

NOV 28 2011

5

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT
WILLIAMSON COUNTY, ILLINOIS

Stuart Hall
CLERK OF THE CIRCUIT COURT

COPY

THE PEOPLE OF THE STATE OF ILLINOIS,)

Plaintiff,)

vs.)

10-CF-342

MARCUS MARSHALL,)

Defendant.)

JURY TRIAL

Report of proceedings of the Jury Trial
before the Honorable John Speroni on July 14, 2011.

APPEARANCES:

MR. CHARLES R. GARNATI

MR. SEAN DEMELLO

Office of State's Attorney

Williamson County, Illinois

For the People

MR. THOMAS MANSFIELD

REED, HELLER, MANSFIELD & GROSS

1100 Walnut

Murphysboro, Illinois

For the Defendant

Jennifer J. Page, CSR # 084-003584
Official Court Reporter
Williamson County Courthouse
Marion, IL 62959

1 THE COURT: On the record in 10-CF-342,
2 People versus Marcus Marshall. Mr. Marshall is
3 present with his attorney. The State's Attorney
4 and Assistant State's Attorney are present.

5 We are outside the presence of the jury.
6 We are getting ready to conclude the jury
7 instruction conference. The defense has some jury
8 instructions to tender, and the Court reserved
9 ruling on State's Instruction 9-A, which was IPI
10 Criminal 3.11. The defense was going to tender a
11 different form.

12 MR. MANSFIELD: Defendants's Instruction
13 Number 1. I'm providing the Court with a clean
14 copy and a numbered copy. And also, I am writing
15 "numbered copy" to the State. It is the
16 instruction on the fact that the Defendant did not
17 testify and should not be considered by you in any
18 way in arriving at your verdict.

19 THE COURT: Any objection?

20 MR. GARNATI: No, Your Honor.

21 THE COURT: It will be given. I'm going
22 to -- I usually read them in chronological order,
23 so I am going to place this one after 2.03 in the
24 sequence.

1 MR. MANSFIELD: Defendant's 2 is --

2 THE COURT: Hang on just one second.

3 MR. MANSFIELD: I'm sorry.

4 THE COURT: That's okay. Let me get
5 them in order. Okay. Go ahead.

6 MR. MANSFIELD: Defendant's 2 is the
7 appropriate version of the inconsistent statement
8 instruction, at least as far as we believe. This
9 is what we are saying should be given as opposed to
10 People's Number 9, I believe it was.

11 THE COURT: Okay. Let me read it over.
12 The State -- I will listen to arguments, unless
13 both of you agree to one of them.

14 Okay. Mr. Mansfield, do you object to
15 State's 9-A, which is IPI Criminal 3.11? Mr.
16 Garnati, let me read the actual instruction here.
17 Mr. Garnati.

18 MR. GARNATI: Yes, Your Honor. We would
19 object to Defendant's Number 2. I believe when you
20 read the committee notes, the way that Mr.
21 Mansfield has it worded, according to the notes,
22 the way I understand them, is for situations where
23 a party, such as the prosecution, offered a prior
24 inconsistent statement as substantive evidence

1 under 115-10.1. During the case, I don't -- the
2 State did not offer any evidence under 115-10.1,
3 and I'm pretty sure the Defendant didn't offer any
4 evidence under that particular section.

5 So I think when the prior inconsistent
6 statements are used only for impeachment
7 purposes -- which there was quite a bit of that in
8 this case -- I think the instructions say to use
9 just the very first paragraph and the very last
10 paragraph, which I think is the way that we did it.

11 THE COURT: Mr. Mansfield?

12 MR. MANSFIELD: Well, Judge, both of the
13 conditions that are in the IPI are met here. There
14 is no question that the inconsistent statement
15 describes a -- an event which the witness has
16 personal knowledge of. There is no question the
17 statement was signed by the witness.

18 Additionally, during its case-in-chief,
19 the State did have both witnesses, Crystal Blye and
20 Jodie Lacy, read the statements, which are at
21 issue, in full before the jury. So I think the
22 State did use these statements as substantive
23 evidence in its case-in-chief. And I believe both
24 the conditions are met. That's why I think the

1 appropriate instruction here is ours.

2 THE COURT: Mr. Garnati?

3 MR. GARNATI: I think under 115-10.1,
4 you have to ask the Court to introduce a signed
5 statement as substantive evidence under that
6 particular section. We never did do that. And
7 since we didn't do that, 115-10.1 doesn't come into
8 play. And if that doesn't come into play, then
9 again, you can only use the first and second
10 paragraph -- first and last paragraph.

11 THE COURT: Any further argument, Mr.
12 Mansfield?

13 MR. MANSFIELD: No, sir.

14 THE COURT: I'm going to give State's
15 Instruction Number 9-A and refuse Defendant's IPI
16 -- Defendant's instruction. When you read the
17 committee comments, the purpose of those -- of the
18 language in the Defendant's instruction is where
19 the jury is permitted to hear separate earlier
20 inconsistent statements for different purposes.

21 I believe the only use for the
22 statements was for impeachment in the trial, so
23 Defendant's 2 will be refused. State's 9-A will be
24 given.

1 Just one second, and we will go onto
2 your next one. Okay. Mr. Mansfield, does the
3 Defendant have any more instructions?

4 MR. MANSFIELD: We do, Judge.
5 Unfortunately I think I need to get a couple of
6 copies made here.

7 THE COURT: Okay.

8 MR. MANSFIELD: Oh, here we are.
9 Defendants's 3 is the limiting instruction on the
10 use of a prior conviction to impeach a witness.

11 THE COURT: Is that 3.12? 3.12, I
12 think?

13 MR. MANSFIELD: Yes, sir.

14 THE COURT: Okay. Any objection to
15 Defendant's 3, Mr. Garnati? That's IPI Criminal
16 3.12.

17 MR. GARNATI: No.

18 THE COURT: It will be given. Does
19 Defendant have any other instructions?

20 MR. MANSFIELD: Yes, sir. Defendant's 4
21 is an instruction which has been discussed before
22 in this case. This is the instruction suggested by
23 In Re: Julio C and People versus Sykes regarding
24 the evidence which was not preserved.

1 Officer Moss testified that the wallet,
2 cell phone, gold necklace and Bic lighter which was
3 found near the body -- and additionally, one of the
4 photographs shows a white towel laying right in the
5 middle of these items.

6 Mr. Moss testified that he did bag and
7 tag those items. And at one point, he said that
8 any physical evidence in a murder investigation
9 must be permanently preserved. But then he
10 proceeded on to say that in this situation, he
11 himself determined that these items had no
12 evidentiary value; therefore, he did not preserve
13 or test them in any way.

14 Obviously this has been a point of
15 contention throughout the case. These items were
16 found in close proximity to the body, within four
17 or five feet. None of the witnesses that testified
18 for the State or the defense had any idea how those
19 items got there.

20 The initial witnesses for the State who
21 say they went over there to try to help the
22 decedent all testified, "I don't know how those
23 things got there." Some said, "I didn't see them."
24 But very clearly, those four items were in the area

1 -- or five items now, when you add the white towel
2 -- in the area of where the body was found. And we
3 believe it meets all the conditions which are
4 required in People versus Sykes.

5 And again, this is based on IPI Civil
6 5.01. But both Sykes and In Re: Julio C. sanction
7 the giving of this instruction in this situation.
8 I have a copy of Sykes here.

9 THE COURT: I have got Sykes.

10 MR. MANSFIELD: Okay. And I have turned
11 it to the appropriate page where the instruction is
12 outlined by the Court.

13 In Sykes and also In Re: Julio C., the
14 Appellate Court says that -- well, when this case
15 goes back down to trial, this instruction can be
16 given to the jury and approves the Sykes
17 instruction. And I believe that all the conditions
18 which are required for this instruction to be given
19 have been met here. So we do think it's an
20 appropriate instruction.

21 THE COURT: Mr. Garnati?

22 MR. GARNATI: Your Honor, we would
23 object. I believe the facts of our case are
24 different from the facts in the Sykes case.

1 There was evidence in this case as to
2 how the items probably got onto the ground around
3 the Defendant. I believe both Officers Lannom and
4 Triffo testified when they first arrived on the
5 scene, there were quite a few -- several people
6 surrounding the body of the victim. They were
7 apparently trying to take personal items from the
8 victim. One of the officers specifically testified
9 that one of the partiers had his wallet already in
10 his hands, and the officer either knocked it out of
11 his hands or made him put it down.

12 Another officer said that the necklace
13 had apparently been trampled on and was down in the
14 grass. And I think that was born out by the
15 photograph of the necklace just barely being
16 visible in that one photograph close up by
17 Detective Moss. So there is evidence how it got
18 there.

19 You know, the evidence in that scene
20 right there had already been contaminated by these
21 partiers by the time the police even got there.
22 And you know, the question -- the question is, were
23 those items pieces of evidence that could have been
24 relevant to the case? We argue very strongly, as

1 we have all along, that they were not.

2 Again, Your Honor, there is absolutely
3 no evidence whatsoever that might indicate that
4 this was some type of robbery where the robber was
5 also the shooter who was then trying to steal from
6 the body of the victim. Again, it was the
7 partiers.

8 I think -- I think the police, you know,
9 have -- have to have some type of discretion to
10 decide what is evidence that could be relevant and
11 what is evidence -- well, what -- what are items or
12 things that are not relevant. And just because an
13 item is near the crime scene does not mean that
14 it's relevant.

15 This was kind of an unusual situation in
16 that this happened in the middle of a yard outside.
17 Most of our murder cases take place inside a house
18 or a building or something like that. If this were
19 a murder case that happened inside a house and, you
20 know, the victim was found in the house, I don't
21 think the Court would make a ruling that everything
22 around the victim in the house -- the couch and the
23 chairs, the end tables, the carpeting -- that all
24 of those things should have to be taken by the

1 police if they did not have any relevance.

2 Now, the police did make, I think,
3 proper determinations that there were pieces of
4 evidence close to the body in the scene. And those
5 were three projectiles and a fired bullet -- which
6 this was a shooting case, so obviously the police
7 thought those were relevant and took those and kept
8 them. There were also four casings in the grass
9 near to the victim. Again, because it was a
10 shooting case, the police correctly said that those
11 were possible pieces of relevant evidence and
12 collected those and kept a chain of custody.

13 So again, Your Honor, that's basically
14 our argument. I think if you allow this, it again
15 sets a bad precedent that we are going to start
16 second-guessing the police as to what is relevant
17 evidence and what is not relevant evidence.

18 And I -- I have never seen this
19 instruction given before. And there was a
20 reasonable excuse in that they were personal items
21 of the victim. And I don't think it's unfair to
22 say that the coroner was doing his job when he was
23 returning personal items to the victim's family
24 when there was absolutely no relevance for these

1 items. That you, Your Honor.

2 THE COURT: Mr. Mansfield?

3 MR. MANSFIELD: Thank you, Judge. First
4 of all, I strongly disagree with the State's
5 contention that four physical items which were
6 found within five or six feet of a body are not
7 relevant to the consideration of this case.

8 Mr. Moss testified twice at different
9 hearings in this proceeding that all of these
10 items -- a cell phone, a wallet, the necklace and
11 the lighter -- could have had DNA, fingerprints or
12 blood on them. He doesn't know one way or the
13 other, because they were given away without any
14 testing whatsoever.

15 And again, the argument that, well, if
16 you are going to say they should collect these
17 things, then it follows they should collect the
18 couch and the end tables and the TV and the grill
19 outside and the truck that's in the driveway is not
20 logical. We are certainly not saying that the
21 police are obligated to collect every piece of
22 physical evidence at a crime scene and return it.

23 And as the statute indicates, although
24 we weren't allowed to bring that up, the statute

1 indicates, "The police shall preserve permanently,
2 subject to a continuous chain of custody, any
3 evidence which is reasonably likely to contain
4 fingerprints, DNA or other biological materials."

5 Mr. Moss said that this evidence could have
6 contained fingerprints, DNA or blood. So I believe
7 the requirements of the statute have been met.

8 And beyond that, there is no question in
9 my mind that this evidence should have been
10 preserved. There is no question it could have
11 contained evidence which may have been relevant to
12 the case.

13 Now, what hasn't been explained -- and I
14 know one of the police officers said that at one
15 point he saw someone holding the wallet, and he
16 told that person to put the wallet down. There has
17 never been any evidence as to how that wallet was
18 removed from the pocket of Mr. Hudson. There has
19 never been any evidence of how that cell phone got
20 put on the ground. The same is true of the
21 necklace and the Bic lighter, and also now the
22 white towel that's mysteriously appeared. There
23 has never been any evidence of how those items got
24 there, and certainly none of them was ever tested

1 and preserved.

2 So we argue there is no reasonable
3 excuse for the failure of the State to preserve the
4 evidence, because it's crime scene evidence, which
5 any logical analysis of the statute and the law
6 would tell one that it's evidence that should be
7 preserved.

8 So we believe we have met the conditions
9 in this instruction of improved In Re: Julio C.
10 and Sykes, which have been discussed and read by
11 everyone concerned here on a number of occasions.
12 So the fact that a police officer makes a decision
13 that this isn't relevant evidence does not mean
14 that that decision is correct 100 percent of the
15 time. And we believe here, as we have argued in
16 the past, that there was an error in judgment here
17 when this evidence was not preserved.

18 Again, we are talking about evidence
19 which was within five or six feet of the body and
20 which very well could have contained forensic
21 evidence which would have been helpful in the
22 resolution of this case. So we believe we have met
23 the conditions for the giving of this instruction.

24 THE COURT: Anything else, Mr. Garnati?

1 MR. GARNATI: No, Your Honor.

2 THE COURT: This issue has been involved
3 in this case for a long time. There was a hearing
4 on a motion to dismiss the charge filed by the
5 defense which raised these issues and impacted In
6 Re: Julio C., People versus Sykes. And the Court,
7 after that hearing, found that there was not a due
8 process violation or a discovery violation. And I
9 said at that time that I would listen to the
10 evidence in trial and make a determination about
11 whether to give the missing evidence instruction.

12 Having now heard the evidence at trial,
13 I am certain that my decision not to dismiss the
14 case was correct. We are not dealing here with a
15 rape test kit or drugs in a drug case. The
16 evidence at the trial clearly established that once
17 the shots were fired, everybody ran everywhere.
18 Thereafter, people came back and were removing
19 items. One person had an item and was required by
20 an officer to drop it. It was clear from the
21 evidence that it was not a robbery.

22 To give this instruction under these
23 facts when I don't see any probative value in those
24 items would be to put an impossible burden on the

1 police. I agree that there may be times when
2 evidence should have been collected and maintained.
3 And you know, police are required to do that. And
4 if they don't do that, then that would be a
5 problem. It could lead to dismissal. It could
6 lead to this instruction. It could lead to a lot
7 of things. But that's not this case.

8 I mean, it would -- to follow this line
9 of argument would be to say, Well, they should have
10 dug up the scene where the blood was on the grass
11 and the dirt for heel prints of someone that might
12 have been running away.

13 Based on that, I am going to refuse
14 Defendant's Number 4. Does the Defendant have any
15 other jury instructions?

16 MR. MANSFIELD: No, sir.

17 THE COURT: Okay. For the record, 3.06
18 and 7 were not tendered. I don't believe they are
19 required to be tendered concerning a statement made
20 by the Defendant. There was only the one statement
21 on a phone call. So that's not been offered.

22 I raised the question with the attorneys
23 yesterday about instructing on the issue of the
24 fact that Ms. Rose initially claimed her Fifth

1 Amendment privilege against self-incrimination on
2 Friday. Then when we came back on Monday, she
3 testified and never claimed the privilege once.
4 Mr. Garnati, what's the State' position?

5 MR. GARNATI: Your Honor, I think my
6 position is that as long as neither side,
7 especially me, makes any reference to that fact
8 about Deanna Rose, that there would -- that the law
9 wouldn't require that we give one.

10 Now, if for some reason I would slip up
11 and say something, then obviously I think we have a
12 different situation.

13 THE COURT: Well, surely nobody is going
14 to slip up and make any argument about the effect
15 or lack thereof or anything with respect to her
16 Fifth Amendment privilege.

17 MR. GARNATI: I would hope not, Your
18 Honor.

19 THE COURT: Mr. Mansfield, what's the
20 Defendant's position? Do you think the Court
21 should instruct?

22 MR. MANSFIELD: Well, again --

23 THE COURT: You haven't tendered the
24 instruction. I understand that.

1 MR. MANSFIELD: This is not an issue
2 that we really have any standing on. But I believe
3 that when she testified on Monday morning, she
4 didn't take any Fifth Amendment privilege. So I
5 don't believe that it's really a consideration in
6 the case.

7 THE COURT: Well, do you have anything
8 else, Mr. Garnati?

9 MR. GARNATI: I guess only that I think
10 -- Mr. deMello said this yesterday -- by giving an
11 instruction, you pretty much put it back into their
12 minds.

13 THE COURT: Well, I agree. I shouldn't
14 instruct on it, and I am going to instruct the
15 lawyers, since Ms. Rose, when she actually did
16 testify on Monday, never did claim the Fifth
17 Amendment privilege, simply not to mention it or
18 refer to it in any way in their closing arguments.
19 That will be the ruling of the Court.

20 Anything else we need to take up before
21 we bring in the jury?

22 MR. MANSFIELD: Could we get about a
23 five-minute break, Judge?

24 THE COURT: Sure. Not a problem.

1 (At which point in the proceedings a
2 break was taken.)

3 (Jury enters courtroom.)

4 THE COURT: Be seated, everyone. Good
5 morning. We are on the record in 10-CF-342, People
6 versus Marcus Marshall. Mr. Marshall is present
7 with his attorney, Mr. Mansfield. The State's
8 Attorney Garnati and Assistant State's Attorney
9 deMello are present. The twelve jurors and two
10 alternate jurors are also present.

11 Everybody have their notepads and
12 pencils? Okay. Ladies and gentlemen, you have
13 heard all the evidence in the case, but the trial
14 has not ended. At this time the lawyers have the
15 opportunity of making final arguments. First the
16 State, then the defense, and then the State will
17 have a chance to respond to the defense argument.

18 What the lawyers say during arguments is
19 not evidence, and it should not be considered by
20 you as evidence.

21 After you have heard the arguments, I
22 will instruct you on the law, and you then will
23 retire to the jury room to consider your verdicts.
24 My plan is to go straight through on the arguments.

1 At the conclusion of the State's first argument and
2 the Defendants's, if you want to stand up and
3 stretch, that's fine. If anybody needs a break at
4 the conclusion of one of those, just signal me, and
5 we will take a break. Okay? All right.

6 Ready for the People, Mr. Garnati?

7 MR. GARNATI: Ready for the People, Your
8 Honor.

9 THE COURT: For the defense, Mr.
10 Mansfield?

11 MR. MANSFIELD: We are ready, Judge.

12 THE COURT: Mr. Garnati, you may give
13 the State's closing argument.

14 MR. GARNATI: First of all, ladies and
15 gentlemen, I want to thank you for giving your
16 time. Without good people like you, our system
17 would not work. So thank you again.

18 May it please the Court, Mr. Mansfield,
19 ladies and gentlemen of the jury. Before I get
20 into the evidence and testimony in the case, I want
21 to go over two or three of the most important
22 instructions that you will be given by Judge
23 Speroni.

24 Now, in Illinois, you will find out that

1 there is more than one way that a Defendant can
2 commit First Degree Murder and be charged with
3 First Degree Murder. Judge Speroni will instruct
4 you on the two different ways that murder can be
5 charged in Illinois. The first one is if a person
6 -- "A person commits First Degree Murder when he
7 kills an individual if, in performing the acts
8 which caused the death, he intends to kill or do
9 great bodily harm to that individual." That's one
10 way.

11 Another way that First Degree Murder can
12 be charged and proven is that, "A person commits
13 the offense of First Degree Murder when he kills an
14 individual if, in performing the acts which caused
15 the death, he knows that such acts create a strong
16 probability of death or great bodily harm to that
17 individual."

18 Now, another important part of the law
19 that I want to mention to you which is very
20 important -- there will not be an instruction on
21 this -- but the law in Illinois for First Degree
22 Murder does not require that the State prove
23 premeditation. Okay? Now, some of you might have
24 seen on TV or movies that for first degree murder,

1 you have to have premeditation. Illinois does not
2 require that, ladies and gentlemen. So I just
3 wanted to let you know that so that you don't get
4 back there and get hung up on that.

5 Another important part of the law that
6 -- again, there will be no instruction on this --
7 is that in Illinois, in order to prove First Degree
8 Murder or any murder, the State is not required to
9 prove a motive in the case. Again, TV shows and
10 movies always have that in there. But I just want
11 you to know that that's not required in the State
12 of Illinois. So again, hopefully you won't get
13 back there and get hung up on that.

14 Now, as I told you in my opening
15 statement, I have proved beyond a reasonable doubt
16 that the Defendant is a cold-blooded, cowardly
17 murderer who brutally shot LaQuinn Hudson at least
18 six times and then fled the scene leaving him there
19 bleeding to death on the grass at Brian Marshall's
20 house.

21 Now, as happens in many murder cases,
22 when the Defendant flees the scene, as happened in
23 this particular case, and doesn't get caught for
24 several days, the Defendant has the opportunity to

1 get rid of the murder weapon. And that's exactly
2 what happened here, ladies and gentlemen.

3 In this type of situation, it's not
4 unusual that the murder weapon is never found. And
5 again, it's important for you to understand that
6 under Illinois law, the fact that the State cannot
7 produce a murder weapon does not preclude you from
8 finding a Defendant guilty of First Degree Murder.
9 Folks, it happens all the time. No murder weapon,
10 but it still -- there still can be a conviction for
11 First Degree Murder. And I think we all know where
12 that murder weapon is right now, and it's somewhere
13 between here and Chicago.

14 Folks, this is one of those cases where
15 we know that a First Degree Murder has been
16 committed. That's really not in dispute. Again,
17 the Defendant was shot at least six times,
18 according to Dr. Heidingsfelder. The Defendant was
19 shot in the back and probably was shot at some
20 point in time while he was on the ground. Those
21 very facts prove that the murderer had the intent
22 to kill or do great bodily harm and that the
23 murderer knew that his acts created a strong
24 probability of death or great bodily harm to

1 LaQuinn Hudson.

2 The only real issue in this case, ladies
3 and gentlemen, is whodunit? And folks, again, I
4 believe the evidence is beyond a reasonable doubt
5 that the Defendant Marshall -- Marcus Marshall is
6 the killer and the murderer. I believe, folks,
7 that this is a --

8 MR. MANSFIELD: Judge, I'm going to
9 object to what he believes.

10 THE COURT: That will be overruled.
11 It's closing argument. Go ahead.

12 MR. GARNATI: Thank you. Ladies and
13 gentlemen, this is a particularly strong case for
14 the prosecution, because we have presented both
15 circumstantial evidence and also direct eye witness
16 testimony that Marcus Marshall was the murderer.
17 The two eye witnesses are Jodie Lacy and Crystal
18 Blye.

19 Now, I'm not going to stand up here,
20 ladies and gentlemen, and try to convince you that
21 these two witnesses were perfect witnesses,
22 because, quite frankly, they were not. And I won't
23 insult your intelligence trying to say that they
24 were. But I think what is most crucial in deciding

1 this case, in deciding the credibility of Jodie
2 Lacy and Crystal Blye, and in deciding most of the
3 other issues in this case, is to understand the
4 culture of the black community here in Marion.

5 Please, you have to keep in the back of
6 your mind how many people in that community feel
7 about law enforcement. You have to understand and
8 keep in mind how they react to the police and to
9 the prosecutors. Sometimes for people like us,
10 that's hard to understand. People were brought up
11 to believe that the police were their friends; that
12 when something happens, when we are in trouble,
13 that the police are our friends. And that's where
14 we go to get help from is the police when bad
15 things happen.

16 But in the black community here in
17 Marion, it's just the opposite. Most -- for
18 whatever reasons, most of these people were raised
19 to believe that the police and prosecutors are the
20 enemy; that for some reason, we are always out to
21 get them. In their mindset, the biggest sin that
22 you could -- that you can commit is to be a snitch
23 in the community. The biggest sin that you could
24 commit is to ever cooperate with the police on

1 anything. It's a sin to even cooperate when one of
2 your own people gets brutally gunned down and is
3 left to bleed to death.

4 And I am not saying that the whole black
5 community is like that, ladies and gentlemen.
6 There are some very good law abiding citizens in
7 that community here in Marion. But the evidence
8 has shown that again, for whatever reasons, there
9 is an intense dislike and even hatred for the
10 police. And this group of people who feel that way
11 make it extremely hard on the people who are
12 law-abiding and want to do what is right and who
13 are willing to come forward and give information
14 that they have when a crime has been committed.

15 So we do have Crystal Blye and Jodie
16 Lacy. And it is a fact that they cooperated with
17 the police in the very beginning on basically the
18 same day of the shooting. They did. Police found
19 them, and they did cooperate with the police. And
20 there is no doubt that between cooperating with the
21 police and the time for the trial to start, that
22 they did go and change their stories.

23 Now, in our white world, ladies and
24 gentlemen, our automatic reaction in that type of

1 situation, if somebody gives a statement to the
2 police and then later on changes their story, the
3 automatic response would be that that person is not
4 truthful and that there is a problem with their
5 credibility.

6 But again, please look at their
7 testimony and what they did and what they didn't do
8 through the eyes of people who are raised, again,
9 to feel that the police are always against them and
10 that they cannot trust the police.

11 Now, if you keep that in your mind
12 throughout this whole trial in your deliberations,
13 that is what is very important, ladies and
14 gentlemen. Crystal Blye and Jodie Lacy had the
15 guts to take the witness stand. Sure, they changed
16 their story. But when they did that, that wasn't
17 under oath. They are good enough people to know
18 that when you get up on that witness stand, raise
19 your hand and swear to God, that that is the time
20 when you have to tell the truth.

21 And they tried to tell the truth on the
22 witness stand, ladies and gentlemen. They both
23 said that they were at Pip's bar. Both said that
24 they saw the Defendant there and LaQuinn Hudson

1 there. Both said that LaQuinn Hudson was having a
2 good time. There were no altercations between
3 LaQuinn and anybody else. The testimony was that
4 apparently LaQuinn Hudson was a pretty nice guy who
5 -- he had a bad degenerative disease, but he was a
6 tall guy. But he was -- he was kind of skinny.
7 Only 160 pounds.

8 But the testimony was he was a good guy,
9 ladies and gentlemen. He didn't bother anybody,
10 and he didn't bother anybody that night at the
11 party. And he didn't bother anybody at the after
12 party.

13 Now, they both said they went to the
14 after party, and both testified that the after
15 party was going okay. There was no problems that
16 they saw or observed until the DJ stopped playing
17 the music and turned off his lights. And about
18 that time, they both said that they heard just
19 about the same thing. They heard the Defendant
20 confronting LaQuinn Hudson and starting an argument
21 with him. And if you remember their testimony, it
22 was very similar. Not exactly the same, but very
23 similar, ladies and gentlemen.

24 The Defendant, for whatever reason, had

1 it in for LaQuinn Hudson that night. If you
2 remember, they said that the Defendant, standing in
3 front of LaQuinn Hudson, kept saying, "Come on.
4 Come on. Let me see what you got. If you got
5 something, show me." He was talking about whether
6 or not LaQuinn Hudson had any type of weapon or
7 handgun on him.

8 They both stated that the Defendant --
9 that LaQuinn Hudson was backing up. He kept
10 saying, "I got nothing. I got nothing." He not
11 only said that, but both of them said he raised his
12 white t-shirt up to show his waist band that he had
13 nothing. Okay? And in the black community, that
14 is where they keep their handguns is in their waist
15 bands, ladies and gentlemen, with something
16 covering it. They don't just walk around with it
17 in their hand or, you know, sticking out of their
18 pocket.

19 So LaQuinn Hudson, again, was backing
20 up, pulling up his shirt, saying, "I got nothing.
21 I got nothing." Both of them said there was not
22 any weapon or handgun anywhere on LaQuinn Hudson.
23 They both said, I believe, that he even put up his
24 hands like this (indicating), ladies and gentlemen,

1 to show that he had nothing. At that time he was a
2 totally defenseless, innocent person.

3 And unfortunately, the Defendant saw and
4 heard exactly what he wanted to see and hear. He
5 saw that LaQuinn Hudson had absolutely no way to
6 defend himself. He was standing in front of
7 LaQuinn Hudson a few feet away. And that coward
8 sitting over there thought he could get away with
9 murder at that time, so he gunned down, again,
10 innocent, defenseless man thinking that because of
11 the way things are in the black community, that
12 even though there were maybe 50 people there, that
13 nobody was ever going to come forward and give the
14 police any information about what he did. But
15 unfortunately, the Defendant underestimated Jodie
16 Lacy and Crystal Blye.

17 Again, Mr. Mansfield is going to get up
18 here. I'm sure he is going to rip them to pieces.
19 But I submit to you, ladies and gentlemen, that
20 those are two young ladies with a lot of guts. He
21 will probably call them liars. But again, please
22 keep remembering what they had to go through in
23 their community in order to get up on that witness
24 stand and finally take the oath and tell the truth

1 about what they saw.

2 But I don't want you to convict the
3 Defendant based solely on the testimony of Crystal
4 and -- Crystal and Jodie. We went out and got
5 other evidence, ladies and gentlemen, to
6 corroborate that Jodie and Crystal were telling the
7 truth when they gave their first statements.

8 The police found Chastity Taylor.
9 Chastity Taylor is a very believable witness,
10 ladies and gentlemen. What did she testify to?
11 She testified that on the Friday before the killing
12 that she was at Pip's bar; that she walked outside
13 for a few minutes; that there were a couple of
14 girls arguing on the parking lot. She said she
15 didn't know the girls. But as the girls were
16 arguing, the Defendant roared up into the parking
17 lot in his girlfriend's black Nissan Murano. He
18 got out of the vehicle, told the girls to quit
19 arguing. Apparently they didn't pay any attention
20 to him. So he is the type of guy who has to have
21 attention paid to him. He has to be the center of
22 attention. So he pulls out a handgun and fires it
23 three or four times up in the air.

24 And Chastity Taylor gave that statement

1 on Day One of the investigation. She has never
2 changed that story, ladies and gentlemen. She told
3 that same story in the courtroom the other day.

4 And you don't just have to take her word
5 for it. We also went a step further and made sure
6 we corroborated that Chastity Taylor was telling
7 the truth about that. As soon as we learned that
8 information, two detectives, Moss and Frattini,
9 went out to Pip's -- Pip's, went out to the parking
10 lot, searched the parking lot. They found four
11 shell casings that appeared to be recently fired
12 there, and they took those four shell casings as
13 evidence. And again, that corroborates what
14 Chastity Taylor was saying, ladies and gentlemen.
15 So you don't have to just take her word, even
16 though she was a very believable witness.

17 And we went one step further, ladies and
18 gentlemen. Even though all of the casings at the
19 scene were .40-caliber Federal brand, and all of
20 the casings at Pip's were .40-caliber Federal
21 brand, we didn't just stop there. We wanted to
22 know for sure. So we took all of the shell casings
23 to the crime lab to have them tested. We wanted to
24 make sure. Those shell casings and the three spent

1 bullets were analyzed by James Hall. And his
2 results were that the seven shell casings found at
3 the scene came -- were fired from the same weapon.
4 He determined that the four shell casings found at
5 Pip's parking lot were fired in the same weapon.
6 And last but not least, he determined that all
7 eleven of the shells that were found were fired
8 from the same weapon. So, ladies and gentlemen,
9 whoever fired those shots in the air on the parking
10 lot at Pip's on Friday night, that was the same
11 person using that same weapon at the after party to
12 gun down the victim, LaQuinn Hudson. And that
13 person, ladies and gentlemen, without a doubt sits
14 right there before you, and his name is Marcus
15 Marshall. Thank you.

16 THE COURT: Mr. Mansfield?

17 MR. MANSFIELD: Thank you, Judge.

18 THE COURT: You may give the Defendant's
19 closing.

20 MR. MANSFIELD: May it please the Court,
21 Mr. deMello, Mr. Garnati -- I'm sorry -- ladies and
22 gentlemen of the jury.

23 I, along with Mr. Garnati, thank you for
24 spending the last seven or eight days here at the

1 courthouse listening to the evidence. And I trust
2 that you will be fair and impartial when you
3 evaluate this evidence.

4 Now, we understand that this is a
5 situation where there is no question that a crime
6 occurred. There is no doubt that LaQuinn Hudson
7 was the victim of a murder here. So we are not
8 talking about a situation where it's really a legal
9 question. Mr. Garnati has stood up and given you
10 some legal theories about different types of
11 murder. We totally agree with him there.

12 The only question in this case is, who
13 was the shooter? The only question in this case
14 is, does the evidence prove beyond a reasonable
15 doubt that Marcus Marshall was the shooter? That's
16 what the question is. We don't need to worry about
17 a bunch of legal mumbo jumbo here. The question
18 is, does the evidence prove beyond a reasonable
19 doubt that Marcus Marshall was the shooter? That
20 is the question.

21 Now, when we were going through jury
22 selection last Tuesday and last Wednesday, there
23 was a considerable amount of discussion about the
24 concept of reasonable doubt. Mr. Garnati kept

1 saying, well, we don't have to prove him guilty
2 beyond all doubt. We just have to prove him guilty
3 beyond a reasonable doubt.

4 So what does reasonable doubt mean?
5 Nobody knows. You are not going to be instructed
6 on that. The things we do know about it is that
7 it's the highest standard of proof known to the
8 American justice system. And if you think about
9 reasonable doubt, if you are a reasonable person
10 and you have a doubt, it must be reasonable doubt.
11 So keep these things in mind when you are judging
12 the case.

13 You also might wonder -- I have always
14 wondered, frankly, why the State gets to go first
15 and last in these closing arguments? He gets to
16 stand up and talk about why he thinks he has proved
17 his case. Then I stand up and talk about why I
18 don't think he has. And then he gets back up to
19 respond directly to my arguments. Well, I don't
20 get the chance to respond to his arguments that
21 second time. And the reason I suppose it's like
22 that is because it is proof beyond a reasonable
23 doubt. That takes a considerable amount of
24 evidence in order to prove what he is saying here.

1 Now, he has talked about the evidence.
2 And I would like to look at the evidence, too. The
3 first witness who really came in and testified here
4 about the possibility of Marcus Marshall being the
5 shooter was Chastity Taylor. Now, she came in, and
6 she testified that on the evening of Friday the
7 20th of August, 2010 -- I believe she said it was
8 9:30 or ten o'clock at night -- that apparently she
9 claimed she saw Marcus pull onto the parking lot
10 and fire these three shots.

11 So you have got to look at that. Is
12 there a reason to question that? Well, the first
13 reason to question it would be she didn't report it
14 to anybody. She says she did. She says she ran
15 into Pip's bar and told everybody. Everybody in
16 the bar knew it.

17 But then we bring in Melissa Hampton
18 when we start our case. She was our first witness,
19 as you recall. Melissa Hampton says, Well, I was
20 in Pip's bar on the evening of Friday, August 20,
21 2010. And no one came in and talked about shots
22 being fired. I didn't hear any shots. No one came
23 in and talked about shots being fired.

24 Now, that directly contradicts the

1 testimony of Chastity Taylor, because she said
2 after these shots were fired, she ran into the bar,
3 and everybody in the bar knew about it. Well, the
4 bartender Melissa Hampton certainly didn't know
5 about it, because her testimony was unequivocal and
6 clear that no one came in talking about shots being
7 fired. She didn't hear any shots. So you start to
8 wonder what reliability this testimony given by
9 Chastity Taylor has.

10 Additionally, Chastity Taylor did not
11 report this to the police on Friday when it
12 happened. And again, no one else comes in to
13 corroborate that testimony.

14 Now, another thing that makes you wonder
15 about that is when I showed her this graph of Pip's
16 and asked her where -- well, where was Marcus
17 Marshall at when he supposedly got out of this
18 vehicle and fired these shots? And she put this
19 mark right here close to Boynton Street. So that
20 would make you think if she is telling the truth
21 that the shell casings would have been recovered
22 right here on the northern edge of Pip's bar within
23 a short distance of Boynton Street to the north of
24 the door -- to the north of the door close to

1 Boynton almost parallel to the north edge of Pip's
2 bar.

3 Well, when we look at the photographs
4 which were taken of the location where the police
5 recovered these from, we know that they were not
6 anywhere near the location Chastity Taylor says
7 Marcus Marshall was when he fired the shots,
8 because he would have been up in here somewhere to
9 the north of the entrance right off of Boynton
10 Street. And these bullets or the cartridge casings
11 were recovered down here at the south end of the
12 parking lot south of the door, not where she says
13 they were. So there are a number of reasons to
14 question the validity of Chastity Taylor's
15 testimony.

16 Not only that, she indicated that she
17 and LaQuinn Hudson were best friends. So she
18 doesn't exactly come into this with an open mind
19 and an unbiased attitude.

20 So when you think about this, is the
21 testimony of Chastity Taylor reasonable? Number
22 One, it's directly contradicted by the testimony of
23 Melissa Hampton. Melissa Hampton has no axe to
24 grind with anybody in this case. Melissa Hampton

1 is totally impartial. She doesn't know either
2 Marcus Marshall or LaQuinn Hudson and is simply an
3 employee of Pip's bar. And there was no question
4 in her mind that she did not hear any shots fired
5 on the evening of August 20, 2010. And she was
6 definitely certain that no one came into the bar
7 complaining about shots being fired. Those are
8 both things that Chastity Taylor said, which are
9 totally unsupported by the evidence.

10 So when you consider this first State's
11 witness, Chastity Taylor, we suggest that there are
12 a number of reasons to question her testimony: Her
13 relationship with LaQuinn Hudson; the fact that
14 where she says the shots were fired does not jive
15 at all with the location where the shell cartridges
16 or the shell casings were recovered from; and
17 finally, the fact that her testimony is directly
18 contradicted by the testimony of a totally
19 impartial witness here -- no connection whatsoever
20 with either side -- Melissa Hampton. So when he
21 says, "Oh, there is no doubt about it here. We
22 have got a strong case", consider the evidence.

23 Like the judge has told you and as you
24 are going to be instructed, nothing that I say here

1 is evidence. Nothing that Mr. Garnati says is
2 evidence. It's the evidence itself which commands
3 and governs your decision here as to whether or not
4 they have proven this beyond a reasonable doubt.
5 So Chastity Taylor is not a reliable witness. Her
6 story doesn't hold water. There is serious reasons
7 to question it.

8 Now, the next witness that the State
9 brought in that really has much to do with this was
10 Crystal Blye. Now, Crystal says that she was
11 pressured into changing her story by certain
12 people. And she named Markeeta Buchanan and Tamica
13 Miller. And she said, "Oh, they put heat on me.
14 They came in and told me that I was being called a
15 snitch and that I should go back to my original
16 story." Well, both Tamica Miller and Markeeta
17 Buchanan came in and said, "We never threatened her
18 in any way. We didn't say anything to her about
19 her being called a snitch or anything else." And
20 these are friends of Crystal Blye. These are her
21 friends who she says told her to change her story
22 back in December. They both took the stand and
23 said, "We didn't say any such thing."

24 So again, the first reason that you

1 might start considering why the testimony of
2 Crystal Blye is not reliable in this case, anybody
3 can get on this witness stand and say anything,
4 folks. And the fact that somebody gets up here on
5 this witness stand and says something does not
6 necessarily mean it's the truth. You are the ones
7 that have got to judge whether or not this is
8 reliable testimony.

9 Now, she also says that, "Well, when I
10 went in to talk to Mr. Novick in December of 2010,
11 I told him, 'Oh, I have been pressured. I have
12 been pressured. I'm getting a lot of heat from
13 these anonymous people within the black community,
14 so I want to make another statement.'"

15 Mr. Novick says she said no such thing
16 to him. And certainly in her written statement,
17 there is nothing about, I have been pressured. I
18 have been this. I have been that. She just says,
19 I want to come in and change my statement.

20 And what Crystal says is -- and I quote
21 -- this is when she -- this is a written statement
22 that she signed. "I did not see who killed Q."
23 Again, "I did not see who killed Q." She was
24 heavily intoxicated when this happened. She

1 admitted that in this statement. She said she was
2 still buzzing from the night before.

3 Again, it was, "I don't know who killed
4 Q." This is what she said in a written statement
5 given at Mr. Novick's office on the 20th of
6 December, 2010.

7 Well, for some reason that I'm not sure
8 she ever explained, she comes back in here. And on
9 Thursday the 7th of July, comes in and says, Oh,
10 well, I'm going to change it back to what I said
11 originally, and I did see something. Although she
12 didn't see Marcus Marshall firing the gun at Q, she
13 claims to have seen him in the area, saw him
14 running after the shots were fired.

15 Well, when people change their statement
16 back and forth, ladies and gentlemen, you wonder
17 whether or not the statement is reliable.
18 Especially -- I'll get to this a little bit later
19 -- especially when you have got a situation where
20 her testimony is directly contradicted by a number
21 of other eye witnesses who are at the scene.

22 We have got more than just Crystal and
23 Jodie here as far as occurrence witnesses.
24 Chastity Taylor, in her original statement to the

1 police on the morning of the 22nd, says, "I did not
2 see what happened at the party." That's what she
3 said. "I did not see what happened at the party."
4 Officer Warren was very clear about that, that this
5 is what he was told by Chastity Taylor on the
6 morning of 8/22/10.

7 So all the State's witnesses -- Chastity
8 Taylor, Crystal Blye, and Jodie Lacy -- as far as
9 occurrence witnesses, have all changed their
10 stories. When you are talking about convicting a
11 man of First Degree Murder and impartially
12 evaluating the evidence, you have got to consider
13 the fact that these people go back and forth. One
14 time they say one thing, then they change it. Then
15 they go back to the original version. How can you
16 believe and conclude that this is proof beyond a
17 reasonable doubt? So we are asking you to
18 impartially evaluate this. And it's hard to do
19 that, and I understand that.

20 You have a tragedy here. We are not
21 going to say for a second here that LaQuinn Hudson
22 wasn't a good person; that LaQuinn didn't deserve
23 to have what happened to him happen to him. But we
24 are asking you not to compound the tragedy by

1 convicting an innocent man. And that's what you
2 will be doing if you find Marcus Marshall guilty.
3 Because the simple fact here is the evidence
4 doesn't show beyond a reasonable doubt that he is
5 guilty.

6 And you have got to impartially evaluate
7 this and forget about all the emotion and
8 everything else that's involved and ask yourselves
9 the question, Does this evidence have enough
10 reliability to base a conviction on? Does this
11 evidence prove this clearly enough that I could in
12 good conscience sit here and say, Oh, they have
13 proven this beyond a reasonable doubt and,
14 therefore, we are going to find Marcus Marshall
15 guilty? The evidence here does not rise to that
16 standard, ladies and gentlemen.

17 So let's look at the testimony of Jodie
18 Lacy and see what she says in her statement. Now,
19 she originally made some statements about seeing
20 things at the party. But when she came in and gave
21 this statement on the 7th of December to Mr.
22 Novick, she says, "I was still very intoxicated and
23 shocked and still afraid." And she says, "I want
24 it to be known that my statement on the murder of

1 LaQuinn Hudson may not have been accurate." In
2 fact, she said she was very, very intoxicated. For
3 instance, "I don't remember seeing Marcus with a
4 firearm. I don't know if Marcus was the shooter.
5 There were so many people there that night, so I
6 don't know if he did it or not."

7 So again, you have got the State's third
8 witness here that they claim is not reliable enough
9 to base a conviction on, and she comes in and says,
10 "I don't know if he did it or not. I don't know if
11 he was the shooter. There were so many people
12 there, I don't know if he did it or not." So all
13 three of the State's primary witnesses here have
14 made statements back and forth and back and forth
15 and back and forth.

16 Also thinking about what they said as to
17 where they were when the shots were fired, we have
18 got all different kinds of stories on that. I
19 think Chastity Taylor said she was here. Jodie
20 Lacy and Crystal said they were over here. And
21 they all said, "Well, there was nobody around me
22 when the shots got fired." Yet when they put their
23 positions on this graph, they were all standing on
24 Hartwell Street within a few feet of where this

1 happened, but they all say, "There was nobody
2 around me. I was the only one there."

3 So another reason you might start to
4 consider whether or not their testimony is
5 accurate, the fact that they don't know where they
6 were and have got inconsistent explanations about
7 where they were, again, makes you start to wonder
8 here is this proof beyond a reasonable doubt.

9 Mr. Garnati says, "We proved this beyond
10 all doubt." That's exactly what he said. "We
11 proved this beyond all doubt. We have got a strong
12 case here." Well, the essence of their case are
13 these three eye witnesses, all of whom contradict
14 their own testimony from time to time, all of whom
15 who have changed their stories, all of whom
16 contradict each other, and all of whom have an axe
17 to grind against Marcus Marshall.

18 Now, Mr. Garnati says, Well, we didn't
19 stop with just those three witnesses. We went out
20 and we got these shell casings, and we had Mr. Hall
21 look at them. Mr. Hall says that they all came
22 from the same firearm. Well, is Mr. Hall's
23 testimony reliable? Is it consistent? Could you
24 understand what he said? Does it make sense?

1 Now, the fact that John Nixon said his
2 conclusions are unreliable aside, let's look at
3 what Hall said and did when he sat here on this
4 witness stand. Now, I will give him one thing. He
5 makes up for his lack of credentials with a lot of
6 fast talking. Obviously somebody has taught him
7 how to testify, because I'm sure you all noticed
8 that when he got in this chair and sat there, the
9 whole time he is sitting there, he is looking right
10 at the jury. Something he has been taught to do.

11 Let's think about what kind of sense his
12 testimony made. Did we ever see any kind of proof,
13 any kind of demonstration, any kind of
14 documentation, any kind of illustration backing up
15 his conclusion that all seven of these cartridge
16 casings were fired from the same firearm? The
17 answer to that is no. Absolutely no. His attitude
18 is, Well, take my word for it. That's basically
19 what he is asking you to do. Take my word for it.

20 Now, I expected him to come in here --
21 and the State has all kinds of resources here.
22 They could easily say, Okay, here is how I made
23 this conclusion. Here is Cartridge Case No. 1, and
24 this is compared to Cartridge Case No. 12, or

1 whatever he is going to do. And here is the marks
2 on 1 that are similar to the marks on 12. And they
3 could certainly have done this.

4 He testified that he took photographs of
5 these, and he compared these microscopically. Why
6 in the world didn't he come in here and illustrate
7 the basis for his conclusion to you? We are
8 talking about a First Degree Murder case here,
9 ladies and gentlemen. We are not talking about a
10 speeding ticket.

11 Mr. Garnati kept saying during voir dire
12 when you all were being selected, Oh, well, whether
13 it's a murder case or a speeding ticket, the
14 standard of proof is still beyond a reasonable
15 doubt. And legally that's true. Legally that's
16 true.

17 But in the practical world, if you are
18 going to convict a man of First Degree Murder, I
19 would suggest that a reasonable person would take a
20 lot closer look at the evidence than you would when
21 you are dealing with a speeding ticket.

22 So this is First Degree Murder, and we
23 are talking about Mr. Hall supporting and
24 demonstrating the basis of his conclusions to you

1 all. He didn't do that. He says, Well, I have
2 been doing this for 30 years, and I am positive
3 that it's scientifically accurate and
4 scientifically appropriate to make a conclusive
5 statement regarding this. And by golly, in my
6 opinion, these were all fired from the same
7 firearm. I don't need to show you guys what the
8 basis of my conclusion is. I don't need to
9 demonstrate to you guys why I came to this
10 conclusion. I don't need to show you anything to
11 support my testimony. Just take my word for it.
12 Take my word for it.

13 That's what Mr. Hall did here. And I
14 attempted to pull out the one comparison photograph
15 that he did supply myself and the State with. And,
16 Oh, well, you really can't tell anything from this
17 because it's a bad copy. Well, that's the only
18 thing I was given. And certainly there is no
19 excuse and no rational explanation for why Mr. Hall
20 didn't come in here and show us the
21 photomicrographs, show us the basis of his
22 conclusion, and show us why and how these
23 cartridges are similar in order to support his
24 testimony that they came from the same firearm. We

1 didn't get any of that. We got none of that. The
2 only thing we got was Hall saying, Take my word for
3 it. I'm experienced. I know what I am talking
4 about. I'm the authoritative source here. These
5 all came from the same firearm. I don't need to
6 show you why. I don't need to show you any
7 illustration. I don't need to show you why I came
8 to this conclusion. Take my word for it, and
9 believe it.

10 Well, if you want to do that, that's
11 within your province to do it. But in the exercise
12 of being fair here and the exercise of a sound jury
13 decisions, we believe you should question whether
14 or not Hall's conclusions are accurate. And again,
15 they were disproved by the testimony of John Nixon
16 that you heard yesterday. And I will get to that
17 in a second. But why in the world didn't we get
18 some explanation, illustration of why these
19 supposedly match up?

20 Now, another interesting witness put on
21 by the State in this case was Sergeant Mike Moss.
22 And I think Sergeant Moss is a good police officer.
23 But he made a serious mistake in this case by not
24 retaining the evidence which was right by the body.

1 Right by the decedent's body.

2 Here we have got -- in People's
3 Exhibit 4, we have got -- and all these items were
4 found right by the body. And this is what Moss
5 said. This is what everybody said, although there
6 was never any explanation as to why these things
7 were on the ground or who put them on the ground or
8 how they got there.

9 We do know that at one point when the
10 police were there, there were a bunch of people
11 standing around the body. And apparently someone
12 picked up the wallet and had to be told by the
13 police to put it down. But we know we have got
14 these items here. Cell phone, wallet. You did
15 just barely see the necklace, this towel that
16 nobody knows what happened to it or where it came
17 from. All of these things Mr. Moss told you could
18 have had fingerprints on them. Could have had DNA
19 on them. Could have had blood on them. Why he
20 didn't preserve those items and send them to the
21 lab for testing, I don't understand. I think that
22 he indicated, Well, I determined they had no
23 evidentiary value, so they never did get sent to
24 the lab for testing. They were simply given back

1 to Mr. Hudson's family. So why these items weren't
2 preserved and tested, I don't know. But they
3 certainly could have helped prove who was there or
4 who was not there and may have had a very strong
5 bearing on who the person was who did the shooting
6 here. But yet these items were never preserved.
7 They were given away. And we don't know what they
8 would have shown had they been saved and tested.

9 So again, I'm not quibbling with the
10 fact that Mr. Moss is a good police officer. But
11 good people make mistakes. And I submit to you
12 that in this case it's a very serious mistake not
13 to preserve that crime scene evidence which was
14 found right next to the body.

15 Mr. Garnati talked to you in opening
16 statements -- or while we were selecting the jury
17 about, Well, this isn't "CSI". This isn't "Bones"
18 or anything else. We don't have that kind of fancy
19 stuff. But we are talking about a basic principle
20 of any kind of investigation here. If you find
21 physical items right next to the body, gee, maybe
22 you should keep those and preserve them and test
23 them and see if there is anybody's prints on them,
24 see if there is any blood on them, see if there is