

1 IN THE CIRCUIT COURT OF THE ELEVENTH JUD.

2 MCLEAN COUNTY, ILLINOIS

3 PEOPLE OF THE)
4 STATE OF ILLINOIS)

5 Plaintiff,)

6 vs.)

) NO. 99 CF 1016

7 JAMES SNOW,)

8 Defendant.)

9 JURY TRIAL

10 REPORT OF PROCEEDINGS of the trial before the
11 Honorable DONALD D. BERNARDI and Jury on the 15th day of
12 January, 2001.

13 APPEARANCES:

14 MR. CHARLES REYNARD,
 State's Attorney for McLean County,
15 MS. TEENA GRIFFIN,
 First Assistant State's Attorney,
16 for the People of the State of Illinois;

17 MR. G. PATRICK RILEY,
 MR. FRANK PICL,
18 Attorneys at Law,
 for the Defendant;

19 Defendant also present.

20

21

22 Nancy L. McClarty, CSR, CP-RPR
23 CSR License No. 084-002264
24 Official Court Reporter
 McLean County, IL

1 THE COURT: Could counsel approach then for a
2 moment, please?

3 (The following proceedings were had outside
4 the presence and hearing of the jury.)

5 THE COURT: Are you going to make the motion?

6 MR. RILEY: Yeah.

7 THE COURT: Okay.

8 MR. RILEY: We would move for a directed verdict
9 on behalf of Jamie Snow based upon the fact that the State
10 has not carried it's burden of proving him guilty beyond a
11 reasonable doubt.

12 THE COURT: Miss Griffin?

13 MS. GRIFFIN: Your Honor, I believe the evidence
14 is more than sufficient to sustain our burden of proof at
15 this point.

16 THE COURT: Okay. I'm going to make that finding
17 that there was evidence from which the jury may make the
18 finding beyond a reasonable doubt now that you make the
19 motion at the close of all the evidence.

20 (The following proceedings were had in the
21 presence and hearing of the jury.)

22 THE COURT: All right. Ladies and gentlemen,
23 we're prepared to go on to closing remarks. At this time,
24 Miss Griffin, you may proceed.

Playing on passions of jury

1 MS. GRIFFIN: Thank you, Your Honor. May it
2 please the court, counsel, ladies and gentlemen of the jury.

3 At this time I'd like to ask to you consider this
4 photograph of Bill Little. And then consider the following
5 quote from Willard Gaylin. When one person kills another
6 there is immediate revulsion at the nature of the crime.
7 But in a time so short as to seem indecent to the members of
8 the victim's family the dead person ceases to exist as an
9 identifiable figure. To those individuals in the community
10 of goodwill and empathy, warmth and compassion, only one of
11 the key actors in the drama remains with whom to
12 commiserate. And that is always the criminal. The dead
13 person ceases to be a part of everyday reality, ceases to
14 exist. She is only a figure in an historic event. We
15 inevitably turn away from the past toward the ongoing
16 reality; and the ongoing reality is the criminal trapped,
17 anxious, now helpless, isolated, bewildered and badgered.
18 He usurps the compassion that is justly his victim's due.
19 He will steal his victim's due. He will steal his victim's
20 moral constituency, along with her life. That is a quote
21 from The Killing of Bonnie Garlum by Willard Gaylin.

22 You may recall the defendant's opening statement
23 where you were asked to consider that this trial was
24 threatening to make this defendant another victim of an

1 injustice. You will recall Mr. Picl's words. He said a
2 grave injustice will be done if the defendant, Jamie Snow,
3 is found guilty. Based on the evidence you have now heard
4 over the last two weeks you now know that such an argument
5 is an attempt by this defendant to steal the compassion that
6 is justly Bill Little's due. Yet Bill Little doesn't get to
7 sit here to remind you that he is real, and that he deserves
8 justice from the man that's criminally responsible for his
9 death.

10 All we have is his picture to remind us who the
11 real victim in this case is.

12 You've seen a lot of photos of the defendant in
13 this case, and you've also seen the defendant quite
14 frequently personally here in this court over the past few
15 weeks. Don't forget or be distracted as to who is the
16 victim here. You're not here to remember who the victim is
17 so that you can be sympathetic to Bill and his family
18 because as the defense counsel said in his opening
19 statements, we are all sympathetic to the family. You're
20 not going to decide this case based on sympathy. Indeed
21 sympathy can not and should not influence your decision at
22 all. And the Judge is going to tell you that.

23 Rather, you're going to remember who the victim
24 is, Bill Little, so that you do not ever let this defendant

1 get away with trying to steal the compassion and the justice
2 that is due to the one and only true victim in this case,
3 Bill Little, not this defendant.

4 The evidence portion of this case is over. And
5 later today you're going to go back to that jury
6 deliberation room and for the first time you're going to have
7 an opportunity to discuss this case. You're going to begin
8 your deliberations. But before you begin your
9 deliberations, the Judge is going to give you the
10 instructions of the law that you must follow in this case.
11 Before I begin to review with you what the law is regarding
12 first degree murder, I first want to review with you an area
13 of the law that the Judge told you about at the start of
14 jury selection process and that you were told about again
15 during jury selection process. It's an area of the law that
16 the defense lawyer referred to in his short opening, no less
17 than five times.

18 You recall that each time counsel referred to it
19 he did not state the law, as you will hear it from the
20 Judge. No less than five times in his opening counsel said
21 Jamie is innocent. Jamie Snow is innocent. I believe Jamie
22 Snow will remain innocent. And by the way, I would also ask
23 you to recall that prior to defense counsel making those
24 comments he told you, as is correct, that no one's opinion,

1 including his own, about what they believe is evidence. But
2 what the law actually says, and I believe the Judge will
3 tell you this, is that the defendant is presumed to be
4 innocent of the charges against him. It is a presumption.
5 A presumption of innocence that remains with him and is not
6 overcome unless from all the evidence before you you are
7 convinced beyond a reasonable doubt that he is guilty.

8 That burden of proof is the same and it's -- it's
9 the same in every courtroom across this country. And it's a
10 burden of proof that's overcome every time a defendant is
11 found guilty. It's a burden of proof that we, as
12 prosecutors, gladly accept as a cornerstone of the American
13 judicial system.

14 So the question you're going to have to decide in
15 this case is whether we, the People, have proved the
16 defendant guilty beyond a reasonable doubt of first degree
17 murder.

18 And to answer that question you're going to need
19 to know what is it that we, the People, have to prove in
20 order for you to find the defendant guilty of first degree
21 murder. Judge Bernardi is going to tell you that to sustain
22 the charge of first degree murder the State must prove the
23 following two propositions. First of all, that the
24 defendant, or one for whose conduct he's legally

1 responsible, performed the acts which caused the death of
2 Bill Little. And the second proposition is that when the
3 defendant did so, he, or one for whose conduct he is legally
4 responsible, intended to kill or do great bodily harm to
5 William Little or he knew that his acts created a strong
6 probability of death or great bodily harm to William Little
7 or, he is legal -- or he was committing the offense of armed
8 robbery at the time he committed the acts which killed
9 William Little.

10 Now that second proposition is a long one, and at
11 first it may appear confusing. But I'd ask you to think
12 back to the three charges, the three indictments the Judge
13 read to you at the beginning of your selection process and
14 to think back to my opening statement when I told you that
15 the defendant was charged with three different ways of
16 committing one single act of murder. And that's really all
17 that's reflected in that second proposition, the three ways
18 that the defendant committed the act of murder.

19 The first alternative is that when he committed
20 the act, when he killed William Little, he intended to kill
21 or cause great bodily harm to William Little. The second
22 alternative is that when he killed William Little he knew
23 that his acts created a strong probability of death or great
24 bodily harm to William Little. And the third alternative is

1 that when the defendant killed William Little, he was
2 committing the offense of armed robbery.

3 All we have to prove to you is that one of those
4 alternatives existed at the time the defendant killed Bill
5 Little, and that is enough to prove the second proposition.
6 You'll notice that these instructions contain the language
7 he or one for whose conduct he's legal responsible. And
8 that has to do with the law of accountability. And the law
9 of accountability has to do with what we sometimes call
10 accessories to crime or accomplices.

11 You may recall the conversation in which Sergeant
12 Bernardini explained accountability to the defendant in
13 response to the defendant's question. How can I be charged
14 when I wasn't the one with the gun? The defendant has
15 testified here in this case that he wasn't talking about the
16 murder case when he said that. And Bernardini and Thomas,
17 in fact, testified that they were talking about the murder
18 case. You will ultimately decide who to believe. But one
19 strong indication, though, is the nature of the example that
20 Bernardini gave to the defendant of the accountability.
21 You'll recall he gave a description of two or more people
22 committing an armed robbery with one of the people being the
23 driver and the other person going inside and committing the
24 robbery and that person actually shooting and killing the

1 clerk and then all the participants, the driver, the
2 lookout, shooter, were responsible for the shooters'
3 conduct; and they were all, therefore, guilty of murder.
4 That was Bernardini's example. And you'll recall that it
5 was a murder case that he used as an example, not just
6 merely an armed robbery.

7 The Judge will explain to you all the legal
8 elements of accountability that you have to consider if you
9 believe that the defendant was a lookout rather than the
10 shooter. It's awfully difficult to imagine that the
11 defendant was the lookout rather than the shooter. It's
12 awfully difficult to believe that knowing what you now know
13 from the eyewitnesses and from the persons that this
14 defendant admitted doing the shooting to.

15 However, the defendant did tell Bernardini and
16 Thomas he wasn't the one with the gun. And he also told
17 Mary Burns that he was there and another guy did it. He
18 also told Kevin Schaal he was there. And he told Dan Tanasz
19 he was involved. Piecing those fragments of evidence
20 together might suggest to you the remote possibility that
21 the defendant did not shoot Bill Little but rather was an
22 accomplice, played another role. I suggest to you the
23 evidence is strongly overwhelming to the other side, that,
24 in fact, the defendant was a shooter. But this instruction

1 is there to guide you if for some reason you choose to
2 disregard all the other evidence and believe only that
3 portion of the evidence and only those parts of the
4 defendant's statements.

5 The law of accountability is more fully explained
6 to you by Judge Bernardi and it makes no clear -- it makes
7 clear to you that it makes no difference in your verdict
8 whether he is a shooter or whether you ultimately think he
9 played the other role of an accomplice.

10 I believe Judge Bernardi is going to tell you that
11 a person is legally responsible for the conduct of another
12 when he either before or during the commission of the
13 offense and with the intent to promote or facilitate the
14 commission of an offense, he knowingly aids, abets, agrees
15 to aid or attempts to aid the other person from the planning
16 or commission of the offense.

17 So if a person, with the intent to help that
18 person commit the offense of armed robbery, serves as a
19 lookout or a driver of the car, that person is legally
20 responsible for the conduct of the person he's helping. If
21 the other person commits a robbery, the helper is guilty of
22 the robbery. And if the other person commits a robbery and
23 murder, the helper is guilty of robbery and murder.

24 Each of you knows from your everyday experience

1 and everyday life that whenever you have got a decision to
2 make, the easiest way to begin that process is to look at
3 what it is you've got to decide and ask yourselves, well,
4 what is it that's not in dispute. You know, what's a given
5 here. What is it that you know is true. And I suggest
6 that's the way to start your progresses here. And when you
7 do that, I suggest you're going to find that there are four
8 issues that are not in dispute in this case, four issues
9 that are uncontradicted and are givens in this case.

10 And the first of those is that Bill Little was
11 shot and killed on March 31st, 1991. And the second one is
12 that whoever shot Bill Little, intended to kill or cause
13 great bodily harm to Bill Little. And the third one is that
14 whoever shot Bill Little knew that his acts created a strong
15 probability of death or great bodily harm. And the fourth
16 one is that Bill Little was also the victim of an armed
17 robbery at the time that he was killed.

18 First, there is no dispute, no question about the
19 fact that Bill Little was alive on March 31st, 1991 when he
20 began working at the Clark gas station on that Easter Sunday
21 that afternoon. There was testimony from Bill's father, Ron
22 Little that, in fact, Bill had eaten Easter dinner with the
23 family that day before he left to go to the Clark station.
24 And that when Bill left Ron Little's home he was a normal,

1 healthy 18 year old young man recently graduated. And Steve
2 Hill also told you that when he turned the running of the
3 Clark station over to Bill Little on the afternoon of Easter
4 Sunday, 1991, Bill was fine. He was alive and well.

5 We know that Bill Little died Easter Sunday at the
6 Clark gas station in 1991. We know from the Clark register
7 tape that the drawer was last opened at 8:15 that evening
8 according to the internal clock on the register. And we
9 know that the police received a call of a silent alarm at
10 the Clark gas station at about 8:18 that night and that
11 police officers were dispatched; and they arrived within two
12 to three minutes of that call.

13 We know that Officer Pelo was the first one to
14 find Bill lying behind the counter in that fetal position
15 obviously injured. And we know that Officer Williams
16 checked Bill and prepared to administer aid to Bill, but
17 upon viewing Bill's chest after he turned him over, he saw
18 the two gunshot wounds; and he saw there were no signs of
19 life, and he determined that it was too late. Bill was
20 already gone.

21 There is no disputing the testimony of Dr. Sapala
22 that Bill died from two wounds, two gunshot wounds, to the
23 chest and that the bullets pierced his heart and rested in
24 his lungs. And, in fact, those bullets caused fatal

1 internal bleeding.

2 The two shots and the angle of the shots would
3 suggest that the shooter truly intended to make certain he
4 got the job done, to make certain he took care of business
5 because the angle suggests that Bill was already down with
6 the first shot when he was shot for the second time.

7 So the number of shots and the angle of the shots
8 provide overwhelming evidence that the shooter intended to
9 kill or cause great bodily harm to Bill Little, and they
10 also provide overwhelming evidence that the shooter knew
11 that his acts in firing those two shots created a strong
12 probability of death or great bodily harm. A person does
13 not approach a young man with a loaded gun, take out that
14 loaded gun, point that loaded gun at the young man, pull the
15 trigger two times and fire shots at the young man hitting
16 him almost dead center in the chest and in the upper chest
17 without knowing that his acts created a strong probability
18 of death or great bodily harm and I suggest without
19 intending to kill or do great bodily harm to the young man.

20 As I said, all that evidence is undisputed. And
21 lastly, there is no disputing that Bill Little was also the
22 victim of an armed robbery, and he was killed during the
23 course of that armed robbery. The Judge is going to give
24 you the legal definition of armed robbery. He's going to

1 tell you that a person commits the offense of armed robbery
2 when he, while carrying on or about his person or while
3 armed with a dangerous weapon, knowingly takes property from
4 the person or presence of another by the use of force or by
5 threatening the imminent use of force.

6 There is no question that property was taken from
7 the presence of Bill Little at the Clark gas station. There
8 is no question that the money tray was removed from the
9 register and taken away from the scene and that included all
10 the money that was in the drawer. An audit of the shift
11 sheets and an actual account of money showed somewhere in
12 the area of 92 dollars was taken. We do not have to prove
13 what was taken. For armed robbery, we do not have to prove
14 an amount. All we have to prove is that some type of
15 property was taken, and that's undisputed in this case.

16 It's also undisputed that that taking of property
17 was done by the use of force or threat of force because that
18 property was taken by the greatest force of all, deadly
19 force.

20 So by eliminating all of the issues that aren't in
21 dispute you can see that your decision as to whether or not
22 we've proved this defendant guilty of first degree murder
23 really comes down to the ultimate question, who performed
24 the acts which killed Bill Little? And I suggest to you the

1 evidence in this case speaks loud and clear as to who pulled
2 that trigger and who fired the fatal shot that ended Bill
3 Little's young life. And that evidence proves to you that
4 it was this defendant who pulled the trigger.

5 You've heard some evidence of others being
6 involved or with the defendant at or near the time of Bill
7 Little's death at the time the defendant shot him. But that
8 evidence came in only because of the statements that this
9 defendant made about others. Specifically, the defendant is
10 the one who brought Mark McCown and Susan Powell into this
11 case by his statements to various people. You are not here
12 to concern yourself with what the evidence has been, may
13 have been or will be against Mark McCown and Susan Powell,
14 if they ever have been, will be or are on trial themselves.
15 Why? Because we're not here to prove to you and you are not
16 here to decide what, if any, role Mark McCown and Susan
17 Powell had in the death of Bill Little. We're here to prove
18 to you and you're here to decide what role did this
19 defendant play in the death of Bill Little. This case
20 against this defendant is different from any other case, and
21 it deserves your separate consideration.

22 On the issue of what the defendant did there have
23 been many witnesses. The array of witnesses, each with
24 their own piece of information, their own piece of the

1 mosaic contributing to the entire picture was sometimes
2 confusing and sometimes seemingly unconnected, and you can
3 expect, as defense counsel did in opening, that there will
4 be some question as to whether or not you should believe the
5 testimony of certain witnesses that will be described as
6 weak, not to be believed. That's what was said to you in
7 opening.

8 Yet, keep in mind that I expect the court is going
9 to instruct you that only you are the judges of the
10 believability of the witnesses and of the weight to be given
11 to the testimony of each of them; and in considering the
12 testimony of any witness you may take into account his
13 ability and opportunity to observe, his memory, his manner
14 while testifying, any interest, bias or prejudice he may
15 have and the reasonableness of his testimony considered in
16 light of all the evidence in this case.

17 Consider that one frequent argument can be
18 referred to and described as the pick and shake argument,
19 and I referred to it in my opening where it goes like if you
20 take one piece of evidence for a moment and you're looking
21 at that single piece of evidence and you're attempting to
22 pick out that single piece of evidence from the rest of the
23 evidence and then to consider well, you can't really believe
24 this evidence, so the reason goes, so you shake it loose of

1 all its connection to any of the other evidence, and then
2 you try to say, oh, by itself, standing alone it means
3 nothing so we'll just throw it out. It doesn't mean
4 anything.

5 I suggest to you that if you engage in that kind
6 of picking and shaking you're going to be distracted from
7 considering the reasonableness of that testimony considered
8 in the light of all the evidence in the case and that's what
9 you're required to do. So for example, with the testimony
10 of Carlos Luna, you should listen to the arguments here and
11 perhaps even in the jury deliberation room and listen
12 carefully and ask yourselves if you're going to be asked to
13 focus not on how this young man's testimony connects
14 remarkably to the defendant's words of admission to 15 of
15 his friends and acquaintances and police officers or how
16 Luna could have known that, indeed, *Freeman Robbery* photographs would show
17 that the cash register tray, the insert, was missing or how
18 he could have known that the morning after the shooting Ed
19 Kallal and other Bloomington police officers would be
20 searching all over the neighborhood for a cash drawer
21 insert.

22 Will you be asked to focus on the distance between
23 Mr. Luna's bedroom window and the front door of the gas
24 station? About lighting? About the time he had to observe?

1 About the fact that he didn't see Danny Martinez or Danny
2 Martinez's car? Will you be asked how is it conceivable or
3 possible to see anything with certainty from that distance?
4 There are several facts which support why or how Carlos Luna
5 could have seen what he described to you. But the first
6 thing you need to realize is not how but whether he did, in
7 fact, see what he said he saw. And when you consider the
8 reasonableness of his testimony considered in the light of
9 all the evidence in this case, the stunning reality is that
10 he did see this defendant and the defendant did admit his
11 role in the killing of Bill Little to 12 different people
12 and that another witness has identified the defendant as
13 well. We know that Luna told the police shortly after the
14 shooting that he thought, his impression was, that the
15 person he saw leaving the gas station, this defendant, had a
16 cash drawer insert under his coat. We know that that cash
17 drawer insert was gone, and we know that Carlos Luna told
18 Charlie Crowe in June of 91 that number six, who we now know
19 was this defendant, was the one he thinks did this crime;
20 and he still believes so. How he did it pales before the
21 fact that he did do it. But there is some evidence of how.

22 As nervous as he was in this courtroom, you could
23 tell that he was very certain about many things but equally
24 unhesitant to admit what he didn't know and remember other

1 things. I suggest you surely saw what an alert 14 year old
2 he must have been. He jokingly told his nephew, it was a
3 robbery, and low and behold, it turned out to be a robbery
4 and a murder.

5 How could he not have seen Danny Martinez within
6 several feet of the defendant? The truthful answer is, we
7 don't know. But we do know he did see the defendant. Was
8 Martinez partially in the shadows between the pump island
9 and the front of the store, the front area of the building?
10 Probably. Was it that Carlos focused only on the defendant
11 and did not look around on the lot to see what or who was
12 there? No doubt. But if you are asked to conclude that
13 because we don't know with certainty how Luna did not see
14 Martinez, we can't believe he saw the defendant, then such
15 an argument has to be regarded as nonsense.

16 Why did Officer Pelo not see the defendant? He
17 saw Martinez. He focused on Danny Martinez and called in
18 his license plate and did all the other, as he said,
19 hundreds of things you have to do when you're responding to
20 a silent alarm call, including watching traffic when you
21 cross the street and looking all around you for anything.
22 And he also got into that argument, that distracting
23 argument, with the dispatcher over whether or not to hold
24 the license plate number. And in the same several seconds

1 that Luna didn't see Martinez, Officer Pelo didn't see the
2 defendant.

3 But we know, based on all the evidence, that the
4 defendant was there, that Martinez was there, that Luna was
5 there and that Officer Pelo was there. So if the defendant
6 is suggesting through his cross-examination even for a
7 second that these witnesses did not see what they say they
8 saw because they didn't see something else, then you should
9 recognize that argument as tortured. It's part of that pick
10 and shake that I've described earlier.

11 You can expect and I'm sure will question, as you
12 will all the testimony, the testimony of Danny Martinez to
13 be questioned here and in the jury room, using that same
14 kind of pick and shake method. Is someone going to ask how
15 is it that Martinez described the defendant's coat as a
16 spring type jacket coming down to around the end of the
17 pockets on a man's pair of pants, and yet Luna described the
18 coat as a trench coat falling about the ankles or a little
19 shorter? You should not just pick out the differences, but
20 rather, you should also focus on the corroboration that
21 exists between Martinez's testimony and Carlos's testimony.

22 How is it that both Martinez and Luna see the
23 defendant go to the east of the gas station and then go
24 north toward the alley? Both see blue jeans, ball caps,

1 brown hair and tennis shoes. Mere coincidence or
2 corroboration.

3 We all know that Martinez saw the shooter. We all
4 know without a doubt that Martinez was there when the
5 suspect left the station. The police received the call of
6 the silent alarm at 8:18 p.m. and dispatched Pelo and
7 Williams within seconds of that call. And Pelo and Williams
8 arrived within two to three minutes of that call. We know
9 Pelo saw Martinez at his car near the air pump. We know
10 Martinez heard two pops, which you can believe now were, in
11 fact, the two fatal shots fired at Bill Little.

12 *CHECK*
13 *first* Martinez gave a description of the man he came
14 *statement* face-to-face with for a few brief moments. And when
15 Martinez nearly ran into this man, the defendant, the one
16 feature that stuck out in his mind and has continued to
17 stick out in his mind over the years has been his eyes.
18 They had that startled look. They were the eyes of someone
19 who appeared to be under the influence and appeared to have
20 been out all night. And low and behold, isn't that what the
21 defendant ends up telling his acquaintances over and over
22 that the defendant and his buddies were high on alcohol and
23 drugs when they committed -- when he committed this murder.
24 That's corroboration.

Martinez gives the police this information and

Showing
Mugshot
of ME from
Prior Arrest
in February of
1991
UNRELATED
NO CRIME
IN TRIAL. Prior
AD ACTS

1 this description that night and into the early morning hours
2 of the next day, and he works to complete a composite. And
3 that was exhibit number 21. You can compare the composite
4 with the photos of this defendant. You can compare
5 composite 21 with the photograph of this defendant from
6 1991, exhibit 56. And you can compare the composite with
7 the photograph from the defendant also at a different time
8 in 1991, which is exhibit 53.

9 You can see whether there are any similarities
10 apparent to you. As I told you in the beginning of the
11 trial, some of you will very likely see some similarities.
12 And some of you won't. I would suggest to you that when you
13 compare, there are, indeed, some similarities, eyes, shape
14 of the face, mouth, nose. If Martinez saw the defendant
15 that night, how is it that he couldn't pick the defendant
16 out of the lineup in June of 91 you may ask. There has been
17 no testimony regarding whether exhibits 53 and 56, the
18 photos of this defendant from 1991, were ever viewed by
19 Martinez, so I can't really comment on that identification
20 regarding as they relate to those photos because there is no
21 evidence of it.

22 Martinez does not believe that the lineup gave him
23 a good enough opportunity to really see the suspect like he
24 saw him the night up close at the gas station. Martinez did

SUSAN'S
TRIAL

1 not focus on the eyes in June of 91. There was some
2 evidence about that lineup room. There was evidence about
3 the procedure. But there was no disputing what Martinez
4 said. No one said he stood up, went close to the mirrored
5 glass window and was within one to three feet of this
6 defendant. For whatever reason, he did not pick out the
7 defendant in June of 91. Does that mean this defendant was
8 not the shooter? Absolutely not.

9 In July of 2000 Martinez saw exhibit number 11,
10 the photograph of the lineup, for the first time, the photo
11 of the people who were in the lineup taken in a lighter,
12 brighter room, rather than the lineup room. It's the first
13 time Martinez has ever seen that photo, and he points to
14 number six, who we know is this defendant, and he says, this
15 is the guy, isn't it, these are the eyes.

16 He told you that when he first saw exhibit number
17 36, which is the photograph, he saw in the paper shortly
18 after this defendant's arrest, that when he saw that
19 photograph in the paper, he immediately told his wife, those
20 are the eyes, this is the guy. And in this courtroom
21 Martinez looked into the eyes of this defendant, and he said
22 he's a hundred percent sure this defendant is the man he saw
23 at the Clark station. ^{HE SAID 95 PERCENT}
^{IN SUSAN'S TRIAL}

24 Are you going to find that this defendant killed

why DIDN'T
e SAY THOSE
RE THE EYES
when HE
AW #56-53
by DIDN'T
lawyer's BRING
that out.

1 Bill Little solely on the basis of the identifications of
2 Carlos Luna and Danny Martinez? Someone here or in the jury
3 room may argue you can't believe those identifications. As
4 I told you before they're going to try to shake them loose
5 from all their context. They'll tell you you can't believe
6 Martinez's identification because he previously failed to
7 identify the defendant. So they're going to try to shake
8 loose the validity of those identifications. But, if anyone
9 attempts to make that argument, they would be asking you to
10 ignore the obvious. Because you would have to ignore the
11 inescapable fact that what Martinez and Luna saw and what
12 they say they saw and both of their identifications are
13 corroborated by the other evidence.

14 As I told you from the very beginning, this case
15 involves many pieces of evidence, and you've now had a
16 chance to confirm that for yourself. And you have to look
17 at all of them in total in order to see the whole picture.
18 Never have we suggested and never would we have asked you to
19 base your decision in this case solely on eyewitness
20 identification evidence.

21 I told you to mark my words on that in opening,
22 and I'm reiterating that, because this case does not depend
23 on one single piece of evidence. You have to put each piece
24 of evidence together, look for that corroboration, which is

1 there abundantly in this case and make your decision based
2 on the evidence in total. Corroboration, look for it; that
3 is what helps you determine what the truth is in this case.

4 Does Gerardo Gutierrez provide corroboration for
5 Martinez's and Luna's identifications? Absolutely. Despite
6 the fact that Gutierrez, who was closer than either Luna or
7 Martinez to a man at the station that night, despite the
8 fact that he gave a description of a man inches taller than
9 either Luna or Martinez, and despite the fact he described
10 the dark jacket that the suspect was wearing a little
11 differently as a leather motorcycle jacket, not a trench
12 coat or spring coat, and despite his description of this
13 person wearing an earring as he recalls and some description
14 of a fresh scratch mark on the face, he still identifies
15 with Luna's and Martinez's identification. They all
16 describe a man with light brownish blondish hair, jacket and
17 baseball cap. *GENERAL*

18 I told you in opening statements that the evidence
19 would show that Gutierrez did not see the suspect at the
20 time of the shooting. And I suggest to you the evidence
21 still supports that position.

22 From the beginning Mr. Gutierrez talked about
23 having gone to the gas station to pump three dollars worth
24 of gas in his car the night of Easter Sunday. When he

1 enters the station to pay for that gas, he notices that the
2 attendant, Bill, appears to be nervous and upset, doesn't
3 talk, and he drops some change. He also notices that the
4 customer pulls out cigarettes and lights one up. And then
5 Gutierrez leaves. He notices tension between them, as he
6 described it, as if they were arguing over something. He
7 never hears any shots, never sees any police when he leaves;
8 and he never notices anyone else on the lot.

9 The review of the cash register detail tape shows
10 you that there was indeed a three dollar gas purchase and
11 that was at 6:55 p.m. There was no purchase of any kind of
12 gas after 7:53 p.m. and no other three dollar gas purchase
13 after 6:55 p.m.

14 I suggest that this provides corroboration for the
15 notion that Gutierrez was in the station before seven p.m.
16 And Bruce Roland's testimony would also tend to support the
17 notion that Gutierrez was in the store earlier because what
18 Roland says the defendant told him sounds remarkably similar
19 to what Gutierrez describes. When you remember what
20 Gutierrez described, it goes well with what the defendant
21 says happened. The defendant told Roland he was in the
22 station earlier to get cigarettes, did not have enough money
23 to pay for them, and the clerk refused to let him have them
24 without paying the full price. And he said he got mad about

1 that. Doesn't that sound very likely that that could be
2 what Gutierrez saw that hour before when he saw that tension
3 as if there was an argument between the clerk and the
4 customer?

5 And doesn't it then further corroborate what the
6 defendant told Roland, that later the defendant went back to
7 the station to get cigarettes and money? And doesn't it
8 seem likely that when he went back, the defendant would
9 change jackets, maybe even try to tuck his hair under his
10 ball cap like Randy Howard said was his trademark when he
11 didn't want to be identified, and to look different than he
12 did when he was at the station earlier?

13 But as I told you in opening, the ultimate
14 question is for your purpose -- statement is, for your
15 purposes is it really doesn't matter if Gutierrez saw the
16 defendant that night because the bottom line is the
17 defendant was convinced that Gutierrez had seen him. Take a
18 look at exhibit number 22. That's the sketch that Gutierrez
19 assisted in producing and compare it to exhibit 21, the
20 sketch that Martinez produced. I suggest to you that there
21 are remarkable similarities in the facial features and the
22 styles. And then take a look at the defendant's photographs
23 from February of 91 and from April of 91 and compare them to
24 exhibit 22. I suggest to you the similarities between them

1 and the Gutierrez sketch are stunning. But, again, I
2 recognize it's all in the eye of the beholder. And some of
3 you won't see it that way while some of you will.

4 But what's the most important point? The
5 defendant himself corroborated the sketch of Mr. Gutierrez.

6 We've heard evidence in this trial that Dawn
7 Roberts was told by this defendant and that this defendant
8 told his buddy, Randy Howard, that this defendant thought
9 the composite from the Little case looked just like him, the
10 Gutierrez sketch. And the defendant was so concerned about
11 that composite, that he told his friends and acquaintances
12 to take down that composite and bring them to him. And you
13 heard Dawn Roberts testify that, in fact, she saw a pile of
14 these on the defendant's kitchen table in his trailer, and,
15 in fact, she took one down herself and brought it to him.

16 And the defendant was so concerned about that
17 composite that he and his friend, Mark McCown, argued about
18 it. And when they were getting paranoid about being seen,
19 Dawn Roberts heard the defendant say to Mark McCown, what
20 are you worried about, it's not your picture up there, it's
21 mine.

22 Now even Mark McCown says he and the defendant had
23 discussions about the composites which corroborates Dawn's
24 testimony. And at grand jury over a year and a half ago,

1 Mark McCown couldn't remember what was discussed between he
2 and the defendant about the composites. But now, it's his
3 testimony that Mark told the defendant that the composite
4 really didn't look like the defendant. And you know, maybe
5 that's not too far off from the truth of what McCown told
6 the defendant because the inference from Dawn Roberts'
7 testimony and her reported comments by this defendant is
8 that Mark McCown didn't think the composite looked like the
9 defendant. He was worried, paranoid, that the composite
10 looked like him. Corroboration. *why would They Look LIKE Him*

11 There is further corroboration by the
12 identification of -- by Luna -- Martinez and the composite
13 of Mr. Gutierrez. And it comes in the form of words and
14 actions by this defendant. The words and actions of this
15 defendant which demonstrate his guilt. You know, one of the
16 strengths of the evidence against this defendant is the
17 sheer number of witnesses to statements of this defendant
18 admitting some or all of the robbery and the murder of Bill
19 Little. Many of those witnesses were friends and
20 acquaintances chosen by this defendant as worthy of sharing
21 such awful information; and they're not surprisingly not
22 model citizens.

23 Many of these folks are apparently of such
24 character that we would not ordinarily and easily trust what

1 they say. And if it were only one or two of them saying the
2 defendant told them this and the defendant told me that, you
3 might be able to dismiss them if there was no corroboration
4 simply because of their criminal convictions. But how is
5 it, though, that you get a dozen such witnesses testifying
6 that the defendant at different times and different
7 locations told them about committing this murder?

8 Defense counsel will undoubtedly point out, as he
9 did in opening statements, all the serious crimes which
10 several of the People's witnesses have been convicted.
11 Indeed, the defense counsel specifically told you in opening
12 statements, a couple of times, most of the State's witnesses
13 we're going to be hearing from are rapists, robbers, thieves
14 and dopers, and the State is going to ask you to believe
15 them. There were several State's witnesses who had prior
16 convictions. And were you surprised? No. Because we told
17 you that up front before we even put them on the stand. But
18 what was it that defense counsel forgot to tell you about up
19 front in his opening statement? He just happened to neglect
20 to tell you that, oh, those robbers, thieves and dopers,
21 we've got a few of those too, who are going to testify for
22 the defendant. In fact, we're going to call one of those
23 bad guys that the State called and the State wants you to
24 believe; and despite his bad record and his convictions, we

1 want you to believe him when he's got something to say about
2 the defendant which we like and we think helps the
3 defendant.

4 And you found out that some of the witnesses
5 aren't the only ones who had prior convictions. You found
6 out that the defendant himself has a prior conviction for
7 obstructing justice. But you didn't hear about any of that
8 up front by the defense. Maybe because they realized the
9 inconsistency and the contradiction of saying you can't
10 believe people with criminal records like thieves, dopers
11 and robbers and then in the next sentence having to admit
12 that, well, we too have got a few of those people, including
13 the defendant, maybe he realized you can't have it both
14 ways, can you.

15 Judge Bernardi will instruct you that evidence
16 that a witness has been convicted of an offense may be
17 considered by you only as it may affect the believability of
18 the witness. There is not too much to say about this other
19 than the obvious. A person previously convicted of serious
20 crimes or crimes involving deception or lying may be someone
21 whose information needs to be specially scrutinized or
22 looked at carefully.

23 The cast of memorable characters who came before
24 you and testified from the witness stand gave evidence that

1 demonstrated clearly that sometimes criminals lie and
2 sometimes criminals tell the truth. You have the privilege
3 and the responsibility of telling who is who.

4 The evidence from these people also demonstrates
5 something else. The People, as I told you in opening, are
6 unable to select their witnesses. We're unable to select
7 them from the society pages of the Pantagraph or to select
8 them from offices of State Farm or Verizon or ISU or the
9 clergy or anyone else for that matter. You know, there is a
10 saying, and the saying goes, you will not be able to find
11 swabs in the sewer. We find our evidence where we find it.
12 And many times it's exactly where the criminal places it, in
13 the hands of their confidants and associates, the people
14 they hang with, the people they think are most like them.
15 Then we place the evidence before you.

16 You will decide whether Ed Palumbo, Steve Scheel,
17 Bruce Roland, Bill Moffitt, Kevin Schaal, Ronnie Wright, Ed
18 Hammond, Jody Winkler, are telling you the truth. And by
19 the way, you'll have to decide whether Denny Hendricks,
20 Billy Hendricks, the defendant, Garren Bradford or Franklin
21 Perry Roberts, Mark McCown, whether they're telling the
22 truth.

23 Looking at the State's witnesses as a whole, it's
24 astonishing that so many people could have gotten it so

1 wrong if you don't believe them. Looking at them
2 individually, you should consider some of the small
3 intimate, details some of them true, some of them part of
4 the defendant's most revealing lies, and you need to look
5 for the revealing, telling details, the ones that tell you
6 that a witness is telling it the way he heard it.

7 I heard what I heard said Ed Palumbo to the
8 defense investigator. Consider the chilling remark that
9 this defendant made to Ed Palumbo out at Funks Grove a short
10 time after the killing when this defendant said, killing
11 someone wasn't as bad as I thought it would be. And then
12 consider how that remark ties in with the conversation that
13 this defendant had with Dan Tanasz, a coworker down in
14 Florida, a man with no connection to Ed Palumbo and no
15 connection to Illinois. The defendant asked Tanasz how did
16 it feel when you killed somebody in Vietnam. And the
17 defendant admitted to Tanasz he too had shot someone, not
18 with a note of bragging, but of some concern.

19 The evidence in this case reveals a struggle
20 between the truth and falsehood, between the need to deny
21 and flee from the truth versus recognizing the unmistakable
22 facts as they have emerged over the last nine and a half
23 years.

24 Reflect for a moment about that need, that need to

1 deny, that need to prove something other than the truth or
2 simply the need to lie. These needs are in evidence
3 principally from the witnesses called by the defendant, to
4 frantically find a story that works. But these needs are
5 even found in some of the State's witnesses.

6 Randy Howard, for example, he's a lifelong friend
7 of the defendant, and he was awakened one morning early and
8 gave a lengthy and somewhat candid account to the police
9 concerning the defendant's statements that the defendant
10 made to him less than 24 hours after he shot Bill Little.
11 The candid parts included the facts that the defendant told
12 him as soon as he got into the car after the defendant
13 picked him up at the bus station, man, bro, I fucked up, I
14 shot the kid at the station. He also told Howard how he
15 only got a small amount of cash. And the defendant was
16 excited and upset when he said these things, like his life
17 was going down the tubes, as Howard described it.

18 Then, when the first composite came out, the
19 defendant thought it looked like him, though Howard thought
20 the second one looked more like him. Howard felt the need
21 to backtrack on what he had told the police, and so he told
22 them that the defendant recanted after a while after he had
23 seen the distaste on Mr. Howard's face; and so after having
24 been excited and upset, the defendant became calm, and he

1 said, oh, I was just kidding.

2 Howard had a need to deny the significance of what
3 he had told the police. You will remember how he struggled
4 with Mr. Reynard during examination, and he struggled with
5 Mr. Reynard's questions, which were pulled out of him, what
6 he said on that tape-recorded statement. He had a need,
7 perhaps out of friendship, to back off of the truth. And we
8 know it is the truth because he fought so hard against it,
9 he fought so hard to lie about it.

10 Do you have any doubt that if that statement had
11 not been tape-recorded by the police Randy Howard would have
12 testified that he never told the police that at all? I
13 believe he said as much in his examination.

14 What about the defendant's need to run away from
15 the truth of Bill Gaddis's testimony? Bill Gaddis told you
16 the truth of what he heard and saw on Easter Sunday evening,
17 1991, or the following night, in 1991 at Denny Hendricks'
18 apartment at the corner of Lee and Market Streets here in
19 Bloomington. Bill Gaddis has never had a motive to lie. He
20 stopped by that apartment looking for his half brother
21 Garren Bradford regarding work. He entered that apartment,
22 went through, passed all the girls, to the back bedroom and
23 knocked on the door and entered. And he laid out for you in
24 such a manner and in such detail what he found there that

1 you know it's true. The defendant was standing inside the
2 door to the left. Next to him was the person that
3 Mr. Gaddis said they knew as nigger Mike or white Mike. And
4 then there was Denny Hendricks and one of the other
5 Hendricks brothers, one of them sitting down on top of the
6 chest of drawers.

7 Then Gaddis told you as you go around the room in
8 the corner was another person. To this day he still can't
9 remember who it was that was there, but there was another
10 person. Then he told you there was Frankie Turner laying
11 across the bed and Dave Shepperson sitting on the side of
12 the bed with his head in his hands.

13 Those are details, ladies and gentlemen. Those
14 are facts. You don't get that kind of detail and that kind
15 of facts from a lie. No liar is going to make up those kind
16 of details, and nobody is going to make up a story like
17 that; and Bill Gaddis tells you that this room is filled
18 with such emotion that he's forced to ask the question who
19 died. And when he asked that question, it was Frankie
20 Turner who said, Jamie shot the kid at the station. And
21 Bill Gaddis looked at the defendant, and never ever did the
22 defendant deny that he shot the kid at the gas station.

23 Such silence in the face of a murder accusation is
24 not consistent with innocence. Rather, it's another

1 indication of guilt, another piece of corroboration of the
2 other pieces of evidence like Luna's identification, like
3 Martinez's identification and so on. It's an admission, a
4 powerful admission by silence.

5 And how has the defense tried to run away from the
6 truth of what Bill Gaddis testified to on that stand? Well,
7 they couldn't call him a robber, rapist, thief or doper
8 because Bill Gaddis has never had any criminal convictions,
9 and he's never been to prison. And he never gave a
10 statement to the police at a time when he was in trouble so
11 they could argue he was trying to help himself out in a bad
12 situation. And, Bill Gaddis has never beaten the
13 defendant -- excuse me, never been beaten by this defendant
14 with a stick or some object 11 years ago and held a grudge
15 for 11 years. So, what do they do to try to flee from the
16 truth since none of those options that might work for other
17 witnesses couldn't work for Bill Gaddis? Well, first they
18 tried to ridicule Mr. Gaddis for his religious beliefs.
19 They attempted to belittle his choice of church. And then
20 they continued to belittle his role in the church, despite
21 the fact that there was no evidence that contradicted
22 anything Bill Gaddis said about his church or his role or
23 his work. And the second thing they tried to do was to
24 trash Gaddis by calling his half brother to the stand. I

1 started to say how ironic, but it's more than ironic. It's
2 actually hypocritical, wouldn't you agree, to say in opening
3 statement that you can't trust thieves, dopers and robbers,
4 those with criminal convictions, and then to dare to call
5 someone just like that to the stand and to suggest they,
6 this thief, robber, doper, one of those people with the
7 criminal convictions, are truthful? But that's exactly what
8 the defendant does. They then call someone exactly like
9 that to the stand to testify for them. And they weren't
10 just testifying for them, but they want someone, someone
11 convicted of burglary, criminal damage to property over
12 three hundred dollars, aggravated battery on three different
13 occasions and offenses relating to title and sent to prison
14 three different times going back to a case from 1989 all the
15 way to most recently to 1997, a person who doesn't even use
16 his legal name, which is Franklin Perry Roberts but he tells
17 you that I go by Garren Bradford too, they want a person
18 like that to testify that Bill Gaddis, a man with no
19 criminal convictions, a man who has never been sent to
20 prison, a man who believes in God, is a man with a bad
21 reputation for truth and honesty.

22 That's not just hypocritical. I suggest to you
23 that's desperation. And that is fleeing from the truth.

24 You also saw how Denny Hendricks was running from

child
molester

1 the truth to try to help this defendant. Remember this is
2 another one of those convicted criminals that you're really
3 not supposed to believe, but you're supposed to believe them
4 I guess when they're called by the defendant because Denny
5 Hendricks is one of those people who has been to prison
6 before and, in fact, one of those dopers, one with a
7 conviction for possession of a controlled substance, and at
8 different times aggravated battery. But Denny Hendricks
9 couldn't run fast enough away from the truth of what Bill
10 Gaddis had described.

11 Here on questioning from the defense in this trial
12 he said, no, never was the defendant at my apartment at
13 Market and Lee when someone else said Jamie shot the kid at
14 the station and ~~Jamie denied it~~, never happened. But then
15 on cross-examination you heard the truth, didn't you? On
16 cross-examination, Denny Hendricks had to admit that, in
17 fact, he testified previously under oath at the grand jury
18 over a year and a half ago. And, in fact, at grand jury he
19 didn't say it never happened. At grand jury he said over
20 and over again it could have happened. It could have
21 happened. He said I'm not saying it did. I'm not saying it
22 didn't, because it could have happened. There was a lot of
23 partying, a lot of drinking and a lot of drugs back then.
24 It could have happened. I just don't remember.

1 That is the defendant and Denny Hendricks trying
2 to run away from the truth.

3 What is interesting, though, is that Denny
4 Hendricks, Garren Bradford, and even this defendant
5 corroborated all the other parts of Bill Gaddis's testimony.
6 Bill Gaddis is right. Denny Hendricks did live at the
7 corner of Market and Lee back in 1991. Garren Bradford did,
8 in fact, live with Denny Hendricks back then in 1991.
9 Garren Bradford wasn't home Easter night, 1991, and Frankie
10 Turner did, in fact, live with Denny Hendricks back at this
11 apartment back in 1991. And none of them disputed the
12 description and the layout of the apartment that Bill Gaddis
13 testified to.

14 Tammy Snow is another example of the need to deny
15 and the need to run away from the truth, the need to lie.
16 She testified on direct examination apparently for the sole
17 purpose of attempting to give this defendant an alibi. But
18 the problem with lies is it's hard to stay consistent when
19 you lie. She told you at this trial that the defendant
20 never left her presence on the night of Easter, 1991. Yet,
21 her testimony here contradicted what she said under oath at
22 the grand jury in August of 1999. And first before coming
23 to that grand jury, she refused to give Katz an alibi for
24 the defendant, telling Katz that she didn't have to give the

1 defendant an alibi because they weren't together anymore.
2 And then at grand jury she says it is possible that the
3 defendant could have left her and left their home that night
4 on Easter, 1991. And he could have gone to the store or he
5 could have gone to get cigarettes, and when she was asked at
6 the grand jury to give an estimate for the time that he
7 could have been gone from her, she could have said it could
8 have been an hour, it could have been more, she didn't know.
9 And with Katz, she said she didn't know the details, and she
10 didn't give you any details here either, other than we went
11 to my parents', and we came home.

12 And when defense counsel tried to rehabilitate her
13 and tried to have her say, and she did say well she didn't
14 know what grand jury was going to be asking her, she didn't
15 know when she went there what they were going to be talking
16 about, you'll recall that when she was confronted with the
17 untruthfulness of that comment on cross-examination she
18 admitted, well, she did know when she went to grand jury
19 what they were going to be asking her about. And, in fact,
20 she'd been told about that the time she got her subpoena and
21 the time of her interview with Katz. But what did she say?
22 She just didn't study it before testifying.

23 A day or so after the murder this defendant told
24 Ed Palumbo on the Street did you read about me in the paper.

1 He also told Palumbo boom, boom, gun goes off, kid dies.
2 And he also referred to the Clark station.

3 Shannon Schmidt, the defendant, and Tammy Snow
4 corroborate key portions of this contact. They all agree
5 this encounter happened. Ed is telling the truth about
6 that. But it's just this defendant and his wife who say
7 that the defendant said to Palumbo I read about you in the
8 paper. But the defendant even himself on direct examination
9 you'll recall can't remember why he would have said that,
10 doesn't know why he said it. And I'd ask you, where is the
11 logic in the scenario happening as the defendant and his
12 wife would have you believe. And how is it that Ed Palumbo
13 would know to say the words boom, boom, mimicking the two
14 shots that were fired at Bill Little?

15 Palumbo may be one of the most unusual people
16 you'll ever meet in a courtroom, but he told you the truth.
17 And the only reason he's here is because he heard what he
18 heard. There is nothing else in it for him. He also told
19 you that the defendant told him about how it felt to kill
20 another human being and how the defendant said it wasn't as
21 bad as he thought. And if Howard and Palumbo and Gaddis in
22 their own ways identified the truth for you, what about the
23 rest?

24 Steve Scheel had no motive to lie. He may have

1 committed serious crimes, but he stands to gain nothing from
2 his testimony here years later that this defendant admitted
3 to him at a party that he was on the run for several ^{other BAD} ~~ACTS~~
4 robberies and that he committed the Clark station robbery.

5 Did he kill the kid at the Clark station, Scheel asked this
6 defendant, and the defendant said yes, he did. ^{I SAID} ~~No~~ ^{check}

7 Scheel does stand to lose, however, if he commits ^{Scheel} ~~Testimony~~
8 perjury here on the witness stand telling you things that
9 aren't true. But they are true. Indeed, Molly Eades
10 corroborates Steve Scheel's testimony by confirming that, in
11 fact, she did have this gathering at her home during this
12 time frame before the defendant took off for Missouri. And
13 within days of this gathering the defendant runs to
14 Missouri, corroborating by his own actions what Steve Scheel
15 said indeed he was on the run, and he hides in his sister's
16 attic when the police come for him.

17 This defendant told Bruce Roland that he shot Bill
18 Little when they were together at the Logan Correctional
19 Center for one month in December of 1994. And what details
20 did Roland provide. The group had been partying at the
21 Whitmer's three or four houses north on Linden. He went for
22 cigarettes at the station, got into an argument with the
23 clerk, went back later to get his cigarettes, to take care
24 of business, and he shot the kid, took the money, and they

1 left. Was this the earlier time that Gutierrez described?
2 Did Roland get together with Mr. Gutierrez to invent this
3 disagreement between the defendant and Bill Little? Yes,
4 Roland admitted he hopes his information helps in his
5 pending case, but he's been made no promises, received no
6 consideration.

7 And in response to Roland, the defendant says, he
8 wasn't in segregation, but the facts show and the records
9 from the Department of Corrections show that, indeed, he was
10 in a segregation unit used to transport -- used for
11 transports. In further response the defendant denies he was
12 on the circuit, like Roland says. But the issue here is
13 when he told Roland he was on the circuit, not whether he
14 was. Indeed, he was only at Logan for a short, brief time.
15 Why wouldn't Roland believe the defendant when he said he
16 was on the circuit when the defendant was puffing himself up
17 as a big time bad actor, someone who was on the circuit,
18 moved from place to place? Why would Roland invent this
19 detail if it could be so easily disproved? On the other
20 hand, if he heard what he heard and the defendant was just
21 BSing again, as defense counsel kept asking his friends
22 whether he did, then once again, you know who to believe.

23 How is it that Roland got information from the
24 defendant, the same information that Ed Hammond got from the

1 defendant, that Mark McCown was with the defendant the night
2 of the shooting? How is it that what the defendant said to
3 Ed Hammond and Bruce Roland is corroborated by Karen Strong?
4 She saw the defendant the night of the shooting in his ball
5 cap at her apartment with Mark McCown within hours after the
6 shooting. Are you starting to see how you have to look at
7 all these statements and how they corroborate each other?

8 And furthermore, there is the Department of
9 Corrections records themselves that corroborate that these
10 conversations could have occurred just like Roland stated.
11 There are records that show that Roland was on sanitation
12 detail, that he did have access to the segregation unit
13 where the defendant was housed. The defendant says it
14 couldn't have happened, but the corroboration with the
15 records shows it very well could have, and it did.

16 This defendant told William Moffitt in a lengthy
17 conversation when they were in the Joliet reception center
18 the first night they spent together in the annex that he
19 shot Bill Little. But Moffitt didn't report this
20 information, not until later toward the end of his sentence
21 when providing it would not do him any good other than to
22 provide him with relief and peace of mind. Whether you
23 believe his motivation or not, he provided some stunning
24 detail. The defendant told Moffitt they have a reward for

1 ~~the~~ murder I did. There are fliers all over town. How did
2 Moffitt know there were three of them who did the crime? He
3 didn't know who the three were. Moffitt didn't know and he
4 could not have known that the defendant had told Bruce
5 Roland that Mark McCown had been with him. He couldn't have
6 known that Mark McCown told Karen Strong that Susan Powell
7 was the driver. He couldn't have known that the defendant
8 told Ed Hammond that Mark McCown was involved with them.
9 And he couldn't have known that this defendant would tell a
10 correctional guard in the year 2000 that, in fact, there
11 were three people with him the night of the murder, and one
12 of them was Susan Powell. And yet, there is the math.
13 How did Moffitt know that a car pulled up or
14 something like that, so that that worried the defendant
15 about maybe having been seen? How did Moffitt know about
16 Mr. Martinez, his car, and coming face-to-face with this
17 defendant? And finally, how did Moffitt get this detail?
18 The defendant said he should have run to his sister's place
19 in Missouri or something to that effect, Moffitt said. And
20 yet, we know, that within days or weeks of the shooting of
21 Bill Little, this defendant went to Missouri and hid in his
22 sister's attic in Webster Grove. How did Moffitt get this
23 detail and get it ever so slightly misunderstood?

24 In addition, consider how did Ed Hammond know that

↓ Moffitt Cell's

1 someone had driven up on the lot of the gas station, which
2 led the defendant to fear that he had been seen. How did
3 Hammond know that something had been knocked over in the
4 defendant's haste to leave? And you'll recall the picture
5 of the fallen stool that the defendant probably knocked over
6 as he removed the cash drawer insert in his frantic haste to
7 leave after he shot Bill Little.

8 How did Kevin Schaal get the curiously warped
9 detail about the murderer hiding in the attic even though
10 this defendant reworked that story so that he was the one
11 hiding the friend who did the murder in the attic? But who
12 was it who was walked out of his sister's house in Missouri
13 with the attic insulation all over him, the friend or this ^{Freeman}
14 defendant?

15 How did Ronnie Wright know that Kevin Schaal had
16 lied to the defense investigator in order to provide for and
17 protect this defendant? Other than by reading the report
18 himself, shown to him by this defendant, and the defendant
19 laughing and saying that the report contained lies by Schaal
20 on the defendant's behalf. The defendant would like you to
21 believe that somehow Ronnie Wright snuck into his cell and
22 read his papers. But ask yourselves, how in the world could
23 Ronnie Wright steal the knowledge that was contained only in
24 Jamie Snow's mind and Kevin Schaal's mind and that they both

1 admitted to here in court that, yes, indeed, Schaal had
2 omitted information, had left out information in order to
3 help this defendant.

4 These witnesses are telling you the truth, and in
5 spite of their terrible criminal record, you know that
6 because of the tiny details, how they corroborate each
7 other. But you have actions and words of this defendant to
8 the police which again provide corroboration, provides
9 corroboration of the identification by Luna and Martinez,
10 provides corroboration of the accuracy of Mr. Gutierrez's
11 composite and corroboration of the defendant's admissions to
12 his friends and acquaintances.

13 Within weeks of the murder of Bill Little, just
14 about three weeks, the defendant's found and he's found in
15 Missouri after he fled from Bloomington. He's apprehended
16 in Webster Grove on April 23rd. And where is he found?
17 Hiding under the insulation in his sister's attic after a
18 five hour ordeal in which his sister, his wife, one of their
19 children are forced out of the home and have to wait outside
20 the home while the swat team and search teams are assembled.
21 And the defendant would have you believe from his testimony
22 that all this hiding is done before he even knows he's a
23 suspect in the murder.

24 So ask yourselves, if that's true, why the five

ALL OF
THIS HAS
TO DO WITH
THE FREEDOM
ROBBERY. THE
STATE IS JUST
GETTING MORE
AD ACTS
OUT TO THE
CITY TO
CONSIDER

Free Dom

1 hour ordeal. Are those the actions of an innocent man? *Freedom*
2 Particularly an innocent man who doesn't know the time that
3 he did this, so he claims, that he was a suspect in a murder
4 case. *He's* arrested on a McLean County warrant for an
5 unrelated case that has nothing to do with the Clark station
6 or Bill Little. Yet when he gets in the back of the squad
7 car with Officer Thomas he's extremely agitated and nervous,
8 and all he wants to talk about is the murder case. He wants
9 to know what Thomas knows about it. And he asks Thomas what
10 will happen to me if I have information on the murder. And
11 Thomas, the officer that this defendant would have you
12 now -- would like to you believe was just so aggressive to
13 him during that questioning at the police department, what
14 does that overzealous, overaggressive police officer do. He
15 tells the defendant to calm down. We aren't going to talk
16 about it here in the squad, because Thomas was concerned
17 about the appearance of a coercive atmosphere. *Free Down*
18 And at Bloomington Police Department the defendant
19 is interviewed by Thomas and Bernardini. Bernardini tells
20 him they want to discuss several robberies, including the
21 case where someone was killed, and it's this defendant who
22 volunteers that it's the William Little case. And what does
23 the defendant say? He wants to know what kind of a deal he
24 can get. And when he's told that the police can't make any
Free Down

1 deals, what's his response? He says he'd like to talk, but
2 he can't say anything without incriminating himself. And
3 you can almost see the wheels turning in the defendant's
4 mind when the defendant's conversation with Bernardini and
5 Thomas is being described, can't you? Just like the wheels
6 were turning when he was cross-examined here during his
7 testimony.

Freedom

8 Now why do you think the defendant was concerned
9 with making a deal back on April 24th, 1991? And why is he
10 asking Thomas what will happen to me if I know something
11 about this murder? And why is he saying how can I be guilty
12 if I'm not the one with the gun? Why all this circle of
13 statements and questions? Because he knows the truth. He
14 knows, as he told Moffitt and as he told Hammond and the
15 others, someone did pull up on to the lot at the Clark
16 station. He knows he did see Martinez in the lot. He knows
17 there is a composite drawing posted that looks like him. So
18 on April 24th, 1991 he's thinking how can I explain being
19 there in case I'm identified. I can say I was there, but I
20 didn't pull the trigger. If the police will make a deal, I
21 can point the finger at someone else. The problem is, if I
22 point the finger at someone else who knows I was there, then
23 he has to run the risk of what if they point the finger back
24 and tell the police the truth about everything the defendant

NEVER
SAID THAT
IN REFERENCE
TO MURDER
FREEDOM

1 did. He is stuck between a rock and a hard place.

2 So what does he say? He says I'd like to tell you
3 the truth, but I can't tell you without incriminating
4 myself.

5 Everyone of you knows you can not incriminate
6 yourself unless, (A,) you were there and, (B,) you were
7 involved. That statement alone, which the defendant admits
8 he may have said, contradicts everything the defendant would
9 have you believe about his lack of any knowledge at anytime
10 about this case.

11 In June of 91 there is an in person lineup down at
12 the jail. And you've heard repeatedly about how this
13 defendant refused to participate. Even though he had an
14 attorney present and he had multiple chances to talk to his
15 attorney, he still refused to participate. He was visibly
16 upset and shaken. Only when officers Bagnell and Cox
17 approached him to physically put him in the lineup, only
18 then did he stand on his own in the lineup. Those are not
19 the actions of an innocent man. Rather that is
20 circumstantial evidence of the defendant's consciousness of
21 guilt.

22 The defendant would like you to believe that those
23 were not actions of a guilty person, but rather they would
24 be actions of someone innocent who was concerned with being

Not A
True
Statement
About
Incriminating
Yourself

1 misidentified. And you'll recall the defendant played down
2 his resistance. He wanted you to believe that the only
3 thing he was concerned about was that he have his attorney
4 there to be a witness for the lineup. And so, he brought in
5 his former attorney, Mr. Koritz, to try to support his
6 position. Well, what was the problem.

7 Mr. Koritz couldn't support the defendant's
8 position. Mr. Koritz told you that he has no real memory of
9 the sequence of events that happened there at the lineup.
10 And, in fact, what he recalls that the defendant was
11 distraught, was concerned about participating, and he
12 recalls talking to him. And, in fact, Koritz says he's
13 reviewed Charlie Crowe's report about this lineup and the
14 sequence of events, and he said he has no reason to dispute
15 Charlie Crowe's detailed report of what happened that day,
16 and what Charlie Crowe says happened that day is quite
17 contrary to the downplayed role the defendant would have you
18 believe. Because, in fact, this defendant refused over and
19 over to participate, even after he was offered a chance to
20 consult with his attorney. In fact, this defendant told
21 Charlie Crowe, I'm going to fire my attorney. I'm not
22 standing in that lineup. And Mr. Koritz even remembered
23 hearing the defendant say he was going to fire him.

24 And Koritz even remembered at that lineup that the

1 defendant, even though he would have you believe he was only
2 concerned about having a witness, Koritz does remember being
3 brought up about a cast and if he had a cast on March 31st.
4 Koritz made a phone call right then before the lineup by the
5 doctor to support the defendant's position. And you heard
6 that the doctor couldn't support the defendant's story
7 because, in fact, the defendant never returned for his March
8 29th appointment. And as the defendant later told you
9 himself he never went back. He cut the cast off himself.
10 So no support for that story. And Koritz supports that.

11 You heard evidence of the defendant's flight from
12 his home in Florida in September of 1999 and his running to
13 Ohio after he learned about the ongoing grand jury
14 investigation. And when he leaves Florida, he takes with
15 him something that doesn't belong to him. He takes with him
16 a birth certificate and social security card of his buddy,
17 Dave Arison, who lives by him down in Florida. He leaves
18 with his girlfriend, Mary Oyer, and her child, and he goes
19 to her father's home in Ohio.

20 Bloomington police notify the Ohio authorities of
21 his possible location. And you heard Officer Ondecker's
22 description of their responding to that location to try to
23 locate the defendant. Ondecker and his fellow officers see
24 this defendant outside Mary Oyer's, the defendant's

1 girlfriend's, father's home. And they approach him, and
2 Ondecker approaches the defendant, and he asked him who he
3 is. And does the defendant give his real name? No. He
4 lies. He tells Ondecker that he is Dave Arison. And when
5 he's asked for identification, he just happens to have right
6 there in his pocket Dave Arison's birth certificate and
7 social security card and gives them to Ondecker.

8 And he lies again, because Ondecker asks him
9 specifically, point-blank, are you Jamie Snow. No, no, I'm
10 not. And when the police begin checking the defendant's
11 tattoos for further identification, the police are told to
12 check the defendant's ankle and calf area for a specific
13 tattoo. And as Ondecker is bending over to check the
14 defendant's ankle for that tattoo, the defendant leans down
15 and then what does he do? He takes off running, fleeing,
16 running again from the truth. And Ondecker, you heard him
17 tell how he pulled a hamstring, but how other officers
18 continued in the pursuit, and they ended up locating the
19 defendant hiding under a porch some 20 minutes later.

20 Isn't this so reminiscent of Missouri in 1991, run
21 and hide. And it doesn't matter how many officers you
22 involve, how much manpower you involve, as long as you can
23 run and hide, as long as I can try to let them not find me.
24 When this defendant has a reason to run, he runs. When he

1 has a reason to hide, he hides, and when he has a reason to
2 lie, he lies.

3 His flight from the police and his lies to the
4 police are further circumstantial evidence of his
5 consciousness of guilt. Innocent people don't run.
6 Innocent people don't hide. And innocent people don't lie
7 every time they're approached by the police like this
8 defendant does. His flight and his lies tell you not only
9 about his consciousness of guilt, but they also tell you a
10 lot about his credibility. Keep in mind he's the one who
11 admitted on the stand that he lied to the police in Ohio.
12 He couldn't deny that truth. So how can you believe the
13 defendant would tell you the truth about anything if it's
14 not to his advantage?

15 You put all the evidence in this case together
16 from the initial descriptions, the composites, the
17 identifications, the statements, the actions, the flight and
18 the lies, and you come up with a clear picture of the
19 shooter, the person who performed the acts that killed Bill
20 Little at the Clark station in March of 1991. And that
21 clear picture is none other than this defendant.

22 Let's look further at the fleeing from the truth
23 that occurred in this case because it's quite obvious that
24 that's precisely what this defendant was doing or attempting

1 to do when he took the witness stand. He had a steady
2 scripted plan of attack for fleeing from the truth of his
3 guilty words and actions during his direct examination. And
4 these were the rules that he developed and followed in his
5 testimony. And I think you'll recognize them. Number one,
6 if it hurts, it must be denied. Number two, if it's
7 undeniable, admit it, but put a spin on it. And number
8 three, if it doesn't hurt, it's okay to admit it. And the
9 fourth one, is when you're denying it, call them a liar, and
10 if you can't call them a liar, call them mistaken or
11 confused.

12 The problem with those rules is it's an age-old
13 problem, and we all know about it. Once you get away from
14 the truth, it becomes harder and harder to keep track of the
15 lies. I'm reminded of a passage from the book Betrayal, by
16 Eli Rosenbaum, where he was discussing the Waldheim Nazi
17 hero scandal when Waldheim kept getting tripped up in his
18 denials about his Nazi hero past and his involvement in war
19 crimes, and Rosenbaum wrote this passage. As I studied a
20 copy of the April 15th issue of Wochenpresse, I could not
21 help but note the obvious: The old saw, truth will out,
22 does not always hold. Lies often prevail over truth even as
23 in Waldheim's case, for 40 years or more. Still, if the
24 pursuit of truth is relentless, the prevaricator rarely

1 triumphs, in part because the more a liar tries to explain,
2 the more he inadvertently discloses. That is one reason why
3 every prosecutor yearns for the opportunity to question a
4 suspect. Twenty minutes of skilled cross-examination can
5 often fell even a skilled perjurer.

6 That quote couldn't be more true. We did yearn
7 for the defendant to testify. And this defendant was felled
8 by his own lies brought out during cross-examination.

9 As the author of this passage said, if the pursuit
10 of truth is relentless, the prevaricator rarely triumphs.

11 As you review the defendant's testimony your
12 pursuit of truth can be no less relentless than our pursuit
13 of the truth has been for the last nine and a half years.
14 What Mr. Rosenbaum was saying in his passage is really not
15 much different from the old quote you all know from Sir
16 Walter Scott. Oh what a tangled web we weave when first we
17 practice to deceive. In this case it means that when he
18 knew he was in jeopardy, the defendant did whatever he could
19 to get away from the truth.

20 When he was apprehended in his sister's attic in
21 Missouri and arrested on his other charge, what charge was
22 he most worried about? What did he repeatedly ask Detective
23 Thomas about? What did he tell Bernardini and Thomas? He
24 asked what happens to me if I have information about the

1 murder. Earlier when he was with friends and did not feel
2 the heat of the investigation, in fact, when he thought he
3 had beat the investigation, he admitted killing Bill Little.
4 He seemed almost proud of it, though he was also earlier in
5 time before he thought he beat it, upset about it and did
6 not deny it when Bill Gaddis looked at him after Frankie
7 Turner said Jamie shot the kid at the gas station.

8 But later when he's in Florida with friends and he
9 knows the investigation is geared up again and he's focused
10 on the fact that he's now being looked at again, he's
11 guarded, even with his friends. But his anxiety forces him
12 to ask someone he apparently looked up to, Colt, Kevin
13 Schaal, what do I do. You'll recall that at that point he
14 had never told Schaal that he had been involved, and Schaal
15 said, hey, if you didn't do it, there is nothing to worry
16 about. If you didn't do it, no need to worry. And it's at
17 that point finally that this defendant tells Colt, well, I
18 do have a reason to worry, because I was there. And at that
19 point he's obviously not bragging, but he has to at least
20 admit part of his involvement because he has to explain why
21 he's so nervous and so concerned. So he admits being there. ^{IN} ~~FL.~~ ^{Bloomington}

22 And still later he runs from Florida to Ohio where
23 he is arrested and brought back to Illinois. He still
24 doesn't know what to say. He certainly can't speak the

1 truth because he has to run away from that truth. He *Freedom*
2 physically ran to Missouri when he wanted to run away in 91
3 to run away from (it). He physically ran to Ohio in 99 to run
4 away from (it). What kind of man would I be if I didn't run?
5 But in November he's brought back to McLean County jail on
6 the charges that he has always said have always worried him.
7 So he can't physically run away. So he has to figure out
8 how he can run away from the truth. *Freedom*

9 So in April of 2000 shortly after he becomes a pod
10 worker he speaks with a correctional officer, and he tells
11 Mary, Mary, I think I figured out who did this murder. That
12 day I was partying and joyriding with friends and Susan
13 Powell was driving the car. A man was with us and another
14 man was with us -- a man was with us and another woman was
15 with us. And you ask yourself why doesn't he identify Susan
16 Powell, but he doesn't identify the other two. Because
17 Susan Powell has already been identified, is already facing
18 her own charges. But the other two had never yet publicly
19 been identified. So he can't rat them out in a story.

20 He says we'd been drinking, and I was so drunk, I
21 was sick, so I told Susan to pull into the alley by the gas
22 station; and I went over by a garage to throw up, and I saw
23 the man get out of the car too. And I asked him where are
24 you going, I ask. And he said he would be right back. And

1 I threw up. I got back in the car, and the man came back,
2 got in the car, and we left. And the next morning I read
3 about it in the newspaper. The Clark station had been
4 robbed, and the kid had been killed. It had to be the man I
5 was riding with. I didn't know what he was going to do.
6 That's a fascinating story, isn't it?

7 But once again, the need to run away from the
8 truth, and that need to run away furnishes us with the
9 unerring sign pointing to the real truth. This was in April
10 of 2000 when he told this story. So what was he doing
11 talking to a jail guard? He was denying any knowledge of
12 what went on that night when the man got out of the car and
13 he was test driving his most recent story, you know, the one
14 that might make it here to prime time and drive him away
15 from the truth that was bearing down on him.

16 But at this point probably after he had received
17 the discovery he figured someone saw him there so he'd have
18 to come up with a story that explained why he was there, but
19 innocently there, too drunk and too stupid to know what was
20 going on. He would have to try it out on someone. He
21 wasn't the murder -- admitting the murder after all. So
22 what happened with his story? We don't know for certainty.
23 Did he find out from reading the police reports in discovery
24 that the witnesses saw him coming out of the Clark station,

1 not just behind it? Did he find out that admitting he was
2 in the alley throwing up did not do a very good job of
3 explaining why the witnesses saw him in front of the
4 station? We don't know for certain what he concluded about
5 the story. But we do know that he decided to go with a
6 different story. We do know that he went with a story
7 presented by his wife, Tammy Snow, and that's called the
8 alibi defense.

9 So what he did with Mary Burns was to test drive
10 the I was drunk, I was stupid, didn't know what was going on
11 story. Then he decided to park that story somewhere else,
12 never to be brought out again, so he thought. And he
13 climbed into the alibi story and went with it. And you know
14 there is very little for accounting how stupid and forgetful
15 liars can be. Remember, oh what a tangled web we weave when
16 first we practice to deceive. Because how forgetful are you
17 when you list a witness on your list of witnesses that is to
18 be given to the prosecution presumably to help your case and
19 you have forgotten that she was one of the ones to whom you
20 test drove this perfectly stupid lie about figuring out who
21 did the murder? And yet there it is, a lie which points us
22 unerringly to the truth, the truth he was most frightened of
23 having to face. And it's going to be your responsibility to
24 make him face that truth.

1 The final version is that alibi defense, which, of
2 course, is obliterated by the Mary Burns story. Because
3 some of how it's unmistakable that being at home with your
4 wife is completely inconsistent with being in an alley
5 behind the station and throwing up while someone else did
6 the murder. And it's also inconsistent to have your wife
7 testify at grand jury and talk to the police on tape saying
8 she can't and won't give you an alibi. That kind of takes
9 away all the credibility of that witness, doesn't it? Was
10 he in an alley or was he at home? Just so he isn't there in
11 the store robbing Bill Little of 90 dollars and stealing
12 Bill Little of his life.

Missstatement
or
FACT

13 The defendant's testimony on the subject of his
14 flight at various times is fascinating and informative. He
15 said he was afraid. There is no disputing the fact that he
16 was frightened. The question is there is abundant evidence
17 of fear but what is it that he's afraid of. What was the
18 object of his fear. Fear of mistaken identification or fear
19 of the truth. Remember again how hard it is again to keep
20 track of your lies once you start. The defendant wanted to
21 paint for you a picture of a man so distraught, so stressed
22 and so scared of being misidentified as the murderer in this
23 case back in the summer of 1999 and September of 1999 that
24 he just didn't know what to do. He just didn't know what to

1 think. In fact, he couldn't think straight. But then the
2 truth comes creeping back in, back into the picture during
3 his cross-examination. He painted that picture on direct.
4 But he had to fess up to the truth on
5 direct -- cross-examination.

6 You weren't too distraught to sell your car to
7 somebody down there, were you? Nope. You weren't too
8 distraught to make sure your buddy took care of your pickup
9 truck or work truck down there for you, were you? No. You
10 weren't too distraught to pick up Dave Arison's belongings
11 and then to think, oh, I can't find Dave so I'll take his
12 belongings with me to Ohio because his sister lives three
13 blocks away from my girlfriend's father. And then you
14 weren't too distraught to just happen to put some of those
15 personal belongings into your pocket so you just happen to
16 have them on your person, and you're not too distraught to
17 pull out Dave Arison's identification that you just happen
18 to have in your pocket and try to present it as your own
19 when you're asked by the police. You see how the defendant
20 got tripped up by his inconsistencies.

21 Kevin Schaal, Colt as his nickname, he probably
22 didn't give the entirety of his knowledge about the truth in
23 this case. You saw him hedging on some of his testimony
24 which could be damaging to Jamie, and he had to be reminded

1 of the information that he provided before. But one thing
2 he tagged with great accuracy, it's an article of wisdom and
3 faith that typically guides us in our daily affairs, if you
4 weren't involved in it, don't worry. If you weren't there,
5 you don't have to worry. It's a matter of such common sense
6 that we know it when we see it. Running away like the
7 defendant did on numerous occasions is just not the way an
8 innocent person acts.

9 The defendant knows that a statement to Mary
10 Burns, what kind of man would I be if I didn't run, was
11 simply not consistent with the picture he was trying to
12 paint, the picture of him being frightened and a distraught
13 victim so he had to deny making that statement to Mary
14 Burns. But consider, did she have any doubt about that
15 statement? Would any of us have any doubt that statement is
16 not what an innocent person would say?

17 Think of Mary Burns' testimony and then how the
18 defendant in his testimony works with what she said. It's a
19 case study in his need, his need to devise a different way
20 to distract you from the evidence. When she attributes the
21 what kind of man would I be statement if I didn't run to
22 him, he simply denies it. It hurts, deny it. He can't
23 accuse her of lying because he had picked her for his own
24 witness list. He can't say she's in trouble and she's

1 trying to get herself out of -- help herself out of a tough
2 spot or she's out to get me because I beat her up with a
3 stick 11 years ago. He can't say any of those things. So
4 he just says she -- he denies it.

5 He faced the same problem with her testimony about
6 the statements he had made about when he figured out who
7 committed the murder. It was Susan that was driving. He
8 was drunk and sick and two unnamed people, a man and a woman
9 were also there. And it was the Clark station. He saw it
10 in the paper the next morning. He knows it was the other
11 guy. That's what she said he said. The defendant must have
12 had to admit to himself how do I deal with this statement.
13 I ^{freedom} completely forgot I said this to her. If I had remembered
14 it, I wouldn't have put her on my witness list. Maybe I can
15 say she misunderstood me. Yes, yes. I was talking to her
16 about several things at one time, about one other thing and
17 about the Clark station; and we were flowing back and forth,
18 and she must have gotten confused. You'll recall, that was
19 the story, his explanation on direct examination. And
20 that's what he said when his attorney took him through those
21 scripted lies on direct examination.

22 But on cross-examination he forgot what he had
23 said earlier on direct examination. On cross, you'll recall
24 that he rambled on with one of his volunteered answers, the

1 many that he gave, cause he apparently doesn't know how to
2 follow the rules, and he couldn't understand that when the
3 Judge says yes or no, that doesn't mean he gets to volunteer
4 what he wants to say. But when he was rambling on in one of
5 his volunteered statements, at one time in response to
6 Mr. Reynard's question, among other things he said I never
7 talked about this case to Mary. *I Didn't I TOLD Her*
About Freedom

8 And you'll recall we took a break shortly after
9 that, and after we came back from break, Mr. Reynard started
10 by asking him to clarify that again, started up with you
11 said you got along with her. And he said yes. And
12 Mr. Reynard asked him, and did you say you'd never spoken
13 with Mary Burns about this case, the Clark case. And he
14 said never. He had unwittingly gone from I talked to her
15 about it and she got it confused to denied, denied. Got his
16 rules -- forgot which rule he was following when he was
17 talking about her statement. And that brings us back to
18 that tangled web we weave. And I suggest to you that he was
19 on direct examination trying to test drive for you an
20 explanation of how Mary Burns got this so misunderstood and
21 confused. But unfortunately he forgot which ride he was on
22 on cross-examination, and he ended up contradicting himself.

23 The defendant is indeed cunning. He's actually
24 smart in a conscienceless kind of way. He knew which

1 witnesses to label as liars, which ones -- which incidents
2 to say didn't happen and which incidents happened that had
3 innocent explanation, which witnesses misunderstood him
4 because he confined a plausible way to explain how they
5 could be liars, but he couldn't keep his lies straight. And
6 the switch on the Mary Burns story was just one example.
7 There were other examples.

8 When the defendant tried to respond to Bill
9 Moffitt's testimony on direct examination, didn't he tell
10 you that there was no conversation with Bill Moffitt?
11 Moffitt was asleep when I got to our cell. I don't believe
12 I told him anything about anything. And, in fact, on direct
13 examination the defendant went out of his way to tell you he
14 wouldn't have had any conversations with Moffitt. He said I
15 didn't lockup that first night until after midnight, and
16 Moffitt was already asleep when I went into the cell. And
17 then he went on to tell you we got to get up early the next
18 morning, seven or eight o'clock, to go across the street so
19 we wouldn't have had anytime to talk. And so he tells us
20 that.

21 And on cross-examination he specifically was asked
22 some other questions unrelated to Moffitt about the attic
23 incident, about the attic room and about his sister in
24 Missouri, and then later on separate from that questioning

Moffitt
NEVER TESTIFIED
THAT I WAS
HIDING IN
MY SISTER'S ATTIC
WITNESSING
EVIDENCE

1 he was asked again about Moffitt and when they went across
2 the Street. And you could almost see the light going off in
3 the defendant's mind realizing that Moffitt couldn't have
4 heard all those intimate details about him being in his
5 attic at his sister's hiding that Mr. Reynard had talked
6 about and just had him to admit to a few minutes ago unless
7 he got them from him. So at an unrelated moment when
8 Mr. Reynard wasn't even inquiring about Moffitt and the
9 sister in Missouri, the defendant volunteered one of those
10 pieces of information again, and he said, oh, yeah, by the
11 way, I may have told Moffitt about hiding in the attic and
12 being caught in the attic at my sister's in Missouri. And
13 the question Mr. Reynard didn't ask and the question you
14 might wish to ask is did you tell Moffitt this when you
15 were -- he was asleep in the bunk when you got back to the
16 cell that first night or did you tell him this when you had
17 to get up so early that you didn't even have time to talk
18 when you went across the street. Clearly you really don't
19 want to know the answer to this because it's quite clear
20 that the truth is he knew he got caught, and he had to fill
21 in the blank.

22 But there is another example of his getting caught
23 in the web that involves Moffitt. On direct examination
24 when the defendant was trying so hard to explain that there

1 was absolutely no way he and Moffitt could have had any
2 conversation, none at all, you recall how the defendant said
3 when they were moved across the Street to the east house he
4 and Moffitt only had one day together in that east house,
5 and then the defendant told you twice that Moffitt then
6 moved to another galley; and the defendant stayed where he
7 was, and he never even saw Moffitt again. So, see, more
8 evidence that there is no way I would have talked to
9 Moffitt. But you'll recall on cross-examination that
10 Mr. Reynard asked the defendant, he asked him would he agree
11 that the department of correction records would be more
12 accurate regarding that information than the defendant's
13 testimony. And the defendant said yes. So I'll ask you to
14 look at those records, the records that came in by
15 stipulation, because the records don't lie, do they?

16 Moffitt and the defendant moved across the street
17 to the east unit on November 4th, 1994, and Moffitt and the
18 defendant stayed next door to each other in cells 29 and 30
19 until November 7th, 1991. Not just one day, as the
20 defendant wanted you to believe.

21 So you got to ask yourself why is it that the
22 defendant felt the need to limit his opportunity to talk to
23 Moffitt. If they didn't have any conversation about this
24 case, if they never talked about it, what difference does it

1 make how much time they were together? Running from the
2 truth and tripping on your lies.

3 One more example, when the defendant was trying to
4 explain and respond to Ed Hammond's testimony, once again,
5 his mission was to make you think it was impossible for them
6 to have any contact. Since the records didn't show they
7 were cellmates, like Moffitt's did, it might have been an
8 easier job for him. So on direct examination Mr. Picl asked
9 the defendant was it possible for you and Ed Hammond to have
10 talked together in the yard. And where do you suppose that
11 question came from? Do you think Mr. Picl knew what
12 Centralia Correctional Center was like? Without a doubt it
13 was the defendant who knew the answer which gave birth to
14 that question. And what did the defendant say? No, it was
15 not possible because I was a trustee on the road crew. I
16 didn't have afternoon yards or morning yards or evening
17 yards. All I had was gym. And besides, we were restricted
18 to different yard, north yard and the south yard. So, it
19 wasn't possible. That's what he said on direct examination.

20 But yet on cross-examination he had to concede,
21 well, it was possible. He had to concede it was possible to
22 have contact with Hammond because Mr. Reynard's questions to
23 him showed we had done our homework, and we knew the facts
24 about Centralia in 1995. And, in fact, the facts were that

1 it was possible for the defendant and Ed Hammond to have
2 contact. And the defendant continued to say, well, it's
3 possible, but it still would have been difficult because,
4 you know, there were so many guard shacks to get through and
5 so many guards and so many barriers, it would have been
6 difficult.

7 But the true facts were placed before you in
8 rebuttal by Mr. Lambert, weren't they? The defendant was
9 not a trustee on the road crew. The term trustee was not
10 even used in Centralia in 1995. Was this just more puffing
11 on the defendant's part, trying to impress you? Is he the
12 BSer that so many of his friends said he was upon
13 questioning by this defense attorney? Lambert also
14 established the fact that the yard restriction in those days
15 were frequently violated. There were no fences, hardly any
16 guards, and prisoners from the different units were called
17 out to yard at the same time and so forth.

18 So what did Ed Hammond tell you? He told you he
19 was assigned to the north yard, but he would just go to the
20 south yard if he wanted to. That's what Ed Hammond told
21 you. Is Ed Hammond the one who got caught in the web of
22 lies? So Mr. Lambert corroborates Ed Hammond. He doesn't
23 corroborate this defendant. The defendant would have you
24 believe that his colleagues were lying, that eyewitnesses are

1 then and are now mistaken and that others are confused and
2 that police who thought enough of his rights not to question
3 him in the car and who carefully read him his rights at the
4 police station, the police then tried to trick him by
5 aggressively questioning him. Well, if the police are
6 misrepresenting what the defendant told him, I suggest they
7 could have done it better. Because they could have simply
8 said he did confess, but they simply told you what the
9 defendant said and what he did as the other witnesses did.
10 And like Ed Palumbo said to the investigator they all heard
11 what they heard. And the defendant, for all his effort, for
12 all his tap dancing and verbal slithering, he just can't get
13 away from the simple fact that they heard what they heard.
14 And you can't get away from the simple fact that they saw
15 what they saw.

16 Look how fast the defendant tried to run away from
17 the testimony of Tim Powell. Now, Tim Powell had no motive
18 to lie. In fact, this information came to us first from
19 Susan Powell. It was she who told the police about Tim
20 Powell. Tim Powell has no criminal record. He hasn't been
21 to prison, and he's never been beaten up by this defendant
22 11 years ago. In fact, Tim Powell barely knew this
23 defendant, and this was the only time he'd ever been in a
24 car with him. And Susan Powell even admitted that

1 much -- admitted that much based on her limited ability to
2 recall. So the defendant, playing by his own rules, can't
3 call Tim a liar, and so he says he can't recall this
4 testimony that Tim described, this incident of driving from
5 station to station, of going to the Clark gas station on
6 Empire Street and Linden.

7 Yet Tim Powell tells you that, in fact, he drove
8 the defendant a few weeks before the Easter shooting to the
9 station on West Market and then to the Clark station right
10 there at Clark -- Empire and Linden. And yet this defendant
11 denies ever being at that Clark station. And Tim Powell
12 told you that not only did he drive the defendant to the
13 Clark station and the defendant went in and he stayed in for
14 so long that Tammy Powell -- excuse me -- Snow ended up
15 saying what's taking him so long in there. And this all
16 happened after the defendant had directed Tim to the Whitmer
17 house, two doors down from the Clark station, and it
18 happened after the defendant had gotten out of the car there
19 and talked with Brian Whitmer. Tim Powell knows who Brian
20 Whitmer is, and he told you it was Brian Whitmer. And the
21 defendant denies it was Brian Whitmer. He denies any
22 contact with Brian Whitmer.

23 You've got to ask yourselves why he denies going
24 inside the Clark station that day a few weeks before. And

1 you've got to ask yourselves why. Remember rule number one,
2 if it hurts, deny it.

3 The defendant put up Susan Powell to testify
4 apparently just about this car ride. And she had her script
5 down, didn't she? On direct she said yes, I drove with Tim
6 Powell, the defendant and Tammy, but we drove to the Freedom
7 station on Market, and that's it. But what happened on
8 cross-examination? Suddenly Miss Powell had to run away
9 from the truth again, the truth of Tim Powell's statements,
10 didn't she? She had to run from the truth just like the
11 defendant did. She couldn't admit they'd gone to the Clark
12 station. That looks bad. She couldn't admit Tim thought
13 the defendant was casing the stations. She couldn't admit
14 that the defendant was saying he was going to rob the
15 station on Market before he went inside like Tim did. She
16 couldn't admit that they pulled behind the Clark station in
17 an alley and gone to a house back there. She couldn't admit
18 that, and she couldn't admit that she previously told the
19 police the same thing that Tim Powell told you on the
20 witness stand.

21 She couldn't even admit that her conversation with
22 Detective Katz and Detective Shepherd was tape-recorded. .
23 All she could do was say I don't recall. So every comment
24 she made in September of 1999, every comment that's verified

1 the truth of what Tim Powell said on this witness stand, was
2 responded to by I don't recall.

3 Her manner while testifying, her memory, the
4 reasonableness of her testimony considered with all the
5 other evidence in this case, you know, all those factors I
6 told you about earlier that the Judge is going to tell you
7 you can use to judge the credibility of the witness, all
8 those things tell you a lot about her credibility, don't
9 they? She has none. And let's not forget the defendant's
10 wife, Tammy here either. She also had to run away from the
11 truth of what Tim Powell said. She just couldn't recall any
12 of it either.

13 What is it they're running from? They're all
14 running from the truth. The truth is that Tim's testimony
15 provides corroboration for Bruce Roland, and they all know
16 it. Tim's testimony shows there was connection between the
17 Clark station on Empire and the Whitmer residence and this
18 defendant. Tim's testimony shows that the defendant was in
19 the Clark gas station before and could therefore have been
20 recognized. It shows the defendant knew the Whitmer's lived
21 two houses down from the Clark and that he had been there
22 before. If all this is innocent contact and conduct on the
23 part of this defendant, then why are the defendant and his
24 witnesses trying so hard to deny it?

1 The fact that Brian Whitmer wasn't home on March
2 31st, 1991 doesn't disprove what the defendant told Bruce
3 Roland. The fact that Carroll Whitmer says there was no
4 party at his house on March 31st, 1991, even ignoring the
5 fact that it's been clearly established that Mr. Carroll
6 Whitmer really has no recollection of March 31st, 1991 and
7 we don't even know where he was on March 31st, 1991 at
8 anytime except at 7:40 p.m. when we know he was here in
9 McLean County jail visiting his son Brian Whitmer.

10 Did the defendant's statements to Bruce Roland
11 about partying at the Whitmer's mean they were partying at
12 the Whitmer's just like he used those terms when he talked
13 to Mary Burns about how he and his friends were partying and
14 joyriding in the alley behind the Clark station? Does it
15 mean they, Susan Powell, as he said, another female and
16 another male, were riding around joyriding, drinking and
17 they pulled up to the Whitmer's as part of their partying,
18 like they pulled into the alley behind the Clark station as
19 he told Burns, and that they pulled up to the Whitmer's as
20 part of their partying and when they learned that Brian
21 wasn't home but had recently gone to the McLean County jail
22 on March 20th, 1991 that they continued their partying
23 elsewhere?

24 Nothing Brian Whitmer and Carroll Whitmer say

How
could we
of learn
that he
wasn't home.
Someone
would of
had to tell
us that.
Ask

is whole
family

1 about the events of March 31st, 1991 affect the
2 believability of what this defendant told Bruce Roland. And
3 most telling is the fact that this defendant, Susan Powell
4 and Tammy Snow are trying to run so fast away from
5 acknowledging any connection between the defendant and the
6 Whitmer house and the defendant and the Clark station.

7 As you review how all the information accumulated
8 over time through the persistence of Bill Little's family
9 and the persistence of the investigators, you observe all of
10 the lies which have littered the history of this case. And
11 you have observed from numerous witnesses the silent lies.
12 An observation of Mark Twain concerning the silent lie. The
13 silent lie, composed by keeping still and concealing the
14 truth, he said. There is no art in a silent lie. It is
15 timid. It is shabby. There are those who have had to admit
16 that they kept silent and concealed the truth about Jamie
17 Snow and others involved in this crime and the horror of
18 what this defendant did to Bill Little. They are not proud
19 of what they did by keeping silent. And there are others
20 who should be ashamed because they don't want to get
21 involved in the silent lies.

22 But over time, enough people have overcome their
23 fear of this defendant, their fear of being involved, their
24 fear of their God --

1 MR. PICL: Objection, I don't believe there was
2 any evidence whatsoever in this case that anybody was afraid
3 of the defendant.

4 THE COURT: Overruled.

5 MS. GRIFFIN: And they have now finally told you
6 the truth. It is a remarkable odyssey. It does not happen
7 in every case. And now it is your part to take that truth
8 and make it into a verdict of justice for Bill Little, his
9 parents, his friends, the neighbors around the Clark gas
10 station, for the entire community, everybody who was
11 traumatized by the events that happened on March 31st, 1991.
12 It isn't easy work being involved. But now it is your work
13 to carry on. We trust you and we urge you to see that
14 justice is done in this case for everyone.

15 Justice demands and the evidence supports beyond a
16 reasonable doubt a verdict of guilty of first degree murder.

17 And I'd like to leave you with one final quote
18 from Daniel Webster from the 1800s when he gave his final
19 summation in a murder trial.

20 A sense of duty pursues us ever. It is
21 omnipresent like the Deity. If we take to ourselves the
22 wings of the morning, and dwell in the uttermost parts of
23 the sea, duty performed, or duty violated, is still with us,
24 for our happiness or our misery. If we say the darkness

1 shall cover us and the darkness as in the light our
2 obligation, our obligations are yet with us. We can not
3 escape their power nor fly from their presence. They are
4 with us in this life, will be with us at its close; and in
5 that scene of inconceivable solemnity, which lies yet
6 farther onward, we shall still find ourselves surrounded by
7 the consciousness of duty, to pain us whenever it has been
8 violated, and to console us so far as God may have given us
9 grace to perform it.

10 We pray that God will give you the grace to
11 perform your duty as you deliberate this case. Thank you.

12 THE COURT: All right. I'll ask the bailiffs to
13 take charge of the jurors. We'll take a ten minute recess.

14 (Recess.)

15 (The following proceedings were had outside
16 the presence and hearing of the jury.)

17 THE COURT: We'll go back on the record in
18 99 CF 1016. Parties appear same as before. We're prepared
19 to go on to defense argument.

20 And, Mr. Picl, are you all ready?

21 MR. PICL: I'm ready, Judge.

22 THE COURT: All right. Then I'm going to have the
23 jurors brought in.

24 (The following proceedings were had in the

1 presence and hearing of the jury.)

2 THE COURT: All right, folks, please be seated.
3 Show for the record the jury has returned. We're prepared
4 to go on to defense argument. Mr. Picl, you may proceed.

5 MR. PICL: Thank you, Judge.

6 May it please the court, counsel, ladies and
7 gentlemen of the jury.

8 We've spent a fair amount of time together the
9 last few weeks. I'm not going to talk to you all that long
10 right now.

11 I don't believe in that sort of thing. Most of
12 you took a lot of notes. You all paid a tremendous amount
13 of attention to all these people you heard, and I'm not
14 going to rehash all that stuff. I just don't see any point
15 to it. However, I am going to put a few notes up here as I
16 talk. Can everybody see this right now? Anybody having any
17 trouble with it at all? Okay. I'll leave it there.

18 I'm going to start off by touching upon a few of
19 the principles that we touched upon during jury selection
20 and in my opening statement. These are principles of law
21 that all of you said you agreed with.

22 First and foremost, the defendant, Jamie Snow in
23 this case, is innocent. Call it a presumption. You can
24 call it whatever you want to. He is innocent. He's

1 innocent right now. He was innocent all through
2 Miss Griffin's very eloquent and well planned address to
3 you. He will be innocent to her last remarks to you, and he
4 will remain innocent until such time as you all agree that
5 she has proven the task she set out to undertake, that being
6 to prove his guilt beyond a reasonable doubt, and that
7 indeed is her burden.

8 What we should focus upon here is not so much the
9 defendant I submit, but rather what the State has done and
10 what they've set out to do. I'm going to read to you from a
11 few of the instructions, and let me caution you one of the
12 instructions says this, and the Judge is going to read them
13 to you when we're all done talking up here. Don't single
14 out any instruction. I don't want you to give any more
15 weight, nor does the court, to one over the other. I'm just
16 going to touch upon a few of the things I think you'll be
17 advised of now to try to give you a kind of framework of
18 where you're going. And in case you don't understand
19 it -- well, I don't know why you would because I don't think
20 it's been explained much to you but you've heard all the
21 evidence. You're now hearing what the attorneys think about
22 things. You will then be given the framework within which
23 you will analyze the evidence, that is the law.

24 The Judge will read you the instructions of law

1 that apply here, and he'll give them to you so you'll have
2 them during your deliberation. You must not -- well, here
3 we go. You must not single out certain instructions and
4 disregard others.

5 It is your duty to determine the facts and to
6 determine them only from the evidence in this case. You are
7 to apply the law to the facts, and in this case decide the
8 case.

9 Neither sympathy nor prejudice should influence
10 you.

11 You should consider all the evidence in the light
12 of your own observations and experience in life.

13 Closing arguments are made by the attorneys to
14 discuss the facts and circumstances in the case and should
15 be confined to the evidence and to reasonable inferences to
16 be drawn from the evidence. Neither opening statements nor
17 closing statements are evidence, and any statement or
18 argument made by the attorneys which is not based on the
19 evidence should be disregarded.

20 Let me just pause here for a second and point
21 something out to you. What I believe, what Mr. Reynard
22 believes, what Miss Griffin believes, that's not evidence.
23 That's what we think, and that's what we believe. But that
24 is not evidence. Your duty in this case is to look

1 carefully at the evidence and then decide what you conclude
2 from that. Don't confuse evidence with beliefs because we
3 obviously have different beliefs about this whole thing.

4 Defendant is presumed to be innocent of the
5 charges against him. The State has the burden of proving
6 the guilt of the defendant beyond a reasonable doubt, and
7 this burden remains on the State throughout the case. The
8 defendant is not required to prove his innocence.

9 Charges against the defendant in this case are
10 contained in a document called an indictment. It's not any
11 evidence against the defendant. Indeed what it is is a
12 document embodying the State's belief that he has committed
13 this crime. It's not evidence against him. It's a piece of
14 paper -- three pieces of paper actually.

15 Here is an important one because this is going to
16 probably be the focus of most of the work you're going to
17 do. You're going to judge the believability of the witness.
18 Now recall in this case, and I'll briefly go through the
19 evidence we've heard, there is very little evidence in this
20 case other than testimony of witnesses. And most of that
21 testimony you got to decide whether to believe it or not. I
22 don't know what happened here. I wasn't a witness. I don't
23 even know where I was in 91. Miss Griffin wasn't a witness
24 to any of this. So we don't know. We can't help you. You

1 have to weigh the evidence. You have to decide if you
2 believe the person and, if so, how much, if at all, of what
3 they say you believe.

4 Only you are the judges of the believability of
5 the witnesses and the weight to be given to the testimony of
6 each of them. In considering the testimony of any witness
7 you may take into account his ability and opportunity to
8 observe, his age, his memory, his manner while testifying,
9 any interest, bias or prejudice he may have and the
10 reasonableness of his testimony considered in the light of
11 all the evidence in the case.

12 You should judge the testimony of the defendant in
13 the same manner as you judge the testimony of any other
14 witness. That's important because much of the State's
15 argument so far has focused upon his testimony. Look at
16 him, judge him, weigh his testimony just as you'd weigh
17 anybody else's in this case.

18 Now, with respect to eyewitnesses, and I'll
19 probably talk to you a little bit about them first, you're
20 going to be instructed when you weigh the identification
21 testimony of a witness you should consider all the facts and
22 circumstances in evidence, including but not limited to the
23 following, the opportunity the witness had to view the
24 offender at the time of the offense, the witness's degree of

1 attention at the time of the offense, the witness's earlier
2 description of the offender, the level of certainty shown by
3 the witness when confronting the defendant, the length of
4 time between the offense and the identification
5 confrontation.

6 Now, don't worry too much about remembering this
7 stuff. I'll mention it from time to time during my remarks.
8 But the Judge is going to give this all back to you anyway.
9 You'll have it in the jury room.

10 The thing I guess that and I'm going to write a
11 couple of these up here just because I -- before I get into
12 my review of the evidence, because I think it's something
13 that we should probably keep in mind. And I've
14 just -- these are -- these are things we just discussed.
15 I'll kick that probably 50 times here before I'm done.
16 Defendant presumed innocent. State's burden equals proof of
17 guilt beyond reasonable doubt. C S and H N. I'll explain
18 what I mean by that here in just a second. Believe it or
19 not it's something we just touched upon. Beliefs do not
20 equal evidence.

21 Now, I'm going to explain that C S and H N, and I
22 think in reference to the one instruction which is, tells
23 you what you do when you decide what you're doing here, the
24 common experience in life and, let me see, what was the

1 exact wording. Consider all the evidence in light of your
2 own observations and experience in life. This is common
3 sense, and this is human nature. And I'll make reference to
4 those two throughout my remaining remarks to you. And all
5 of you are familiar with those things because that's what we
6 learn as we live our lives.

7 Now, I think the first thing probably we need to
8 get out of the way is this. There is in this case no
9 physical evidence.

10 Now, that's significant because physical evidence
11 often times, fingerprint, footprint, something like that,
12 that type of evidence, is what I refer to as hard evidence.
13 It's reliable evidence. You don't have to worry too much
14 about what it is and whether or not you can believe it.
15 It's there. If, in fact, it matches something the defendant
16 had, that's physical evidence. You don't have to worry
17 about weighing it's believability.

18 The problem is we don't have any of that in this
19 case. And I think the State pretty much and I think in her
20 opening remarks at the start of the trial conceded that. As
21 a rule, I'm going to submit to you your job is going to be a
22 lot more difficult because you have to focus upon whether
23 you believe the people who have been talking to you.

24 Now let me just address something that I recall

1 the State saying in her opening remarks, Miss Griffin. She
2 didn't want me to engage in what's called the pick and shake
3 technique. I've never heard of that, but if, in fact, it's
4 paramount to or related to not examining all of the
5 evidence, and I'm sure she wants us to examine all the
6 evidence, that's exactly what I'm going to do. She can call
7 it whatever she wishes to. But I think a close examination
8 of the evidence in this case, just like in any case, is
9 absolutely a requirement.

10 At any rate, that's -- that's what I'm about to
11 engage in.

12 Now, with respect to human witnesses, let me
13 submit the following to you. And, by the way, we have four
14 groups of them here. We have police officers. We have
15 three so-called eyewitnesses. We have what I call the
16 station witnesses, the Clark Oil witnesses, and then we have
17 the witnesses, the he said witnesses. That's how I refer to
18 them. They're the witnesses who claim that Jamie Snow at
19 some point over nine years said something that -- that ties
20 him into this case. Those are the four groups of witnesses
21 we're going to be looking at.

22 Now, when -- and remember our instruction, one of
23 the things you take into account when deciding how much
24 weight to give to a witness's testimony is memory. Now let

1 me just make a few remarks about human memory. Don't worry.
2 I've only got three pages of this stuff so I'm not going to
3 overwhelm you with it. Memory, I've got four parts here.
4 See or hear. Store. Recall and relate and time, that's the
5 passage of time. And just so you're clear, I didn't get
6 this out of the book or the library, I just made it up. But
7 I think it's accurate. Yeah, you can't see that.

8 JUROR: You might want to move your thing over.

9 MR. PICL: All right.

10 JUROR: Move it up or something.

11 THE COURT: Well, here, how about that, can
12 everybody see that now? All of you? Can the State see it?
13 There we go. All right.

14 Now, those four components of human memory, I
15 would submit the following on. See and hear is what is
16 meant by ability to observe. And I mentioned the name
17 Carlos Luna with respect to that. Store is what we do with
18 what we see or hear. We put it inside our head just like I
19 store something in a computer. Recall and relate is when we
20 get it out, does it come out accurately or does it come out
21 without distortion. Passage of time. Now, what do we know
22 about human memory and the passage of time?

23 I think it's important here because a lot of time
24 past before any of the witnesses, many of the

1 witnesses -- not any -- but many of the witnesses in this
2 case had anything at all to say to the authorities. A lot
3 of time past. Think about your own memories, and I think
4 the answer is obvious. Human memory is a wasting asset. It
5 fades with time. It fades. You try to think back eight or
6 nine years, try to recall some conversations, try to recall
7 some conversations from eight or nine years ago, six or
8 seven years ago. Try to recall a conversation from last
9 week. You know, when we put things in our memory, it's best
10 if we wish to relate them most accurately to get them back
11 out as quickly as possible because not only did they simply
12 erode with the passage of time, but we put other things in
13 our head.

14 Can you imagine how many, most of these witnesses,
15 how many things had happened to them, how many things they'd
16 seen, how many conversations they had had over the space of
17 one, two, five, six, seven, eight, nine years? And that all
18 goes into your head. So unless you've had some special
19 reason to keep intact and preserve and constantly reflected
20 upon a conversation, it's going to be stored away who knows
21 where. And who knows whether it's going to be accurate when
22 it comes out.

23 At any rate, that's all I have to say about
24 memory. Let's look at some of the evidence with respect to

1 the eyewitnesses. And I think if we do, that what the State
2 said in the opening statement is probably going to be born
3 out. This is not an eyewitness case. Central to the
4 State's theory or belief about what happened here is the
5 notion that Jamie was at the gas station two times, one time
6 around seven o'clock or so and then later around 8:15 when
7 he robbed the place and shot Bill Little.

8 All right. Well, let's look at the evidence that
9 shows that he was there at seven o'clock. Now, you'll
10 recall the State's notion is that, in fact, he was at a
11 party I think at the Whitmer's house and, in fact, needed
12 some cigarettes, didn't have enough money, went down to the
13 gas station, didn't have enough money for cigarettes and, in
14 fact, got into a tiff of some sort with Bill Little and
15 left. Okay? And this obviously formed the predicate for
16 the later robbery and shooting of Bill Little. The lack of
17 cigarettes.

18 Now who do we know, who told us that, in fact,
19 Jamie Snow was there a little before seven o'clock? Gerardo
20 Gutierrez, if I'm not mistaken, who also failed to pick out
21 of the lineup, Jamie Snow, number six, who said that I
22 believe the suspicious stranger he saw had an earring and a
23 scar on his chin. But most significantly, think about this,
24 because this is the one thing I submit that Gutierrez told

1 us that the State's going to have some trouble with this
2 belief of theirs. The suspicious stranger had his own
3 cigarettes and indeed lit one and began to smoke it, putting
4 the pack that he took his cigarette out of back in his
5 pocket while he was in the station. Now, isn't the State's
6 belief that, in fact, if the suspicious stranger was Jamie
7 Snow, then, in fact, he didn't have any cigarettes? That's
8 why he was there. That's why he and Bill Little got into
9 some sort of an argument. Well, the suspicious stranger had
10 his own cigarettes. So, what do we make of that?

11 Now the State is going to say don't select just
12 one piece of evidence, but I think we better keep that in
13 mind when determining who that person was and was it Jamie
14 Snow. Gutierrez didn't pick him out of the lineup.
15 Gutierrez I would submit can't, with his previous
16 description, really say it was anybody. Jamie Snow is six
17 feet tall. Look at State's exhibit I think it's one or two,
18 the booking sheet when he was arrested in Missouri, he's six
19 foot tall, 180 pounds at the time. Everybody has got him
20 too short by the way, Luna, Gutierrez, and Danny Martinez.

21 At any rate, we then move on to Carlos Luna. Oh,
22 and by the way, Gutierrez had him with a black motorcycle
23 jacket on of all things. Luna has got him wearing a black
24 trench coat, and, in fact, Martinez has him with a light

1 waist length spring jacket. Now, either they saw different
2 people, or they're all completely wrong, unreliable.

3 Remember, the circumstances of identification, one
4 of the factors you consider is a witness's earlier
5 description of the offender. Now, let's turn to Danny
6 Martinez.

7 Danny Martinez says that he was putting air in his
8 tires -- and if I misstate any of the evidence, just bear
9 with me. It's not intentional, contrary to any suggestion
10 you might hear from others. There has just been a lot of
11 evidence in this case. I'll rely upon all of you to correct
12 me during deliberations.

13 Danny Martinez is putting air in his tires. He
14 heard a couple of sounds he thought might have been
15 backfire. The State, of course, suggests those were the
16 shots. But there is no evidence that those were the shots.
17 He then heads for the station, believes his car is about to
18 die, so he turns back to it, and then when he turns around
19 he's about three feet from his suspicious stranger, which
20 the State suggests is also Jamie Snow, apparently right
21 after the shooting occurred. And we know this because
22 Mr. Martinez failed to pick him out of the lineup. Do you
23 remember that? He failed to pick him out of the lineup.

24 Now, Jamie Snow is number six in this lineup, this

1 picture, State's exhibit 11. The thing about Mr. Martinez
2 that he recalls was the fact that the guy had his eyes open,
3 and he saw the whites of his eyes. And then many years
4 later, in July of 2000, he's able, upon being shown this
5 photograph, in the State's Attorney's office, to identify
6 Jamie Snow from his eyes. Well, you take a good look at
7 this when you get it back in the jury room. This photograph
8 is taken from such a distance that you can barely see the
9 whites of his eyes. His eyes are the size of pin -- pin
10 holes. I'm sorry, that just doesn't wash. That simply does
11 not wash. It's not a good identification, and I find it
12 very, very troubling; and I submit you should also, that
13 after the passage of nine years, all of a sudden
14 Mr. Martinez pops up with an identification, 85 percent sure
15 upon seeing this little tiny photo of a lineup that he
16 actually attended and looked at and then now in court a
17 hundred percent certain.

18 Well, look at my client's eyes, for crying out
19 loud. I mean if Danny Martinez says, you know, this guy had
20 saucers for his eyes, they were about eight inches in
21 diameter and they were all white, that would be one thing.
22 Jamie Snow does not have unusual eyes. Now Mr. Martinez and
23 the State would like us to believe that, well, they looked
24 wild like he was out all night on drugs, et cetera,

1 et cetera. There is no evidence of that.

2 Martinez is guessing. This was a person he had
3 never seen before. The guy was probably surprised because
4 it sounds like Martinez almost ran him down. According to
5 Martinez this guy was backing out of the station. He turns
6 around. Martinez is but three feet away. How many times in
7 ordinary conversation with strangers or day-to-day
8 activities do you get within three feet of somebody, a
9 stranger? So the guy opened his eyes. He was surprised.
10 Well, did they recreate those circumstances for this lineup?
11 Of course not. Did they put these people in the same
12 clothes? Of course not. Was he allowed to view this lineup
13 from three feet? No, but maybe four or five feet, we heard.
14 And he fails to identify Jamie Snow.

15 The State's belief I guess was that that was Jamie
16 Snow, and he was carrying the cash tray in his hands when he
17 came out. Well, nobody saw him carrying a cash tray, did
18 they? No one saw, either Martinez nor Carlos Luna, no one
19 saw a cash tray. Well, it looked like he was carrying
20 something, and the cash register tray was missing from the
21 drawer. Think about this.

22 You've just robbed the place. You're wanting to
23 make a getaway. You're on foot so, of course, as witnesses
24 tell us, you're just walking to the corner of the gas

1 station. Wrong, you'd be running. But you're carrying a
2 cash tray under your coat, whether it's a long trench coat
3 or a motorcycle jacket. What's in a cash tray, ladies and
4 gentlemen? Coins, coins are loose in a cash tray. You've
5 seen these cash trays a thousand, a million times I bet.
6 Gas station, stores. Your common experience in life tells
7 you the coins are loose in a cash tray. So this guy is
8 carrying a cash tray, according to Luna, with one hand in a
9 pocket, according to this guy Martinez, with two hands.
10 Where are the coins going? Well if you're carrying a cash
11 tray under your coat, aren't the coins going out the bottom
12 of your coat and on to the ground?

13 So what evidence did we hear from our crime scene
14 investigators about the coin trail at the station? We
15 didn't hear any. We heard none whatsoever. So what's
16 missing there? I guess what we can conclude is simply that
17 whoever it was who came out of the station wasn't carrying a
18 coin tray under his coat. There is no evidence that that
19 person was carrying a weapon.

20 Carlos Luna, he claims a hundred feet away, Don
21 Hopper, the investigator claims it was closer to two
22 hundred, looking out his bedroom window thinking that his
23 ex-sister-in-law is working at the station and, in fact,
24 believes that as he joked to his little brother, oh, the

1 station is being robbed. It looks like there is a man
2 coming out. He fails to see Mr. Martinez, who at that
3 point, according to Mr. Martinez, would be right up in this
4 guy's face apparently. But he too thinks the guy is
5 carrying something, but he's got a long trench coat on and
6 he's got a ball cap on, and the guy walks around the corner
7 of the station and disappears.

8 This obviously was what he saw, and he wasn't
9 paying much attention because he didn't really think the
10 place was being robbed. He didn't call the police. He went
11 back to watching television. That's one of the factors you
12 consider. Witness's degree of attention at the time of the
13 offense. Now, he claims at the lineup that he thinks number
14 six might have been the guy from the shape of his face and
15 his hair or his eyes or something like that. But we also
16 heard from Detective Crowe that this is a picture of the
17 lineup that he looked at. He looked at these people from
18 four feet away, five feet away, not 212 feet, not two
19 hundred feet away, not even one hundred feet away. How can
20 you tell? I mean, how can you honestly tell? You don't
21 think anything is going on. You go back to watching TV.
22 Later on the cops show up, and you discover there has been a
23 robbery. How many people between this lineup and when he
24 made this observation from some distance away did he see?

1 How many images went into his brain and his memory?
2 Probably quite a few in the two months that went by before
3 the lineup.

4 At any rate, his description of the -- of the
5 person doesn't match Jamie Snow, doesn't match Danny
6 Martinez, and it doesn't match Gutierrez later on.

7 So what do we make of all this? I don't know what
8 to make of it, but we don't know whether this person was the
9 person who shot Bill Little. I was somewhat chagrined to
10 hear that apparently the whole place wasn't fingerprinted.
11 It wasn't even footprinted. They didn't even bother
12 printing the underneath of the counter where the panic
13 button was. Who pressed the panic button? The State
14 doesn't know. I don't know. Nobody seems to know. Now you
15 can guess that it might have been Bill Little when he
16 thought he was being robbed. But we don't know. Nobody
17 dusted the button.

18 Maybe it was one of these guys who came into the
19 station after somebody shot Bill Little for whatever reason,
20 either did or didn't take the cash tray, but noticed there
21 was somebody who appeared to be fatally wounded on the
22 floor, reached up the counter and found the panic button.
23 It's just as plausible as any other explanation we've heard
24 at this point.

1 What bothers me is how Luna looking at the gas
2 station misses Martinez and indeed his car. I think the
3 only way that all of this can be reconciled is to believe
4 Jeff Pelo.

5 Pelo, if you'll recall, trained observer and while
6 he said he had his mind on many things, you can bet first
7 and foremost when he's approaching a business that he's just
8 received a report on of a robbery in progress, what's one of
9 the things he's certainly looking at, the door of the
10 business to see if anybody comes in or goes out; of course,
11 that's what he's looking at. He's not rotating, spinning
12 like a top or a dervish to take into view and assimilate
13 every single fact that surrounds him when he shows up. One
14 of the things you're always going to look at is the door of
15 the business. Nobody comes out.

16 There is Martinez putting air in his tires.
17 Watches that. Martinez gets up, goes towards the business,
18 turns around and heads back to his car. There is no one
19 else in the parking lot. Nobody came out of the business.
20 So what's the bottom line with these eyewitnesses? They're
21 wrong. They're wrong and their identifications and the
22 State's belief that their identifications are of Jamie Snow
23 is simply not tenable. And that's, ladies and gentlemen,
24 what I'm going to suggest you do with the eyewitness

1 testimony in this case.

2 So where does that leave us with no physical
3 evidence and no witnesses? By the way, let me point
4 something out to you, and I'm going to come back to her a
5 little later, Donna Barnard is a key witness, I would
6 submit, in this case. You'll recall who she was. She was
7 the Clark station manager who took an audit, took an audit
8 of the money missing. We know there was change in the cash
9 tray, and took an audit of the merchandise. What did she
10 tell us? There were no cigarettes missing. Now, if, in
11 fact, the State's belief that Jamie Snow, that all of this
12 started when Jamie Snow left a party at the Whitmer's that
13 there is no evidence ever occurred and went down to the
14 station not once, but twice, to get some cigarettes, why, if
15 he robbed the place, shot the attendant, why would you take
16 some cigarettes? He didn't buy any cigarettes because he
17 didn't have any money according to the State's theory or
18 belief. What's going on here?

19 I submit that the State has overthought perhaps
20 their evidence. They've had nine and a half years to
21 explain it and try to make it all fit so it appears to be
22 seamless. But think careful about this. You folks are the
23 ones who are going to decide the outcome in this case, not
24 the State's Attorney, not me.

1 Keep in mind when going through this evidence
2 Donna Barnard's testimony, no cigarettes. Gerardo
3 Gutierrez's testimony about cigarettes, the suspect was
4 smoking cigarettes. He wasn't down there to steal
5 cigarettes for crying out loud.

6 At any rate, let's move on to the next phase of my
7 analysis here. With no physical evidence and no real
8 eyewitness, no reliable and what is -- when I refer to
9 reliable evidence, I'm referring to evidence you can trust,
10 evidence you feel comfortable about. I might as well touch
11 upon this now. No one is going to tell you in this trial or
12 in these instructions what reasonable doubt is. You people
13 have to decide that. That's one of the beauties of this
14 entire process. Twelve citizens get together, look at a
15 certain set of facts in evidence and decide if there is
16 reasonable doubt. You have to decide what reasonable doubt
17 is yourself.

18 The same way pretty much with witness reliability.
19 You have to decide if you believe a witness. And I -- there
20 aren't really rules for doing that. I would submit that
21 there might be some things you wish to consider.

22 And now we're moving into kind of the other part
23 of the case. This is the case of the he said witnesses, as
24 I put it. What do you look at when determining whether to

1 believe a person. Well, you look at the person's demeanor
2 while telling you whatever it is they're going to tell you.
3 You listen to evidence perhaps of his or her reputation
4 among others who know him or her. You consider whether they
5 were drinking or doing drugs at the time of whatever
6 observation they claim to be making. You look at, I would
7 submit, a couple of very important things that we're going
8 to see are missing here from most of these witnesses.

9 You look at what they did to preserve their
10 observation, whether it was something they saw or whether it
11 was something they heard. By that I mean did they write it
12 down. Did they tape-record it? How did they preserve their
13 observation and their memory? Because keep in mind so much
14 time has past here, the only witnesses who were actually
15 interviewed at anytime close to the crime in this case were
16 the eyewitnesses. The he said witnesses, none of them I
17 don't recall were ever interviewed anywhere before the late
18 90s, middle 90, late 90s. Years went by and none of these
19 witnesses preserved in any way whatsoever anything that they
20 claim Jamie Snow said to them.

21 You also look at prompt report. In determining
22 whether you're going to rely upon someone's testimony,
23 whether -- or not even testimony, whether someone you're
24 talking to or you're thinking about has been telling you the

1 truth, you look at how they handle the truth themselves.

2 And, ladies and gentlemen, I'm going to tell you that quite
3 honestly I think you should look long and hard before giving
4 much weight to the testimony of witness after witness after
5 witness who, as in this case, sat on what they now wish, the
6 State now wishes to have you subscribe to as the truth.

7 You know, like the onset of winter and squirrels
8 are storing nuts, many of the witnesses in this case took
9 the information that they've spewed forth in this courtroom
10 and they sat on it, they stored it, they hoarded it. They
11 decided for their own reasons, I'm not going to get
12 involved. I'm going to save this nugget. Maybe this will
13 come in useful later on.

14 What didn't they do? There is not one witness in
15 this case aside from the eyewitnesses, who went to the
16 authorities and said, wait a second, this is what I just
17 heard. You might consider it of some use. Now what would
18 we do, our common experiences in life? Someone tells us I
19 shot and killed a person. What do we do? Do we just decide
20 well, I don't want to get involved? That's
21 not -- I'm -- and then years later when contacted then all
22 of a sudden it comes out of us. That shows a low regard for
23 truth and the obligation of a good citizen to deal with
24 truth appropriately. Yet we heard a platoon of such

1 witnesses in this trial being marched up here and telling
2 you, this is what he said years and years ago.

3 We get -- we should obviously look at their
4 convictions, and I'll go into that more here in a little
5 bit. But what's the connection of being convicted of a
6 serious crime maybe up to as many as eight times as one of
7 their witnesses and whether or not you're believable as a
8 witness? Well, to be convicted of a serious crime, you've
9 got to commit a serious crime. I mean I would submit to you
10 by the time you get in your life if you're going to be a
11 criminal to committing serious crimes, the truth -- you left
12 truth telling way behind. That's like in kindergarten if
13 you're going to be a criminal, that's way behind you. You
14 have no more regard for the truth when you become a
15 convicted felon than you do for an Easter basket. It's
16 ridiculous. The notion that, in fact, there isn't a direct
17 relationship between criminal convictions and inability to
18 tell the truth or lack of worth as a reliable witness is
19 ~~ludicrous~~. I mean let's face it, the bottom line is you got
20 to look at each of these witnesses and decide whether or not
21 you trust the person.

22 Most of the State's witnesses, all of those
23 convicted, what would you trust them to do if you came
24 across them in your own life? Would you give them your car

1 keys and just say here, bring my car back whenever you want?
2 How about baby-sitting your kids? Or your grand kids?
3 Would you allow many of the State's witnesses to take
4 grandma to the grocery store and then to the park for a day
5 with her wallet full of money? I don't think so. I mean
6 that's what you do, all of us do, perhaps not consciously,
7 when we look at these witnesses. That's the connection
8 between convictions and truth.

9 Now, let me make some more notes for you. Let's
10 go to page two, as Paul Harvey used to say. I'm done with
11 that for the time being.

12 Okay. Oops. There we go. There is the number of
13 State witnesses who saw defendant shoot Bill Little. There
14 is that number right out there. That's the round one,
15 that's a zero. Now, here, beneath it, are the number of
16 witnesses, State witnesses who saw -- State witnesses
17 who -- you know, there we go, let's fix that saw, who saw
18 defendant at scene. I think it's reasonable to conclude and
19 understand something, when determining how you use
20 circumstantial evidence, and you'll be instructed on this,
21 you can only use circumstantial evidence to establish
22 reasonable inferences from other things that have been
23 established. Although, I'm looking at the eyewitnesses in
24 this case, you don't need to see -- use circumstantial

1 evidence. That's direct evidence. They said they saw him
2 there. The reliable ones equal, there is another round one,
3 equal zero.

4 All right, now, I'm going to list for you those
5 factors that I just reviewed here that I think you should
6 consider when determining whether to believe the he said
7 witnesses. Demeanor. Now, granted, many of them didn't
8 wear their Sunday best to court, particularly those still
9 being rehabilitated by the State and the Department of
10 Corrections. And I find that interesting, don't you?
11 Regardless of what's in our sewers, the State, this county,
12 these folks right here, have taken many of their witnesses
13 and rehabilitated them in the Department of Corrections over
14 and over and over and over and then they produce them in
15 court and say you can believe these people. You can trust
16 these people. They're telling the truth. I find that very
17 interesting how the -- I guess that's what they mean when
18 they say that going to prison is rehabilitating.

19 At any rate, we now have reputations, the
20 reputation that I liked was Bill Gaddis -- excuse me, the
21 Reverend Bill Gaddis's family member -- members who said
22 that we don't even believe him in our own family.
23 Reputations. Okay. We then have, this is an important one,
24 I suggest when you think about Jody Winkler and Ronnie

1 Wright, both of whom admitted that while they were in
2 Florida garnering all of these admissions from Jamie Snow,
3 they had, what was it, crack cocaine addictions. You know,
4 that makes it so easy when you're smoking the crack pipe.
5 How do we do that? It makes it so easy when you're on crack
6 to see and hear, store in memory, recall and relate, passage
7 of time. I've never smoked crack, but I imagine time slows
8 down a bit when you're high.

9 At any rate, E T O H, that's an abbreviation for
10 alcohol or drug use. And then we have prompt report, prompt
11 report. We then have prompt preservation. That's a good
12 term. That's what I mean when I say how many of these
13 people wrote down what they had been told. I'll fill that
14 in for you -- here is another one. That's a zero. How many
15 witnesses promptly reported, other than the eyewitnesses,
16 what they claim Mr. Snow told them? There is one of those
17 zeros also.

18 And then we've got, here, I'm going to get a
19 little more complicated here with the convictions, and I
20 will over here in the margin, I'll do something for you,
21 let's -- right here we're going to go down a list that I
22 compiled and I think I'm accurate. I may have to use some
23 notes to get the names. There were so many of them. And
24 let me ask you something. If you shot and killed somebody,

1 you probably wouldn't tell anybody about it or you might
2 tell one or two people about it. Would you tell a dozen?
3 Would you tell 15? Sheer number of he said witnesses in
4 this case, I think raises a red flag. And I submit you
5 ought to look at that. None of whom appeared until the cops
6 started literally beating the bushes, figuratively speaking
7 beating the bushes, when this investigation got up and
8 running again in 1998. They all set on their information
9 waiting -- I don't know what they were waiting for. I guess
10 a visit from the cops.

11 At any rate, let's go down the convictions here.
12 Let's start over here. Here is a three. That's one of the
13 eyewitnesses, Gerardo Gutierrez. He had three convictions.

14 Let's -- here is Ed Palumbo. And do you suppose
15 it was written in the Pantagraph the day after the shooting
16 when they broke their coverage that he was shot twice? Do
17 you suppose that fact was reported in the newspaper or the
18 news locally? Yeah, I bet it was. That's where the two
19 shots, that wasn't a secret that the victim had been shot
20 twice. Ed Palumbo, he had three convictions.

21 Let's see. William Moffitt. The one night at
22 Joliet witness, as I call him, he had six convictions. And
23 boy, isn't that what human nature and common sense tells us?
24 You're in a cell in a prison for one night with a guy, and

1 you confess with all of the details. That's not the way
2 human beings work, ladies and gentlemen. That's the way Ed
3 Moffitt says they might work. But he's not believable.
4 You're not going to trust -- or William Moffitt, excuse me.
5 Eddie Hammond, here is Ed, weighing in with eight.
6 Okay. Oh, and by the way, why do you suppose that we put
7 that last witness on this morning? The grandfather of one
8 of Ed Hammond's children? What did he tell us that we might
9 want to remember back in the jury room? That he saw Ed here
10 in the courthouse a few months ago, and Ed said he had never
11 met Jamie Snow. You figure out what that's all about.
12 Jody Winkler, our cocaine addict, one of them from
13 Florida, he's got -- he's got seven of them.
14 Let's see, I've got to talk to you about this guy,
15 Steven Scheel, from one of the three parties in this case.
16 I'm going to go down the list here shortly, and we're going
17 to talk about the parties. He had two of them, and they're
18 aggravated criminal sexual assaults. That's nice. Isn't
19 that nice? Yeah, I want you to baby-sit, Steve. Let's see,
20 then we have Ronnie Wright, the other Florida junkie. He's
21 only got one.
22 We then have, who is number 32, these numbers got
23 so -- let's see, Dawn Roberts. Dawn Roberts you'll recall
24 went through the business about the composites, Jamie sent

1 me all over town to get them, bla, bla, bla, the beer
2 pouring incident that nobody else seemed to recall. Dawn
3 Roberts had -- where is Dawn? Dawn Roberts had three, an
4 obstructing justice and I think two counts of forgery as a
5 juvenile. What's obstructing justice? Oh, that's when you
6 lie to authorities. Forgery, that's when you lie to banks
7 and financial institutions.

8 Then, we have Bruce Roland, and he comes in with
9 four. Now, if I've got everybody, let's total that up.
10 There is 42 convictions, serious criminal convictions, for
11 the he said witnesses in this case.

12 You guys decide what you wish to make of that. I
13 don't think those are -- oh, I forgot my bottom line here,
14 we've got one more category, let me find my notes. How many
15 State witnesses do you trust with the truth? Well, if you
16 run them all through this analysis, I think you're going to
17 come up with that one, another zero.

18 All right, ladies and gentlemen, the -- I do want
19 to touch upon a few of these before leaving the witnesses.
20 The lineup, much has been made of Jamie's actions at the
21 lineup, he didn't want to stand in the lineup. Well, quite
22 honestly, would you? You're going to have to differentiate
23 in this case between Jamie's -- what he has told us was his
24 fear of getting caught up in a process just as this and

1 having this type of evidence come forth against him. Why
2 would you want to get in the lineup? You're going to have
3 to differentiate between being frightened of the system and
4 having a guilty conscience I guess. And that's going to be
5 something you're going to have to look carefully at Jamie
6 Snow and decide for yourselves whether or not you can -- you
7 can make that differentiation based upon the evidence you've
8 seen here.

9 The Missouri arrest, similarly why was he hiding
10 in the house? Well, he didn't want to come back to
11 Bloomington. He knew he was a murder suspect. He asked the
12 officers all the way back, he asked about the murder. Well,
13 I would too. There was only one armed robbery that had a
14 murder in it. And both the officers, Bernardini and Thomas,
15 said that that's serious. We could understand that. Murder
16 is as serious as it gets.

17 The interview with the police back here, I'd like
18 to comment on that just in passing. I asked all of you
19 during jury selection if you give any greater weight to the
20 testimony of a police officer simply because he or she was
21 an officer, and you all told me that you wouldn't. We find
22 ourselves in a situation with our testimony about that
23 interview where I quite honestly have some concerns, and I
24 submit you should also about whether or not this mood swing

1 business and the agitation and the dialogue all occurred the
2 way they said it did. They both made quite an effort to let
3 us know that they specifically recall Jamie saying I have
4 information about or I was -- I was involved in the murder.
5 Yet, there is nothing in their one half page report, which
6 has been admitted into evidence. I'm not sure whether it's
7 going to go back with you or not. But I showed it to you;
8 you saw it during the witnesses examination. It's only a
9 half page long.

10 There is nothing in there at all about this whole
11 string of observations of Jamie Snow that they found so
12 incriminating now, years later, when he's being tried.
13 There is no mention of it. Well, if it was very
14 significant, and they both told us it was, why didn't
15 somebody put it in that report. Do you think that police
16 officers make police reports so they can leave things out
17 and later on edit with their testimony as they wish to?

18 What disturbs me about that is this, and I think
19 it's a fair inference. Something is being added here in the
20 hopes that you'll read more into that interview than
21 actually occurred. Why, if it was so significant that his
22 mood swung and if this dialogue that they recall, after
23 making no mention of it in this half page report was so
24 significant, why didn't somebody record it? Good grief.

1 Officer Thomas told us sure, there was equipment
2 in the building. We just didn't -- we didn't think to go
3 get it. Red flag that one a couple of times, ladies and
4 gentlemen. You're the finders of fact here, and I don't
5 think you particularly care to be fed edited evidence by
6 police officers here.

7 Now, they both said they didn't put it in the
8 report because it -- well, it was just their belief. It
9 wasn't evidence. And I think on page one we addressed that,
10 didn't we? Yeah, beliefs are not evidence. So don't please
11 read too much into that.

12 You might also notice the fact if they found it
13 that damning, why was he charged in September, 1999? Did
14 somebody lose the file? What was that all about? If all
15 that this stuff occurred back in 91 was just so gosh darn
16 important, why the heck was he charged in September 99? Now
17 you might conclude that it was simply to give all the dope
18 heads in Florida and prison bums in the State of Illinois
19 time to get on the band wagon. That -- that's something
20 certainly you could think about.

21 At any rate, the first party, and this is -- I
22 like that first party, the Reverend Gaddis, I was accused,
23 and I don't think there is any other way to say it, by
24 Miss Griffin in her opening or closing statement a little

1 while ago, among other things I was desperate, hypocritical,
2 fleeing of truth, and I repeatedly belittled the Reverend
3 Bill Gaddis. You know, there is a difference, ladies and
4 gentlemen, between asking for answers to questions that are
5 pertinent in a first degree murder trial and belittling
6 somebody. It wouldn't have been difficult for me to
7 belittle that guy. But we don't even have to go into his
8 religion. Do you recall he did call me a heathen? I did
9 take some offense at that. We don't have to go too far into
10 his character to put a big question mark next to what he
11 told you.

12 He said, and once again, years later, he doesn't
13 make any effort to contact the police, years -- he decided
14 it wasn't his -- it wasn't his place, didn't want to get
15 involved. And he did admit using drugs back then I might
16 point out to you. He goes into this party, into this
17 bedroom, sees this group of people, including Jamie Snow
18 sitting there, hears some dead guy, after he asked them
19 what's wrong, say that, well, Jamie shot somebody. And they
20 all looked like they had been crying. You heard Dennis
21 Hendricks. I was somewhat amused by that. He said I
22 wouldn't even cry if one of my own family members died.
23 They were all shocked and looked terrible. And Jamie didn't
24 say anything so, therefore, he left the room and concluded

1 or the State has concluded that's an admission by silence.

2 I guess what really bothers me is this. That
3 encounter took place late at night on Easter or the next
4 night. Now late at night, you mean like when the sun is
5 gone and maybe the moon is up? Remember Reverend Bill
6 Gaddis saying when I asked him was there a light in the
7 room, oh, yes, he recalled a light in the ceiling. Was it
8 on? I don't believe it was on. Now, you don't even have to
9 look at the guy's religion or why he sat on the information
10 for years. You don't have to understand any of that. He
11 didn't see anything. Now, what his motive was, who knows.
12 Let the State, you know, the State is saying, well, he's
13 just -- he had such a high regard for the truth that he
14 waited until years when we finally dug him up and he's
15 telling you the truth now.

16 Red flag that one, would you please? That's the
17 par -- that's the first party I'd like to address.

18 The second party, Steve Scheel and Molly Eades,
19 formerly Molly Esch. Party occurs in the spring of 91.
20 Steve Eades, who admitted, if I'm not mistaken, that he had
21 not seen Jamie Snow -- Steve Scheel, 26, had not seen Jamie
22 Snow nor had he talked to him, hadn't seen Jamie Snow in 13
23 years. Jamie Snow encounters him at this party where
24 everyone is drinking and confesses to this crime.

1 Now, remember, human nature and common sense, that
2 didn't happen I submit.

3 The third party is this mysterious party at the
4 Whitmer's. Bruce Roland claims that Jamie told him about
5 that, the Whitmer's period. Now, granted Mr. Whitmer may
6 not have -- may not have been the most reliable witness, but
7 how did the jail records impeach him. I thought it funny he
8 was inebriated when the cops went to talk to him; well
9 nothing is funny about that.

10 But at any rate he goes to visit at 7:41 p.m.
11 How long did he visit? Long enough for a party to break out
12 in his residence and without him knowing about it and then
13 when he returns home, as we know he did, because his
14 residence, his garage was searched after the shooting when
15 the police were in the area, for a party to break out and
16 quiet down before he got home. We don't know that because
17 the jail records don't tell us how long the visit was. If
18 the visit was five minutes, and you saw Brian Whitmer. If I
19 had a son like Brian Whitmer, I might not want to stay
20 around any longer than to say hey, Happy Easter, good-bye,
21 come home when you get out of jail. If his visit was only
22 five minutes of length, I submit he was home in a fairly
23 short period of time. If the State says there is no
24 evidence how far away he lived, well he lived in

1 Bloomington. The jail is Bloomington; this is not Chicago
2 for crying out loud.

3 There was something else Miss Griffin said in her
4 statement about the photographs, photographs 53 and 56,
5 there is no evidence whether those photographs were shown to
6 Mr. Martinez so can't comment on whether they were shown to
7 him or not. Well, I think that's fair enough, but they were
8 police photos. The police were showing him photos. Are we
9 to be held accountable, Jamie Snow and me, for not having
10 shown photos to Danny Martinez back in April of 91? I
11 hardly think so.

12 At any rate, let's move on to I think we're ready
13 for number three. The arrest in Ohio, ladies and gentlemen.
14 Jamie Snow was scared. It's as simple as that. The State
15 would have you believe, as they believe, that, in fact,
16 there was a guilty conscience. They call it flight. I
17 called it being scared, and that's what Jamie Snow told you
18 he was. He didn't know what to do. And quite honestly, the
19 notion that, in fact, if you didn't, as Kevin Schaal said,
20 do anything, what have you got to fear, you know, just come
21 on back, turn yourself in, et cetera, et cetera, think about
22 that though carefully if you're in Jamie Snow's shoes.

23 You've been probably the main suspect in this case
24 for the better part of ten years. There is no physical

1 evidence against you. It's not hard for people to get on
2 the stand and lie. I mean, quite honestly, why should he
3 trust the system like that. Why should he? Are mistakes
4 ever made in courtrooms? We certainly know that they are.
5 I mean a mistake made in a first degree murder case is a
6 whopper, certainly for the defendant who gets convicted.
7 And in a case with no physical evidence, what are you going
8 to do? Well, you're going to ride it out is what you're
9 going to do. And Jamie's actions and fleeing Florida once
10 he heard about the indictment, he did, he testified, call
11 and talk to a lawyer or two, and he took Arison's fake or
12 took Arison's ID, carried it with him. Are these the
13 actions with -- of a guilty man with a guilty conscience or
14 are those the actions simply of someone who was scared? I
15 submit that the State hasn't proven to you with evidence
16 that it's the former rather than the latter.

17 Now, the last page that I'm going to work on for
18 you, and then that will be it for me, we begin with the
19 defendant. Oh, and by the way, let's put out here his
20 number of convictions. That's one. I will concede that.
21 The defendant's testimony, his demeanor on the stand -- God
22 bless you -- his fear and actions. What was he afraid of?
23 Perhaps coming back here and getting caught up, knowing
24 there is no physical evidence against him or he would have

1 been arrested and prosecuted years ago. What would he be
2 afraid of? The system not working in a courtroom full of
3 words, words, words, words, words, words, words. That's
4 what the State's evidence consists of, words. And I think
5 you need to scrutinize and weigh very carefully every one of
6 their witnesses to determine whether or not you wish to
7 trust and rely upon what they're telling you.

8 Jamie Snow, I'm going to talk to you just a moment
9 or two about him, and then I'm going to be done with him.
10 By my wristwatch, with lunch, he was on the stand for six
11 hours, far longer than any other witness in this multi-week
12 trial. Miss Griffin interprets his performance on the stand
13 as that of a cunning, was the word she used, deceitful,
14 weaver of webs of lies, a plotter. He's got it all thought
15 out, but he makes mistakes.

16 I submit, ladies and gentlemen, you had six hours
17 to look at Jamie Snow on the stand. That's not the only
18 conclusion you can draw. He impressed me through his
19 demeanor, through his speech as a sincere individual, who,
20 yeah, perhaps he's made some, some mistakes over the years,
21 but he is scared to death and has -- she says oh, he picked
22 and he chose which of the State's witnesses to say were
23 lying, et cetera, et cetera. Well, ladies and gentlemen, I
24 won't waste any time picking and choosing of the State's he

1 said witnesses; all of them were lying. That's my belief.

2 And, Jamie Snow --

3 MS. GRIFFIN: Objection, Your Honor.

4 THE COURT: Hold it.

5 MS. GRIFFIN: Defense counsel is not supposed to
6 be stating any of his personal beliefs.

7 THE COURT: The objection is sustained. The jury
8 is ordered to disregard that comment.

9 MR. PICL: At any rate, ladies and gentlemen, I
10 submit to you that you saw Jamie Snow. If you believe Jamie
11 Snow, and I submit that you have every reason to, then the
12 State's witnesses will, in your mind, be put in their proper
13 place.

14 Jamie Snow was credible. Jamie Snow, sure, he's
15 had his discovery materials. What are we supposed to do?
16 Keep our clients in the dark when they're charged with
17 murder. There is nothing wrong with that. The State won't
18 say there is. He had his discovery materials to review.

19 Jamie Snow, I believe, has been caught up in a web
20 of words from the State's witnesses. We've seen a whole
21 production here of all sorts of things that the State
22 believes, and this was exactly what he was afraid of and has
23 been afraid of for the balance of ten years. You look in
24 this case at the hard evidence, the reliable evidence, and

1 you're going to find that there is a real dirt, they're
2 really is a lack of reliable evidence in this case.

3 I'm going to conclude with three additional
4 thoughts. These are things -- actually it's going to be
5 four thoughts but I'm not going to write one down. The
6 amount of guessing that you can do in this case, jury can
7 do, and that equals zero. You can't guess about anything in
8 this case. You can draw reasonable inferences but you can
9 neither speculate, conjecture, nor guess.

10 This case covers the better part of ten years and,
11 ladies and gentlemen, there are gaping holes in it. And the
12 only thing you're going to have, I submit, when you get back
13 in your jury room to fill those holes in, is guesswork.

14 Remember what you told me when we selected you?
15 You're in the same frame of mind if you were on trial you'd
16 want a juror to be in. Keep this in mind. You can not
17 guess when you deliberate.

18 Here is another thought. Some evidence doesn't
19 equal proof beyond reasonable doubt. You've not heard me
20 take the position that, well, there is no evidence. There
21 is plenty of evidence against him. It's bad evidence. Some
22 evidence does not equal proof beyond reasonable doubt.

23 This is the last thing I'm going to write up here.
24 That's a zero by the way. We have heard an awful lot in

1 this case about doing justice for Billy Little. I think
2 that's a -- that's a concept that should be applauded.
3 There is no question about that.

4 Ladies and gentlemen, this trial, like any other
5 trial in which there is a victim of a crime, is not just
6 about doing justice for the victim. I mean when you
7 deliberate and you analyze hard and you determine in your
8 own minds if, in fact, there is reasonable doubt here, and
9 that's actually what you're doing, reasonable doubt of
10 guilt, then, in fact, you will do justice, regardless of
11 what your verdict is. But do not concern yourselves overly
12 with doing justice for the victim, the victim's family and
13 those he left behind. This is a terrible thing that has
14 happened. There is no question about that. But the justice
15 you need to do and the duty you need to recognize in
16 rendering a verdict, no matter how uncomfortable you may be
17 with it, is a duty to all of us.

18 We all deserve justice. Not just Jamie Snow, not
19 just Billy Little, not just the prosecutors, not just the
20 Judge, not just the People of the State of Illinois, but the
21 reason it's important that you do your job and do it well is
22 because we as citizens, we take a lot of comfort in the fact
23 that when our institutions work, and that's what criminal
24 justice is, they make us feel safe. We are safe because

1 society, we realize when our institutions work, is not
2 simply anarchy and arbitrary. He with the biggest gun wins
3 everything.

4 I'll draw a parallel, the presidential election.
5 It was interminable, thought it would never get out of
6 Florida. And I didn't pay attention to a lot of the details
7 because it didn't interest me. But you know what,
8 regardless of what the outcome was, whether you like it or
9 not, the process, the institution worked. And I think
10 everybody, everybody feels quite a bit of relief about that.

11 In this case, ladies and gentlemen, here is how
12 you can do justice. If, in fact, you find that there is no
13 reasonable doubt that the State has proven that Jamie Snow
14 is guilty of this crime, then, in fact, your verdict is
15 guilty.

16 If, in fact, on the other hand, and I submit this
17 will be your determination, if you decide that there is
18 reasonable doubt, even if you're not comfortable, even if
19 you think he might have done it, even if you believe he
20 might have done it, as the State does, justice requires not
21 guilty.

22 And then there is one other position that you may
23 well in a case this big, with this much evidence in it, with
24 this much to think about, you may find this. If you find,

1 after due deliberation, that you don't know what the
2 situation is, then, ladies and gentlemen, I submit to you
3 that, in fact, that's a not guilty because that means
4 reasonable doubt still exists.

5 And, if, in fact, justice is to be done for all of
6 us in this case with this evidence, I respectfully ask that
7 you return a not guilty verdict.

8 Thank you.

9 THE COURT: All right. Ladies and gentlemen, we
10 will take our lunch recess. And resume shortly before two
11 o'clock, about ten minutes to two. So I'll ask the bailiffs
12 to take charge of the jurors.

13 (Noon recess.)

14 (The following proceedings were reported by
15 Valerie A. Davis, CSR, Official Court
16 Reporter.)

1 (The hearing was held outside the
2 presence of the jury.)

3 THE COURT: And we will go back on the record
4 in 99-CF-1016. Parties are same as before. We are
5 prepared to go on with rebuttal, and at this time I will
6 call the jury in.

7 (The hearing was held in the
8 presence and hearing of the jury.)

9 THE COURT: All right. Folks, please be
10 seated. The record will reflect that the jury has
11 returned after a lunch recess. We are prepared to go on
12 with the State's rebuttal.

13 Ms. Griffin.

14 MS. GRIFFIN: Thank you, your Honor.

15 Ladies and gentlemen, I just want to
16 touch on some of the points that were brought out in the
17 defense counsel's argument that I'm sure went through
18 your minds, and I just want to make sure you are asking
19 some of the same questions and thinking some of the same
20 thoughts. I would first like to point out that I hope
21 you all picked up on a significant portion of the
22 defense counsel's argument, and that was that he spent
23 an awful lot of time trying to go to where the evidence
24 isn't, and you know, that is not an uncommon factor

1 because if you go to where the evidence isn't, then you
2 won't spend time going where the evidence is. People
3 who like to go where the evidence isn't aren't really
4 interested in finding out what the truth is because it
5 is obviously you won't find the truth in what isn't
6 there. You have to look at what is there in this
7 particular case or in any particular case.

8 And I just want to briefly say that I
9 find it a little bit ironic, if you will, that defense
10 counsel spent so much time on his closing talking again
11 about evidence and the lack of physical evidence and it
12 wasn't here in this case. When it was his cross
13 examination, his rather lengthy cross examination of Ed
14 Kallal so well explained why there might not be physical
15 evidence because as you recall he had Ed Kallal explain
16 that if a person is wearing gloves they won't leave
17 fingerprints if they don't touch the surface in a
18 certain way they won't leave fingerprints. If they don't
19 have the right chemical makeup, they are not secretors,
20 they won't leave fingerprints, and if the suspect wasn't
21 wearing any shoes or all the other multitude of
22 explanations that Mr. Kallal went through at this
23 defense counsel's request that explained why there isn't
24 any physical evidence so that is not a big mystery

1 there. So I suggest to you that you would be doing a
2 great disservice if you do what counsel would like you
3 to do which is to go where the evidence isn't because if
4 you do, you will lose sight of the truth and the truth
5 is always where the evidence is.

6 Defense counsel says he wanted you to
7 look long and hard at those who sat on information, and
8 I'm going to talk to you a little bit later about how
9 mistaking and misinformed he was when he told you who
10 all those people were, but first, I want to ask you to
11 do exactly what he said. If you are going to look long
12 and hard who sat on important critical information in
13 this case, then I would suggest to you that from the
14 defendant's perspective that you need to ask the
15 question who sat on the most critical information to the
16 defense for the longest period of time, and I think that
17 answer is quite obvious this defendant because he sat on
18 his critical information for his defense for over nine
19 and a half years, and that would be his alibi. He sat
20 on it for nine and a half years. If indeed this
21 defendant had not committed this crime, he really had an
22 undisputable alibi wouldn't you have heard about it
23 before this trial. Think about it.

24 The defendant admitted on the cross

1 examination that when he was in the car with Detective
2 Thomas and he knew that he was a suspect in a murder, he
3 knew where he was on Easter and it only had been three
4 weeks before. So I ask you why is it that never once
5 during that whole multiple hour ride back to Bloomington
6 that the defendant ever said whoa, wait a minute. How
7 can you be saying I'm a suspect in this murder. I have
8 an alibi. I know where I was at. I was nowhere near
9 the Clark Station. I was with my wife at home and go
10 talk to her. She will back me up. Never heard those
11 words come out of this defendant's mouth at all quite
12 the contrary. What you heard him say instead was what
13 is going to happen to me if I know something about this
14 murder.

15 And when they got back to the police
16 department and he was interviewed by Bernardini and
17 Thomas if he knew that critical information that he had,
18 that alibi why didn't he say right off the bat when they
19 say we want to talk about these armed robberies and one
20 where somebody was killed, and this defendant said
21 William Little, why didn't this defendant say then I got
22 an alibi. I got an alibi. I was home. I know
23 exactly where I was, go check it out, didn't come out of
24 his mouth, and at the end of June over a month later

1 when he has been in jail on the other charges and he's
2 going to the lineup he has an opportunity again to talk
3 to the police. He is going to put in this lineup that
4 he's so afraid of being misidentified in and does he say
5 to Koritz and Crowe and everybody there wait a minute.
6 Check out my alibi. Get on the phone. Nope. What
7 is the only thing that he does? He asks them to check
8 on the cast, and isn't that interesting. It came to
9 him then in June of '91 that hey, I might have had that
10 cast on then, but I suggest to you again that if that
11 cast was really critical information that is going to
12 determine whether or not this defendant could have
13 committed this crime how come you didn't hear a word
14 about that in that squad car with Detective Thomas or in
15 that conversation for one and a half to two hours with
16 Bernardini and Thomas.

17 Let's talk about people sitting on
18 critical information, and his participation in the
19 lineup. Something else I want to that talk to you
20 about that. I suggest to you that the defendant's
21 explanation in which counsel here has repeated for you
22 and wants you to consider that wasn't guilty action.
23 That wasn't the defendant being conscious of his guilt
24 when he refused to participate over and over again.

1 That was his fear of being misidentified. I want you
2 to ask yourself this. Is that explanation really make
3 any sense in light of what the defendant told you on
4 this witness stand because this defendant told you on
5 this witness stand that, in fact, he had seen that first
6 composite, Mr. Gutierrez' composite, and he had seen
7 that earlier on, and he told you I didn't think that
8 composite looked anything like me. Well, I suggest if
9 you truly thought that composite didn't look anything
10 like you and the reasonable inference why this composite
11 was going around because somebody might have seen the
12 suspect, then wouldn't he welcome the opportunity to
13 participate in that lineup. If he didn't look anything
14 like this, he ought to be feeling pretty darn good.
15 This is what they think the person looked like and it
16 doesn't look like me. Put me in the lineup. Put me
17 in there. Let those people show, see that it wasn't
18 me. It makes no sense.

19 And just briefly talking about Mr.
20 Gutierrez' and the testimony a couple of things. First
21 of all, I again found it a little ironic that counsel
22 wanted to repeat that nobody beliefs are in evidence,
23 but it seemed like it was him telling you what we
24 believe, and I'm not sure how he knows what we believe,

1 but I would suggest to you that I would rather have the
2 evidence speak for itself than to have counsel repeat to
3 you what our beliefs are, but he talked about how we
4 must have something wrong with our belief that this
5 defendant was at this gas station earlier when Mr.
6 Gutierrez saw him, and he gave you some reasons, and I'm
7 going to tell you a couple of things.

8 First of all, I want you to think back to
9 my opening statement and I believe I referenced here
10 again in closing there is a couple of different takes
11 that you can have on Mr. Gutierrez' testimony, and one
12 of those takes is that indeed this defendant was at the
13 gas station an hour or so before the shooting, and as I
14 told you in my opening the other take is that maybe it
15 was somebody totally unrelated, and it just
16 coincidentally happened to be a person that this
17 defendant thought looked just like him. That's what
18 the information was that we conveyed to you, but defense
19 counsel wants you to say what, that story doesn't work
20 because Mr. Gutierrez saw somebody inside with the clerk
21 arguing about cigarettes, and he wanted you to remember
22 that Mr. Gutierrez saw that person light a cigarette and
23 take a package out then obviously he couldn't have been
24 there to buy a pack of cigarettes or get a pack of

1 cigarettes, could he? Well, I suggest to you that such
2 an argument ignores what anybody who has been around a
3 smoker knows and that is a smoker never waits until they
4 are out of cigarettes to go get more, and so that
5 doesn't disprove anything along that theory at all.

6 Now, I just want to tell you a couple
7 other things we talked about. One of which has to do
8 with the memory. You recall what he told you about the
9 memory, and I don't need to write anything down about
10 what memory involves because I think we can use that --
11 what is it -- CSHN, that common sense human nature that
12 we all know because we all know that our memory does
13 work in different ways, and he would like to make much
14 of the fact that the witnesses had the ability to recall
15 what the defendant said to them years ago about this
16 murder. Especially he would like to make light of the
17 fact how could they know those if they didn't write it
18 down. He says he cannot remember things from three
19 days ago or three weeks, let alone three years ago, but
20 you all know what the difference is between his comments
21 like that and the memories that the witnesses in this
22 case related to you, don't we? We all have the ability
23 to recall events that happened years ago when they have
24 an impact on us and when they make a difference.

1 For example, you have all probably been
2 asked this before and we will ask it to you today.
3 What were you doing on November 22, 1963 when President
4 John Kennedy was shot and killed. I can tell you
5 exactly where I was and what I was doing, and I suggest
6 if we went down the row here many of you could too. At
7 the risk of revealing my age I can tell you I was
8 returning from a half day of kindergarten. I can tell
9 you where I was sitting in my living room, what chair
10 and what it looked like, and I can tell you where my mom
11 was sitting, where the TV was, and what the impact was
12 and what the effect was on my mom when we heard that
13 news, and I suggest that many of you can give the same
14 kind of details. Why because it made an impression on
15 you and it stayed with you even though you didn't write
16 it down. So I ask you if someone came up to you two
17 days ago, two weeks ago, two years ago or twenty years
18 ago and told you I shot Bill Little or I shot and killed
19 anybody, I suggest each of you would remember that
20 because it would make an impact on you. *Freedom*

21 Now, counsel complains that Thomas and
22 Bernardini didn't include their subjective impressions
23 and beliefs about the defendant's mood swings and his
24 agitation and his guilty behaviors, fidgeting and eye

1 contact and all of that in the report. Yet it was the
2 defense lawyer himself who brought those facts out on
3 cross examination, and they told him opinions that
4 aren't ordinarily included in reports or testimony, but
5 now that you have asked they responded they gave their
6 opinions. So you shouldn't be complaining about what
7 you ask for, should you, and more importantly this
8 defendant admitted all of those in his testimony. He
9 said yeah, I was agitated. Yeah, I did have mood
10 swings. So all the things that Mr. Picl would like you
11 to think didn't exist the defendant conceded they did.
12 *Freedom* Flight. Defense counsel kind of blushed
13 over that whole Missouri incident, didn't he, when the
14 defendant fled Bloomington right after the murder and
15 went and hid out in his sister's attic for five hours.
16 In fact, all defense counsel said about it was well,
17 wouldn't you hide out in the attic if you knew you were
18 a suspect in a murder case and you were fearing being
19 wrongly accused. The problem with that argument is it
20 doesn't match the defendant's testimony because the
21 defendant testified he hid in the attic for five hours
22 before he ever knew he was a suspect in the murder case
23 because he said he didn't know he was a suspect in the
24 murder case until after he was arrested, and it was the

1 arresting officers who first told him.

2 Defense counsel's version would
3 corroborate Steve Scheel's testimony, but the defendant
4 couldn't be caught agreeing with and corroborating with
5 Steve Scheel's testimony so we had to deny it, and he
6 chose to deny what Scheel said and he stuck with that
7 story, and so his testimony is that he didn't know he
8 was a suspect, and so then you have to ask yourself
9 well, why was he hiding out in the attic for five
10 hours.

11 How to evaluate the evidence. Well, I
12 suggest to you one of the first things that you don't do
13 is you don't spend your time in the deliberation room
14 evaluating evidence with sarcasms. You evaluate the
15 evidence using that common sense that has been talked
16 about and using the instructions that the judge gave you
17 on judging credibility, and nowhere in the instructions
18 are you going to find that it says that if someone has
19 prior convictions you must disregard their testimony.
20 You must find them unbelievable. Defense counsel
21 better hope that is not what the instructions say
22 because I noticed that he didn't tally up the priors on
23 his own defense witnesses when he was doing his
24 mathematical problem here. In fact, he pretty much

1 ignored all of those witnesses and the testimony that
2 they gave, and he better not hope that the instructions
3 say that you are suppose to disregard the testimony if
4 someone has been convicted of a crime because after all
5 that would mean disregarding everything that this
6 defendant said.

7 So what about the witnesses who gave
8 damaging evidence against this defendant who don't have
9 any prior convictions. Didn't talk about that.
10 Didn't talk about Thomas, ^{Freedom} Bernardini, Mary Burns, Karen
11 Strong who corroborated so much of what this defendant
12 said to other people. Didn't talk about all those
13 other people here in this case, Bill Gaddis, all of
14 those people.

15 What the bottom line is that you will
16 find from the instruction which I told you this morning
17 is that you can consider the testimony of people who
18 have been convicted of offenses, and you got to consider
19 it along with all the other evidence and then see how it
20 fits and judge its believability, and I just want to
21 give you one very basic example that I think paints that
22 picture very clearly. If you go to bed one night and
23 you look out your window and the ground is clear no
24 snow, and then you wake up the next morning and the

1 ground is covered with snow, and if someone like Bill
2 Moffitt, Ed Palumbo or Eddie Hammond came up to you and
3 said it snowed last night. Are you going to not
4 believe them just because of their prior convictions?
5 You are going to say nope, I know it wasn't on the
6 ground when I went to bed. I know it is here when I got
7 up, but these guys got prior convictions so I can't
8 believe it snowed last night. Of course, you are not.
9 You are not going to disbelieve them because it fits
10 with your own observation and it fits with the rest of
11 the picture, and that is the important thing to consider
12 when you hear that instruction about the value of
13 considering prior convictions.

14 I told you I was going to continue to
15 talk a little bit about what defense counsel referred to
16 as taking that long hard look at those people who sat on
17 important information, and I already talked about the
18 person who sat on critical information for the defense,
19 but what is important to point out is defense counsel
20 has stated the evidence quite drastically when he said
21 in his closing statements that all this evidence from
22 all these people who said that they saw this or heard
23 these statements from the defendant just came out in
24 this last year or a year and a half, 1999, and yet the

1 evidence is quite to the contrary. In fact, Palumbo
2 promptly told Shannon Schmidt about his conversation
3 with the defendant on the street, and in fact, she told
4 the police about that conversation in April of 1991.
5 It is undisputed, and in fact, Carlos Luna promptly told
6 the police about his impression about the person leaving
7 the station having the cash drawer under his coat that
8 night. It is undisputed, and Bill Gaddis promptly told
9 his wife when he got home from having seen and witnessed
10 the defendant's silent admission. That is undisputed,
11 and there is others who came long before 1999.

12 Bill Moffitt told you he reported this
13 within a year of his conversation with the defendant in
14 1994. Eddie Hammond told you that he reported this and
15 talked to about it within a short period of time after
16 he left Centralia and went to the Illinois River
17 Correctional Facility within months, and Scheel told you
18 about the fact that he told what he knew back in '93
19 only a year and a half, two years after the
20 conversation. So again there has been a misstatement
21 and a misconception of what the evidence has been in
22 this case.

23 Carroll Landrus, defense counsel said
24 what about that. He says whoa. Well, what about

1 it. He was a defense witness after all. What was
2 that about? Remember that Landrus said when he was in
3 jail on his own charges back in August he saw Eddie
4 Hammond down there in jail who supposedly told him that
5 he didn't even know Jamie Snow. That is what defense
6 counsel said. In actuality the testimony was Mr. .
7 Landrus said Eddie Hammond said he had never met the
8 defendant, but of course, when defense counsel was
9 bringing this up rather dramatically he ignored the fact
10 that Mr. Landrus was one of those two time convicted
11 felons, you know, that you are not suppose to believe
12 about anything, but more importantly that was the
13 defendant's own witness, and it contradicted what the
14 defendant and another witness of his said because you
15 heard from Mark McCowan that yes, indeed both McCowan
16 and this defendant knew Eddie Hammond as part of that
17 group when I asked him about it, and the defendant
18 himself admitted on the witness stand that, in fact,
19 that he did know who Eddie Hammond was. He just
20 couldn't remember when the first time was they met so I
21 ask you what was that about.

22 I told you that the sheer number of
23 witnesses who have related detailed conversations with
24 the defendant was a significant consideration for you.

1 Having so many people come up with such distinct yet
2 consistent information unless it is the truth are
3 merging from all this smoke, but defense counsel has
4 said the sheer number of witnesses here for crying out
5 loud is a red flag. Frankly, there is no way to
6 account for that kind of argument. The kind of
7 arguments that lawyers are capable of making. You are
8 smart enough to realize that merely counting the
9 witnesses or counting their convictions isn't going to
10 get you to far here because you have to consider what it
11 was that each one of those witnesses said, and then
12 consider it in the reasonableness of that testimony in
13 light of all the evidence, and that is something defense
14 counsel chose not to do because he didn't review any of
15 that evidence with you.

16 Defense counsel told you man, there was
17 some evidence here that the State just overlooked and it
18 just goes against their theory here, and I suggest to
19 you again I would rather have you listen to us and the
20 evidence and decide what exactly the theory is on this
21 case as opposed to what the defendant believes we
22 believe is our theory.

23 But he made reference to the fact how
24 important Donna Barnard was in this case and how when

1 she did the audit she determined there weren't any
2 cigarettes missing so that means Bruce Roland has got to
3 be wrong. That means that the defendant couldn't have
4 been there or had anything to do with cigarettes, but I
5 suggest to you what that truly means is that, what it
6 means is this defendant when talking with Bruce Roland
7 did the same thing he did with so many of the people he
8 was around which defense counsel consistently wanted to
9 bring out. He liked to BS. He liked to puff. You
10 know sort of like saying I was a trustee on the road
11 crew instead of being on the road crew. Do you think
12 it is cool? Do you think it is going to help his bad
13 eye image to say yeah, I went down there to get
14 cigarettes but I got so scared because I heard that air
15 compressor go off and I knew that somebody pulled up on
16 the lot and they might catch me so I shot him that I
17 didn't grab the cigarettes. I had barely enough time to
18 grab the tray insert out of the drawer. I didn't have
19 time to get the money itself. I just had to grab the
20 drawer. That doesn't sound too tough, but man, it
21 sounds tough if you can say I got those cigarettes and I
22 got that money and I took care of business, and oh, by
23 the way it wasn't just a little \$40.00. I got a lot
24 more than that. It is more of that tough image,

1 right?

2 You heard defense counsel talk about the
3 defendant's credibility, and he went there and wrote it
4 on the board all the things that made the defendant's
5 testimony so credible. You heard defense counsel say
6 that the defendant has been convicted of one crime, and
7 it is true that obstructing justice is the one crime of
8 which the defendant was convicted about which you heard
9 evidence. Obstructing justice when you lie to the
10 authorities. Consider more specifically that as you
11 consider the defendant's believability we know because
12 he grudgingly admitted it to us on the stand that he was
13 arrested for another crime in 1991. There was a
14 witness against him in that case. It was a female
15 friend of his, and he persuaded her to lie to
16 authorities about that case, and he persuaded her to
17 leave the State of Illinois so she couldn't testify
18 against him, and he wound up pleading guilty to that in
19 doing that three and a half years for that crime. You
20 can seriously doubt his web of silvering stories based
21 on that knowledge of his misconduct. He lied to you
22 just like he persuaded a witness to lie for him in the
23 past. He has lied to you just like he lied to Oudecker
24 (sp) in Ohio. You have to ask yourselves why the need

Other
BAD
ACTS

1 for all the lies. Why the running.

2 As I predicted in my earlier closing you
3 have heard some attempt on the part of the defense to
4 attack Martinez' identification of this defendant and
5 Mr. Luna's identification of this defendant, and as I
6 previously told you defense counsel wants you to focus
7 on how Luna could have seen what he did, but the issue
8 isn't how he did, and when you consider the
9 reasonableness of his testimony in light of all the
10 other evidence you know that he did. Luna got it
11 right. He was right about the cash drawer insert, and
12 he was right about this defendant, and the defendant has
13 admitted how right Luna was over and over again through
14 his admissions, his confessions to others, through his
15 guilty action and through his web of lies here in court,
16 and I suggest to you the same can be said with Mr.
17 Martinez.

18 Defense counsel chooses to ignore all the
19 corroboration from Martinez' identification including
20 the words of this defendant and his actions. He just
21 attempts to explain it all away, but there is something
22 that neither defense attorney or the defendant can
23 explain away, and that is the many faces of this
24 Defendant Jamie Snow. The many faces of Jamie Snow

1 explains exactly how Martinez can be so positive about
2 his identification of the defendant. In February of
3 1991 the defendant looks different from both the front
4 and the side view. In April of '91 he again looks
5 different front and side, and you also might ask
6 yourselves what happened between February 28, 1991 and
7 April 24th that caused the defendant to apparently cut
8 his hair, shave off his lower facial hair maybe to give
9 himself a different look, and then you have got the
10 photograph of the defendant in June of '91. He again
11 changes appearance. No facial hair at all in that
12 photograph, and you have got the defendant in September
13 of 1999, how he looked when he was down there partying
14 with all his friends in Florida. He is back to his
15 long hair, his facial hair. This is the photo that
16 Martinez saw published in the paper and he recognized
17 the eyes, and then you have got the September 28, 1999
18 photograph up there at the top when he was arrested by
19 the Ohio police. Quite a different look for the
20 defendant. Then you have got the newest version. A
21 version that was created sometime after he was arrested
22 but before this jury trial began.

23 I suggest to you that the defendant has
24 never looked so closely well-groomed, well-shaven, close

MUG Shot
From
MISDEMEANOR
CASE

1 cut shaven and hair so short. I will let you think
2 about the obvious answer as to why there was a need to
3 change. All I can say that it is apparent this
4 defendant is still running and fleeing from the truth of
5 who he is and what he has done, but you can look at all
6 these faces, including the newest version, and what is
7 the common thread that runs through all of them. The
8 defendant can change his hair color, the length. He
9 can change his facial hair, and he can change how he
10 dresses, but the one thing that he cannot change is his
11 eyes, and looking at Exhibit 36, the photograph shown in
12 the paper, and looking at him from the lineup, and I
13 suggest to you when you look at the hair and the facial
14 features in terms of facial hair, there is not much of a
15 connection between him except for one thing, and that is
16 the eyes, and that is what makes Martinez'
17 identification so believable because that is something
18 no matter how hard he tries the defendant cannot run
19 away from.

20 I want to last leave you with a thought
21 about reasonable doubt because counsel referred to that
22 several times in his closing, and it is something that I
23 told you about up front in closing, and he's correct
24 nobody is going to give you a definition of reasonable

1 doubt, but as I told you reasonable doubt is a burden of
2 proof that is met everyday in courtrooms all across the
3 country.

4 MR. PICL: Objection. Courtrooms around the
5 countries have nothing to do with this trial.

6 ^{Her} THE COURT: The objection is overruled.

7 ^{Definition} MS. GRIFFIN: Reasonable doubt is not
8 something that you have to search for. It is not
9 something that you have to be directed to. If a
10 reasonable doubt truly exists in this case, it's going
11 to find you. It will come to you in the form of your
12 conscious, and if after reviewing all the evidence in
13 this case and using your common sense you can say with a
14 good conscious that the defendant did what the State
15 says he did, I suggest we have proven this defendant
16 guilty beyond a reasonable doubt. Thank you.

17 THE COURT: All right. Members of the jury,
18 the evidence and arguments in this case have been
19 completed, and I will now instruct you as to the law.

20 The law that applies to this case is
21 stated in these instructions and it is your duty to
22 follow all of them, and you must not single out certain
23 instructions and disregard others. When I use the word
24 he in these instructions, I mean a male or a female.