

1 P E O P L E S * C L O S I N G A R G U M E N T

2
3 MR. KLINK: THANK YOU, YOUR HONOR.

4 NOW, LADIES AND GENTLEMEN, BECAUSE THE
5 PEOPLE ARE THE PLAINTIFF IN THIS LAWSUIT WE HAVE THE
6 OPPORTUNITY TO ANSWER THE DEFENSES ARGUMENT. I THINK
7 THE FIRST THING THAT I SHOULD DO IN ANSWERING THE
8 ARGUMENT IS TALK TO YOU ABOUT THE JURY INSTRUCTION WITH
9 REGARD TO PRESUMPTION OF INNOCENCE, REASONABLE DOUBT AND
10 BURDEN OF PROOF.

11 THE DEFENDANT IN A CRIMINAL ACTION IS
12 PRESUMED TO BE INNOCENT UNTIL THE CONTRARY IS PROVEN.
13 IN THE CASE OF A REASONABLE DOUBT WHETHER HIS GUILT IS
14 SATISFACTORILY SHOWN, HE IS ENTITLED TO A VERDICT OF NOT
15 GUILTY.

16 THIS PRESUMPTION PLACES UPON THE STATE THE
17 BURDEN OF PROVING HIM GUILTY BEYOND A REASONABLE DOUBT.
18 REASONABLE DOUBT IS DESIGNED AS FOLLOWS: IT IS NOT A
19 MERE POSSIBLE DOUBT.

20 WHAT HAS COUNSEL TALKED TO YOU ABOUT IN HIS
21 ARGUMENT. HE HAS TALKED TO YOU ABOUT MERE POSSIBLE
22 DOUBTS. THE INSTRUCTION GOES ON BECAUSE EVERYTHING
23 RELATED TO HUMAN AFFAIRS AND DEPENDING UPON MORAL
24 EVIDENCE IS OPEN TO SOME POSSIBLE OR IMAGINARY DOUBT.

25 AND THAT'S WHAT HE'S ARGUED TO YOU.
26 POSSIBLE OR IMAGINARY DOUBT.

27 THAT IS THAT STATE OF THE CASE WHICH AFTER
28 THE ENTIRE COMPARISON AND CONSIDERATION OF ALL THE

1 EVIDENCE -- HE DIDN'T TALK ABOUT ALL THE EVIDENCE,
 2 BECAUSE HE DOESN'T WANT TO TALK ABOUT ALL THE EVIDENCE,
 3 BECAUSE HE CAN'T TALK ABOUT ALL THE EVIDENCE -- LEAVES
 4 THE MIND OF THE JURORS IN THAT CONDITION THAT THEY CAN
 5 NOT SAY THEY FEEL AN ABIDING CONVICTION TO A MORAL
 6 CERTAINTY TO THE TRUTH OF THECHARGE.

7 NOW, THE FIRST THING THAT MR. YZURDIAGA
 8 PROVIDED FOR YOU WAS A TIME SEQUENCE AND HE TALKED ABOUT
 9 WHEN LINDA TOLIVER WENT IN THE HOSPITAL.

10 NOW, IN SUPPORT OF HIS POSITION, HE HAD
 11 THESE HOSPITAL RECORDS BROUGHT FROM MARTIN LUTHER KING
 12 AND THEY CONSIST OF PAGES OF AN INPATIENT RECORD WITH A
 13 DATE OF ADMISSION OF 3-1-85 AND A DATE OF DISCHARGE OF
 14 3-5-85 AND YOU CAN READ THIS, IT'S RIGHT THERE. BUT, IF
 15 YOU WILL REMEMBER I ASKED THAT A DOCUMENT FROM THE SAME
 16 RECORDS BE MARKED AND PLACED INTO EVIDENCE.

17 IN FACT, I ASKED FOR TWO PAGES FROM THAT
 18 DOCUMENT. ONE IS ATTACHED TO -- IT'S ATTACHED TO THE
 19 DEFENSE EXHIBIT AND IT IS AN OUTPATIENT RECORD AND THE
 20 DATE OF IT IS APRIL 27, 1985, AND THE MEDICAL PROBLEM,
 21 AS YOU WILL READ, IS THE SAME MEDICAL PROBLEM THAT LINDA
 22 TOLIVER HAS SUFFERED FROM. THAT HAS TO DO WITH ASTHMA.

23 FURTHER, IT TALKS ABOUT HER BEING THERE ON
 24 THE 27TH IN AN OUTPATIENT STATUS, THEN ON THE BACK SIDE
 25 IT READS "PLAN REVIEW WITH EXPLANATION OF PATIENT
 26 TREATMENT: RETURN 3-6-85."

27 NOW, LET'S TALK ABOUT -- ALSO, I HAVE GOT
 28 ANOTHER PAGE HERE, MARCH THE 13TH. SHE NEVER SAID MARCH

1 THE 13TH, BUT JUST TO SHOW YOU SHE WAS IN AN OUTPATIENT
2 STATUS AT THE HOSPITAL ON THE 13TH.

3 FIRST OF ALL, THE WITNESSES THAT YOU SAW,
4 THE CIVILIAN WITNESSES WHO TESTIFIED, I AGREE WITH MR.
5 YZURDIAGA, THEY ARE NOT THE MOST INTELLIGENT PEOPLE IN
6 THE WORLD. BUT BECAUSE THEY'RE NOT THE MOST INTELLIGENT
7 PEOPLE IN THE WORLD, ARE THEY LIARS? NO. CAN THEY --
8 ARE THEY MORE APT TO MAKE AN ERROR? NO. ARE ARE THEY
9 MORE APT TO MISUNDERSTAND QUESTIONS THAT ARE ASKED OF
10 THEM? YES.

11 IN FACT, I FEEL THAT PERHAPS THERE WAS A
12 MISTAKE MADE BY USING THE WORD "ADMIT" AS I REALIZE NOW.
13 IS THAT A WORD THAT LINDA TOLIVER UNDERSTOOD? THESE
14 HOSPITAL RECORDS REALLY SPEAK FOR THEMSELVES AND THEY
15 SAY THAT SHE WAS IN THE HOSPITAL ON THOSE DAYS AND THAT
16 SHE WAS TO RETURN ON THE SIXTH.

17 NOW, BUT THE CRITICAL QUESTION IS THIS,
18 WHETHER SHE WAS RELEASED FROM THE HOSPITAL ON THE 5TH OR
19 THE 6TH DOES THAT INFLUENCE WHETHER SHE HAD A
20 CONVERSATION WITH MICHAEL DORROUGH DOWNSTAIRS AT THE
21 DINING ROOM TABLE AS SHE TOLD YOU? OBVIOUSLY NOT. SHE
22 TIES THE CONVERSATION TO THE DAY THAT SHE WAS RELEASED
23 FROM THE HOSPITAL.

24 BE THAT THE 5TH OR BE THAT THE 6TH, IT
25 DOESN'T MAKE ANY DIFFERENCE. THAT'S THE DAY SHE
26 REMEMBERS THAT SHE HAD THE CONVERSATION, SO WHAT'S
27 IMPORTANT IS IT THE DAY THAT SHE WAS RELEASED FROM THE
28 HOSPITAL OR IS IT THE CONVERSATION. IT'S THE

1 CONVERSATION.

2 SEE, THIS IS WHY I SAY THE DEFENSE IS
3 ATTEMPTING TO MAKE YOU BELIEVE THAT IF SHE DOES NOT KNOW
4 THE DATE THIS SHE WAS RELEASED FROM THE HOSPITAL BE IT
5 THE 5TH OR THE 6TH THEN SHE COULDN'T HAVE EVER HAD THIS
6 CONVERSATION, WHICH IS ABSOLUTELY LUDICROUS. I'VE TOLD
7 YOU FROM THE OUTSET THE WAY TO APPROACH THIS CASE IS TO
8 USE YOUR REASON. USE YOUR THOUGHT PROCESS.

9 WHAT'S IMPORTANT? IS IT THE CONVERSATION
10 THAT TOOK PLACE OR THE DAY THAT IT TOOK PLACE? IT'S
11 OBVIOUSLY THE CONVERSATION.

12 NOW, HE GOES ON TO TALK ABOUT THE DAY THAT
13 THOMAS VANDIVIER WAS ARRESTED. WELL, IF YOU REMEMBER
14 THE DEFENSE CALLED BILLY LEADER FROM NARCOTICS AND BILLY
15 LEADER WAS ASKED WHO WAS ARRESTED THAT DAY, HE SAID
16 TOLIVER, SOMEBODY NAMED PICKENS AND A COUPLE OF OTHER
17 GUYS. HE WAS ASKED WAS THOMAS VANDIVIER EVER ARRESTED?
18 NO. HE SAID NO HE WASN'T ARRESTED. WHAT'S IMPORTANT
19 WHETHER HE WAS ARRESTED OR HE WASN'T ARRESTED.

20 THE IMPORTENCE IS THAT THOMAS VANDIVIER
21 TALKED TO DENNIS CHAPMAN AT SOUTHEAST STATION AND THAT
22 DENNIS CHAPMAN ASKED HIM SOME QUESTIONS ABOUT THE BODY
23 THAT WAS FOUND ON THE SECOND OF MARCH. BECAUSE DENNIS
24 CHAPMAN BELIEVED THERE TO BE A CONNECTION BETWEEN THAT
25 DOPE HOUSE WHERE COCAINE WAS BEING SOLD AND THAT BODY.

26 NOW, YOU ARE JUDGES IN THIS CASE. YOU HAVE
27 TO STOP AND LOOK AT THE PEOPLE WHO WILL TESTIFY TO THEIR
28 INTELLIGENCE, TO THEIR ABILITY TO RECOLLECT, TO THEIR

1 POSITION IN LIFE. PUT YOURSELF IN THOMAS VANDIVIER'S
2 PLACE. THOMAS VANDIVIER IS PUT IN A POSITION OF ON THE
3 2ND OF MARCH OF WATCHING HIS EMPLOYERS BLOW SOMEBODY
4 AWAY, SHOOT AND KILL SOMEBODY IN HIS PRESENCE. JUST
5 LIKE IT WAS NOTHING. AND WHEN THEY WALK BACK THEY SAID
6 TO HIM "HEY, BY THE WAY, YOU ARE OFF DUTY."

7 THAT SHOWS COLD, CALLOUS, DISREGARD NOT
8 ONLY FOR MR. ROBINSON, BUT ALSO FOR MR. VANDIVIER. HAVE
9 YOU EVER SEEN YOUR BOSS BLOW ANYBODY AWAY? EVER SEEN
10 YOUR BOSS KILL ANYBODY? STOP AND THINK ABOUT THOMAS
11 VANDIVIER. * HERE IS A POOR BLACK KID FROM THE PROJECT
12 WHO'S BEEN PROMISED LOTS OF MONEY TO WATCH OUT FOR THE
13 COPS. WHAT'S HIS MOTIVATION? IT'S NOT TO KILL PEOPLE,
14 IT'S NOT TO SELL DOPE, IT'S TO MAKE SOME EASY MONEY
15 WATCHING OUT FOR THE COPS. THAT'S HIS SOLE MOTIVATION.

16 NOW WHAT THE DEFENSE WOULD HAVE YOU BELIEVE
17 IS THAT CHAPMAN THREATENED HIM AND SO HE TOLD US WHAT
18 HAPPENED. HERE IS THOMAS VANDIVIER, HE HAS WATCHED HIS
19 BOSSES BLOW A GUY AWAY. SHOOT THE GUY TO DEATH RIGHT IN
20 HIS PRESENCE. THEN TELL HIM, HEY, YOU'RE OFF DUTY.

21 HE IS NOW FACED WITH THE COPS WHO HE KNOWS
22 ARE MAKING A CONNECTION BETWEEN THAT DOPE HOUSE AND THAT
23 DEAD BODY. WHAT KIND OF AN A POSITION DOES THAT PUT HIM
24 IN? HE HAS GOT MICHAEL DORROUGH, ANDRE MATHEWS AND
25 HERMAN COLEMAN ON ONE SIDE OF HIM AND HE HAS GOT THE
26 COPS ON THE OTHER SIDE WHO ARE PUTTING THINGS TOGETHER.

27 NOW, YOU TALK ABOUT BEING BETWEEN A ROCK
28 AND A HARD PLACE. THAT'S THOMAS VANDIVIER'S POSITION.

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WHAT IS HUMAN NATURE TO DO AT THAT POINT IN TIME? KIND OF EASE OUT OF THE SITUATION, RIGHT? LET'S KEEP EVERYTHING HAPPY, LET'S JUST GET ME OUT OF THIS THING, RIGHT? SO HE DOES NOT TELL THE ENTIRE STORY, HE TELLS PART OF IT, ENOUGH TO MAKE CHAPMAN HAPPY.

WAS HE THREATENED BY CHAPMAN? YOU HEARD CHAPMAN TESTIFY. YOU HAVE TO MAKE UP YOUR MIND. I AM NOT EVEN GOING TO SUGGEST TO YOU. YOU HEARD THE TESTIMONY, YOU HAVE TO MAKE UP YOUR MIND, DID CHAPMAN THREATEN HIM OR DID CHAPMAN TELL HIM WHAT WAS INVOLVED HERE?

NOW, COUNSEL DESCRIBES THOMAS VANDIVIER AS BEING AN IMPRESSIONABLE KID, WHICH I AM SURE HE IS, WHICH EVEN LENDS ITSELF MORE TO THE POSITION THAT YOU CAN SEE HE MUST HAVE BEEN IN AT THAT POINT THIS TIME.

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1 NOW, THEN, THEY GO ON FURTHER HE SAYS HE
2 WAS THREATENED, HE SAYS HE WAS THREATENED ON TWO
3 OCCASIONS, WHICH SCARED HIM. BUT WHAT YOU HAVE TO
4 DECIDE REALLY ABOUT THOMAS VANDIVIER IS THE TESTIMONY
5 THAT HE GAVE YOU, HE GAVE YOU. RIGHT? BECAUSE THOSE
6 OTHER STATEMENTS THAT DEFENSE COUNSEL BROUGHT IN ARE
7 EXTRAJUDICIAL STATEMENTS.

8 THEY HAPPENED AT ANOTHER LOCATION AT
9 ANOTHER TIME. HE TESTIFIED TO YOU, TWICE HE TESTIFIED
10 TO YOU, TWICE HE TESTIFIED AS MY WITNESS WHEN I CALLED
11 HIM HE SAID HE SAW MICHAEL DORROUGH, HERMAN COLEMAN AND
12 ANDRE MATHEWS TAKE JUNIOR OUT IN THE FIELD, HE SAW
13 GUNSHOTS, HE SAW THREE PEOPLE WALK BACK, INCLUDING
14 MICHAEL DORROUGH.

15 NOW, THEN WHEN HE WAS CALLED BY THE
16 DEFENSE, HE TOLD YOU EXACTLY THE SAME THING. NOW,
17 COUNSEL TAKES EXCEPTION TO THE CORONER'S TESTIMONY, THE
18 CORONER'S EXPERT, THE CORONER'S AN EXPERT JUST LIKE MR.
19 SLACK. THEY'RE BOTH QUALIFIED AND YOU HAVE AN
20 INSTRUCTION ON HOW YOU ARE TO TREAT EXPERT TESTIMONY.

21 THEY TALK ABOUT LOST REPORTS. I CAN'T MAKE
22 ANY EXCUSE FOR CHAPMAN LOSING REPORTS, IF HE LOST
23 REPORTS HE LOST REPORTS, WHAT WAS IN THOSE REPORTS?
24 WHAT IS THE SIGNIFICANCE?

25 IT ALL GOES BACK TO WHAT I AM SAYING THE
26 DEFENSE IS TALKING ABOUT POSSIBILITIES. YOU ARE NOT
27 TALKING ABOUT THE EVIDENCE THAT YOU HAVE HEARD BECAUSE
28 THEY DON'T WANT TO TALK ABOUT THE EVIDENCE THAT YOU

1 HEARD.

2 DID HE ONCE -- MR. YZURDIAGA, DID HE ONCE
3 EXPLAIN HOW THOMAS VANDIVIER COULD DESCRIBE NOT ONCE FOR
4 YOU BUT TWICE SEEING JUNIOR BEING KILLED AND HOW THAT
5 TESTIMONY TIED DIRECTLY WITH SLACK'S TESTIMONY AND SLACK
6 WORKS IN A LABORATORY ON SAN FERNANDO ROAD AND DR.
7 COGAN'S READING OF THE AUTOPSY REPORT THAT DR. GARBER
8 PREPARED? DID HE ONCE TELL YOU HOW THAT COULD HAVE
9 HAPPENED? OF COURSE NOT, YOU KNOW WHY NOT, BECAUSE HE
10 CAN'T EXPLAIN IT.

11 YOU KNOW WHY HE CAN'T EXPLAIN IT, BECAUSE
12 THOMAS VANDIVIER TESTIFIED TO WHAT HE SAW, AND LIKE I
13 SAID BEFORE, WHAT HE TESTIFIED TO IS VERIFIED BY THE
14 TESTIMONY OF SLACK AND DR. COGAN.

15 SOMEHOW, COUNSEL ALSO TOOK THE TIME TO TELL
16 YOU JUST EXACTLY WHAT KIND OF A GUY JUNIOR ROBINSON WAS.
17 I'M NOT HERE TO TELL YOU THAT, YOU KNOW, WE HAD A
18 POTENTIAL PRESIDENTIAL CANDIDATE IN JUNIOR ROBINSON.
19 I'M NOT SAYING THAT AT ALL. BUT I AM SAYING THAT HE WAS
20 MURDERED AND I AM SAYING HE DIDN'T DESERVE TO DIE THAT
21 WAY, AND I AM ALSO TELLING YOU THAT THERE WAS NO
22 PROVOCATION.

23 COUNSEL HAS TALKED ABOUT ALL THE THINGS, HE
24 RIPPED OFF HIS FRIEND ANT FOR THE MONEY; HE MUGGED SOME
25 LADY FOR HER MONEY. I NEVER SAID HE WAS A NICE GUY, BUT
26 YOU HAVE TO LOOK AT THIS FROM A LEGAL POINT OF VIEW.

27 ARE THOSE ACTIVITIES SUCH THAT THEY PROVIDE
28 THE PROVOCATION FOR MR. DORROUGH AND HIS COMPANIONS TO

1 BLOW MR. ROBINSON AWAY? TO SHOOT HIM AND KILL HIM? OF
2 COURSE THEY DON'T.

3 SO, WHAT'S THE POINT AGAIN? GO BACK TO
4 REASONABLE DOUBT, THESE ARE THE POSSIBILITIES. I THINK
5 THE MOST INTERESTING ARGUMENT AND THE MOST FALLACIOUS
6 THAT COUNSEL GAVE YOU IS HIS OPINION THAT LINDA TOLIVER
7 WAS UNDER THE INFLUENCE WHEN SHE WAS TESTIFYING.

8 NOW IF HE REALLY BELIEVED THAT, DON'T YOU
9 THINK THAT HE SHOULD HAVE GONE TO THE JUDGE AND SAID I
10 THINK THE TESTIMONY WE ARE GETTING HERE IS INCOMPETENT?
11 I THINK SHE SHOULD BE EXAMINED BY A DOCTOR OR NARCOTICS
12 OFFICER OR SOMEBODY WHO WOULD BE ABLE TO DETERMINE
13 WHETHER SHE WAS UNDER THE INFLUENCE OR NOT?

14 NO, HE SAYS HE THOUGHT SHE WAS UNDER THE
15 INFLUENCE AND HE JUST LET INCOMPETENT TESTIMONY COME IN
16 FROM A PERSON WHO WAS UNDER THE INFLUENCE IN HIS
17 OPINION. HE LET YOU, THE TRIER OF FACT, HEAR
18 INCOMPETENT TESTIMONY FROM A PERSON HE BELIEVED TO BE
19 UNDER THE INFLUENCE. HE DIDN'T ALERT THE COURT, HE
20 DIDN'T HAVE HER EXAMINED. HE JUST LET IT GO.

21 NOW, HOW SERIOUS CAN HIS ARGUMENT BE IF HE
22 WOULD STOOP THAT LOW TO TELL YOU THAT HE BELIEVED SHE
23 WAS UNDER THE INFLUENCE WITHOUT TAKING ANY ACTION
24 WHATSOEVER? AND IN HIS ARGUMENT HE WOULD IMPLY THAT
25 LINDA TOLIVER GOT SOMETHING WHICH MADE HER TESTIFY IN
26 THE WAY THAT SHE DID AND FURTHER, THAT THOMAS VANDIVIER
27 GOT SOMETHING IN ORDER TO GET THEM TO TESTIFY GET HIM TO
28 TESTIFY IN THE WAY HE DID.

1 NOW, WHAT DID THEY GET? IF THEY GOT
2 SOMETHING, IF THEIR TESTIMONY IS COMPLETE AND TOTALLY
3 FABRICATED, AND THEY GOT UP THERE AND PERJURED
4 THEMSELVES, THEN WHAT YOU SAT THROUGH FOR TWO AND A HALF
5 MONTHS IS A FARCE AND A SHAM.

6 BECAUSE WHAT COUNSEL WOULD TELL YOU IS THAT
7 THEY TESTIFIED THE WAY THAT THEY DID IN ORDER TO GET
8 SOMETHING. WELL, GET SOMETHING FROM WHO? FROM L.A.P.D?

9 WHAT DID THOMAS VANDIVIER GET FROM L.A.P.D?
10 DID HE GET IMMUNITY? WAS HE OFFERED SOMETHING OR WAS
11 PERJURED TESTIMONY PROCURED FROM HIM TO BE PRESENTED TO
12 YOU? LIKE I SAY, IF YOU BELIEVE THAT, THEN THIS WHOLE
13 THING WAS A SHAM AND A FARCE FROM THE START. AND
14 COUNSEL ALSO INDICATES THAT'S WHAT MOTIVATED LINDA
15 TOLIVER BECAUSE OF THE P.C.P. THAT BILLY LEADER AND THE
16 PEOPLE THAT EXECUTED THE SEARCH WARRANT AT HER HOUSE
17 FOUND. REMEMBER SHE SAID "D.J.", "I GOT A D.J. REJECT
18 AFTER FOUR DAYS UP AT THE SYBIL BRAND.

19 AND MR. COONEY CORRECTED HER SAID "YOU MEAN
20 A D.A. REJECT," MEANING THE DISTRICT ATTORNEY. WELL, IF
21 YOU CARRY THAT THOUGHT PROCESS OUT, THEN NOT ONLY IS
22 THIS ALL A SHAM AND A FARCE, BUT I HAVE GOT TO BE
23 INVOLVED, TOO, BECAUSE SHE GOT A D.A. REJECT AND NOW,
24 THAT'S THE PROBLEM WITH THAT KIND OF AN ARGUMENT BECAUSE
25 IF YOU CARRY IT FURTHER, THEN YOU HAVE TO BELIEVE THAT
26 L.A.P.D. PUT THIS WHOLE THING TOGETHER, AND THAT I
27 HELPED THEM AND THAT WE ARE JUST PULLING YOUR LEG.

28 THIS IS ALL A BUNCH OF HOOEY AND A COMPLETE