person who
11 committed the crime. The State has the burden of
12 proving identity beyond a reasonable doubt.

13 Identification testimony is an expression of belief
14 or impression by the witness, and its value may
15 depend upon your consideration of several factors.
16 Some of the factors which you may consider are: 1,
17 the witness' capacity and opportunity to observe the
18 offender. This includes among other things, the
19 length of time available for observation, the
20 distance from which the witness observed the light --
21 the lighting, and whether the person who committed
22 the crime was a prior acquaintance of the witness.

23 The degree of certainty expressed by the
24 witness regarding the identification and the
25 circumstances under which it was made, including

1 whether it is the product of the witness' own
2 recollection. Number 3, the occasions, if any, on
3 which the witness failed to make an identification of
4 the defendant or made an identification that was
5 inconsistent with the identification at trial.

6 4, the occasions, if any, on which the
7 witness made an identification that was consistent
8 with the identification at trial and the
9 circumstances surrounding such identification. And
10 5, any other factors fairly raised by the evidence.

11 Again, the State has the burden of proving
12 every element of the crime charged and its burden
13 specifically includes the identity of the defendant
14 as the person who committed the crime for which he is
15 on trial. If after considering the identification
16 testimony, in light of all the proof you have a
17 reasonable doubt that the defendant is the person who
18 committed the crime, you must find the defendant not
19 guilty.

20 Expert Witness: Previously I instructed you
21 concerning expert testimony. In addition to my prior
22 instructions, you are instructed that in giving his
23 or her opinions some expert witnesses may have
24 testified that he or she took into consideration
25 certain statements made by other persons. Because

1 the statements of other persons were made outside the
2 courtroom, they may only be used for you -- they may
3 only be used by you only for evaluating the expert
4 witness' opinion, testimony, and cannot be relied on
5 as proof of the truth of the matters asserted in
6 those statements.

7 Credibility and impeachment of witness:
8 Previously I've also instructed you concerning
9 credibility and impeachment of witnesses. In
10 addition to my prior instructions, you're instructed
11 that a promise of leniency or other favorable
12 agreement is a factor you may consider in determining
13 credibility of a witness. Evidence has been
14 presented that witnesses testifying against the
15 defendant on behalf of the State of Tennessee have
16 been offered/granted immunity from prosecution for
17 criminal acts committed by them. You must carefully
18 evaluate the weight and credibility of the testimony
19 of any witnesses who may have been induced by
20 agreements with the State to testify against the
21 defendant.

22 You are further instructed that a witness may
23 be impeached by the test -- by testimony by a
24 credible witness that the assailed witness' general
25 reputation for truth and veracity is so bad that he

1 or she would not believe him or her under oath in a
2 court of law. You are further instructed that if
3 from the evidence presented, you find that a witness
4 has been convicted of a prior crime or crimes, you
5 can consider such only for the purpose of its effect,
6 if any, on his or her credibility as a witness.

7 Accomplice: An accomplice is a person who
8 knowingly, voluntarily, and with common intent with
9 the principle offender unites with him or her in the
10 commission of a crime. If a witness was an
11 accomplice in the crime, then his or her testimony
12 must be corroborated. Corroborating evidence is that
13 evidence entirely independent of the accomplice's
14 testimony, which taken by itself leads to the
15 inference not only that a crime has been committed
16 but also that the defendant was implicated in it.
17 This independent corroborative testimony must include
18 some fact or circumstances that effects the
19 defendant's identity. Corroborative evidence may be
20 direct or entirely circumstantial, and it need not be
21 adequate in and of itself to support a conviction.

22 It is sufficient if the corroborative
23 evidence fairly and legitimately tends to connect the
24 defendant with a crime charged. If a -- it is a
25 question for the jury to determine whether an

1 accomplice's testimony has been sufficiently
2 corroborated. Accomplice testimony cannot be
3 corroborated by another accomplice's testimony.
4 Evidence which merely casts a suspicion on the
5 accused is inadequate to corroborate an accomplice's
6 testimony.

7 In this case the Court charges you that the
8 witness, Jason Autry, was an accomplice in this
9 alleged crime, and before the defendant can be
10 convicted, you must find that this accomplice's
11 testimony has been sufficiently corroborated.

12 Evidence of other crimes or bad acts: If
13 from the proof you find that the defendant has
14 committed crimes or bad acts other than that for
15 which he is on trial, you may not consider such
16 evidence to prove his disposition to commit such a
17 crime or crimes as that for which he is on trial.
18 This evidence may be considered by you for the
19 limited purpose of determining whether it provides,
20 (a), the complete story of the crime. That is such
21 evidence may be considered by you where the prior
22 crime or bad acts and the present alleged crimes are
23 logically related or connected or are part of the
24 same transaction so that the proof of the other tends
25 or is necessary to prove the one charge or is

1 necessary for a complete account of itself. (B),
2 motive. That is such evidence may be considered by
3 you that tends to show a motive of the defendant for
4 the comission of offense presently charged. (C), the
5 defendant's intent. That is such evidence may be
6 considered by you if it tends to establish that the
7 defendant actually intended to commit the crime with
8 which he is presently charged. Such evidence of
9 other crimes or bad acts, if considered by you for
10 any purpose, must not be considered for any purpose
11 other than specifically stated.

12 Prior statement of the defendant. Court
13 instructs you that if there is evidence of an oral or
14 written statement given by the defendant in this
15 case, you may take it into consideration with all of
16 the other facts and circumstances proven in the case.
17 In considering the statement, it is for you, the
18 jury, to say what weight you will give the statement.
19 You may believe any part of the statement or
20 disbelieve any part of it, and you may believe the
21 whole statement or disbelieve it in its entirety.

22 Confession or admission against interest:
23 Evidence has been introduced in this trial of a
24 statement or statements by the defendant made outside
25 the trial to show a confession or admission against

1 interest. A confession is a statement by the
2 defendant that he committed the crime charged. An
3 admission against interest is a statement by the
4 defendant which acknowledges the existence or truth
5 of some fact necessary to prove, to establish the
6 guilt of the defendant, or which tends to show guilt
7 of the defendant or is evidence of some material fact
8 but not amounting to a confession. While this
9 evidence has been received, it remains your duty to
10 decide if, in fact, such statement was ever made. If
11 you believe a statement was not made by the
12 defendant, you should not consider it. If you decide
13 the statement was made by the defendant, you must
14 judge the truth of the facts stated. And so
15 determining, consider the circumstances under which
16 the statement was made. Also, consider whether any
17 of the other evidence before you tends to contradict
18 the statement in whole or in part.

19 You must not, however, arbitrarily disregard
20 any part of any statement but rather should consider
21 all of any statement you believe was made and is
22 true.

23 You are the sole judge of what weight should
24 be given to such statements. If you decide a
25 statement was made, you should consider it with all

1 other evidence in the case determining the
2 defendant's guilt or innocence.

3 Stipulations: A stipulation is an agreement.
4 The parties have stipulated that certain matters of
5 fact are true. They are bound by this agreement, and
6 in your consideration of the evidence, you are to
7 treat it as though these facts are proven.

8 Alibi: The defendant has presented evidence
9 of an alibi in this case. An alibi is defined as
10 evidence which establishes that the defendant was not
11 present at the scene of the alleged crime when it
12 allegedly occurred. If the defendant was not present
13 when a crime was committed, he cannot be guilty. The
14 burden is on the State to prove beyond a reasonable
15 doubt that the defendant was at the scene of the
16 crime when it was committed. If you find from your
17 consideration of all of the evidence that the State
18 has failed to prove beyond a reasonable doubt that
19 the defendant was at the scene of the crime when it
20 was committed, you must find the defendant not
21 guilty. The weight to be given alibi evidence is a
22 question for the jury to decide considering all the
23 facts and circumstance of the case.

24 The State must prove beyond a reasonable
25 doubt the culpable mental state. That would be the

1 accused. Culpable mental state means the state of
2 mind of the accused at the time of the offense. This
3 means that you must consider all of the evidence to
4 determine the state of mind of the accused at the
5 commission of -- of the accused at the commission of
6 the offense. The state of mind, which the State must
7 prove, is contained in the element -- elements of the
8 offenses as outlined in the instructions above.

9 Inference of concealment or destruction of
10 evidence: Any attempt by a person to conceal or
11 destroy evidence is a circumstance, which considered
12 with all the facts of the case may justify an
13 inference of guilt. While that inference is by no
14 means strong enough of itself to warrant conviction,
15 yet it may become one of a series of circumstances
16 from which guilt may be logically inferred. Whether
17 the evidence presented proves beyond a reasonable
18 doubt that the defendant so acted is a question for
19 your determination.

20 If this fact is proven, this fact alone does
21 not allow you to find that the defendant is guilty of
22 the crime alleged. However, since an attempt by a
23 defendant to conceal or destroy evidence may be
24 caused by a consciousness of guilt, you may consider
25 this fact if it is so proven, together with all of

1 the other evidence when you decide the guilt or
2 innocence of the defendant. On the other hand, a
3 person entirely innocent of a particular crime may
4 attempt to conceal or destroy evidence, and this may
5 be explained by proof offered or by the facts and
6 circumstances of the case.

7 Concealment or destruction of evidence of a
8 crime is not proof of premeditation. Whether there
9 was any attempt to conceal or destroy evidence by the
10 defendant, the reasons for it and the weight to be
11 given to it are questions for you to determine.

12 Inferences: Court has charged the jury
13 considering an inference that the jury may make in
14 regard to certain evidence in this case. However,
15 the jury is not required to make this inference. It
16 is the exclusive province of the jury to determine
17 whether the facts and circumstances shown by all the
18 evidence in the case warrant the inference which the
19 law permits the jury to draw.

20 This inference may be rebutted by direct or
21 circumstantial evidence or both, whether it exists in
22 the evidence of the State or is offered by the
23 defendant. Although the defendant is not required by
24 law to do so, when the defendant offers an
25 explanation to rebut the inference raised, you should

1 consider such explanation along with all of the
2 evidence to determine not only the correctness of the
3 inference but also the reasonableness of the
4 defendant's explanation. You are not bound to accept
5 either the inference or the defendant's explanation.

6 The State must prove beyond a reasonable
7 doubt every element of the offense before the
8 defendant can be found guilty.

9 When we come back, the attorneys will be
10 given an opportunity to address you in their closing
11 statements. I remind you again that what the
12 attorneys say is not evidence. Since the State has
13 the burden of proof, they have the right to open
14 final arguments followed by defense counsel, then the
15 State may speak last in rebuttal. At the conclusion
16 of argument, I will address briefly a few
17 administrative matters and some final jury
18 instructions, then you will retire to the jury room
19 for your deliberations.

20 We're going to take a recess now. Take 15
21 minutes. Continue to follow the admonitions I gave
22 you at the outset.

23 (WHEREUPON, the jury left the courtroom,
24 after which the following proceedings were had:)

25 (END OF VOLUME XVI.)

1 **VOLUME XVII**

2 **DAY 11**

3 **THURSDAY, SEPTEMBER 21, 2017**

4
5 THE COURT: I mentioned to the attorneys
6 yesterday, both sides, I'm not putting time
7 constraints on you. Hope that you'll be mindful that
8 the jury's -- is this the 10th day? And be
9 reasonably succinct. But I realize that we've got
10 ten days of evidence. It's going to take a little
11 bit of time, but I don't know that I've ever seen a
12 closing statement too short. I've seen some that
13 were too long and had adverse effects. So I might
14 just tell you that you're to your own device and do
15 so at your own peril.

16 (WHEREUPON, the jury returned to the
17 courtroom, after which the following proceedings were
18 had:)

19 THE COURT: Be seated. I've taken care
20 of you, okay? I apologize and understand that you
21 were able to share while I was reading, but that was
22 an oversight. And I'll tell you all, I want all of
23 you to have your copy of these instructions. When
24 I've been reading for an hour and five minutes, I
25 might have -- my mind sometimes will put a word in or

1 take one out or see the same word, it starts to run
2 together. I think I was reasonably close. You folks
3 were following along. But you've all got a copy of
4 that that you can refer to during your deliberations
5 if you wish to, okay?

6 All right. At this time, as I told you,
7 we're going to start with closing arguments. Let's
8 hear from the State.

9
10 **CLOSING STATEMENTS**

11 GENERAL HAGERMAN: Six years, and we've
12 been here two weeks. This is not the first time that
13 Ms. Karen has been in the same room as the man that
14 killed her daughter.

15 She told you when she testified that she had
16 gone to him, to Zach Adams, described the man who led
17 her daughter into the woods, who took her. She
18 testified that he said that was Shane. Out of the
19 mouth of Zach Adams, that was Shane.

20 April 13th, 2011, Shane Austin took her
21 through the woods. They kept her. They raped her in
22 a barn, and then Jason and Zach took her to the river
23 under a bridge. You stand in that place under the
24 bridge, and there's water, there's trees, there's
25 rock, there's cars. They whiz by on the I-40 bridge

1 over the Tennessee River. The bridge that we've all
2 crossed and crossed and crossed. But as you do it,
3 you can't see down to this place at all. There on
4 the rocks next to the river and the trees, stand in
5 that place, you're all alone. All alone. But she
6 wasn't alone. Wrapped in a blanket under that bridge
7 with the cars whizzing past, she was not all alone
8 because two men, two bad men, one stood at her feet
9 and one at her head. And with a shot, echoed under
10 that bridge. With a shot that echoed under that
11 bridge, those two men did what they chose to do in
12 secret what happened to Holly Bobo started, and it
13 was bonded together between these two men who had
14 just done this terrible, terrible work.

15 I want to come back to the secret. I want to
16 come back to that, but first I want to take a
17 timeout. Because just like y'all, I listened to at
18 least an hour of reading, legal terms,
19 lesser-included offenses, things about the law.
20 There was one thing that was read that I found
21 particularly confusing, even misleading, and I would
22 rather go ahead and take a timeout and talk about it
23 quickly now and then resume with the secret about
24 what happened to her.

25 You were read an instruction about alibi.

1 And in that instruction it says, "If the defendant
2 was not present when the crime was committed, he
3 cannot be guilty". That's what it says in the alibi
4 instruction. The problem with that is it doesn't
5 account for what we talked about the very first day,
6 which is also in the charge. Remember, we robbed a
7 couple of banks that first day, and we did it
8 together. We did it to demonstrate what's also in
9 the charge, which is criminal responsibility for the
10 conduct of another.

11 I was the only one on the scene of the crime.
12 I mean, I walked into the bank, and I did it. But my
13 accomplices, whoever planned it, whoever drove away
14 from it, whoever split the money with us, whatever it
15 was, there's no necessity under the law that those
16 people be present at the scene of the crime. The
17 alibi instruction has to be read in light of criminal
18 responsibility, okay? That's important in this case.
19 We'll come back to it, but I wanted to go ahead and
20 say it. Because I don't want that misconception out
21 there the whole time everybody talks, okay?

22 The secret began with a gunshot under the
23 bridge that echoed. These two men bonded together
24 because of the terrible, hands-on work that they just
25 put in. But not just these two men, these four men,

1 Zach Adams, Jason Autry, Shane Austin, and
2 Dylan Adams, all criminally responsible for each
3 other, all part of this terrible, terrible, terrible
4 thing. Their secret bonded together.

5 But even in the early days, even in the early
6 days after that shot, the secret wasn't kept very
7 good. If somebody had been listening, if somebody
8 had just been listening, they'd realize that that
9 secret wasn't even kept through the first two weeks
10 of this thing. Within two days Holly's papers are
11 found right there by Shane Austin's trailer. Other
12 of her papers found right there in front of
13 Shane Austin's grandmother's house. Within the first
14 days, Zach Adams is seen by Trooper Rainey running
15 frantically, sprinting, and then by the watchers in
16 the woods, vacuuming mattresses and cars for hours
17 after the police talked to him. The fear is that
18 Holly's DNA was on him, and he had transferred it to
19 his mattress or to his car, and he had to get rid of
20 any trace of her.

21 Within the first weeks, a girlfriend that he
22 had lied to and that he had threatened already knew
23 that he had done it. Within the first weeks he has
24 no alibi at all. Instead he says he's with Shane and
25 Dylan, the other people who committed the crime.

1 Within the first weeks, Jason Autry tells the lie
2 that I'm working on a farm, but what do you know?
3 Once it's checked, absolutely not.

4 All that within the first weeks of this
5 investigation if somebody had just been listening.
6 The very day of the abduction, the night after the
7 abduction happened, 911 has to come to his house.
8 You want to know what mental state he's in? He's
9 trying to get guns. He's trying to get a vehicle.
10 He is crazy, fighting his grandfather, desperate.
11 Within the first weeks, this secret had crack and
12 crack and crack and cracking, but nobody was
13 listening.

14 Agent Dicus, investigation 101, check their
15 alibis. Check their alibis. But he didn't.
16 Investigator Dicus, follow the facts. Instead he
17 came up with some theory about sexual predators.
18 Follow the facts. Just the facts. Dragnet just the
19 facts. But he wouldn't listen. In those first few
20 weeks, this thing could have been done, but he wasn't
21 listening.

22 If he had been listening, he could have gone
23 to the people that hung out with Zach Adams. He
24 could have asked Anthony Phoenix, and he would have
25 heard that Zach said, "I couldn't have picked a

1 prettier bitch. It was fun". He could have gone to
2 Jamie Darnell, and he would have heard, "he said he
3 can't clear his name, he's in too deep". He could
4 have gone to Carl Stateler and heard, "he said Shane
5 hit it. He said he did it". Could have gone to
6 Cooper and Kirk, the inmates in the lockup, and he
7 could have heard "Tell my brother", "Tell my brother,
8 Dylan, to shut his mouth or else I'm going to lay him
9 in a hole beside her". They could have heard him
10 say, "You've gotta kill a bitch to get a two million
11 dollar bond". They could have heard him say, "They
12 have no body, they have no gun". They could have
13 heard person after person after person that hung out
14 with him and was around him. And this already crack,
15 crack, crack secret could have been done.

16 Finally, finally the people around
17 Dylan Adams come forward, and when they do, finally
18 somebody listens. Finally somebody goes to
19 Dylan Adams. Well, what do you know? The same names
20 we've been hearing since the second day of the
21 investigation, Zach Adams, Shane Austin, Jason Autry,
22 and Dylan Adams. To Dylan's friends and to Dylan and
23 we got the same people.

24 This secret wasn't even well kept. Not early
25 on and not later except by one man, Jason Autry. You

1 see, Jason Autry knew, just as we know, that when he
2 drove up to that trailer and the body -- she was in
3 that blanket and he agreed to help, he was in it for
4 the whole thing. He was in it for the whole thing.
5 He knew that when he agreed to help and took her in
6 that blanket to the river with Zach that he was just
7 as responsible as Shane Austin, just as responsible
8 as Dylan Adams, just as responsible as Zach Adams for
9 what happened to and what was going to happen to that
10 girl. She was never going to come out of that
11 blanket alive. Not a chance. He knew just how
12 guilty he was. Just how guilty they all were. And
13 for years, he kept his secret.

14 Until late 2016, when I think the best way to
15 put it is he just told it. He just told it. To
16 investigators just like last week on that stand every
17 question, he just told it. Trip to the river, he
18 just told it. Taking the body in the blanket -- her
19 in the blanket out of the bed of that truck and
20 laying it down on the rocks, he just told it. What
21 he himself called her, "the fucking bitch is still
22 alive", he just told it. When the shot rang out,
23 when Zach killed her while he was not trying to help
24 her, looking out to make sure the coast was clear, he
25 just told it. For a whole day, question after

1 question after question, he just told it.

2 The early cracks in the secret, all the
3 people around Zach, Dylan Adams and his friends, and
4 now the man who is under that bridge with his hands
5 on the blanket that she was in and still alive, he
6 came in here, and he just told it. But even more
7 than that, even more than that, his account is
8 corroborated and corroborated and corroborated.

9 What did he tell us Shane was doing when he
10 pulled up? Y'all got to get out of here, I got a
11 cable guy coming sometime. Well, what do you know?
12 He had a cable guy coming that day. Corroboration.
13 What did he say Zach said about the rape, other than
14 the crude part that Zach said about Dylan during the
15 rape? But what did he say Zach said about the rape?
16 He said we had to end early, because somebody
17 starting cutting their grass. We had to get out of
18 there, because somebody started cutting their grass.
19 Well, what do you know? Brian Vitt, the neighbor to
20 Shane's grandmother where that barn is, the neighbor,
21 what was he doing that morning? Cutting his grass.
22 Cutting his grass.

23 Jason tells us later that afternoon we go to
24 Victor Dinsmore's. Well, not his house. He's
25 working at Ms. Dottie's house. He says there's a

1 scuffle or a fight. Something about hitting it. And
2 what do you know? Victor Dinsmore describes the same
3 thing that afternoon. But not just that, the
4 particularly interesting part of that is Jason says
5 you know, Victor was there but some unidentified --
6 that was his word, unidentified female was there.
7 What do you know? Debbie Dorris, the cleaning woman.
8 And what did she see? Men. Including who? Jason.

9 MS. THOMPSON: Objection, Your Honor.
10 He's arguing facts not in evidence.

11 THE COURT: It's up to the jury what the
12 facts are.

13 GENERAL HAGERMAN: What do you know? She
14 saw a man. Including who? Jason. Corroborated.
15 Jason tells us how, because he was dropped off at the
16 church. He was dropped off at the church after they
17 came back from the bridge. When the body was
18 disposed of, he wasn't there. He told us he doesn't
19 know where it was except that Zach had told him near
20 Kelly's Ridge. So he told us he went out there
21 looking for it one day after this. He said he went
22 up to a house pretending like he was asking to fish,
23 but the people wouldn't let him. Well, what do you
24 know? What do you know? Within two weeks of this
25 crime, Ms. Brenda O'Bryant calls in, and it's

1 documented, strange man in a PT Cruiser just came to
2 my house asking if he could fish and he was acting
3 strange, and I told him, no, and he kept on asking,
4 and I told him no. Well, what do you know? That's
5 exactly what Jason had said. Corroborated and
6 corroborated and corroborated.

7 But even that, there's more, because what did
8 Jason say in late 2016? Shane Austin and me sold the
9 gun, the gun, no body, no gun, sold the gun to Victor
10 Dinsmore. Go to Victor Dinsmore. Gun was disposed
11 of over by Joe Holladay Road, a small little street
12 years and years and years ago. They sold it to me
13 sometime after Holly was killed. And that's where I
14 got rid of it, me and my wife. What do you know?
15 The gun, right there. The man and his wife that
16 Jason and Shane sold it to years and years ago, he
17 has corroborated and corroborated and corroborated.

18 Early cracks, Zach's friends and all the
19 things he said. Friends of Dylan Adams, Dylan Adams,
20 Jason Autry just told it, and he was corroborated and
21 corroborated and corroborated. But even then,
22 there's more. Two confessions, admissions, while he
23 was in jail to two entire different people.
24 Christopher Swift, who doesn't -- is he lying on
25 Zach? Is Christopher Swift lying on Zach? He told

1 us he doesn't even want to believe that Zach is
2 capable of doing this. But nevertheless, he tells
3 you what Zach said. "I was there for the worst part
4 of it." "I was there for the worst part of it." One
5 of us -- one of us killed themselves. "I was there
6 for the worst part of it", talking about Holly. And
7 explained later that one of us, Shane Austin, killed
8 himself.

9 Corey Rivers, an entirely different person,
10 who sat up straight, bright-eyed, and told us and
11 answered every question about his past, his horrific
12 childhood, what happened to him, what happened to his
13 mother, and also told us what Zach told him. That he
14 wanted forgiveness for what he had done. That when
15 she was taken into the woods -- Holly Bobo was taken
16 into the woods, she was killed. That her body was
17 chopped up. There are cracks. All the statements
18 Zach made to his friends. Dylan Adams, Jason Autry,
19 all the corroboration and now two confessions to two
20 entirely different people.

21 So why do I have to hear so much in this
22 trial about other things, about all the other people
23 that were investigating and excluded? Why do I have
24 to hear about oh, pick a name, Jonathan Dunn, Jason
25 Nichol, whoever it was? Why do I have to hear about

1 all those people that were investigated and excluded?
2 Why do I even have to hear about Terry Britt? Who
3 Agent Dicus, Agent Dicus, the one who had tunnel
4 vision on Terry Britt, the one that had to be removed
5 because of his un-objectivity and his tunnel vision,
6 but even him when I asked after all those searches,
7 after ripping into this man's life, he's not a good
8 man. Good for them for ripping into his life. Good
9 for them. He's in prison. That's fabulous.

10 But after ripping into his life, after all
11 that, Agent Dicus, what did you find that connected
12 him to this crime? And his answer was what?
13 Absolutely nothing. Not a drop of blood. Not a
14 hair. Not anything at all that connected him to
15 Holly Bobo. No evidence. No evidence. So why are
16 we even talking about him?

17 And then I had to listen to Johnny Walker,
18 that Marshal. Cell phone expert? No. An
19 investigator who understands that when you talk to
20 somebody, there's certain things you got to do? No.
21 An investigator that understands that you need to
22 write a report that actually records what happened
23 when you talk to somebody? No. An investigator who
24 remembers that if you're going to testify, you need
25 to probably remember what happened that it's in your

1 20-line little report? No. An investigator that
2 understands when he's being messed with?

3 Terry Britt's not a brain surgeon. But
4 Johnny Walker didn't even understand he was being
5 messed with. "Well, it sounds like you got it all
6 figured out." That's from the words of the man that
7 called law enforcement what? Whores. "Well, it
8 sounds like you got it all figured out." He came in
9 here to say that? Johnny Walker came in here to say
10 that? Why don't, Mr. Walker, you look at the
11 evidence? Why don't you look at the evidence? Were
12 you aware, Mr. Walker, that as we sit here right now
13 we've heard seven, eight, nine people say what
14 Zach Adams said about killing her? Mr. Walker, as
15 you sit here right now, did you know we've heard two
16 different people, entirely different people, testify
17 about how he confessed to them? Mr. Walker, as we
18 sit here right now, do you know they went to
19 Dylan Adams' friends? Do you know they went to
20 Dylan? Do you know Jason just sat in this courtroom
21 for a whole day and just told it? Did you know that
22 his entire story corroborated, corroborated,
23 corroborated? No.

24 Yet we had to listen to him. Don't tell me
25 about that. Don't tell me about that. Don't tell me

1 about the four times in three years that Terry Britt
2 searched bad porn. Don't tell me about that. Tell
3 me about the facts and the evidence in this case. We
4 spent way too much time on speculation that had
5 already been shot down, on suspects that had already
6 been shot down. We even heard Agent Dicus himself
7 admit from his suspect, Terry Britt, that we found
8 "absolutely nothing".

9 Two things, the math. Math. The math in
10 this case is actually pretty simple. The only
11 question in this case is: Do you have the right
12 people? Because everyone agrees, everyone agrees
13 that she was taken, she was kidnapped, and that
14 kidnap started when she was taken, and it continued
15 all the time until she was killed. That she was
16 taken, that she was kidnapped, that she was raped,
17 and that she was murdered. You just listened for an
18 hour about lesser-included offenses or something like
19 that. I heard crazy stuff like negligent homicide or
20 like sexual battery. I heard crazy stuff. And the
21 only things at issue in this trial are not whether or
22 not she was murdered, because she was. Not whether
23 or not she was murdered in the perpetration of a
24 felony, because she was. Not whether or not she was
25 kidnapped, because she was. Not whether or not she

1 was raped, because she was. The only question is:
2 Do we have the right people? And the math on that is
3 pretty simple. Four people, Zach Adams, Jason Autry,
4 Dylan Adams, Shane Austin. Four people. One killed
5 himself. The one at the Coon Hunt, the one looking
6 at her, the one with the hidey-holes behind his
7 house, the one with the paper at 75 yards away from
8 his front yard, the one with the heat coming down on
9 him, one killed himself.

10 Dylan Adams, they went to his friends, they
11 went to him. And what do you know? After they did,
12 got the right people.

13 Jason Autry, he just sat in here and told it,
14 you got the right people.

15 Zach Adams, Karen Bobo, Karen Bobo, face to
16 face with him in the same room, the man who took her
17 into the woods and he said, that was Shane. That was
18 Shane. He didn't say I don't know who that was. He
19 didn't say, oh, that was pick a name. Pick a name
20 that we've heard. Doesn't matter. James Barnes. He
21 didn't say, it was Terry Britt. He didn't say I got
22 no idea. He said, that was Shane Austin.

23 Four people. Four people. Do we got the
24 right people? You can go one by one by one by one.

25 Then the second thing. It indicates there's

1 details that matter and then details that don't. We
2 talked about that the first day, what color shirt
3 people were wearing, exactly what time something
4 happened. We talked about any case has all sorts of
5 details. But some details, some details can be real
6 important. It was just two more witnesses. There
7 was so many witnesses that got on the stand, but
8 there was just, like the others, two more witnesses,
9 and you may not have caught how important what they
10 said was.

11 Cooper was the inmate who was sitting in the
12 Chester County lockup. He was the one who was going
13 to be transferred to Obion County. Kirk was the
14 inmate who was sitting further waiting to come to
15 court. That's Cooper and that's Kirk. Cooper
16 described how Zach Adams came into that lockup, asked
17 him if he would be able to talk to the federal
18 prisoners in Obion County. He said, yeah, maybe
19 through the door. Zach says, well, get a message to
20 my brother. Tell him to stop talking or else I'll
21 lay him in a hole next to Holly Bobo. Kirk hears the
22 same thing, hears Zach talking to Cooper.

23 But do you know what else they both hear that
24 they told you? They both heard Zach say -- because
25 remember, Cooper didn't want him saying this to him.

1 He said, I got angry with him, and maybe even I
2 threatened to slap him if he didn't stop talking, but
3 he didn't stop talking. He said not worried, or
4 something to that effect, because they got no body
5 and they got no gun. Remember that? Not just from
6 Cooper but from Kirk. They got no body, and they got
7 no gun.

8 Well, when did that happen? When did that
9 conversation happen? They testified it happened on
10 March the 4th. March the 4th of 2014. March the 4th
11 of 2014. March the 4th of 2014. When was her body
12 found? When was her body found? September of 2014.
13 So his first statement makes sense. They got no
14 body. Because in March of 2014, they didn't have a
15 body. But what else did he say? They got no gun.
16 Who on Earth, on this planet, who on Earth knew on
17 September -- in March, before September, who on this
18 planet knew in March of 2014 that she had been shot?
19 Who knew it? Her body hadn't been found. This
20 didn't exist yet. This was still in the woods. The
21 hole in the back of her head that's a bullet hole
22 that's consistent with a .32 that I got laying on
23 that table, didn't exist yet.

24 Nobody in this world knew if she was
25 strangled, if she was stabbed, if she was run over,

1 and certainly not shot. Nobody in this world knew
2 except the two men who were there when it happened.
3 You want to talk about a confession. In March before
4 the body is even found, while everybody in this world
5 has no idea what happened Holly Bobo and how she
6 died, he's talking about a gun. He's talking about a
7 gun four months before we even know that she has been
8 shot and has a bullet hole to the back of her head.

9 Under that bridge, under that bridge you're
10 all alone. You're all alone. The cars whiz by.
11 They can't see a thing. Under that bridge she wasn't
12 alone, because she had two men and they had a gun and
13 they killed her. Only two men in the world knew
14 that. The two men that did it, Zach and Jason. And
15 Zach's talk in March before that body's found tells
16 you everything you need to know.

17 We spent time in this trial almost like a
18 time machine going back to 2013 and the status of the
19 investigation for whatever reason. 2013. But this
20 isn't 2013. This is 2017. And now six years later,
21 six years later and two weeks in this room with a man
22 that killed her daughter, it's time to do what is
23 right. It's time to listen to the evidence, to make
24 decisions on the evidence what matters. The time is
25 now. The time is now.

1 Shane was with her just like Zach said. Was
2 Dylan with him? Was Zach with him, too? But after
3 Shane took it her, they all raped her. They all
4 still had her kidnapped. Zach and Jason drove her to
5 the river where they killed her. Then they drove
6 real fast back, dropping Jason off at the church.
7 Just like the defense's own cell phone expert said,
8 the phones are consistent with Shane Austin taking
9 her, her going to Yellow Springs where that barn is
10 and being raped. And then Jason and Zach going to
11 the river. Dylan getting rid of her phone and her
12 property. Killing her and coming back real fast,
13 dropping Jason off at of all things, a church. It's
14 time for this thing to end.

15 THE COURT: Take a ten-minute recess.
16 Follow the admonishes I gave you.

17 You folks want an opportunity to check your
18 electronics.

19 (WHEREUPON, the jury left the courtroom,
20 after which the following proceedings were had:)

21 THE COURT: All right. Ten minutes. Be
22 ready to go at 11:00.

23 (Short break.)

24 THE COURT: I have called for the jury.
25 You good on electronics?

1 MR. GONZALEZ: Yes, sir.

2 THE COURT: Okay. The bathroom
3 facilities are limited up there also, I'll tell you.
4 I love my 1950 courthouse, but it's not prepared for
5 this kind of electronic onslaught nor the restrooms.
6 And something that's ironic is they actually
7 consulted the lawyers when they built this, and they
8 moved the -- that was before air conditioning. They
9 moved the courthouse from the front out there where
10 the main road was back to here. Now, we've got the
11 bypass with more traffic than it would have over
12 there. But we've got the windows shut. They redid
13 the courthouse at Decatur County, and I don't think
14 they consulted with the lawyers or the judges or
15 anybody.

16 We're going to try to conclude unless
17 something gets out of wack. I'd like for you to be
18 prepared to follow it, it might --

19 GENERAL NICHOLS: I am. All I'm doing is
20 switching from PowerPoint to overhead.

21 THE COURT: What I'm saying, even if it's
22 late getting the lunch hour, I kind of would prefer
23 that if we can.

24 GENERAL NICHOLS: No problem.

25 THE COURT: And we will be drawing the

1 three alternates when we send them out for their
2 lunch and to start deliberations. Those alternates
3 will be kept separate and apart. They will still be
4 sequestered. I'll let counsel know who they are, but
5 I'm not going to announce it to protect their
6 identity right now. I haven't done it yet, so...

7 GENERAL NICHOLS: Judge, can we approach
8 just for a moment?

9 THE COURT: Yes.

10 (WHEREUPON, a conference was held at the
11 bench between counsel and the Court.)

12 GENERAL NICHOLS: I said sure no problem
13 getting it before lunch and then I asked Mr. Gonzalez
14 how long.

15 THE COURT: Do what?

16 MR. GONZALEZ: It's just that if we go
17 past the lunch hour, she may want to break before she
18 starts her rebuttal, and we predict that Jennifer
19 will go past the lunch hour.

20 THE COURT: I was hoping not, but we
21 probably will.

22 MR. GONZALEZ: So take a break before
23 rebuttal.

24 THE COURT: If I was her, I'd rather keep
25 it short and get all of it done, but it's your

1 option. If we get into lunch, I'm not going to
2 punish these people.

3 (WHEREUPON, the bench conference ended,
4 and the jury returned to the courtroom, after which
5 the following proceedings were had:)

6 THE COURT: Be seated, please. Okay.
7 Closing statement for the defendant.

8 MS. THOMPSON: Zachary Rye Adams is 100
9 percent innocent of the charges he is facing in this
10 case. And the important thing for you to remember
11 today is that nonevidence is not evidence in this
12 case. Think of all the "nonevidence" that the
13 government has put in in their case. They put in the
14 evidence of a white truck through Christee Clenney
15 and John Babb. But that, in fact, was not evidence
16 that Mr. Adams committed the kidnapping, rape, and
17 murder of Holly Bobo. It's not related to the crimes
18 he's charged with. Think about the shoe print in the
19 carport that the government put in regarding the
20 "evidence" in this case. That's not evidence that
21 points to Mr. Adams being involved in this crime.

22 Think about the pink underwear that was found
23 at the side of the road. The government went to all
24 the trouble of putting that underwear in in the case.
25 Turns out that, in fact, was not Holly Bobo's

1 underwear. The man mowing the lawn, that's not
2 evidence in this case that points to a crime. The
3 mattress at Zach's house, Zach vacuuming his truck,
4 the camouflage clothing, the scratches on Zach, and
5 the nervousness, all of that is nonevidence in this
6 case. But yet the government went to the trouble of
7 putting it in.

8 The white truck, the white pickup truck, the
9 government showed that the truck was traveling south
10 while Holly's cell phone is traveling north. That
11 again is not evidence in this case, but it makes it
12 sounds suspicious. It's a just a way to get people's
13 suspicion in this case -- get their suspicion riled
14 up and thinking about well, it's possible. I mean,
15 what is possible here? The cases in criminal
16 defense -- or criminal law are not made on what is
17 possible. It's what does the evidence show beyond a
18 reasonable doubt.

19 What about the shoe print in the carport?
20 Again, the government knew that the shoe print was
21 made by Clint Bobo's shoe. They knew that, but yet
22 they put in the shoe print to try to show something
23 suspicious. Remember, it's the defense that put in
24 the fact that that shoe print was made by -- or quite
25 possibly made by Clint Bobo's Croc that he was

1 wearing that day when Holly Bobo disappeared. It's
2 the defense that actually put in law enforcement to
3 come in and say, no, that shoe print was made by --
4 that shoe print was consistent with the shoes that
5 Clint Bobo was wearing that day.

6 What about the palmprint on Holly's Mustang?
7 The government went through a lot of trouble to try
8 to put in this palmprint when it's the defense that
9 brought in the fact that all four people that the
10 government has spent their whole first part of their
11 argument arguing were involved, Dylan Adams,
12 Zachary Adams, Jason Autry, and Shane Austin, were
13 all four excluded as being the person who owned that
14 finger -- that palmprint, that handprint, on
15 Holly Bobo's car. And yet, you heard one of the law
16 enforcement involved in the case say that Terry Britt
17 was never excluded as being the owner of that
18 palmprint. Why not? Why didn't they go to that
19 trouble and get his prints and try to exclude him on
20 that.

21 Think about the pink underwear. They put in
22 the pink underwear. It's the -- it's the defense
23 that actually put the evidence in that questioned
24 Brent Booth and brought it to your attention that, in
25 fact, that pink underwear did not belong to Holly.

1 But yet it's found outside Shane's trailer there by
2 his driveway, and the government wants to put that in
3 just to add the creep factor there. The government
4 is really trying to pump the creep factor in this
5 case.

6 The man mowing the yard, that -- that
7 Brian Vitt was there mowing the yard, the government
8 puts that in as though it corroborates Jason Autry's
9 story. But in fact, Mr. Vitt specifically said was
10 he didn't notice anything unusual that day, and he
11 was outside mowing his grass while this alleged crime
12 was occurring down the street.

13 The mattress at Zach's house, the government
14 knew that that mattress belonged Rebecca Urp. The --
15 Rebecca Urp testified that, yeah, she had a mattress
16 there at Zach's house, and that was during the time
17 that they were in the process of breaking up. That
18 mattress is outside. The government knows that
19 mattress had nothing to do with it. Besides the
20 government's story was that none of this crime
21 occurred at Zachary Adams' house. And yet, they
22 bring in that mattress and the vacuuming of the
23 mattress and -- just to make it look suspicious.

24 The same with that truck, the vacuuming of
25 the black truck and the camouflage clothing. All of

1 that was done in order just to have some kind of
2 evidence in, because the government knows that juries
3 expect evidence. So the government has gone to all
4 this trouble to put some kind of evidence in so you
5 have something to take back with you, something to
6 look at as being possible evidence of Mr. Adams'
7 connection to this crime, but when in fact, all those
8 different pieces of evidence that they've put in are
9 not evidence.

10 Next you have the scratches and the
11 nervousness. Again, the government had reason to
12 believe that these were not connected to Zach Adams
13 being involved in the case. But yet, they put it in
14 so they have some kind of evidence.

15 So here's what the government's story is that
16 we have. We have Candace Wood who says that she sees
17 Shane staring at her and Holly at the Coon Hunt in a
18 creepy way. Then you have Clint Bobo. Clint Bobo
19 describes somebody who has dark hair. It's down his
20 neck to his collar. He's 5'10, 5'11, 200 pounds,
21 looks like his cousin, Richie Pratt. Yet John Babb
22 who says he sees a white truck headed south going at
23 a high rate of speed down the road.

24 And then you have a fact gap, because now the
25 government doesn't -- isn't able to explain what

1 happens in between. They have a fact gap, and thank
2 goodness Jason Autry comes along. So in the
3 government's case here's what happened. Jason then
4 steps up and says that Dylan gives Zach oral sex, and
5 then Zach is able to rape Holly Bobo, but Zach
6 describes it when he's talking to Jason Autry as a
7 brief encounter.

8 Jason shows up at Shane's house. That's when
9 Jason gets involved. There's a body in the back of
10 Zach's truck. Jason gets high. They drive to the
11 river. Jason didn't do anything wrong according to
12 Jason's story. He just grabs Holly -- he watches
13 Zach grab a gun and shoot Holly with a gun that he
14 recognizes being Shane's gun. They pop -- they just
15 pick up the body, put it back in the truck. Jason
16 gets driven back to the Yellow Springs Methodist
17 Church. He's dropped off there, and then that's end
18 of Jason's involvement. So that's the government's
19 story.

20 The government then says several hours later
21 Jason shows back up at Zach's house looking for a
22 pill. Jason, Shane, Zach, and Dylan go over to
23 Dottie's to see Victor. Jason says to Zach, you
24 don't have to kill her -- or Jason say -- Jason
25 claims that Shane says to Zach, you didn't have to

1 kill her. Zach says to Shane, you're just as guilty,
2 you hit it. Zach punches Shane. This is all just
3 part of the government's story. Again, none of this
4 directly relates to evidence that shows that
5 there's -- that Zach Adams was involved in the
6 kidnapping, rape, and murder of Holly Bobo. These
7 are things that Jason's claiming is said later.

8 Two days later Jason meets with Zach and
9 Dylan at the gas station. Zach tells Jason he threw
10 Holly's body near Kelly's Ridge. Jason tries to --
11 Zach tries to make a deal with Jason to have Dylan
12 killed. Jason accepts the deal. Jason takes Dylan
13 to the river, but his whole plan gets spoiled by a
14 random boater.

15 Sometime later Jason says he sees buzzards at
16 Kelly's Ridge. He asks the homeowner if he can fish
17 in their pond. And then while stealing deer
18 equipment, Zach tells Jason, looks like we got by
19 with this shit. And Zach tells Jason the real reason
20 they were there were to -- was to show Clint how to
21 make meth, and Holly saw us, raised hell, and that's
22 why we took her. So that's the government's story.
23 It's complete with it's own little motive there as
24 the motive being to cook meth with Clint Bobo.

25 The government also has Dr. Mark Ross (sic)

1 that comes in. He says that the cause of death is a
2 gunshot wound to the back of the head. The range of
3 fire is indeterminate. The size of the hole is 9mm
4 by 11mm, .32 caliber bullet, is 32 inches in
5 diameter, and anything that's .30 -- .3 -- not 32
6 inches, .32 inches in diameter. Anything that's .36
7 inches or smaller could have made the hole.

8 The government pulls in Victor Dinsmore. He
9 comes in, he argues -- he says that he hears Shane
10 and Zach arguing that they're going to -- about who's
11 going to hit it first. Victor trades morphine for
12 Shane's gun at a later point. Victor gives the gun
13 to his wife. Later Victor tells his wife to get rid
14 of the gun. The wife throws the gun in the creek.
15 The gun is retrieved six years later.

16 They have Steve Deaton come in. He's the
17 water rescue man. He says that after six years, the
18 gun is found laying under 15 inches of water, sitting
19 on top of a drainage feature.

20 And Mike Frizzell is the government's cell
21 phone expert. He comes in and says that Holly's
22 phone traveled north, and because of the locate and
23 the call records, it puts Holly and Zach in the same
24 general area. The end. That is the end of the
25 government's story.

1 Well, now it's time to listen to the rest of
2 the story, because when you dig down deep into what
3 the government says and what the facts really are,
4 you'll see that their story is absolutely full of
5 holes. What they're wanting you to do is to ignore
6 all the little base -- all the mini-mysteries and the
7 holes that they have left in their story and to just
8 completely then buy into their theory that what the
9 government cannot explain, that's what Dylan and
10 Shane did. That's going to be their theory in this
11 case.

12 So the rest of the story is what we have is
13 Candace Wood. She says that she sees a man staring
14 at Holly and her at the Coon Hunt, and that he's
15 standing there scooting dirt. So what she notices --
16 and she says he really creeped her out. But it's the
17 guy who's talking on the cell. She says he's
18 standing there the whole time talking on the cell
19 phone, scooting dirt with his foot, and he keeps
20 looking at her and Holly. And what she also says is
21 that he's standing still in one location, which is
22 what you would expect if somebody's talking on the
23 phone. She said part of what made her suspicious
24 about him was that he just kept standing there, and
25 he didn't move anywhere and was watching them, and

1 she said it was for 10 or 15 minutes.

2 Well, that's what you would expect if
3 somebody is on the phone. And I'm certain that they
4 were two very attractive women there at the Coon
5 Hunt. Maybe the guy was a creep, maybe he just
6 happened to be on the phone and noticing two women,
7 but she says that she felt threatened by it. And of
8 course, now years later knowing what -- that Holly
9 disappeared a few days later, she has feelings of
10 what if. What if she had told? But clearly, at the
11 time what she saw did not upset her so much that she
12 even would mention it to her boyfriend. At the time
13 she didn't even say, hey, boyfriend, Justin, do you
14 see that guy over there staring at me, he's bothering
15 me. So what she sees at the time isn't enough to
16 really bother her. It's only when it comes up days
17 later and Holly has disappeared that she starts to
18 think about it and think -- and as she thinks about
19 it and as she stewes about it, it, to her mind, grows
20 worse and worse, but all she described is a person
21 talking on the phone scooting dirt.

22 The other thing is so she draws this sketch
23 of this person, and then she's shown a picture after
24 she does the sketch of Shane Austin, and she says
25 yes, and she identifies the person at that time as

1 being Shane Austin. But she leaves out some very
2 important features of Shane Austin at the time. The
3 first feature is that Shane Austin has a very big
4 noticeable scar on his face. His mother even
5 testified about it. He had been in a motorcycle
6 accident. He wasn't wearing a helmet. He hit a
7 tree. He was life-flighted to Vanderbilt. And he
8 has a deep scar between his nose and his mouth, and
9 it goes across his cheek.

10 The other thing is Shane's whole right eye
11 socket was decimated. It was flattened. And they
12 had to have multiple surgeries where they were
13 rebuilding his eye socket, and his eye -- it left his
14 eye droopy. Which means the white of his eye, when
15 you look at him, the white of his eye was showing
16 underneath the iris of his eye. That's something
17 that's very unusual about people, and people would
18 absolutely notice that. If you're looking at
19 somebody, I can see -- even the people that have on
20 glasses, I can still see the whites of their eyes,
21 and I can see the iris of their eyes even if you have
22 on glasses. So she's looking at somebody, and he has
23 a distinct deformity of his eye where the eye socket
24 and the nose bridge has all been broken, and it's not
25 seating the eye properly anymore, that's something

1 that you would notice.

2 The other third thing that she doesn't
3 mention is Shane's goatee. Shane wore a goatee
4 because he was self-conscious of his scar, and he
5 wore a goatee to try to help diminish the look of the
6 scar, even though the scar was further out on the
7 cheek and it didn't diminish the whole thing. But
8 Shane had a goatee at the time. Facial hair would
9 definitely be something that you would mention.

10 So she draws the picture first. She leaves
11 out the three very important distinguishing features
12 of Shane Austin in this picture, and then later when
13 she's shown the photo she says, well, yeah, that's
14 the person. But it doesn't quite fit. Even if
15 you-all were to say, well, I do think that that's
16 Shane Austin there, there's no other evidence that
17 Shane knew anything else about Holly Bobo, that he
18 knew where she lived or who she was or that he did
19 anything more than that that day. His mother clearly
20 testified that he did not have a car, that his car --
21 his truck that he had that was parked behind his
22 trailer had been wrecked, and it barely drove, and it
23 drove sideways, and they took the keys.

24 She specifically said they took the keys.
25 Shane didn't have a key to her house, and they locked

1 the keys away. So Shane, first of all, had no
2 opportunity. He had no transportation that he,
3 himself, would have followed Holly home or known
4 anything at all about Holly and where she lived. So
5 even if you-all were to decide, well, it's possible
6 that it was Shane at the Coon Hunt that was looking
7 at them that day, there's nothing that he did that
8 showed that he would have been dangerous, and
9 certainly nothing that then ties that into any type
10 of kidnapping and rape.

11 Then we hear Clint Bobo's description of the
12 person that took Holly. He says that person had
13 black hair down to his collar -- down his neck to his
14 collar. So it's long, black hair. He is 5'10 to
15 5'11, weighs 200 pounds and looks like cousin
16 Richie Pratt. And then we also heard John Walker,
17 who's the Marshal, talk about Clint's description
18 that the man was barrel-chested, had skinny legs, was
19 dressed in a camouflage shirt with a ball cap. And
20 when you look at the pictures -- first of all, if you
21 look at these four men in this case, definitely Zach
22 and Dylan are thinner than 200 pounds. Shane, who
23 might have the physical height and weight, did not
24 have -- barrel-chested. He did not look like he used
25 to work out and didn't work out anymore. He was not

1 barrel-chested and didn't fit the description of
2 having skinny legs. Plus Shane had short hair. He
3 had short hair, and it was reddish-blond hair. It
4 was not dark. It was black or dark brown hair. And
5 it wasn't long down to his collar.

6 The person that took Holly that day thought
7 that Holly was alone. The person that took Holly on
8 April the 13th didn't bother wearing a disguise,
9 because that person had been watching Holly's house.
10 That person was confident that Holly was going to be
11 alone that day. That's why he would bend down in
12 front of -- on the carport for a few minutes talking.
13 If you really thought that somebody was in that house
14 and dialing 911, you would absolutely not have paused
15 there for several minutes, maybe as many as ten
16 minutes, while you're bent down on the carport
17 talking to her. You would be getting out of there.
18 Also -- so that person that came that day dressed
19 that way was not wearing a disguise. That's how they
20 looked, because they thought no one was going to be
21 at home and they would never be identified by
22 anybody.

23 And then Clint Bobo also identifies
24 Terry Britt's voice that day as being 80 percent sure
25 that the voice he heard when he heard Terry Britt's

1 voice was the same voice that was outside on the
2 carport that morning with his sister. You-all heard
3 Zach Adams when he got up to test -- to say he was
4 not guilty. He's the one in this case that said he
5 was not guilty. He had a high voice in that case.
6 He does not have that low, husky smokers voice
7 you-all heard Terry Britt testify in front of you.
8 You know that's a very distinct voice that he had,
9 and it's low.

10 Then as part of the rest of the story, we
11 have John Babb. So John Babb says he see a white
12 truck headed south that morning, and it's a full-size
13 pickup truck. Christee Clenney also says she sees a
14 white truck a couple of weeks earlier -- or week or
15 two earlier, but that it was also a full-sized white
16 pickup truck. Well, first of all, this Nissan truck
17 that Jason Autry is trying to put Zach Adams with on
18 the day that Holly disappeared, it's a midsize truck.
19 It's not a full-size truck. And John Babb says also
20 that that truck is heading south on the road that
21 morning, whereas Holly's phone is going north. And
22 he hears that truck approximately around 7:30 that
23 morning.

24 And so what you did hear from James Barnes --
25 at James Barnes, when he's testifying, he says that

1 he's there at his truck. He hears the scream. That
2 just kind of stops him in place. He's then very
3 concerned about this scream. He walks over to the
4 fence. He doesn't hear anything anymore. He comes
5 back to his truck. His wife comes out. He yells at
6 her, get in the truck. And remember, he's facing the
7 end of the driveway. So from the time he hears the
8 scream, he's watching to see what cars are going by.
9 He's facing the end of the driveway. They get in the
10 car. They drive straight to Holly's house.

11 They park there in the driveway at Holly's
12 house. No cars come by because he's testified to
13 that, and he's watching for cars. He has heard a
14 scream that changed his morning. He now is driving a
15 different way to work because of this scream. He's
16 looking for cars. He's aware of what's going on. So
17 that white pickup truck did not pass him. That means
18 that white pickup truck came by before Holly came by.
19 It's a non -- it's not evidence. It's not evidence
20 in this case.

21 So let's talk about Jason Autry. Jason Autry
22 has sold his death penalty to the government. That's
23 what's happened in this case. Jason Autry has a
24 death penalty just like Dylan Adams and Zachary Adams
25 have in this case. And of all the three men, Jason's

1 the one who sold his death penalty to the government.
2 And he sold it to them, and the only price he had to
3 pay was this tall tale that he came up with in
4 January, because you heard Jason testify that it was
5 around January 20th when -- January 7 -- 18th, 19th,
6 and 20th when he came in and had a three-day proffer
7 with the government in this case.

8 And so he has attorneys. He has two
9 attorneys, and he pointed them out in the courtroom.
10 He had two attorneys that were sitting here. And so
11 you know in a death penalty case, if you have two
12 qualified death penalty attorneys in your case, those
13 attorneys -- you know, Jason says well, he just
14 expects to -- he doesn't know what he's going to get.
15 And he just expects to get something in return, but
16 he doesn't know what it's going to be. But you know
17 good and well if you've got two qualified death
18 penalty attorneys, those death penalty attorneys are
19 not going to let you go in and just talk up a storm
20 and put yourself in the middle of something unless
21 they know that you're going to at least get death off
22 the table.

23 And a death penalty -- I'm sure that all of
24 you members of the jury can imagine, the death
25 penalty changes everything. And when somebody is

1 sitting there facing the death penalty and they know
2 what that is, they have incredible pressure on them
3 to have something change to get that death penalty
4 off the table. And so Jason Autry was able to sell
5 his death penalty to the government for a tall tale.

6 And he didn't do it until January. And what
7 that means is he's arrested in the spring of 2014 on
8 this crime, and he had years and years. He had three
9 years to sit from 2014 until January of 2017 to sit
10 and perfect his story so that he could finally sell
11 it to the government.

12 So let's talk about Jason Autry and some of
13 what he did. And as you can see, Jason Autry, he's
14 trying to come across -- sitting up here on the
15 witness stand as we looked at him, he comes across as
16 all shucks, I'm just a good ole boy and just trying
17 to do the right thing, and I was lying when I said I
18 was innocent, and now I've come to you and told the
19 truth. But Jason Autry is no shrinking violet. If
20 you watched him closely and how he handled this whole
21 thing, he absolutely was in control of the courtroom.
22 I mean, he's the one -- he just looked over at the
23 judge and said, Judge, may I approach when he was
24 looking at the maps that the government had for him
25 to look at. And when I was trying to show him --

1 when we went through that whole long, extracted
2 map -- mapping out on the map where he went that day,
3 he absolute was in control of that.

4 He is a controlling person, which is going to
5 be important in this story. Jason Autry, he doesn't
6 let other people boss him around. He absolutely took
7 charge from the witness stand, was in command of
8 things. And so the fact that Jason Autry is
9 controlling and tries to be the master of things is
10 going to be important when we continue to talk about
11 his story and what kind of story he came up with that
12 day.

13 So another thing to remember just about the
14 white truck while we're still here. Remember
15 John Dodd had a white truck, and there were several
16 people that said they saw John Dodd in that area that
17 morning.

18 And the thing about Jason Autry's story is he
19 was able to combine it with a little truth. Because
20 the best lies that people tell -- any time somebody
21 tells a really good lie, it has some elements of
22 truth in it, some elements that you can confirm with
23 other people, and that's what Jason Autry has done
24 here.

25 So first thing he says is that Zach raped

1 Holly as a brief encounter after Dylan gave him oral
2 sex, and this is an absolutely incredible allegation.
3 One of the things Jason has done is as he's told his
4 story about Zach Adams, who at one time was a friend
5 of his, they were drug buddies. They were drug
6 buddies, into doing drug together. And one of the
7 things he does is he's able to weave so many little
8 pieces in there just to make Zach sound like a bad
9 person.

10 And so one of the first little facts that
11 Jason weaves into his incredible story from what
12 happened that day is that he's talking to Zach and
13 says, well, how was it that you're able to rape her?
14 And he gives the -- he claims that Zach replies,
15 well, that his brother had to suck him off so that he
16 could get hard and rape Holly Bobo. And he adds
17 that, one, just to make a dig at Zach Adams, to hurt
18 someone that was an old friend, and also just to add
19 a touch of homosexually and incest and just really
20 complete the picture that Zach's a bad person.
21 Because it's ridiculous to think that in the middle
22 of this rape, if Jason wants the jury to believe that
23 Zach, Dylan, and Shane all raped Holly Bobo that then
24 there's also a brief session of incest between Dylan
25 and Zach in order to -- in order to sexually arouse

1 Zach to rape Holly Bobo. That's just a silly extra
2 that didn't need to be added, but he added it to make
3 Zach sound bad.

4 The other thing he says is -- the thing to
5 keep in mind also is that when Jason is developing
6 his story, he has access to the discovery, and that's
7 the evidence in the case. And you think about the
8 things that -- the defense put in two evidence in
9 this case. First of all, we put in phone records,
10 and phone records that have the locations with them.
11 You-all can go back there in the jury room when
12 you're deliberating, and you can look at those phone
13 records, and you-all can see that the -- that the
14 locations are there. And you don't have to know
15 exactly where that location is that day. If you look
16 at Jason's phone records, it just has a location, and
17 it has a number. So if you can just match Jason's
18 number with Zach's number, you know they're at the
19 same location, and then you just mix it with a little
20 bit of truth. Because if you can remember from that
21 day a little bit of what you did that day, if you
22 remember, yeah, we were over there by the river area,
23 we were over there at that bar, we were over there at
24 the river area that day, if you remember a little bit
25 of the truth there, then you've got some kind of

1 story to tell.

2 And then everybody else says, well, it's
3 true. I mean, everything else must be true, because
4 they were there together and their phones were there
5 together. Well, remember Jason Autry had access to
6 all the evidence in the case. The same access to
7 evidence that Zach Adams and his attorneys had.

8 The other thing that we've put in is we put
9 in the lab reports. We put in the shoe report that
10 showed there was a shoe print there that day. That's
11 what the defense put in. The defense put in all
12 kinds of other evidence in this case and knew enough
13 about reports and things to ask questions. If you
14 think about -- and I'll try to go through some of it
15 as we go along, but a lot of the "evidence" that
16 Jason Autry talks about, the things that he's using
17 that are going to bolster his story, are things and
18 information that would have been available to him as
19 he was going through the evidence.

20 And you remember Rita Austin testified that
21 when she went to go see Jason, he showed her the
22 report on the pink panties that are found outside
23 Shane's house, and that the DNA showed that they were
24 not Holly Bobo's underwear. And the DNA showed that
25 it was an unidentified female and male on the

1 underwear.

2 And he also was able to tell them that Holly
3 was shot and which direction the bullet in Holly's
4 skull was going, where it entered, where it exited,
5 and the three shell casings that were found at the
6 site. And those are also the -- that's the evidence
7 that the TBI lab person at the body recovery site
8 talked about, those three same shell casings.

9 So Jason knew that Brian Vitt was there
10 mowing his grass that morning. You heard Brian Vitt
11 when I questioned him, he admitted that yes, he had
12 given that report to law enforcement early on in the
13 case. And so he had made a report that he was
14 outside that morning along Yellow Springs Road. So
15 that's a fact that Jason would have known by throwing
16 in that this -- these things occurred near there. He
17 now seems to have put himself actually there that
18 morning because he says, well, I saw this person.
19 But in fact, Brian Vitt didn't see Jason Autry there
20 that morning, and so there's nothing that
21 counter-corroborates Jason's story.

22 Jason also knew that the cable guy would have
23 been coming to Shane's house that morning. That
24 would have been in a report. And Jason would have
25 known what Victor Dinsmore said because that would

1 have been in the report. And in fact, Brenda
2 O'Bryant, she's the woman who's father owned the pond
3 across from Kelly's Ridge and said that Jason -- that
4 a person in a PT Cruiser showed up that day. Jason
5 would have had access, because Brenda O'Bryant said
6 she called the police just a few days later after
7 that happened and shortly after Holly disappeared to
8 report that as suspicious activity in relation to
9 Holly disappearing. So that's another piece of
10 information that Jason Autry would have had when he
11 was preparing his story.

12 So now, we'll go to our next slide. So
13 Jason Autry, he's talking about showing up Shane's
14 house. So he says that he shows up at Shane's house
15 that morning. And if you'll look at the phone record
16 evidence that's been put in and the report from our
17 phone expert, Jason Autry's phone never hits off of
18 that cell tower that's there by Shane Austin's house.
19 It doesn't ever show that Jason is over there. So if
20 you're looking at that as to when Jason might have
21 been there, it's not on the phone record. It shows
22 on the phone records that he's over by Zach's house.
23 He's hitting off of Zach's home tower that morning,
24 but he's not hitting off of -- he does not hit off at
25 any time Shane's tower -- Shane's home tower.

1 So he says he shows up Shane's house. And
2 this is just kind of an incredibly crazy story that
3 he tells. He said Shane is running around with a gun
4 in a holster. And initially when Jason tells his
5 story in January of this year, he says that Shane has
6 a .357 or a .38, and that's the kind of revolver that
7 he's got that day, and he specifically does not
8 mention a .32. But later on when the government
9 finds a .32 and comes back to him and says this is
10 the -- is this the weapon you're talking about, he
11 says in court, well, yes, it's definitely the weapon
12 I'm talking about, I can tell.

13 Well, first of all, if you're going to
14 believe his story, the gun that he saw, he says it
15 looks just like the gun. But the gun that he saw
16 years ago does not look just like that anymore,
17 because the gun that they have here today is very
18 rusted. It's a rusted gun. It's been cleaned up
19 some, but you wouldn't look at this gun right here
20 with all this rust on it and everything and say, oh,
21 that's the exact gun I saw. Because if you're going
22 to believe Jason's story, the gun has changed
23 significantly. So -- but yet, he is able to just
24 look at that gun and say, oh, yeah, that's the gun
25 for sure.

1 And anybody that knows guns, and if you're a
2 gun person, you would not confuse a puny .32 caliber
3 revolver with .38 or a .357. If you're a gun person
4 and you know guns, you would definitely know that
5 there's a difference between those two guns.

6 So he says that when he pulls up, that
7 Shane's running around with a gun, and that Dylan is
8 standing in the doorway with his shirt off, and he
9 has just this strong smell of meth. He can smell
10 meth chemicals and meth there. So I think clearly
11 again, Jason is implying that in the middle of the
12 whole going and kidnapping, raping, murder of
13 Holly Bobo, they've also cooked up a batch of meth
14 that morning.

15 And boy, those guys were busy, because
16 between I think it's 8:00 that was testified to when
17 Holly's phone leaves the area, and I think that's
18 around the time that Clint Bobo says he sees Holly
19 walking off into the woods right before 8:00, 7:58,
20 approximately, at that time he sees Holly walking off
21 into the woods. So that means between 8:00 and about
22 9:10, 9:15, whenever Jason says he arrives, they have
23 driven that trip up there, which is a fairly lengthy
24 trip. We had our investigator map those times out,
25 so you can sit down and look at those times. That's

1 a fairly lengthy trip.

2 So it's a long drive that they've gone on.
3 They've stopped at granny's crib -- corncrib and
4 raped Holly. All three of them have then raped
5 Holly, and then they come back and cooked an entire
6 batch of meth. Again, that whole meth thing, the
7 smell of meth cooking, that's a little fact that,
8 again, Jason Autry has thrown in to make
9 Zachary Adams look like a horrible person. He just
10 throws in another little semi-crime, just another
11 little criminal behavior that he has there to make
12 him look bad.

13 So he says he pulls in, and here's how things
14 are set up. We have the PT Cruiser, and he parks
15 right behind Zach's truck. He claims at that time
16 that Zach has his white Nissan pickup truck there
17 with him. There's the PT Cruiser right there. The
18 pickup truck is parked in front of him. And then
19 behind the trailer he says is -- Shane's black truck
20 is parked behind the trailer.

21 So -- and this is going to be important,
22 because if you're going to believe the State's theory
23 in this case -- and their theory is full of holes. I
24 mean, they have kind of this mystery, everything is
25 under the veil and things are bad, but don't really

1 pick up the veil and look under it, but here's kind
2 of what's happened. And clearly the State is
3 implying that after Zach and Jason allegedly leave to
4 go to the river and take the body to bury it at the
5 river, but then somehow Shane and Dylan are there and
6 they're the ones that go and dump Holly's
7 possessions, and they're driving the phone around.

8 I think that's clearly that Dylan is driving
9 the phone around is what the government's trying to
10 imply to you-all and trying to argue. But how could
11 that possibly be when Zach leaves this house,
12 according to Jason's own testimony, all that's left
13 there is this wrecked black truck that's parked
14 behind the trailer? So there's not even a truck
15 there for them to leave -- a running car there for
16 them to leave and drive this 20-minute drive down to
17 where Holly's phone or her lunchbox is found dumped
18 and where her phone pings then at 9:25. So that just
19 doesn't make sense.

20 Also, let's talk a little bit about
21 Shane Austin at this time. Shane Austin, who the
22 government wants you to believe that Shane is -- has
23 killed himself out of guilt over this case, but
24 that's not accurate. You heard Shane's mother
25 testify before you that at the time Shane had had

1 years of a drug problem. He had had years of being
2 involved with drugs. He tried very hard to get off
3 of drugs. The drugs started well before Holly. I
4 mean, clearly just based on what some of the
5 government's witnesses testified to, Shane had been
6 involved in drugs before Holly disappeared. I mean,
7 Jason even says that Shane was into morphine, and
8 Shane was selling morphine. So if you're going to
9 believe the government's witness, Shane is already
10 into morphine, and this is before Holly is taken.

11 And so Shane has had a drug problem. Shane
12 had dried out for a while. He had gotten off the
13 drugs. He had gone to Florida. And you heard his
14 mother also say at one time he had been up in
15 Pennsylvania working. And then he'd gone to Florida.
16 He was working for his brother-in-law in Florida.
17 And while he was down there, he had gotten back on
18 drugs. He was making \$1,500 a week, and after he
19 died, he had no money in his checking account -- \$200
20 in his checking account. So he clearly was spending
21 a lot of money on drugs while he was in Florida.

22 His brother-in-law found him high. He said
23 that he was going to send him back home. Shane was
24 facing the possibility of coming back home. He did
25 not -- he had gone off the wagon and was given

1 multiple chances. He was really, really acting out
2 of control because he completely -- he was too high
3 to get on the airplane when he was supposed to come
4 back home, and he had torn up his hotel room so they
5 took him to a separate hotel room. And so then they
6 find him dead the next -- well, I guess by the time
7 his parents got down there, they discovered that he
8 had died.

9 But the government wants you to believe that
10 this is all related to Holly. This is not related to
11 Holly. This is related to drugs, too many drugs, and
12 somebody that has a bad problem, especially with a
13 lot of money to spend and in a -- in a city far away
14 from most of the family that could have kept an eye
15 on him and maybe tried to intervene.

16 So -- and then also the State waved around
17 some kind of note during the -- talking with
18 Rita Austin, Shane's mother, they're waving around
19 this note about read this and what does this say to
20 you and don't you think this means something. But
21 remember, that note doesn't come in as -- for the
22 "truth of the matter". Whatever was said about that,
23 that's hearsay. Doesn't come in.

24 But there's no question that the people
25 involved in this case had been big talkers and had

1 said a lot of inappropriate things. But just simply
2 because people were big talkers and saying a lot of
3 inappropriate things is not evidence of in fact they
4 are involved in this case or that they have, in fact,
5 killed Holly Bobo.

6 Remember, Terry Dicus testified that there
7 were people in the case who had claimed -- who had
8 claimed to have Holly's head in their freezer. There
9 were other people who had claimed to have Holly in
10 the basement. And there were people that were using
11 unfortunately -- and it's very inappropriate, but
12 unfortunately people that used Holly Bobo's name like
13 a verb. You know, I'm gonna -- you're gonna end up
14 like Holly Bobo, I'm gonna Holly Bobo you. You're
15 going to disappear like Holly Bobo. And that's what
16 Terry Dicus admitted to, that it was really hard
17 because there were -- there were, he said, up to 20
18 people that had made different statements like that
19 during his portion of the investigation. And his
20 portion of the investigation was just through 2013.

21 So that's unfortunate, but simply because
22 people are using those type of phrases or going
23 around saying those type of things does not mean that
24 they were involved. I mean, after all, there was a
25 lot of meth dealing, especially around certain

1 people, because we heard a lot in that county. I
2 mean, we heard a lot of people that testified on
3 behalf of the State, and most of them, if they
4 weren't law enforcement, came in and said, yes, at
5 the time, you know, I was using drugs, I was using
6 meth, I was friends with Zach Adams and had been
7 using meth with him. So definitely an issue. So all
8 this stuff about waving this around and what was
9 said, if it had been anything that clearly tied
10 Zach Adams to the murder, certainly we would have
11 heard more about it.

12 So next we have in this story, we have
13 Jason Autry, he says he shows up at Shane's house and
14 notices a body in the bed of a pickup truck. And
15 again, here's another point at which Jason Autry
16 cannot resist his temptation to throw in another
17 little bad fact about Zach Adams just to try to taint
18 him in your eyes is what he's done. Because the
19 first thing he says is I thought it was Little Jojo.
20 You know, I pull up, and I see this body in the back
21 the truck, and I think it's Little Jojo. And then he
22 cannot resist but go into this story about how Zach
23 has a beef with Little Jojo. Zach has planned to
24 kill Little Jojo. They had already discussed killing
25 him over some kind of beef that he has with him. And

1 again, it's just another way to get in little digs at
2 Zach Adams to make him sound like a bad person. But
3 clearly, that's not an issue in this case. There's
4 -- the government didn't present any kind of evidence
5 to show that Zach was, in fact, involved in the
6 planned murder of somebody else, Little Jojo, or --
7 the government didn't even bring up any facts at all
8 about Little Jojo or what happened there. Why?
9 Because it's not there. The government cannot
10 present false evidence to the jury, so they didn't
11 present that, because there's not proof in any way
12 that anything happened to Little Jojo or that Little
13 Jojo was -- that there was even any kind of
14 conspiracy to kill Little Jojo, whoever that might
15 be.

16 So Jason says that he goes through this gate.
17 There's a body in the back of the pick-up truck.
18 Jason says he goes through the open gate at Shane's
19 house. Well, there was no gate at Shane's house at
20 that time. Shane had only been living in that
21 trailer two weeks. His mother testified that he had
22 moved in March 25th of 2011. By April the 13th
23 that's only about two weeks that Shane has been
24 living in that trailer by himself. He got a dog
25 later on. That's when they put the fence in, was

1 when he got his dog. So at that time there was no
2 fence -- no gate up at that trailer. But it's
3 something that Jason Autry remembered from another
4 time. He remembered at some point there was a gate
5 there. That's how you know that Jason Autry's not
6 remembering from that day and what happened. He's
7 just made -- he's just taken an amalgamation of
8 different memories that he has from that property and
9 put them all together. You know, he's just done a
10 mishmash of things. So that's how you know that what
11 he says on that day did not happen, because there was
12 no gate.

13 He also says that he sees the burn barrel.
14 Rita Austin testified that at that time during those
15 two weeks shortly after he moved in that Shane did
16 not have a burn barrel. That at that time they were
17 still taking Shane's trash for him. They had gotten
18 him a trash can from his sister's husband's work, one
19 that had a lid strapped on it that they could keep
20 the animals out of, and they took that trash can and
21 put it up there.

22 On rebuttal the government brought in
23 Dana Bobo to say that he remembers a burn barrel
24 there. Well, if there were a burn barrel there and
25 if you're going to believe Jason Autry's story that

1 there's a burn barrel going and that the flames are
2 shooting so the burn barrel -- a 55-gallon burn
3 barrel is this high, perhaps, you know, to midwaist,
4 and then the flames are shooting three to four feet
5 above the burn barrel, one, that is a really hot fire
6 you've got going if you've got flames going up that
7 high in the burn barrel. And he didn't say it was
8 just for a second or two. You know, he implies that
9 the burn barrel is going while he's there and
10 everybody's running around crazy.

11 Well, if you've got this burn barrel there,
12 if the burn barrel truly was there, why wouldn't you
13 throw Holly's thing in it? I mean, it sounds like
14 it's a really hot fire. It would have burned that
15 stuff up. Why wouldn't you go ahead and drop those
16 receipts that were at the end of Shane's driveway in
17 the burn barrel? Why wouldn't you go ahead and throw
18 the notebook or the lunchbox and the little lunch
19 that had been made all in the burn barrel? Why would
20 you run the risk of dropping those things out right
21 by your grandmother's house and right up the road
22 from you and 70 feet in front of your driveway? Why
23 would you drop that all there? Why would you leave
24 the purse at the body recovery site if you had the
25 purse there with you and could just dump it in the

1 burn barrel?

2 It's because there wasn't a burn barrel there
3 that day and because there wasn't a fire, because
4 this is made up by Jason Autry. And yet, there's
5 parts of the story that Jason can't explain such as
6 why if you have a burn barrel do you have -- do you
7 still have things like the receipt found at the end
8 of the driveway.

9 So Jason says he pulls up, and the first
10 thing he does is he gets high. So again, in the
11 middle Jason's story doesn't make sense. Because
12 what Jason says is that they're in the middle -- that
13 Zach, Shane, and Dylan are in the middle of the
14 kidnap, rape, and murder of Holly Bobo and yet
15 everybody pauses -- they're running around like
16 crazy, because remember the cable guy's coming and
17 they have brought a dead body back to the trailer
18 right when the cable guy's going to be there in just
19 a few hours. If this is 9:00, the cable guy's coming
20 at noon, you got three hours to get your meth cooked,
21 all the stuff from your meth cooking cleaned up. It
22 smells terribly like meth chemicals. And they pause
23 -- everybody pauses, and they do a drug deal. So he
24 sells him a morphine pill for \$50 is what Jason says.

25 So Jason seeing the body there in the back of

1 He breaks his pill in half. He gets out his spoon.
2 He melts the -- he mixes it with some water he has in
3 his car. He melts the morphine pill up and cooks it.
4 He injects it in himself. So he gets it all injected
5 into himself, and he sits there for about ten minutes
6 I think he said getting high. So that's what Jason
7 does.

8 And then when he gets out of the truck, he's
9 like, hey, what up with the dead body? It just -- so
10 nonchalant. There's a dead body there, and you're
11 like, well, hey, why did you kill Little Jojo? Like
12 it's just no big deal. They say oh, that's not
13 Little Jojo, that's Holly Bobo.

14 And so Jason Autry absolutely knows that
15 Holly Bobo is his third cousin. He spent summers
16 with his grandmother. His grandmother was Sudie
17 Autry. That's his father's mother. It's his
18 paternal grandmother. They all live right there in
19 Parsons area. His grandmother lived not very far
20 from Holly Bobo off of Five Forks Road.

21 So they're all sitting there. He says, oh,
22 that's Holly Bobo. Now, Jason wants everybody to
23 believe that he did not know that Holly Bobo was his
24 third cousin when his father and Dana Bobo are first
25 cousins. He's like who's Holly Bobo? And then Zach

1 says to him, hey, man, can you do me a solid, can you
2 help me get rid of this body? And he's like, sure,
3 I'm in. So Jason's just like automatically in on
4 getting rid of a body. It's a person that he's not
5 responsible for killing.

6 Jason is street smart. He admitted he had a
7 long history of convictions. He is street smart. A
8 street smart person that sat there and testified does
9 not just automatically put themselves in in the
10 middle of a murder with a dead body if they don't
11 have a reason to. So that's a silly -- silly to
12 believe that somebody like Jason Autry would just
13 automatically be in on helping get rid of a body.
14 Sure, I'll help you get rid of the body. And they
15 says, well, bury the body -- will you help us bury
16 the body? So he says, I'll do it, but I don't want
17 these other two guys knowing I'm involved, so I'll
18 meet you up at the church. Because he just -- for
19 whatever reason, he's willing to work with Zach, but
20 he doesn't want to work with Dylan and Shane.

21 Well, the reason it has to be that way is
22 because Dylan and Shane's phones are not with Jason's
23 phone that day. It's Jason and Zach's phones that
24 are together that day out on that Birdsong exit, that
25 Birdsong 7 Tower -- sector of that tower, and he

1 knows it. So he can't put those other two with him
2 because he knows that they both have records that
3 show them other places around the time he's out at
4 the Birdsong Tower. So he's not going to go there.

5 So he says, sure, I'm not going to have these
6 two guys. So they get in the -- his gets in his PT
7 Cruiser. He backs out first. He goes, parks at the
8 church. He says Zach comes up -- pulls up. Doesn't
9 even pull in. He just pulls up on the street, he
10 gets in the car with Zach, and they're driving away.
11 And it's about this time that he realizes they don't
12 have a shovel or a pickaxe. Well, if you're going to
13 go bury a body, clearly that's the thing you need the
14 most. Why would Zach ask him to come help bury a
15 body if Zach knew that he didn't have a shovel or a
16 pickaxe? Why wouldn't Zach have prepared, at least
17 in his head, about where they were going to get a
18 shovel to bury a body with if Zach specifically said
19 will you help me bury this body? Because he didn't
20 say Zach said help me dispose of the body. He said
21 Zach says help me bury this body. Surely if Zach's
22 already thought that they're going to bury it, he's
23 already got a plan of where he's going to get a
24 shovel or pickaxe to bury the body with. But he
25 doesn't, and that doesn't make sense as part of

1 Jason's story. So Jason says can you come help me
2 (sic).

3 They start to drive and Jason realizes, darn
4 it, we don't have a shovel or a pickaxe, and that's
5 when Jason tells Zach that one time he had seen a
6 body floating. So Jason just happens to have on
7 another occasion seen a body floating in the
8 Tennessee River, or at least that little slough there
9 on the side of the river, a body he didn't report at
10 the time. He doesn't mention to anybody that he sees
11 a body, but he sees this body floating in the
12 Tennessee River.

13 And he says, you know, I saw a body. The
14 bodies that I've seen -- the body I saw floating was
15 floating because gases built up in the intestine and
16 you have to gut the body in order to make sure it
17 sinks. So when he says this to Zach. They have no
18 discussion. Jason's testimony from this seat is they
19 have no discussion about where this occurred at the
20 Tennessee River. But Zach -- he doesn't tell Zach
21 where to go. He never says drive here, drive there.
22 Zach by coincidence drives to the exact place where
23 Jason happened to have seen a body floating in the
24 Tennessee River. The Tennessee River is a massive
25 body of water, but he happens to drive to the exact

1 slough. Not just the same Nick's Landing area or
2 Brodie's Landing area, he happens to drive to the
3 exact slough where Jason saw a body floating years
4 earlier.

5 Also, it just doesn't make logical sense that
6 you'd go there. I mean, the one thing that Jason
7 knows about bodies is when a body is in that spot, it
8 is floating. And Jason even admitted on the stand
9 that that spot right there is full of stumps. It's
10 stale water, stagnant water. It's not flowing as
11 part of the channel of the Tennessee River. It's a
12 slough. And he admitted that there's lots of stumps
13 there.

14 So you're going to take a body -- if there's
15 stumps, it's shallow water. You're going to take a
16 body that you're trying to hide from people and you
17 want to sink down to the bottom, that's why you're
18 going to gut it so the body sinks, and you're going
19 to sink it in a place that's shallow enough it has
20 tree stumps sticking up from the bottom? That
21 doesn't make logical sense that you would do that.

22 So -- and remember, at this time Jason says
23 that they stop there. They parked the car -- parked
24 the truck, and Jason gets in the back. He jumps up
25 into the truck. I mean, clearly he's not afraid of

1 dead bodies, because he's the one that first puts
2 hands on this dead body as he's claiming. He jumps
3 up into the truck. He grabs the body by the torso,
4 picks up just the blanket. He just picks up the
5 blanket and sits it right at the end of the truck so
6 that then he and Zach can grab it together.

7 They walk it over to this rip-rap, which he's
8 says is -- you know, the certain angle there. He
9 gave the number. I'm sorry I don't remember exactly
10 what number he said it was. But he sets the body on
11 this rip-rap at an angle sitting up. And I asked
12 him, he says as he's moving the body over there, he
13 admitted that the body is bending in the middle.
14 That the -- that the -- it bent, you know, like this,
15 the feet and the legs come up. So we know that then
16 this alleged body, he's claiming this is Holly's
17 body, is facing face up, because it wouldn't bend
18 this way if it were face down. So we know it's face
19 up. He sits it on the rip-rap. He says the head,
20 torso part to the top. The feet towards the bottom.
21 He says Zach goes back to get a knife out of the
22 fanny pack. It's at that moment that he claims that
23 the leg moves and he hears a sound.

24 Well, he says this tells him that the body
25 is -- that the person is still alive. Well, if Jason

1 is to be believed, one, the medical examiner said
2 himself that bodies express gas and can make noises
3 after they're dead. So simply because he hears a
4 noise come from the body doesn't necessarily mean
5 that the body is alive or that the foot moves. But
6 Jason -- and Jason never checks to see if the body's
7 alive. Jason never even checks to see if it is truly
8 Holly Bobo. It's not -- Jason is clearly not
9 bothered with knowing exactly who the person's
10 identity is.

11 But he says that there's this orange spot on
12 top of this red -- sorry, a blood spot on the blanket
13 the size of an orange at the top of the torso. He
14 sits the body down. He then hears it make a noise.
15 He's all upset now. She's heard our names, you know,
16 and he begins to curse bad curse words and yelling
17 he -- she's heard our names and now she can identify
18 us. Well, I asked specifically on cross-examination,
19 Jason, when did she hear names, because he says the
20 only conversation -- first of all, he claims that
21 they drive all the way there with this body in the
22 back wrapped up in a quilt. So they're driving on
23 open roads where other cars -- they might pass other
24 cars, and they have a body in the back of a -- the
25 truck wrapped in a quilt and that's all.

1 Jason says when he pulls up in the driveway,
2 he can tell it's a body wrapped up in a farm blanket
3 style -- an old farm style blanket quilt. So he can
4 pull up and he sees that this -- he can tell when he
5 looks at it in the back of the truck it's a body,
6 because he instantly says why did you kill Little
7 Jojo. So he thinks it's a body.

8 So why, why would a logical person drive
9 around with a body that's clearly recognizable as a
10 body wrapped up in a blanket with a size of an orange
11 blood spot near the top of the torso? Why would you
12 drive around with that in the back of your pickup,
13 you know, 20 minutes over -- 25 minutes over to the
14 river? And we have -- the investigator drove that
15 route that Jason Autry gives as to how long it takes,
16 and we have all those times over there. Why would
17 you drive -- why wouldn't you at least put cardboard
18 over it or pop something on top of it so if somebody
19 drives by you they wouldn't notice that it's a body
20 in the back of your truck? That's a ridiculous
21 story, but this is a story that Jason has come up
22 with. It's what he needs to sell to the prosecutor.

23 So -- and the next thing that's ridiculous is
24 if you look at this map where he's talking about, as
25 they turn off Ward Hill and they have -- the

1 government has provided these overhead satellite
2 pictures. I provided some satellite pictures. As
3 you drive along this road and it snakes along, Jason
4 even says it's a -- it's a narrow road. There are no
5 margins. There's no -- on the side of the road. I
6 can't think of the word to know. Not margin, median.
7 Shoulder. Yes, there's no shoulder on the side of
8 the road there to really get over. Why would you --
9 if you're going to be stuck with a body, you're going
10 to -- it's you, Zach Adams, and a dead body of some
11 young, beautiful girl, why would you go down in an
12 area that has only one access in and one access out?
13 Somebody else comes along that area and they're in
14 the middle of that road, you are stuck. And if it's
15 law enforcement that just wants to come up and just
16 be a little nosy about why are you there, you can't
17 get out. There's not a second road out of there
18 because you are landlocked -- you're waterlocked in
19 there in that little -- why would you go there with a
20 body that you don't want anyone to catch you with?
21 That doesn't make sense either. But -- and it's a
22 narrow road there. So that's where Jason says that
23 Zach automatically just drove to where he had seen a
24 dead body before.

25 Anyway, they set the body on top. He says,

1 oh, she's alive, now she's heard our names. Although
2 Jason on cross-examination doesn't give any specific
3 examples of when they would have heard his name.
4 Because as far as he knows, they've never -- Zach's
5 never called him out by name. The only conversation
6 they had was about the dead body driving over there,
7 and there wasn't any other conversation on the way
8 there.

9 So he says -- so now Zach pulls out a gun.
10 Jason is like, wait, let me go check. So Jason runs
11 down to the end of the curb in the road to make sure
12 nobody is coming. Well, that's probably a wise idea
13 considering the fact that it's a -- only one road in,
14 one road out. But he's not at the very end of the
15 road. Anyway, he runs down there to make sure
16 nobody's coming. Gives Zach the all clear. Zach
17 shoots the body.

18 Now, this doesn't make sense. He says, Zach
19 walks up and standing over at the top of the body,
20 and he shoots the body. Well, he's already described
21 laying Holly Bobo down on her back. You know, she
22 bent in the middle. I asked him. He lays her down
23 on her back. Zach stands up and shoots. We heard
24 the medical examiner say that the exit wound was in
25 the back right-hand side and came out through the

1 front. So how does he shoot her? He did not say --
2 and this will be very important. I know I walked him
3 through it piece by piece. I know it was painful for
4 the jury to have to sit there and listen piece by
5 piece as I said, then what did you do next, then what
6 did you do next, how did Zach stand. He says, Zach
7 stands over her and shoots her. He does not say,
8 Zach lifts her up, flops her head down so now she's
9 on her stomach, and shoots her. He doesn't. He says
10 he's standing up over her and leans down and shoots
11 her. That's not the wound that's on Holly Bobo's
12 skull. So that's not what happened.

13 That's again, Jason's made up a story, but
14 he's not thinking it through long enough to get it
15 the right direction. And he says it was going from
16 -- if you listen to the medical examiner, you know,
17 goes slightly from low to high. You know from lower
18 to higher, a little from left to -- from right to
19 left. And so that's not how Jason describes that
20 gunshot at all.

21 And at this point, I would like for you-all
22 when you get back there in deliberations, please look
23 at Exhibit 241. This is the Birdsong seven sector.
24 This is about all the times that the people in this
25 case, their cell phones, were over in that area

1 pinging off of that tower. It's very important
2 because Jason Autry, you know, he's claiming that
3 they're over there that day for something nefarious.
4 Well, that's all Jason has to do in order to make
5 this story right is, he just remembers a little bit
6 that he was over there that day with Zach Adams, and
7 then he can make a big killing story out of it, and
8 he gives the government what they want because what
9 the government really needs for their first degree
10 death penalty case is an eyewitness the murder. And
11 so that's what Jason Autry has given them is an
12 eyewitness to the murder, and that's what they needed
13 to get the death penalty.

14 And so -- but if you look at all the times
15 they're over there, Jason Autry's over there on April
16 the 6th, April the 9th. He's -- Zach Adams is over
17 there on April the 10th. Dylan Adams is over there
18 on April the 11th. Zach is over there on April the
19 11th later on that day. And then Jason Autry and
20 Zach are over there together on the 11th from about
21 9:30 through sometime that -- 9:30 in the morning
22 through about 5:00 in the afternoon Jason and Zach,
23 their phones are both over there hitting off of that
24 tower. They're over there together. That's two days
25 before this alleged murder took place. They're both

1 over there hitting off of that same tower on the
2 river.

3 Then Jason and Zach are back over there on
4 the 13th. On the 14th Jason goes back and this --
5 Jason and Zach are both back over there on the 14th
6 at 6:44 p.m. hitting off of that same tower. They're
7 over there -- they're still over there on the 14th
8 till about -- looks like about 9:00 -- 9:30.

9 So why, why in goodness sakes would you, if
10 you're sitting there, your friend has just shot this
11 person, boom -- and Jason describes the shot rings
12 out. It echoes boom, boom, boom, boom. It's this
13 really loud -- birds -- all the Purple Martins go
14 flying (indicating), and he hears this mystery boat
15 start in the background, vroom, vroom. So he's like
16 we've got to get out of here, we may have been seen,
17 or somebody's here, we might be seen. They don't
18 even dispose of the body. They're in such a rush to
19 get out of there -- because he knows. Jason is a
20 wise man. He knows they're on federal property.
21 This is now a federal crime to shoot a gun on federal
22 property, and they are absolutely afraid of what
23 would happen. So they have to get out of there.

24 Why in the world would you go back the very
25 next day and be in the very same spot again the next

1 day with the same person that you just shot and
2 killed somebody with the day before? You wouldn't do
3 that. That's ridiculous. That's how you know by
4 looking at these records that they're not really
5 there in order to kill Holly Bobo. They're there for
6 other reasons, because they go back right back on the
7 14th, the next afternoon. Jason's back over there
8 again. You can look at these records, but on the
9 15th, the 22nd, the 27th. So Jason's over there with
10 Zach on a regular basis.

11 This is a poplar place. Rita Austin
12 testified it's a greenway where people go down there
13 and walk. It's a poplar place to go fishing. People
14 go down there to go fishing a lot. It's not a
15 place -- if you -- if you have a whole county,
16 Decatur County, a huge county, you live on a big
17 bunch of land out in Decatur County and there's so
18 many abandoned, empty places where there -- nobody
19 is, where you're out in the woods in the middle of
20 nowhere, why, why would you go to a poplar fishing
21 spot to dispose of a body? You wouldn't. That just
22 doesn't make logical sense. That's not where you
23 would go to take a body is -- to federal land where
24 it's a poplar fishing spot.

25 And the whole thing about using a .32,

1 anybody that has a .32, that knows a .32, use your
2 common sense. It's a .32 -- a .32 is a slow caliber
3 bullet. Is it going to go all the way through a
4 skull and come out the other side?

5 So they say they pick up the body, but yet --
6 you know, that the TBI had lab technicians come in
7 and testify about the body recovery site. They went
8 over the body recovery site piece by piece. I mean,
9 she was saying they were shoveling little scoops of
10 dirt up, just little piece by little piece and
11 sifting them to see what they could find in the dirt.
12 So they were doing that. And you heard all about
13 Holly Bobo's house and how the TBI lab people went
14 over there, and they went through piece by piece and
15 just looked at all the evidence they had. They took
16 out all kinds of evidence from her house.

17 What we didn't hear from the TBI was about
18 the lab people that went to search Shane Austin's
19 house. The prosecution didn't put -- not
20 Shane Austin. The prosecution did not put on people
21 to testify about the search of Zach Adams' house.
22 And I asked Brent Booth about it. He said they took
23 hundreds of items -- could be hundreds out of items
24 that were there. That it could be as many as 500
25 items that the lab tested in this case looking for

1 evidence. And yet, this government doesn't put those
2 witnesses on. Why? And what about the body recovery
3 site? You know, if at the body recovery site they're
4 there sifting through things, you know that they went
5 to the Tennessee River and did the same thing. They
6 didn't put on any proof about anybody being at the
7 Tennessee River sifting through the dirt looking for
8 little pieces of bone fragment, teeth, quilt, any
9 kind of DNA or blood evidence from where Holly was
10 shot there on the rip-rap. They didn't put that in.
11 Why? Because there's nothing that showed up there.

12 So their story is is that she's shot with
13 this gun up there on the rip-rap. They pick up the
14 blanket, put it back. Jason doesn't say we stopped
15 and then got everything. Well, if she's shot and if
16 she's shot, if you see that it comes out the mouth --
17 because if you look at the skull, the bullet exits
18 right here through the top of the jaw and the teeth
19 and everything, then you would think they would also
20 -- the bullet, if it penetrates the skull like that,
21 would go through the quilt, because the quilt's
22 nothing compared to bone and skull. The bullet would
23 go through the quilt, and then you would also have
24 the teeth and pieces of the quilt that would come
25 apart, pieces of bone fragment. It might just spray

1 everywhere. And yet, none of that's left behind.
2 Jason doesn't say that they sit down and pick up all
3 the little pieces. How do they account for that
4 being gone? How do they account for the fact that
5 you can find teeth at the body recovery site, but
6 there's no kind of evidence at all at the Tennessee
7 River?

8 So Jason says that he -- that -- now, we've
9 switched to the next slide. Jason says that he
10 recognizes now that Zach is in a bind but not him
11 because it's -- Jason tells the story. He threads
12 the needle. It's like sending a needle through some
13 kind of material where you're so careful you never
14 catch a single thread of the material. You weave it
15 through exactly.

16 So Jason has just woven this very careful
17 story where he leaves some of the evidence that he
18 knows is in the case in, but he's carefully kept
19 himself out. After all, he is not involved in the
20 kidnapping in this case. He's not involved in the
21 rape in this case. And he certainly is not, from the
22 way he describes it, involved in the murder in this
23 case. He's simply a witness to the murder. He's not
24 involved in the rape, and he's not involved in the
25 kidnapping, because he's carefully kept himself out

1 of all the bad stuff.

2 He's more worried that day about being late
3 for lunch with his girlfriend than he is about what's
4 just happened in this whole body disposal.

5 And the government has also mentioned about
6 the 911 call that day and what the 911 call shows us.
7 Well, I'll tell you what the 911 call from that very
8 day shows us. It shows us, one, Zach didn't have a
9 car or truck. He doesn't have a vehicle, because
10 he's desperately trying to get his brother to provide
11 him with one or his grandfather to provide him with
12 one. He wants his grandfather's van and his
13 brother's truck. It also shows that Zach does not
14 have a gun on that day, because his grandfather says
15 he didn't have a gun. And it shows that Zach is
16 absolutely obsessed with his girlfriend, Rebecca,
17 because he says, "Paw, you just don't understand. I
18 love Becca so much". So he's on the -- he's crying
19 to his grandfather. He's not violent. He's there
20 crying with his grandfather, begging for a car,
21 begging his grandfather to please not call the
22 police. Please don't violate his bond, because he's
23 already bonded out on the charges at Natchez Trace.
24 Please don't violate my bond. I'm digging myself in
25 a hole. I've got to get out of it. That's what it

1 shows Zach Adams' state of mind was that day.

2 If we can just skip to the next slide? But
3 Jason Autry, let's talk about what's wrong with
4 Jason Autry's story. Clearly Jason Autry is a
5 psychopath. But Jason Autry was very well coached
6 when he was giving his story, because three times he
7 used the word allegedly. If you're really telling a
8 story about what you saw, you would never ever use
9 the word allegedly. You would say, yeah, I was
10 there, I was at the -- I was where they killed her.
11 You know, I was right there where they killed her.
12 This is where they shot her. This is where they
13 dumped the body. You would never say the alleged
14 dump -- "dump site". So let's listen to Jason Autry
15 in his own words say that at trial.

16 (WHEREUPON, an audio was played to the
17 jury.)

18 Okay. Let's listen to the second time he
19 uses the word allegedly.

20 (WHEREUPON, an audio was played to the
21 jury.)

22 So again, how -- allegedly how he knew her.

23 (WHEREUPON, an audio was played to the
24 jury.)

25 So, I mean, if something happens to you and

1 you know it happens and you're telling it from
2 memory, you would never use common language about
3 something allegedly happened. You use allegedly if
4 you're not sure something happened if you're talking
5 about something somebody else said. That's a word
6 that law enforcement uses when they're describing
7 things. It's not a word that a witness would
8 normally use.

9 If we can go to the next slide. So Jason's
10 story then as he shows up that day later on. So he
11 already had a pill, which is two servings of morphine
12 according to him. But after they dropped Zach off,
13 he shows up just a couple of hours later because now
14 he's looking to buy another pill of morphine he says.
15 And he says that he goes over -- they go over, starts
16 at Zach's house, they all get in Dylan's truck. And
17 if you remember, Victor doesn't say he sees Dylan.
18 Jason says Dylan is there, but Victor doesn't say he
19 sees Dylan.

20 They all get in Dylan's truck with Dylan,
21 Shane, Zach, and Jason, and they drive over to
22 Dottie's where for some reason they know Victor is
23 there. How did they know Victor's at Dottie's? What
24 really happened is Zach, that morning after he gets
25 back from over by the Tennessee River with Jason,

1 Zach went, picked up Shane Austin at Shane's house.
2 The phone records show that Zach is over there by
3 Shane's house. Then Shane and Zach drive to Parsons.
4 The phone records show that Zach and Jane -- that
5 Zach and Shane are in Parsons. They go to Parsons
6 directly after the Tennessee River. So if you look
7 at their -- if you look at their timing that day and
8 their phone records, their phone records go straight
9 from about the Tennessee River, Zach's do, over to
10 Shane's for just -- Shane's home tower for just a
11 moment, and then they go into Parsons.

12 So if you've got a dead body in the back,
13 that doesn't make sense, because where did the dead
14 body in back of your white Mazda pickup truck go?
15 You go to Shane's, and then you just drive directly
16 into Parsons. That doesn't make sense there. And
17 Rebecca Urp testified -- strike that.

18 So the -- but they -- it doesn't make sense
19 though that you would be in Parsons and -- with a
20 dead body in the back or blood in the car. So they
21 go to -- what really happened is, as they're driving
22 back from Parsons there with Shane -- it's just Shane
23 and Zach and Dylan in the truck. They're driving
24 Shane back home and you did hear testimony that where
25 Dottie's house is -- Dottie Cooley's house is on Pugh

1 Road, you would pass by that as one of the ways
2 you're coming back from Parsons. You'd would pass by
3 there on your way to take Shane home.

4 So as they're getting ready to take Shane
5 home, because he has to be there to meet the guy
6 that's going to install the cable that morning,
7 that's when they drive by Dottie Cooley's house and
8 they see Victor's truck there. That's how it comes
9 about -- the story that Jason tells doesn't make any
10 sense, because if you're going by what Jason says,
11 how would they even know that -- that Victor Dinsmore
12 is over at Dottie Cooley's house doing any kind of
13 work?

14 But they go over there to buy a pill -- a
15 morphine pill from Victor. Jason Autry, when he
16 testified to it, gave a long, drawn out explanation
17 of how they bought that pill, that morphine pill, how
18 they passed it back and forth, the money back and the
19 pill back. But that day, Victor Dinsmore denied that
20 he had sold a pill to Jason Autry. He said they came
21 over there, and they were doing meth. Then you also
22 hear this whole business about -- that they got in a
23 fight because they let Shane hit it. Jason testified
24 that they got in a fight about who -- they didn't
25 have to kill Holly, and that Zach says, you know,

1 you're just as guilty.

2 But if you listen to what Victor Dinsmore
3 said, he said -- he testified to the fact that they
4 were fighting over who was going to hit it first and
5 let's listen to what Victor Dinsmore said.

6 (WHEREUPON, an audio was played to the
7 jury.)

8 Okay. And so, now looking back, Victor says,
9 well, that was them fighting about who was going to
10 rape Holly. But if you're going to believe
11 Jason Autry's story, at that point Holly was already
12 dead, and Holly had already been raped. So what
13 could hitting it mean? If we go to the next slide.

14 Jason Autry claimed that hitting it meant
15 rape, but if you listen to what he says, he uses the
16 word hit to mean a puff off of a meth pipe. Let's
17 listen him.

18 (WHEREUPON, an audio was played to the
19 jury.)

20 Now, he says it again.

21 (WHEREUPON, an audio was played to the
22 jury.)

23 So it's more likely just looking at the
24 evidence that plainly is is that they're over there
25 and they're fighting about who's going to take the

1 first puff of marijuana. Remember that the statement
2 that they gave to Terry Dicus was that they went to
3 Parsons, and then they used drugs for the rest of the
4 day. So it would make sense that then they're using
5 the meth -- that then they're over there smoking
6 marijuana with Victor Dinsmore.

7 Let's talk about Dylan a little bit because
8 now at this point Jason's talking about Dylan. So
9 remember Dylan, we've heard testimony that he was in
10 special education when he was in school, that he
11 was -- had mental issues -- mental educational
12 problems, and that he was special needs. He couldn't
13 tell time. He lived with his grandfather. He wasn't
14 able to handle his money. Remember we also heard
15 testimony that Dylan had charges in federal court.
16 That's how this case started. And he was released,
17 we heard -- Brent Booth testified from the stand
18 right there that Dylan Adams was released from his
19 federal case to go to live with Dennis Benjamin. And
20 as part of his terms of his supervised release from
21 federal court was to go live with Dennis Benjamin.
22 Which means that if Dylan -- I mean, if that's part
23 of your terms of your supervised release, if you
24 leave there, if you're not living with that person,
25 they can violate you for violating the terms of your

1 supervised released. You can be put back into
2 custody.

3 So he's sent to go live with Dennis Benjamin,
4 and Dennis Benjamin is somebody that Dick Adams said
5 he didn't think Dylan even knew Dennis Benjamin.
6 Dennis Benjamin was not a friend of the family,
7 nobody that they were close to at all.

8 So he's released to go live with a stranger.
9 Why is that? That's because at that point in 2014
10 the TBI was desperate. They were absolutely
11 desperate. Brent Booth said -- sat here and
12 testified that, no, it was just internal pressure to
13 solve the case. There was no serious or tough
14 pressure on anybody to solve the case. But then as
15 rebuttal witness, the government calls in Jack
16 Vanhooser.

17 Jack Vanhooser sits there and testifies and
18 says that Terry Dicus is removed from the case. This
19 is in -- sometime in 2012, 2013 that they said
20 Terry Dicus was simply just focused on Terry Britt.
21 They didn't have any reason to charge Terry Britt.
22 And so Terry Discus is taken off the case. That is
23 incredible pressure. Once they took Terry Dicus off
24 the case, he had not solved it two years into it,
25 2012, 2013, he had not solved it. They took him off

1 the case, and they replaced him with another agent.
2 That is pressure. Everybody from then on knows you
3 have to find somebody to charge in this case. It is
4 absolute pressure. So they're going to find somebody
5 in this case to charge.

6 And so what do they need at that point? They
7 absolutely needed some kind of confession from
8 somebody. That is when they focused on Dylan Adams,
9 who is special ed, and they had him go live with a
10 stranger as part of his supervised release program,
11 because they needed to get this case started.

12 Okay. My projector. There it goes.

13 Then Jason says two days later -- can we go
14 back a -- there. Two days later they're going to --
15 he says that Zach tries to make a deal with Jason to
16 kill Dylan. Again, this is just for the benefit of
17 making Zach look like a bad person and a bad brother
18 that he would then want to have his brother killed.
19 So they're going to bring -- so Jason -- tries to
20 make a deal with Jason. Jason has to think about it.
21 Finally he says, yes, I accept the deal. I will kill
22 Dylan for you, but then I'm going to kill you. And
23 he says he takes Dylan out to the river, and they go
24 fishing first. And they've been fishing for a while
25 before this man comes up, this strange unknown boater

1 comes up. This strange unknown boater comes up, has
2 now seen them and spoiled the plan. Well, if he
3 really intended to kill Dylan, why didn't he go back
4 and do it a day or two later? Dylan wasn't any the
5 wiser. It doesn't make sense that that was the one
6 and only time he had an opportunity to kill Dylan.
7 If he'd made up his mind, why didn't he do it? It's
8 because it's not true. He just says, that because he
9 really, really needs a way to make Zach look bad
10 again. Plus, it also kind of -- by putting him maybe
11 in a little bit of a crime makes him seem like he's
12 kind of bought into the whole crime thing, so he's
13 not perfectly clean hands.

14 But again, Jason Autry weaves that needle
15 through that material so nothing sticks, because it's
16 not actually a killing. He doesn't actually kill
17 Dylan. He doesn't actually bring any harm to Dylan,
18 and so there's no crime that you can actually come
19 back on him and say that he's done something wrong.

20 The other thing that the State has done is
21 they've brought in this stuff about Dylan. So Jason
22 says he talks with Dylan, and Dylan tells him
23 something and -- of course, that's hearsay, whatever
24 Dylan tells him. But then the next thing it is --
25 Jason does is he goes and looks in his granny's barn

1 to see what's there. Well, again, that's just a
2 backdoor way of trying get in -- they're certainly
3 implying that some kind of rape or something occurred
4 in this -- his grandmother's barn. This is Jason's
5 grandmother's barn, just like Shane's grandmother's.
6 It's the one -- it's the grandmother that they share
7 in common. So he says that, you know, something bad
8 has happened in the grandmother's barn. But if you
9 think about it and what's gone on there, it's not
10 true. Jason Autry knew. He knew that that barn was
11 torn down in 20 -- end of 2012, beginning of the
12 2013. So when he's telling his story in January of
13 2017, it's -- once again, he knows that this is
14 something that cannot be traced. He knows that this
15 cannot come back to him.

16 The same way that he talks -- if we skip to
17 the next slide when he's talking about being at
18 Kelly's Ridge. He sees in the report. He probably
19 was going there to burglarize the home. You heard
20 that the men in the home had all gone out to search.
21 So probably cars were gone. They had gone out to
22 search for Holly Bobo. Jason's probably thinking
23 that home's abandoned at that time. He goes up
24 there. But he sees in the -- he sees in the
25 discovery that they were there. That they had been

1 there to search that house -- that the woman had
2 called in a report about him being there. So again,
3 this is something he can try to fill in. But if you
4 listen to the testimony, Kelly Ridge Road T-bones
5 into those people's property. Jason wasn't there to
6 try to figure out where the body had gone. Because
7 even if he were up there fishing, that road T-bones.
8 Kelly's Ridge is on the other side of the road and
9 going directly away from him. So he wouldn't have
10 been there to try to look for a body. Jason says
11 buzzards are there. That's something that cannot
12 ever be disproved, saying oh, on a certain day
13 buzzards were there.

14 But it doesn't make sense. It doesn't make
15 sense that Zach Adams would have taken Holly Bobo's
16 body there, dumped it there along with the purse and
17 all the teeth and everything, and then at some point
18 later on came back, moved the body, went ahead and
19 moved the purse. If you were going to move the
20 purse, why wouldn't you just pick up the purse and
21 burn it at that time? Why would you go to the
22 trouble of moving the purse but still keeping the ID
23 right there with it? It doesn't make sense that he
24 did that.

25 The other part that doesn't make sense is he

1 says that this is a -- that Zach then tells him about
2 Clint Bobo, and that the real reason that they were
3 there was to teach Clint Bobo how to make meth and
4 that Holly saw us, and she raised hell and that's why
5 we took her. That's not -- that's not a good
6 explanation. First of all, you heard Clint Bobo on
7 the stand say that if he had known anything at all
8 about his sister he would have told. Even if they
9 had been there to make meth, Clint Bobo was not going
10 to protect somebody that he has absolutely no loyalty
11 in taking his sister. That -- I mean, it's one thing
12 to be involved in drugs, but drugs usually get you
13 probation. It -- absolutely he would not have
14 protected Zach Adams from being involved in the
15 disappearance of his sister.

16 Let's look real quick at what does
17 Dr. Marco Ross say. He says the hole in the skull is
18 9 millimeters by 11 millimeters, but he based that --
19 he used the anthropology report. Which if you look
20 at Exhibit 174, and it's on page 13 of 16, that's
21 where the anthropology report is, it's part of the
22 autopsy report. That hole is 9.24 millimeters by
23 12.10 millimeters. And if you take that reading,
24 anything -- well, Dr. Ross testified that anything
25 less than .36 inches could have made the hole. But

1 if you're going to take the biggest reading there,
2 that's based on a 9.24 millimeter hole. He also
3 testified that bullets may not be round. At the time
4 of the impact bullets can morph and be different
5 shapes. So if you're going to use that 12.10
6 millimeter, a bullet as big as .48 inches could have
7 made the hole according to Dr. Ross. But a .32
8 caliber bullet is actually .3125 inches in diameter.

9 So we can flip to the next slide. It's the
10 .380. A .380 is .355 inches in diameter. It's not
11 actually .38 inches in diameter. Just because it's
12 something -- a bullet is a certain caliber does not
13 mean that, in fact, is the same size. So a bullet --
14 it's less than .36 inches in diameter and could have
15 made that mark -- could have made that -- not the
16 mark but the hole in the skull. So there was a .380
17 found at the site of the skull at the body recovery
18 site. That's the bullet that killed Holly Bobo.
19 It's not this .32 that they have.

20 Holly Bobo was murdered where her body was
21 found. What happened is the person that took her
22 drove north. If you look at the cell phone records
23 and her cell phone records, the person that took her
24 drove north, and that's where her phone pauses. And
25 does -- her phone does not pause in the Yellow

1 Springs Road exit -- area. The phone pauses up there
2 when she's on Shiloh 2, Shiloh 1 area. Like our cell
3 phone expert showed, that's where her phone is for 30
4 minutes and is unaccounted for.

5 Once it hits Yellow Springs, once it comes
6 back online and they start doing the pings, that's
7 when the phone actually is moving. The phone moves.
8 Each time they ping, they get a different number
9 because the phone is not staying still. The phone is
10 actually moving. So starting at 8:56 when they get
11 their first ping, that phone is moving constantly,
12 and it moves quickly by where Jason Autry's
13 grandmother's barn would have been. The phone moves
14 by there very quickly, and then goes down to where
15 it's seen at 9:25, which is the last ping they get
16 off of it.

17 But -- so what happens is the person that
18 takes Holly -- takes her up there, probably rapes her
19 at the body recovery site, where the body's
20 eventually recovered. It's up there beyond the
21 Verizon cell phone tower. So that's on a tower
22 anyone is pinging off of. Takes her up there, rapes
23 her, leaves her purse, because Holly's probably had
24 her purse with her, was carrying it on her shoulder.
25 Takes her up there, rapes her, kills her there, just

1 leaves her purse. Pulls the \$20 out of it. But does
2 not bother to take the ring. If these are a bunch of
3 meth heads and if meth heads truly are doing
4 something just for the money, they would have taken
5 that diamond promise ring. But the person that took
6 Holly, didn't do it. Leaves her purse there, gets
7 back in the car, and as he's driving away, the person
8 that took Holly, probably Terry Britt, as he's
9 driving away, he then no longer has Holly in the car.
10 He's making a big circle back towards his house.
11 He's throwing things out the window. That's why he
12 would throw things out the window in front of the
13 grandmother's house, Jason Autry's grandmother's
14 house, and Shane's driveway, because it's not Shane.
15 Even the biggest meth head wouldn't throw evidence of
16 what they've just done right out in their driveway in
17 front of them, especially if they had a burn barrel.
18 So that's what's happened there.

19 Victor Dinsmore initially did not remember
20 that the white pickup truck was hidden in his garage.
21 It's only after Brent Booth -- and Brent Booth was
22 under a lot of pressure at the time to solve the case
23 and to get additional evidence for this trial, that
24 Brent goes to see him and -- in May of this year and
25 says, let me tell you what's going to be testified

1 to. It's going to be testified to that Zach Adams'
2 white pickup truck is parked in your garage, and
3 Victor says, no, absolutely not. And then Victor
4 suddenly remembers, oh, yeah, it was.

5 I'm sure that Victor -- Victor Dinsmore at
6 some point was a suspect. Even if not very long, he
7 knows he was a suspect. He knows that things were
8 thrown out on either side of him. He was told by law
9 enforcement that Zach Adams was trying to use him as
10 an alibi. That made him mad. So he's, of course,
11 thinking that Zach is trying to somehow use him as an
12 alibi. He wants to make sure that doesn't happen.
13 He gets mad at Zach, although that they had been
14 friends at one time, he gets mad at Zach. And so he
15 is going to agree with what law enforcement says
16 because he absolutely, one, wants to assist in law
17 enforcement, and there's a \$250,000 reward out, and
18 because he's irritated with Zach thinking that Zach
19 has somehow tried put him in the middle of this.

20 But initially Victor Dinsmore said that it
21 was a .38 or .357 that he traded with Jason Autry.
22 And again, a little bit of truth is always something.
23 Remember Victor Dinsmore said that he had a second
24 .32. Now, he identifies this gun here, this rusty
25 gun as clearly that's the same gun he saw then. But

1 remember, Victor Dinsmore said he had a .32 that he
2 threw into his cousin's pond. His cousin who lives
3 up there in the Parsons area, he threw a .32 in her
4 pond years before they got rid of this gun that
5 Jason Autry brought him.

6 Well, remember they put this gun in the
7 water. But first they had to have somehow -- we
8 didn't hear from Sandra Dinsmore, but we must know
9 that somehow she said that the gun was there by the
10 water. But they got a backhoe, and they were digging
11 along side of the road. What does that tell us?
12 That probably Sandra Dinsmore initially said the gun
13 was buried on the side of the road. They brought
14 them down several times. When they couldn't find it,
15 suddenly Sandra Dinsmore says, oh, I remember where
16 the gun was now. Because they went back again and
17 looked with people that had -- so it had to have
18 happened that way. They go back again and they look
19 with people that have underwater metal detectors.
20 And they go back, and they find this gun, this .32,
21 which initially the gun had been a .38 or .357. That
22 they find this .32 sitting on top -- under 15 inches
23 of water but on top of all this silt and soil, this
24 gun that's been in that water since the Dinsmores
25 left, and they left this area five and a half years

1 earlier.

2 So since they left this area five and a half
3 years earlier, that gun's been sitting in that creek
4 there. The creek -- we even heard testimony that the
5 road had been graded and blacktopped. With all that
6 construction around there, all those rains, all those
7 floodings that we've had not a built -- bit of silt
8 was on top of that gun. It's been sitting in that
9 water five and half years, and there's no mud, no
10 silt, no gravel on top of it. It's still sitting
11 fresh right there on top of all the -- all the gravel
12 itself but in 15 inches of water. That's not
13 believable.

14 But there's a big reward in this case, and
15 people -- you know, a lot of people -- we heard that
16 Victor Dinsmore was not to be trusted. He's not a
17 trustful person. He sold Jamie Darnell a house that
18 he didn't really own and took \$21,000 from him. So
19 what we know is Victor Dinsmore's not to be trusted,
20 and if it's -- if money's involved, Victor Dinsmore
21 will do what he has to to get money from people.

22 So we can go to the next slide now.
23 Mike Frizzell, when he did his timeline, he does it
24 very general. So he says, you know, between 8:56 and
25 9:10 or 8:30 and 9:10 Holly and Zach's cell phones

1 are within this big Yellow Springs Road area, and he
2 does a really big circle. But Mike Frizzell doesn't
3 -- never takes into account any sectors. And if you
4 group the time like that, of course, you know, it's
5 going to look like people's phones overlap but -- and
6 they're together in time. But when you break it up
7 call by call, minute by minute, you can see there's
8 actually multiple times when their phones are farther
9 away from each other. So that's just not accurate.

10 In this case -- the defense in this case
11 called five law enforcement officers to come testify
12 for the defense. Terry Dicus came and testified. He
13 came, and he was the case agent for years.
14 Art Viveros came and testified in this case. He's
15 the FBI agent. John Walker came and testified. He's
16 the US Marshal. James Garnett came and testified.
17 He was from the TBI lab. He testified regarding the
18 searches that were on Terry Britt's computer. And
19 then also the -- I can't remember her name, but the
20 woman that came and testified about the shoe print
21 and saying that the shoe print found in the Bobo's
22 carport matched his shoe -- was consist with the shoe
23 of Clint Bobo. I mean, it's unheard of that the
24 defense would call five different law enforcement
25 agents to come in and talk.

1 Yes, so Zach Adams has said some silly,
2 stupid things over the years. He was a drug dealer
3 living in Decatur County. He was a drug user, a meth
4 user, a meth dealer. He wasn't a good person. And
5 yes, he was walking around saying a bunch of stupid
6 stuff. He's not the only person that said a bunch of
7 stupid stuff. But that does not mean that he killed
8 Holly Bobo. Like Terry Dicus said, when you get and
9 you're looking -- and a couple of puzzle pieces
10 absolutely don't fit, you just stop there and you
11 move on.

12 So as they were looking at Terry Britt --
13 Terry -- as they're looking at Zach Adams, he's
14 looking to see what puzzle pieces fit and don't fit,
15 he absolutely decided it was time to move on, because
16 when he sees that his phone is not where Holly's
17 phone is, he moves on from that. So that's what
18 Terry Dicus was considering an alibi in this case.

19 So the government wants you just to ignore
20 facts. They want you to ignore the phone stuff.
21 They're going to come back when they do their second
22 half of their closing, and they're going to say, no,
23 no, just Zach Adams doesn't have to be the person
24 that kidnapped her, that what we know is he's right
25 there with Shane. And they're going to want you to

1 suppose and do a lot of guessing about what Shane and
2 Dylan were doing. But again, they have no proof.
3 There's absolutely no facts that show. Why is it
4 that the government has to prove their case? Because
5 it's almost impossible to prove a negative. How do
6 you -- how is it that you can possibly prove that
7 Shane Austin was not there that morning or that Dylan
8 Adams was not there that morning? They have to prove
9 they were. And in fact, they do not meet the
10 description of the person that was there that
11 morning. There's no proof whatsoever.

12 The State wants you to make a jump, because
13 this case is absolutely so emotional. This is a
14 beautiful, young woman who has been killed in this
15 case, and it's a tragedy. It's a tragedy for the
16 family to go through. But that doesn't mean that
17 Zach Adams is responsible for this. He's absolutely
18 not guilty.

19 The other thing they say that Zach has
20 confessed, because they have two different people in
21 jail that say he confessed. But you heard
22 testimony -- you heard testimony about the -- where
23 Zach Adams was staying in jail. He's in the
24 Williamson County Jail, and he's in protective
25 custody, which means he spends 23 hours a day locked

1 up. One hour a day he can walk around but without
2 anyone else who can touch him. You know, he's
3 separated from everybody.

4 You also heard through the people from the
5 jail say that there was a -- one phone in the pod for
6 everybody to use. They can hear the television
7 through their doors. Some of them have to stand.
8 Some of them can sit on the bed, but they can hear
9 the television through the door. It's also easy to
10 assume that they can hear people talking on the
11 telephone through the door. So when they're using
12 the one phone, which is out in the public common
13 area, everybody else can stand there and hear what
14 they say. What they say perhaps to their attorney,
15 what they say perhaps to their families, what they're
16 saying about the case. So once somebody gets just a
17 few facts about the case that they can use, then it's
18 absolutely nothing more for them to say, well, and
19 then he said he did it. But with all those
20 confessions that you hear, there's no new
21 information. Nobody has any information to say that
22 Zach Adams confessed to them, and they have learned
23 details that you wouldn't just otherwise know through
24 something else.

25 There's no aspect of this that has been

1 explained like who it is that went and took Holly,
2 where it is that they took her, how they got away
3 with it, where was the car parked when James Barnes
4 walked by there. Nobody can answer those questions.
5 And why? Because these jailhouse confessions are
6 just not accurate. All it takes is a little bit of
7 information, and the State has just jumped on that.

8 Yes, we hear them say that Zach said to the
9 people in Chester County, no body, no gun, he'd never
10 get convicted, but those people came forward.

11 Although they came forward at first to say that he
12 was threatening his brother, to send a word to his
13 brother in Chester County. The whole got no body,
14 got no gun, those were all things that were said here
15 in court on the stand. There's no evidence that they
16 said no body, no gun before. They said those
17 particular phrases before they had found Holly Bobo's
18 body.

19 Terry Britt, you've heard the evidence on
20 Terry Britt. It is compelling. He has a history of
21 stalking young blondes. He lived closer to Holly.
22 He lived fairly close to Holly, within a few miles on
23 Jeanette Holladay Road. He had a history of rape.
24 He was a sex offender. He fit the physical
25 description, 200 pounds, six feet tall -- about six

1 feet tall, dark hair. At some point it was long and
2 covered his collar. He was barrel-chested, skinny
3 legs, looked like he used to workout. He'd been in
4 jail. People in jail workout. Wearing a black cap.
5 They have a picture of him in a black cap.

6 He -- so he saw Holly. He was able to see
7 Holly one day at the Dollar General Store. Once he
8 saw her -- he has a history of stalking women. He
9 knows how to find women. He drove the paper route
10 there, so he's always back on the roads. He said
11 he'd even get drunk and drive the roads. So he's on
12 those roads. He's watching for people. He has one
13 of those rape vans. He has a white panel van that he
14 even talked about. He has got a rape van.

15 The other thing is he's got two vans
16 identical. Red vans that he's driving, but different
17 years. He goes up. He punches Holly in the nose.
18 He's standing there probably waiting for her because
19 he's a stalker. He knows what her schedule is. He
20 knows that this is the one day that Shane -- that the
21 brother, Clint's, truck is parked out in the garage.
22 He's standing there waiting for her. She comes out.
23 He knocks her in the nose. He has to wait for her to
24 kind of get her wits about her so she can walk off in
25 the woods with him. He walks off in the woods.

1 The first time the deputies go by to see him,
2 you heard Deputy Dunavant, he's not there, although
3 Terry Britt claims he was back by noon. That's what
4 he said there on the stand, because he's a compulsive
5 liar. He cannot tell the truth. But the marshals,
6 when they went by at about ten -- I'm sorry, 1:45,
7 2:00, Terry Britt was not there and cars were gone.
8 Not just one car, two -- three cars. There was only
9 one car there, and he said he had two Caravans, one
10 white van, and a pickup truck and a -- gold pickup
11 truck and a black pickup truck. So he has multiple
12 cars parked around for him to get away in case he
13 needs second cars.

14 So Jan is gone, too, when they first go by to
15 see him. He's not there. It's not till later that
16 evening -- you heard Tony Webber say it's later in
17 that evening when he comes back and he's talking to
18 them that they're there and that's when they're
19 unloading the truck. Why? Because suddenly Terry
20 realized he needed an alibi, and he went and got --
21 they made -- they had already purchased that truck
22 before. They left it in the car until the police
23 came, because he thought that the police would be
24 coming by. He even says they're going to try to pin
25 this on me.

1 So they get -- they get the -- trying to make
2 some kind of reason why Jan would have missed work
3 like on the biggest news day of the year, and she
4 works at the News Leader in that county. The very
5 biggest news day of the year, that's when she takes
6 off, because they have a bathtub leak. And
7 Terry Britt even testified they didn't even put the
8 bathtub in on that day. So the bathtub leak,
9 whatever they had was not bad enough for them to put
10 the bathtub in on that day. But he needed an alibi.
11 He needed an alibi fast.

12 Then they also go -- they -- somehow they
13 lift one of those receipts. Because the receipt did
14 not match the receipt from Allgoods. They lift one
15 of those receipts. They fill it out as if they'd
16 bought the tub that day, and then they stage -- they
17 put the receipt in the safe, and they go ahead and
18 just stage an alibi for Terry Britt. People that
19 have alibis ready-made, those are the suspicious
20 people. The people like Shane, Dylan, Zach,
21 Jason Autry, they didn't have their alibis
22 ready-made, because they didn't know they needed one.

23 So in this case there's more -- I mean,
24 reasonable doubt is not a technicality. Reasonable
25 doubt is not something to think, well, it's just a

1 little technicality, we've got reasonable doubt. In
2 this case, unlike so many others, there's absolutely
3 multiple reasonable doubts in this case. You have a
4 man who offered to plead guilty. He's not being
5 played. You're talking about a US Marshal with 31
6 years experience. When was the one time that you saw
7 the district attorney in this case get the most
8 upset? Is when she's cross-examining the US Marshal.
9 That's when she gets upset, because she doesn't like
10 the way that proof's coming in.

11 This man has 31 years experience. He's
12 trained in all kinds of -- you don't have to give
13 Miranda warnings. She's acting like absolutely you
14 must give Miranda warnings. There's many, many
15 exceptions legally when you don't have to give
16 Miranda warnings. And certainly it wasn't required
17 to give Miranda warnings. But Terry Britt sits down
18 and says, it sounds like you've got all figured out,
19 I'll go ahead and plead and resolve this -- solve
20 this -- you know, let's tie this case up for you --
21 tie up your case but -- you can close the case.
22 Looks like you got it all figured out, I'll plead to
23 it and you can close the case. I mean, what powerful
24 words that would be from somebody.

25 But the TBI at that point, you heard, they

1 had already decided they were going to focus on Clint
2 Bobo at that time. You heard that in 2013 they were
3 getting the family's finances, saying that the family
4 had material lied (sic) about things. And so the
5 TBI, at that point, they didn't see any way they were
6 going to get Terry Britt. Because after all, you
7 heard -- you absolutely heard Brent Booth sit up here
8 and say, well, Terry Britt, they bugged his house and
9 they didn't hear anything on the wiretap about him
10 confessing, and so they decided to move on to
11 somebody else. Well, of course they didn't because
12 you heard Art Viveros say he was listening in on the
13 wiretap when he was -- when Terry Britt was
14 discussing the fact that they might be recording and
15 to be careful about what they said. So absolutely
16 there's nothing on the wiretap, and Terry Britt
17 didn't have a brother with a mental handicap that
18 they could go backdoor and try to get some kind of
19 confession. He didn't have a charge partner. It's
20 just Terry Britt. He didn't have a charge partner to
21 go and try to charge with him and see if they could
22 do death penalty against two people and get somebody
23 to change. So all of that.

24 So final thoughts in this case. It was the
25 government's job to fill in all the holes and

1 complete the story. They've utterly failed in this
2 case. Terry Britt is most likely the real abductor
3 and the killer of Holly Bobo. You've had multiple
4 agents get up here and testify about Terry Britt, and
5 they all have years of experience. The government
6 wants you to believe Zach is guilty based on mere
7 suspicion and rumor. In this country we do not
8 convict based on mere suspicion and rumor. A finding
9 of guilt must be based on reasonable doubt.

10 And at this time, it's a very serious -- what
11 you're about to do because a man's life -- and a lot
12 of times they say somebody's life is on the line, but
13 literally in this case Mr. Adams' life is on the
14 line. It's a very serious matter. At this point
15 there's absolute many doubts, reasonable doubts as to
16 why he did not commit this crime and why somebody
17 else did. At some point in the future it may be that
18 they get the evidence they need to charge the right
19 person. But simply because there's suspicious things
20 that have been said or Zach Adams has been running
21 his mouth like a stupid fool is not a reason to
22 convict him of the kidnapping, rape, and murder of
23 Holly Bobo.

24 THE COURT: All right. We're going to
25 take lunch. Take one hour. Follow the admonitions

1 I've given you since the outset. We'll take one
2 hour, and then finish closing at that time.

3 (WHEREUPON, the jury left the courtroom,
4 after which the following proceedings were had:)

5 THE COURT: I orally charged when we were
6 trying the case, but I'm going to supplement just one
7 brief thing concerning out of court statements can't
8 be considered for the truth of them. She'll show
9 that to you if you want to look at it. Fairly short,
10 but somebody had mentioned what Shane Austin had said
11 and words to the effect that you didn't need to kill
12 him or whatever. I think that was what the statement
13 -- came through through the --

14 GENERAL NICHOLS: It came through the
15 defense.

16 THE COURT: -- defense counsel. Yeah,
17 but still.

18 GENERAL HAGERMAN: Is the instruction
19 clear though that out-of-court statements by the
20 defendants?

21 THE COURT: Yeah, yeah, yeah.

22 GENERAL NICHOLS: And other people. I
23 mean, it's not all out-of-court statements.

24 THE COURT: Just read what we got.

25 GENERAL HAGERMAN: We'll read it.

1 GENERAL NICHOLS: Okay.

2 THE COURT: It's not complex. If either
3 side objects, I will not give it. All right? The
4 defense actually raised it. If either side objects,
5 I won't give it.

6 (Lunch break.)

7 (WHEREUPON, the jury returned to the
8 courtroom, after which the following proceedings were
9 had:)

10 THE COURT: Be seated. Okay. State with
11 rebuttal argument.

12 GENERAL NICHOLS: Y'all bear with me. I
13 know you're tired. We all are. I'm going to
14 refocus. I'm going to bring you back to why we're
15 here, what took all of you away from your homes and
16 your jobs, your loved ones. She's why you're here.
17 When they found a driver's license in September of
18 2014, it says her name, Holly Lynn Bobo. Says her
19 date of birth, October the 12th, 1990. Says her
20 address, 681 Swan Johnson, and it has a picture. It
21 really doesn't do her justice.

22 What isn't on this ID of Holly's is her
23 story, what happened to her, how she spent the last
24 two hours of her life. Nowhere on that driver's
25 license does it say she was the daughter of Dana.

1 Dana who built her house. Dana who worked long hours
2 to provide for her and her family. Dana who put that
3 \$20 bill on the kitchen bar an hour or two before she
4 was killed to make sure she had gas money. It
5 doesn't say any of that.

6 It doesn't say anything about her being the
7 beloved daughter of Karen. Karen, whose goal in life
8 was to be a good mama, who fixed Holly's muffins that
9 morning, who slid that \$20 bill that Dana left on the
10 kitchen bar, slid it into this billfold. Karen, who
11 lovingly packed Holly's last lunch.

12 You won't find on the driver's license what
13 you heard in trial the last two weeks about Holly's
14 dreams of being a nurse, about her homework that was
15 dated that day, about her binder that she had written
16 student nurse with a smiley face on it, about how
17 hard she was working four days a week every week all
18 day long just trying to be the best student nurse she
19 could be. Nowhere on that card, that license does it
20 mention the sweet, the sweet love that she shared
21 with Drew Scott. Drew, who put that little promise
22 ring on her finger less than four months before she
23 died. Doesn't say any of that.

24 It doesn't tell you that when she walked out
25 of the house early that Wednesday morning -- not just

1 a house, her house, the house that Dana built. It
2 doesn't tell you that when she walked out her
3 backdoor, keys to her Mustang, her books, her lunch
4 that Karen had packed, wearing the ring like she did
5 every day that Drew gave her, just precious inches
6 from her car door. All she had to have done was to
7 have made it into the car and maybe been able to
8 close that door. You saw how close the car was.
9 Inches. She didn't make it. Poof, she just
10 disappeared. All that gone. Dad not there. Mom not
11 there. Teacher's not there. Drew not there. All of
12 it gone. She disappeared.

13 But you know better; don't you? People don't
14 just disappear without a trace; do they? Do they?
15 Holly didn't. Holly spilled her precious blood in
16 the carport behind the house that Dana built, and you
17 saw the pictures. It was grouped together in about
18 four or five different groups. I think Special Agent
19 Lawrence James said it was like 70 to 80 drops. All
20 tested. All Holly. She didn't disappear without a
21 trace. Ladies and gentlemen, that's your kidnapping.
22 Do one of you have any doubt in your mind that she
23 went willingly? Do you think that? That's your
24 kidnapping. That's why I say you know better.

25 As for the rape, that word is so sterile. Do

1 you know what I mean by that? It's so sterile. You
2 can read it in any book, in any newspaper. You can
3 see it on the news. You can say it in polite
4 company, and nobody even flinches anymore, because
5 that word rape is just a made up word. It's a made
6 up word that somebody invented so that you didn't
7 have to say what really happened. Because what
8 really happened when they got Holly out of there,
9 what he did, what they all did, is they ripped
10 Holly's clothes off, her blue jeans and her panties.
11 And one by one they lined up, they pulled out their
12 penises, and they shoved them into her repeatedly.
13 That's what happened. That's what we put that nice
14 word raped. I hope she didn't know it. They lined
15 up and took turns. That's what she went through her
16 last morning on Earth, then she was murdered. Plain
17 and simple.

18 She was murdered with this .32. Ms. Thompson
19 made some mention about the bullet placement. Let's
20 go ahead and talk about that now. It entered through
21 the back of Holly's head, come out the front. How
22 could that be? If he and Jason had laid her on those
23 rocks, how could that be? How about this? This time
24 Jason's heard her make a sign of distress, not gasp.
25 He saw her foot move. A shot in the shoulder, the

1 arm, between her chest and her arm, not going to do.
2 Have to take care of this right now. Right now.

3 Holly beaten. We knew she was. Left a lot
4 of blood in the carport. Gang raped, wrapped tightly
5 in a blanket, propped up on those rocks, had to go.
6 Not going to accidentally miss. Thought she was
7 already dead, but she wasn't. Pulls out the gun.
8 Jason, hero that he is, said, whoa, not to save her,
9 just to make sure they didn't get caught. And the
10 defendant stoops down, feels around, makes sure,
11 picks up her head and fires. Picks up her head and
12 fires.

13 I'm no rocket scientist. It doesn't take
14 rocket science to figure out how it happened. How do
15 we know it happened like that? How do you know what
16 happened at the hands of that man? How do you know?
17 I'm not going to go back over everything you heard.
18 Every single one of you was taking notes and
19 listening the last two weeks.

20 Jason Autry, number 1, told you what he
21 witnessed with his own eyes. He told you what he
22 did. He confessed multiple crimes under oath to you.
23 We'll start with the kidnapping, because the
24 kidnapping didn't end once they got her off of Swan
25 Johnson Road. The kidnapping continued. I don't

1 care how many times they moved her. It continued
2 until Zachary Adams put that gun to the back of her
3 head and pulled the trigger. So we have Autry's
4 eyewitness account.

5 There's some question about whether it was
6 just a coincidence that the two of them went to this
7 place. I mean, could it be a coincidence they just
8 went to that place? Could it? I don't think so.
9 Took her to a spot -- took Holly to a spot 50 yards,
10 50 yards from one of Zach Adams' favorite places.
11 Place he took Rebecca Urp. Place he returned many
12 times. It's no coincidence. Took her to a place
13 that he knew and felt safe. No coincidence.

14 In addition to telling you what he witnessed
15 himself, Jason Autry told you what Zach Adams told
16 him about that morning. They took her. They took
17 her out of her own house. He told him that they
18 raped her. That sterile word again. Doubt he used
19 those words; don't you? Because what they did, as
20 you know, is line up and take turns.

21 So Jason sort of covers the whole morning
22 time until after he gets back to his car. It's
23 fuzzy. It gets fuzzy from where Zachary Adams put
24 her, because he wasn't there when the body was
25 disposed off. Honestly, after admitting to what he

1 did, there is no reason to hold back that information
2 if he had it. Improperly disposing of a body may be
3 some sort of a crime, but I don't know about that.
4 No, reason to hold that back. He didn't know.

5 He told you what Zach told him that he had
6 dumped her near Kelly's Ridge. And you know the
7 corroboration that comes with the Kelly's Ridge spot.

8 But if you want to rule him out for knowing
9 what happened that morning, what about
10 Victor Dinsmore? Zach Adams decked Shane right out
11 there in front of -- beside Ms. Dottie's house
12 arguing about who was gonna hit it, who did hit it.
13 You think they were fighting about marijuana? What
14 do you think? I would suggest common sense. Use
15 your common sense on that.

16 In addition to Dinsmore, what about
17 Carl Stateler? He may have been the only non-felon
18 friend of Zachary Adams that you heard from this
19 week. Carl Stateler told you Zach Adams said, I let
20 Shane hit it. You think he was talking about
21 marijuana that time, too? And he told Carl Stateler,
22 I did it. I did it. Then he told some of the
23 others, Anthony Phoenix, called her a bitch -- pretty
24 bitch. He said it was fun. Was he talking about
25 putting a bullet in her head as being fun? Or was he

1 talking about lining up with his friends? Was he
2 talking about lining up with his friends and taking
3 turns? I leave that to you.

4 When he told one person I was there for the
5 worst of it, surely to goodness rape was the worst of
6 it. When he asked two different people, will God
7 forgive me. State submits that's between him and
8 God, not between him and you. Not between him and
9 you. There's 10 or 12 statements that he made, all
10 different people. Not in the same jails, not on the
11 same roads, not in the same cars.

12 Paul and I keep going back to Corey Rivers
13 probably because he's a kid that literally got in
14 trouble traveling through Tennessee on a driving
15 charge here last year in East Tennessee, knows
16 nothing about this case, has never heard about this
17 case, but because he had the history he has, he ends
18 up being in the same section with Zachary Adams. And
19 Corey reads the Bible and he prays. And Adams saw
20 him doing it, started up a conversation, and Corey
21 not wanting to judge being that his mother killed his
22 stepfather after walking in on his stepfather raping
23 him, Corey listened to him and didn't just cut him
24 off. I submit that Corey Rivers was what Adams
25 thought to be a safe person to talk to given his lack

1 of association with anything here, the fact that he
2 had a 60-day sentence and a ticket back to Florida,
3 didn't appear to have an axe to grind with Zachary
4 Adams, and he confessed to him. He told Corey Rivers
5 we got her in the woods. That's your kidnapping. We
6 got her in the woods. And Corey saying, did you do
7 it? I'm not supposed to talk about it. Then he'd
8 come back and talk some more. Will God forgive me?
9 That's how that ended.

10 Phones. I promise we talked about the phones
11 a lot. There's five takeaways. Okay. Six. The
12 first one is the defense expert said at the beginning
13 of his testimony he didn't disagree with Special
14 Agent Frizzell, he just took a more nuanced approach.
15 Remember that? Meaning, yeah, what he said is right,
16 but I'm going to break it down some more. So let's
17 just take Agent Frizzell's testimony and set it aside
18 for a minute and just look at the defense expert.

19 When asked the question by Mr. Hagerman, is
20 the phone data consistent with Dylan and Shane taking
21 Holly, he said yes. Is the phone data consistent
22 with Dylan and Shane taking Holly to Shane's
23 grandma's property? The answer yes.

24 Third thing, is the phone data consistent
25 with Holly's phone lingering in the Yellow Springs

1 area at the same time Zachary Adams? Answer, yes.

2 Four, is the phone data consistent with
3 Zachary Adams and Jason Autry driving north to the
4 river and back? Answer, yes.

5 Fifth thing, is the phone data consistent
6 with Holly's last ping -- at the time of Holly's last
7 ping with Dylan Adams driving south and getting rid
8 of her phone and perhaps some of her other things?
9 Answer, I know you heard it, yes. Despite all of
10 these maps, these colors, and these times and these
11 numbers and these crossovers between the three
12 sectors and the fact that a sector might look like
13 this, but it doesn't really mean that because you
14 could be over here or you could be over there or you
15 could be over here, or yes, you could be over there.
16 Despite all that that you heard, the defendant's own
17 expert said yes to those five critical questions that
18 Mr. Hagerman posed to him.

19 Ms. Thompson covered a lot of material, and
20 I'm not going to try and cover it all, but I want to
21 touch on just a couple of things, and I've already
22 touched on some of them. One was the placement of
23 Holly's head and the gunshot wound, and we've already
24 talked about that.

25 The second one, that after the fact she said

1 they kept going back to the river, kept going back to
2 the river. Why would you go back to the river? Go
3 back to the river. But you saw the maps of both her
4 expert and Agent Frizzell. It is an enormous area.
5 Nobody said they went back to the river. They just
6 said they were in that area, which is their stomping
7 grounds, which includes a bar that Autry said he went
8 to constantly.

9 You remember the night, the 13th, the 911
10 call. Do you remember the heavy breathing of
11 Dick Adams who had to rustle two guns away from his
12 grandson? Do you remember Zachary Adams asking his
13 grandfather as well as his brother for their
14 vehicles? Why didn't he have a vehicle? Why didn't
15 he have a vehicle? Where was the white truck?
16 Hidden in Victor Dinsmore's garage for a minute, and
17 then returned back to the Bell's. I don't know if it
18 was returned back to Billy Bell's between those two
19 shops that night or the next, but we know it went
20 back. We have no reason to doubt Mr. Bell.

21 And begging for guns. Not begging, but
22 wrestling for guns. Taking guns. His grandfather
23 said jumped -- came in here and jumped on us and got
24 my two guns. If he comes back like this, I'll shoot
25 him. It gives you just a little glimmer of what was

1 going on in his mind, the desperation that he felt
2 hours, just hours, after they had kidnapped Holly,
3 raped Holly, and killed Holly.

4 He's had an encounter with Rebecca Urp, which
5 I think that the words that were used ended badly
6 that day. You hear him talk about that. Why does he
7 need guns? Why does he need another car? Where was
8 he going?

9 There was some discussion about putting Dylan
10 in a stranger's house, Dennis Benjamin. You got to
11 remember the proof was -- remember, Dylan's still
12 locked up when what happened? When his brother's
13 sending messages, keep your mouth shut or I'll put
14 you in a hole. Then you heard testimony from
15 Agent Booth about him going to someone that was an
16 associate of Dylan's. Then you have Dylan getting
17 out. Should they have sent him back home? Should
18 they have sent him back home? Or should they have
19 tried to keep an eye on him, because that's what they
20 did. He's still alive.

21 There was some discussion about the
22 measurements of the ammunition. Marco Ross told you
23 the exact measurement of the hole in Holly's skull as
24 compared to the measurement of a .32 caliber. And
25 then, bless his heart, the defense witness that came

1 in with pictures of different calibers, I have no
2 doubt that the way he measured them is the way he
3 reported it, but he didn't know how to measure them.
4 Didn't know that remove the projectile from the
5 casing and then measure it. So the expert, the
6 expert who testified about the gunshot wound to
7 Holly's head said it matched my words perfectly,
8 basically .32. And if you look at those measurements
9 and you remember his testimony, it excluded a .38.
10 Excluded it.

11 Let's talk about the gun. What are the
12 chances Jason Autry finally started talking, he
13 didn't know where the gun was, hadn't seen the gun
14 since shortly after it was used to kill Holly Bobo,
15 and he went with his cousin, Shane, traded it for
16 drugs to Victor Dinsmore. He's done with it at that
17 point. Victor Dinsmore gives it to his wife to
18 carry. He's sitting there one night talking to
19 somebody, and he gets worried about where the gun has
20 been, what gun is this. I better get rid of the gun.
21 He tells her get rid of it. She does. He's done
22 with the gun. That's in 2011. They left. They left
23 Tennessee before the end of the year.

24 And when, again, TBI agents go to talk to
25 Victor Dinsmore and his wife, they tell us where the

1 gun is. They dig. They use the backhoe. They bring
2 him down. Can't find it. The road's been regraded.
3 It looks different. They go back. They talk to them
4 some more. She's thought about it again. They go
5 back to the spot she tells them with underwater
6 detectors, and guess what, they do find a gun. I
7 don't know why Ms. Thompson is upset that it wasn't
8 buried. Nobody said it was sitting on top. You saw
9 the pictures. They're in there, what it looked like
10 when they raised it. It was covered in slime and
11 rust and all sorts of crap. And Cervinia Braswell
12 soaked it, got it off, and guess what, guess what, it
13 still fires. It still fires. Still loaded. Still
14 fires.

15 No body? That's what's left. How does that
16 happen? How do you go from that to this? You know
17 the answers, and you know what happened in between.

18 Spend about one minute talking about
19 Terry Britt. And I agree with Mr. Hagerman, I don't
20 know why we're talking at all about Terry Britt. He
21 had local law enforcement, TBI, FBI, US Marshal, a
22 wiretap, his house bugged, his computer searched, his
23 property searched, they even took his chicken scoop,
24 whatever you call it. It's not a shovel for burying
25 bodies. It's a scooper. And it was a dead end.

1 When they looked at his computer, I think the agent
2 said for the entire history of the computer, they
3 found four searches. Four searches for porn sites.

4 But when they searched Zach Adams' computer,
5 you have him posting -- I wish it was in color for
6 you. "Who am I searching for?" What's more telling?
7 It's just Facebook. The comments below.

8 It wasn't Terry Britt. If it was
9 Terry Britt, it would have been a lot easier. It
10 just wasn't. And when Terry Dicus couldn't shed
11 himself of his belief and his desire to prove it was
12 Terry Britt, he was removed from the case and another
13 case officer came on. You nonetheless heard from
14 him. You heard from what he did, and you heard what
15 he did. But under cross-examination when asked what
16 did all your efforts prove? Nothing, nothing, dead
17 end.

18 And you heard from Johnny Walker -- excuse
19 me, Marshal Walker. You decide for yourself if you
20 find him credible. If you do, all right. Given what
21 he testified to, seems like that would be pretty
22 hard, a US Marshal who would go into the visitation
23 room of a multiple convicted felon and say, tell us
24 where the body is and look at you and say he didn't
25 need to give him his Miranda rights.

1 Agent Walker laid out, you heard him, in
2 great detail just delighted to tell you-all all the
3 things that he told Terry Britt that were not in his
4 report, and then when asked and how did he respond,
5 you got it all figured out, I'll just plead guilty,
6 close the case. He wants you to believe that that
7 was true. Because when he said, well, where's the
8 body? I don't have it. Can't give you something I
9 don't have. You decide if you find that credible.

10 I believe that license says that she was five
11 foot three. We say she was five foot three inches of
12 country. And those of us involved and her parents
13 have waited a long, long time, 2011, 2012, all of
14 2013 and '14 and '15 and '16 and most of 2017. It's
15 hard to turn it over, but it's time. If you
16 believe --

17 MS. THOMPSON: I'm sorry, I can't hear.

18 GENERAL NICHOLS: If you believe defense
19 theory, then ladies and gentlemen, let him go. It's
20 what you're supposed to do. But if you don't, and if
21 you see the kidnapping that continued until she got a
22 bullet in her head, and if you see rape, and if you
23 see the murder the occurred in the perpetration of
24 and was closely connected to those two, then return
25 the right verdict. It's not one of those lessers.

1 In fact -- in fact, I don't know why, it's page 36.
2 It should be page -- to me it should be page 1.

3 If you read this deliberation order of
4 consideration, you don't even have to consider them.
5 Every single one of you has to agree that he's not
6 guilty of murder perp, before you ever even look at
7 anything less. So if you agree -- this isn't like a
8 menu. You don't peruse the whole thing. This says
9 you shall not proceed to consider any lesser-included
10 offenses until you have first made a unanimous
11 determination that he's not guilty of receiving death
12 in this case as charged. Got it? This is important.
13 Real important.

14 From the -- from the proof that you've heard,
15 it's doubtful that Holly would have been famous.
16 It's more likely that she would have finished nursing
17 school, that she would have married Drew, that she
18 would have lived close to her parents the remainder
19 of her life. You wouldn't have known her. But she's
20 entitled to this, justice for her inquires that you
21 be here.

22 What we're asking is that each one of you go
23 back to your deliberation room with a clear head,
24 clear mind. Don't be distracted from your mission.
25 You elect yourself a foreperson. You take as long as

1 you need. Might not take long or it might. But you
2 take as long as you need, and you come back out here
3 with the right verdict. We, the jury, find
4 Zachary Adams guilty of murder in the perpetration of
5 kidnapping. Come back with another one. We, the
6 jury, find you guilty of murder in the perpetration
7 of rape. And we, the jury, find you guilty of
8 premeditated murder. Do what needs to be done.
9 We'll be waiting right here for as long as it takes.

10
11 **CHARGE OF THE LAW**

12 THE COURT: Tell each of the jurors to
13 get one those and pass them down. That's actually an
14 instruction I gave you once or more during the case.
15 I thought it should be reduced to writing. I forgot
16 to put it in there. So you'll be handed that. You
17 can put it behind that tab right before jury
18 deliberation, page 46. Then I'll finish the charge.
19 It's fairly short at this point.

20 Okay. That's supplemental. In addition to
21 the jury instructions I have provided to you, I,
22 again, instruct you -- and this is fairly generic.
23 But I, again, instruct you if a witness testified
24 concerning statements made by other persons other
25 than the defendant, Zachary Adams, outside the

1 courtroom, then such statements may be used by you
2 only for the limited purpose providing context for
3 its effect on the other person. You cannot rely upon
4 such third person statements as proof of the truth of
5 the matter as asserted in those statements or to
6 establish the charges against the defendant.

7 The verdict must represent the considered
8 judgment of each juror. In order to return a
9 verdict, it is necessary that each juror agree
10 thereto. Your verdict must be unanimous. It is your
11 duty as jurors to consult with one another and to
12 deliberate -- we might have left somebody's out.
13 Again, we did that this morning. Here, hand that to
14 her. You didn't have it?

15 THE JUROR: Oh, here it is.

16 THE COURT: You did have it?

17 THE JUROR: Yes, sir.

18 THE COURT: Okay. I don't want anybody
19 to feel slighted, okay.

20 It is your duty as jurors to consult with one
21 another and to deliberate with a view to reaching an
22 agreement if you can do so without violence to your
23 individual judgment. Each of you must decide the
24 case for yourself, but do so only after an impartial
25 consideration of the evidence with your fellow

1 jurors. In the course of your deliberations do not
2 hesitate to reexamine your own views and change your
3 opinion if convinced that it is erroneous. But do
4 not surrender your honest conviction as to the weight
5 or effect of the evidence solely because of the
6 opinion of your fellow jurors or for the mere purpose
7 of returning a verdict.

8 The crime charged in each count of the
9 indictment is a separate and distinct offense. You
10 must decide each charge separately on the evidence
11 and the law applicable to it. The defendant may be
12 found guilty or not guilty of any or all of the
13 offenses charged. Your finding as to each crime
14 charged must be stated in your verdict. You can have
15 no prejudice or sympathy or allow anything but the
16 law and the evidence to have any influence on your
17 verdict. You must render your verdict with absolute
18 fairness and impartiality as you think justice and
19 truth dictate.

20 During your deliberations you must not
21 communicate with or provide any information to anyone
22 by any means about this case outside the jury
23 deliberation room. You may not use any electronic
24 device or media -- we've taken those away. I thought
25 we took that out. Such as telephones, cell phones,

1 smart phone, iPhone, Blackberry, or computer, the
2 Internet, any Internet service or any text or instant
3 messaging or any Internet chat room, blog or website,
4 including but not limited to Facebook, MySpace,
5 LinkedIn, YouTube or Twitter to communicate to anyone
6 about this case or to conduct any research about this
7 case until you have returned your verdict and the
8 trial has concluded.

9 When you retire to the jury room, you will
10 first select one of your members as a foreperson who
11 will preside over your deliberations. When you have
12 reached a verdict, you will return it to the
13 courtroom, and your foreperson will deliver the
14 verdict forms to the Court.

15 If you find that the State has proven the
16 defendant guilty beyond a reasonable doubt, then you
17 should find him guilty. On the other hand, if you
18 find that the State has not proven beyond a
19 reasonable doubt the defendant's guilt or if you have
20 a reasonable doubt as to his guilt, then you must
21 find the defendant not guilty.

22 You will be provided with a verdict form for
23 each count which includes all possible verdicts for
24 that count of the indictment. The jury will complete
25 each verdict form, and your foreperson will sign each

1 verdict form.

2 The verdict forms which you will receive read
3 as follows, and they're included in your book as
4 well. I'll send the original to be executed by your
5 foreperson out as well as the exhibits in this case.
6 They all will go with the exception, we have two or
7 three offers of proof. We'll make sure they don't go
8 out.

9 Anything further?

10 GENERAL NICHOLS: No, sir.

11 THE COURT: Anything further?

12 MS. THOMPSON: No, Your Honor.

13 THE COURT: Mix that up for me. What I'm
14 going to do is draw three -- everybody feel well?
15 Nobody sick or anything is what I'm getting at. I'm
16 going to draw three names at random. You saw her mix
17 them up. I will give these cards to Ms. Franks. I'm
18 not going to call your name out right now. I will
19 give these cards to her. You will be separated after
20 everybody goes out. You will continue to be
21 sequestered. We've got arrangements made by that.
22 You won't read or view any news reports. You will
23 remain in the presence of an officer. That's in case
24 something happens and we need you. And then if we do
25 go into a penalty phase, you'll go back in the jury

1 box to listen to that, and once again, you will be
2 designated as an alternate and sequestered while the
3 others are working. Everybody kind of understand how
4 that works?

5 It's probably even worse now. I tried a case
6 in Decaturville a few years back, and it wasn't a
7 long case. It was a couple of days. And I drew the
8 lady's name one as alternate, and I thought she would
9 be tickled to death. She scowled at me, looked
10 angry, and I said something wrong? She said I feel
11 like I've been kicked off the island. So don't feel
12 you're getting kicked off the island just yet, okay?

13 I'll inform counsel in a few minutes, okay?
14 The three that I've drawn, you will have no contact
15 with the other 12 unless you're eventually
16 substituted in. So you'll be separate and apart.
17 The 12 will be deliberating. So I'm going to give
18 Ms. Franks those names. Return these cards to me
19 once you get everything, hopefully. All right. You
20 folks can all file out. Take your notebooks with
21 you.

22 (WHEREUPON, the jury left the courtroom
23 for deliberations at 3:08 p.m., after which the
24 following proceedings were had:)

25 THE COURT: Y'all approach, I'll show

1 you. Got that? (Attorneys reviewing document.)

2 It's not going anywhere. Did y'all get
3 these?

4 GENERAL RAGLAND: Yes, sir. Thank you.

5 THE COURT: All right. We'll be on
6 standby.

7 GENERAL RAGLAND: Can I -- can I say one
8 other thing just about the evidence?

9 THE COURT: Yes, sir.

10 GENERAL RAGLAND: I understood from
11 Ms. Angel and Ms. Jones that some of the items that
12 are in the evidence bags, the items themselves were
13 tagged. They've since gone back, and I understand
14 they've tagged the evidence envelopes as well with an
15 A.

16 THE COURT: Yeah.

17 GENERAL RAGLAND: Okay.

18 THE COURT: That's so that they can be
19 preserved. There might or might not be other trials
20 in this case. So we don't want to destroy the chain
21 of custody. They simply will be adding the letter to
22 it. So the bag -- no sense in sending the bags out,
23 but we're trying to preserve that, okay?

24 GENERAL RAGLAND: Yes, Your Honor.

25 THE COURT: Okay.

1 GENERAL RAGLAND: Ms. Jones mentioned
2 that to me, and the need to put it on the record.

3 THE COURT: Okay.

4 GENERAL RAGLAND: Thank you.

5 (Short break.)

6 GENERAL NICHOLS: May I ask a question?

7 THE COURT: Yes.

8 GENERAL NICHOLS: The family has inquired
9 do they need to stay? Not that we're expecting a
10 quick verdict. They want to know will you give them
11 time to get back?

12 THE COURT: Yes.

13 GENERAL NICHOLS: How much time?

14 THE COURT: 30 minutes if it takes it.

15 GENERAL NICHOLS: Okay. So they can
16 get -- they go sit somewhere else?

17 THE COURT: Yes.

18 GENERAL NICHOLS: Okay.

19 (Break.)

20 THE COURT: We're bringing the jury. The
21 original 12 we'll put -- be moving two seats down on
22 the back, one on the front. The alternates that are
23 being kept separate and apart, they're now actually
24 in my chambers. We'll also put them in the box,
25 because I want them to listen to some of these

1 admonitions as well. They're being kept separate and
2 apart, though. Matter of fact, I kind of feel sorry
3 for those three.

4 GENERAL NICHOLS: I do, too.

5 GENERAL HAGERMAN: Me, too.

6 MS. THOMPSON: No devices and sitting
7 there looking at each other.

8 THE COURT: Maybe they got a book at the
9 hotel or something. And then they can delay bringing
10 them in tomorrow for a while, you know.

11 (WHEREUPON, the jury returned to the
12 courtroom, after which the following proceedings were
13 had:)

14 THE COURT: You'll be changing two seats
15 on the back row further down from where you were.

16 THE JUROR: Will we go up?

17 THE COURT: No. Go where you were. Be
18 going one further down for some of you on the front.
19 Hey, you can't pick that one up.

20 THE JUROR: I was fixing to say.

21 THE COURT: All right. Let's bring our
22 three alternates in.

23 (WHEREUPON, the alternate jurors returned
24 to the courtroom, after which the following
25 proceedings were had:)

1 THE COURT: No, you put the one on the
2 front and then two on the back. That's all right. I
3 feel sorry for the three of them. They're more
4 isolated than you folks are.

5 All right. Be seated, please. We're fixing
6 to recess for the evening. He told me -- I told him
7 originally 5:30 or 6:00. He said you folks elected
8 to work until 6:00, then you want to go back to the
9 inn rather than some alternative arrangements they
10 had for dinner for you.

11 I want to remind you, don't make up your
12 mind. You're following the same admonitions until
13 you reach agreement after your deliberations. In
14 other words, put this matter out of your mind. No
15 discussion with anyone. And the three of you that
16 are now alternates, you can't discuss with the other
17 people. You'll be kept pretty separate and apart,
18 but there can be no communication from the 12 to the
19 3 of you. You were drawn at random. So I hope you
20 can appreciate that. Matter of fact, hopefully, they
21 can give y'all a delayed reporting time tomorrow,
22 because looking at four walls is no fun, and they'll
23 be using separate transportation. So y'all can spend
24 a little more time in your hotel room or leisurely
25 breakfast or whatever. Because I realize it's

1 probably harder on y'all than it is the 12 of them.
2 So I appreciate that. Do we have any questions prior
3 to breaking?

4 THE JURY: (Shook heads negatively.)

5 THE COURT: What I'm going to do is when
6 you folks report, the 12 of you, you will be escorted
7 to the jury room. When you're ready to deliberate,
8 the officer will leave. You pull the door closed and
9 recommence your deliberations, okay? When you reach
10 a verdict, knock on the door. She's been taking
11 pretty good care of you, and you will be brought down
12 here to report that verdict.

13 Are there any questions?

14 (No response.)

15 I truly appreciate your patience, your
16 continued patience. I appreciate your devotion. I
17 can tell that each of you have viewed this very
18 seriously, which it needs to be -- needs to be viewed
19 seriously. But you've been an excellent juror. I've
20 watched. You've paid attention, and thank you for
21 what you've done so far, okay? So you folks are all
22 free to go at this time. Sheriff, you want to take
23 care of them.

24 (WHEREUPON, the jury left the courtroom,
25 after which the following proceedings were had:)

1 THE COURT: We need some place they can
2 leave their notebooks. I told the others to leave
3 their notebooks upstairs and the evidence. That room
4 would be secured. Well, you can put them in my
5 chambers. They got their names on it. I promise you
6 I won't go through them. All right.

7 Madam Clerk, you got the contact phones,
8 right?

9 THE CLERK: Yes, sir.

10 THE COURT: So y'all just be available I
11 guess is what I'm saying.

12 MS. THOMPSON: So we don't come back in
13 the morning?

14 THE COURT: You don't need to until
15 you're contacted.

16 MS. THOMPSON: Very good.

17 GENERAL NICHOLS: Starting back at what
18 time?

19 THE COURT: I told the sheriff whenever
20 they want to start. He thought it would probably be
21 about 9:00.

22 GENERAL NICHOLS: Thank you.

23 (WHEREUPON, court was adjourned at 6:08
24 p.m.)

25

1 **VOLUME XVII**

2 **DAY 12**

3 **FRIDAY, SEPTEMBER 22, 2017**

4
5 (WHEREUPON, a conference was held in
6 chambers between counsel and the Court.)

7 THE COURT: All right. Hand me my note.
8 All right. What I'm going to do, I'm going to read
9 the note. The court reporter is present. It's
10 something that I can't answer, because it would be a
11 comment on evidence, which is inappropriate. So what
12 I'm going to do, I will make a notation, send it back
13 to them. First of all, I got a copy of the note as
14 given. Then after I make notation on this, we'll
15 make a copy of that so it will constitute part of the
16 record.

17 The note reads as follows: "Concerning Count
18 5, Element 2(a), if the rape is quote, 'closely
19 connected' with the other crimes, does the presence
20 of a weapon later in the day matter for the duration
21 of the rape? The kidnapping lasts much longer than
22 the rape, and there's testimony of a weapon after the
23 rape."

24 I can't comment because it's a comment on the
25 evidence. I will put, the Court cannot comment on

1 evidence. The Court is prohibited from commenting on
2 evidence, you must refer to your judgment and your
3 instructions. That will be it, okay?

4 GENERAL NICHOLS: Are you going to bring
5 them in, or just send her an answer?

6 THE COURT: I'm just going to send them
7 an answer.

8 GENERAL NICHOLS: Good.

9 THE COURT: That's why I'm writing both
10 ends where you can see the question without the
11 answer, then you can see actually what I said to
12 them, okay?

13 GENERAL NICHOLS: Yes, sir.

14 THE COURT: And I can't write as good as
15 whoever wrote this.

16 MR. GONZALEZ: Pardon me. What was the
17 last part?

18 THE COURT: I said I can't write as good
19 as that person wrote it. It's very good printing.

20 (WHEREUPON, the conference ended, a break
21 was taken, and the following proceedings continued
22 within the hearing of the courtroom:)

23 THE COURT: Okay. You may be seated.
24 Okay. I've met with the attorneys. I've told them
25 we've now got the second question. The first one I

1 answered on the sheet of paper that they sent. I
2 told the attorneys what that was. The question
3 itself and then the question plus the answer was
4 filed as an exhibit just so the record would be
5 complete.

6 I've now got the second one, and I really
7 feel that I owe this jury some explanation as to the
8 fact that I'm not able to do a whole lot. As the
9 attorneys know, the Court's extremely limited once
10 the jury starts deliberating in answering questions.
11 Because first of all, it's absolutely prohibited for
12 the Court to make any comment on the evidence.
13 Second of all, the jury, they've got the charge.
14 Each one of them has got their copy of the charge.
15 And they are the sole and exclusive judges of the
16 evidence and the exclusive judges of the law under
17 the direction of the Court. I have charged them. I
18 can't go into further explanation. The question even
19 mentions if I could go into layman's terms. I can't
20 do that. So I want everybody to know kind of what
21 we're doing, but at the same time I didn't want the
22 jury to think that we're down here ignoring them.

23 So I'm going to bring them in, and I'm going
24 to ask who the foreman or forelady is, and then I'll
25 go over the question with them, and then send them

1 back out for deliberations. I probably will make the
2 simple inquiry. I'm not going to ask them what but
3 if they're making progress on the case.

4 (WHEREUPON, the jury returned to the
5 courtroom, after which the following proceedings were
6 had:)

7 THE COURT: You can sit anywhere you
8 want. I'm not bringing those alternates back in.
9 For right now, it's not necessary. You can be
10 seated. Okay. I brought you back in because I felt
11 like -- sent a question earlier -- her writing's
12 better than mine. I had her write the response, and
13 then I put my initials and dated it. That was my
14 response.

15 And we've now got a second question, and I
16 don't want the jury to think I'm ignoring you. All
17 indications are you're very deliberate. You're
18 working hard, and for that I appreciate it. But I've
19 now got the second question, and so I want to tell
20 you why I'm extremely limited in what information I
21 can furnish. Do we have a foreman or forelady?

22 THE FOREMAN: Yes, sir.

23 THE COURT: All right. Mr. Cromwell,
24 that's you. I'll address this to you in the presence
25 of everybody. The second question says, "Reference

1 your guidance on page 8, paragraph 9", which is part
2 of the charge, "concerning what evidence is entirely
3 circumstantial". There's a whole paragraph there,
4 okay? And, you know, you have to be guided by this
5 charge. But I'm going to read you something else,
6 and I'm not doing it to emphasize this particular
7 thing, but this is part of the preliminary
8 instructions. I'm doing this to try to explain why
9 I'm very limited in what I can answer. It's on page
10 4 if you want to look at it when you get back up
11 there.

12 "You, as jurors, must base your decision
13 solely on the evidence you hear in the courtroom." I
14 went on and said, "You are the exclusive judges of
15 the facts in this case. Also, you are the exclusive
16 judges of the law under the direction of the Court.
17 You should apply the law to the facts in deciding
18 this case. You should consider all of the evidence
19 in the light of your own observation and experience
20 in life."

21 The reason I read that, it's impermissible
22 for the Court to comment on evidence. That's your
23 sole prerogative. And then as I said, you're also
24 the exclusive judges of the law under the direction
25 of the Court. I've given you everything that I can

1 give you as far as that's concerned. You've got it
2 in your notebooks, and it's up to you what that says,
3 okay.

4 THE FOREMAN: Yes, sir.

5 THE COURT: And so I brought you down,
6 because I don't want you up there thinking, well,
7 he's just kind of blowing us off or whatever. I'm
8 not doing it. I take my oath very seriously, and I
9 try to follow the law. So I'm just simply explaining
10 to you. Does that take care?

11 THE FOREMAN: Yes, sir.

12 THE COURT: All right. Y'all understand
13 that?

14 THE FOREMAN: Yes, sir.

15 THE JURY: (Nodded heads affirmatively.)

16 THE COURT: Anything further?

17 THE FOREMAN: No, sir.

18 THE COURT: All right. Let me ask you,
19 and I'm not asking particulars. But is this jury
20 making progress?

21 THE FOREMAN: Yes, sir.

22 THE COURT: All right. That's all I --
23 all I was asking. You probably discovered yesterday
24 that I essentially give in to you as far as your
25 time, so forth and so on. So probably we want to

1 operate close to the same timeframe, but I'm willing
2 to yield to you based upon what this jury feels is
3 appropriate. Does that make sense?

4 THE FOREMAN: Yes, sir.

5 THE COURT: In other words, I'm letting
6 you set the timetable on this within limits. All
7 right?

8 THE FOREMAN: Yes, sir.

9 THE COURT: Anything else? Thank you so
10 much for your continued dedication.

11 (WHEREUPON, the jury left the courtroom,
12 after which the following proceedings were had:)

13 THE COURT: I'm just going to add this to
14 the other as cumulative. We probably won't get any
15 more now. We might have saved some of that based
16 upon -- I'm basically -- tell them I can't tell them
17 anything else. I've told them all I can tell them.
18 All right.

19 (WHEREUPON, the above-mentioned jury
20 questions were marked as Exhibit Number 250.)

21 (Short break.)

22 THE COURT: The jury has indicated they
23 have a verdict. I do not know what that verdict is.
24 I told everyone we would give them 30 minutes lead
25 time. We're within about two minutes of being at

1 that 30-minute timeframe. Most parties -- most
2 attorneys have indicated to the Court that interested
3 parties they thought were present, but I wanted a few
4 things before I bring the jury in.

5 I can't tell you what day we're on. The
6 press can probably do it. It's been two solid weeks
7 though, okay, of trial, plus a day of jury selection.
8 I would commend the people that have been in our
9 gallery. All sides, the victim's family, the people
10 that are here in support of the defendant, I think
11 have shown respect and followed proper courtroom
12 decorum. So I commend the parties on that and very
13 much appreciate that.

14 When the verdict is announced, there can be a
15 potential for things very emotional. Out of respect
16 for this jury, I will tell you I want you to contain
17 your emotions. I want there to be no displays. If
18 there's any type of outburst or anything, I will
19 authorize the officers to take that person into
20 custody. I don't want to do that because as I said,
21 things have really gone along well as far as the
22 demeanor and behavior of the people that have been
23 involved in this case. But there's a danger at this
24 time with high emotions for something to get out of
25 order, and I just will not do that.

1 Out of respect for this jury, I want there to
2 be no displays. If you like what the jury does,
3 that's fine. Keep it to yourself. This isn't a time
4 to cheer like we do for a football team or something.
5 If you don't like what the jury said, keep that to
6 yourself. It's inappropriate to show negative
7 displays, because these people have given up over two
8 weeks of their life to come in here and do their
9 civic duty. They've been a very hard-working jury.
10 They've been a very dedicated jury. And I want them
11 to be respected.

12 All right. Everybody understand where I'm
13 coming from? I hope so. All right. Let's bring our
14 jury in. I will -- I will poll the jury not by name,
15 but I'll be starting, and the three alternates will
16 be brought in. They will not be polled, but they'll
17 be here just for the announcing of the verdict.

18 (WHEREUPON, the jury returned to the
19 courtroom, after which the following proceedings were
20 had:)

21 THE COURT: Got three more coming.

22 (WHEREUPON, the alternates returned to
23 the courtroom, after which the following proceedings
24 were had:)

25 THE COURT: Go ahead and be seated,

1 please. All right. Mr. Foreman, I kind of outed you
2 before, but I will also tell you folks, I'm limited
3 in protecting identities. It becomes a matter of
4 record, but I will also tell you I will support you
5 and make sure that you're not harassed in any form or
6 fashion. I didn't out you by first and last name,
7 just by last, and they had to of been listening
8 pretty close. But has the jury reached a verdict in
9 this case?

10 THE FOREMAN: Yes, sir.

11 THE COURT: I want you to pass the
12 verdict forms to me, please, through the bailiff or
13 the sheriff. And then I'll be going over these with
14 you. All right.

15 I'm going to start with Count 1 verdict form:
16 First degree felony murder of Holly Lynn Bobo during
17 the perpetration of or attempt to perpetrate
18 kidnapping of Holly Lynn Bobo. You checked guilty of
19 first degree felony murder of Holly Lynn Bobo during
20 the perpetration of or attempt to perpetrate
21 kidnapping of Holly Lynn Bobo; is that correct?

22 THE FOREMAN: Yes, sir.

23 THE COURT: And you signed and dated it?

24 THE FOREMAN: Yes, sir.

25 THE COURT: Now, I'm going to go ahead

1 and poll them as to each count. So I'm going to
2 start on the back corner.

3 BY THE COURT:

4 Q. Number 1, is that your verdict?

5 A. Yes.

6 Q. Number 2?

7 A. Yes.

8 Q. Then we're skipping over.

9 Yours? Is that your verdict?

10 A. Yes.

11 Q. Is that your verdict?

12 A. Yes.

13 Q. Back to the front row.

14 Is that your verdict?

15 A. Yes.

16 Q. Is that your verdict?

17 A. Yes.

18 Q. Your verdict?

19 A. Yes.

20 Q. Your verdict?

21 A. Yes.

22 Q. Your verdict?

23 A. Yes.

24 Q. And your verdict?

25 A. Yes.

1 THE COURT: Count Number 2. Verdict form
2 Count 2: Especially aggravated kidnapping of
3 Holly Lynn Bobo accomplished with a deadly weapon or
4 by display of any article used or fashioned to lead
5 the victim to reasonably believe it to be a deadly
6 weapon. At that you checked number A, that guilty of
7 especially aggravated kidnapping of Holly Lynn Bobo
8 accomplished with a deadly weapon or by display of
9 any article used or fashioned to lead the victim to
10 reasonably believe it to be a deadly weapon; is that
11 correct?

12 THE FOREMAN: Yes, sir.

13 BY THE COURT:

14 Q. Let me start with him first, chairperson.
15 Then I'm going to come right back down the way as I
16 did. Yours? Ma'am?

17 A. Yes.

18 Q. Yours?

19 A. Yes.

20 Q. Yours?

21 A. Yes.

22 Q. Yours?

23 A. Yes.

24 Q. And yours?

25 A. Yes.

1 Q. Back to the front row.

2 Yours?

3 A. Yes.

4 Q. Yours?

5 A. Yes.

6 Q. Yours?

7 A. Yes.

8 Yes.

9 Q. Yours?

10 A. Yes.

11 Q. And yours?

12 A. Yes.

13 THE COURT: Verdict Count 3, especially
14 aggravated kidnapping of Holly Lynn Bobo where
15 Holly Lynn Bobo suffered serious bodily injury. You
16 checked A, guilty of especially aggravated kidnapping
17 of Holly Lynn Bobo where Holly Lynn Bobo suffered
18 serious bodily injury.

19 BY THE COURT:

20 Q. Is that correct, Mr. Foreman?

21 A. Yes, sir.

22 Q. And starting back at the corner.

23 Your verdict?

24 A. Yes.

25 Q. Your verdict?

1 A. Yes.
2 Q. Your verdict?
3 A. Yes.
4 Q. Your verdict?
5 A. Yes.
6 Q. Your verdict?
7 A. Yes.
8 Q. Your verdict?
9 A. Yes.
10 Q. I didn't hear from her.
11 A. Yes.
12 Q. Yours?
13 A. Yes.
14 Q. Yours?
15 A. Yes.
16 Q. Yours?
17 A. Yes, sir.
18 Q. And yours?
19 A. Yes.
20 Q. Okay.

21 THE COURT: Count 4, first degree felony
22 murder of Holly Lynn Bobo during the perpetration of
23 or attempt to perpetrate rape of Holly Lynn Bobo.
24 You checked A, guilty of first degree felony murder
25 of Holly Lynn Bobo during the perpetration of or

1 attempt to perpetrate rape of Holly Lynn Bobo.

2 BY THE COURT:

3 Q. Mr. Foreman; is that correct?

4 A. Yes, sir.

5 Q. And back to the corner?

6 A. Yes.

7 Q. Your verdict? Your verdict?

8 A. Yes.

9 Q. Your verdict?

10 A. Yes.

11 Q. Your verdict?

12 A. Yes.

13 Q. Your verdict?

14 A. Yes.

15 Q. Your verdict?

16 A. Yes.

17 Q. Your verdict?

18 A. Yes.

19 Q. Your verdict?

20 A. Yes.

21 Q. Your verdict?

22 A. Yes.

23 Q. Your verdict?

24 A. Yes, sir.

25 Q. And your verdict?

1 A. Yes.

2 THE COURT: Count 5, aggravated rape of
3 Holly Lynn Bobo by use or force of coercion while
4 armed with a weapon or any article used or fashioned
5 in a manner to lead the victim reasonably to believe
6 it to be a weapon.

7 BY THE COURT:

8 Q. Mr. Foreman, you checked A, guilty of
9 aggravated rape of Holly Lynn Bobo by the use or
10 force of coercion while armed with a deadly weapon or
11 any article used or fashioned in a manner to lead the
12 victim reasonably to believe it to be a weapon; is
13 that correct?

14 A. Yes, sir.

15 Q. Then starting in the back corner.

16 A. Yes.

17 Q. Your verdict? Your verdict?

18 A. Yes.

19 Q. Your verdict?

20 A. Yes.

21 Q. Your verdict?

22 A. Yes.

23 Q. Your verdict?

24 A. Yes.

25 Q. Back down here.

1 Your verdict?

2 A. Yes.

3 Q. Your verdict?

4 A. Yes.

5 Q. Your verdict?

6 A. Yes.

7 Q. Your verdict?

8 A. Yes.

9 Q. Your verdict?

10 A. Yes, sir.

11 Q. Your verdict?

12 A. Yes.

13 THE COURT: Count 6, aggravated rape of
14 Holly Lynn Bobo where Holly Lynn Bobo suffered bodily
15 injury.

16 BY THE COURT:

17 Q. Mr. Foreman, you checked A, guilty of
18 aggravated rape of Holly Lynn Bobo where
19 Holly Lynn Bobo suffered bodily injury; is that
20 correct, sir?

21 A. Yes, sir.

22 Q. And then all the way back down.

23 A. Yes.

24 Yes.

25 Yes.

1 Yes.

2 Yes.

3 Yes.

4 Yes.

5 Yes.

6 Yes.

7 Yes, sir.

8 Yes.

9 Q. All right.

10 THE COURT: Count 7, aggravated rape of
11 Holly Lynn Bobo by use of force or coercion where
12 aided or abetted by one or more persons.

13 BY THE COURT:

14 Q. Mr. Foreman, you checked A, guilty of
15 aggravated rape of Holly Lynn Bobo by use of force or
16 coercion while aided or abetted by one or more
17 persons; is that correct?

18 A. Yes, sir.

19 Q. Then all the way at the back.

20 A. Yes.

21 Yes.

22 Yes.

23 Yes.

24 Yes.

25 Yes.

1 Yes.

2 Yes.

3 Yes.

4 Yes, sir.

5 Yes.

6 THE COURT: Count 8, first degree
7 premeditated murder of Holly Lynn Bobo.

8 BY THE COURT:

9 Q. Mr. Chairman, you checked A -- or put a --
10 all of these put X's, but they're checked.

11 You checked guilty of first degree
12 premeditated murder of Holly Bobo; is that correct,
13 sir?

14 A. Yes, sir.

15 Q. All right.

16 A. Yes.

17 Yes.

18 Yes.

19 Yes.

20 Yes.

21 Q. Back down here.

22 A. Yes.

23 Yes.

24 Yes.

25 Yes.

1 Yes, sir.

2 Yes.

3 Q. Okay.

4 THE COURT: That's the verdict of the
5 jury. They've been polled.

6 As I told you at the outset, upon a finding
7 of murder in the first degree, either felony murder
8 or premeditated, there's a separate sentencing
9 hearing. It's too late in the day to do that. You
10 might have guessed that.

11 The same rules I gave you from the outset
12 must be applied. No further discussion of this case
13 whatsoever. Don't discuss it with anyone. You
14 formed an opinion concerning the guilt, but the
15 sentencing phase is still open, so don't form any
16 opinion whatsoever until you've heard all the
17 evidence and the law that applies to that. Avoid
18 conversations, not even among yourselves, further on
19 this case until you're back in deliberations with
20 others.

21 You've been sequestered from the news media,
22 so you have not been viewing or hearing any news
23 reports. All of that's been covered, and I've been
24 very pleased with the way you folks have followed
25 your admonitions.

1 So we're going to recess. It will be a
2 little different, because there's a few things prior
3 to that second phase that I want to take up with the
4 attorneys. And so we're going to bring you in. Be
5 ready hopefully to start at 10:00. So that will give
6 you a little more time for breakfast and everything,
7 and hopefully we'll have things where they're set to
8 go in pretty good fashion, okay? Do you have any
9 questions?

10 And once again, the three that are
11 alternates, you need to avoid this and you need to
12 avoid conversations with the other people that are on
13 the jury in case we still have to substitute
14 something. Also, the three of you will be present
15 during this next phase of the trial so that you can
16 listen to the law, you can listen to the evidence,
17 and then once again, you will be the three
18 alternates, but that way if you're called into
19 service, you would have properly heard the evidence
20 and the law and you can participate, okay? So you
21 won't have to play cards or whatever as much
22 tomorrow. You got her to thank for that. She said,
23 I feel so sorry for them, and she got an adult
24 coloring book. I don't know if anybody used that or
25 not. Supposedly it's supposed to soothe you. Three

1 decks of cards, and I said why three? She said,
2 well, they might want to play solitaire. And then a
3 couple of puzzle books or whatever.

4 THE ALTERNATE: We got a 1,000 piece
5 puzzle. That was nice.

6 THE COURT: Holy cow. My dad used to do
7 those usually around Christmas time. And he had the
8 patience of Job. I don't know whether y'all have
9 perceived this. I was not blessed with that
10 patience. I do the best I can, but I'm high gear.
11 Okay? But ultimately that works to the benefit,
12 because I like to keep things moving.

13 Something else I want you to consider. Maybe
14 we can wrap it up tomorrow, maybe we can't. I'm not
15 going to promise. But I want you folks to decide --
16 the only way I'll work on a Sunday afternoon -- we'll
17 probably be going all day tomorrow, because we're
18 getting ready to be done with this in fairness to
19 everybody. But in the event we don't get ready
20 tomorrow, I'm going to ask the jury to take a poll
21 whether or not you would be interested in going on
22 Sunday afternoon. The only way I would do that is
23 with the consent of all jurors, okay? And then we'll
24 talk further tomorrow.

25 THE JUROR: Yes, sir.

1 THE COURT: And I've already told you,
2 I'm extremely limited on anything I can say or
3 comment or whatever, but do you have any questions?

4 THE JUROR: No, sir.

5 THE COURT: All right. You'll be retired
6 then. The sheriff will take care of you.

7 (WHEREUPON, the jury left the courtroom,
8 after which the following proceedings were had:)

9 THE COURT: Anybody want to examine the
10 verdict forms, they'll be filed as an exhibit, okay?

11 (WHEREUPON, the above-mentioned verdict
12 forms were marked as Exhibit Number 251.)

13 THE COURT: And then I was making
14 contingent plans as far as what to do tomorrow, and
15 we've discussed all of this. Everybody is good with
16 it.

17 MR. SIMMONS: What time would you like
18 the attorneys here?

19 THE COURT: I think probably 9:00, okay?
20 Because I've looked through your materials, and I've
21 got a pretty good idea. There will have to be -- if
22 they're to offer victim impact, they'll have to be an
23 out of Court hearing on that. You want to disclose
24 how many you think?

25 GENERAL NICHOLS: (Held up one finger.)

1 THE COURT: One? So that shouldn't take
2 that long. I think if you're here at 9:00, we'll be
3 ready to go with your first witness at 10:00, okay?
4 Attorneys got any further questions?

5 GENERAL NICHOLS: (Shook head
6 negatively.)

7 THE COURT: Okay.

8 (WHEREUPON, court was adjourned at 5:14
9 p.m.)

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1 **VOLUME XVII**

2 **DAY 13**

3 **SATURDAY, SEPTEMBER 23, 2017**

4 **SENTENCING PHASE**

5
6 GENERAL NICHOLS: May I approach, Your
7 Honor.

8 THE COURT: Yes.

9 GENERAL NICHOLS: (Passes document.)

10 THE COURT: Everybody double checked?

11 GENERAL HAGERMAN: Yes, sir.

12 THE COURT: It's 10:27. We were set to
13 go at 10:00. Starting about 9:30 was when I
14 anticipated taking up the matters so that we could
15 proceed into sentencing at 10:00. I asked the jury
16 to return at 10:00. I was approached by attorneys at
17 that time saying that if I could give them additional
18 time, potentially there might be some agreement that
19 could be reached. I think the agreement has been
20 reached with a certain degree of reluctance, but
21 nevertheless, the parties have indicated to me that
22 they're in agreement.

23 Who wants to announce the agreement?

24 GENERAL NICHOLS: I will, Your Honor.

25 THE COURT: Okay.

1 GENERAL NICHOLS: I probably need the
2 papers back to make sure I get the consecutive and
3 current.

4 THE COURT: All right. Generically the
5 agreement is they're agreeing to sentence, the three
6 murder counts would be merged in Count 8. The
7 agreement on sentence with the parties would be life
8 without the possibility of parole. The rape counts
9 would be merged for a 25-year consecutive sentence at
10 100 percent. The kidnapping counts would be merged
11 for a 25-year consecutive at 100 percent.

12 Now, that generically is the agreement; is it
13 not?

14 GENERAL NICHOLS: It is. In a nutshell,
15 it will be life without the possibility of parole,
16 plus 50 years at 100 percent to run consecutively.

17 So in Case Number 17-CR-10 Count 1, the
18 agreed upon sentence is murder in the perpetration of
19 kidnapping, life without the possibility of parole.

20 Count 2, on the indicted offense of
21 especially aggravated kidnapping, the agreed upon
22 sentence is 25 years at 100 percent to run
23 consecutively to all murder cases.

24 Count 3, especially aggravated kidnapping
25 Count 3, same sentence 25 years at 100 percent to be

1 merged with the previous count of especially --
2 excuse me, to be merged with the -- yeah, Count 2,
3 especially aggravated kidnapping.

4 Count 4, murder in the perpetration of rape,
5 the agreed upon sentence is life without the
6 possibility of parole to be merged with murder of the
7 perpetration of kidnapping, Count 1.

8 Count 5, aggravated rape, the agreed upon
9 sentence is 25 years at 100 percent to run
10 consecutively to Count 1 and Count 8.

11 Count 6, aggravated rape, the agreed upon
12 sentence is 25 years, that would be merged with the
13 other alternative theory of aggravated rape and will
14 run consecutively to Count 1, 8, and 2.

15 Count 7, aggravated rape, again the agreed
16 upon sentence is 25 years at 100 percent. That will
17 run consecutively to Count 1, 8, and 2 and will merge
18 with the other counts of aggravated rape.

19 Count 8, murder first degree premeditated,
20 the agreed upon sentence is life without the
21 possibility of parole. And as previously announced
22 by the Court, it will be merged with the other felony
23 murders, but the kidnapping -- excuse me, the
24 especially aggravated kidnapping and the aggravated
25 rape will run consecutively.

1 May I approach?

2 THE COURT: You may.

3 GENERAL NICHOLS: (Passes document.)

4 THE COURT: Okay. Mr. Simmons, as I
5 understand and have understood, essentially you were
6 designated by the defense team as the attorney that
7 would handle the sentencing issues or that phase of
8 the trial.

9 MR. SIMMONS: Yes, sir.

10 THE COURT: As has been announced by the
11 Court and further announced by the district attorney
12 general; is that correct?

13 MR. SIMMONS: That is correct, Your
14 Honor. The agreement is life plus 50 years.

15 THE COURT: All right.

16 MR. SIMMONS: Life without parole plus
17 50.

18 THE COURT: I told you that I would be
19 addressing your client as to voluntariness. I want
20 you to stand, Mr. Adams. Raise your right hand.

21

22 * * *

23 **ZACHARY ADAMS,**

24 **was called as a witness and having first been duly**
25 **sworn testified as follows:**

1
2 DIRECT EXAMINATION

3 QUESTIONS BY THE COURT:

4 Q. You've been present during this announcement.

5 Do you understand?

6 A. Yes, sir.

7 Q. Are you agreeing to this freely and
8 voluntarily?

9 A. Yes, sir.

10 Q. Anybody put undue pressure on you to force
11 you to agree to this against your wishes?

12 A. No, sir.

13 Q. Is this what you want to do?

14 A. Yes, sir.

15 THE COURT: All right. Court accepts the
16 agreement. Also as part of this agreement, I am
17 going to bring the jury in, all 15, and then the
18 State as part of this agreement, going to offer the
19 victim's mother in the nature of victim impact. I
20 don't know that it -- pure victim impact, but it's in
21 the nature of that, and that was part of the
22 agreement; is that correct?

23 MR. SIMMONS: That's correct, Your Honor.

24 GENERAL NICHOLS: Yes, sir.

25 THE COURT: Ready to bring the jury in?

1 We'll need those three alternates as well, okay?

2 (WHEREUPON, the jury returned to the
3 courtroom, after which the following proceedings were
4 had:)

5 THE COURT: You folks know how I am about
6 time. The last 30 minutes while you've been waiting,
7 I think we have utilized the time wisely. Will it
8 hurt anyone's feelings if you don't get to spend the
9 rest of the day and potentially part of tomorrow with
10 me?

11 THE JURY: (Shook heads negatively.)

12 THE COURT: I don't think it would hurt
13 anybody's feelings. I will tell you, the parties
14 have reached an agreement as to sentence. The
15 sentencing is as follows: The defendant will be
16 sentenced to life without the possibility of parole
17 on the murder counts. As to the other counts, there
18 will be a 50-year consecutive sentence. That means
19 in addition to the life without parole, there will be
20 50 years. It's 25 on two of them. Legal, they've
21 merged. But 25 on two of the counts for a result of
22 50 years, and that's at 100 percent classification.

23 Part of this agreement, which I will tell you
24 has been reached maybe with some reluctance, but I
25 think it certainly works to your benefit, because --

1 be a very difficult issue. You folks, I can't thank
2 you enough for how hard you've worked, the work that
3 you've done. Had many people comment about how
4 dedicated the jury was, how alert and paying
5 attention to the evidence. You folks have been
6 excellent.

7 Part of this agreement is the State will be
8 allowed to call Ms. Karen Bobo as far as -- generally
9 it's called victim impact. That was to be done at
10 your presence -- in your presence. So you may call
11 the witness at this time.

12 GENERAL NICHOLS: Karen.

13 THE COURT: Ms. Bobo, you were already
14 placed under oath, you understand that?

15 THE WITNESS: Yes.

16

17 * * *

18 **KAREN BOBO,**

19 **was called as a witness and having first been duly**
20 **sworn testified as follows:**

21

22 **DIRECT EXAMINATION**

23 **QUESTIONS BY GENERAL NICHOLS:**

24 Q. The judge just told the jury that this
25 agreement to life without parole plus 50 years was

1 done with some reluctance. Is it fair to say that
2 it's something that you have thought about and
3 thought about and prayed about with your family and
4 the people that you love?

5 A. Yes, ma'am.

6 Q. Had we gone forward, there would have been an
7 opportunity for you to have addressed the jury in the
8 sentencing hearing in what's called victim impact.
9 So I want you to take a few minutes, this is your
10 opportunity to tell them about Holly, because all
11 they know right now is who she belonged to, who she
12 promised herself to, and what her career goals are.
13 But there's more than that, right?

14 A. There's much more about Holly that you should
15 know. In all the people that I've been around,
16 experienced, had the opportunity to know, she was the
17 sweetest soul I've ever known in my life. The
18 kindness and the love for people that many people
19 just can't even imagine.

20 From an early age in life, I could see that
21 in her. I could see the love and care that she had
22 for people. She appreciated the small things in
23 life. Might be riding down the road, and she would
24 just look over at me, and say, mom, have you ever
25 thought about all the beautiful things that God made

1 in this world, the trees, just when the seasons
2 change. She would notice those things.

3 She also from an early age had a passion for
4 helping people. When there was a new student that
5 came to school, she would be the first one to welcome
6 them and make them feel apart of their class. Many
7 times she was voted most favorite in her class. Not
8 because of her beautifulness on the outside but on
9 the inside. There's just so many things about Holly
10 that you don't even know. Even though she was
11 beautiful. Her senior year when she was elected most
12 beautiful, most talented, she was like, man, I wanted
13 to get tightest ride, that was her car, you know.

14 And her Facebook posts where she described
15 herself, I am a country girl, and I wouldn't want to
16 be any other way. I love God and I am a Christian.
17 I love Drew Scott with my whole heart and always
18 will. When he gave her that promise ring on
19 Christmas, they started making plans for their
20 future. She asked Dana and I could they live beside
21 us. All of those things were taken from her, from
22 us. Part of her reason in wanting to besides help
23 others and become a nurse was to take care of her
24 grandparents when they got old.

25 When she was a child, when they used to take

1 her in a store, they'd say pick out something, and
2 she'd look at them and say, doesn't that cost too
3 much. Holly wasn't materialistic at all. When she
4 went in a store, she'd go straight to the clearance
5 rack, because that's what I taught her.

6 Started working at a very young age,
7 cleaning, making her own money, because we were just
8 an average, hard-working family. She was raised in a
9 Christian home filled with lots of love and laughter.
10 There will be none of that anymore for all of us,
11 because there's a piece of us that will always be
12 missing. When we sit down to Sunday dinners, which
13 was one of her favorite things to do, there's one of
14 us missing.

15 Q. Can you tell them some of the things that you
16 described to me regarding the impact, the actual
17 impact that her loss has had on you and Dana and her
18 grandparents and the rest of your friends and family?

19 A. I've had to watch my parents in their what's
20 supposed to be called golden years be so sad every
21 day. Not a morning since this has happened have we
22 not woken up with Holly being the first thing on our
23 mind when we wake up and the last thing on our mind
24 when we go to sleep.

25 Last night I saw my husband smile for the

1 first time in six and a half years.

2 Q. What about you?

3 A. I didn't only lose my daughter, I lost my
4 best friend. We rode to school together every day.

5 Q. Was it your idea or hers?

6 A. It was her idea. And then when she got old
7 enough to get her driver's license, she didn't just
8 kick me out. She was like, mom, let's ride together.
9 And then she, instead of me dropping her off at
10 school and picking her up, she dropped me off and
11 picked me up.

12 Q. What changed in Dana?

13 A. I'm sorry?

14 Q. What's the change you've seen in Dana?

15 A. Dana changed from one of the strongest men
16 I've ever known to one of the weakest. For three
17 years, almost three years the only thing that kept us
18 going was hope. Then when all that hope was lost,
19 what kept us going was we had to find our daughter's
20 remains. And then when that happened, then we began
21 still on that long, hard road that we've been walking
22 on for over six and a half years, but it changed to
23 getting justice for our daughter.

24 And I want to thank you, each and every one
25 of you for making the right decision and helping us

1 to know that we do have justice for our daughter.

2 Q. I am going to show a couple of pictures. Who
3 is that a picture of?

4 A. That's Holly and myself going shopping one
5 day, which if she ever did go shopping which she
6 hated to do, we would go together or sometimes she
7 would just say, mom, just pick out something, you
8 know what I like, and it will be okay.

9 Q. How close in time to when you lost her?

10 A. Just few weeks before.

11 Q. And there's one more picture.

12 A. That's Holly and her nursing student
13 classmates just a few days before she was hoping to
14 fulfill her dream of becoming a nurse, but we all
15 know that didn't happen.

16 Q. Is there something that you want to say to
17 Zachary Adams?

18 A. First of all, I would like for you to know
19 that this decision that was made this morning had
20 absolutely nothing to do with that animal. It had to
21 do with the future of our family. If there can ever
22 be any more joy in our family to maybe give us an
23 opportunity to find at least a little joy.

24 I would like for Mr. Adams to look at me when
25 I speak to him. I know that my daughter fought and

1 fought hard for her life. Can you back up just a
2 little bit, so he can look at me? And I know that
3 she begged for her life, because my daughter loved
4 and enjoyed life, but you chose to take that from
5 her.

6 And you have shown absolutely, look at me,
7 please, you have shown absolutely no remorse for
8 anything that you have done.

9 Q. Thank you.

10 GENERAL NICHOLS: That's all, Judge,
11 unless there's --

12 THE WITNESS: I will like to say that I
13 appreciate each and every one of you that have stood
14 beside us, picked us up, physically taken care of me
15 when I couldn't take care of myself, and our church
16 family who's been with us all the way. And then I
17 want to thank this prosecuting team that once we got
18 together, I had full confidence in you and I still
19 do.

20 I would like to thank the law enforcement
21 who's been with us all the way, on the good and the
22 bad days, but we finally got there. And it took six
23 and a half long years, but we finally got there. And
24 I will never forget all the help that all of you have
25 given us. Thank you.

1 THE COURT: Anything else?

2 GENERAL NICHOLS: (Shook head
3 negatively.)

4 THE COURT: Anything else?

5 MR. SIMMONS: No, Your Honor.

6 THE COURT: I know you folks are tired of
7 me. I don't blame you. I am going to discharge you
8 at this time. Here's some instructions. First of
9 all I told you I can't safeguard your names. But I
10 also told you that I will protect you. If someone
11 wishes to discuss the case with you, that's your
12 option. If you don't want to, you're not required
13 to. If someone persists in wanting to get you to
14 discuss this case and you don't want to, you get word
15 to the clerk's office or the sheriff, and I promise
16 you I can take care of that, okay?

17 When I discharge you, I want you to go to the
18 jury room. You can take what you want from those
19 notebooks. Anything you want to take from those
20 notebooks, you may do so. If you've got personal
21 notes, if you want to take those, fine. If you leave
22 them in there, they'll go -- this lady over here will
23 run them through a shredder. If you want to take
24 them with you to insure your privacy, you're free to
25 do that. If you want to take portions of the charge

1 or the charge, you can do that. You might have
2 written on it or anything, just take it out of the
3 notebook. I do reuse the notebooks.

4 Matter of fact, how many sets do we got?

5 SHERRY CONLEY: Five.

6 THE COURT: Five. I just wanted her to
7 keep three, because sometimes I'll be trying cases
8 back to back to back. Most cases I have I don't do
9 12 days like we have on this. This is the longest
10 case in my history, probably the most complex. And
11 as I said, I can't commend you folks strongly enough.
12 When you file out, go to the jury room. Then you can
13 get what you want to from that.

14 Is Ms. Peck in here? She's probably in the
15 press room. She will come up there. If any of you
16 want to give interviews to the press, you can do so
17 if you want to. But she will probably give you some
18 guidelines. Not trying to limit what you say, but to
19 make sure you don't say anything that might embarrass
20 other jurors or anything like that. If you don't
21 wish to do that, that's fine. Your privacy will be
22 protected.

23 You might, again, be contacted in the future.
24 I had another very high profile case, the attorneys
25 on both sides said I can disclose names and those

1 people were contacted by 20/20 or one of the news
2 programs. It might have been Dateline, I don't
3 remember. About half of them were willing to
4 discuss, some of them really didn't want to. They
5 were respected in their decision. Does everybody
6 understand that? Go first to the jury room, and I
7 think Ms. Peck will join you up there and probably be
8 with you if you wish to lend yourself to an
9 interview.

10 And like I say, you might be contacted
11 further down the road, that's up to you. In other
12 words, if you want to talk that's fine. If you
13 don't, that's fine, too. Do we have questions?

14 THE JURY: (Shook heads negatively.)

15 THE COURT: I can't thank you folks
16 enough from the bottom of my heart. This is above
17 and beyond the call of civic duty. And I will tell
18 you if your name comes up on down the road, you just
19 mention that you served on this case, and the clerk
20 will excuse you on that one if you want to.

21 You folks got any questions?

22 THE JURY: (Shook heads negatively.)

23 THE COURT: I know a lot of your
24 families. Your little boy played baseball with my
25 youngest little boy. I've known your daddy for a

1 thousand years. Good family. I know you at the
2 bank. I'll try not to come up to you, put you into a
3 cold sweat if you see me before long. But I know --
4 I know a lot of you, but I really appreciate what
5 you've done here.

6 If you would stand, so the jury can --

7 (WHEREUPON, the jury left the courtroom,
8 after which the following proceedings were had:)

9 THE COURT: I'm going to have to have
10 these redone. Believe it or not, I picked up some
11 things on it. I think it's better -- if something
12 can be added -- probably white out. But it has to do
13 with the counties and so forth.

14 Anything else prior to being dismissed?

15 MR. SIMMONS: No, Your Honor.

16 THE COURT: All right.

17 GENERAL NICHOLS: The date, reset date.

18 THE COURT: November 14, we've got to
19 check with two other attorneys, but it looks like
20 that at 2:00 p.m. And that's status as to the other
21 two defendants.

22

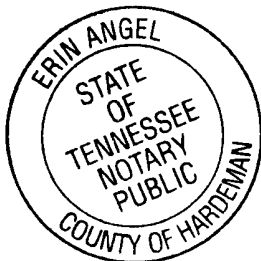
23 THIS WAS ALL THE EVIDENCE INTRODUCED AND
24 PROCEEDINGS HAD RELEVANT TO QUESTIONS RAISED ON
25 APPEAL ON THE TRIAL OF THIS CAUSE.

C E R T I F I C A T E

I, the undersigned, **ERIN ANGEL**, Court Reporter for the Twenty-Fourth Judicial District of the State of Tennessee, and Notary Public, do hereby certify that the foregoing to be a true, accurate and complete transcript to the best of my knowledge, understanding and ability, of all the proceedings had and evidence introduced in the hearing of the captioned cause, in the Circuit Court for Hardin County, Tennessee, before the Honorable C. Creed McGinley, Presiding Judge, on the 9th - 23rd days of September, 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Dated this 30th day of July, 2019.



Erin Angel
ERIN ANGEL
Court Reporter
State of Tennessee
Notary Public

My Notary Commission Expires: 11/22/2020