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1 him wiping everything down with a towel. She was very
2 specific on that. She saw him wiping everything down. She
3 saw him wiping it down with a towel.

4 But the forensics experts then
5 go on to tell you no indications of a wipe down. Does the
6 forensics expert have a motive to lie in this case? Does
7 the forensics expert have a motive to manufacture evidence,
8 or does Diana Hunt? Only one person can be telling the
9 truth when they contradict like that.

10 She said she saw Mike Rippo
11 take two or three bags of stuff from Diana Hunt -- or stuff,
12 and Diana Hunt, of course, took nothing.

13 Who is the only person in this
14 case everybody who knows her describes her as a thief and a
15 liar. She's at the scene of a robbery and she takes
16 nothing? Is she telling the truth?

17 That's for you to decide, what
18 is her credibility, because a man's life can depend on it,
19 his future. A conviction for a murder is a pretty serious
20 thing.

21 She said it was a planned
22 ripoff, but from what you've heard about these people,
23 they're street wise criminals. Would you to go a robbery,
24 drug ripoff, with a stun gun, or would you take a gun?

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1 Would you take rope? Would you take a knife? None of that
2 was there. Nobody had a gun. Nobody had a rope. Nobody
3 took a knife.

4 Mike Beaudoin is the one who
5 told Diana Hunt to do it. He says that she came and,
6 quote/unquote, volunteered to kick her ass, volunteered to
7 do her tires, volunteered to do her.

8 She's the only one anybody has
9 said had a motive, had a reason to be looking for Di- -- or
10 Denise Lizzi. Mike Rippo didn't have a reason to go look
11 for her on this. But Mike Beaudoin told Diana Hunt she add
12 lot of drugs. Of course, he didn't ask her to do anything.
13 And their relationship makes a lot of sense, the person that
14 he barely knows that visits him in jail.

15 When the State makes a deal
16 with the devil, they want you to believe the devil.

17 Diana Hunt said that Mike Rippo
18 took the pants off Denise Lizzi because he bled on her.
19 There is no forensic evidence of blood. That's something
20 everybody knows you can find at a crime scene.

21 Or what did he do: Oops, there
22 is one drop of blood on the pants; let me take the pants?
23 People don't bleed like that; if you are bleeding, you are
24 bleeding. There should have been blood a lot of places;

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1 there wasn't; it's not there.

2 There is no corroboration of
3 Diana Hunt's story. As a matter of fact, there is
4 uncorroboration of her story over and over and over again.

5 She says they were in there for
6 two hours and she leaves in the Pinto, taking absolutely
7 nothing; but the only person who is ever seen driving the
8 Nissan was Diana Hunt, not Mike Ripppo. Not one single
9 witness said they ever saw Mike Ripppo in the car or drive
10 the car, not one. A lot of people saw Diana Hunt driving
11 the car. Does it make sense?

12 Diana Hunt said she met Mike
13 Ripppo at Tom Sims' shop. And dear reliable Tom Sims says
14 Mike Ripppo walked into his office and said he wanted to talk
15 to him about selling him a car.

16 I'll talk about Tom Sims in a
17 little bit. But think of his testimony. He never saw Mike
18 drive the car. I never saw Mike with the keys to the car.
19 He said Mike wanted \$2,000 for the car. He also said when
20 Michael left that place, he left on foot and he walked to
21 the Marker Down, where supposedly he won \$2500. And when he
22 comes back from the Marker Down, which is in walking
23 distance of the shop, guess who's with him? Diana Hunt.

24 Could she have parked the car

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1 there and walked to the Marker Down because she had the keys
2 and she wasn't letting Mike have it? Or could they have
3 manufactured this whole story?

4 Nobody saw Mike Rippo drive
5 this car. Nobody saw Mike Rippo ever have the keys to this
6 car.

7 Diana Hunt said when she saw
8 the car at Tom Sims', she had a hunch whose car it was.
9 Well, we know she had been looking for that car. She had
10 threatened to slash the tires of that car. She had seen the
11 car before. She had been to jail, talking to Mike Beaudoin
12 about that car. And all of a sudden, she can't be sure
13 that's the car?

14 How many witnesses did you see
15 come in here and take one look at Exhibit 64, a car they
16 haven't seen in years, that's been painted since they saw
17 it, and they take one look at it and they say, oh, yeah,
18 that's the car.

19 But not Diana Hunt. She had a
20 hunch it might be a stolen car. This is a lady who deals in
21 stolen cars, among other things. She admitted it. But
22 somehow, Diana Hunt, who took nothing, wound up with the
23 car.

24 She wound up with a credit

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1 cards. She wound up with the brown bag with all of the
2 possessions in it.

3 What did Mike Rippo wind up
4 with out of all of this? A pair of sunglasses.

5 We know they met sometime after
6 this murder and Mike Rippo went to the Sunglass Company and
7 bought a pair of sunglasses, signed for them. We told you
8 that in opening statement.

9 He went and bought some stuff
10 from Sears; but what we know is, later on that same day,
11 Diana Hunt has got the Gold credit card back 'cause she's
12 using it. We know that. The evidence is in.

13 Diana Hunt has got the car;
14 she's got the credit cards. Diana Hunt is the key to the
15 State's case, the absolute foundation of their case. She's
16 the one that said they went to the mall and bought the
17 sunglasses. No question about that.

18 But also think about the rest
19 of her story there. She swore that she took one Gold card
20 out of Mike Rippo's wallet and she took that to get away
21 from Mike Rippo. She was afraid of him; she had to make
22 this great escape.

23 What did she do with that
24 credit card? What did she do that day to make her escape?

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1 We know she went to the mall
2 and bought some cologne; and she had one credit card, her
3 sworn testimony, the Gold card. But what card did she use
4 to buy the cologne? The Dillard's card. Where did it come
5 from?

6 She swore she didn't take it,
7 but she charged stuff on it. Her story is not supposed to
8 be contradicted by independent evidence. It's supposed to
9 be corroborated or else it's not reliable. She repeatedly
10 said the one Gold card, I took it, to make my escape.

11 When the State makes a deal
12 with the devil, they need you to believe that devil.

13 She took that card because she
14 was afraid. Stop and think about her description of her
15 escape attempts. We know she went shopping, got the cologne
16 for Teresa Perillo. She also bought cologne for a man.
17 Who? Who is the man she bought the cologne for? She never
18 said, did she? Why did she buy that and who was she going
19 to meet to give it to?

20 She also said that after
21 staying at the Gold Coast for a while, she went back to
22 D'Amore's house to stay. She was hiding from Mike Rippo.

23 Mike Rippo lived in D'Amore's
24 house. If you are going to hide from somebody, does it make

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1 a lot of sense to go live in the same house they're in or
2 does it make sense to go somewhere else? It's a strange way
3 to hide.

4 A juror once said 20 pieces of
5 five percent evidence don't add up to a hundred dollars --
6 or a hundred percent. There is not a hundred percent worth
7 of testimony here. There is not five percent of testimony
8 here. Look at her credibility. Look at what she says is
9 going on.

10 Mr. Harmon is known for saying
11 murder does not make sense, and he's right, but the evidence
12 supporting a conviction for it has to. If it doesn't make
13 sense, you can't say it's no doubt. Beyond a reasonable
14 doubt is the standard. The State needs you to believe the
15 devil.

16 She also said there was an
17 occasion where she left D'Amore's house in her Colt, with
18 her possessions in the car, quote/unquote, her possessions
19 in the car. They ran out of gas.

20 She takes off and Mike Rippo
21 calls for a ride. And when Mike Rippo gets picked up by
22 D'Amore, guess what he's got with him? Exhibit 92, the
23 brown bag and its contents, the contents showing somebody
24 committed this crime.

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1 The first time anybody has ever
2 seen Mike Rippo with any of this stuff is when D'Amore picks
3 him up after getting out of Diana Hunt's car. But Diana
4 Hunt didn't take anything. How could that be?

5 Diana Hunt swore she took one
6 Gold card after the crime, but her friend, Teresa Perillo,
7 said I watched her in the motel room trying to alter the
8 driver's license.

9 How did she get it if she
10 didn't take it? Why is she lying? What's her motive?

11 One count of robbery; she's
12 already been to the parole board once. She's got a real
13 motive.

14 What happened when Mike Rippo
15 got ahold of this evidence? Did he throw it away? Did he
16 burn it? There is nothing of value in this bag, not a thing
17 of value. What did he do with it?

18 He knew who one of the
19 girlfriends' boyfriends was, Denise Lizzi. He knew he'd be
20 upset. He calls him and says I've got evidence for you.
21 Come and get it. I'll meet you at the Showboat.

22 And what happens? He shows up
23 at the Showboat. Does he ask for anything? No. He says
24 look at what I've got. Look at it; here it is. I'll give

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1 it to you.

2 Is that the kind of thing you'd
3 expect a murderer to do? He didn't make any effort to hide
4 this stuff. He delivered it to somebody he knew would be
5 looking for the murderer.

6 It had no value whatsoever if
7 he was guilty. He could have just thrown it in the dippy
8 dumpster and gone away, but he didn't. He took it out of
9 Diana Hunt's car and gave it to a friend of the victim.

10 Does that make sense with the
11 kind of story Diana Hunt is telling you?

12 Diana Hunt even said at one
13 time Mike Rippo said he went back to the Katie Arms
14 apartment, cut their throats and jumped up and down on their
15 chests. Well, once again, we know the evidence says that
16 never happened.

17 Diana Hunt has a lot of motives
18 going on here. And the State talked to you a little bit
19 about the culture of people in jail and the culture of their
20 society.

21 Diana Hunt says that she has
22 this White Supremacist tattoo on her arm because somebody
23 did her a favor when she fell asleep at a party.

24 In evidence are Defendant's

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1 Exhibits F and G, pictures of Diana Hunt hanging out in a
2 tattoo parlor. (Indicating). But, no, she didn't get this
3 tattoo deliberately. Somebody did her a favor at a party.

4 Even if that's true, if
5 somebody did you a favor, they did something you wanted.
6 She didn't say I was upset somebody put this horrible mark
7 on my arm. Somebody did me a favor and put lightening bolts
8 and a White Supremacist ad on my arm.

9 Who else in this trial has
10 connections like that? You saw them. I asked them to take
11 their shirts off when they came in here and show you their
12 White Supremacist garbage.

13 Guess what? Mike Rippo didn't
14 fit in this group. If there is this jail code and you want
15 to hang somebody, who do you hang? Somebody else with
16 tattoos, somebody else who believes in your belief systems,
17 or do you hang somebody who is outside?

18 How many people have you heard
19 of that got a tattoo by accident? How many people do you
20 know that to go a party and just happen to run into somebody
21 with a tattoo gun in their hand? It's supposed to make
22 sense.

23 What we do know is that after
24 2/18 of '92, the only person who ever drove the Nissan was

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1 Diana Hunt; and that Diana Hunt lied about other cards she
2 had, identification she had, where she went and what she
3 did.

4 Why is it if Mike Rippo is this
5 big master criminal, he wound up with nothing? She had it
6 all, except for the credit cards that he saw her with; and
7 she had them later; we know she got them back.

8 Does it make any sense? She
9 swore under oath she didn't take anything, but she wound up
10 with everything.

11 She told us the story about how
12 she had this one Gold card, and she's afraid to go home, so
13 she and her drunken friend Teresa go from motel to motel,
14 trying to find a motel that would take their Gold Visa card.
15 That should have been a real tough hunt in Las Vegas.

16 But she said it was a real
17 problem and she had to go from hotel to hotel to find
18 someone who would take it. But, guess what? Teresa Perillo
19 and the evidence -- look at the charge cards from the Gold
20 Coast. She already had the motel room before she picked up
21 Teresa Perillo.

22 Why is she lying? Is she one
23 of these people who just lies because she can?

24 We know that when the police

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1 first picked her up, she thought she could lie to them
2 without any problems, probably the same way she thought she
3 could lie to you without any problems, because she doesn't
4 expect people to question her stories.

5 But in this case, there is
6 forensic evidence that says she's lying. In this case,
7 there are other witnesses that say she's lying. We know she
8 lied again about which motel she went to, because she didn't
9 go from motel to motel with her friend, drunk, 11:30 at
10 night, with the two guys from the band. She already had the
11 motel room key. She already checked in. She went straight
12 there.

13 She even lied to us about
14 whether or not the fender on the car had been painted before
15 or after she checked in, because she made it quite clear in
16 her testimony that she had painted it before; but Teresa
17 Perillo went with her the next day to do that.

18 Why is she lying about all
19 these things? And if she's lying, can you trust her with
20 somebody's fate?

21 Diana Hunt talked about how she
22 was so broke, she was on the run, and if she remembers, she
23 showed up at the Nelson Street address in a limo. I guess a
24 lot of people who are broke and on the run ride around town

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1 in limos; makes a lot of sense.

2 She said, oh, well, I paid for
3 it with drugs.

4 What drugs? Where did they
5 come from? Where has she been to get these drugs?

6 There was a fight at Nelson
7 Street. What happened?

8 Diana Hunt was there and Mike
9 Rippo showed up and they got in a fight. And Mike Rippo was
10 mad.

11 Would you be mad if somebody
12 was saying you were involved in a crime and you weren't?
13 Would you be mad if you found out somebody killed a friend
14 of yours? Would you be mad? Would you get in a fight?

15 The testimony was that when
16 they broke that fight up, there were five people there; at
17 least two of them had clubs.

18 Guess what? Mike Rippo ran.
19 Who wouldn't? There is five people there; they're hostile;
20 they've got clubs. Mike is five feet four. Do you want him
21 to take on the entire city of Las Vegas?

22 He ran, but he didn't run far.
23 As a matter of fact, we know that he went to a conference
24 phone call with Detective Dibble, because D'Amore set it up

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9 1 and listened.

2 What did Diana Hunt do? She
3 left for Yerington. The State talked to you about how
4 flight is an indication of guilt. Only one person really
5 flew, and it was Diana Hunt, and she went to Yerington.

6 Diana Hunt said repeatedly that
7 she was afraid of Mike and was trying to contact the police.
8 She talked about how D'Amore had offered to help her get in
9 touch with Kyle Edwards.

10 10 Never heard from Kyle Edwards;
11 never heard from D'Amore that this happened. The only
12 conversation D'Amore set up was a call by Michael to
13 Detective Dibble, the investigating officer.

14 D'Amore never said anything
15 about her asking for help or asking to call the police or
16 giving her Kyle Edwards' name. She never said anything
17 about Mike having made threats against her and her family.

18 Diana Hunt said one of the
19 reasons I didn't go to the police is because he made threats
20 against D'Amore.

21 Did you see any indications
22 D'Amore was worried about Mike Rippo?

23 D'Amore was worried about Diana
24 Hunt. She said she wanted Diana Hunt out of her house, out

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1 of her life. She also said Diana Hunt was a liar and a
2 thief.

3 When the State makes a deal
4 with the devil, they want you to believe that devil. They
5 have to have you believe that devil.

6 But she can't get her stories
7 straight. Look at her memo. They knew who she was going to
8 testify against. They knew what they wanted. And in order
9 for her to get her deal, she had to deliver.

10 Diana Hunt went on to say that
11 not only did she get this sweetheart deal, two counts of
12 robbery -- or one count of robbery -- I'm sorry -- she's
13 already been to the parole board once; she's already had a
14 letter helping her with classification from the D.A.'s
15 Office; but that she expected more, help her with her
16 classification in the future.

17 Does she have a motive going
18 here? Does she have association with people other than Mike
19 Rippo?

20 Diana Hunt said that Mike Rippo
21 wanted to kill her and was going to spike her drugs. Well,
22 this happened a long time ago. And we even had another
23 witness come in and say, yeah, gee, Mike Rippo wanted her
24 killed before July 1993.

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1 There is zero evidence in this
2 case he ever tried to kill Diana Hunt, none. She's doing
3 just fine. If he was pushing for it by July 1993, there has
4 been a lot time, a lot of water under the bridge; nothing
5 has happened. Does that corroborate her story? Does it
6 make sense?

7 Diana Hunt did admit if she
8 changed her testimony, she could lose her sweetheart deal.
9 She could wind up sitting where Mike Rippo is, facing these
10 charges.

11 The State also called Angie
12 Sposito from the Sunglass Company. Guess what? She said
13 that he bought the sunglasses. Did she have a motive to lie
14 about that? We told you we bought the sunglasses.

15 Then they called Teresa
16 Perillo. She went with Diana Hunt to take care of the
17 Nissan the day after they stayed at the Gold Coast. Diana
18 Hunt said she had already painted it when they checked into
19 the Gold Coast. Why would she lie about a detail like that?
20 Some people just can't tell the truth, even when it works.

21 Is Diana Hunt one of those
22 people?

23 She never saw Mike Rippo have
24 anything to do with the car, never. She said that when they

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1 went to paint the car, they also went to sell some drugs.

2 What drugs? From who? Where
3 did these drugs come from?

4 She never said anything about
5 stealing drugs. She never said anything about getting drugs
6 from somebody else. Where did they come from? Happen to be
7 in the Gold Coast while she was staying there maybe? Her
8 story is supposed to make sense.

9 We know that Diana Hunt used a
10 phone at the bars they went to. We know that she used it at
11 the mall. We know that she used the phone repeatedly at the
12 Gold Coast. And she told you she was on the run and was
13 trying to contact the police. She was afraid to use the
14 phone at D'Amore's because it was one of these cellular type
15 where Mike could hear in on it.

16 How many phones are there in
17 the city of Las Vegas that Mike Rippo couldn't listen in on?
18 Could -- we know there were phones at the bars they went to.
19 We know there were phones at the mall. We know there were
20 phones at the Gold Coast. If she wanted to make a phone
21 call, all she had to do was pick up the phone and dial 911.
22 It doesn't even cost a quarter. We know one thing, she
23 never did it. Sometimes actions do speak louder than words.

24 When the State makes a deal

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1 with the devil, you have to believe the devil or their case
2 doesn't exist.

3 She insisted the only thing she
4 ever had from this crime was the Gold card. We know that's
5 not true. Teresa Perillo watched her try and modify Denise
6 Lizzi's identification card there at the motel, but she had
7 already bought the cologne with a credit card she didn't
8 have.

9 Does Teresa Perillo have a
10 reason to lie about this?

11 We know one thing, there is
12 independent evidence that supports Teresa Perillo: The
13 Dillard's charge receipts. Does it support Diana Hunt? No,
14 it says Diana Hunt is a liar. Once again, Teresa Perillo
15 confirms that Diana Hunt is a liar.

16 The standard is beyond a
17 reasonable doubt. How important is beyond a reasonable
18 doubt?

19 There is a familiar story told
20 of an attorney in a capital case, over a hundred years ago,
21 and the attorney, at the end of the case, having a lot more
22 guts than I do, stood up and said, ladies and gentlemen, I
23 think the State proved my client guilty, but not beyond a
24 reasonable doubt, and he sat down. His client was

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1 acquitted. And the attorney's name was Abraham Lincoln.

2 That's how important reasonable
3 doubt is. If there is reasonable doubt, there is no case.

4 We talked about this at the
5 beginning of the trial. There is a presumption of
6 innocence, yes, but nobody is ever found innocent. You got
7 two choices: Beyond a reasonable doubt or reasonable doubt.
8 And if there is reasonable doubt, as a matter of law, you
9 have to find the person not guilty.

10 Can you say you can convict
11 somebody on the word of Diana Hunt?

12 Jurors used to be told that
13 part of the instruction here is beyond a reasonable doubt in
14 the more weighty affairs of life; and years ago, it --
15 people used to talk to them and say it's like trying to make
16 a decision to get married, a weighty affair of life.

17 And most people would still
18 agree a weighty affair of life and marriage could be
19 analogous. But look at our divorce rate. People make
20 decisions nowadays and don't think of the consequences and
21 they say, oh, I made a mistake. I'll get out of it. And it
22 may be somewhat traumatic getting out of it, but they do it
23 all the time.

24 You don't get out of a verdict.

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1 Once you people say guilty, that's it. It's guilty. You
2 can't call up and say I changed my mind. It's beyond a
3 reasonable doubt or nothing.

4 You have the credibility
5 instruction in here. Look at it. Because the credibility
6 of the witnesses is what this case is all about.

7 Wendy Liston testified, Lauri's
8 good friend, and it seems like she really was. She cared
9 about Lauri. She wanted to try and help Lauri get off her
10 drug problem. She visited her almost on a daily basis.

11 We also know that Denise Lizzi
12 used to visit Lauri and get her to use drugs even though she
13 was trying to quit.

14 But she knows nothing about
15 this case. Maybe she's the one that came to the door when
16 Diana Hunt said she was there; maybe she's not. She didn't
17 hear anything. She didn't hear a stun gun. She didn't hear
18 a fight. She didn't hear a stereo. She doesn't know if
19 they were even there at the time she was there.

20 The only person that says she
21 was is Diana Hunt. Diana Hunt had the discovery and knew
22 she had been by. Diana Hunt can add anything she wants.

23 Then Tom Sims comes up,
24 Tommy's, Inc., Tommy's Maintenance, makes 200 to \$300,000 a

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1 year as a straight, legitimate businessman, with three prior
2 felony convictions.

3 And what is his relationship to
4 Diana Hunt? Diana Hunt seemed to indicate from the stand
5 that Mike called her and says come pick me up over here and
6 she had a vague idea where it was. She didn't really know
7 him.

8 Tom Sims indicated, well, I
9 knew who she was, but there is no real connection. Then why
10 is Tom Sims writing her while she's in prison and getting
11 her to send him copies of the discovery?

12 Is that the kind of thing you'd
13 do to a casual acquaintance that's been convicted of
14 murders: Hey, send me copies of all the police reports so I
15 can look at them?

16 He did say he never saw Mike
17 Rippo drive the car; never saw him with the keys to the car.

18 He said Mike Rippo needed
19 \$2,000 to get out of town, but within a couple of hours, he
20 sees Mike Rippo with \$2500.

21 Guess what? Mike Rippo didn't
22 get out of town. He saw Mike Rippo leave on foot and return
23 with money and Diana Hunt.

24 If he was really worried about

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1 the car sitting there in front of his shop, why didn't he
2 just say, Mike, move the car, or deny Mike didn't have the
3 the keys to the car?

4 It would have been a reasonable
5 request if, quote/unquote, friend, you don't want the car in
6 front of your shop, say, Mike, you know, park it across the
7 street. It didn't happen. Why is that? He didn't have the
8 keys to the car.

9 What is his relationship with
10 Diana Hunt? Is it more than said on this stand?

11 He did give a statement to the
12 police in early March. And, furthermore, he said: They
13 came in; they needed to talk to me; I met them. And he told
14 them a story. And it was a story, wasn't it, because he
15 admitted he lied about it.

16 And when asked about, well,
17 this was after Mike Rippo had supposedly met him on his
18 birthday, February the 26th, 1992, and told him this
19 confession about I strangled the bitches, I accidentally
20 killed one of the girls, panicked and killed the other,
21 after he knew all this information, he gives a statement to
22 the police, and he doesn't mention it. And he said it's
23 because nobody asked me.

24 But the last question in the

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1 police report was: Okay. Considering what's going on here,
2 Tom, is there anything else you might be able to add that we
3 haven't talked about, that might help us in our
4 investigation? And his answer was: Ah, not that I know of.

5 He testified to the Grand Jury
6 in June of 1992. Guess what? He forgot to mention that
7 confession again; never mentioned the suitcases and the
8 tapes.

9 In May, 1993, he gets a
10 criminal complaint filed against him (indicating), charging
11 him with felonies. We know that he's got at least three
12 prior felonies, and he's a candidate for the habitual
13 criminal; and he was charged with possession of controlled
14 substance with intent to sell, possession of controlled
15 substance and possession of a firearm by an ex-felon. He's
16 the legitimate businessman. He forgot to mention that all
17 this stuff was found in his office.

18 Does his motive to cooperate
19 with the police change? Does his need for some kind of a
20 device to try and get him out of this change?

21 He gets the discovery from
22 Diana Hunt, and then he tells us, in October '93, I go to
23 the D.A. and I tell them about all of this.

24 But, guess what? The D.A.'s

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1 Office calls him a liar. John Lukens said that conversation
2 didn't happen. He never told us anything about this: Oh, I
3 accidentally killed one person, killed another. It never
4 come up.

5 Do you think the District
6 Attorney prosecuting the case might have been listening for
7 a little evidence like he confessed to the murder? Is that
8 the kind of thing the District Attorneys like, rented lips,
9 likely to lie, or is that the kind of thing Tom Sims is
10 lying about? Does it make any sense?

11 We know he could face a life
12 sentence. We know he's got the discovery. And there is a
13 lot of snitches in this case, and we're going to talk about
14 them, but what does a snitch need in order to try and get a
15 deal? He needs to know some information about the case so
16 he can call the police and say, hey, this is what I heard.

17 How do you do that? Can you
18 read a newspaper article? Can you look at somebody's
19 discovery -- we know he had his discovery -- and say, hey,
20 Mike Rippo told me, and read right off the discovery? Of
21 course, you can.

22 That's why snitches are called
23 snitches, in part because people don't trust them.

24 It's interesting. Tom Sims can

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1 recall a conversation he had with Mike Rippo in April -- or
2 February 1992, but he couldn't remember how many felony
3 charges he has pending against him. He doesn't even bother
4 to go to court on them. He just sends his attorney.
5 (Indicating) Wasn't even sure if he had two or three
6 felonies pending against him.

7 Is that because he knows these
8 charges aren't really important to him, the deal is in?
9 What do you think should be more important: Remembering a
10 conversation you had with somebody four years ago or
11 remembering whether or not you are facing prison time on
12 three charges? What's his credibility?

13 When the State makes a deal
14 with the devil, you have to believe the devil or their case
15 falls apart.

16 Mr. Sims told us he had nothing
17 to do with stolen cars or drugs. On May 13th, 1993, they
18 found drugs in his shop, in his office, with a gun, a three
19 time ex-felon, 50 plus pounds of marijuana, but he doesn't
20 have anything to do with drugs, doesn't have anything to do
21 with stolen cars. He's a legitimate businessman.

22 That's kind of like Tom Sims
23 versus the truth. Why would he ask for the discovery from
24 Diana Hunt, this lady he barely knows, unless he had

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3

1 something to worry about?

2 Was he the one with Diana Hunt
3 and wanted to see what the police thought? Was he just
4 looking for a way to fabricate a story?

5 You have to decide what his
6 motives to tell the truth are.

7 The State called Denny Mason,
8 boyfriend of Denise Lizzi -- or at least one of them. He
9 identified the Dillard's card and the -- or the receipts
10 from Dillard's, where the cologne was charged.

11 It wasn't his Gold card. He
12 had his Gold card receipts. So he confirmed Diana Hunt is a
13 liar. He also confirmed the Gold Coast records. Those were
14 on his credit card, the movies they watched, the times they
15 were there. It doesn't comport with Diana Hunt's story. It
16 confirmed Diana Hunt was a liar.

17 The trial system is dependent
18 on people taking the stand, raising their hand and saying
19 I'm going to tell the truth.

20 What happens when they don't?
21 There is nothing magical. And society has changed, and
22 people live in different societies. The State talked about
23 the prison society, the jail society, the society that Diana
24 Hunt lived in, that Tom Sims has been in, that all of the

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1 other snitches have been in.

2 What do you think? Would she
3 get on the stand and say I swear to tell the truth and,
4 gosh, that's more important than lying to get my deal and
5 put me out of prison and make sure I don't face felony -- or
6 death charges, murder charges? What did the oath mean to
7 Diana Hunt? What did the oath mean to Tom Sims? What did
8 the oath mean to Mr. Hill and the rest of the snitches?

9 Are these people who really
10 care about what they say when they raise their hand? Does
11 it mean anything to them?

12 Our system is dependent on
13 people taking that oath seriously when they get on the
14 stand.

15 And if they don't, what does it
16 mean?

17 Cabrales from Metro, he did
18 find the glass fragments, in the middle of the apartment,
19 not where Diana Hunt said they should be.

20 What did she do, clean them up,
21 move them over and drop them back down again, or is she
22 lying about it? Did she just see a broken beer bottle there
23 and say that's a fact I ought to throw in? Her story
24 doesn't make any sense.

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1 He's also the one that said
2 there was no indications of a wipe down. He's an expert.
3 He testified to his qualifications. Everybody agreed he was
4 an expert. No wipe down.

5 When the State makes a deal
6 with the devil, you have to believe that devil. And in this
7 case, he says Diana Hunt is lying.

8 Dr. Green -- and I'm not going
9 to go much into the forensics. Mr. Wolfson is going to be
10 doing that -- but Dr. Green said that Diana Lizzi had scars
11 typical of I.V. drug users, ligature marks, typical of a two
12 wire lamp cord around the neck, and no stun gun marks. She
13 had enough meth in her to kill an average person, but she
14 had no marks from the stun gun.

15 Diana Hunt talked in detail
16 about how many times Mike Ripppo repeatedly, all over her
17 body, hit her with this magical stun gun that leaves no
18 marks.

19 Lauri Jacobson's autopsy --
20 Diana Hunt said I hit her, broke a beer bottle over her
21 head. She was dazed. She was down. There is no physical
22 evidence.

23 Doc Green said you hit somebody
24 that hard, it leaves marks. He looked. They weren't there.

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1 She also said, as I've already
2 talked to you about, he trussed her up; trussed her up,
3 ankles and feet -- or hands together, and carried her like a
4 suitcase and left no ligature marks.

5 So we've got a magic stun gun
6 that leaves no marks; we've got a magic beer bottle that
7 knocks somebody out and leaves no marks; and we've got a
8 magical cord that you can truss somebody up and carry them
9 like a suitcase and it leaves no marks.

10 Does Doc Green have a motive to
11 lie in this case or does Diana Hunt? Because one of them
12 has to be lying.

13 Mr. Moser testified about
14 fingerprints; no indication of a wipe down in the reports he
15 had, and none of our client's prints were there.

16 Does he have a motive to lie?

17 Officer Welte recovered the
18 Nissan. He actually knew how to protect the crime scene.
19 He's a rookie. He's the only one who secured it and made
20 sure nobody else went in and touched the evidence.

21 But, guess what? They found
22 the Nissan right where Diana Hunt said it would be, because
23 she's the one who had it; and she's the one who told him
24 where it was, not Mr. Rippo. He didn't have the car.

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14

1 Deborah McCracken recovered the
2 brown bag and we know how the brown bag got where she found
3 it. It's a little strange somebody brings you evidence in
4 the murder of your girlfriend, so you secure it in the
5 inoperative trunk of your brother's car instead of calling
6 the police. Unique way to handle the evidence, but that's
7 how it got there.

8 Linda Errichetto, head of the
9 crime lab; nothing of serological value.

10 Mr. -- and here goes my names
11 again -- Capia, somebody, the guy from Sears. We're not
12 charged with the Sears case, so we really don't care what he
13 said, but stop and think about this guy. Think about his
14 memory.

15 Would he have identified a ham
16 sandwich if the D.A. had asked him to? He knew everything.
17 He identified the Pinto, remembered blue interior,
18 remembered the details. But if you look at the pictures of
19 the car, one side is all dented up. He didn't remember
20 that. He just said whatever the State needed him to say,
21 but it really doesn't matter.

22 William Leaver talked about the
23 fingerprint -- or the handwriting. I guess I could
24 summarize his testimony up as definitely, probably, maybe.

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14
1 He wasn't positive about anything.

2 Then they called Tom Christos,
3 Mike's friends, quote/unquote, who wore a wire to the jail
4 to get him to talk. But at least he admitted I used to deal
5 in drugs and stolen cars. Nice for a change, somebody
6 admits, yeah, I used to do that.

7 He had known Diana Hunt for a
8 long time. She brought the stolen car to him for paperwork,
9 not Mike Rippo. Mike didn't have the car.

10 Teresa Perillo was his
11 girlfriend. They went out, came back. Diana Hunt came back
12 the next day first, loaded up a suitcase full of Teresa
13 Periollo's belongings; but nobody ever got them back; she
14 stole them.

15 He fought with Diana Hunt;
16 threw her out of the house; didn't want her around. This is
17 a man who is a drug dealer and a car thief and he still
18 doesn't want her around because she's that bad; doesn't want
19 her in his house. She comes back and burglarizes the place.

20 He did say that Mike called and
21 said the cat is out of the bag. And the State wants you to
22 believe that that means Mike was calling Diana to say this
23 murder case was out of the bag.

24 But how many things is Diana

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14

1 Hunt involved in? The cat is out of the bag could mean
2 what? Somebody found out she's ripped them off, somebody
3 wants drugs? What does it mean?

4 The State wants you to make one
5 assumption and one assumption only: Look at the lifestyle
6 Diana Hunt was living and think of how many alternatives
7 there might be to what that could mean.

8 When we called him back in our
9 case, we went into detail about his motives of wearing that
10 wire into the Jail; and the one thing that's clear, he went
11 there because he was afraid Diana Hunt was going to try a
12 lie on him, too, because he thought she was a liar.
13 Everybody who knows Diana Hunt describes her as a liar and a
14 thief. But the State needs you to believe that.

15

15 Deidre D'Amore, friend of Mike
16 Rippo's, would not have allowed Diana Hunt to stay there but
17 for Mike; friendly to Mike.

18 Diana Hunt told us that she
19 talked to her about Mike's threatening the life of you and
20 your kid. Help me get in touch with Kyle Edwards.

21 Did she mention any of that?
22 Did she seem to have any indications anybody was threatening
23 her? No, none of that. She did say she tried to help Mike
24 Rippo get in touch with Detective Dibble. D'Amore asked

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15

1 Mike Rippo to get Diana Hunt out of the house.

2 Then they called dear Mr.
3 Levine, who met Mike Rippo in jail as he was a porter. And
4 on direct, he talked about how, yeah, it's really easy;
5 anybody can use the phone, but I made all these phone calls
6 for Mike Rippo. On cross-examination, he mentioned, oh,
7 yeah, Mike Rippo was locked down and couldn't go to the
8 phone, and that's why I made them.

9 Why wouldn't he mention that on
10 direct? What was he hiding?

11 Mr. Rippo was just in for
12 murder. If you remember, I asked him, you mean, he didn't
13 have any serious charges, like jaywalking, just
14 murder?

15 He also talked about how Mike
16 had approached him, first, as an alibi witness, and then
17 determined he was already in jail in Reno at the time, so
18 then Mike approached him to be a character witness.

19 And we let you see what kind of
20 a character he was. You saw his tattoos with the skulls and
21 the Aryan hate threat printed all over his body.

22 Is that the kind of person you
23 would call or ask to be a character witness for you? Do you
24 think if we called him as a character witness, the State

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1 wouldn't say stand up, take off your shirt, show the jury?
2 They would because that tells you what kind of character he
3 is.

4 What connection does he have
5 with anybody? We know he's got the same belief systems as
6 Diana Hunt, not Mr. Rippo's. We know that he was looking
7 for a deal.

8 He said Mr. Rippo showed him
9 how he killed, when he was playing with his vein and had a
10 cord around his arm. But, originally, he said he showed me
11 how he did her.

12 Well, now, if you were going to
13 do somebody with drugs, would you choke off the vein to
14 their arm and wait for it to get big? Isn't that how they
15 do drugs? Anybody ever had their blood drawn? That's what
16 he was demonstrating, if he demonstrated anything, but how
17 do you know what happened with Mr. Levine?

18 He did say he spent time there;
19 the newspaper articles on this story, he was on the news,
20 his discovery was there. People were talking about it. All
21 he has to do is pick up the phone and say, hey -- instead of
22 saying guess what I overheard or guess what I saw in the
23 newspaper or guess what I saw in discovery, just pick up the
24 phone and say, guess what Mike told me? It's the only thing

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15

1 he has to change, and I can tell the same story.

2 He also -- Mr. Seaton said he
3 talked about how the bodies were positioned and how they
4 were changed.

5 Well, the diagrams in the
6 discovery -- and guess what? -- the discovery looks just
7 like this, (indicating), Exhibit Number 3, and it's exactly
8 what he described. The bodies were not side-by-side. They
9 were staggered. All he had to do was see the discovery to
10 get that answer.

11 He only has eight prior felony
12 convictions, but he has no motive to lie, none whatsoever.
13 Oh, yeah, he did get parole right after that. What a
14 coincidence.

15 We also talked about the fact
16 that Mr. Ripppo is five feet four; he's living in a hostile
17 environment in that jail.

18 If you had somebody put murder
19 charges on you, and people are coming up around you, being
20 confrontational, would you say, hey, I've killed before, I'm
21 going to kill again? Back off. Is that the kind of thing
22 that you might brag about to try and protect yourself?

23 He's living in a pretty violent
24 environment. That doesn't mean he did anything, except that

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16

1 he's trying to get somebody to respect him, to back off from
2 him.

3 You've seen Mr. Rippo. You've
4 seen the size of the other people in here. He's the
5 smallest witness. Would you deny you were violent in that
6 environment over there or would you say you're damn right, I
7 am. What are you going to do about it?

8 When the State makes a deal
9 with an eight time loser, they still want you to believe
10 him. But, remember, he got paroled right after this.

11 He also mentioned, well, yeah,
12 I did spend a couple years in the psyche ward, but that was
13 just for protection. It wasn't until recross-examination I
14 got him to remember that, oh, yeah, there was that suicide
15 attempt that put me there.

16 Which was it? We know he was
17 in a psyche ward. A good fiction writer has to create a
18 story that can cause the reader to suspend the disbelief.
19 The State has tried to create a story that can cause you to
20 suspend disbelief, but it has to look like the truth.

21 Does the State's case look like
22 the truth? Does Mr. Levine have motives? Does he have an
23 agenda? Could he hate my client just because my client is
24 not an Aryan, doesn't have the tattoos and the other garbage

002975

16 1 these people have? And in the prison system, is that enough
2 to drop a dime on somebody and try and get yourself a deal?

3 Mike Beaudoin, Denise Lizzi's
4 other boyfriend: Known her for ten years, live in
5 boyfriend-girlfriend for three -- so she was a live in
6 girlfriend for two people at the same time, which is an
7 interesting trick -- knew she was an I.V. drug user, at
8 least for the last year or so of her life.

9 In early February, he is,
10 quote/unquote, breaking up with her, has a confrontation and
11 fight in his own apartment at four o'clock in the morning
12 with another guy who comes in and they fight. And I don't
13 remember the guy's name, but you remember the fight.

14 Right after that, the next day,
15 guess who happens to be at his apartment? Diana Hunt.
16 Later that day, he's arrested; he goes to jail. He told us
17 he had met Diana Hunt four or five times.

18 Diana Hunt, we know, got his
19 car out of hock; got -- visited him in jail twice,
20 volunteering to attack Denise Lizzi, his soon to be
21 ex-girlfriend, who he thinks ripped him off for drugs and
22 money.

23 If he really wanted to do
24 Denise Lizzi, what better alibi could he put together than

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16

1 being in jail? That's an iron clad alibi. And he had Diana
2 Hunt. Who else did he have? We know Diana Hunt visited him
3 and talked to him about exactly -- do her. I will do Denise
4 Lizz1.

5 And in the streets, what does
6 that mean? After he gets out, who brings him evidence of
7 the murders?

8 Mr. Rippo, who doesn't know
9 him, says here's evidence, look at it; and guess where I got
10 it from? Diana Hunt.

11 After the fight on Nelson
12 Street, Diana Hunt splits. She goes to Yerington. She
13 stops having contact with Mike Beaudoin. Guess what? Mike
14 Rippo didn't. He told us he didn't. He kept calling him.
15 Strange activities.

16 They called around to say he
17 booked in a stun gun and **an <KHERD> to say they let a stun
18 gun without all the rest of his clothing.

19 Is it the same gun? Did
20 anybody ever test it to see if this stun gun could be used
21 and not leave marks? Was this the magic stun gun or was
22 there ever even a stun gun used, one that doesn't leave
23 marks?

24 Then they called Donald Hill;

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1 only his real name is Wilbur **Witte, and he's got so many
2 Social Security numbers, he doesn't remember which one is
3 the real one.

4 At one time he says -- or at
5 least Dan Seaton says he says -- that Mike had been burned
6 on a drug deal. That's right, Mike had been burned on a
7 drug deal. Mike Beaudoin had. All you got to do is change
8 one name and you got testimony.

9 We do know that he said that
10 Denise Lizzi had burned him on a drug deal as well, or that
11 Denise Lizzi had burned Mike Rippo -- let me straighten it
12 out. I got names mixed again.

13 He said that Denise Lizzi said
14 Mike Rippo had been burned on a drug deal -- or Diana Hunt
15 said Mr. Rippo had been burned on a drug deal and wanted to
16 get Denise Lizzi. He also said that Denise Lizzi thought
17 Michael Rippo was a cop.

18 Who are you the least likely to
19 deliberately burn on a drug deal if it isn't a cop? Aren't
20 you just going to have nothing to do with somebody you think
21 is a cop if you are selling drugs?

22 It's how a snitch works. You
23 get a couple of facts, you change a few things, and you are
24 in business; you are working on a deal.

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17

1 He said I was Mike Rippo's
2 friend, and that Mike Rippo said he killed them; held a gun
3 on them. Where did that come from? Did he read the wrong
4 story? Did he get his cases mixed up?

5 He said no favors; just a good
6 citizen. But, oh, yeah, there was that letter to the parole
7 board, and he got paroled.

8 He talked about the code in
9 jail and his connections; and, if you remember, when he
10 showed you his chest, he had a big swastika tattooed in the
11 middle of his chest with wings on it, and he was proud that
12 he had his children's names tattooed above it.

13 Is this the kind of man you can
14 say you can trust to decide the fate of a human being?

15 Said a snitch won't last long
16 in prison, and my motive for being a snitch is I wanted to
17 get out and have a real reason not to go back.

18 He did get out. Where is he?
19 He's back. And guess what? He's fine. No testimony about
20 him being killed, attacked, or anything else happening to
21 him.

22 What kind of a man would have a
23 swastika and his children's names tattooed together? Is
24 that someone that the oath means a lot to him, or is that

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1 someone who will say what he thinks he needs to get a deal?

2 James Ison: Just a poor,
3 honest bank robber. On cross, he first said that he didn't
4 know who Leon Anderson was. Then he remembered: That just
5 happened to be the other murder case he snitched in. Talked
6 about how snitche's life wasn't worth two cents. He's still
7 around. He snitched in two murder cases.

8 How many times do you have to
9 do it before you become a professional? Nothing to gain,
10 just a strong, honest family man.

11 All Mike Rippo had to do was
12 say Diana Hunt is saying this about me and he drops that and
13 says Mike told me, and what have you got? Testimony. He
14 had access to it. He says there were no newspapers in the
15 area. This was a topical crime, a double murder, but there
16 were no newspaper stories.

17 He also talked about how
18 well -- there was the bank robbery, but it was a deal where
19 he started to give his statement to try and help himself,
20 but somehow, during this statement, found out he still had
21 federal charges, so he lied in his statement, and the
22 testimony he gave here was true and the statement was a lie.

23 Well, we also found out that,
24 in reality, he had the bank robbery and he got out on parole

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17
1 and then got convicted of another one.

2 Don't you just hate it when you
3 forget to mention that other bank robbery? What's his
4 agenda? He says he got nothing out of this deal.

5 We do know he got convicted of
6 a couple bank robberies and he's out on the streets. We do
7 know that he was very evasive about what these charges were.
8 Why. If he has nothing to hide, why didn't he just say,
9 yeah, there were two different bank robberies. I did time
10 on this one and time on that one. It wouldn't have been too
11 difficult. But he gave a partial statement, deliberately
12 lying to get some kind of a deal.

13 If you want a deal, aren't you
14 going to give them the strongest information you've got, if
15 you actually have it?

16 It doesn't make any sense to
17 deliberately get a snitch jacket and not give them anything
18 worthwhile. If you had it, you'd give it to him or else you
19 wouldn't give it.

20 If he had it, he would have
21 given it. You could get a snitch jacket, so why not give
22 it? It doesn't make sense. You don't get a good deal by
23 withholding your evidence.

24 Why would Mike Rippo have

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17

18

1 trusted this guy? There is no connections with these two.
2 It's not like the other ones that have known him for years.

3 And during his testimony, he
4 said, well, I'll call them big Mike and little Mike to keep
5 it straight.

6 Well, how would he know what
7 the other Mike looked like unless somebody showed him or
8 knew him? He never explained that. Has he done time with
9 the other people? Is he trying to set somebody up?

10 Or is it like the D.A. says,
11 gee, the snitch jackets are really bad. He's said a
12 snitch's life isn't worth two cents, but we've got people
13 standing in line, waiting to give snitch testimony for
14 nothing. That's a high credibility concept. All the
15 snitches are denying getting anything.

16 The State's case is kind of
17 like one of those pictures you see nowadays that's a
18 geometric design, and if you unfocus your eyes enough, you
19 can see another picture inside of it.

20 But in a case like this, you
21 are not supposed to unfocus your eyes. You are supposed to
22 take a very, close, hard, sharp look at what's really before
23 you. And if it's nothing but geometric patterns, don't look
24 for the picture.

002982

1 You can't unfocus your
2 attention in a case like this. They want you to convict a
3 man of two murders based on the word of Diana Hunt, Tom
4 Sims, and these snitches. And there is not another shred of
5 evidence that says he committed those murders.

6 Did he have access to the
7 credit card after the murders? Sure. Does that mean he
8 committed a murder?

9 Mr. Seaton had a big display up
10 here in his big argument. Conveniently disappeared. It was
11 a big red circle basically. When he got through, I submit
12 all you have to do is draw a red line through it and you
13 have a not sign.

14 There is no credible,
15 independent corroboration that Mike Rippo did anything. The
16 only person who says she saw him at this crime scene is
17 Diana Hunt. She's already been to the parole board once.

18 When the State makes a deal
19 with the devil, you've got to believe the devil or they
20 don't have a case.

21 How could all the forensics
22 disagree with her if she's telling the truth? Those people
23 don't have a motive to lie. It's up to you to decide that.

24 But I submit to you if you look

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18

1 at the motives, Diana Hunt and Tom Sims and the snitches
2 have a lot bigger motive than the forensics experts. And
3 they agreed. They called her a liar. Teresa Perillo called
4 her a liar. Everybody who knows Diana Hunt seems to call
5 her a liar.

6 I submit you shouldn't take the
7 words of those Jay walking or -- or snitchers to convict
8 somebody of Jay walking. They were not the kind of people
9 that you can sit and say: I believe that guy. He's not
10 lying to me.

11 Think about the code in Jail.
12 John Lukens said that there was no deal going on with Tom
13 Sims; nothing going on, no cooperation. Here is the case
14 history notes. They're marked. They're in evidence. They
15 will come back there with you. Look at them.

16 Time after time after time,
17 pass the deal until after he testifies, pass the deal until
18 after he testifies; per my conversation with Lukens, the
19 feds, i.e. Terry something or other of ATF, are cooperating.
20 Deputy, please stipulate to a continuance.

21 Time after time after -- even a
22 bench warrant issued that Tom Sims never even knew was
23 issued because it got quashed that fast, and nothing has
24 happened to date. Look at it. Tom Sims has got 30 pieces

002984

18

1 of silver on the table.

2 Mr. Seaton talked about how
3 serious this case is, and he's right; two young people died;
4 and whether they were drug dealers or not, that's not right.
5 But it's also equally serious that you don't convict the
6 wrong man.

7 I submit to you that there is
8 nothing in this case that says that there is enough evidence
9 to convict Mike Rippo.

10 Remember that the standard here
11 is beyond a reasonable doubt in the more weighty affairs of
12 life.

13 If you were looking at the more
14 weighty affairs of life, would you make a decision based on
15 Diana Hunt's testimony? Would you make a decision based on
16 Tom Sims'? Would you make a decision of -- a serious
17 decision in your life based on the word of these snitches?

19

18 There is only one alternative
19 in this case: Find Mr. Rippo not guilty.

20 THE COURT: Okay. All right. Let's take a
21 short recess.

22 Remember: Don't discuss this
23 case amongst yourselves or with anyone else;

24 Read, watch, listen to any

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19

1 reports in this case by any medium of information; or
2 Form any opinions until the
3 matter is submitted to you.

4
5 (Proceedings recessed.)
6

7 THE COURT: Counsel stipulate to the
8 presence of the Jury?

9 MR. SEATON: Yes, Judge.

10 MR. DUNLEAVY: Yes, Your Honor.

11 THE COURT: Mr. Wolfson.

12 MR. WOLFSON: Thank you, sir.

13 Good afternoon, ladies and
14 gentlemen.

15 I think all of the lawyers in
16 the courtroom this afternoon and the Court and anybody that
17 knows anything about criminal cases would all agree on at
18 least one thing; and that is, that this has been a very
19 unique case for one particular reason: In my years as a
20 lawyer in this town, I've never been involved in a case that
21 had a 17 day recess, like we did. I point that out because
22 I must ask you not to hold that against either side.

23 You folks were asked a number
24 of questions during the voir dire process about the criminal

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19

1 Justice system and cases and how you felt about the system;
2 and many of you said one of the major complaints you had
3 about the system was the delays, the recesses, the long
4 periods of time it takes to bring matters to court.

5 And whoever answered that way is right, but
6 sometimes there are reasons for delays and recesses. And I
7 would submit to you that there were reasons for that 17 day
8 recess in this case. It's not relevant to your
9 considerations why it took place.

10 I would just ask you not to
11 hold that against Mr. Rippo, of course, or the State of
12 Nevada. If you want to blame somebody, blame me; but
13 sometimes things happen in cases, lawyers are doing their
14 jobs, so there are these inevitable breaks and recesses.

15 Ladies and gentlemen, because
16 of the nature of this case, both Mr. Rippo's lawyers are
17 allowed to address you; and Mr. Dunleavy has spoken and this
18 is my opportunity.

19 When I am finished, I am
20 confident that Mr. Harmon is going to stand up and rebut or
21 respond to my remarks. The reason they have this last
22 opportunity is because they have the burden of proof. It is
23 the State of Nevada that has the legal obligation to bring
24 enough evidence to this courtroom to ask you to convict.

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19

1 Because they have this burden of proof, they are allowed, by
2 law, a final response.

3 But Mr. Dunleavy and I -- he's
4 done, and this is our only opportunity. So during some of
5 my remarks, ladies and gentlemen, I have to try and
6 anticipate what Mr. Harmon may say.

7 Verdicts, in any case, whether
8 it be civil or criminal, must be based on evidence and
9 evidence alone. And there have been certain things that
10 have occurred during this trial that you are not supposed to
11 consider when you deliberate and attempt to reach a verdict.

12 For example, anything that you
13 saw outside of the courtroom is not to be considered by you;
14 it is not evidence. What the lawyers say is not evidence.
15 The fact that a lawyer may be eloquent or impassioned in his
16 pleas to you is not evidence.

17 So you must disregard certain
18 styles or certain mannerisms of the lawyers and try and
19 concentrate on the evidence. That's what you are to base
20 your verdict on.

21 The evidence in any case
22 consists of two types: Direct and circumstantial. And both
23 lawyers have already touched on that, but I think it's
24 essential to a fair deliberation in this case for me to

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1 discuss the two types.

2 Direct evidence is the evidence
3 of an eyewitness, someone who personally saw an event.

4 We only have one eyewitness in
5 this case: Diana Hunt. She is the only one who has come
6 forward and said I saw this crime committed.

7 And I'm talking about the crime
8 of murder. Michael committed credit card fraud; we told you
9 that in our opening statement. There is nothing to consider
10 as far as credit card fraud in this case.

11 The decision is murder. There
12 is only one person who saw, they say, Michael commit this
13 crime, and that type of evidence, this eyewitness evidence,
14 is direct evidence.

15 Circumstantial evidence is
16 everything else. But Instruction Number 31 tells you that
17 the law makes no distinction between the weight to be given
18 either direct or circumstantial.

19 The reason I feel this is
20 important is we are all raised in the days of Perry Mason,
21 and nowadays, Law and Order and other shows involving
22 lawyers, and, inevitably, these shows show lawyers
23 objecting: Your Honor, I object; that is circumstantial
24 evidence. And on TV, that sounds real good, but in the

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20

1 legal courtroom, in real life, circumstantial evidence can
2 be, and many times is, often more important than direct
3 evidence, because, as Mr. Dunleavy so artfully explained to
4 you, people who say they saw things should not necessarily
5 be believed.

6 But circumstantial evidence, on
7 the other hand, does not come to the courtroom with any
8 preconceived bias, or deals with the devil, as Mr. Dunleavy
9 put it.

10 An example: I might ask you to
11 join me back in the 1800s, in an old western town with a
12 bank; and a couple of desperados ride into this old western
13 town and rob the bank and they go riding out of town on
14 their horses. And the sheriff gets his posse together and
15 says, let's go; let's go after the bank robbers; and the
16 bank robbers go riding out of town on their horses and the
17 sheriff and his posse go riding after them.

18 And the sheriff comes to a fork
19 in the road and he sees a man at the fork and he says which
20 way did the robbers go? And the man at the fork of the road
21 says they went that way. (Indicating) Well, the sheriff
22 looks down and he sees the tracks of the horses going the
23 other way.

24 The tracks of the horses is the

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1 circumstantial evidence, the physical evidence; whereas, the
2 person at the fork of the road, who said they went that way,
3 (indicating), is the direct evidence, the person who claims
4 to have personally seen something.

5 Ladies and gentlemen, I submit
6 to you, in this case, Diana Hunt is the person at that fork
7 of the road, wanting you to believe her that the robbers
8 went that way. (Indicating) But if you analyze the
9 circumstantial evidence -- and we're going to get to that in
10 just a minute -- I submit to you that the circumstantial
11 evidence suggests something else.

12 There is no circumstantial
13 evidence to connect Michael Ripppo with the crimes of murder.
14 The only evidence to connect Michael is the testimony of
15 Diana Hunt, Tom Sims and the three Jail house snitches. All
16 of that evidence is highly suspect and comes to this court
17 with questionable credibility.

18 Instruction Number 32 talks
19 about credibility. Credibility is another word for
20 believability. Is a witness believable?

21 And the law says you may
22 determine a person's believability by his or her manner upon
23 the stand, his relationship to the parties, his fears,
24 motives, interests or feelings, his opportunity to have

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20

1 observed the matter to which he testified, the
2 reasonableness of his statements, and the strength or
3 weakness of his recollections.

4 Under the facts of this case,
5 ladies and gentlemen, the circumstantial evidence is crucial
6 to a fair judgment. Ask yourselves when you deliberate in
7 this case: Other than the one eyewitness, what other
8 evidence shows the defendant committed the crimes of murder?

9 Ladies and gentlemen, after
10 almost four weeks of trial, I submit to you, the evidence
11 clearly shows ten separate areas where you can individually
12 find reasonable doubt.

13 As Mr. Dunleavy explained, if
14 you do not have this abiding conviction for the truth of the
15 charge, if you have a reasonable doubt as to the crimes of
16 murder, under the law, you must acquit.

17 The first area of reasonable
18 doubt pertains to the stun gun. A disadvantage I have is
19 that I'm going to try not to repeat too much of what Mr.
20 Dunleavy says. There was a lot of talk about this stun gun.
21 What evidence of the stun gun shows the defendant committed
22 the murder?

23 Dr. Green. I think everybody
24 in this courtroom would say he is eminently qualified.

002992

1 Quote: No evidence of stun gun markings on bodies.

2 Hunt said the defendant
3 repeatedly used the stun gun on both girls, but the doctor
4 said he found no evidence of such.

5 Here is where I have to ask you
6 to anticipate or help me anticipate what Mr. Harmon may say
7 if he responds.

8 When you go back into the
9 deliberation room, you must say to yourselves: Why is there
10 no evidence of stun gun markings on the bodies in this case?
11 Is it because Diana Hunt is a liar?

12 Fingernail scrapings. Analyst
13 Connell collected fingernail scrapings under the 20 fingers
14 from both Denise and Lauri. She was able to determine that
15 there was nothing of serological value. Serological value
16 means blood typing, body fluid.

17 Hunt said that Mr. Rippo said
18 that he bled that day. Well, why no blood under the
19 fingernails?

20 One might say, well, perhaps
21 she didn't touch Mr. Rippo where Mr. Rippo had bled.

22 Well, we do have evidence of
23 some blood in that apartment. Why is there no blood under
24 the fingernails?

002993

1

1 Beer bottle broken over the
2 head of Lauri Jacobson. Dr. Green said no evidence of that.
3 Dr. Green told you he performed both an internal and
4 external examination of Lauri and that there was no evidence
5 of the striking of a beer bottle, in the manner in which
6 Diana Hunt described, on Lauri Jacobson's body.

7 Sexual assault kit. You heard
8 evidence that sexual assault kits were obtained from both
9 Lauri and Denise. You heard evidence that the criminalist
10 finding was that no semen was found.

11 There was no evidence of a sex
12 crime here. There is no evidence of defendant having sex
13 with the girls or anybody having sex with the girls. That
14 is another question you may have to find reasonable doubt.

15 Criminologist Linda Errichetto
16 told you that she analyzed a piece of fabric recovered from
17 a pillow. Criminalist Errichetto told you that she found
18 indication of blood, but was unable to confirm it as blood
19 or even blood type, the substance she had.

20 Well, why was she unable to do
21 this? The sample wasn't preserved properly. I would submit
22 that's what the evidence shows.

23 Errichetto did her analysis two
24 and a half years after the sample was retrieved.

002994

1

1 Now, you might say: So what?

2 Well, this man is on trial for
3 his life. We have to depend on police and crime labs and
4 analysts doing a professional job. And we have a
5 examination occurring two and a half years later, and,
6 perhaps, because of this delay, we couldn't determine, in a
7 confirming test, whether it was even blood, and let alone
8 type it.

9 Now, what would have happened
10 if this analyst would have been asked to analyze this blood
11 swatch within weeks after the crime?

12 It was retrieved early on. You
13 heard testimony that Mr. Harmon himself requested certain
14 investigations in February of 1996, but they didn't analyze
15 this piece of fabric for two and a half years. Its
16 evidentiary value, its evidentiary quality, left us.

17 Reason number six for
18 reasonable doubt: The hair and fiber evidence. We received
19 no testimony from any expert about any hair comparison
20 analyzations.

21 You heard testimony that we
22 have people on board -- the State of Nevada has access to
23 experts and crime scene persons and lab people to do hair
24 comparisons. You received no evidence of any hair

002995

1 comparison.

2 Analyst Connell collected six
3 vials of hair samples. It was rather tedious, but I asked
4 Analyst Connell to describe, from his impound report, where
5 he retrieved certain hairs, fibers and hair strands.

6 And he told you from the shirt
7 of Denise Lizzi, from the black scarf on the left hand of
8 Denise Lizzi, from the front of the sweatshirt of Denise
9 Lizzi; hairs and fibers were retrieved from the black shirt
10 under the sweatshirt of Denise Lizzi, from the right sock of
11 Denise Lizzi and from the left sock of Denise Lizzi.

12 Analyst Connell did not say anything about any hair
13 comparison work being done.

14 When you are deliberating in
15 the deliberation room, which you will do in the next couple
16 of hours, ask yourselves, why didn't these prosecutors bring
17 this evidence in to you?

18 Analyst Connell did not even
19 record the number of hairs, the color of the hairs, or the
20 length of the hairs retrieved.

21 Now, ladies and gentlemen, I
22 had initially planned -- it was right here and the clerk
23 took it back from me.

24 Exhibit Number 99 shows a

002996

NR1PPO-07058-R0003001

1 photograph of my client, Michael Rippo. (Indicating) I
2 don't know if this has been published to you or not, meaning
3 literally handed to you, so you could look at it. Some of
4 the jurors are shaking their heads. Thank you.

5 We don't know when this picture
6 was taken. There is no evidence that it was taken the day,
7 the week or the month of this crime, but you have a number
8 of witnesses say this is how Michael looked in February of
9 1992.

10 Look at Michael today. Look at
11 the color of his hair. I submit to you it's similar to the
12 color in the photograph.

13 Look at the color of the hair
14 in the pictures of Denise. Ladies and gentlemen, I don't
15 even think you need an expert to do a hair comparison.

16 I think that you -- not you
17 literally -- but rhetorically, any of us could pull a hair
18 strand from a vial and make a preliminary determination:
19 Could this be the man's hair?

20 Now, obviously, if you take a
21 hair strand -- and I make the distinction between hair and
22 hair strand as Analyst Connell did -- if you hold up a hair
23 strand, you can make a preliminary determination right off
24 the bat.

002997

2

1 I mean, if it looks like
2 Denise's, 'cause Denise had dark hair, maybe that doesn't
3 mean much. But if it looks lighter, like perhaps Michael's
4 hair, or if it's literally blond, like one of our Jurors,
5 then, maybe you, as a criminalist, maybe you, as an
6 investigator, would do something more.

7 Now, Mr. Harmon, I'm confident,
8 is going to stand up and say, ladies and gentlemen, you
9 heard from the expert who said you can't make a positive
10 identification in hair comparison work, and that's true, but
11 you can say things are similar. We don't even know that.
12 The State of Nevada, for whatever reason, didn't present you
13 with any of that evidence.

14 We don't know how many hairs
15 were retrieved. Now, one might say: Big deal. How is that
16 important?

17 Well, we also talked about DNA.
18 We didn't go into a lot of detail, but you learned that our
19 crime lab had DNA capabilities, that DNA was available back
20 in February, March, April, et cetera, of 1992. You did
21 learn that DNA testing can be done sometimes from the roots
22 where hairs are taken from.

23 I think you all know from other
24 experiences that DNA can isolate a potential person, one

002998

2

1 hundred billion to one, the odds are that somebody did this.

2

Why didn't the State of Nevada

3

conduct any DNA testing?

4

Perhaps the killer's hair is in

5

those vials; perhaps it's blond or black; perhaps it had

6

roots or other means for testing; and perhaps the State

7

didn't want you to know about it.

8

You didn't have any DNA

9

testing; another reason for reasonable doubt. You are being

10

asked to convict a man of double murder and you are without

11

evidence in this case.

12

I don't have to bring evidence

13

in to you. If you have any question in your mind, as you

14

sit here now, why didn't Wolfson bring this in, look to the

15

instructions. They have the burden of proof. I don't have

16

to do anything under the law. They have to do it. And if

17

they don't live up to their burden, they've failed.

18

At least 78 latent fingerprints

19

were recovered from the apartment; reason number eight for

20

reasonable doubt.

21

Of these 78 or so fingerprints,

22

Analyst Cabrales described 17 locations where they were

23

located. I'm not going to read them all off, but if you

24

recollect from Analyst Cabrales' testimony -- 'cause I had him

002999

NR1P0-07058-R0003004

2 1 read off his report all 17 locations -- these locations were
2 all over the apartment: Picture frame on kitchen counter;
3 side of mugs, glasses, coffee cups on kitchen counter and
4 sink; kitchen sink faucet handle; top of toilet tank; west
5 wall of the closet; et cetera, et cetera.

6 Of these 78 retrieved prints,
7 prints that a crime scene analyst recovered for the purposes
8 of analysis, 33 were identified to Lauri Jacobson. No
9 surprise there; it was Lauri's apartment.

10 Eleven prints, eleven, to
11 Officer Flenne. Whenever he is. Poor Officer Flenner got
12 to live with knowing that eleven of his prints were found at
13 a crime scene that he's trained to preserve.

14 One to Detective Scholl, a
15 homicide detective; Steve Scholl, who we never heard from,
16 the lead homicide detective, had a fingerprint at the crime
17 scene.

18 And one to Officer Gosler.

19 My addition is 46 of the 78
20 were identified. That leaves 32 fingerprints not
21 identified.

22 Fingerprint expert Munson Moser
23 said he used 24 exemplars, 24 known examples from people, to
24 compare against these remaining prints, including Michael

3000

MR1PPO-07058-RO003005

2 1 Rippo's. We all know Michael's print was not in that
2 apartment. Denise Lizzi's prints weren't in that apartment,
3 nor Diana Hunt's.

4 But I ask you -- because the
5 prosecutor is going to say they didn't find Diana Hunt's,
6 they didn't find Denise's -- did Denise Lizzi spend much
7 time in that apartment, and did she go to many areas of that
8 apartment, if you were to believe Diana Hunt's testimony?

9 Same question of Diana Hunt:
10 How many places did Diana Hunt go in the apartment?

11 Now, let's talk about Michael.
12 For you to believe Diana Hunt, you must believe that Michael
13 went a lot of places in that apartment. He literally ran
14 around that place, living room, kitchen, back bathroom, back
15 closet, touching a number of things.

16 Why weren't his prints located?

17 The prosecutor will say he
18 wiped down the entire apartment. You know my argument
19 against that. It's been stated already.

20 There is no evidence, other
21 than Diana Hunt, that he wiped anything down. In fact, one
22 could argue, the evidence especially turns the other way.

23 Allen Cabrales, the analyst,
24 said, in his report -- he noted in his report that there was

003001

3

1 evidence of wiping down of the 1987 Nissan. He put it in
2 his report. But he didn't put anything in his report, nor
3 did he see, any evidence of wiping down in that apartment.

4 Ligature marks. Diana Hunt
5 said that Michael Rippo carried Lauri Jacobson with hands
6 and ankles tied, like a suitcase, from the living room area
7 to the closet; but no ligature marks found by Dr. Green.

8 Quote: I saw no evidence to
9 support it, unquote, is what Dr. Green said regarding the
10 ligatures placed around ankles and wrists.

11 I then asked Dr. Green, if
12 Lauri Jacobson, a 148 pound woman, were carried 10 to 20
13 feet in the air like a suitcase, wouldn't you think you'd
14 find some pretty severe markings?

15 Dr. Green said it would seem
16 reasonable.

17 The tenth reason for you
18 feeling comfortable with finding reasonable doubt in this
19 case is the crime scene investigation.

20 Analyst Cabrales felt compelled
21 to advise his superior that something was wrong. Ladies and
22 gentlemen, Analyst Cabrales felt compelled to write a
23 memorandum to his superior, and the closing paragraph in
24 that memorandum is displayed on this chart. And I want you

003002 -

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1 to read this chart with me, if you would, because I would
2 say, and I would submit from the evidence, that every single
3 word has meaning.

4 Obviously, the crime scene was
5 not protected and the integrity of all evidence recovered
6 from the scene has been compromised.

7 Now, Mr. Harmon, I'm confident,
8 will stand up and, in his eloquent manner, try and explain
9 why this is not important, try and convince you from the
10 evidence that you should discount this fact. But this
11 happened, and as a result, Michael Rippo is a victim.

12 Now, with all due respect to
13 some people in this courtroom, in a sense, he's a victim,
14 because there wasn't a proper crime scene investigation done
15 in this case; and even the analyst, who spent eight hours
16 there, had to memo his superior officer that fact.

17 As jurors, you are asked to sit
18 in judgment of another person, in this case, Michael Rippo.
19 You have the responsibility to tell the prosecution that
20 their case has not equaled the task. You each have the
21 individual responsibility to conclude whether there is or is
22 not enough evidence to find guilt beyond a reasonable doubt.

23 Instruction Number 31-A -- and
24 this will be the last instruction I discuss with you

003003

3
1 today -- provides you with what I consider to be the most
2 important.

3 Now, His Honor has instructed
4 you that all of them have equal importance, and I think that
5 that's true, in the sense you must read all the instructions
6 and consider them together, but I think, under the facts of
7 this case, this instruction is the whole case.

8 It talks about accomplice
9 corroboration. Gosh, before I went to law school, if
10 somebody asked me what is accomplice corroboration, I'm -- I
11 don't know.

12 They're legal terms. It's a
13 legal phrase, which means that a conviction shall not be
14 had -- you are told in this instruction that you must not
15 convict on the testimony of an accomplice.

16 Diana Hunt is the accomplice.
17 A conviction shall not be had on the testimony of an
18 accomplice unless she is corroborated -- that means
19 supported -- by other evidence, which, in itself, and
20 without the aid of the accomplice's testimony, tends to
21 connect the defendant with the commission of the offense;
22 and the corroboration shall not be sufficient if it merely
23 shows the commission of the offense or the circumstances
24 thereof.

003004

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1 What that means is there must
2 be other evidence, aside from Diana Hunt, which tends to
3 connect Michael Rippo to murder.

4 You have a lot of evidence to
5 connect him with other things, credit card fraud, possession
6 of stolen vehicle, but what evidence do you have besides
7 Diana Hunt to connect him to murder?

8 Mr. Harmon will say we have
9 four other persons to connect him: Tom Sims, who swore he
10 told John Lukens and Teresa Lowry two years ago that Michael
11 confessed -- and we were real careful with Tom Sims: Are
12 you sure you told deputy District Attorney John Lukens?
13 Yes.

14 John Lukens came in here and
15 said no. Right there, that's enough for you to throw away
16 the testimony of Tom Sims. He can't be believed.

17 John Lukens is a chief deputy
18 District Attorney, the assigned prosecutor on the case,
19 getting ready for trial, and in comes a witness who says
20 defendant confessed. That would be pretty important. Mr.
21 Lukens would remember is the point. And he says no, it
22 didn't happen.

23 And then you have the testimony
24 of the three other persons, who I submit, Mr. Dunleavy did

003005

4

1 an excellent job convincing you from this evidence that you
2 shouldn't convict based on their testimony.

3 Based on Instruction Number
4 31-A, which is the accomplice instruction, if you conclude
5 from the evidence that the testimony of Diana Hunt isn't
6 corroborated, isn't supported -- and we know there is no
7 physical evidence to connect him to murder. There is
8 physical evidence to connect him to credit card fraud and
9 possession of stolen vehicle, but nothing to murder.

10 Under this instruction, if you
11 conclude that she isn't corroborated, and I suggest you
12 can't find corroboration, then you can't, by law, convict of
13 murder.

14 Ladies and gentlemen, my
15 remarks are about to conclude. I'm going to simply ask you
16 that when you deliberate, beginning this evening or
17 tomorrow, that you go back into the deliberation room and be
18 conscientious, which I'm sure you will be.

19 When we came back from the 17
20 day recess, I was expecting, you know, one or two of you not
21 to be here. And that happens, and that's why we have
22 alternates. And I thought maybe we'd have an alternate or
23 two step in.

24 But I was proud of the 16 of

003006

4

1 you for having enough commitment to a system to stand up to
2 employers and wives and husbands and daughters, and come
3 back and take this job seriously, as I'm sure you will, when
4 you go back into that deliberation room.

5 I notice that many of you have
6 taken notes and that's excellent. One thing may be
7 important to juror number one; something else may be
8 important to juror number two. And that's why we have 12
9 people, so that you can talk about the case back and forth,
10 so that you can share ideas.

11 But I submit to you, ladies and
12 gentlemen, that this is one of the most difficult decisions
13 you are going to have to make.

14 The prosecution is going to say
15 this is an easy case, and it's simple, and you can convict
16 in no time. But there is no physical evidence to connect
17 Michael; and if Diana Hunt is telling the truth, he was in
18 that apartment for a couple of hours. And if he wiped that
19 apartment down, wouldn't there be some showing of a wiping
20 down?

21 If he wanted to go back up to
22 that apartment and clean it up, wouldn't he have taken the
23 iron and the hair dryer? Wouldn't he have done a better job
24 of cleaning up?

003007

MRIPPO-07058-R0003012

4

1 And if he committed the crime
2 of murder, would he have gone out and used the credit card
3 of one of his victims or other personal property within her
4 possession?

5 Mr. Harmon is going to respond
6 by saying people don't do logical and sensible things, but
7 people aren't stupid either.

8 And I think Mr. Dunleavy
9 pointed out a lot of reasons why Michael would not have done
10 some of the things, like take the property to Michael
11 Beaudoin, knowing that Michael was close to Denise. It's
12 just not something that a murderer would do.

13 So I ask you to compare your
14 notes and discuss this case, be conscientious, because I'm
15 confident when this case is finally submitted to you, and
16 you talk about it, that you will come back in this courtroom
17 and look at the prosecutors and say you just haven't met
18 your burden in this case.

19 Thank you very much.

20 THE COURT: Thank you, Mr. Wolfson.

21 Mr. Harmon.

22 MR. HARMON: Judge Bongiovanni, counsel.

23 Good afternoon, ladies and
24 gentlemen.

003008

NR1P0-07058-R0003013

5

1 I wondered if I was going to
2 have to say good evening.

3 I was listening to a speaker
4 some time back, who perhaps anticipated that his speech
5 would last quite a while, and he said I won't mind it if you
6 look at your wrist watches from time to time, but I am going
7 to get angry if you not only look at them, but begin to
8 shake them because you think your wristwatch has stopped.

9 I do ask your indulgence. By
10 my perception, you've been a very fine jury. You've been
11 attentive. There is no reason to think that you aren't
12 going to be very conscientious about the responsibility you
13 have.

14 We attempted, during the jury
15 selection process, to instruct you. Some of the things we
16 were saying then are very pertinent now. You were selected
17 because you represented various segments of this community,
18 because hopefully you came to the courtroom without any
19 preconceived notions about how this case should come out;
20 and it was emphasized, when we picked you as jurors, that
21 you must decide the case solely upon the evidence introduced
22 during the trial, applying to the facts of the case the
23 Court's legal instructions.

24 And I repeat that. If you do

003009

5

1 that and if you try to decide this case subjectively and
2 fairly, limiting the decision to what you are asked to do,
3 not speculating, not attempting to go outside of the
4 evidence, not being guided by your perception of what public
5 opinion might wish, not deciding because of any type of
6 bias, but limiting your decision to the evidence, if you've
7 done that, that's all the parties can ask. And, frankly,
8 we're confident that you will do that.

9 As I said, I ask your
10 indulgence. It is an adversary system.

11 And I also have some things
12 that I wish to say about the case. If you glance at your
13 wrist watches from time to time, that won't upset me, but
14 please don't shake them.

15 In a sense, Mr. Dunleavy and
16 Mr. Wolfson have already given some of my argument. They
17 kept anticipating what Harmon perhaps might say. And I want
18 to start with something that -- both of the defense
19 attorneys, by the way, are very fine gentlemen, and I
20 congratulate them on their excellent effort on behalf of the
21 defendant, Michael Rippo.

22 It is an adversary system. It
23 should not surprise any of you, as intelligent men and
24 women, when you come into a court of law, you are going to

003010

5 1 hear two sides presented. And it should not surprise you
2 that every witness the State calls, which offers damaging
3 evidence connecting Mr. Rippo to the crimes, is going to be
4 disparaged by the defense. That doesn't make them bad guys.
5 That's part of the adversary system, because their job is to
6 argue that the State's witnesses are not credible.

7 Now, the defense says that
8 Diana Hunt's story is supposed to make sense, and they argue
9 it doesn't make sense. They argue that it's foolish for
10 someone to go to an intended crime scene and place a
11 telephone call to someone named Alice, and request that
12 Alice call the apartment so that Lauri will answer and that
13 will serve as a distraction.

14 And Mr. Dunleavy had a number
15 of reasons why he argued that just would be silly. He said
16 that doesn't make sense, that people would act like that, or
17 plan a crime in that way.

18 And the defense also argued if
19 you are going to commit robbery and restrain young women and
20 kidnap them, then wouldn't you take a gun or a knife, a real
21 gun, not just a stun gun, a real gun? And it was argued it
22 doesn't make sense that this crime was perpetrated in the
23 way Diana Hunt describes.

24 And most recently, just a few

003011

MRIPPO-07058-R0003016

5 1 moments ago, Mr. Wolfson said if you were involved in a
2 murder, you wouldn't go out and use credit cards taken from
3 the murder victims.

4 Of course, in the very next
5 breath, Mr. Wolfson was describing Diana Hunt as the
6 accomplice. Now, accomplice means that she was involved in
7 the murders. He's saying she has to be corroborated, and
8 he's right.

9 The Court's instruction,
10 31-A -- or perhaps it's 21-A; you will be able to discover
11 that -- makes it very clear that you may not convict Mr.
12 Rippo based solely upon the testimony of the accomplice.

13 My point is there is a
14 contraindication here. The defense is arguing that people
15 aren't stupid; that people do things that make sense; and it
16 wouldn't make sense for someone involved in murder to use
17 these stolen credit cards. But she did it twice, at least.
18 She did it at Dillard's and she did it at the Gold Coast;
19 and it doesn't make sense, but Mr. Wolfson says she is an
20 accomplice.

21 And he -- he's apparently an
22 expert on how idiots commit murder. He says if Mr. Rippo
23 went back, he'd be cunning enough to take the hair dryer and
24 the iron with him. And one of his last remarks was people

003012

6

1 aren't stupid.

2 But, Mr. Wolfson, they are
3 stupid. And you can read all 38 of the Court's instructions
4 and you can read every word, every line, and you are not
5 going to read anything that says there is a defense in this
6 state called felony stupid, because, ladies and gentlemen,
7 murder is stupid.

8 Murder doesn't make sense.
9 Robbery is illogical. So we're going to use that type of
10 standard then to determine what people like Hunt and Rippo
11 would do?

12 Regardless of who did it,
13 someone went in there and did something incredibly stupid,
14 incredibly illogical. There is physical evidence in this
15 case: Two bodies, two bodies which were tortured and
16 tormented and strangled to death. And they didn't have to
17 die; there is no reason for it; it's stupid; it doesn't make
18 sense.

19 Now, the defense argues that,
20 aside from the testimony of the either existing or former
21 inmate witnesses and Tom Sims and Diana Hunt, there is no
22 evidence connecting Mr. Rippo to the murders.

23 And Mr. Wolfson started out by
24 explaining again to us direct and circumstantial evidence.

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1 He pointed out that circumstantial evidence is not
2 necessarily inferior to what an eyewitness will say.

3 And in the very next breath, he
4 was saying, sure, Mr. Rippo is guilty of credit card fraud.

5 Whose credit card, Mr. Wolfson?
6 That's not supposed to have anything to do with evidence
7 connecting Mr. Rippo to the crime? We're somehow supposed
8 to isolate the fact that he used a credit card in the name
9 of Denny Mason, a Citibank Gold Visa card, within 24 hours
10 of the murders of Lauri Jacobson and Denise Lizzi?

11 And without contradiction, we
12 know that that card was given by Denny Mason to Denise
13 Lizzi. He doesn't know this defendant. Mr. Mason doesn't
14 know Diana Hunt. He didn't give them permission to use it.

15 Just where did Mr. Rippo get
16 Denny Mason's Citibank Gold Visa card?

17 Well, that's evidence that
18 connects Mr. Rippo to the crime.

19 On that same day, still
20 February the 19th, 1992 -- and Mr. Dunleavy says, well,
21 there is that thing about using the card at Sears, but we're
22 really not even considering that because we aren't charged
23 with any credit card fraud at Sears.

24 But, Mr. Dunleavy, doesn't that

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1 have some relationship, when it's within a little bit over,
2 perhaps, 24 hours of two murders, when somebody has a Sears
3 card in the name Denise Lizzi, doesn't that tend to connect
4 Mr. Rippo to the crime? And isn't that the type of
5 corroboration required by the instruction of Judge
6 Bongiovanni, which says an accomplice, by her testimony
7 alone, may not convict someone; there must be other evidence
8 corroborating her, which tends to connect the defendant to
9 the crime?

10 Now, doesn't it tend to connect
11 Mr. Rippo to the murders of these two women, that within 24
12 hours, he used two separate credit cards taken from the body
13 of Denise Lizzi?

14 Shakespeare said once: Oh,
15 what may man within him hide, though angel on the outward
16 side.

17 This morning, in very eloquent
18 fashion, Mr. Seaton, my partner, presented a chart which
19 perhaps he characterized -- if he didn't, I will
20 characterize -- as a circle of guilt. It had 14 points, and
21 only one of those points involved the eyewitness. The other
22 points were all the circumstantial supporting evidence
23 connecting Michael Rippo to these murders.

24 The evidence in this courtroom

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1 establishes, ladies and gentlemen, beyond a reasonable
2 doubt -- as horrible as it might be to contemplate to most
3 decent minded persons, as inconceivable as it might be, this
4 evidence has established that there is a killer in this
5 courtroom, a person who has been involved in taking the
6 lives of two young women. And, yet, he sits here and he
7 looks like a choir boy.

8 So what does that mean? So
9 what does that prove?

10 If I ask you right now, every
11 one of you, to take out a piece of paper and a pencil and to
12 draw a killer, I would be very curious to know how you would
13 draw the picture.

14 And I'm not talking about this
15 case, because Mr. Seaton, with his chart, has already
16 provided a very vivid image. I'm talking about generally.

17 The point to be made is you
18 can't tell by looking at people. If we were to draw a
19 killer in the abstract, what color, what race, what gender,
20 what age, what occupation, what part of town?

21 We wouldn't know where to
22 start, and that's because we aren't very good at climbing
23 inside the mind and heart of someone else.

24 And so, as a juror, you have

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1 the responsibility of deciding this case, not on the
2 guesswork that the defense invites you to become involved
3 in, but the evidence that has been presented.

4 The defense has talked about
5 the police investigation. I'm not standing before you at
6 5:06 p.m. apologizing for the police. I would be the first
7 to admit that there are -- were shortcomings in this
8 investigation. And I'm not even telling you that the
9 prosecutors have done a perfect job. There may have been
10 many things that could have been done in the case.

11 So I don't apologize for the
12 work of the Las Vegas Metropolitan Police Department. There
13 probably were some painful shortcomings in their
14 investigative effort. However, I will tell you that there
15 probably never was a perfect investigation.

16 Hindsight is wonderful. It's
17 always 20/20. When attorneys want to sit back as armchair
18 quarterbacks in a courtroom, having had months and even
19 years to dissect the police investigation, they can always
20 point to shortcomings.

21 Well, Mr. Wolfson talks about
22 this memorandum that Allen Cabrales, very decent, well
23 minded man, capable investigator, the memorandum he sent to
24 Captain Barbara Connett, and Mr. Wolfson says every single

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1 word has meaning.

2 Well, perhaps it does; perhaps
3 it doesn't. Al Cabrales was not an eyewitness. All Mr.
4 Cabrales knows is what the condition was of the crime scene
5 when he got there.

6 And, by the way, as experienced
7 and as capable as he might be, and with due respect to Dr.
8 Sheldon Green, the chief medical examiner in Clark County,,
9 and he has been since 1975, he was not at the crime scene.
10 He did not see these crimes committed. And he's examining
11 bodies in either moderate or advanced stages of
12 decomposition, and that makes his job a lot harder.

13 MR. DUNLEAVY: Your Honor, I would object.
14 There was never any testimony of advanced decomposition.

15 MR. HARMON: Well, there is a photograph in
16 evidence that shows the blackened head of Lauri Jacobson.

17 THE COURT: I don't think the word advanced
18 was ever used. The Jury is the finder of fact.

19 MR. HARMON: The fact is days go by, and the
20 fact is, it makes it considerably more difficult for the
21 medical examiner to interpret the findings that he sees on a
22 body when time has passed.

23 But returning to Analyst
24 Cabrales. He was undoubtedly disturbed that prints had been

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1 left at the scene of the crime by his fellow officers. And,
2 in fact, when he was asked on the witness stand what the
3 basis was for his authorizing the memo to Captain Connett,
4 he said it was because of the police officer prints, period.
5 He doesn't know if anything else was moved.

6 Officer Connell made that
7 clear. He doesn't know if there is one additional hair. He
8 just knew that there were 13 officer prints and that
9 concerned him. Apparently, he felt that ought to be
10 rectified, and so he authored the memorandum.

11 But that doesn't mean that he
12 actually knows -- how could he know -- whether the crime
13 scene has been compromised in a way to make Mr. Rippo the
14 victim?

15 Now, the defense talks about a
16 lack of physical evidence connecting Mr. Rippo to the crime;
17 and Mr. Wolfson, in particular, talked about Mr. Rippo's
18 prints not being there.

8

19 Well, Wendy Liston saw him
20 there twice. She saw him there on Sunday evening, February
21 the 16th, sometime between eight and ten p.m.; and she
22 described him being back in the bathroom with Lauri
23 Jacobson, and she said they were using what she supposed to
24 be morphine from a little brown vial, which she described.

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8 1 She saw him there on Sunday evening, February the 16th,
2 sometime between eight and ten p.m.; and she described him
3 being back in the bathroom with Lauri Jacobson, and she said
4 they were using what she supposed to be morphine from a
5 little brown vial, which she described.

6 Now, Wendy Liston is not on
7 that list of witnesses that the defense has argued have
8 something to be gained or lost by their testimony. So Mr.
9 Rippo was there, if Wendy Liston's memory is accurate.

10 She also saw him on Monday,
11 February the 17th. He was there at about noon when she went
12 by and visited Lauri Jacobson and discovered that Lauri had
13 a flat tire and needed to have Wendy follow her to Discount
14 Tire.

15 Mr. Rippo was there, presumably
16 free to go into the bathroom, to sit anywhere, walk anywhere
17 he wanted in the living room, to go into the kitchen area;
18 and yet his prints were not found anywhere in the apartment
19 when Norman and Cabrales, the police analysts, processed the
20 scene for prints.

21 Mr. Moser is the latent print
22 examiner who said there are about 78 latents. And my
23 calculation is the same as Mr. Wolfson's. There were 33
24 eliminated to Lauri Jacobson, 11 eliminated to Officer

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15 scene for prints.

16 Mr. Moser is the latent print
17 examiner who said there are about 78 latents. And my
18 calculation is the same as Mr. Wolfson's. There were 33
19 eliminated to Lauri Jacobson, 11 eliminated to Officer
20 Flenner.

21 By the way, Mr. Wolfson, I
22 doubt that he's laying awake at night worrying about those
23 prints he left behind. Perhaps he'll be more careful, but
24 I -- I really doubt that that is a major preoccupation in

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1 the life of Officer Flenner.

2 What difference does it make?

3 What difference does it make?

4 Scholl's prints were there and
5 Officer Goslar's prints, one of each of them. And 13, plus
6 the 33 is 46, and 46 from 78 is 32.

7 And no one knows whose prints
8 they are or when or under what circumstances they were left
9 there. That's because Moser and Cabrales both made it very
10 clear that they are not able to tell us the age of a finger
11 or palm print, and under the right circumstances, prints can
12 remain on a surface for a substantial period of time.

13 Wendy Liston isn't one of the
14 persons whose prints were used in elimination. For all we
15 know, all 32 belonged to her.

16 Wayne Hooper -- or was it --
17 yes, I believe Mr. Hooper, the manager, was one of the
18 persons whose prints were used in comparison. There could
19 be any number of guests who came into the apartment of Lauri
20 Jacobson whose prints were deposited inside the apartment;
21 and just because they're there doesn't mean there is any
22 proof at all that they are relevant to the commission of
23 these murders.

24 Well, Diana Hunt testified

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1 that, in her presence, after Mr. Rippo had asked her to
2 clean up -- and she said she thought he was talking about
3 the beer, which had splattered around, and the broken glass,
4 and she began to tidy up, because she was mentioning some of
5 this liquid had even spilled on a picture of Lauri's and
6 other things -- she explained that before they left, Mr.
7 Rippo wiped everything down.

8 Well, it might seem perhaps
9 like that's a contradiction. Wiped everything? I have no
10 way of knowing what she meant by everything. Obviously,
11 everything wasn't wiped down or they wouldn't have found any
12 prints.

13 However, Mr. Rippo must have
14 known what things he touched; and using everything loosely,
15 in all probability, it means if he had touched the bathroom
16 sink, and he remembered that, he wiped it down.

17 I seriously doubt that even
18 well intentioned, experienced crime scene analysts, like
19 Allen Cabrales, would be able to detect, on every surface,
20 when a rag or towel had been wiped over the surface.

21 I seriously doubt --

22 MR. DUNLEAVY: Your Honor, I'm going to
23 object to what Mr. Harmon doubts. That's not proper
24 argument.

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1 THE COURT: Overruled.

2 MR. HARMON: Ladies and gentlemen, when we
3 had you come into the courtroom, we didn't ask you to leave
4 your common sense in the hallway. One of the Court's
5 instructions tells you that you may draw reasonable and Just
6 inferences from the evidence.

7 From your life's experience,
8 you would know the difficulty of someone looking at a
9 surface. I take my handkerchief out, I wipe the podium.
10 And who can tell I did it?

11 Not Cabrales; nobody.

12 And it isn't just Miss Hunt.
13 James Ison has testified, and despite all of the defense
14 protestations, there is not one iota of evidence that Mr.
15 Hill and Mr. Ison and Mr. Levine ever got together and
16 talked about this case. There is no evidence that they
17 somehow got together and orchestrated this testimony.

18 Well, there is one thing that
19 we know. It's very obvious from the charade which occurred
20 in this courtroom when two witnesses were asked to partially
21 undress -- and they were good sports about it, because Mr.
22 Levine and Mr. -- was it Hill or Ison? I've forgotten. It
23 doesn't matter -- certainly were willing to show their
24 tattoos. Well, we know that Mr. Ripppo knows them because

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1 somebody knew what was under the shirts.

2 So these men are tattooed? So
3 what does that prove?

4 It doesn't prove anything
5 that's pertinent to this case. It's an effort to cause bias
6 in the minds of an intelligent jury, to think that because
7 these witnesses are thoroughly tattooed that they are
8 offering incredible testimony.

9 There hasn't been anything
10 offered to impeach them. There hasn't been anything
11 presented to show that they gained by their testimony. And
12 James Ison testified that Mr. Rippo told him that he went
13 back and wiped everything down.

14 The defense talks about the
15 hairs and fibers. Well, ladies and gentlemen, I have a
16 recollection, when I was a boy growing up on the farm, of
17 taking the old 12 gauge shotgun out and tracking rabbits and
18 hoping that I would get a quick shot, and sometimes I did.

19 And if I didn't see them,
20 sometimes I hoped if I saw their tracks or their droppings
21 on the ground, I could follow those and eventually catch up
22 with the rabbits. And invariably what those rabbit tracks
23 led me to was a hole in the ground, and it was a waste of
24 time.

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1 And with all due respect to the
2 defense, I'm going to suggest this business about the hairs
3 is a rabbit trail, doesn't lead anywhere.

4 Linda Errichetto, the
5 criminologist from the -- in fact, she's the director now of
6 the laboratory which is part of the criminalistics bureau of
7 the Las Vegas Metropolitan Police Department -- testified
8 that hairs cannot be discriminated.

9 She stated emphatically that
10 there is no DNA capability at the Metropolitan Police
11 Department lab now, and there wasn't in 1992; but she said
12 even in those cases where hairs had been sent to DNA labs,
13 she has had limited success.

14 She made it very clear that the
15 most that can be accomplished by the examination of hairs,
16 and that is, when you have some type of standard that you
17 are comparing the suspect hairs against, would be to say
18 that the two were similar. It's not a positive make like
19 fingerprints.

20 And she testified that she's
21 had -- in all 16 years of experience as a criminalist, and
22 13 and a half years with the Las Vegas Metropolitan Police
23 Department, she's qualified about 300 times -- and I believe
24 this is very nearly a direct quote: In her opinion, in all

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1 her years as an expert, she has only found several cases
2 where hairs were relevant to guilt linking evidence.

3 And she used the example that
4 two hairs were plucked from the same head, based upon a
5 comparison of the two hairs, as a criminologist, she could
6 not say, because of the infinite numbers of variables, that
7 they came from the same person.

8 Well, the defense is asking you
9 to speculate. They're saying perhaps a killer's hair is in
10 one of Dan Connell's vials.

11 The instructions tell you, in
12 two separate places, not to guess, not to speculate. And
13 what Mrs. Errichetto made very clear is that hairs are
14 almost meaningless when they're found in hotel and motel
15 rooms. Those were the examples she gave, but may I be so
16 bold as to say in an apartment.

17 This lady, Lauri Jacobson, had
18 only been there for ten days. Mr. Hooper, the apartment
19 manager, said she checked in on February the 8th. She was
20 murdered on February the 18th.

21 There is no evidence about the
22 thoroughness of how this apartment had been cleaned up.
23 These ladies, during the process of being violated and
24 murdered, were placed on the floor; they were dragged from

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1 the bathroom to the closet, from the living room to the
2 closet, but -- whenever I wear this suit I have now, which
3 is often because I don't have that many changes, at least
4 when Mr. Seaton is doing the examination and because I'm
5 conscious of hairs showing up on charcoal gray, I spend
6 about half of my time at counsel table picking hairs off of
7 my clothing. Where did they come from? Whose hairs?

8 So when these ladies are found
9 on the floor in an apartment, I submit -- and it may have
10 been the better procedure, that you remember I said a little
11 while ago, I'm not apologizing for the investigative work in
12 the police department -- in an ideal world, maybe they
13 should have chased every one of these rabbit trails down.
14 It was not a perfect investigation.

15 The question is: Did the
16 investigation produce sufficient evidence that it reliably
17 establishes the persons involved in these murders?

18 And I submit, the answer
19 resoundingly is yes.

20 Diana Hunt has come in to
21 testify. She has given an eyewitness account. She has
22 admitted: I was there. And in a sense -- although she may
23 not have been entirely candid. I don't know -- I'm allowing
24 for the possibility that she could have greater involvement

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1 than she has acknowledged.

2 She apparently had, if Teresa
3 Perillo is correct in her memory, a driver's license in the
4 name Denise Lizzi; and although she thought -- she, meaning
5 Hunt -- thought that it was Mason's Visa card that she used
6 at Dillard's to buy the Obsession perfume, it turns out from
7 the record, it was a Denny Mason's card all right, but it
8 was his Dillard's card, not the Visa card.

9 Well, I suppose that presents
10 an issue whether, because the name was the same, she was
11 honestly mistaken after four years or whether she lied about
12 that; and if she lied, perhaps she is more involved in what
13 happened at the apartment than she has admitted. That
14 doesn't make her a liar though because there are
15 inconsistencies.

16 Mr. Dunleavy, in particular,
17 seemed to equate if there are discrepancies, then that means
18 the person who has provided inconsistent testimony is a
19 liar; and that's just something which does not follow.

20 Ladies and gentlemen, in a
21 sense, when witnesses come into a court of law, they're in a
22 no win situation. Let's use Diana Hunt as an example.

23 If Miss Hunt had given
24 testimony that was totally consistent with all of the

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1 physical evidence and totally consistent with the testimony
2 of every other witness, then, surely, the excellent lawyers
3 that they are, Mr. Dunleavy and Mr. Wolfson, would have said
4 uh-huh, she has rehearsed her testimony, because no one
5 would be that consistent. So someone has told her what to
6 say.

7 I said a no win situation,
8 because when a witness comes in -- and this lady described
9 herself as being sick. She said she had had some bad drugs;
10 she had been throwing up that night; she didn't even want to
11 go there. That may or may not be true. I wasn't there.
12 But that's her explanation of her frame of mind. And she
13 said she didn't want to hit Lauri Jacobson, but she did
14 something stupid, and she told you she wasn't proud of it,
15 and she showed some emotion on the witness stand.

16 You saw every one of these
17 witnesses. And several weeks ago, I want you to think back
18 to the demeanor of Diana Hunt on the witness stand. She is
19 not a devil, sir.

20 She entered into a plea
21 agreement with law enforcement. But it's not quite so easy
22 as just to come into the courtroom and point a finger at Mr.
23 Rippe to uphold her end of the bargain. The predicate, the
24 condition, is truthful testimony.

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1 Now, it's quite true that
2 someone has to make that decision. But just as I'm not
3 calling either Mr. Wolfson or Mr. Dunleavy idiots, I would
4 presume they wouldn't call Mr. Seaton or myself idiots.

5 The Pled of Guilty Memorandum
6 is Exhibit 100. And on page two, paragraph three:

7 As a condition, I, Diana Lee
8 Hunt, will testify truthfully when called as a
9 witness in the above referenced case.

10 Page three, paragraph six:

11 In the event Diana Lee Hunt
12 testifies falsely under oath, or knowingly
13 misrepresents material facts under oath, this
14 agreement will be null and void and Diana Lee Hunt
15 will be subject to further prosecution.

16 And it goes on to say in
17 paragraph seven: That includes the filing of criminal
18 charges of perjury.

11

19 So she doesn't come into this
20 courtroom insulated. Think back about her manner on the
21 witness stand. She entered into an agreement and she
22 described her recollection of what happened, her perception
23 of what happened, her recollection, after four years. Every
24 error in memory, every misperception, does not equate to a

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1 lie. It certainly doesn't make her a devil.

2 Well, Mr. Wolfson talks about
3 blood. This was a strangulation case. It isn't a case
4 where the murder weapon was a knife, but a knife was used
5 and there was some bleeding.

6 And this is a case where one of
7 the victims was missing her pants at the scene of the crime.
8 And we have evidence before you explaining that Mr. Rippo
9 cut himself in the altercation with that victim, Denise
10 Lizzi, and he saw a spot or spots of blood on her pants that
11 he perceived to have originated from him. He wiped down
12 surfaces and he took the pants.

13 The fingernail scrapings have
14 no relevance in this case. That's a rabbit trail. That's
15 one of Mr. Wolfson's ten categories, and he elevated it to
16 be one of the ten. He says this shows reasonable doubt.
17 And what it shows is, according to Errichetto, these two
18 victims had some dirt behind their fingernails, no blood, no
19 skin, no hair, no semen, dirt.

20 And that's supposed to create
21 reasonable doubt?

22 The sexual assault kits were
23 negative for semen. It really proves nothing. It doesn't
24 even -- well, it proves this: It proves that there was not

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1 detectable ejaculation. It doesn't prove there wasn't
2 penetration. Penetration can occur without ejaculation.

3 But the fact is, Mr. Rippo, who
4 apparently, when he was talking with Mr. Sims and Mr. Levine
5 and the other two inmates, didn't remember that it's a well
6 founded statement, a fool's mouth is his destruction.

7 Well, anyone who would commit
8 murder is a fool; and he's doubly a fool if he commits
9 murder and talks about it.

10 And, Mr. Rippo told Sims, as
11 they drove, on the defendant's birthday, February the 26th,
12 down Spring Mountain Road toward the Stardust: Those ladies
13 were fine. I could have had them both, but I didn't. I'm
14 cured.

15 So we know out of his own
16 mouth, if we accept that version, that he did not penetrate
17 the two victims.

18 Well, there isn't anything,
19 somehow chiseled in granite, which says that criminal
20 assailants, who are going to commit and do commit murders,
21 will leave physical evidence at the scene of the crime.

22 Where is that written? What
23 textbook says that cunning criminals will leave
24 incriminating evidence behind?

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1 So if there weren't any prints,
2 and there isn't any blood evidence, if there isn't any hair,
3 if there wasn't skin of the assailant that was collected
4 behind the nails of Lauri or Denise, that simply proves that
5 the crime was efficiently perpetrated.

6 However, there is physical
7 evidence linking Mr. Rippo to this crime. There is a stolen
8 1988 Nissan. Mr. Wolfson was conceding that evidence
9 exists, but that's possession of a stolen vehicle. It's the
10 possession of a murder victim's vehicle.

11 The 1988 Nissan was
12 photographed. It was observed by officers in this case, and
13 I submit was physical evidence.

14 There are two pairs of
15 sunglasses in evidence, and a sunglass holder, or box, in
16 evidence, all of which are connected to the defendant and to
17 Diana Hunt.

18 The sunglasses were identified
19 by Angie Sposito of Sungear, the sunglass company, when she
20 testified some weeks ago. But one of those same pairs of
21 Oakley sunglasses were recovered by Analyst Debbie McCracken
22 from the passenger front floor of a 1986 Isuzu pickup truck.
23 Photographs of that vehicle are in evidence as Exhibits 68
24 through 70.

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1 That's the same car that Deidre
2 D'Amore identified. She said that's my pickup truck.
3 That's the truck I loaned to the defendant the day before my
4 truck was impounded, the day before McCracken found the
5 Oakley sunglasses in the pickup truck, and D'Amore said I
6 didn't buy any sunglasses. I didn't put the sunglasses in
7 the pickup truck.

8 So who did put them there?
9 They're in evidence.

10 Mrs. McCracken also found a
11 document in the name of Michael Damon Rippo on the passenger
12 floor of the same Isuzu pickup truck. Exhibit 83-A -- no,
13 that isn't Exhibit 83-A -- 83-A is the other pair of Oakley
14 sunglasses which were found inside Diana Hunt's 1974 Dodge
15 Colt, the driver side dashboard.

16 And it was Alan Cabrales who
17 found the M frame Oakley sunglass case inside the Ford
18 Pinto, Exhibit -- it's shown in the photographs Exhibits 71
19 through 73, which has been identified as the vehicle used by
20 the defendant, Mr. Rippo.

21 Well, those cars, those
22 sunglasses, that M frame Oakley sunglass case are physical
23 evidence connecting Mr. Rippo and Miss Hunt to these crimes.

24 In evidence, as you learned

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1 quite early on in this case -- because Diana Hunt was shown
2 the overnight bag, the brown bag, Exhibit 92-A, and she went
3 through all of the property, and identified what is hers --
4 and Hunt's property is in the separate bag marked 92-B --
5 and everything she couldn't identify, and everything she
6 said Mr. Rippo place there after she abandoned her Dodge
7 Colt on Sahara, when it ran out of gas -- are marked as
8 Exhibits 92-A-1 through -19. Every one of those pieces of
9 evidence, which were in the possession of Michael Rippo at
10 the Showboat on February the 29th, 1992, when he gave the
11 bag to Mike Beaudoin, are physical evidence connecting the
12 defendant and Miss Hunt to the Katie Arms Apartments,
13 Apartment 317.

14 Mr. Seaton, in his circle of
15 guilt, referred to the altercation which occurred just a few
16 hours after Beaudoin acquired the brown overnight bag,
17 Exhibit 92-A, and the property of Lauri and Denise, 92-A-1
18 through -19.

19 And a number of people were at
20 the 3500 block of Nelson Avenue in North Las Vegas. And
21 Diana Hunt was there; and the defendant, Mr. Rippo, was
22 called, and he showed up about 25 minutes after he was
23 called, and he rolled up in the Isuzu pickup truck.

24 And according to the testimony

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1 of Diana Hunt and of Mike Beaudoin, but primarily at that
2 point, my recollection of her account, Mr. Rippo got out of
3 the truck and he started to point at her.

4 Well, that shouldn't have come
5 as any surprise. If he was going to take property he had
6 from the victims and put it in her bag and then give it to
7 one of Denise's boyfriends, obviously, he was going to try
8 to connect her to the scene of the crime and point the
9 finger of suspicion away from himself.

10 And so he came around the car
11 and pointed at her, in the presence of Barton and Mike
12 Beaudoin and others, and said: She did it. And her
13 response was, and she pointed the finger right back at him,
14 (indicating): You did it; you murdered those two women, and
15 I can prove it.

16 And her testimony was that he
17 came running over and started to punch her in the face.

18 Well, there has been some
19 argument this afternoon about why Diana Hunt -- assuming,
20 again, that she was only as involved as she testified she
21 was -- why she would feel intimidated in to going along with
22 Mr. Rippo?

23 And I want to say perhaps the
24 fact that he beat up on her and began to rearrange her face

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1 and to do some things to her teeth on March the 1st, 1992
2 would suggest that he was the strong one, that there was
3 reason for her to be fearful of him.

4 And she said he hit her
5 repeatedly in the face and then he pulled out the stun gun,
6 the gun he apparently still had; and she showed the marks
7 that she has on her back from where he used the gun on her.

8 MR. DUNLEAVY: I'm going to object. She
9 never showed any marks on her back.

10 THE COURT: I don't remember that either.
11 The jury will remember what it is.

12 MR. HARMON: You are the triers of fact.
13 When I sit down, the roll of the prosecutors, Mr. Seaton,
14 Mr. Harmon, is over. So I urge you to rely upon your own
15 recollections.

16 There are many things that
17 happen, interviews outside of the courtroom, and so,
18 occasionally, if there is some confusion about precisely
19 what happened in the courtroom, I do beg your indulgence;
20 but if she didn't do that in open court, then I misspoke in
21 making that argument.

22 MR. DUNLEAVY: I'm going to object to this
23 whole line. It's like the State saying I'm telling you
24 things that happened outside of court. That's improper.

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MRIPPO-07058-R0H03043

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1 MR. HARMON: No, I'm not telling the Jury
2 that anything happened outside of court.

3 THE COURT: Just continue on, Mr. Harmon.

4 MR. HARMON: I'm begging the apologies of
5 the Jury if I have misspoken.

6 THE COURT: Okay. Continue.

7 MR. HARMON: But the fact is -- thank you,
8 Your Honor -- Miss Hunt testified that he used the stun gun
9 on her. And she isn't the only one who said that, because
10 one of the inmates who testified, explained that Ripppo, in
11 the jail, when he talked about this, explained that he and
12 his girlfriend were together and that they started to fight
13 and he stunned her, and those were his words.

14 And then her testimony was he
15 began to choke her and finally he was pulled off of her.

16 Ladies and gentlemen, the
17 prosecution submits that all of that is consistent, all of
18 that is corroboration of the testimony of Diana Hunt, that a
19 stun gun was used in these crimes.

20 You know, Mr. Ripppo said at one
21 point to one of the inmates, my girlfriend held a gun on the
22 victims. Well, did he say held or had a gun? She had a gun
23 in her purse. According to her, he asked her for that stun
24 gun when Lauri Jacobson left the apartment.

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1 She said he asked for it, that
2 he used it on February the 18th, 1992, and he surely had it
3 on March the 1st, 1992, on Nelson Avenue, and he surely had
4 it on March the 15th, 1992, when, after his arrest, he was
5 booked into the Clark County Detention Center.

6 And Corrections Officer Arndt
7 described the removal of the stun gun from Mr. Rippo, and he
8 said, as an officer of 17 years, this is the only booking
9 procedure that he remembers where an arrestee had possessed
10 a stun gun.

11 Well, I suppose if Mr. Dunleavy
12 would have thought of that, he would have said how stupid if
13 he used a stun gun in a murder, he'd still have that on his
14 person.

15 Except that murder is stupid,
16 and murderers do a lot of things that don't make sense. And
17 seven days later, the stun gun, which should have been
18 retained by the police department, which obviously is an
19 oversight on their part, was released, after the signature
20 of the inmate Michael Rippo, to a woman named Carol Anne
21 Capinelli, and Lori Aiken testified about that.

22 Ladies and gentlemen, facts are
23 stubborn things. All of those things are physical evidence.
24 They aren't intangible things. Those weren't just ideas.

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13

1 Well, the defense has talked
2 about witness credibility. They cited a number of things
3 they argue were testified to by Diana Hunt which are
4 inconsistent with the physical evidence. They talk about a
5 magical cord or a magical stun gun. The defense, from the
6 very beginning, set this case up as though it was Diana Hunt
7 versus the truth.

8 Ladies and gentlemen, I simply
9 want to point out that with the use of the stun gun, and
10 with the number of things testified to by Miss Hunt, there
11 are many variables. Simply because Dr. Green didn't find
12 the physical evidence, simply because Analysts Norman and
13 Cabroles did not perceive the evidence, doesn't mean that
14 the accomplice testimony was a lie.

15 Regarding the stun gun, which
16 isn't magical at all -- but if the battery -- and I think it
17 was Arndt who said it was a Nova brand, black, about seven
18 inches by four inches, had two prongs which make contact
19 with the skin and two prongs angled to carry the current of
20 50,000 volt capability, but it works off of a nine volt
21 battery -- and so one of the variables would be how
22 sufficiently the battery was charged on February the 18th,
23 1992.

24 And regarding Lauri Jacobson,

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13 1 in particular, another variable would be what I shall
2 describe as the clothing factor.

3 She was fully dressed, except
4 for being in stocking feet at the scene. What is the effect
5 of the stun gun -- and no one knows whether it was fully
6 charged or partially charged -- what is the effect going to
7 be if it is pressed, not against the skin, but against
8 clothing?

14 9 There may be an electrical
10 charge, there may be a current, but does it leave a mark on
11 the body?

12 Well, the stun gun wasn't
13 retained by the police. It wasn't tested. Not that perhaps
14 anyone at the crime lab would have wanted to be a guinea pig
15 to have had the stun gun tested on their bare backs or legs
16 or arms.

17 I certainly want to make the
18 point that the clothing factor, the -- whether it was
19 beginning or moderate or whatever the state of
20 decomposition, that condition of these bodies made it more
21 difficult for the medical examiner to interpret the findings
22 he was observing. And nothing more graphically demonstrates
23 that than the difference in condition of Lauri Jacobson and
24 Denise Lizzi, lying side-by-side on the floor.

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1 And it's obvious that if you
2 look just at the physical appearance, it would seem that
3 Jacobson died substantially before Denise Lizzi. And, yet,
4 there is an eyewitness account that they were both assaulted
5 during the same time frame, that -- whether it was 30
6 minutes or two hours that Mr. Ripppo and Miss Hunt were
7 inside the apartment, it was then that these witnesses were
8 being strangled and tortured.

9 Well, Dr. Green acknowledged
10 that there are many variables, and he indicated he has read
11 and known of cases where victims may die contemporaneously
12 and the state of decomposition is not the same. It may
13 simply be different in the body chemistry.

14 So many times, things are not
15 what they seem; and many times, in a panic situation, the
16 perception, although well intended and honest, may be
17 slightly inaccurate.

18 Let us suppose, for the sake of
19 argument, that what Miss Hunt saw was not the stun gun being
20 placed right up against the skin or even up against
21 clothing, but merely close to it, close to its victims so
22 they could hear the zapping noise, so it would further
23 frighten and intimidate.

24 Would it leave the telltale

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14

1 marks that Dr. Green could see on bodies partially
2 decomposed?

3 There are many variables and
4 Just because the physical evidence doesn't immediately lend
5 support to the testimony of an eyewitness, that doesn't make
6 her a liar.

7 Why would she lie about the use
8 of a stun gun?

9 You can search every word of
10 her plea agreement, Exhibit 100. There is not one word that
11 says Miss Hunt, in order to maintain your agreement, you
12 have to say a stun gun was used; and there is nothing in
13 there that says you have to say that both of these victims
14 were tied up.

15 But she saw that happen. And
16 there wasn't anything there in the agreement that says you
17 have to say that you saw Mr. Rippo and Lauri Jacobson draw
18 out some fluid from a little vial that was brown colored,
19 which they said was morphine, and inject it into themselves.

20 Well, it went, according to
21 Miss Hunt, into the left wrist of Lauri Jacobson. And so
22 there is an APL finding, that toxicological report after the
23 autopsy, that says Jacobson is negative for any type of
24 controlled substance, not methamphetamine, not marijuana,

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1 not morphine, nothing.

2 Well, ladies and gentlemen,
3 does that make Miss Hunt a liar? Dr. Green pointed out they
4 didn't have any blood to analyze when they obtained
5 specimens from Lauri Jacobson.

6 Now, maybe it wasn't advanced,
7 but the decomposition had proceeded sufficiently that she
8 had no blood. They went to organs and they took six ounces
9 of a kidney and her liver; and then the question was: How
10 quickly, if it went into the blood stream, would it get into
11 the tissue of these organs so that APL could even find it?

12 And if it didn't go into a
13 vein, if she was skin popping, or if she just missed the
14 vein, how much would that slow down the absorption process,
15 because it would have to get from tissue in the wrist, into
16 the blood stream, and go from there to the liver, and a
17 kidney, and then be absorbed into the tissue of those
18 organs. And what part of the organs did the six ounces of
19 tissue come from?

20 Well, ladies and gentlemen, if
21 the defense is going to make the point that Hunt lied about
22 that, then Wendy Liston has to be a liar, because she
23 described the same brown bottle, the same fluid, and said,
24 on Sunday, she saw both Lauri Jacobson and the defendant

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15

1 injecting themselves with fluid from this bottle.

2 Well, ladies and gentlemen,
3 there is substantial corroboration of Diana Hunt.

4 And I know that the time is
5 getting late. I'll finish just as quickly as I can.

6 It is apparent from this case,
7 where you have two healthy young women who were victimized,
8 that one person, particularly one female, not a Diana Hunt,
9 who said she weighed, back in 1992, slightly over a hundred
10 pounds, not a five foot seven, 100 pound female, she did not
11 come to Apartment 317 and commit these crimes by herself.
12 She had a partner.

13 And it wasn't any phantom
14 partner. It was the partner who is encircled by evidence
15 establishing his guilt. It is Mr. Rippo.

16 So the defense highlights
17 inconsistencies. I choose to highlight areas where Diana
18 Hunt is corroborated. She said that the defendant went to
19 Lauri Jacobson's apartment, according to what he told her,
20 on Monday, February the 17th, 1992. And the defendant,
21 according to Hunt, told her he was helping Lauri Jacobson
22 move.

23 That is corroborated by Wendy
24 Liston, who at about noon saw the defendant in Apartment 317

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15

1 on February the 17th, Monday, with Lauri Jacobson.

2 Diana Hunt talked about the
3 brown vial, which was represented to her to be morphine.
4 She didn't smell it. She didn't taste it. She didn't
5 inject it. Other people said that.

6 Maybe it wasn't morphine; maybe
7 it was water. But the defendant talked about it on various
8 occasions as being morphine.

9 Well, the facts that he had
10 such a brown vial is corroborated by Wendy Liston. I've
11 already alluded to that. And on his birthday, the defendant
12 called Tom Sims and he asked about an amber or brown bottle
13 of morphine, that he told Mr. Sims he had left in Sims'
14 refrigerator at Tommy's Maintenance.

15 You remember Tom Sims testified
16 that he didn't know what this guy was talking about, but he
17 kept him on the line and he went back and checked the
18 refrigerator and, sure enough, there was a brown bottle and
19 it was half full of fluid in his refrigerator.

20 And so he went back and
21 explained it was there, and the defendant wanted to meet him
22 and get it.

23 So two separate people have
24 corroborated Diana Hunt on the issue of the brown vial and

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15

1 its contents.

2 Diana Hunt said that it was she
3 who hit Lauri with a brown beer bottle. And the defendant,
4 from his own lips, corroborated that, because he told Hunt,
5 on the same drive down Spring Mountain Road, when Sims
6 asked -- and, by the way, this was after Sims had accused
7 him, while still in the parking lot, of involvement in the
8 murders, after Sims had seen the telecasts, had realized he
9 had a suitcase with a name tag, Lauri Jacobson, and about 50
10 cassette tapes, most of which had D.L. written on them --
11 and Sims made an accusation, and the defendant said I choked
12 those bitches; and so as they rode down the road, Sims
13 queried him some more and wanted to know: Were you alone?

14 And Mr. Rippo said, no, I had
15 my girlfriend with me. I had Diana with me. And Sims had a
16 logical enough question: Can you trust her?

17 The defendant said she's a down
18 woman. I know I can trust her because she initiated the
19 action, and explained she was the one who hit Lauri Jacobson
20 with the bottle.

21 There is also physical
22 evidence. Mr. Dunleavy pointed to the diagram. It's true
23 there is a circle drawn. Nobody took measurements when
24 Cabrales drew, where he got those glass fragments. That

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1 wasn't measured. You saw him do it. It was just a rough
2 indication of the general area from where brown glass
3 fragments were recovered.

4 And it was important enough to
5 the officers, because they hadn't retrieved those on the
6 first day, when they were there on February the 20th. These
7 officers are supposed to see every fabric mark, when
8 surfaces are wiped down, who are supposed to see every piece
9 of evidence pertinent to the case, didn't impound the brown
10 glass fragments.

11 But they went back on the 24th
12 and they impounded them, and they're in evidence.

13 And at the time of the autopsy,
14 Connell recovered brown glass fragments from where? From
15 the torso of Denise Lizzi? No, not from the torso of Denise
16 Lizzi. The brown fragments of glass, consistent with the
17 testimony of Diana Hunt, were on the torso of Lauri
18 Jacobson.

19 It's highly doubtful that they
20 were on her torso when she woke up that Tuesday morning,
21 February the 18th, 1992, when the bird of time was on the
22 wing.

23 Lauri Jacobson -- excuse me --
24 Diana Hunt testified that the defendant came out at some

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16

1 point and he had a serrated steak knife in his hand, and she
2 said he cut appliance cords. She talked about an -- well,
3 as I think about it, I'm not sure that she identified the
4 the exact appliances, but she may have mentioned hair dryer.
5 I just don't remember for sure. But she indicated several
6 items, she saw him sever the cord.

7 Well, ladies and gentlemen,
8 there is corroboration of that. In evidence for your
9 consideration is a hair dryer, which certainly has the cords
10 severed. It's 79-A. And the iron was recovered, that was
11 79-B. And there were stab wounds to the bodies of both of
12 these victims, in the opinion of Dr. Green, caused by a
13 small knife, two stab wounds to the left neck of Denise
14 Lizzi, seven-sixteenths of an inch long, just a little bit
15 less than a half of an inch; to the body of Lauri Jacobson,
16 a small penetrating wound underneath her right ear. That's
17 portrayed in the photograph Exhibit 54. It's about a fourth
18 of an inch deep, and the doctor said similar to the stab
19 wounds on Denise Lizzi's neck.

20 And there was a penetrating
21 stab wound under Lauri's chin, near the middle of her neck;
22 again, just slightly less than a half inch long, consistent
23 with the small knife, with a steak knife.

24 Diana Hunt testified that

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16

1 someone knocked on the door while these crimes were in
2 process, and she testified that person was persistent, and
3 that person waited for about five minutes at the scene, I'm
4 sure to the utter chagrin of Mr. Rippe and perhaps of Miss
5 Hunt.

6 Well, the defense said maybe it
7 was Wendy Liston. In all probability, it was Wendy Liston.

8 Wendy Liston testified she went
9 there on weekends and practically every day at lunch time,
10 and she testified to two habits that Lauri Jacobson had --
11 and Lauri was apparently a very open woman. She would leave
12 the door unlocked and usually even open and she would leave
13 the window open and the drapes would not be pulled.

14 And the curtains were pulled on
15 this occasion, somewhere around noon on Tuesday, February
16 the 18th, and the window was closed; and as I remember, she
17 said there was some type of stick that was in the window and
18 the door was locked.

19 Ladies and gentlemen, in this
20 case, although the defense has done their best to villify
21 her -- and just as I said, I don't apologize for the police
22 department, I certainly don't apologize for Diana Hunt --
23 but she was a girlfriend of the defendant. They lived
24 together. They both were in need of money. And you be the

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1 Judges about whether her involvement was as peripheral as
2 she said.

3 The fact is she has identified,
4 under oath, the person who was there and who, according to
5 her, murdered both of these women.

6 Now, the defense, in further
7 challenging her credibility, alludes to the conversation she
8 had with the defendant on February the 29th, when he told
9 her that it was Alice that he called and asked to make the
10 distraction telephone call to the crime scene.

11 And he said he went back to the
12 scene of the crime and went inside, after she had gone in
13 the Pinto back to Deidre D'Amore's place.

14 The defense says, well, she's
15 further impeached because Hunt is maintaining that the
16 defendant says that he cut the throats of the victims and
17 that he jumped up and down on their chests.

18 Ladies and gentlemen, a few
19 things are elementary about the case. Hunt may describe
20 what she saw and heard, and if she saw something happen, and
21 if it was what she was hearing happen at Apartment 317 when
22 these murders were being perpetrated, if she is credible,
23 then that is valid information.

24 Once she gets away from

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17
1 Apartment 317, she has no way of knowing what Mr. Rippo did,
2 if and when he went back inside. At that point, all she
3 knows -- and in a sense, this is true of David Levine and
4 Donald Hill, and James Ison, and Tom Sims, and anyone else
5 the defendant talked to -- all they know is what he told
6 them.

7 Sir Walter Scott said once: I
8 cannot tell how the truth may be. I tell the tale as it was
9 said to me.

10 Now, gentlemen of the defense,
11 just because Miss Hunt says that your client says that he
12 cut their throats, that doesn't make it so, and that doesn't
13 make her a liar, because all she's in a position to do is to
14 relate what he said to her. And at that time, he was trying
15 to scare her, and that's why she jumped out of the car when
16 it stopped. That's why she ran; that's why she flogged down
17 a ride.

18 Ladies and gentlemen, the
19 evidence establishes that robbery occurred; that Denise
20 Lizzi's car was taken; that money was taken.

21 The defense wants to know -- I
22 don't know if this was a rhetorical question or if they
23 expected a response -- what did Mike Rippo get out of all
24 this?

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1 Well, he got an air compressor
2 for one thing and a bunch of tools worth \$819.80, and he got
3 a pair of Oakley sunglasses in a glass frame, and he got
4 some money, because he told one of the inmate witnesses he
5 took money that they took from the murders and used it on
6 the video poker machine.

7 And, presumably, if Tom Sims is
8 credible, and the testimony of Mr. Sims would be
9 corroborated by this statement, Mr. Rippo, from his own
10 lips, told the inmate I won a Royal Flesh. And Sims saw the
11 defendant the night after he had been there, and the car was
12 discussed, in the presence of Diana Hunt with a fistful of
13 one hundred dollar bills.

14 And the evidence was that he
15 had supposedly won \$2500. So he got that much as fruits of
16 his criminal endeavor.

17 He is guilty of robbery. Mr.
18 Rippo is guilty of two counts of murder, and he's guilty of
19 the unlawful credit card fraud occurring at the sunglass
20 shop at the Meadows Mall.

21 I referred to Shakespeare, but
22 once before. As I conclude, I want to refer to the great
23 scholar one more time, because he made a statement I'm very
24 fond of, which is very significant regarding the

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1 responsibilities required of offenders in our criminal
2 justice system.

3 And Shakespeare had one of his
4 characters in the play Julius Caesar say: The fault, dear
5 Brutus, is not in our stars, but in ourselves.

6 Ladies and gentlemen, if the
7 criminal justice system means anything, it means that when
8 persons commit heinous, despicable crimes of violence, even
9 though the offenses may be clumsy and stupid and irrational,
10 if the system means anything, it means that persons who do
11 that must be held personally responsible.

12 The Court has given you
13 Instruction 24, that talks about the concept of aiding or
14 abetting. And Instruction 24 instructs you that where
15 several parties join together in a common design to commit
16 any unlawful act, each is criminally responsible for the
17 acts of his co-conspirator, committed in furtherance of the
18 common design. In contemplation of law, the act of one is
19 the act of all.

20 In other words, the act of
21 Hunt, in hitting Jacobson with the bottle, was the act of
22 Mr. Rippo; and, in a sense his acts, if they were there
23 pursuing a common design of robbery or of kidnapping or of
24 burglary, is the act of both of them.

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1 And so, based upon the totality
2 of this evidence, I say, in conclusion: Mr. Rippon, the
3 fault is not in your stars, sir, and the fault is not that
4 of your reluctant crime partner, Diana Hunt. The fault is
5 not in the witnesses. Nearly every one of these witnesses,
6 except for the few who were inmates, were subpoenaed to come
7 into this courtroom.

8

And one of the witnesses,
9 although the defense sparred with him on cross-examination,
10 Mr. Christos was considered significant enough that they
11 brought him back in their case. In a sense, they were
12 vouching that Mr. Christos is somewhat credible or we
13 wouldn't have put him on the witness stand.

14

And it was Mr. Christos who
15 said the defendant called and was desperate to get a message
16 to Diana Hunt. And Mr. Dunleavy says with all the scams she
17 was involved in, this phrase, tell her the cat is out of the
18 bag, could have referred to almost anything, except the
19 timing must be more than than just coincidental.

20

The timing was February the
21 20th. How does Mr. Christos know that? Because it was the
22 day after Teresa Perillo's birthday, his girlfriend. And he
23 said that it was early evening.

24

When were these bodies

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18

1 discovered? When did Mac Holloway and Wayne Hooper go into
2 Apartment 317? At about ten o'clock in the morning on
3 Thursday, February the 20th.

4 And, so Mr. Rippo, who
5 obviously has information about this discovery, whether it's
6 from the news media or whether it's talk on the street,
7 early that evening, has a message for Diana: The cat is out
8 of the bag.

9 So the fault, Mr. Rippo, is not
10 the witnesses. The fault isn't in the ligatures. The
11 ligatures don't wrap themselves around wrists and ankles and
12 necks by themselves.

13 The fault doesn't lie in the
14 steak knife or the stun gun or the beer bottle. And despite
15 its shortcomings, the fault didn't lie with the police. The
16 police interviewed the witnesses. The police, Scholl and
17 Dibble and Chandler and all the others, investigated the
18 case, and they discovered the evidence which amounts to a
19 circle of guilt. They did their job, not perfectly,
20 perhaps, but they did their job to the best of their
21 ability.

22 The fault doesn't lie in the
23 hands of Mr. Rippo because the brain and the heart have to
24 dictate to the hands what they will do.

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18

1 There is an instruction that
2 talks about involuntary manslaughter, that talks about an
3 accident and people aren't manually strangled to death, and
4 people aren't strangled with ligatures where a cord is
5 wrapped twice around the neck by accident.

6 The fault doesn't lie with
7 Lauri Jacobson and Denise Lizzi. They certainly didn't ask
8 to die Tuesday, February the 18th, 1992.

9 The fault doesn't lie with the
10 Court. Judge Bongiovanni has got oodles of cases. He
11 handles a calendar every day of the week and he didn't need
12 State versus Rippo.

13 The fault didn't lie with the
14 office of the District Attorney. There may be lots of
15 questions you think should have been asked different
16 witnesses. There may be things you wish the office of the
17 District Attorney asked be done. It may be an imperfect
18 prosecution.

19 But the fault ultimately lies
20 with the person who made the choices, and that person is in
21 this courtroom, Mr. Rippo. The fault lies in you.

22 Thank you.

23 THE COURT: Thank you, Mr. Harmon.

24 Miss Clerk, please swear in the

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1 officers to take charge of the Jury.

2
3 (Officers sworn to take charge
4 of the Jury.)

5 THE COURT: The clerk will now swear the
6 officers to take charge of the alternate jurors.

7
8 (Officer sworn to take charge
9 of the alternate Jurors.)

10 THE COURT: Okay, Ladies and gentlemen of
11 the Jury, this matter is now submitted to you for your
12 deliberation.

13 What I'm going to do is ask you
14 at this time to go to the deliberating room with Mr.
15 O'Leary, my bailiff, and choose a foreperson, as instructed
16 in the instructions, and make a decision now if you wish to
17 deliberate for a while this evening or come back tomorrow
18 morning; and let me know that as soon as possible.

19 The alternate Jurors will
20 remain in the courtroom.

21
22
23
24 (The following proceedings were

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1 had in open court outside the
2 presence of the main jury
panel:)

3 THE COURT: With permission of counsel, I'm
4 going to allow the alternate jurors to go home and return to
5 their normal lifestyles, but, of course, leaving phone
6 numbers with my clerk where they will be for the next few
7 days.

8 If you are going to go to work,
9 I want both a work phone number where you will be and your
10 home phone numbers.

11 And, again, you are admonished
12 not to converse among yourselves or with anyone else on any
13 subject connected with this trial;

14 Read, watch, listen to any
15 report or commentary on the trial by any medium of
16 information, including, without limitation, newspaper,
17 television or radio; or

18 Form any opinion on this case
19 until in the event that you may be called upon to serve on
20 the jury.

21 So that admonition will remain
22 with you. In the event the jury does come back with its
23 verdict, my law clerk will call you and so advise you.

24 So with permission of counsel,

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1 I will allow these alternates to be excused at this time.

2 MR. WOLFSON: It's fine with the defense.

3 MR. SEATON: We would have no objection,

4 Judge.

5 THE COURT: All right. Give the information
6 to my law clerk and you are excused.

7 At this time, in case you are
8 not coming back, I would like to thank you, on behalf of the
9 Eighth Judicial District Court, for your service. Thank you
10 very much. You are most conscientious in this matter.

11 The court will be in recess.

12
13
14 (Proceedings adjourned at 6:30 p.m. this
15 date to await the call of the Jury.)

16 * * * * *

17 ATTEST: Full, true and accurate transcript of proceedings.

18
19 
20 RENE SILVAGGIO, C.C.R. NO. 122
21 OFFICIAL COURT REPORTER
22
23
24

003061

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RIPPO,
Appellant,
-vs-
E.K. McDANIEL, et al.,
Respondent.

No. 53626

FILED

OCT 19 2009

TRACEY K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

JOINT APPENDIX
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DISTRICT COURT
CLARK COUNTY, NEVADA

The State of Nevada,)	
)	
Plaintiff,)	
)	Case No. C106784
vs.)	Dept. No. IV
)	Docket No. "C"
Michael Daman Rippe,)	
#0619119)	
Defendant.)	
)	
)	

Before the Honorable Gerard J. Bongiovanni
Tuesday, March 5, 1996, 11:00 o'clock a.m.
Reporter's Transcript of Proceedings

JURY TRIAL

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

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RENEE SILVAGGIO, CCR 122 391-0379

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APPEARANCES:

For the State: MELVYN T. HARMON, ESQ.
DANIEL SEATON, ESQ.
Deputies District Attorney

For the Defendant: STEVEN B. WOLFSON, ESQ.
PHILIP H. DUNLEAVY, ESQ.
Attorneys at Law

Law Clerk: Delwin Potter

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Las Vegas, Nevada, Tuesday, March 5, 1996, 11:00 a.m.

* * * * *

(The following proceedings were
had in open court outside the
presence of the jury:)

THE COURT: Case Number C106784, State of
Nevada versus Michael Damon Rippo.

The record will reflect the
presence of the defendant and his attorneys, Steve Wolfson
and Philip Dunleavy; Dan Seaton and Mel Harmon for the
State.

The record will also reflect we
are outside the presence of the jury.

Mr. Wolfson.

MR. WOLFSON: The first thing that should
come to the attention of the Court is that Mr. Dunleavy and
I have spoken with Michael about the instruction dealing
with involuntary manslaughter.

We have advised our client why
we are submitting this instruction to the Court, and that
the Court has indicated its willingness to instruct the jury
on involuntary manslaughter.

I believe that Mr. Rippo

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1 understands our reasoning and he is in agreement with its
2 submission to the Court.

3 THE COURT: Is that correct, Mr. Rippo?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. Are counsel familiar with
6 the Court's proposed jury instructions Numbers 1 through 38?

7 MR. HARMON: Yes, Your Honor.

8 MR. DUNLEAVY: Yes, Your Honor.

9 THE COURT: Okay. Does the State object to
10 the giving of any of these instructions?

11 MR. HARMON: No, Your Honor.

12 THE COURT: Does the defense --

13 Does the State have any
14 additional instructions to propose?

15 MR. HARMON: The State does not, Your Honor.

16 THE COURT: Does the defense object to the
17 giving of any of these instructions?

18 MR. DUNLEAVY: No, Your Honor.

19 THE COURT: And does the defense have any
20 additional instructions to propose?

21 MR. DUNLEAVY: Yes, Your Honor.

22 We offer jury instruction

23 Number D-1, which reads:

24 You are instructed that

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1 whenever there is testimony from someone who is
2 incarcerated, you may consider the prospect of
3 vulnerable persons fabricating testimony as an
4 inducement of leniency from the State.

5 Our authority for that was
6 Nevada Supreme Court Sheriff versus Acuna, A-c-u-n-a, which
7 is found at 107 Nevada 664. The quote we were using was at
8 page 671.

9 And we submitted that; the
10 Court denied it. We would ask that it be recognized as
11 offered and refused.

12 THE COURT: The State wish to respond to
13 that?

14 MR. HARMON: Your Honor, yes, briefly.

15 In our considered opinion,
16 Sheriff v. Acuna does not support the giving of the
17 defendant's proposed instruction.

18 Nowhere in that decision is --
19 as the Court might easily infer from the fact that it's
20 entitled Sheriff v. Acuna -- is there any statement by the
21 Court that it approves the giving of such an instruction.
22 Quite frankly, it's a matter of the argument.

23 Witnesses that fall in this
24 category should not be singled out; and, in fact, the

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1 general instruction on witness credibility, Number 32, which
2 the Court intends to give, provides the Jury its proper
3 guidelines.

4 THE COURT: That's the basis of the Court's
5 denial of the giving of this instruction.

6 MR. HARMON: One other matter by the State
7 is pertinent to the instructions now approved and the
8 verdicts we are submitting, because in our opinion, a number
9 of the counts in the original pleadings merged -- and I
10 refer to Count III, which charges robbery and alleges that
11 the personal property taken from the victim consisted of a
12 1988 Nissan and/or credit cards;

13 And then the pleading
14 originally had gone ahead to describe Count IV as possession
15 of a stolen vehicle, the same vehicle alleged as part of the
16 robbery allegation;

17 And then Count V had alleged
18 possession of a credit card without the cardholder's
19 consent.

20 Your Honor, because of the
21 merger doctrine and because, in this state, those are
22 basically alternative pleadings and the Jury would not be at
23 liberty to convict Mr. Rippe both of stealing that property
24 under Count III, the robbery count, and of possessing, as

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1 separate crimes, the same property he stole in connection
2 with robbery, we normally, on the record -- I know we've
3 indicated to the Court and counsel that we would do so --
4 are moving to dismiss Count IV of the original amended
5 Indictment, charging possession of a stolen vehicle, and
6 Count V, possession of credit card without cardholder's
7 consent.

8 So, therefore, the first three
9 counts -- the two counts of murder and Count III, robbery,
10 will remain intact as pled; but what formerly was Count VI
11 of the amended Indictment, unauthorized signing of credit
12 card transaction document, now becomes Count IV.

13 Thank you.

14 THE COURT: Counts IV and V are dismissed.

15 Okay. Do either counsel, the
16 State or the defense, wish to have the instructions read to
17 the Jury prior to final argument?

18 MR. HARMON: The State prefers it be prior,
19 Your Honor.

20 MR. DUNLEAVY: We join in that, Your Honor.

21 MR. WOLFSON: Yes, Your Honor.

22 THE COURT: Okay. Bring the Jury in,
23 please.

24 THE BAILIFF: Yes, sir.

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THE COURT: Counsel approach the bench,
please.

(Whereupon, an off-the-record
discussion was had.)

(The following proceedings
were had in open court in
the presence of the jury:)

THE COURT: Counsel stipulate to the
presence of the jury?

MR. SEATON: Yes, Judge.

MR. WOLFSON: Yes, Your Honor.

THE COURT: Okay. Mr. Wolfson.

MR. WOLFSON: Thank you, Judge.

May I approach your clerk?

THE COURT: Yes, you may.

MR. WOLFSON: Your Honor, the defense will
not be calling any additional witnesses at this time.

We will be moving to admit
Defendant's proposed F and G, which are the two photographs;
and H, which is the Tom Sims criminal complaint; and J,
which is a copy of the District Attorney's case history
regarding the Tom Sims case.

MR. SEATON: We have no objection.

THE COURT: Those will be admitted.

What were those letters?

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1 MR. DUNLEAVY: F, G, H and J.

2 THE COURT: F, G, H and J.

3 (Whereupon, Defendant's
4 Exhibits F, G, H and J,
were admitted into evidence.)

5 MR. WOLFSON: At this time, the defense
6 rests.

7 THE COURT: Rebuttal by the State?

8 MR. SEATON: We have none, Judge.

9 THE COURT: Okay. At this time, ladies and
10 gentlemen of the jury, I'm about to instruct you on the law
11 as it applies in this case.

12 I would like to instruct you
13 orally, but to conform to Nevada law, it is necessary that I
14 read to you these carefully prepared written instructions.

15 These instructions are quite
16 long and sometimes they are quite complicated. If you are
17 not -- they are not especially clear to you when they're
18 read to you, bear it in mind that you will have these
19 instructions with you in the deliberation room.

20 I seem to be coming down with a
21 cold, so I'm going to ask that my law clerk, Mr. Potter,
22 read them.

23 Mr. Potter. Besides, he likes
24 to talk a lot.

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MR. POTTER: Instructions to the jury:

Instruction Number 1:

Members of the jury:

It is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

Instruction Number 2: If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me, and none may be inferred by you.

For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a

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whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

Instruction Number 3: The Indictment originally charged the defendant with six offenses; however, only four offenses are being submitted for your consideration.

You are not to speculate about the reason for this modification to the charges. The reason for the change is not relevant to your decision and no presumption may be raised and no inference of any kind may be drawn from the change in the pleadings.

Instruction Number 4: An Indictment is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Indictment, that on or between February 18th, 1992 and February 20th, 1992, the defendant committed the following offenses:

Count I, Murder:

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1 Defendant, Michael Damon Rippe,
2 did, on or between February 18th, 1992 and
3 February 20th, 1992, then and there willfully,
4 feloniously, without authority of law, with malice
5 aforethought and premeditation, and/or during the
6 course of committing robbery and/or kidnapping,
7 and/or burglary, kill Lauri M. Jacobson, a human
8 being, by strangulation;

9 Defendant being aided or
10 abetted by Diana Lee Hunt in the perpetration of
11 said crime by defendant and/or Diana Lee Hunt
12 entering 3890 South Cambridge, Apartment 317, Las
13 Vegas, Clark County, Nevada;

14 By defendant deciding to rob
15 Lauri M. Jacobson and/or Denise M. Lizzi, by
16 defendant privately discussing how the crime was
17 to be committed with Diana Lee Hunt, by defendant
18 surreptitiously arranging to have another person
19 make a diversionary telephone call to Lauri M.
20 Jacobson so that she might more easily be
21 overpowered, by Diana Lee Hunt striking Lauri M.
22 Jacobson on the head with a bottle, by defendant
23 using a stun gun to subdue Denise M. Lizzi, by
24 defendant binding the hands and feet and tying

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1 gags around the mouths of both female victims, by
2 defendant demanding to know the location of drugs,
3 money and other valuables;

4 Defendant being assisted by
5 Diana Lee Hunt in forcefully removing property
6 from the person or presence of the two victims,
7 defendant and/or Diana Lee Hunt killing Lauri M.
8 Jacobson and/or Denise M. Lizzi, defendant wiping
9 off substances -- excuse me -- wiping off surfaces
10 touched inside the apartment, and defendant and
11 Diana Lee Hunt then fleeing the scene of the crime
12 with a stolen 1988 Nissan automobile, a stolen
13 Citibank Gold Visa credit card, and other stolen
14 property.

15 Count II, Murder:

16 Defendant Michael Damon Rippo
17 did, on or between February the 18th, 1992 and
18 February 20th, 1992, then and there willfully,
19 feloniously, without authority of law, with malice
20 aforethought, and premeditation and/or during the
21 course of committing robbery and/or kidnapping
22 and/or burglary, kill Denise M. Lizzi, a human
23 being, by strangulation;

24 Defendant being aided or

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1 abetted by Diana Lee Hunt in the perpetration of
2 said crime, by defendant and/or Diana Lee Hunt
3 entering 3890 South Cambridge, Apartment 317, Las
4 Vegas, Clark County, Nevada;

5 By defendant deciding to rob
6 Lauri M. Jacobson and/or Denise M. Lizzi, by
7 defendant privately discussing how the crime was
8 to be committed with Diana Lee Hunt, by defendant
9 surreptitiously arranging to have another person
10 make a diversionary telephone call to Lauri M.
11 Jacobson so that she might more easily be
12 overpowered, by Diana Lee Hunt striking Lauri M.
13 Jacobson on the head with a bottle, by defendant
14 using a stun gun to subdue Denise M. Lizzi, by
15 defendant binding the hands and feet and tying
16 gags around the mouths of both female victims, by
17 defendant demanding to know the location of drugs,
18 money and other valuables;

19 Defendant being assisted by
20 Diana Lee Hunt in forcefully removing property
21 from the person or presence of the two victims,
22 defendant and/or Diana Lee Hunt killing Lauri M.
23 Jacobson and/or Denise M. Lizzi, defendant wiping
24 off surfaces touched inside the apartment, and

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6

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1 defendant and Diana Lee Hunt then fleeing the
2 scene of the crime with a stolen 1988 Nissan
3 automobile, a stolen Citibank Gold Visa credit
4 card, and other stolen property.

5 Count III, Robbery:

6 Defendant, Michael Damon Rippo
7 did, on or between February 18th, 1992 and
8 February 20, 1992 then and there willfully,
9 unlawfully and feloniously take personal property,
10 to-wit:

11 A 1988 Nissan, bearing Nevada
12 license number 139 CUS, and/or credit cards in her
13 possession, from the person of Denise M. Lizzi, or
14 in her presence, by means of force or violence or
15 fear of injury to, and without the consent and
16 against the will of said Denise M. Lizzi,
17 defendant being aided or abetted by Diana Lee Hunt
18 in the manner described in Counts I and II.

19 Count IV: Unauthorized Signing
20 of Credit Card Transaction Document:

21 Defendant, Michael Damon Rippo,
22 did, on or about February 19th, 1992 willfully,
23 unlawfully and feloniously, with intent to
24 defraud, sign a sales slip, which evidenced a

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1 credit card transaction, at Sunglass Company,
2 Meadows Mall, 4300 Meadows Lane, Las Vegas, Clark
3 County, Nevada, by presenting Citibank Gold Visa
4 credit card, Number 4271382060293848, issued in
5 the name of Denny Mason, to Angie Sposito, signing
6 the name D. Mason to said sales slip for the
7 purchase of \$304.95 in merchandise; defendant not
8 being the cardholder and not being authorized by
9 the cardholder to use said card or to sign the
10 cardholder's name.

11 It is the duty of the jury to
12 apply the rules of law contained in these
13 instructions to the facts of the case and
14 determine whether or not the defendant is guilty
15 of one or more of the offenses charged.

16 Each charge, and the evidence
17 pertaining to it, should be considered separately.
18 The fact that you may find the defendant guilty or
19 not guilty as to one of the offenses charged
20 should not control your verdict as to any other
21 offense charged.

22 Instruction Number 5: Murder
23 is the unlawful killing of a human being with
24 malice aforethought, whether express or implied.

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1 The unlawful killing may be
2 effected by any of the various means by which
3 death may be occasioned.

4 Instruction Number 6: Malice
5 aforethought means the intentional doing of a
6 wrongful act without legal cause or excuse or what
7 the law considers adequate provocation.

8 The condition of mind described
9 as malice aforethought may arise not alone from
10 anger, hatred, revenge or from particular ill
11 will, spite or grudge toward the person killed,
12 but may result from any unjustifiable or unlawful
13 motive or purpose to injure another, which
14 proceeds from a heart fatally bent on mischief or
15 with reckless disregard of consequences and social
16 duty.

17 Malice aforethought does not
18 imply deliberation or the lapse of any
19 considerable time between the malicious intention
20 to injure another and the actual execution of the
21 intent, but denotes rather an unlawful purpose and
22 design in contradistinction to accident and
23 mischance.

24 Instruction Number 7: Express

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malice is that deliberate intention unlawfully to take away the life of a fellow creature, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

Instruction Number 8: Murder of the first degree is murder which is:

(A) Perpetrated by any kind of willful, deliberate and premeditated killing; and/or

(B) Committed in the perpetration or attempted perpetration of robbery and/or kidnapping and/or burglary.

Instruction Number 9: Premeditation is a design, a determination to kill, distinctly formed in the mind at any moment before or at the time of the killing.

Premeditation need not be for a day, an hour or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that

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1 the act constituting the killing has been preceded
2 by and has been the result of premeditation, no
3 matter how rapidly the premeditation is followed
4 by the act constituting the killing, it is
5 willful, deliberate and premeditated murder.

6 Instruction Number 10: The
7 intention to kill may be ascertained or deduced
8 from the facts and circumstances of the killing,
9 such as the use of a weapon calculated to produce
10 death, the manner of its use, and the attendant
11 circumstances characterizing the act.

12 Instruction Number 11: Murder
13 which is committed in the perpetration or
14 attempted perpetration of robbery and/or
15 kidnapping and/or burglary is deemed to be murder
16 of the first degree, whether the killing was
17 intentional, unintentional or accidental.

18 The specific intent to commit
19 robbery and/or kidnapping and/or burglary must be
20 proven beyond a reasonable doubt.

21 Instruction Number 12: Robbery
22 is the unlawful taking of personal property from
23 the person of another, or in her presence, against
24 her will, by means of force or violence or fear of

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7 1 injury, immediate or future, to her person or
2 property, or the person or property of a member of
3 her family, or of anyone in her company at the
4 time of the robbery.

5 A taking is by means of force
6 or fear if force or fear is used to:

7 (A) Obtain or retain
8 possession of the property;

9 (B) Prevent or overcome
10 resistance to the taking, or;

11 (C) Facilitate escape.

12 The degree of force used is
13 immaterial if it is used to compel acquiescence to
14 the taking of or escaping with the property.

15 A taking constitutes robbery
16 whenever it appears that, although the taking was
17 fully completed without the knowledge of the
18 person from whom taken, such knowledge was
19 prevented by the use of force or fear.

20 Instruction Number 13: The
21 value of property or money taken is not an element
22 of the crime of robbery, and it is only necessary
23 that the State prove the taking of some property
24 or money.

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7

1 Instruction Number 14: Every
2 person who willfully seizes, confines, restrains,
3 conceals, kidnaps or carries away any person by
4 any means whatsoever with the intent to hold or
5 detain, or who holds or detains the person:

6 (1) For the purpose of
7 committing robbery from the person; or

8 (2) For the purpose of killing
9 the person or inflicting substantial bodily harm
10 upon her, is guilty of kidnapping.

11 Forcible movement of a victim
12 is simply one of the ways kidnapping may be
13 accomplished. The crime of kidnapping is complete
14 whenever it is shown that a defendant willfully
15 and without lawful authority seizes another human
16 being with the intent to detain her against her
17 will for the purpose of committing robbery.

18 When forcible movement of a
19 victim does occur, there is no requirement of a
20 minimum distance of asportation. It is the fact,
21 not the distance, of forcible movement that
22 constitutes kidnapping.

23 Instruction Number 15: Any
24 person who, by day or night, enters any building

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1 or apartment with intent to commit larceny and/or
2 robbery and/or kidnapping is guilty of burglary.

3 Larceny is the stealing of
4 property and/or money.

5 Instruction Number 16: If you
6 find that a killing was not committed in the
7 perpetration or attempted perpetration of robbery
8 and/or kidnapping and/or burglary, and that a
9 killing was not perpetrated by any kind of
10 willful, deliberate and premeditated killing, you
11 may then consider the lesser included offense of
12 murder of the second degree and/or involuntary
13 manslaughter.

14 Instruction Number 17: The
15 offense of first degree murder necessarily
16 includes the lesser offense of second degree
17 murder.

18 If you are convinced beyond a
19 reasonable doubt that the crime of murder has been
20 committed by a defendant, but you have a reasonable
21 doubt whether such murder was of the first or of
22 the second degree, you must give the defendant the
23 benefit of that doubt and return a verdict of
24 murder of the second degree.

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1 Number 18: Murder of the
2 second degree is murder with malice aforethought,
3 but without the admixture of premeditation.

4 All murder, which is not murder
5 of the first degree, is murder of the second
6 degree.

7 Instruction Number 19:

8 The offenses of first degree
9 murder and second degree murder necessarily
10 includes the lesser offense of involuntary
11 manslaughter.

12 If you have a reasonable doubt
13 that the defendant is guilty of murder of the
14 first degree, and if you have a reasonable doubt
15 that a defendant is guilty of -- that a defendant
16 is guilty of murder of the second degree, but you
17 do believe from the evidence beyond a reasonable
18 doubt that the defendant is guilty of
19 manslaughter, you will acquit him of murder and
20 find him guilty of involuntary manslaughter.

21 Instruction Number 20: You are
22 instructed that involuntary manslaughter is the
23 killing of a human being, without any intent to do
24 so, in the commission of an unlawful act, or a

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1 lawful act which probably might produce such a
2 consequence in an unlawful manner, but where the
3 involuntary killing occurs in the commission of an
4 unlawful act, which, in its consequences,
5 naturally tends to destroy the life of a human
6 being, or is committed in the prosecution of a
7 felonious intent, the offense is murder.

8 Instruction Number 21: Any
9 person, except the cardholder or a person
10 authorized by the cardholder, who signs a credit
11 card, sales slip, sales draft or instrument for
12 the payment of money which evidences a credit card
13 transaction with intent to defraud shall be guilty
14 of Ununauthorized Signing of Credit Card
15 Transaction Document.

16 Instruction Number 22: Every
17 person concerned in the commission of a crime,
18 whether he directly commits the act constituting
19 the offense, or aids or abets in its commission,
20 and whether present or absent, and every person
21 who, directly or indirectly, counsels, encourages,
22 hires, commands, induces or otherwise procures
23 another to commit a crime is a principal and shall
24 be proceeded against and punished as such.

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1 Instruction Number 23: To aid
2 and abet is to assist or support the efforts of
3 another in the commission of a crime.

4 Instruction Number 24: Where
5 several parties join together in a common design
6 to commit any unlawful act, each is criminally
7 responsible for the acts of his co-conspirator
8 committed in furtherance of the common design. In
9 contemplation of law, the act of one is the act of
10 all.

11 Instruction Number 25: You are
12 instructed that presence, companionship, and
13 conduct before, during and after the offense are
14 circumstances from which one's participation in
15 the criminal intent may be inferred.

16 Instruction Number 26: Mere
17 presence at the scene of the crime and knowledge
18 that a crime is being committed are not sufficient
19 to establish that a defendant aided and abetted
20 the crime, unless you find beyond a reasonable
21 doubt that a defendant is a participant and not
22 merely a known spectator.

23 Instruction Number 27: To
24 constitute the crime charged, there must exist a

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1 union or joint operation of an act forbidden by
2 law and an intent to do that act.

3 The intent with which an act is
4 done is shown by the facts and circumstances
5 surrounding the case.

6 Do not confuse intent with
7 motive. Motive is what prompts a person to act.
8 Intent refers only to the state of mind with which
9 the act is done.

10 Motive is not an element of the
11 crime charged and the State is not required to
12 prove a motive on the part of the defendant in
13 order to convict. However, you may consider
14 evidence of motive or lack of motive as a
15 circumstance in the case.

16 Instruction Number 28: The
17 defendant is presumed innocent until the contrary
18 is proved. This projection places upon the State
19 the burden of proving beyond a reasonable doubt
20 every material element of the crime charged and
21 that the defendant is the person who committed the
22 offense.

23 A reasonable doubt is one based
24 on reason. It is not mere possible doubt, but is

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1 such a doubt as would govern or control the person
2 in the more weighty affairs of life. If the minds
3 of the Jurors, after the entire comparison and
4 consideration of all the evidence, are in such a
5 condition that they can say they feel an abiding
6 conviction of the truth of the charge, there is
7 not a reasonable doubt. Doubt to be reasonable
8 must be actual, not merely possibility or
9 speculation.

10 If you have a reasonable doubt
11 as to the guilty of the defendant, he is entitled
12 to a verdict of not guilty.

9

13 Instruction Number 29: The law
14 does not compel a defendant in a criminal case to
15 take the stand and testify and no presumption may
16 be raised and no inference of any kind may be
17 drawn from the failure of the defendant to
18 testify.

19 Instruction Number 30: You are
20 here to determine the guilt or innocence of the
21 defendant from the evidence in the case. You are
22 not called upon to return a verdict as to the
23 guilt or innocence of any other person.

24 So, if the evidence in the case

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1 convinces you beyond a reasonable doubt of the
2 guilt of the defendant, you should so find, even
3 though you may believe one or more persons are
4 also guilty.

5 Instruction Number 31: The
6 evidence which you are to consider in this case
7 consists of the testimony of the witnesses, the
8 exhibits, and any facts admitted or agreed to by
9 counsel.

10 There are two types of
11 evidence: Direct and circumstantial.

12 Direct evidence is the
13 testimony of a person who claims to have personal
14 knowledge of the commission of the crime which has
15 been charged, such as an eyewitness.

16 Circumstantial evidence is the
17 proof of a chain of facts and circumstances which
18 tend to show whether the defendant is guilty or
19 not guilty.

20 The law makes no distinction
21 between the weight to be given either direct or
22 circumstantial evidence.

23 Therefore, all of the evidence
24 in the case, including the circumstantial

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1 evidence, should be considered by you in arriving
2 at your verdict.

3 Statements, arguments, and
4 opinions of counsel are not evidence in the case.
5 However, if the attorneys stipulate to the
6 existence of a fact, you must accept the
7 stipulation as evidence and regard that fact as
8 proven.

9 You must not speculate to be
10 true any insinuations suggested by a question
11 asked a witness. A question is not evidence and
12 may be considered only as it supplies meaning to
13 the answer.

14 You must -- you must disregard
15 any evidence to which an objection was sustained
16 by the Court and any evidence ordered stricken by
17 the Court.

18 Anything you may have seen or
19 heard outside the courtroom is not evidence and
20 must also be disregarded.

21 Instruction Number 31-A: A
22 conviction shall not be had on the testimony of an
23 accomplice unless she is corroborated by other
24 evidence which in itself, and without the aid of

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1 testimony of the accomplice, tends to connect the
2 defendant with the commission of the offense; and
3 the corroboration shall not be sufficient if it
4 merely shows the commission of the offense or the
5 circumstances thereof.

6 An accomplice is hereby defined
7 as one who is liable for prosecution for the
8 identical offense charged against the defendant on
9 trial in the cause in which the testimony of the
10 accomplice is given.

11 Number 32: The credibility or
12 believability of a witness should be determined by
13 his manner upon the stand, his relationship to the
14 parties, his fears, motives, interests or
15 feelings, his opportunity to have observed the
16 matter to which he testified, the reasonableness
17 of his statements and the strength or weaknessss of
18 his recollections.

19 If you believe that a witness
20 has lied about any material fact in the case, you
21 may disregard the entire testimony of that witness
22 or any portion of his testimony which is not
23 proved by other evidence.

24 Instruction Number 33: A

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1 witness who has special knowledge, skill,
2 experience, training or education in a particular
3 science, profession or occupation is an expert
4 witness. An expert witness may give his opinion
5 as to any matter in which he is skilled.

6 You should consider such expert
7 opinion and weigh the reason, if any, given for
8 it. You are not bound, however, by such an
9 opinion. Give it the weight to which you deem it
10 entitled, whether that be great or slight, and you
11 may reject it, if, in your judgment, the reasons
12 given for it are unsound.

13 Instruction Number 34:

14 Although you are to consider only the evidence in
15 the case in reaching a verdict, you must bring to
16 the consideration of the evidence your everyday
17 common sense and judgment as reasonable men and
18 women. Thus, you are not limited solely to what
19 you see and hear as the witnesses testify. You
20 may draw inference -- reasonable inferences from
21 the evidence which you feel are justified in the
22 light of common experience, keeping in mind that
23 such inferences should not be based on speculation
24 or guess.

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1 A verdict may never be
2 influenced by sympathy, prejudice or public
3 opinion. Your decision should be the product of
4 sincere judgment and sound discretion in
5 accordance with these rules of law.

6 Instruction Number 35: In
7 arriving at a verdict in this case as to whether
8 the defendant is guilty or not guilty, the subject
9 of penalty or punishment is not to be discussed or
10 considered by you and should in no way influence
11 your verdict.

12 If the Jury's verdict is murder
13 in the first degree, you will, at a later hearing,
14 consider the subject of penalty or punishment.

15 Instruction Number 36: When
16 you retire to consider your verdict, you must
17 select one of your number to act as foreperson,
18 who will preside over your deliberation and will
19 be your spokesman here in court.

20 During your deliberation, you
21 will have all exhibits which were admitted into
22 evidence, these written instructions and forms of
23 verdict which have been prepared for your
24 convenience.

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1 Your verdict must be unanimous.
2 As soon as you have agreed upon a verdict, have it
3 signed and dated by your foreperson and then
4 return with it to this room.

5 Instruction Number 37: If,
6 during your deliberation, you should desire to be
7 further informed on any point of law or hear again
8 portions of the testimony, you must reduce your
9 request to writing, signed by the foreperson. The
10 officer will then return you to court, where the
11 information sought will be given you in the
12 presence of, and after notice to, the District
13 Attorney and the defendant and his counsel.

14 Readbacks of testimony are time
15 consuming and are not encouraged unless you deem
16 it a necessity. Should you require a readback,
17 you must carefully describe the testimony to be
18 read back so that the court reporter can arrange
19 her notes.

20 Remember, the Court is not at
21 liberty to supplement the evidence.

22 Instruction Number 38: Now you
23 will listen to the arguments of counsel, who will
24 endeavor to aid you to reach a proper verdict by

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1 refreshing in your minds the evidence and by
2 showing the application thereof to the law, but
3 whatever counsel may say, you will bear in mind
4 that it is your duty to be governed in your
5 deliberation by the evidence as you understand it
6 and remember it to be and by the law as given to
7 you in these instructions, with the sole, fixed
8 and steadfast purpose of doing equal and exact
9 justice between the defendant and the State of
10 Nevada.

11 THE COURT: Thank you, Delwin.

12 Mr. Seaton.

13 MR. SEATON: Thank you, Judge.

14 Good morning, ladies and
15 gentlemen.

16 We've been a long time in
17 getting to this juncture, but, fortunately, we are here; and
18 I think I can speak for everyone in the courtroom in an
19 expression of gratitude for not only the attention that you
20 have given throughout these proceedings, but the time that
21 you have devoted since we started this case some weeks ago.

22 In cases of this nature, there
23 are two major questions that come before a jury, and they're
24 really quite simple, but getting to the answers can be a

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1 little bit of a path that has to be taken.

2 The first question is: What
3 crimes were committed?

4 As you have been told, the
5 State has alleged that certain crimes were committed in this
6 case, and each one of those crimes have elements to them,
7 and they must be proven to you beyond a reasonable doubt in
8 order for you to conclude, as a jury, that those crimes have
9 been committed.

10 The second question is what the
11 TV programs are made out of: Who done it?

12 And we need to be able to show
13 to you, in our case, and we will attempt to do that today
14 through argument, that the defendant, Michael Rippo, is the
15 individual who committed these various crimes.

16 Before I get to that, though,
17 let me go back to the first question that needs to be
18 answered, and that is: What crimes have been shown to have
19 occurred in this particular case?

20 And I brought with me some of
21 the instructions that pertain to those crimes.

22 Now, you are going to have the
23 entire set of instructions that Judge Bongiovanni just read
24 to you when you go back to the jury deliberation room, and

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1 you will be able to look at them a little more readily at
2 that time.

3 Obviously, many of the words
4 and phraseology and the intent of these instructions are
5 things that you've never come into contact with before. I
6 just want you to be assured that you will be able to have
7 all of them when you go back there to deliberate.

8 I have chosen at this time
9 those few which pertain directly to the commission of the
10 crimes, and wish to discuss those with you at this time.

11 The first one -- and I'm going
12 to go in a little different order than that which -- in
13 which they were read -- the first one is Instruction 21.

14 And -- and just in case you are
15 interested, this is what instructions look like.

16 (Indicating) Don't pay attention to my chicken scratchings
17 down there, but they're just typed out words that portray
18 the law of the state of Nevada, which the judge just read to
19 you.

20 Instruction 21: Any person,
21 except the cardholder or a person authorized by the
22 cardholder, who signs a credit card, sales slip, sales draft
23 or instrument for the payment of money, which evidences a
24 credit card transaction with intent to defraud shall be

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1 guilty of unauthorized signing of credit card transaction
2 document.

3 If memory serves me correctly,
4 Mr. Wolfson, in his opening statement, indicated that the
5 defense would be conceding this particular issue to you.
6 That isn't necessary because proof has been brought out that
7 Mr. Rippo signed the credit card transaction document.

8 Diana Hunt said that she saw
9 him do it at the Sunglass Company. Angie Sposito, the
10 salesperson, said that she saw the defendant sign the credit
11 card transaction.

12 And, Bill Leaver, the
13 handwriting expert, indeed, came into court and said that it
14 appeared that this was the defendant's signature.

15 So that particular crime seems
16 to have been proven beyond any reasonable doubt by the
17 evidence.

18 Instruction Number 15 has to do
19 with burglary, and it reads: Any person who, by day or
20 night, enters any building or apartment with intent to
21 commit larceny and/or robbery and/or kidnapping is guilty of
22 burglary and larceny; and larceny is defined as the stealing
23 of property and/or money.

24 The obvious idea behind this

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1 crime is that if you go into a particular building and you
2 have with you, as you go into the building, the intent to
3 commit one of those crimes, the robbery, kidnapping or
4 larceny, then you are guilty of burglary; and it doesn't
5 take the breaking of a window or crawling through at night,
6 it's just that intent to do one of these bad things when you
7 go into the place.

8 And the question here obviously
9 is: Was there an intent to steal when the defendant and
10 Diana Hunt went into Lauri Jacobson's apartment on the 18th
11 of February, 1992?

12 Well, several things would
13 suggest to you that that, indeed, was the case. By way of
14 background, I think Deidre D'Amore said that they were both
15 broke most of the time and they needed money and they used
16 drugs and, of course, they wanted drugs and they knew -- Mr.
17 Rippo at least knew -- that drugs were contained, on
18 occasions, within that apartment.

19 Mr. Rippo was, it was testified
20 to, mad, certainly at Denise, and perhaps at Lauri, because
21 of some drug burn that had taken place.

22 He thought that -- and if I
23 remember right, he told one of the people to whom he
24 confessed -- I think it was Donald Hill -- that one of the

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1 girls burned him; and he also told Diana Hunt, in a
2 conversation once, that he believed that Denise had burned
3 him, and perhaps Lauri, too, on a drug deal. Mr. Hill, the
4 inmate from California, told us that the defendant had
5 planned to do this for several days.

6 And we know that the car was
7 taken, the Nissan. We know that syringes were taken. We
8 know that a wallet was taken, and that credit cards were
9 taken.

10 So, from all of that, isn't it
11 an easy logical step, not very much of a jump at all, to
12 suggest that what really had been going on here, for
13 whatever reasons, within his mind, Mr. Rippe wanted to get
14 into that apartment and get at these two young ladies and
15 receive things in return for it.

16 He had been to Lauri Jacobson's
17 house the night before -- the day before, on Monday. He had
18 been there on Sunday night. Wendy Liston told us both of
19 those things. But he didn't do anything at that apartment
20 until Denise came to the apartment, and then he set his plan
21 into action.

22 And I think the evidence seems
23 to show clearly that the inference can be made that the
24 defendant was hovering about that apartment, waiting for the

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right moment to commit the crimes that he did, and certainly to steal, which is the definition of burglary.

3

Instruction Number 12 has to do with robbery. Robbery is a little different from the crime of burglary.

6

Instruction 12 defines robbery as the unlawful taking of personal property from the person of another by means of force or violence.

9

And -- now, I paraphrased a little bit there, but I read the direct words to you. I left some out, but that's what it's all about: Robbery is taking something from someone else by means of force or violence.

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Well, clearly things were taken. I mentioned them just a moment ago: The car, the credit card, the wallet, the various things that came out of that apartment, and perhaps out of Denise Lizzi's automobile.

19

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Not to be forgotten, by the way -- these things aren't charged -- but not to be forgotten is that the defendant made a statement to one of the people to whom he confided, saying that he had taken some money from that apartment and he had gone to the -- to a bar and played video poker and hit a Royal Flush. So he

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1 took some money as well.

2 We also know that he had a
3 Sears credit card, which has not been charged in this case,
4 but we know that he had that particular card because he
5 signed on it at the -- at the Sears store.

6 And so personal property --
7 this definition in Instruction Number 12, having to do with
8 robbery, personal property was definitely, without question,
9 taken from that apartment.

10 Was it taken by force or fear
11 of violence?

12 Well, that answer is -- or
13 seeking the answer is almost laughable. All you have to do
14 is look at the photographs of what transpired in that house.
15 All you have to do is listen to the testimony of Dr. Green,
16 who tells you the nature of the wounds, the marks on the
17 throat, the cuts on the throat, the gagging and tying that
18 went on. And certainly this case screams out for force and
19 violence. There was a robbery in this case.

20 Instruction 14 has to do with
21 the crime of kidnapping. It reads: Every person who
22 willfully seizes, confines, restrains, conceals, with the
23 intent to hold or detain or who does hold and detain for the
24 purpose of committing robbery or for the purpose of killing

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1 the person or inflicting substantial bodily harm on them is
2 guilty of kidnapping.

3 Well, all of those things
4 happened in this particular case. Not only was there
5 seizure and confining and restraining in this case, but both
6 of these young ladies, after they were bound and gagged,
7 were moved. Denise was taken from the bathroom and moved
8 into the closet area. Lauri was taken from the living room
9 and moved --

10 MR. DUNLEAVY: I'm going to object to the
11 mischaracterization of testimony, Your Honor.

12 All the testimony was Denise
13 was -- the fight started in the bathroom, ended up in the
14 closet where she was turned up.

15 THE COURT: The jury is the trier of fact.
16 They'll remember what the facts of the case were.

17 MR. SEATON: If I'm wrong in these things,
18 obviously, your memory dictates.

19 Several people told us,
20 however, that everything started in the bathroom with Denise
21 and that there was a struggle; there were voices back and
22 forth; and that she was taken into the closet; and certainly
23 she didn't go there willfully.

24 And as I had said, Lauri

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1 Jacobson was moved, after she had been tied and gagged, from
2 the living room, into that same closet with Lauri Jacobson.

3 Do you want to decide, firstly,
4 in your minds whether or not there was a kidnapping under
5 these words that the law gives you?

6 And let's just use the word
7 restrains. Look at the photographs. You've seen them; you
8 will never get them out of your mind.

9 Remember the photographs with
10 the -- with the cord marks and the ties around the wrists.
11 This is a clear case of kidnapping.

12 Which brings us to the crime of
13 murder. Did the crime of murder occur in this particular
14 case?

15 Well, there are several
16 instructions that talk to you about what -- how murder is
17 defined. And I have a few of them here.

18 Instruction Number 5 says
19 murder is the unlawful killing of a human being.

20 Well, we know that two human
21 beings were killed and and unlawfully so, with malice
22 aforethought -- and we'll get into that in just a moment --
23 whether express or implied. The unlawful killing may be
24 effected by any of the various means by which death may be

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1 occasioned; and, of course, in this case, it was by manual
2 and ligature strangulation.

3 Remember, in that instruction
4 on murder, they talk about malice aforethought needs to be
5 there. That's one of the elements of the murder.

6 Malice aforethought is defined
7 in Instruction Number 6, and it means the intentional doing
8 of a wrongful act without legal cause or excuse or what the
9 law considers adequate provocation.

10 The condition of mind described
11 as malice aforethought may arise not alone from anger,
12 hatred, revenge or from particular ill will, spite or grudge
13 toward the person killed, but it may result from any
14 unjustifiable or unlawful motive or purpose to injure
15 another, which proceeds -- and this is such important
16 language -- which proceeds from a heart fatally bent on
17 mischief or with reckless disregard of consequences and
18 social duty.

19 Malice aforethought does not
20 imply deliberation or the lapse of any considerable time
21 between the malicious intention to injure another and the
22 actual execution of the intent, but denotes, rather, an
23 unlawful purpose and design in contradistinction to accident
24 and mischance.

002863

3

1 Malice in this case?

2 Again, the photographs. The
3 malice came from a mind which was angry from having been
4 burned by a drug deal. The malice came from a mind which
5 said you've got something and I want it; the intent to
6 steal.

7 The defendant told Tom Sims
8 that he accidentally killed one of them, and that was
9 Denise.

10 Was it accidental to set this
11 whole thing up? Was it accidental to wrestle her in the
12 bathroom and take her to the closet? Was it accidental to
13 lay her down on the floor and to bind her with the cloth
14 bindings that we saw?

15 Was it, indeed, accidental to
16 take a sock off of the floor and stuff it forcefully in her
17 mouth, and then tie that, so that she couldn't remove it,
18 with a woman's bra? Were those accidents?

19 I ask those questions because
20 if you remember the last line of the instruction, it says:
21 Malice denotes, rather, an unlawful purpose and design in
22 contradistinction to accident and mischance. And there was
23 no accident and there was no mischance. Purpose is the
24 operative word here.

002870

13

1 Malice, this state of mind that
2 we have just been talking about, can either be express, when
3 somebody talks about the malice that they have, or it can be
4 implied. And Instruction Number 7 tells you that.

5 And with the implied portion of
6 it, it says malice may be implied when no considerable
7 provocation appears. In other words, did the young ladies
8 do anything to cause these things to happen to them? Was
9 there a -- were there actions on their part in that
10 apartment which caused these things to occur?

11 Or when all of the
12 circumstances of the killing show an abandoned and a
13 malignant heart. What better could describe what went on in
14 that apartment than an abandoned and a malignant heart?
15 That is a heart filled with malice. That's the heart that
16 Mr. Rippo carried with him on February the 18th, 1992.

17 That -- once you found the
18 malice within the killing of the -- the unlawful killing of
19 a human being, you have murder.

20 Then the question becomes: Is
21 it first degree murder? That is, indeed, what the State has
22 charged in this particular case.

23 Instruction Number 8 tells you
24 a little about murder of the first degree. It says murder

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1 of the first degree is murder which is, ah, perpetrated by
2 any kind of willful, deliberate and premeditated killing.

3 And the operative word there is
4 premeditated. Or, murder of the first degree is, B,
5 committed in the perpetration or attempted perpetration of
6 robbery and/or kidnapping and/or burglary.

7 That is what we call the felony
8 murder rule. And I'll come back to that in a moment.

9 The thing to note here is that
10 there are two ways to get to first degree murder. The first
11 way is if the person doing the killing premeditated the
12 killing, or, in this case, the killings, then it is first
13 degree murder.

14 Or, without any thought about
15 or question being asked about premeditation, if the killing
16 occurred during the perpetration of kidnapping, robbery
17 and/or burglary, then, too, it is a first degree murder,
18 automatically.

19 With regard to premeditation,
20 Instruction Number 9 tells you that premeditation is a
21 design, a determination to kill, and distinctly formed in
22 the mind at any moment before or at the time of the killing.

23 Before I read this, let me make
24 this comment: People sometimes think in terms of -- when

002872

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1 they think in terms of premeditation, they think about
2 someone having sat down at a table and drawn up a list of
3 pros and cons about what they're about to do, drawn a map of
4 the place they're going to go to, and thought and
5 contemplated about it for a considerable length of time.

6 And time is what this
7 instruction talks about. With that in mind, let me read the
8 rest of what Instruction 9 says.

9 Premeditation need not be for a
10 day, an hour or even a minute. It may be as instantaneous
11 as successive thoughts of the mind.

12 How quick is that?

13 For if the jury believes from
14 the evidence that the acts constituting the killing has been
15 preceded by and has been the result of premeditation, no
16 matter how rapidly the premeditation is followed by the act
17 constituting the killing, it is willful, deliberate and
18 premeditated murder.

19 So contrary to TV land,
20 premeditation is something that can happen virtually
21 instantaneously, successive thoughts of the mind.

22 Through Mr. Levine -- remember
23 David Levine, one of the ex-inmate witnesses, Donald Hill,
24 another one of the inmate witnesses? They told us -- well,

002873

4

1 Mr. Levine told us that he -- Mr. Levine told us that Rippo
2 told him that he wrapped the cord around Denise's neck and
3 he pulled it hard and that's what killed her.

4 And we know from Dr. Green that
5 that act takes minutes, not successive thoughts of the mind.
6 You have to be holding on and tightening and pulling in
7 order to accomplish the act of murder. And we've been told
8 that the defendant said he got a rush from the killing, that
9 it was like drugs; he could go to sleep afterwards.

10 Mr. Hill told us that he had
11 planned this for days -- that may have something to do with
12 the premeditation now, might deny it? -- and that he -- he
13 is the one who told us that the killing was done because Mr.
14 Rippo had been previously burned by one of the girls.

15 Now, that all goes to
16 premeditation.

17 Remember -- here is some more.
18 Remember, that Denise had a sock in her mouth. Someone had
19 to pick up that sock -- well, they had to have a thought
20 about doing it first. They had to pick up that sock and
21 they had to stuff it into the mouth. That isn't easily
22 accomplished. It isn't accomplished in a second. It takes
23 some doing. And it has to be held there while the person
24 then -- that person by the way, (indicating) -- while that

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4

1 person then has to search --

2 MR. DUNLEAVY: Your Honor, I'd like the
3 record to reflect he turned and pointed to our client.

4 THE COURT: The record will so reflect.

5 MR. SEATON: I wanted the record and the
6 jury to know exactly who it was I was speaking of, Judge.

7 THE COURT: Okay.

8 MR. SEATON: He had to reach down and find
9 the bra, or whatever it was he was looking for, because
10 obviously the sock could be spit out without it being tied
11 down.

12 Is that more -- Just something
13 a little bit more than successive thoughts of the mind as
14 the premeditation instruction calls for? I submit to you
15 that it is.

16 We learn that Denise had a cord
17 applied to her neck, wrapped twice. If memory serves me,
18 Diana Hunt's words were: When I saw him, he was pulling so
19 hard on the cord on her neck it was lifting her up off the
20 ground and his arms were straining. I think those were her
21 words.

22 Is that premeditation? Is that
23 willful and deliberate? That's what this instruction calls
24 for.

002875

1 Lauri Jacobson, the doctor told
2 us, was manually strangled. Someone did it with their
3 hands. That someone we've been sitting in court with for
4 these several weeks.

5 Think about that act in the
6 terms in which Dr. Green told us about it. It takes some
7 strength and it takes a considerable length of time, unless
8 there is some sort of a chopping injury, but there was no
9 evidence that there was in this particular case.

10 The fingers of a man's hand had
11 to be around her neck, holding it for a long period of time.

12 Let's go back to the word
13 accident for just a minute. If this, indeed, were an
14 accident, wouldn't you let go? Wouldn't you loosen the
15 cord?

16 The word "accident," ladies and
17 gentlemen, has no place in this courthouse, not today, not
18 in this case, and not with regard to Mr. Rippe.

19 These instructions tell us then
20 if there is an unlawful killing, and there certainly was,
21 and if there was malice, and clearly there was malice, and
22 if there was premeditation, you have murder of the first
23 degree. Those are the elements which are necessary.

24 But there is another way, as I

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1 mentioned earlier, to get to murder of the first degree.

2 Murder which is committed --
3 this is Instruction Number 11. I'm sorry.

4 Murder which is committed in
5 the perpetration or attempted perpetration of robbery and/or
6 kidnapping and/or burglary, any one of those three, is
7 deemed to be murder of the first degree -- and here we come
8 to that word again -- whether the killing was intentional,
9 unintentional, or accidental.

10 If an individual is committing
11 a burglary, a robbery or a kidnapping, and during the
12 commission of any one of those crimes, or as in this case,
13 all of them, killings result, the law tells you, in
14 Instruction Number 11, it is automatically first degree
15 murder. You don't even need to get to that question of
16 premeditation. You never have to ask yourself that
17 question. That is called the felony murder rule.

18 And it simply talks about
19 responsibility. If this defendant, sitting in court with us
20 today, set in motion a certain set of evil facts -- he
21 wanted to get revenge for the burning, he wanted to steal,
22 he went in and he burglarized, he kidnapped, and he
23 robbed -- if, during the course of that, these two young
24 ladies died, then he is automatically guilty of first degree

002877

1 murder; and the reason is, he has got to take the
2 responsibility for the consequences of his own actions.
3 That's what this rule is all about, and it makes perfectly
4 logical sense.

5 Those are the crimes. Those
6 are the elements to the crimes. And I've tried to recite
7 for you the evidence which supports all of those elements.

8 And I submit to you beyond a
9 reasonable doubt, those crimes, which we have alleged, have
10 been proven beyond a reasonable doubt.

11 Now I want to take us to the
12 portion of the argument that has to do with who did these
13 things. I know that I've been mentioning Mr. Ripppo
14 throughout because that is a natural thing to do when
15 talking about these crimes, but I want you to understand
16 that my emphasis in the first portion of the argument was
17 not to point the finger at Mr. Ripppo, although it's just
18 hard not to do with this evidence.

19 Now comes that time. Now comes
20 the question that I want all of you to have in your minds:
21 Who is the human being who is responsible for the deaths of
22 Denise Lizzi and Lauri Jacobson?

23 To that end, I've had prepared
24 a diagram of sorts, and I want to bring that out now and

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1 utilize it while I'm doing the remainder of my argument.

2 Can all of you see?

3 (Affirmative response.)

4 MR. SEATON: Okay.

5 I've outlined several things,
6 14 of them to be precise, and I want to talk about each one
7 of them as they pertain to this case and as they pertain to
8 the murders of Denise Lizzi and Lauri Jacobson and one
9 person's responsibility for them.

10 I want to start off by talking
11 a little bit about the relationships that existed in this
12 particular case, and we're going to start with Mr. Rippo.

13 Mr. Rippo, as we know, had a
14 girlfriend, and her name was Diana Hunt. They were drug
15 users.

16 Mr. Rippo had known Lauri
17 Jacobson for some time -- and right now, it escapes me how
18 long it was -- but it was a period of years. As a matter of
19 fact, from several sources, we learned that he had once
20 dated her. I think -- I'm going to get it wrong probably --
21 but it might have been Mr. Levine -- Levine who said that
22 she was Mr. Rippo's ex-old lady, I think was the
23 terminology. Maybe that was Mr. Hill. They had known each
24 other at least for some period of time.

002879

5

16

1 And he knew Denise Lizzi as
2 well, but for a short period of time and not very well.

3 Lauri Jacobson had, indeed, had
4 some sort of a relationship with the defendant in the past,
5 and she had, as her good friend Denise Lizzi, and they
6 had -- they did drugs as well.

7 Denise Lizzi -- oh, and I
8 forgot to mention that one of -- another person connected to
9 the defendant, Mr. Rippo, a good friend of his, was the
10 gentleman who we met and heard something about, Tom Sims.

11 And that brings us to Denise
12 Lizzi. Denise knew Lauri, did drugs with her, and knew the
13 defendant, but it became apparent throughout this trial that
14 she didn't like him one bit. Someone indicated that she
15 thought he was a cop or a narc.

16 Remember the day of the crime?
17 She didn't want to come up to that apartment. Lauri
18 Jacobson was down 20 minutes talking to her before she
19 finally came up.

20 One thing these people had in
21 common, one thing in their lives tied them tightly together:
22 Drugs. Drugs are rampant throughout this case and it was
23 the glue that bound these people together.

24 Remember, on the 16th of

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1 February, 1992, that was a Sunday night, and Wendy Liston
2 told us that she had been over to Lauri Jacobson's house and
3 the defendant was there and Lauri Jacobson was there; and
4 then she came back the next day, at noon, as was her habit
5 during the weekdays -- this was Monday, the 17th -- and
6 Wendy Liston came back to look in on her friend to see how
7 she was doing, brought her lunch, and Mr. Rippo was there
8 again.

9 And then he left and they left
10 and went to the -- they meaning Wendy and Lauri Jacobson --
11 left and went to the tire place. The tire place was
12 Discount Tires. That happened on Monday, the 17th.

13 Wendy brought Lauri Jacobson
14 back to the apartment and left her there, and that was the
15 the last time she saw her.

16 We know from the evidence that
17 there is a Discount Tire receipt dated the 18th of February,
18 Tuesday, the next day, at around 10 or 10:15 in the morning,
19 if my memory is correct, indicating that the car had been
20 picked up; and, indeed, when Wendy came back at noon that
21 day, she saw that the car's tire had been replaced by the
22 one purchased at Discount Tire.

23 And so from all of this, we can
24 know that Lauri Jacobson had left the apartment sometime --

002881

16

1 well, I shouldn't even say that because it doesn't say that.
2 We know that her car was back by 10:15, or 10:30 or so, on
3 Tuesday morning.

4 At about that same time, the
5 defendant, Michael Rippo, was awakening Diana Hunt. It was
6 a little bit earlier; it was about nine o'clock, if I
7 remember her testimony. And he woke her up, and she was
8 sick from having had too much methamphetamine before, and
9 she was physically ill, if you remember, and he demanded
10 that she get up and get dressed and go with him to a place
11 that she didn't know what -- at that particular time, she
12 didn't even know where they were going or why they were
13 going.

14 And they started on their way,
15 which is somewhat reminiscent of an old Ray Bradbury novel,
16 something wicked this way comes. That's what was going on
17 that morning. Something wicked was going toward the
18 apartment of Lauri Jacobson and she and Denise Lizzi were
19 soon to feel the effects of that wickedness. It's really
20 the malignant heart of which I am speaking.

21 And as Don Hill told us, the
22 defendant had been planning this for many days. He had been
23 watching and he waited for his opportunity and he finally
24 found it.

002882

1 I'm talking about Mr. Rippo
2 having the opportunity to kill them -- to commit the murder.
3 The opportunity was there, plain and simple. And
4 interestingly, there has been no testimony that he was some
5 place else.

6 The only person who tells us
7 where he was on February the 18th, 1992, is Diana Hunt.

8 MR. WOLFSON: Judge, excuse me. I'm going
9 to interpose an objection and ask to be heard at the bench.

10 THE COURT: You may.

11 Approach the bench, please.

12 (Whereupon, an off-the-record
13 discussion was had.)

14 MR. SEATON: May I continue, Judge?

15 THE COURT: Yes, you may.

16 MR. SEATON: So, as I was saying, Mr. Rippo
17 clearly had the opportunity to do the murder.

18 Is that enough to convict him
19 on? No. That's not beyond a reasonable doubt.

20 There were two motives: Motive
21 number one, and we've talked about this a little bit, he
22 wanted revenge for the dope burning. And it was Don Hill
23 who told us that one of these women had burned the defendant
24 and how that happened.

002883

1 What Mr. Hill told us, that Mr.
2 Rippo told him -- excuse me -- was that she had gotten money
3 from him, she was to have bought drugs, did not, kept the
4 money; and that is what's commonly referred to as a drug
5 burn.

6 Diana even said that about a
7 week before February the 1st, there was a time when she, a
8 woman who she named as Roxanne Holloway, and the defendant
9 were together and they were talking, and the defendant
10 related a story. Mr. Rippo said that he thought that Denise
11 had burned him and it made him mad. He also said at that
12 time that Denise thought that he was a cop, a narc.

13 And the third thing that he
14 said was that Denise had -- was telling people not to buy
15 drugs from Mr. Rippo.

16 In this particular lifestyle,
17 that is quite an affront. That is something that Mr. Rippo
18 didn't want going out on the streets, that he was a narc and
19 that people shouldn't buy from him. That was stopping up
20 his lifeline to what he needed on a daily basis, which was
21 drugs.

22 So that gives motive number
23 one, the fact that he wanted revenge for the drug burn.

24 Motive number two was that Mr.

002884

1 Rippo simply wanted to steal drugs and property. We have to
2 start with Mr. Beaudoin. Do you remember Michael Beaudoin?

3 Michael Beaudoin told us a
4 story about he was at home in bed. I think it was four
5 o'clock in the morning. Denise and an individual by the
6 name of Dan Barton came barging in and the fight was on.
7 There was arguing and yelling and whatever went on at that
8 particular time.

9 And when they finally left,
10 there were some things missing. There were drugs missing
11 and there were money orders missing. And as I recall, the
12 total amount was about 13 or \$1400, in terms of value of
13 what had actually been taken at that time.

14 Now, we know that a week
15 later -- or just a day later, Mr. Beaudoin was in jail. On
16 February the 2nd, he got placed in jail. He had
17 conversations with Diana. That was the time when -- I don't
18 know if he was suggesting, but Diana was saying that she
19 would go over -- go out and find Denise, and I think the
20 terms were kick her ass and slash her tires, something, by
21 the way, Mr. Beaudoin told us that later he told her not to
22 do.

23 The point that I'm getting to
24 is that when all of that went on, the one thing that we can

002885

1 all be assured of, that there should be no question about at
2 all, is that if Diana knew that Denise was in possession of
3 a substantial amount of drugs, and the value was pretty high
4 that he placed on it, you can bet your bottom dollar that
5 somebody else knew, and it's this man sitting in the
6 courtroom with us today, Mr. Ripppo.

7 They were still boyfriend and
8 girlfriend. These people who dealt in drugs together
9 continuously would be telling each other anything they knew
10 about the availability of drugs somewhere in the community;
11 and so if Diana Hunt knew about Denise having drugs, and a
12 substantial amount, then Mr. Ripppo would have known it as
13 well.

14 I've mentioned before that
15 Deidre D'Amore told us that Diana and the defendant were
16 always broke; they didn't have any money at all; so they
17 certainly needed things.

18 Mr. Ison, James Ison,
19 another -- the fellow from back in North Carolina, he told
20 us that the defendant told him, while they were in jail
21 together, that his purpose in going over there with his
22 girlfriend -- he didn't know the girlfriend's name, but we
23 know that it was Diana -- that their purpose was to go over
24 there and steal some drugs and things.

002886

1 Diana told us two interesting
2 things: One, when the -- when Denise and Lauri were both in
3 the bathroom, that's when the defendant gave her the bottle
4 of beer -- a bottle of beer and said when the phone rings,
5 hit her over the head -- hit Lauri over the head, so it will
6 distract her while I rob Denise. He was talking to her at
7 that moment about what his intent was, which was to rob and
8 steal and take things that did not belong to him.

9 And later, when Diana Hunt had
10 a conversation with the defendant, she wanted to know about
11 the phone conversation, and he related to her that he had
12 called this person called Alice and asked Alice to make the
13 phone call, so that Lauri would be distracted, and, in his
14 words, so I could rob Denise.

15 So it's clear that there was a
16 clear motive to steal. And an interesting thing is --
17 Instruction Number 27 says several things. It has four
18 paragraphs in it. The last paragraph is motive is not an
19 element of the crime charged, not an element, and the State
20 is not required to prove a motive on the part of the
21 defendant in order to convict.

22 These two things aren't
23 necessary. (Indicating) However, the instruction goes on
24 to state: You may consider evidence of motive or lack of

002887

18

1 motive as a circumstance in the case.

2 Well, there are two motives and
3 two circumstances in this particular case. Rippo tried to
4 sell Denise's Nissan to Tom Sims. Tom Sims had known the
5 defendant since 1985 or thereabouts. They were good
6 friends. They trusted one another. There had to be trust,
7 certainly, flowing from Mr. Rippo to Mr. Sims because of the
8 things he did and said to him, the manner in which he
9 exposed himself to this man.

10 Remember, that through Diana
11 Hunt and Dr. Sheldon Green, the pathologist, we learned that
12 the approximate time that all of this was going on, that is,
13 the killings in the apartment, was somewhere around noon on
14 the 18th of February, 1992.

15 That's important for this
16 particular reason: It was around two or three o'clock in
17 the afternoon, Tom Sims told us, that the defendant came
18 into his place of business, Tommy's Maintenance. Now,
19 that's just an hour or two or thereabouts after the killings
20 had taken place.

21 And what does the defendant do
22 at that time?

23 Well, Mr. Rippo has a red
24 Nissan 300ZX -- that was Denny Mason's car being used by --

002888

18

1 well, actually, Denny Mason told us that it was Denise's
2 car. He had purchased it for her -- and he had it there at
3 Tommy's Maintenance and he wanted to sell it to Mr. Sims and
4 he wanted to sell it for \$2,000, this Nissan 300ZX. He
5 wanted to give the car away and just get a little bit of
6 money. And he said that he wanted to be able to leave town
7 and that's why he needed the money so badly.

8 And remember what else he said
9 to Mr. Sims? Someone died for this car. How instructive is
10 that?

11 Diana came back to -- or came
12 to Tommy's Maintenance that evening and she came back with
13 Mr. Rippo. And she told us that Mr. Rippo had said that he
14 had stolen that car from some people who were now going to
15 be out of town. That was his story to her. And he ordered
16 her -- I shouldn't use the word order -- he told her to take
17 the car and to go to some place to get new paperwork on it,
18 so that it would be a legitimate car, I would suppose.

19 So Mr. Rippo, just hours after
20 the killings took place, is the person who has this
21 automobile. Remember that Diana Hunt left in her car from
22 the -- from the scene of the crime and left Mr. Rippo
23 standing there in the parking lot.

24 Well, we now know how he got

002883

1 around after that. He didn't need somebody to come pick him
2 up because he had Deidre come pick him up when Diana ran
3 away from the car that one time. He had a car. He got
4 keys. He got them from Denise Lizzi. And he operated that
5 Nissan in such a way as to take it to Tom Sims --

6 MR. DUNLEAVY: Your Honor, I'm going to
7 object to that characterization. Mr. Sims made it clear he
8 never saw him drive the car, never saw the keys to the car.

9 MR. SEATON: Just an inference, Judge.

10 THE COURT: You may continue.

11 MR. SEATON: But what the diagram says there
12 isn't an inference at all. He tried to sell Tom Sims Denise
13 Lizzi's Nissan 300ZX.

14 Not only that, but he used her
15 credit card. Diana told us that Mr. Ripppo had said to her
16 that he had gone to -- she thought that it was Service
17 Merchandise; then she thought it was Service Merchandise or
18 maybe Sears; she thought they were the same place -- but,
19 anyway, he had gone there and he had bought an air
20 compressor and some tools, I believe her testimony was.

21 Well, that's one thing. But
22 here's another: Remember Carlos Copia, I think his name
23 was, the salesman and now the manager from Sears, came in
24 and he was the person who did that transaction -- and it was

002890

1 at Sears and Roebuck, it wasn't at Service Merchandise --
2 and he had a specific recall of that transaction. And if
3 I'm remembering this right, he said he didn't have a good
4 feeling about what was going on.

5 On the other hand, we knew by
6 inference that he had a good feeling about it because he was
7 getting a large commission out of this -- I think it was an
8 \$819.80 sale that he was going to get a commission on.

9 He identified the defendant in
10 this case as being the person who did that transaction.
11 That transaction took place on the 19th of February, 1992.

12 And remember how his
13 identification of the defendant occurred in this courtroom?
14 He sat up there and I asked him: Do you see the man in the
15 courtroom who did this transaction?

16 And he really couldn't say. He
17 couldn't remember that particular face, this short haired,
18 no facial hair face that we see in court here today; but
19 when he was shown the photograph, Exhibit 99, the picture of
20 the defendant with long, shoulder length hair, which he had
21 been described by several people as sporting in those days,
22 he said that's the guy.

23 And I -- I remember when Mr.
24 Dunleavy had him on cross-examination and asked him if he

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1 was sure. He challenged him on that identification, as is
2 his right to do, and he said I know that that's the same
3 person.

4 But there was more. There was
5 the Pinto. He remembered, in that instance, that the stuff
6 was so heavy he had to help carry it out to the car, and it
7 was a -- a -- was it gray or a light brown Pinto with blue
8 stripping on it? And when shown the photographs of that
9 Pinto, he said that looks like the same Pinto into which I
10 loaded these items.

11 He identified the sales slip.
12 His own employee number was on that sales slip, so it was
13 easy for him to do. And he remembered trying to find out
14 whether or not this was a legitimate credit card. This --
15 this is where he didn't think things were right coming in.
16 And he finally became satisfied that this transaction was
17 all right and let it happen. And the person doing the
18 transaction signed that credit card; and he said, through
19 the photograph, that that person was Michael Rippo.

20 Bill Leaver, the handwriting
21 expert, told us that it was -- that there was a strong
22 possibility that the person who wrote that signature --
23 Denny Morgan was that particular name that was written on
24 that -- on that credit card slip -- there was a strong

002892

19

1 possibility that this man in court with us today authored
2 that particular signature.

3 But we really didn't need Bill
4 Leaver, because Carlos Copia knew for sure that it was the
5 same person.

6 And whose credit card was that?
7 It was Denise Lizzi's, the old style, smaller Sears credit
8 card that was being utilized. So we know beyond a
9 reasonable doubt that Rippo used Denise's Sears credit card.

10 Rippo also used Denny Mason's
11 Visa credit card. He was at the sunglass store. Diana hold
12 us that they went to the Sunglass Company in the Meadows
13 Mall and Rippo was purchasing sunglasses for himself and she
14 got a pair for herself, and that he pulled out a credit card
15 and he signed it; and for that, they got the two sets of
16 sunglasses that we have in evidence here today.

17 Angie Sposito, the sales clerk,
18 came in and, like Carlos Copia, she was able to say that
19 this gentleman in court with us was the person who came in
20 and signed the credit card slip.

21 Again, Bill Leaver, significant
22 similarities between the defendant's hand and the Mason
23 signature. But, again, we didn't need Bill Leaver because
24 Angie Sposito was telling us that, indeed, the defendant,

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1 Michael Rippo, used Denny Mason's credit card. And we know
2 that he, that is Mr. Rippo, had Denise's and Lauri's
3 possessions; he personally had them.

4 Tom Sims saw that and told
5 us -- not only did Tom Sims see the Nissan 300ZX, Tom Sims
6 saw a suitcase; and that suitcase -- he got ahold of that
7 suitcase later on, and he saw that it bore the name Lauri
8 Jacobson.

20

9 He was also given a box full of
10 tapes, audio tapes, music; and those tapes had on them, he
11 noted at a later time, the initials D.L., obviously standing
12 for Denise Lizzi. So Mr. Sims tells us that Mr. Rippo had
13 Denise's and Lauri's possessions.

14 Diana said the same thing, in a
15 different way. Remember, she left Deidre's house, wanting
16 to get away from Mr. Rippo. She was in the car and he got
17 into the car with her and they drove until they ran out of
18 gas. In that car were her things, her suitcases, and she
19 believed, the brown bag that we have in evidence. And
20 within that brown bag were her toiletries and some
21 photographs, and things that she pulled out of the bag later
22 on, when she was on the stand, and she indicated to you that
23 all of those things belonged to her. And at that time,
24 that's all that was in the bag.

002894

1 The car ran out of gas. She
2 ran out of the car and ran, flagged down a ride, got over to
3 her friend -- I'm going to get this wrong -- Doug
4 Dittle's -- I think, Doug Dittle's house, and Doug gave her
5 a ride back to the car. And when she got back, their things
6 were gone, the defendant was gone, and so was her brown bag.

7 At that time, it can be
8 inferred that the defendant, Mr. Rippo, had possession of
9 those things, because then Deidre D'Amore tells us that she
10 had to go, I think it was, to Sahara and Rainbow and pick up
11 the defendant, because he didn't have a ride.

12 And when she picked him up, he
13 had suitcases with him; and she wasn't sure, but the brown
14 bag might have been one of the things that he had with him
15 at that time.

16 She saw an address book then
17 and it had Denise Lizzi's name in it. So forget the
18 inference a moment before; he had Denise's things with him
19 at that moment.

20 And what was the -- not the
21 next thing, but one of the next things that Mr. Rippo did
22 was he called Mike Beaudoin. Mike, I've got some things you
23 might be interested in. Meet me at the Showboat Hotel.
24 I'll show them to you.

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1 So he went up to the third
2 floor of the Showboat Hotel and that's where Mike Beaudoin
3 found Mr. Rippo. And when they got together, Mr. Rippo had
4 that brown bag, the very one that we've got in evidence --
5 well, before he got to the bag though, Mr. Rippo had, and
6 Mr. Beaudoin wasn't exactly sure -- but some things, the
7 garage door opener, the wallet or something that he pretty
8 readily identified as belonging to Denise.

9 And, remember, this is
10 important to Mike Beaudoin because Mike Beaudoin was
11 Denise's boyfriend, along with Denny Mason being her
12 boyfriend, for some period of time. Mike Beaudoin cared
13 about what had happened. He cared about the death of this
14 girl that he had once dated, and so he was very interested
15 in what Mike Rippo was showing him.

16 And then they went to the car,
17 which was the Isuzu pickup, and there was the brown bag.
18 And the brown bag and all of its contents, and the other
19 things that Mr. Rippo had with him, were turned over to Mike
20 Beaudoin. And Mike Beaudoin then saw the garage door
21 openers and the wallet and he knew that, indeed, these
22 belonged to Denise.

23 To make sure, however, he went
24 by and he got his friend Darrell Scott, who also was

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20

1 familiar with her things. They, together, went to Denny
2 Mason's house, pushed the little button on the gate opener.
3 Voila, the gate opens. Now there can be no doubt in their
4 minds, at that point in time, that this man just gave to
5 them the possessions belonging to two recently murdered
6 women, Denise Lizzi and Lauri Jacobson.

7 They went from there to Mike
8 Beaudoin's brother's house, where the inoperative car was
9 parked. They opened the trunk and put the -- or it's a
10 decollete actually -- they opened the decollete and put the
11 brown bag in there to keep it safe for the time being.

12 What else do we have?

13 Mr. Rippe ran away from Nelson
14 Street.

15 What happened after the Mike
16 Beaudoin incident at the Showboat Hotel and going around
17 opening the gate and what not was that they ended up over at
18 Nelson Street.

19 And there was a purpose behind
20 that. The purpose was that Mike Beaudoin now was honing in
21 on who might have had something to do with the killing of
22 his girlfriend and Lauri Jacobson, so he got Diana Hunt and
23 Mike Rippe there at the Nelson Street address to see what
24 would happen.

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1 And something happened;
2 something happened. Mike Rippo started beating on Diana
3 Hunt. He started stunning her with this same stun gun that
4 Diana Hunt had mentioned before over at the apartment.

5 Now, it isn't just Diana Hunt
6 telling us about the stun gun. Mike Beaudoin is saying that
7 he witnessed her being hit with this particular stun gun.

8 The fight went on for a little
9 while, and finally the fight was broken up by Dan Barton.
10 The defendant, Mr. Rippo, was being held momentarily, but he
11 was able to wriggle away and he ran. And I think Mr.
12 Beaudoin said that they chased after him a little bit, but
13 they gave up because they couldn't catch him.

14 The important thing to note is
15 that he ran away. He didn't want to be around. And he had
16 just been in control of everything with this fight going on.
17 The police were coming.

18 Who stayed? Diana Hunt stayed.
19 Who gave a statement to the police? Diana Hunt. Who told
20 the police that she would be in Yerington; she would go up
21 there for safety? Diana Hunt.

22 Not Mr. Rippo. Mr. Rippo ran;
23 commonly known as flight. It indicates a consciousness of
24 guilt. I don't want to be around because I'm going to get

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1 caught if I stick around. That's why Rippo's running away
2 from the Nelson Street address has some import to it.

3 Tom Christos. Tom Christos
4 said that he got a call on the 20th, in the evening hours,
5 from Mr. Rippo. The 20th, if you will remember, is the day,
6 around the noon time hour, that the -- that the police went
7 to the Cambridge Street address of the Katie Arms and found
8 the bodies. Up until that time -- up until that time, the
9 the cat was in the bag; nobody knew, except Mr. Rippo and
10 Diana Hunt.

11 But Mr. Christos was called by
12 Mr. Rippo, who said, in essence, you've got to get ahold of
13 Diana and you've got to tell her the cat is out of the bag.

14 Rippo spoke to a lot of people.
15 He confessed to those people; confessed to those people, the
16 first of whom was Tom Sims.

17 Do you remember on the 18th,
18 Mr. Sims and Mr. Rippo did the things that they did at the
19 shop, and then, at a later time, Mr. Sims gave Mr. Rippo a
20 ride; and while he was giving him the ride, I think it was
21 to the Stardust Hotel, during that particular ride, Mr.
22 Rippo started saying things. He started talking about this
23 property that he had shown to Mr. Sims before and his
24 involvement with the crime.

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1

1 Mr. Sims sat up here and he
2 told us that Mr. Rippo said these words to him: I choked
3 those two bitches to death.

4 This one isn't a quote. It was
5 having to do with Diana had hit one of the women over the
6 head with a bottle. That -- that comment was made in
7 response to a question by Mr. Sims. He wanted to know:
8 Could you trust this woman who was there with you? If you
9 can't trust her, you are going to be in trouble.

10 And what were his words? Not
11 just that he could trust her, she was a down bitch. Was
12 that it?

13 Mr. Harmon asked him later on
14 what does that mean? Someone you can just trust absolutely.
15 They are completely loyal to you. And he believed, at that
16 time, according to that, that he didn't have a problem in
17 the world with Diana Hunt. That was when he said to Mr.
18 Sims that he had accidentally killed one and he had to kill
19 the other. Well, we've discussed that.

20 He said something very
21 interesting that only one person in the world would know,
22 one person could have this information, and no one else at
23 that particular moment: I cut my finger and I bled and I
24 got blood on the pants of Denise Lizzi and I had to take

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1 them off to get rid of the evidence.

2 Who else could have known that?

3 Mr. Ripppo knew it, because Mr.
4 Ripppo was the killer. He was the person who, indeed, as he
5 said to Tom Sims, had cut his finger and bled on her pants
6 and was smart enough, as he was with wiping the place down
7 for fingerprints, to take the pants off and get rid of them.

8 Fingerprints. Isn't it
9 interesting to note, just by way of parenthetical
10 observation, that fingerprints were found in that house, in
11 that apartment. The fingerprints of Denise Lizzi were found
12 there; the fingerprints of three police officers -- I'm
13 sorry -- the fingerprints of Lauri Jacobson, she owned the
14 house, they were found, 33 of them.

15 Whose fingerprints weren't
16 found in there? Denise Lizzi. Is there any question in
17 anybody's mind that Denise Lizzi was in that apartment?
18 Well, of course, she was. Diana Hunt's weren't found in
19 there. She says she was in the apartment.

20 He said one other thing to Mr.
21 Sims, that I apologize for repeating. I say it only because
22 it's evidence. He said: Both were fine. I could have
23 fucked both, but I didn't. That means I'm cured.

24 Mr. Ripppo, indeed, did talk a

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1 wee bit much and he made those confessions to Tom Sims, as
2 he made confessions to David Levine.

3 David Levine was the fellow who
4 had known the defendant before. They were friends. He met
5 him again in January of 1993. They were in jail together.
6 They were still friends. They were good enough friends that
7 the defendant had Mr. Levine call his friend Alice on
8 occasion, and have her run errands for him, talk to lawyers
9 and do things of that nature.

10 And, remember, according to
11 Diana Hunt, Alice is the same person who the defendant had
12 called that day from within the apartment and asked to call
13 back so that Lauri Jacobson's attention could be diverted.

14 So there was a real connection
15 there between these people. The defendant told David Levine
16 several things: He killed them both, were his words. This
17 is the individual to whom Mr. Rippo said I took some money
18 that I got from there and I went to a bar and I played video
19 poker and I hit a Royal Flush. And he had said that to
20 someone else. Was it -- was it Deidre D'Amore? I don't
21 recall offhand, but someone else reported that same thing to
22 us.

23 He said that the cops were
24 idiots regarding the blood. They couldn't figure out the

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1 blood. And he said that what had happened was -- Mr. Rippo
2 said -- that he had Jugged one of them in the neck. That
3 corresponds to the two marks here on Denise Lizzi, which Dr.
4 Green gave his opinion were probably the result of some
5 small knife being poked in there.

6 And just by way of connecting
7 that even more, does that fit well with Diana Hunt's
8 rendition that he was asking Denise a lot of wierd questions
9 about drugs and he was trying to get something out of her?

10 Is it possible that he could
11 have had that knife -- which, Just moments later, he used to
12 cut the cords on an iron and on a hair dryer, could he have
13 been using that knife and jabbing it in her throat, trying
14 to get her to give up this information, whatever it was that
15 he was after, and by that means caused those stab wounds to
16 have occurred?

17 When David Levine was
18 testifying, he did something that seemed to be somewhat
19 significant. As he sat up there -- and he said this about
20 the -- he was talking about the women in the closet -- and
21 he held up his fingers; the defendant said they were like
22 this. (Indicating) Not like this, as they were originally,
23 but like this, as they were left, after the defendant had
24 gone back in, when Diana Hunt had left in her car, and he

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1 went back up into the apartment to straighten up.

2 (Indicating)

3 Mr. Levine told us that the
4 defendant had suggested to him that they should pursue the
5 thought of could Mr. Levine be a witness on behalf of the
6 defendant? And there were two methods by which that could
7 be accomplished.

8 The first, that the defendant
9 wanted to get on but later realized couldn't, was to be an
10 alibi witness. Mr. Levine could come into court and say,
11 wait a minute, on February the 18th, 1992, Michael Rippo was
12 with me all day. We were out doing things together. I -- I
13 can account for his whereabouts throughout the whole time.

14 Well, that won't work because
15 Mr. Levine was in Jail in Reno at that particular moment,
16 and so that had to go by the boards.

17 Well, maybe could you come in
18 and be a character witness for me, Mr. Rippo suggested.

19 Well, Mr. Levine came in and
20 spoke as to the defendant's character. His character was
21 shown when, in his bragging way -- and we've heard many
22 people comment on this -- Mr. Levine said he was playing
23 with his veins, trying to make them pop up, and he took a
24 three pronged cord and it around his arm twice and pulled on

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1 it and he said: This is how I did Denise. (Indicating)
2 That's the character that Mr.
3 Levine, indeed, did come in to court and testify about. And
4 isn't it interesting that Mr. Levine remembered twice,
5 because the pictures are unmistakeable, and Dr. Green's
6 testimony is equally unmistakeable, in that the cord, the
7 electrical cord -- Dr. Green said it could be nothing but an
8 electrical cord -- was wrapped twice around the throat of
9 Denise Lizzi. So Mr. Rippo confessed to David Levine.

10 Mr. Rippo confessed to Donald
11 Hill. Donald Hill is the inmate from California. They too
12 were friends. In July and August of 1993, a completely
13 different time than any of these others, they were in jail
14 together and Hill had heard some things about this crime
15 there in jail, and he said to Mr. Rippo, Did you kill two
16 kids?

17 Now, obviously, he had been
18 misinformed. And, Mr. Rippo, in feeling comfortable talking
19 to a man like Mr. Hill said, no, I killed two women. He
20 said I tied and strangled them. He said the reason was that
21 one of them had burned me. How many times do we hear that
22 in this trial?

23 I planned for several days.
24 The other girl happened to be there and I had to kill her so

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1 that she wouldn't testify.

2 Does that make you go back and
3 think a little bit about premeditation, about malice?

4 Mr. Ripppo said that he put them
5 in the closet. Mr. Ripppo said that he wanted Diana Hunt,
6 who was then located at the women's prison -- and, remember,
7 that this witness had a -- how am I going to get these
8 relationships right? -- he had a brother who had a
9 girlfriend or something like that who was -- who had been at
10 Nevada State Women's Prison -- and he wanted to -- Mr. Ripppo
11 wanted to know could we get an overdose of drugs into the
12 prison to Diana Hunt so as to kill her, for one purpose,
13 because she was going to come into this courtroom and tell
14 it like it was. They couldn't do that, but the conversation
15 was had anyway.

16 And the one other thing that
17 Mr. Hill told us that the defendant said -- this was brought
18 out by a question by Mr. Dunleavy -- I killed once and I'll
19 kill again. More character analysis by these witnesses. He
20 gave -- well, no, I almost forgot something.

21 Every one of these witnesses,
22 who have come up and said that Mr. Ripppo said something bad,
23 has been asked, ad infinitum, the question: What are you
24 getting for your testimony? The inference is that the State

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1 of Nevada has purchased testimony that is lies and not
2 worthy of your belief.

3 Well, this is the one witness
4 out of all of them who got something; one witness got
5 something in this case, and it was Mr. Donald Hill. And
6 what did he get? He got a letter from Detective --

7 MR. DUNLEAVY: Your Honor, I'm going to
8 object to that characterization.

9 Diana Hunt?

10 MR. SEATON: He's exactly right. I take
11 that back; with the exception of Diana Hunt.

12 But I was limiting my remarks
13 to those people to whom he had confessed his sins; and among
14 those people, the only one who got something was Donald
15 Hill; and he got one measly letter from Roy Chandler to the
16 parole board, simply saying what he had done, that he had
17 given information in a murder case.

18 But he gave reasons as to why
19 he was doing what he was doing. Well, let's stop and think
20 for just a moment. This witness chair is over here so that
21 you folks can look at it, look at the people in it, and
22 decide if they're telling the truth. You watch the twitches
23 and the mannerisms and their speech mechanisms and
24 everything about them, just like you do your own children

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1 when you are trying to find out who broke the lamp. You are
2 watching them to see whether or not they're telling the
3 truth.

4 Well, there is something more
5 to sitting in that chair than just your observations of
6 whether or not they're telling the truth.

7 You heard a lot in this case
8 about snitch jackets, a person being a snitch; that is,
9 someone who tells on another inmate, and the danger that
10 arises out of that.

4

11 And just use your common sense.
12 This isn't a Sunday school yard that he had to go back to.
13 It's the prison yard. These are prisoners. They are
14 criminals. They are people who not only have done bad
15 things but they are capable of doing bad things. And they
16 don't like people who tell on them and their kind.

17 And so to get a snitch jacket
18 is not a benefit that the State of Nevada bestows on these
19 witnesses, saying come in here and tell your story and
20 we'll -- we'll give you this added benefit.

21 What they get is a detriment.
22 What they get is a dangerous situation. Donald Hill was
23 afraid that he would go back to prison and maybe be killed,
24 or at least that an attempt would be made on his life. And

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1 that was one of the reasons that he gave for testifying: It
2 gives me an incentive not to go back.

3 Well, you better believe it
4 gives him one heck of a good incentive. He doesn't want to
5 go back into the prison system of Nevada or any other state
6 and be labeled a snitch, because then he's got more problems
7 than he wants to handle.

8 And the other reason that he
9 gave was because this man did something very, very bad.
10 Donald Hill may be a thief; Donald Hill may have used drugs;
11 he may have robbed people. Donald Hill is not a killer.

12 And the old saw perhaps applies
13 here --

14 MR. DUNLEAVY: Your Honor, that's clearly
15 assuming evidence not -- facts not in evidence.

16 MR. SEATON: There is no evidence that he
17 did any of these things. And the old saw applies here. Let
18 me mention it a little bit later where it's more
19 appropriate.

20 Not only did the defendant
21 confess to Donald Hill, he talked to the gentleman from
22 North Carolina, James Ison. Again, they were friends; had
23 been for some time; met in jail. The defendant said a lot
24 of things to James Ison. He told the story that the

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1 defendant told to him while they were in prison together --
2 I'm sorry -- in jail together.

3 He said that the defendant and
4 his girlfriend, and he didn't know her name, had gone to the
5 apartment to get drugs; had gone to the apartment to get
6 drugs, and what happened was that the phone rang and that
7 Lauri went out of the bathroom, and when Lauri went out of
8 the bathroom, the defendant and Denise were together and
9 they struggled, and that he had to put something in her
10 mouth. And I think his words were he choked her out. But
11 he hastened to add that, at this point in time, Denise was
12 not dead.

13 Now, at this juncture, there
14 were really two stories that were told to him by Mr. Rippeo,
15 and this is where the two stories differ. The first story
16 had it that Diana Hunt had the other girl, Lauri Jacobson,
17 out in the living room and she strangled her; she caused her
18 death. He told us that's the impression that he was left
19 with after he heard the first story.

20 The second story, however, was
21 a little bit different, and it was more in line with all of
22 other stories that the defendant has told, and certainly
23 what the evidence shows in this case; and that is, that
24 the -- that he said that Diana Hunt hit Lauri Jacobson over

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4
1 the head with a beer bottle.

2 And there are two vials in
3 evidence that have little brown shards of glass, some of
4 them found on the floor of that apartment and some of them
5 found on the body of Lauri Jacobson at the autopsy.

6 Look at those vials of glass,
7 the shards of glass, and ask yourself the question: Does
8 this look like a beer bottle? And you will come to the
9 conclusion that it does.

10 After clarifying that
11 divergence, as to what happened to Lauri Jacobson, the
12 defendant said that he had gone to the living room, he had
13 dragged Lauri Jacobson to the closet, and upon doing that,
14 he saw that Denise appeared to be dead. And his words were
15 the defendant freaked out at that the particular time.

16 Then, not wanting to leave any
17 witnesses, he had to strangle Lauri, and he did. And,
18 again, your memories control, but I remember it as him
19 saying that he strangled her with his hands. And he
20 definitely said, right after that, he had to make sure that
21 both of them were dead.

22 And that probably explains,
23 with Denise Lizzi, the fact that she was found to have been
24 the victim of both manual and ligature strangulation.

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1 according to Dr. Green.

2 The girlfriend, Mr. Rippo
3 reported to James Ison, was then sent home. He stayed and
4 he wiped the place down. He stayed and he found the keys to
5 the car and he took a car.

6 He went on to tell Mr. Ison
7 something that dovetails into this case very neatly; and
8 that is that the defendant feared Mike Beaudoin. His words,
9 I think, were that he was worried that Diana Hunt would get
10 with Mike Beaudoin and tell him that Michael Rippo was the
11 person responsible for these killings.

12 He went on to say that syringes
13 were taken -- I think there were ten -- other property and
14 the car. And among the property that he listed were -- Mr.
15 Rippo had told him that credit cards were, and on that
16 point, it is really interesting to note, and it is so
17 truthful -- true to observe, the defendant said to Mr. Ison,
18 my biggest mistake was those credit cards. I signed them.

19 He didn't remove the blood off
20 of the pants in that particular situation. He left his
21 handwriting on the credit cards where everyone could observe
22 it later on and hook it up to him. He didn't receive
23 anything for testifying. He has already gotten out of
24 federal prison. The State of Nevada had nothing to do with

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5

1 that.

2 And he was asked specifically:
3 Why are you here testifying today?

4 And the first words out of his
5 mouth were -- I have a daughter. And he said if -- if
6 someone can do those kinds of bad acts, they don't belong on
7 the streets. So, Mr. Rippo confessed to James Ison.

8 And, last, but certainly not
9 least, Diana Hunt watched. She saw the defendant commit
10 these crimes. This is direct evidence.

11 Some of what you've heard here
12 today is circumstantial evidence. There is an instruction
13 that says both are equally good. Circumstantial is no worse
14 than direct evidence, but there is a distinction between
15 them.

16 When somebody observes an event
17 and they perceive it with their senses and they come to
18 court and they relate it to you, the Jury, that is direct
19 evidence.

20 And that's what Diana Hunt did.
21 She came in here and she told you the story of what
22 happened. She indicated to you that this man was, indeed,
23 her boyfriend; that they had known each other for about a
24 month and they were living together; and they were living

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1 over at Deidre's house; and that they shared drugs.

2 And she told the story about
 3 the defendant relating to her that he thought that Denise
 4 had burned him at one time. And I think that's when you
 5 would have learned that Lauri Jacobson was some small part
 6 of that deal; the drugs were supposed to have filtered
 7 through Lauri Jacobson.

8 So they were both involved to
 9 some extent on the burn, but it was really Denise that he
 10 had his anger for.

11 And she told the story of being
 12 at the house on Monday, the 17th of February, and the
 13 defendant having gone over to Lauri Jacobson's house and
 14 then he came back; and then the next morning, as we've
 15 already discussed, they went over to -- back over to the
 16 house on the 18th. And she told you that they got there and
 17 the drugs were used, and she saw Mr. Rippo intravenously
 18 inject what she believed was morphine.

19 Lauri Jacobson injected
 20 somewhere into the wrist. We don't know if it was in the
 21 skin or under the skin, the skin popping that Dr. Green
 22 talked about, but they did that. She saw that.

23 And that pretty soon -- and
 24 everybody -- everything -- everybody was getting along,

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1 similar to the way Wendy Liston said things were when she
2 observed the defendant over at Lauri Jacobson's house the
3 two days before.

4 And then Denise arrived and
5 down the steps went Lauri Jacobson to talk to her. And
6 while she was gone, the defendant did some significant
7 things. He pulled the curtains down.

8 Well, there was only one reason
9 to do that; that's to keep people from looking in to see
10 what's about to go on; and that has something maybe a little
11 bit to do with this thought of premeditation.

12 And he got on the telephone and
13 he made a phone call. Diana Hunt did not know what that
14 phone call was about at the time, but we now know that it
15 was to call Alice and to have Alice call back to the house.

6

16 And, coincidentally, after
17 Denise came up and Denise and Lauri went into the bathroom
18 to do their drug thing, evidently, the phone rang, just as
19 we were told it was going to. And Lauri came out of the
20 bathroom and she answered the telephone and the defendant
21 went into the bathroom.

22 Now, while they had been in the
23 bathroom, that is, Denise and Lauri had been in the
24 bathroom, the defendant, Mr. Rippo, said to Diana Hunt, take

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6

1 this beer bottle and when the phone rings and when Lauri
2 answers it, hit her over the head with it, so that I can rob
3 Denise.

4 And that's what happened.

5 Diana Hunt told us that she didn't want to do that. Diana
6 Hunt appears to have been somewhat under the control of Mr.
7 Rippo. Regardless of the whys or wherefores, it's what
8 happened.

9 And so she hit Lauri Jacobson
10 over the head with the beer bottle while she was on the
11 phone. The phone falls to the floor. She falls to the
12 floor, and she stays there while Mr. Rippo is in the
13 bathroom, according to Diana Hunt, and there is a struggle
14 going on and there are voices that she can hear, and they go
15 from the bathroom into the closet.

16 And Mr. Rippo, sometime later,
17 comes out to the living room and ties up Lauri Jacobson.

18 Before he did that, he came out
19 of the closet and he had the serrated kitchen knife, a steak
20 knife, and that's what he used to cut the telephone cord --
21 the cords off of the iron and the hair dryer, and then those
22 cords were used in tying people up.

23 When Denise -- when Diana Hunt
24 looked into the closet, she saw Denise sitting up, and her

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1 hands were tied behind her back. (Indicating) And the
2 defendant was -- that's when he was asking her the wierd
3 questions about drugs.

4 Someone came by the outside of
5 the apartment, and it was then that he stuffed the sock into
6 Denise's mouth, and tied it with the bra, and Diana Hunt
7 said he knocked her over on her side.

8 And then he came back out and
9 he diverted his attention to Lauri Jacobson. With Lauri
10 Jacobson, remember, he had taken probably -- we don't know
11 for sure, but probably the purple bandana and did something
12 with her mouth so as to keep her quiet.

13 Diana Hunt said he had his hand
14 over Diana Hunt's mouth, because somebody, and we all know
15 now that it was Wendy Liston, was outside banging on the
16 door, banging on the window, wanting to get in to see Lauri
17 Jacobson, not understanding why the door was locked and she
18 couldn't get in.

19 We have a hand raised here,
20 Judge.

21 THE COURT: Okay.

22 JUROR CUNNINGHAM: I hate to interrupt this,
23 but duty calls. I have to go to the bathroom.

24 MR. SEATON: I'm real close to being

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1 finished.

2 JUROR CUNNINGHAM: I tried to hold as long
3 as I could. I'm awfully sorry.

4 THE COURT: All right. We'll take about
5 five minutes.

6 Remember the admonishment:
7 Don't converse among yourselves or with anybody else on any
8 subject connected with the trial; or

9 Read, watch, listen to any
10 report or commentary on the trial; or

11 Form any opinion on this case
12 until it is finally submitted to you.

13

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15 (Whereupon, a recess was had in
16 the proceedings.)

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THE COURT: Counsel stipulate to the presence of the Jury?

MR. SEATON: Yes.

MR. DUNLEAVY: Yes, Your Honor.

MR. SEATON: They don't weigh quite as much as they did.

We do need levity once in a while, but we are here on a real serious matter. This is important to everyone, and I know you are going to treat it that way.

Where I left off was that Diana saw Rippo murder Denise and Lauri; and about the last thing she reported to us, in terms of what she saw Mr. Rippo doing to Denise and Lauri, was that he had gone back to Denise -- this was the part where she said he had wrapped those cords around her neck and he was pulling on them so hard that not only were his arms straining, but her body was pulled up off of the ground.

That had to last for some period of time, according to Dr. Green, and as we know now, that choking of her, and the manual strangulation of Lauri Jacobson, is what caused their deaths.

And these, indeed, are things that Diana Hunt saw with her own eyes and was a part of.

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1 She told us that.

2 The question is: Who did it?

3 That's what this has all been about. Who committed these
4 killings?

5 You haven't heard any witness
6 come into this courtroom, take the oath and sit down there
7 and say Michael Beaudoin told me that he did it. You
8 haven't heard any witness come in here and say Tom Sims told
9 me that he did it; or any of the other names that you've
10 heard. There has been no indication in this case at all
11 except what we have shown here. (Indicating)

12 And, ladies and gentlemen, this
13 more clearly than anything tells us who committed these
14 killings. That man right there, (indicating), that man
15 named Michael Rippo, is the man who did the unthinkable, the
16 most violent kinds of acts that we can imagine. He did
17 those things and he needs to be told by you that he is
18 guilty of them.

19 Thank you.

20 THE COURT: Thank you, Mr. Seaton.

21 All right. At this time, we'll
22 take our lunch break.

23 Do you think we could get back
24 in about an hour?

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1 All right. We'll reconvene at
2 2:30.

3 Remember: Do not discuss this
4 case among yourselves or with anyone else; or

5 Read, watch, listen to any
6 report or commentary by any medium of information,
7 including, without limitation, newspaper, television or
8 radio; or

9 Form or express any opinion on
10 this trial until the matter is finally submitted to you.

11 MR. WOLFSON: Your Honor, counsel would like
12 to be heard out of the presence for just one moment.

13 THE COURT: Okay. The jury may go to lunch.

14
15 (The following proceedings were
16 had in open court outside the
presence of the jury:)

17 THE COURT: The record will reflect we're
18 now outside the presence of the jury.

19 Mr. Wolfson?

20 MR. WOLFSON: Thank you, Judge.

21 At this time, the defense would
22 move for a mistrial based upon comments made by Mr. Seaton,
23 particularly 60 minutes ago or so. Mr. Seaton said that no
24 evidence was introduced to show the defendant was somewhere

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1 else.

2 Additionally, the comments Mr.
3 Seaton made just before the break about no other witnesses
4 came into court to say somebody else confessed to the
5 crimes, et cetera, our position is that is unfair conduct;
6 it's misconduct. It comments on the defendant's right not
7 to present evidence, not to have to present evidence, and
8 the shifting of the burden of proof.

9 I move for a mistrial.

10 MR. SEATON: Judge, nowhere in my comments
11 did I say anything about shifting the burden of the proof.
12 Nowhere in my comments did I say anything about Mr. Rippo
13 should have taken the stand and said anything.

14 What I did was comment on the
15 state of the evidence. There has been no evidence that no
16 other person -- or that the defendant was -- there has been
17 no evidence to show that the defendant was anywhere but at
18 the scene of the crime.

19 That was my comment, and that
20 is exactly what the evidence says. It had nothing to do
21 with whether or not he should take the stand. I was very
22 careful.

23 I'm as aware of this law as Mr.
24 Wolfson is, and we can't comment on that sort of thing, and

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MR:Pro-07058-R0A02927

1 I never would comment on that sort of thing.

2 The comments I made were simply
3 to show the emphasis on the fact that he was in that
4 apartment and nowhere else, and that's all there is to it;
5 and their motion for mistrial should be denied.

6 MR. WOLFSON: There is a line you are not
7 supposed to cross and Mr. Seaton came up and stood right on
8 it, and our position is that he fell over. He did say no
9 evidence was introduced, which implies our choice of whether
10 to have to introduce evidence when we have the right not to
11 introduce, and he went over the line.

12 THE COURT: Motion for mistrial is denied.

13 We'll be in recess until 2:30.

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15 (Proceedings recessed for lunch.)
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Las Vegas, Nevada, Tuesday, March 5, 1996, 2:30 p.m.

* * * * *

(The following proceedings were
had in open court in the
presence of the jury:)

THE COURT: Counsel stipulate to the
presence of the jury?

MR. SEATON: Yes.

MR. DUNLEAVY: Yes, Your Honor.

THE COURT: Mr. Dunleavy.

MR. DUNLEAVY: Not guilty.

The State has an obligation to
prove somebody guilty beyond a reasonable doubt with
evidence that you can rely upon. The State has failed to
meet that burden.

My co-counsel, in opening
statement, said that he thought this case could be summed up
as Diana Hunt versus the truth, but there is a lot more to
that.

I think the best way to sum up
this case is a simple one. When the State makes a deal with
the devil, they want you to believe the devil. That's about
it.

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1 We had a lot of witnesses
2 called here and I'll go through them and give you my
3 thoughts on it.

4 One of the things the State
5 always says in their rebuttal is, oh, woe is us, the Pope
6 and the bishop are not witnesses; we have to call who is
7 available, and that's why we call these witnesses.

8 But there are times when you
9 look at the witnesses, and you say, they're not worthy of
10 believing. Are they so credible that I can decide the fate
11 of a man for the rest of his life? A guilty verdict lasts
12 forever.

13 Mr. Seaton began talking about
14 a few of the jury instructions; and I seldom do that, but
15 I'm going to go over a couple of them very briefly with you,
16 including Instruction Number 4, which is just the charges.
17 (Indicating)

18 But there is something
19 interesting in Number 4, because it tells you that the State
20 had a deal with Diana Hunt. One of the things here, on page
21 one of Number 4, and again on page two, beginning at line
22 21, defendant and/or Diana Lee Hunt, killing Lauri M.
23 Jacobson and/or Denise M. Lizzi; defendant wiping off
24 surfaces touched inside the apartment, you heard the

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1 testimony about that. You also heard the expert witness; it
2 didn't happen.

3 Who has a motive to lie?

4 They talk about reasonable
5 doubt -- and I'll talk about reasonable doubt a lot -- but
6 they point out it is such a doubt as would govern or control
7 a person in the more weighty affairs of life.

8 It's a serious issue, the more
9 weighty affairs of life, and I'll talk to you a little bit
10 more about that for sure.

11 The testimony of an accomplice,
12 unless she is corroborated by other evidence, which in
13 itself, and without the aid of the testimony of an
14 accomplice, tends to connect the defendant with the
15 commission of the offense, and the corroboration shall not
16 be sufficient if it merely shows the commission of the
17 offense or the circumstances thereof.

18 The credibility and
19 believability of a witness should be determined by his
20 manner, his fears, his motive, his interests, his
21 opportunity and the reasonableness of his statements.

22 And then the second paragraph:
23 If you believe that a witness has lied about any material
24 fact in the case, you may disregard the entire testimony of

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1 that witness or any portion of the testimony which is not
2 proven by other evidence.

3 And another one that just tells
4 you use your common sense, because that's what the jury is
5 here for. We picked 12 people that have common sense. We
6 picked 12 people that are going to bring in their life
7 experiences, in order to evaluate these witnesses, because
8 no matter who this witness is, it's up to you to say is that
9 witness a liar, or is that witness telling the truth?

10 If they called Pope John Paul
11 in here, put him on the stand and said are you a Catholic,
12 and he said yes, you would have to decide if he's telling
13 the truth and nobody else. You are the only decid- --
14 people who make that decision.

15 Every witness' character and
16 credibility is the issue, not just the words from their
17 mouth, but their motives and what they really say.

18 They called Mr. Hooper, the
19 manager of the Katie Arms apartments. Does he have a motive
20 to lie about anything? You have to make that decision.

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21 What did he say?

22 He went up to check on the
23 rent, found the bodies. He had a maintenance man and a
24 security guard with him. They witnessed this. He went

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1 down, called the cops. No motive to manufacture anything
2 there.

3 Doctor -- or Metro officer
4 Johnson arrived on the scene. He was familiar with the
5 Katie Arms Apartments because there is a lot of drug
6 problems there. That should be no surprise to anybody in
7 this jury by now, that there are drugs around the Katie
8 Arms.

9 Said he was successful with
10 protecting the crime scene. You have to evaluate whether or
11 not he was successful in protecting that crime scene or
12 whether or not he was protecting his career.

13 Carrie Burns, Diana Hunt's
14 cousin, who lived with Tom Christos for a while, did she
15 tell us anything at all?

16 She says she was there on
17 Teresa's birthday, Teresa Perillo's birthday, at Tom
18 Christos' house, when Diana Hunt arrived, driving the red
19 Nissan. Everybody knows Exhibit 64 by now, the red Nissan
20 with primer on one fender. That's the car.

21 She also told us that she used
22 to hang out with Diana Hunt; that she went to -- or watched
23 bands play and so forth with her; and she's a cousin of
24 Diana Hunt, but she quit hanging around with her because she

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1 was a liar and a thief.

2 Then they called Diana Hunt.

3 One of the things the State seems to say is, well, Diana
4 Hunt was the boyfriend -- or the girlfriend of Mike Rippo,
5 and they were really tight, so everything Diana Hunt knew,
6 he would know.

7 Well, remember, they had known
8 each other three or four weeks. What you and I may consider
9 as a normal boyfriend-girlfriend relationship may not apply
10 in the society they're living in, because you had a glimpse
11 of that in this case, and they're not the people that you
12 and I hang around with.

13 Did she have other friends
14 before she met Mike Rippo that were involved in the drug
15 business?

16 Mike Rippo had never met Mike
17 Beaudoin. She knew him; she had connections with him; she
18 was doing favors for him. There could be a lot of other
19 players in this case.

20 She had a plea memo made up;
21 and it's in evidence, you can take a look at it, and a
22 Memorandum of Understanding. It's marked the State's
23 Exhibit 100. Look at it. (Indicating). Look at what it
24 asks for.

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1 We know, because she told us,
2 that she had all of the discovery in this case at least
3 three weeks before she gave her statement to the police, the
4 quote, unquote, true statement; not the other one she gave
5 where she was lying. She had this for weeks.

6 She also had an understanding
7 that they didn't want just anybody. They wanted the man
8 that they thought was involved because he was her boyfriend,
9 Mike Rippo. She was facing the same charges. She was
10 facing the potential death penalty.

11 What's in it for her? One
12 count of robbery; she's already been to the parole board
13 once; all she has to do is point her finger at Mike Rippo.

14 When the State makes a deal
15 with the devil, they want you to believe the devil.

16 She said she didn't know the
17 victims and had no personal ill feelings towards the
18 victims. Michael Beaudoin told you that she offered to kick
19 Denise Lizzi's butt; that she knew who they were, that she
20 came to the jail and volunteered to commit violent acts
21 against these people. It's a strange thing to do to
22 somebody you don't know.

23 Would Diana Hunt lie to us?
24 How would she even know who these people are?

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1 This happened -- she came to
2 solicit Mike Beaudoin in the jail in early February -- right
3 after he got arrested. He had this real casual relationship
4 with her; only met her a few times. She just happened to be
5 at his house a few hours before he was arrested. She just
6 happened to be the person who got his car out of police
7 impound. She just happened to be the person that showed up
8 at the jail and offered to commit these violent acts. But
9 he didn't know her; had met her four, five times.

10 Does that make any sense? Is
11 that the kind of testimony you can look at and say, I
12 believe that?

13 There was a stun gun.
14 Diana Hunt knew he had a stun gun. Diana Hunt lived with
15 him. Mike Ripppo had a stun gun. It's not a crime to own a
16 stun gun. A stun gun is a non-lethal weapon.

17 Where was the stun gun? Diana
18 Hunt said that she hid it in her purse because Michael had
19 used it on her and she was worried about it, so she,
20 quote/unquote, hid it in her purse.

21 But then, when they get to the
22 crime scene, she says Mike turns to her and says give me the
23 stun gun out of your purse.

24 How did he know it was there?

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1 Do you hide something where the person knows it is?

2 Her story is supposed to make
3 sense. She's supposed to have been the one who was there
4 and can tell us what really happened. She said that she was
5 worried about Michael using it on her and she really wanted
6 to hide this thing.

7 Did she take the batteries out
8 of it? Did she throw it away? No. She put it in her purse
9 where he wouldn't know where it was, but he knew to ask for
10 it.

11 Diana Hunt versus the truth.
12 She said that the purpose of getting up that morning was to
13 go help Lauri Jacobson move, in a Pinto. But Di- -- or
14 D'Amore told us they had access to my Isuzu pickup truck.

15 If you are going to go help
16 somebody move, would you take the Isuzu pickup truck or the
17 Pinto?

18 The story is supposed to make
19 sense. She said they started off with drugs when they got
20 to the house, but, of course, Diana Hunt didn't take any
21 drugs; she was sick; but she saw Lauri Jacobson and Mike
22 Ripppo use morphine.

23 It's also interesting how she
24 talked about the purpose of going over there. One time was

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1 supposed to be a drug ripoff, but the only evidence we have
2 is Mike brought the drugs with him. He brought the
3 morphine.

4 So what are you going to do?
5 I'm going to take the drugs over to your house and going to
6 steal them from you?

7 She said she saw her shoot up
8 in the left wrist -- and Mr. Wolfson will be dealing with
9 the forensics on this case -- but stop and think about it.
10 Where is the evidence?

11 She also says, and she made it
12 quite clear, that she wasn't feeling good. And she came
13 in -- and this is State's Exhibit Number 3 from the trial --
14 and she marked right where she sat, just inside the door.
15 She put her initials, of Diana Hunt. She said I sat down
16 right there and basically stayed there.

17 Can everybody see?

18 A JUROR: Not really.

19 MR. DUNLEAVY: She put her initials right
20 there, Diana Hunt; that's where she said she sat down. She
21 said the telephone was on the floor right in front of her.

22 And then Denise -- or Lauri
23 Jacobson -- and I'll get the names wrong. I'm sorry. I
24 even wrote down names to try and get over it, but I'm

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1 terrible with names. I'll work on it.

2 She said Lauri Jacobson saw
3 Denise Lizzi pull up. She had also said that when they
4 started using the drugs, they closed the curtains, which
5 could make sense if you are going to fix with drugs in the
6 kitchen area, which is right here, and the window is right
7 here. (Indicating) You might close the drapes before you
8 injected your drugs. That could make sense.

9 She doesn't remember how they
10 got open again, but Lauri Jacobson saw Denise Lizzi pull up
11 and went down to talk to her. This is when Mike supposedly
12 asked for the stun gun. This is when Mike supposedly made
13 the phone call.

14 She says all along the phone
15 was sitting right in front of her on the floor in a very
16 small apartment, (indicating), and Mike Ripppo made a phone
17 call from there, but she couldn't hear what he said.

18 Then he tells her: We've got
19 this scheme. I'm going to give you a beer bottle and you
20 are going to hit Lauri Jacobson over the head with it, and
21 I'm going to rob Denise Lizzi.

22 So they wait for the phone to
23 ring? What if it's somebody else calling? Hi, mom. Clank.
24 I get hit on the head. Is that going to help you?

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1 How is he going to know where
2 Denise Lizzi is in this apartment when the phone is going to
3 ring? They could be standing right next to each other.

4 It doesn't make any sense.

5

5 This diversion couldn't be a diversion, because there is no
6 way of knowing when the damn phone is going to ring; and if
7 it rings, whether or not it's the person you asked to call.

8 They could have all been in any
9 area in that apartment or have left by the time that phone
10 rang or it could have been another person calling. It
11 doesn't make any sense.

12 She said they were there to rob
13 Denise Lizzi. Denise Lizzi didn't live there. How did they
14 know Denise Lizzi was going to be there? There is not one
15 scintilla of evidence that anybody knew Denise Lizzi would
16 be coming by that day.

17 Lauri Jacobson had one friend
18 that came by on a regular basis to check up on her; it was
19 not Denise Lizzi. Let's go hang out and see if somebody
20 shows up we can rob. It's supposed to make sense, if it's
21 the truth.

22 She -- Denise -- or Diano Hunt
23 told you that she did what Michael told her to do, hit her
24 on the head as she was bending over to pick up or talk on

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1 the phone.

2 But guess what? The broken
3 glass the police did find isn't where the phone is. It's
4 over in the middle of the apartment on the other side of the
5 front room. Did she see a bottle broken when whatever
6 happened in there and just decide, well, I'm going to make
7 up a story and I'm going to put these facts in it? And if
8 so, why is she lying? Why is she covering up? Who is she
9 protecting?

10 The physical evidence says
11 that's not where it happened. There is no broken glass
12 where the phone is.

13 There is also the testimony of
14 Dr. Green. He examined the scalp. Denise -- or Diana Hunt
15 said I hit her so hard she went down; she was groggy, semi
16 conscious.

17 Doc Green says there ain't no
18 evidence of that; must have been a magic bottle; didn't
19 leave any marks on the head.

20 The facts are supposed to fit.
21 The physical evidence should be corroborating her story. It
22 doesn't.

23 Diana Hunt said she just went
24 along with Mr. Rippe because she was afraid of him. She's

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1 taller than he is. She weighed about the same amount. She
2 had the stun gun. What was she afraid of? This is the
3 women who is a street drug dealer, a car thief. Do you
4 think she's afraid of Mike Rippo?

5 She had the only weapon anybody
6 had there, the stun gun. It's supposed to make sense. But
7 when the State makes a deal with the devil, they want you to
8 believe the devil.

9 She said there was a fight in
10 the closet and Denise Lizzi and Mr. Rippo had this struggle.
11 Denise Lizzi is about the same size as Mike Rippo. But
12 that's okay, it was a fair fight, because Mike had the magic
13 stun gun, another magic weapon in this case. And how do we
14 know it's magic? Because she said he stung Denise Lizzi
15 repeatedly all over the body.

16 But Doc Green said no evidence.

17 The physical evidence is
18 supposed to corroborate the testimony of the -- of the
19 witness, if it's true. This stun gun didn't leave any
20 marks.

21 Diana Hunt versus the truth.
22 She said that Mr. Rippo gagged her right away. They're in
23 the bat- -- or in the closet. Then later, she says she
24 hears her calling out. You got your choice: You can make

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1 this animal like sound; you can go calling out; or you can
2 have a gag in your mouth that's choking you. You can't do
3 both at the same time.

4 She also said that there is
5 this fight, a struggle going on, where he's stun gunning
6 her, he's fighting with her in the closet. The stereo is
7 on, the stun gun is going off, and she hears somebody walk
8 up outside the apartment.

9 And the person that walks up
10 outside the apartment doesn't hear anything, doesn't hear a
11 fight or a struggle, doesn't hear a stun gun, doesn't hear a
12 stereo, none of that.

13 Is there independent
14 corroboration that Diana Hunt is telling you the truth?

15 Said right after the woman
16 left, Mike Ripppo came out, tightened up the cords, and then
17 carried Lauri Jacobson like a suitcase. She was very
18 dramatic in that testimony; real good facts, she added
19 there: Picked her up, carried her like a suitcase.

20 Once again, he must have had
21 that magic cord because it left no evidence. Lauri Jacobson
22 had no ligature marks on her wrist, no ligature marks on her
23 ankles.

24 How do you truss somebody up on

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1 a floor, tie their hands and ankles together, pick them up
2 and carry them like a suitcase and leave no evidence?

3 Doc Green couldn't tell you how
4 to do that. Her testimony is supposed to be supported by
5 the physical evidence, if it's true. It's not.

6 When the State makes a deal
7 with the devil, they want you to believe the devil. Their
8 case depends on it.

9 Diana Hunt said that as that
10 was going on, she became sick and she crawled across the
11 floor, sick, throwing up, to see what was going on in the
12 closet.

13 Did anyone from forensics find
14 any vomit or did she just very neatly throw up in one spot
15 that didn't leave a sign? The physical evidence says she's
16 lying. It didn't happen. Why?

17 Just as things really get tense
18 in here, she faints. Her deal says she couldn't have
19 participated in this killing in any way. How convenient. I
20 fainted. I don't know what really happened.

21 What are her motives and who is
22 she protecting?

23 She says she wakes up when Mr.
24 Rippe wakes her up to say let's clean up, and that she saw

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