

IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT, IN  
AND FOR LEON COUNTY, FLORIDA

CASE NO.: 2018CF1592

STATE OF FLORIDA

VS.

DENISE WILLIAMS,

Defendant.

\_\_\_\_\_/ Volume VII

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PROCEEDINGS:	JURY TRIAL
BEFORE:	THE HONORABLE JAMES C. HANKINSON
DATE:	December 14, 2018
TIME:	Commencing at 8:32 a.m. Concluding at 7:42 p.m.
LOCATION:	Leon County Courthouse Tallahassee, Florida
REPORTED BY:	Johana M. Kesterson, Official Reporter Notary Public in and for the State of Florida at Large

JOHANA M. KESTERSON  
Official Court Reporter  
Leon County Courthouse, Room 341  
Tallahassee, FL 32301

## APPEARANCES

## REPRESENTING THE STATE:

JON FUCHS, ASSISTANT STATE ATTORNEY  
JAMES ROGERS, ASSISTANT STATE ATTORNEY  
OFFICE OF THE STATE ATTORNEY  
LEON COUNTY COURTHOUSE  
TALLAHASSEE, FLORIDA 32301

## REPRESENTING THE DEFENDANT:

ETHAN WAY, ESQUIRE  
WAY LAW FIRM  
P.O. BOX 10017  
TALLAHASSEE, FLORIDA 32302

PHILIP J. PADOVANO  
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TALLAHASSEE, FL. 32301

## PROCEEDINGS

1  
2 THE COURT: All right. We're here in State of  
3 Florida versus Denise Williams, 2018-1592. Let the  
4 record reflect Ms. Williams is present with her  
5 attorneys.

6 I sent in what I hope is the final version of the  
7 jury instructions for y'all to look at. Mr. Padavano had  
8 pointed out a couple of things. So let me just tell you  
9 what's changed from what we had before.

10 On page 2 and on the renunciation defense, I decided  
11 the wording -- I mean, he had pointed out it was  
12 grammatically in question. I thought -- I decided the  
13 wording of it was just unnecessarily wordy. So I just  
14 put murder instead of unlawful killing of a human being.

15 I think I worded it that way to start with because  
16 there were potential lesser inclusions and I didn't want  
17 to be too specific. But those have been done away with.  
18 So I think that language is more to the point and  
19 clearer.

20 There was also, in the first paragraph of the  
21 renunciation, on the -- it had voluntary renunciation of  
22 his criminal purpose. It should be "her" criminal  
23 purpose and I've made that change. Everybody with me on  
24 that change?

25 MR. FUCHS: Yes, sir.

1 MR. WAY: Yes, Your Honor.

2 THE COURT: There were a couple of others that were  
3 just typographical fixes. And then the only other  
4 substantive change was in verdict. It has referred to  
5 lesser inclusions. Of course, we don't have any lesser  
6 inclusions, so -- that's on page 10. Those are the only  
7 substantive changes.

8 Anybody found anything else or have any issues to  
9 raise?

10 MR. FUCHS: No, sir.

11 MR. WAY: No, Your Honor.

12 THE COURT: So, as I recall, and correct me if I'm  
13 wrong, the only substantive objection is by the defense  
14 as to the principal definition. And the State is  
15 objecting to the renunciation language. That's my  
16 recollection of the only objections that have been --

17 MR. FUCHS: And, Your Honor, I think the objection  
18 by the State was because I misunderstood what you were  
19 saying. I actually do not have an objection to --

20 THE COURT: Okay.

21 MR. FUCHS: The language that's in here, I have no  
22 problem with.

23 THE COURT: Okay.

24 MR. PADAVANO: And the remaining part, that's  
25 correct, Your Honor.

1 THE COURT: Okay.

2 MR. PADAVANO: Your recitation is correct.

3 THE COURT: All right. So any other issues this  
4 morning before we proceed to instructions?

5 MR. FUCHS: None from the State, Your Honor.

6 MR. WAY: No, Your Honor.

7 THE COURT: And, I guess, y'all assume -- I guess I  
8 shouldn't assume that you know, but I'll instruct on  
9 the -- I'll instruct first and then have the closings,  
10 except for the final provision after that.

11 MR. FUCHS: Your Honor, I do apologize. I do have  
12 one ore tenus motion in limine regarding closing  
13 arguments. And I don't believe Mr. way will do this  
14 because he knows it's not proper, but there should not be  
15 any mention of the sentences or potential sentences for  
16 Ms. Williams during the course of the closing arguments.  
17 That would be my motion.

18 THE COURT: Mr. Way.

19 MR. WAY: I've done this long enough to know not to  
20 step on that third rail, Your Honor.

21 THE COURT: All right. Thank you.

22 All right. We don't have all the jurors. I didn't  
23 tell them to be here until 8:45. So if we figure we'll  
24 start as soon after 8:45 as we have all the jurors  
25 present.

1 MR. FUCHS: Yes, sir.

2 THE COURT: You have something, Mr. Way?

3 MR. WAY: Your Honor, are there going to be any time  
4 limitations on summation?

5 THE COURT: Well, I mean, I think good attorneys put  
6 time limitations on themselves. I'm not going to -- I  
7 don't think either one of y'all are going to ruin your  
8 case by talking forever, so --

9 Anyhow. All right.

10 MR. WAY: Yes, sir.

11 THE COURT: Anything else?

12 MR. FUCHS: No, sir.

13 We're in recess, correct, Your Honor?

14 THE COURT: Yes.

15 (A recess was had.)

16 MR. PADAVANO: Your Honor.

17 THE COURT: Do we need to go back on the record?

18 MR. PADAVANO: I think so, Your Honor.

19 On the first paragraph it -- did you mean to say  
20 renunciation of his criminal purpose on the first  
21 paragraph of --

22 THE COURT: Right. I changed that. That's one  
23 thing I said. I know your copy doesn't have that.

24 MR. PADAVANO: Okay. I didn't realize this was not  
25 the final.

1 THE COURT: I have changed that.

2 MR. PADAVANO: Thank you.

3 (A recess was had.)

4 THE COURT: All right. Let's have the jury, please.

5 (Jury enters.)

6 THE COURT: All right. Everybody be seated, please.

7 Thank you for being back here this rainy morning. I

8 understand Mr. Adams is keeping y'all with a sugar high

9 with some donuts. Is that what I understand?

10 So, anyway. Next thing I'm going to do is instruct

11 you on the law. You will be allowed to keep these jury

12 instructions with you, so you don't necessarily need to

13 take any notes, unless we find a typo or something. But

14 I would ask that you read along with me as I go through

15 them.

16 All right. So everybody has a copy. He did that

17 pretty adeptly. I was trying to follow.

18 All right. As I say, I'd ask that you read along

19 with me as I go through them so that I can be certain

20 that everyone's been through them in their entirety on at

21 least one occasion.

22 Members of the jury, I thank you for your attention

23 during this trial. Please pay attention to the

24 instructions I am about to give you.

25 Denise Williams, the defendant in this case, has

1       been accused of the crimes of conspiracy to commit  
2       first-degree murder, first-degree murder and accessory  
3       after the fact of first-degree murder.

4               Count 1, conspiracy to commit first-degree murder.  
5       To prove that crime the State must prove the following  
6       two elements beyond a reasonable doubt:

7               1. The intent of Denise Williams was that the  
8       offense of first-degree murder would be committed.

9               2. In order to carry out the intent Denise Williams  
10      agreed, conspired, combined and confederated with  
11      another person, Brian Winchester, to cause first-degree  
12      murder to be committed either by them or one of them or  
13      by some other person.

14              It is not necessary that the agreement, conspiracy,  
15      combination or confederation to commit first-degree  
16      murder be expressed in any particular words or that words  
17      pass between the conspirators.

18              It is not necessary that the defendant do any act in  
19      furtherance of the offense conspired.

20              First-degree murder will be fully defined for you  
21      below under Count 2. And I'm not going to repeat it  
22      twice.

23              It is a defense to the charge of criminal conspiracy  
24      that Denise Williams, after conspiring with one or more  
25      persons to commit a murder, persuaded Brian Winchester

1 not to do so or otherwise prevented commission of the  
2 murder under circumstances indicating the complete and  
3 voluntary renunciation of her criminal purpose.

4 Renunciation is not complete and voluntary where the  
5 crime that was conspired to was not completed because of  
6 unanticipated difficulties, unexpected resistance, a  
7 decision to postpone the crime to another time or  
8 circumstances known by the defendant that increase the  
9 probability of being apprehended.

10 If you find that the defendant proved by a  
11 preponderance of the evidence that she persuaded Brian  
12 winchester not to commit the murder, or otherwise  
13 prevented the commission of the murder under  
14 circumstances indicating a complete and voluntary  
15 renunciation of her criminal purpose, you should find her  
16 not guilty of conspiracy to commit first-degree murder.

17 If the defendant failed to prove by a preponderance  
18 of the evidence that she persuaded Brian winchester not  
19 to commit murder, or that she did not otherwise prevent  
20 commission of the murder under circumstances indicating a  
21 complete and voluntary renunciation of her criminal  
22 purpose, you should find her guilty of conspiracy to  
23 commit murder in the first degree, if all the elements of  
24 the charge have been proven beyond a reasonable doubt.

25 Count 2. In this case Denise williams is accused in

1 Count 2 of first-degree murder. A killing that is  
2 excusable or was committed by the use of justifiable  
3 deadly force is lawful.

4 If you find Jerry Michael Williams was killed by  
5 Denise Williams, you will then consider the circumstances  
6 surrounding the killing in deciding if the killing was  
7 first-degree murder or whether the killing was excusable  
8 or resulted from justifiable use of deadly force.

9 The killing of a human being is justifiable homicide  
10 and lawful if necessarily done while resisting an attempt  
11 to murder or commit a felony upon the defendant; or to  
12 commit a felony in any dwelling house in which the  
13 defendant was at the time of the killing.

14 The killing of a human being is excusable, and  
15 therefore lawful, under any one of the following three  
16 circumstances:

17 When the killing is committed by accident and  
18 misfortune in doing any lawful act by lawful means with  
19 usual ordinary caution and without any unlawful intent;  
20 or when the killing occurs by accident and misfortune in  
21 the heat of passion upon any sudden and sufficient  
22 provocation; or when the killing is committed by accident  
23 and misfortune resulting from a sudden combat, if a  
24 dangerous weapon is not used and the killing is not done  
25 in a cruel or unusual manner.

1           "Dangerous weapon" is any weapon that, taking into  
2 account the manner in which it is used, is likely to  
3 produce death or great bodily harm.

4           I now instruct you on the circumstances that must be  
5 proved before Denise Williams may be found guilty of  
6 murder in the first degree.

7           To prove the crime of first-degree premeditated  
8 murder the State must prove the following three elements  
9 beyond a reasonable doubt:

10           1. Jerry Michael Williams is dead.

11           2. The death was caused by the criminal act of  
12 Denise Williams.

13           3. There was a premeditated killing of Jerry  
14 Michael Williams.

15           An "act" includes a series of related actions  
16 arising from and performed pursuant to a single design or  
17 purpose.

18           "Killing with premeditation" is killing after  
19 consciously deciding to do so. The decision must be  
20 present in the mind at the time of the killing.

21           The law does not fix the exact period of time that  
22 must pass between the formation of the premeditated  
23 intent to kill and the killing. The period of time must  
24 be long enough to allow reflection by the defendant. The  
25 premeditated intent to kill must be formed before the

1           killing.

2           The question of premeditation is a question of fact  
3           to be determined by you from the evidence. It will be  
4           sufficient proof of premeditation if the circumstances of  
5           the killing and the conduct of the accused convince you  
6           beyond a reasonable doubt of the existence of  
7           premeditation at the time of the killing.

8           If the defendant helped another person or persons  
9           commit the crime of first-degree murder, the defendant is  
10          a principal and must be treated as if she had done all  
11          the things the other person or persons did if:

12                1. The defendant had a conscious intent that the  
13                criminal act be done.

14                2. The defendant did some act or said some word  
15                which was intended to and which did incite, cause,  
16                encourage, assist or advise the other person or persons  
17                to actually commit the crime.

18           To be a principal the defendant does not have to be  
19           present when the crime is committed.

20           If you find that the crime alleged was committed, an  
21           issue in this case is whether the crime of murder in the  
22           first degree was an independent act of a person other  
23           than the defendant.

24           An "independent act" occurs when a person other than  
25           the defendant commits or attempts to commit a crime which

1 the defendant did not intend to occur, and in which the  
2 defendant did not participate; and which was outside of  
3 and not a reasonably foreseeable consequence of the  
4 common design or unlawful act contemplated by the  
5 defendant.

6 If you find the defendant was not present when the  
7 crime of murder in the first degree occurred, that, in  
8 and of itself, does not establish that the murder in the  
9 first degree was an independent act of another.

10 If you find that the murder in the first degree was  
11 an independent act of Brian winchester, then you should  
12 find Denise williams not guilty of the crime of murder in  
13 the first degree.

14 Count 3. To prove the crime of accessory after the  
15 fact in Count 3 the state must prove the following four  
16 elements beyond a reasonable doubt:

17 1. A first-degree murder was committed by Brian  
18 winchester.

19 2. After the first-degree murder was committed  
20 Denise williams maintained, assisted, aided or attempted  
21 to aid Brian winchester.

22 3. At that time, Denise williams knew that Brian  
23 winchester had committed the first-degree murder.

24 4. Denise williams did so with the intent that Brian  
25 winchester avoid or escape detection, arrest, trial or

1           punishment.

2           It is not necessary for the State to prove that  
3       Denise Williams' assistance was successful in allowing  
4       Brian Winchester to avoid or escape detection, arrest,  
5       trial or punishment, nor is it necessary for the State to  
6       prove that Brian Winchester was convicted.

7           The intent with which an act is done is an operation  
8       of the mind and, therefore, is not always capable of  
9       direct and positive proof. It may be established by  
10      circumstantial evidence like any other fact in a case.

11          First-degree murder has been fully defined above  
12      under Count 2.

13          The defendant has entered a plea of not guilty.  
14      That means you must presume or believe the defendant is  
15      innocent. The presumption stays with defendant as to  
16      each material allegation in the indictment, through each  
17      stage of the trial unless it has been overcome by the  
18      evidence to the exclusion of and beyond a reasonable  
19      doubt.

20          To overcome the defendant's presumption of innocence  
21      the State has the burden of proving the crime with which  
22      the defendant is charged was committed. And the  
23      defendant is the person who committed the crime.

24          The defendant is not required to present evidence or  
25      prove anything.

1           whenever the words reasonable doubt are used you  
2           must consider the following: A reasonable doubt is not a  
3           mere possible doubt, a speculative, imaginary or forced  
4           doubt. Such a doubt must not influence you to return a  
5           verdict of not guilty if you have an abiding conviction  
6           of guilt.

7           On the other hand, if after carefully considering,  
8           comparing and weighing all the evidence there is not an  
9           abiding conviction of guilt, or if having a conviction it  
10          is one which is not stable but one which wavers and  
11          vacillates, then the charge is not proved beyond every  
12          reasonable doubt and you must find the defendant not  
13          guilty because the doubt is reasonable.

14          It is to evidence introduced in this trial and to it  
15          alone that you are to look for that proof. A reasonable  
16          doubt as to the guilt of the defendant may arise from the  
17          evidence, conflict in the evidence, or the lack of  
18          evidence. If you have a reasonable doubt, you should  
19          find the defendant not guilty. If you have no reasonable  
20          doubt, you should find the defendant guilty.

21          It is up to you to decide what evidence is reliable.  
22          You should use your common sense in deciding which is the  
23          best evidence and which evidence should not be relied  
24          upon in considering your verdict. You may find some of  
25          the evidence not reliable or less reliable than other

1 evidence.

2 You should consider how the witnesses acted, as well  
3 as what they said. Some things you should consider are:

4 Did the witness seem to have an opportunity to see  
5 and know the things about which the witness testified?

6 Did the witness seem to have an accurate memory?

7 Was the witness honest and straightforward in  
8 answering the attorneys' questions?

9 Did the witness have some interest in how the case  
10 should be decided?

11 Does the witness's testimony agree with the other  
12 testimony and the other evidence in the case?

13 Has the witness been offered or received any money,  
14 preferred treatment or other benefit in order to get the  
15 witness to testify?

16 Did the witness at some other time make a statement  
17 that is inconsistent with the testimony he or she gave in  
18 court?

19 Has the witness been convicted of a felony or  
20 misdemeanor involving dishonesty or false statement?

21 Whether the State has met its burden of proof does  
22 not depend upon the number of witnesses it has called or  
23 upon the number of exhibits it has offered, but instead  
24 upon the nature and quality of the evidence presented.

25 The fact that a witness is employed in law

1 enforcement does not mean that his or her testimony  
2 deserves more or less consideration than that of any  
3 other witness.

4 Expert witnesses are like other witnesses with one  
5 exception. The law permits an expert witness to give his  
6 or her opinion. However, an expert's opinion is reliable  
7 only when given on a subject about which you believe her  
8 to be an expert. Like other witnesses, you may believe  
9 or disbelieve all or any part of an expert's testimony.

10 You must consider the testimony of some witnesses  
11 with more caution than others. For example, a witness  
12 who claims to have helped the defendant commit a crime,  
13 who has been promised immunity from prosecution or who  
14 hopes to gain more favorable treatment in his or her own  
15 case may have a reason to make a false statement in order  
16 to strike a good bargain with the State.

17 This is particularly true when there is no other  
18 evidence tending to agree with what the witness says  
19 about the defendant. So while a witness of that kind may  
20 be entirely truthful when testifying, you should consider  
21 his or her testimony with more caution than the testimony  
22 of other witnesses.

23 However, if the testimony of such a witness  
24 convinces you beyond a reasonable doubt of the  
25 defendant's guilt or the other evidence in the case does

1           so, then you should find the defendant guilty.

2           It is entirely proper for a lawyer to talk to a  
3           witness about what testimony the witness would give if  
4           called to the courtroom. The witness should not be  
5           discredited by talking to a lawyer about his or her  
6           testimony.

7           You may rely upon your own conclusion about the  
8           credibility of any witness. A juror may believe or  
9           disbelieve all or any part of the evidence or the  
10          testimony of any witness.

11          The Constitution requires the State to prove its  
12          accusations against the defendant. It is not necessary  
13          for the defendant to disprove anything, nor is the  
14          defendant required to prove her innocence. It is up to  
15          the State to prove the defendant's guilt by evidence.

16          The defendant exercised a fundamental right by  
17          choosing not to be a witness in this case. You must not  
18          view this as an admission of guilt or be influenced in  
19          any way by her decision. No juror should ever be  
20          concerned that the defendant did or did not take the  
21          witness stand to give testimony in the case.

22          These are some general rules that apply to your  
23          discussion. You must follow these rules in order to  
24          return a lawful verdict:

25          You must follow the law as it is set out in these

1 instructions. If you fail to follow the law, your  
2 verdict will be a miscarriage of justice. There is no  
3 reason for failing to follow the law in this case. All  
4 of us are depending upon you to make a wise and legal  
5 decision in this matter.

6 This case must be decided only upon the evidence  
7 that you have heard from the testimony of the witnesses  
8 and have seen in the form of the exhibits in evidence and  
9 these instructions.

10 This case must not be decided for or against anyone  
11 because you feel sorry for anyone or are angry at anyone.

12 Remember, the lawyers are not on trial. Your  
13 feelings about them should not influence your decision in  
14 this case.

15 Your duty is to determine if the defendant has been  
16 proven guilty or not in accord with the law. It's my job  
17 to determine a proper sentence if the defendant is found  
18 guilty.

19 Whatever verdict you render must be unanimous. That  
20 is, each juror must agree to the same verdict.

21 The jury is not to discuss any question that a juror  
22 wrote that was not asked by the Court and must not hold  
23 that against either party.

24 Your verdict should not be influenced by feelings of  
25 prejudice, bias or sympathy. Your verdict must be based

1 on the evidence and on the law contained in these  
2 instructions.

3 Deciding a verdict is exclusively your job. I can  
4 not participate in that decision in any way. Please  
5 disregard anything I may have said or done that made you  
6 think I preferred one verdict over another.

7 A separate crime is charged in each count of the  
8 indictment. And although they have been tried together,  
9 each crime and the evidence applicable to it must be  
10 considered separately and a separate verdict returned as  
11 to each. A finding of guilty or not guilty as to one  
12 crime must not affect your verdict as to the other crimes  
13 charged.

14 You may find the defendant guilty as charged in the  
15 indictment or not guilty.

16 The verdict must be unanimous, that is, all of you  
17 must agree to the same verdict. Only one verdict may be  
18 returned as to each crime charged. The verdict must be  
19 in writing, and for convenience the necessary verdict  
20 form has been prepared for you.

21 All right. Let's look at the verdict form with me,  
22 please. I think it's pretty self-explanatory. But you  
23 have three counts. First you have as to Count 1, you  
24 would choose either the defendant is guilty of conspiracy  
25 to commit first-degree murder or not guilty. You would

1 check the one option you unanimously agree upon.

2 Same as to Count 2, either guilty of first-degree  
3 murder or not guilty. Again, you would check the option  
4 you unanimously agree upon.

5 Same as to Count 3, either guilty of accessory after  
6 the fact of first-degree murder or not guilty.

7 So, when you get through you should have three check  
8 marks on your verdict form. It will be dated and signed  
9 be the foreperson. The foreperson will bring the verdict  
10 form back to the courtroom with them after you've  
11 completed your deliberations.

12 Sometimes I get a question from the jury whether  
13 everybody has to sign the verdict form. No, just the  
14 foreperson signs on behalf of the jury. I'll go over the  
15 concluding remarks after the attorneys have made their  
16 closing arguments.

17 The attorneys now will present their final  
18 arguments. Please remember that what the attorneys say  
19 is not evidence or your instructions on the law.  
20 However, do listen closely to their arguments, they are  
21 intended to aid you in understanding the case.

22 Each side will have equal time. But the State is  
23 entitled to divide this time between an opening argument  
24 and a rebuttal argument after the defendant has spoken.

25 Mr. Fuchs.

1           MR. FUCHS: Thank you, Your Honor.

2           Good morning again.

3           THE PANEL: Good morning.

4           MR. FUCHS: I'd like to thank you once again. I  
5 know I previously thanked you for being potential jurors,  
6 and the fact that you are, in fact, jurors. And now I'd  
7 like to take the opportunity to thank you again for doing  
8 exactly what it is that we knew you would do.

9           You were selected because myself and other counsel  
10 felt that you were the best that there was in order to  
11 sit there and listen throughout the course of this trial,  
12 and pay attention to everything going on in the  
13 courtroom. I know I pay attention. I know the Judge  
14 pays attention. I know they do.

15          And you've done exactly as it is that we thought you  
16 would do, and you paid attention throughout all the  
17 testimony, as well as everything else going on in the  
18 course of this trial. And thank you very much. Once  
19 again, we literally cannot do this without you. You are  
20 a vital part of the criminal justice system.

21          That being said. Closing arguments. As the Judge  
22 says, I get to talk to you twice. I talk to you the  
23 first time. And then Mr. Way will come up and speak with  
24 you -- or Mr. Padovano -- and I will come back and get to  
25 address you one last time.

1           The way I like to structure this a little bit, just  
2           to give you a little bit of guideline, is I want to go  
3           over the elements of the crime in the jury instructions  
4           as the Judge just read to you. Okay.

5           So let's start off with what we know. We know that  
6           on December 16, 2000, Jerry Michael Williams, Mike  
7           Williams, was murdered. It was initially classified as a  
8           missing person case. It was a shoddy homicide  
9           investigation because it was not a homicide  
10          investigation.

11          But we know now that man murdered him. Brian  
12          Winchester. We know that everybody involved here are  
13          long-time friends; Brian, Denise, Cathy Thomas, Mike.  
14          All long-time friends. Went to North Florida Christian  
15          School together. Went to Florida High -- I mean, went to  
16          Florida State University together.

17          This started out as a homicide -- a missing person  
18          case. Ended up being a homicide investigation. Brian  
19          Winchester killed Mike Williams. Brian Winchester was in  
20          love with Denise Williams for a long time. We know that  
21          Brian and Denise actually got married on December 3rd of  
22          2015, thirteen days from the anniversary, the fifth  
23          anniversary, of the murder.

24          We know at the time that he died that Mike Williams  
25          had multiple life insurance policies \$250,000, \$500,000

1           and \$1,000,000. All of which Denise Williams was the  
2           sole beneficiary of. We know that final one, that  
3           \$1 million policy, was drafted by Brian Winchester the  
4           summer before he murdered Mike Williams. That's what we  
5           know. That's what we knew coming in here.

6           The question you have is, how does she fit into the  
7           picture? How does she fit into the murder, the  
8           conspiracy for murder and helping him after the murder?

9           As I said, I go through the elements. I'm going to  
10          start off on the back side because I think it puts  
11          everything in a little bit more perspective.

12          Accessory after the fact. The elements, the Judge  
13          has read to you that a murder was committed by Brian  
14          Winchester. No question. After the murder was  
15          committed, Denise Williams maintained, assisted, aided or  
16          attempt to aid him. And at the time she knew he had done  
17          it. And she did so with the intent for him to avoid  
18          arrest, trial or punishment.

19          Remember Dr. Mnookin. Very brief witness, but a  
20          very important one. Because one of the things the  
21          defense has alluded to during opening statements is that  
22          this -- and, of course, they're probably going to here  
23          shortly -- was that this was all something that Brian  
24          Winchester did and came up with to get revenge on Denise  
25          for turning him in. Dr. Mnookin says otherwise.

1           Brian winchester goes and talks to Dr. Mnookin prior  
2           to the arrest. And what does he tell him? He says, I'm  
3           worried that Denise is going to go to law enforcement and  
4           that she's going to tell them about a murder that  
5           happened and what she knows from many years ago. The  
6           murder of Mike Williams. Prior to the arrest.

7           Elements of accessory after the fact. After the  
8           arrest, within the week, within the week of Denise going  
9           and talking to law enforcement and being interviewed by  
10          Florida Department of Law Enforcement and talked to about  
11          the murder of Mike Williams, she calls her good friend  
12          Cathy Thomas and says, Tell Marcus to tell Brian I didn't  
13          say anything. Marcus, if you don't remember, is Brian's  
14          dad.

15          Cathy Thomas came. She testified to you and told  
16          you that's what happened. But you don't have to take her  
17          word for it.

18          (Audio playing.)

19          MS. THOMAS: well, I mean, I know that you know  
20          something, Denise. Because whenever I was going out to  
21          see Marcus you're like, tell Marcus to tell Brian I'm not  
22          talking.

23          MS. WILLIAMS: Yeah.

24          MS. THOMAS: And I knew what that meant.

25          (Audio stopped.)

1           MR. FUCHS: So we know that she has knowledge of the  
2 homicide because Brian has told Dr. Mnookin already. And  
3 now she's sending a message to Brian to say -- let him  
4 know that she didn't say anything.

5           And you go back and you think about Brian  
6 Winchester's testimony. And they had a pact, an  
7 agreement, that nobody would say anything to another  
8 person. Nobody would say anything to law enforcement.  
9 And that's what she was saying. She was continuing that  
10 pact, and letting him know that she didn't say anything  
11 to law enforcement on that day. And she takes it one  
12 step further and she makes sure that she knows -- he  
13 knows this. So that way he doesn't then turn around and  
14 confess and dime her out, in accord with the agreement  
15 they had.

16           That right there, ladies and gentlemen, meets all  
17 the elements of accessory after the fact. Knew the  
18 murder was committed; aided, maintained, assisted,  
19 abetted, attempt to aid him, knew he had done it. And  
20 was the intent to avoid arrest, trial or punishment?  
21 Accessory after the fact, all the elements have been  
22 proven by the State.

23           So let's turn to the elements of conspiracy. Now,  
24 the reason I went with the accessory after the fact first  
25 is because of that statement. Because of the statements

1 of Dr. Mnookin. Because now, with the conspiracy, a lot  
2 of this you're going to have to rely upon Brian  
3 winchester's testimony. No question about it. But when  
4 you're relying on Brian winchester's testimony, take it  
5 in light of the fact of what you heard from Dr. Mnookin,  
6 from Cathy Thomas. And as the jury instruction tells  
7 you, does the testimony -- one of the things you have to  
8 do when weighing the evidence is figure out whether the  
9 testimony of a witness, no matter who it is, does it  
10 comport with the other evidence and other testimony from  
11 other witnesses?

12 So when you have Cathy Thomas, Dr. Mnookin telling  
13 you what they told you, it changes things a little bit  
14 when you're paying attention to Brian's testimony. It  
15 puts it in more context.

16 When you go back and you listen and you think about  
17 the elements of conspiracy. Denise Williams intended  
18 that Mike Williams be killed. In order to do so she  
19 agreed with or conspired with Brian winchester to kill  
20 Mike Williams. It is a defense if she decided not to  
21 carry out the homicide by persuading and not stopping it.  
22 But it is not complete and voluntary when a crime wasn't  
23 committed because of an unanticipated difficulty or  
24 decision to postpone the crime to another time.

25 As I said, this all relies upon Brian winchester's

1 testimony. And you have to do that evaluation we just  
2 talked about.

3 So let's talk about Brian Winchester's testimony.  
4 Brian Winchester tells you this affair actually started  
5 three years prior, in 1997, at a concert in Floyd's off  
6 Tennessee Street. Been going on for three years. Well,  
7 let's take a look at how the other elements and other  
8 testimony, how that stacks up.

9 Lindsey Lockhart, a different concert, but another  
10 concert at Floyd's Music Hall. She's there with her  
11 friends. And, actually, Brian -- I mean, Mike's there as  
12 well. And she sees Brian Winchester and Denise acting in  
13 a manner that is not just friendly. It's above friendly.  
14 As if they were dating. Arms around each other, Brian  
15 standing behind her. Three years prior to Mike's death,  
16 just like Brian said.

17 Angela Stafford, there at the concert as well, sees  
18 the same thing. Three years prior to Mike's death. She  
19 even a little bit farther. She's there when Denise is  
20 seven months pregnant, two years prior to Mike's death.  
21 And her and Brian are flirting or whatever, hanging out  
22 and go out drinking. And what happens? Denise changes  
23 the way she's acting towards her. Is it something  
24 glaring? No. Keep in mind, affairs are secretive by  
25 nature. Conspiracies are secretive by nature. But she

1 changes the way she's acting towards her. why? Maybe a  
2 little jealous that Ms. Stafford was able to go out and  
3 have drinks with him and she wasn't.

4 Cathy Thomas; found movie ticket where they had gone  
5 out together, found the "Meridian" necklace, had  
6 suspicions of them dating. The recording, she always  
7 knew that they were in love with each other.

8 You've got the tickets that Brian kept as momentos.  
9 Now, keep in mind that what he says is, yes, this affair  
10 started three years prior. But also, even after Mike's  
11 death they maintained secrecy until about 2003, 2004.  
12 One of those tickets from 1998. More from 2001, 2002,  
13 before they came out. They were kept because those are  
14 things that they did together and dates they went on to  
15 concerts.

16 The letter from Denise. The question about whether  
17 or not Brian tried to get back together with Cathy.  
18 There's a letter from Denise of that time period, in  
19 which you heard a portion of it. You have it in evidence  
20 if you want to take a look at it.

21 But in that she talks about her love and she  
22 professes her love for him. How she's going to miss him.  
23 That didn't happen over night. Keep in mind, he's still  
24 married to Cathy at that time. That letter confirms that  
25 this is an ongoing relationship between Brian winchester

1       and Denise Williams. It's from her handwriting and it's  
2       in her name, signed, Love you. At one point she says, I  
3       love you more than ever. You don't love someone more  
4       than ever if you didn't love them before.

5               And then, finally, the truck at the church. Joanie  
6       Chase, Tallahassee police officer. Nobody really thinks  
7       anything of it at the time. Obviously, it takes a  
8       different light in this situation. But remember what  
9       Brian Winchester said, he would park at different  
10      churches. One of which was a Grace Lutheran Church off  
11      of Miccosukee and Capital Circle. Right across from the  
12      CVS area. Kind of over there by the dealerships.

13             Sergeant Joanie Chase on patrol back in 1999, the  
14      year before Brian [sic] goes missing and dead, killed.  
15      She comes across a larger SUV. And she makes a phone  
16      call. Does the run, DMV. Unfortunately, those are all  
17      purged. But she remembers making a phone call to the  
18      wife of the owners. Usually you own a car, wife,  
19      husband. And she remembers having that conversation.

20             Cathy Thomas, Brian Winchester's wife, remembers  
21      that conversation. Remembers Joanie Chase saying --  
22      describing the bumper stickers. But that wasn't supposed  
23      to be there because Brian was supposed to be hunting.  
24      But he wasn't. Because he was there and done something  
25      with Denise. Just like he said. Just like Brian told

1           you.

2                 we talked about this in openings and in jury  
3           selection. You are here because you are to use your  
4           common sense, experience, education, life skills. And  
5           you use those tools throughout the course of your  
6           evaluation of all the situation here. Remember, affairs  
7           and conspiracies are secretive by their very nature. And  
8           they were good at it. They kept the secret of his murder  
9           for 17 years. Twenty-one, including the affair  
10          beforehand. Eighteen years now.

11                So now we turn to what Brian Winchester's testimony  
12          is about the actual conspiracy. Again, keep it in mind  
13          about the previous accessory aspect; Dr. Mnookin's  
14          testimony; Cathy Thomas's testimony; all the things we  
15          just went over that corroborated all the other things  
16          that Brian Winchester said. And that's the light in  
17          which you should look at his testimony regarding the  
18          conspiracy.

19                what did he tell you? Over a year they discussed  
20          it. That insurance was a motive, but it wasn't the sole  
21          motive. It was to be together, as far as he was  
22          concerned. The plan evolved over the time period.

23                At one point there was a conversation about whether  
24          they were going to kill both Cathy and Mike. A boating  
25          accident offshore where Denise and Brian were going to be

1       clinging to a buoy. And Mike and -- Mike and Cathy are  
2       dead.

3               He tells you that she has major concerns, given her  
4       upbringing, with being a divorcee. Didn't want to be a  
5       divorcee. Was concerned about custody of her child.  
6       Didn't want to share custody of her child. Balancing act  
7       between a divorcee or a widow. A widow with  
8       \$1.75 million, the sympathy of the community because your  
9       husband is missing in a hunting accident. A lot better  
10      than a divorcee.

11             And what did he tell you about the murder itself?  
12      Again, Brian Winchester's testimony corroborated. The  
13      waders. The plan was to get him onto a boat, push him  
14      over so he would drown in the waders. Because of the  
15      myth that if you go into the water with the waders,  
16      you're going to, in fact, drown. You can't escape. They  
17      drag you down.

18             But the plan was to take him out onto Lake Seminole  
19      to the secret honey hole. But he had to put his waders  
20      on before he gets into the boat. And they head out. And  
21      he knows the depths in that area aren't real deep. So  
22      he's got to go to this particular 12-foot hole. Alton  
23      Renew told you about this 12-foot hole and the search,  
24      and all the things -- and how everything is focused  
25      around that one particular area. And when he gets to

1           that area, he pushes him over.

2                   And somehow he's able to get out of those waders.

3           And we know that's corroborated because Joe Sheffield,  
4           who's the man that found the waders six months later, he  
5           says whenever he found the waders they were pulled half  
6           way down, inside out, down to the waist area.

7                   Howard Drew came in and said that, I taught him how  
8           to get out of those waders. We practiced it in the pool.  
9           And the first thing you do is, you get those straps off  
10          and you peel them down. And those waders were found in  
11          that 12-foot hole. Again, what he's telling you is  
12          corroborated.

13                  So you shot him. And I'm not going to go into the  
14          details of how he shot him, because it was brutal. Brian  
15          Winchester is not a good person. He's a murderer, just  
16          like he told you. But that doesn't mean his testimony  
17          isn't accurate. And we know -- and it's corroborated  
18          that he was, in fact, shot because he told us where the  
19          body is. We were able to recover the body. And we found  
20          the body. And he was, in fact, shot in the face, just  
21          like Brian Winchester told you.

22                  Brian Winchester told you about the murder, that he  
23          pulled the shirt over his head because he didn't want to  
24          have to look at his friend's face. Again, that's how the  
25          body was found. You saw the medical examiner's

1       photographs about that and her description of that.

2       Again, it's corroborated. And then he buried him. And  
3       he took him and he buried him at Carr Lake.

4               Following his confession to law enforcement, he took  
5       them to Carr Lake and showed them where he was buried.  
6       And that's where he was found. Again, Brian Winchester's  
7       statements are corroborated.

8               So what did he tell you? Three-year affair,  
9       corroborated. The murder itself, corroborated. What  
10      does it say about the other parts? Certainly when you're  
11      balancing weighing the evidence. If he's not lying about  
12      that, it's corroborated, what does it say about the rest  
13      of his testimony?

14              But then you go one step farther, the motive.  
15      Follow the money. That's what Investigator Sparkman  
16      says. Homicide investigation you look to the spouse,  
17      follow the money. One-million dollars, \$500,000,  
18      \$250,000; 1.75 million dollars that she is the  
19      beneficiary of. Not Brian Winchester. She is. And when  
20      you add all that up, each and every element of that  
21      conspiracy has been met.

22              So now let's talk about the murder itself. How is  
23      she guilty of the murder? Mike Williams is dead. The  
24      death was caused by a criminal act. No question about  
25      it. Premeditation, no question about it. Definition,

1       you've already got it. Killing with premeditation  
2       basically means you actually thought about it beforehand.  
3       Sometimes it can be instantaneous.

4               we know that's not here because this was a long,  
5       thought-out process; get him into the waders, push him  
6       overboard. All the plans that went into this particular  
7       thing. No question, Mike Williams is killed after Brian  
8       Winchester decided to do so. No question he made it well  
9       before actually doing so.

10              So how does, again, Denise Williams figure into  
11       this? That's where the principal comes into play. If  
12       the defendant helped another person or persons commit the  
13       crime of first-degree murder, the defendant is a  
14       principal and must be treated as if she had done all the  
15       things the other person did if she had a conscious intent  
16       that the crime be done.

17              Again, Brian Winchester tells you all the stuff that  
18       he told you regarding what it is that they conspired to  
19       do beforehand. Did she have a conscious intent that he  
20       go on that hunting trip and die and never come home  
21       again? And the answer, of course, is yes. Did she do an  
22       act, word or other thing that encouraged, assisted Brian  
23       to commit the crime? Absolutely.

24              To be a principal the defendant does not have to be  
25       present when the crime was committed. That's the law.

1       She is, in fact, a principal. And when you add it up,  
2       when you add the conspiracy for murder, and you have the  
3       murder that is actually committed, and you have a  
4       principal to that murder, that equals murder.

5               And in the end, when you evaluate all that evidence  
6       and you evaluate the corroborated testimony of Brian  
7       Winchester and what Denise Williams's involvement is in  
8       all of this, and you evaluate the recorded statement, the  
9       testimony of Dr. Mnookin, the testimony of all the people  
10      that corroborated, once again, Brian Winchester's  
11      statement; and when you take it all into account, I am  
12      confident that you will, in fact, find her guilty of  
13      conspiracy to commit murder, first-degree murder and  
14      accessory after the fact. Thank you.

15             THE COURT: Why don't we take 15 minutes. Let the  
16      jury step out.

17             (Jury exits.)

18             (A recess was had.)

19             THE COURT: Let's have the jury, please.

20             (Jury enters the courtroom.)

21             THE COURT: All right. Everybody be seated, please.

22             Mr. Way, you may proceed.

23             MR. WAY: Thank you, Your Honor.

24             Good morning, ladies and gentlemen.

25             THE PANEL: Good morning.

1           MR. WAY: I talked to you directly one time before  
2 on Monday. This is going to be my last chance to talk  
3 with you. You may note that I will probably try to slow  
4 down a little bit. Because I have been instructed by the  
5 court reporter that I was speaking at 330 words a minute  
6 yesterday, which was about a hundred over what she's  
7 rated for. So I need to try to pace myself a little bit.  
8 So if it sounds like I'm slowing down on purpose, I'm  
9 trying to help the court reporter out today.

10           Mr. Padovano and I and my team thank you for your  
11 careful attention to this case. No one thanks you more  
12 for your attention to this case than Denise Williams.

13           I'm going to talk to you in my closing argument  
14 about five distinct areas. I can't do Power Point  
15 presentations. I will probably, at some point, try to  
16 put something here and it will be upside down and you  
17 won't be able to read it. So I'm going to try to talk to  
18 you and I'm going to trust in your memories and in your  
19 note taking, and in what you've heard over the last three  
20 days of evidence. But, also, what you have not heard  
21 over the last three days in evidence.

22           The first thing I want to start with is just to  
23 remind you of something you already know. Something that  
24 you would recognize based on the instructions that Judge  
25 Hankinson has provided. This is not -- this is not a

1 case about feeling sorry for anyone. This is not a case  
2 about trying to get, quote, Justice for Mike. This is  
3 not a case about concerts. This is not a case about  
4 suspicions. It's not a case about guesses. It's not a  
5 case about trips. It's not a guess [sic] about pictures.  
6 It's not a guess about how you feel about Denise  
7 williams. It's not a case about how you feel about  
8 Cheryl williams.

9 It's not a case about how people mourn. It's not a  
10 case about how people grieve. It is not a case about  
11 whether people smile. It is not a case about whether  
12 people sit there and stare. This is a murder case.

13 I believe it would be helpful for you to consider  
14 the following: when evaluating all of the evidence or the  
15 lack of evidence that has been produced by the State of  
16 Florida in this case, please try for a moment, as an  
17 exercise, to remove from what you've heard any taint of  
18 Brian winchester. Take the evidence that has been  
19 presented to you and take Brian winchester out of it.

20 If you take Brian winchester out of the things that  
21 have been shown to you, you have nothing. That has been  
22 confirmed, ladies and gentlemen, by the Florida  
23 Department of Law Enforcement agents. You recall Agent  
24 Devaney on Tuesday testified that there is no  
25 corroborating evidence. There was no physical evidence.

1       There is no tangible evidence that implicates Denise  
2       Williams in the murder of Mike Williams.

3               That this case began and was investigated over  
4       numerous years by numerous agencies. Let's talk about  
5       the agencies and the timing. Because this is a long  
6       time. Mike Williams was murdered by Brian Winchester at  
7       the end of the Clinton Administration.

8               Into the early part of the Bush Administration in  
9       2002, the evidence shows that law enforcement had already  
10      sent an inquiry to Kansas City Life. It's 2002. There's  
11      a followup in 2004 to the same insurance company. Which,  
12      by the way, paid the premium -- paid the policy.  
13      Because, ladies and gentlemen of the jury, that's what  
14      life insurance does. Life insurance pays out. You heard  
15      that representative of Kansas City Life testify that they  
16      did their investigation. They paid the policy.

17              The insurance, I want to call it a red herring. And  
18      Mr. Fuchs has a picture of the insurance with some  
19      red stuff on what looks like money. It's not even a red  
20      herring. It's not even really anything.

21              Mike Williams was insured. Mike Williams passed  
22      away. The insurance paid out. One thing the State  
23      didn't tell you in their model or in their movie, so to  
24      speak, is, based on what Investigator Sparkman said --  
25      the one thing we know, of course, is that the Government

1 always thinks it's the spouse. But the State said,  
2 follow the money. well, ladies and gentlemen of the  
3 jury, where did that -- where did they follow the money  
4 to? Did they present any evidence to you where the money  
5 went? Where the money is now. How the money was spent.  
6 No, they didn't. Because it's a throw-away line. It's a  
7 throw away. The policy is a throw away. And I'm going  
8 to tell you why that is.

9 But true law enforcement does follow the money. But  
10 in this case, they didn't. They didn't have to. And  
11 I'll tell you why a little bit later. But it is clear  
12 that the spouse is always the suspect.

13 But going back, if you take out Brian Winchester,  
14 what do you have? You have a couple of concert tickets  
15 to some marginal bands. Maybe they were in '98. Maybe  
16 they were in 2000. Maybe they were in 2001. You have  
17 some tickets.

18 You have testimony that in 1998 Angela Stafford went  
19 out with Brian Winchester after Denise's baby shower.  
20 And the next morning Denise Williams gave her a dirty  
21 look. Maybe she gave her a dirty look because Brian  
22 Winchester was married to Cathy Winchester at the time.  
23 Maybe, being best friends, Denise Williams took a dim  
24 view of Brian Winchester going out with another woman.  
25 It doesn't corroborate anything. Two people went out in

1           1998.

2           You have testimony of a truck parked at a church.  
3           But without Brian Winchester, what is that? That wasn't  
4           Denise Williams' truck. It was Brian's truck. And we  
5           already know, in 1999, that's after Brian had already  
6           started fooling around with Ms. Stafford, we heard that  
7           testimony from her own mouth. And we also heard the  
8           testimony of, where did Ms. Stafford stay sometimes when  
9           she was in town? Sometimes she stayed with  
10          Ms. Winchester and Mr. Winchester [sic] at Centennial  
11          Oaks.

12          So there was a car there. That doesn't prove  
13          anything. It's just another piece of something. Then we  
14          have some suspicions and we have some guesses. But  
15          without Brian Winchester, none of that amounts to  
16          anything.

17          And we know from the evidence and from the testimony  
18          by law enforcement, ladies and gentlemen of the jury, it  
19          did not amount to anything. It did not amount to an  
20          arrest. All of the things that have been presented to  
21          you by the State Attorney to suggest corroboration,  
22          standing on their own, do not prove anything. They never  
23          have. They never did. And they never will.

24          All of these pictures that you may see of boat  
25          landings and of duck waders, and of all of these other

1 things have that always existed, since 2000, do not  
2 independently prove anything about Denise Williams. You  
3 take Brian Winchester away, there is nothing about any of  
4 this evidence or any of this testimony that supports any  
5 of the three charges against Denise Williams.

6 Now, the Judge has given you a copy of the  
7 instructions. And you've listened to the Judge and  
8 you've read through the instructions. And I suspect,  
9 ladies and gentlemen of the jury, that when you retire to  
10 deliberate, you will look back through the instructions.

11 And I'm obligated to just point a few things out  
12 about the instructions. You have to prove that all of  
13 the elements -- or you have to show that all of the  
14 element have been proven. Mr. Fuchs went in reverse in  
15 his presentation and talked about accessory after the  
16 fact. You have to look at that. You have to look at  
17 what evidence there is that suggests that.

18 Now, in a minute when I talk about Brian Winchester  
19 I'm going to talk about that evidence -- accessory after  
20 the fact, because Mr. Fuchs says it is a phone call from  
21 Cathy Thomas, that communication that is the evidence of  
22 the accessory.

23 To be clear, before we get into Brian Winchester,  
24 there is nothing before he gets involved in this case and  
25 in this picture that substantiates any allegations

1       against Denise Williams and doesn't do anything other  
2       than suspicions. Without Brian Winchester, I would sit  
3       down, you would go back, you would come back, it would be  
4       not guilty. There would be no reason to be here. It  
5       would stop.

6               Mike Williams was killed December 16, 2000. Law  
7       enforcement got involved. Law enforcement tried things.  
8       Law enforcement couldn't find anything. Nothing  
9       happened.

10              August 5, 2016, over 15 years later, Denise Williams  
11       was going through the divorce. A divorce. Did not  
12       appear to have any philosophical, religious or moral  
13       objections to divorce against Mr. Winchester. In fact,  
14       the testimony suggests that she had been separated from  
15       him since 2012 and had actually filed for divorce in  
16       2015. No divorce problem there. No divorce problem at  
17       all.

18              It was a bad marriage. Brian Winchester was a bad  
19       husband. Mr. Winchester was a controlling husband. He  
20       was a controlling man. And he did not like to be told  
21       no. He was the type of man who did not like to have  
22       someone tell him what to do. Because what was he? He  
23       was a financial planner. He sold insurance. He planned  
24       and he sold. He planned and he sold. And on August 5,  
25       2016, he would have you believe that he simply wanted to

1 go and talk to Denise.

2 Now, this testimony from Dr. Mnookin, ladies and  
3 gentlemen, shows absolutely nothing. Because you would  
4 have to believe the underlying statements that Brian  
5 Winchester gave to Dr. Mnookin. Dr. Mnookin's testimony  
6 is not evidence of anything. It's tainted, like  
7 everything else is, by the touch of Brian Winchester.

8 And you heard Dr. Mnookin say to himself, and you  
9 can recall your own memory and your own notes, that  
10 Dr. Mnookin thought it was a pretty bad idea if you're  
11 going to want to go talk to someone, to shove a gun in  
12 their ribs.

13 But on August 6th [sic], 2016, Brian Winchester went  
14 to Denise Williams' home at between 2:00 and 3:00 a.m.  
15 because, as he testified, that's when it's darkest. He  
16 brought a gun, a backpack. He says a blanket, agent  
17 Devaney says a tarp. He crawled into the back of her SUV  
18 and he sat there and he waited for hours. Periodically  
19 he would take a spray bottle of water and made sure he  
20 sprayed the window so she wasn't going to be able to see  
21 him when she went to her car.

22 Brian Winchester, at approximately 7:00 a.m., as  
23 Denise Williams was coming out of her home on her way to  
24 work, crawled over two rows of seats, scared her, put a  
25 gun to her ribs and he kidnapped her. He kidnapped her

1 with a firearm.

2 He did not crawl over with a couple of concert  
3 tickets and ask her if she wanted to go see Sister Hazel.  
4 He kidnapped her at gunpoint. It is never disputed that  
5 he did the crime because, ladies and gentlemen, he pled  
6 to it. He admitted he did it.

7 So he takes her at gunpoint to do God knows what  
8 with a gun, with a tarp, with a sheet, with bottles.  
9 what was he going to do with her? what was he going to  
10 do to her? But she talks him down. She calms him down  
11 enough to get him to let her go. This man who supposedly  
12 knows the deepest, darkest, most heinous secret, that  
13 Denise Williams plotted and planned for the murder of  
14 Mike Williams.

15 That's what the State has to have you believe,  
16 ladies and gentlemen. You have to believe that on August  
17 5, 2016 she knew -- she knew she had planned, she had  
18 been an accessory. You have to believe that.

19 And if it's true, ladies and gentlemen of the jury,  
20 why does Denise Williams go to the police? The man with  
21 a secret that could lock her up, she goes to the police.  
22 She turns him in. Because he kidnapped her at gunpoint.

23 A reasonable belief that if she ever had any  
24 suspicion that Brian Winchester had killed Mike, she  
25 would have taken him to the police for that. But she

1 goes to the police and she has the man who supposedly has  
2 this great, deep, dark secret against her, and she goes  
3 to tell the police what he did.

4 Now, at this point, while she's at the Leon County  
5 Sheriff's Office giving her report, telling them what  
6 happened, telling them about the gun, about the tarp,  
7 about the blanket, about the threat, about being  
8 kidnapped. While she is there telling law enforcement  
9 about how she has been victimized, in comes Agent  
10 Devaney, FDLE.

11 FDLE, working a case forever, hadn't gotten  
12 anywhere. Didn't have anything. Boy, they had some  
13 suspicions. Why do they have suspicions? Because it's  
14 always the spouse. Doesn't take any rocket science or  
15 CSI or five hours of Law and Order. It's always the  
16 spouse.

17 So he decides he's going to come in and he's going  
18 to confront Denise Williams. He's going to confront her  
19 while she is in the sheriff's office preparing reports  
20 and giving evidence related to being kidnapped by Brian  
21 Winchester.

22 And Agent Devaney is mean to her. He just doesn't  
23 treat her well. She's there talking about being  
24 kidnapped, he wants to talk about her dead husband. And  
25 that's what he wants to do. He just wants to pester her

1           and needle her.

2           Denise Williams didn't have a hard time talking to  
3           law enforcement, ladies and gentlemen, because she went  
4           to them. She drove to the sheriff's office. Now, if a  
5           woman doesn't want to talk to law enforcement, ladies and  
6           gentlemen of the jury, driving to their office is a bad  
7           sign and a bad way to go about it. And, remember, she  
8           never had a hard time talking to Sergeant Wooten. She's  
9           willing to talk to these people, even though, supposedly,  
10          Brian Winchester has this the deep, dark secret over her  
11          because they planned it together.

12          So into jail Brian Winchester goes. August 5th of  
13          2016 was Brian Winchester's last day as a free man. Or  
14          was it? August 5, 2016, Brian Winchester's last day as a  
15          free man. Or was it?

16          The testimony is uncontroverted that he was looking  
17          at life in prison. He was facing felony charges. He  
18          happened to have the misfortune, or luck, depending on  
19          how one looks at it, to have his case assigned to a  
20          division presided over by Hangman Hankinson. Looking at  
21          life in prison and the judge's colloquial nickname is  
22          Hangman.

23          Oh, young Mr. Winchester, he's got some issues.  
24          He's got some issues. He's not a free man. He's in  
25          jail. Denise Williams doesn't want him out of jail.

1       She's scared of him. She's terrified of him. He  
2       kidnapped her at gunpoint. Threatened her.

3               Young Mr. Winchester now is in jail. He doesn't  
4       like being there. And as he testified to -- and it's  
5       interesting because when he testified on Tuesday there  
6       were a lot more tears, tighter performance. Wednesday,  
7       nah, not so much tears. But he figured out he needed to  
8       use the word we a lot more on Wednesday. Didn't get so  
9       much we on Tuesday. Got a lot of we on Wednesday.  
10      You've got to work to your audience a little bit, is  
11      Mr. Winchester's presumption.

12             But what we know is Mr. Winchester is a murderer and  
13      a liar. And he's in jail. He doesn't like being in jail  
14      and he doesn't want to go to prison. From his own lips,  
15      I don't want to go to prison.

16             So what does Mr. Winchester decide to do? Well,  
17      what do we know about Mr. Winchester up to this point?  
18      He's a planner. He's a salesman. There's one other  
19      thing about Mr. Winchester that's relevant at this point,  
20      he's already planted evidence before. Don't forget the  
21      hat. Remember the hat?

22             Brian Winchester is out on Lake Seminole riding  
23      around with his dad. Lying to everybody about what  
24      happened. Lying about what he knew. Lying about what he  
25      did. That didn't stop him from planting evidence. He

1 put a hat out there. He planted evidence.

2 So we've got a man who plans. We've got a man who  
3 sells and we've got a man who doesn't have a problem  
4 planting physical evidence. So when you have those three  
5 skill sets, ladies and gentlemen of the jury, and your  
6 judge is Hangman Hankinson, and you're looking at life in  
7 prison, what do you do?

8 Let's start with some obstruction of justice. Let's  
9 go ahead and see if Wade Wilson can help me get some  
10 evidence out there that's going to discredit Denise.  
11 Let's get Wade Wilson. And when I say Wade Wilson, I'm  
12 not talking about Deadpool. I'm talking about a guy who  
13 told Brian Winchester that he was a hitman and was a  
14 convicted felon. That he knew how to do this.

15 Brian Winchester, that's -- that's his people.  
16 That's the people he must have an affinity for. So he  
17 decides he is going to try to get Wade Wilson to help him  
18 out with some witness tampering. Some obstruction of  
19 justice.

20 Wade Wilson is not -- not the only one. He's going  
21 to throw in Kimberly Adams. And these are all things  
22 that, in between tears and in between performance,  
23 Mr. Winchester tells you. Yeah, you know, going to get  
24 Kimberly Adams involved. And just to maybe round out my  
25 witness-tampering-obstruction-of-justice plan, I'm going

1 to throw my sister in on it. My only sister. I'm going  
2 to try to get my only sister to tamper with witnesses and  
3 to obstruct justice.

4 You don't have to have any black -- you don't have  
5 to have any more desire to pervert justice than to try to  
6 get your own sister drawn into witness tampering. But  
7 that's what he did.

8 He was in jail from August 5, 2016 and he was in  
9 jail in 2017. And all along he had never had a  
10 confession. He had never had any epiphany. He had never  
11 gone to law enforcement to say, oh, by the way, I killed  
12 Mike Williams and I want to be forgiven. I want to be  
13 redeemed.

14 Brian Winchester knew, just like every other person  
15 that testified, that the Mike Williams' disappearance was  
16 a big story. It was big news. People felt sympathy.  
17 People felt anger. People felt concern. It had  
18 high-value information.

19 So in the summer of 2017, after spending a year in  
20 jail and recognizing that his obstruction of justice and  
21 witness tampering plans were not going to work --  
22 because, as Mr. Winchester said, lying only makes it  
23 worse. Probably a really late time in life to come up  
24 with that idea. But he said, well, lying made it worse.  
25 or did it?

1           I have tried witness tampering, sitting in jail. I  
2           got nothing else to do. And I'm a planner, I'm a  
3           salesman and I'll obstruct justice. So what do I have to  
4           do? I will come up with -- not a life insurance policy,  
5           I am going to come up with a Brian Life Policy.

6           I am going to come up with a way to not only get out  
7           of the serious, serious trouble I'm in, the life felony  
8           that I'm looking at with Judge Hankinson. I'm going to  
9           give the State something so good they're going to give me  
10          a free pass to murder. They're going to let me get away  
11          with it. And as icing on the cake, I get revenge on  
12          Denise Williams for turning me in to the police on August  
13          5, 2016.

14          So what does Mr. Winchester, the salesman, planner,  
15          the liar, the murderer, what does he come up with -- of  
16          course I told you I'd put it upside down -- comes up with  
17          Defense Exhibit 1. Interestingly, ladies and gentlemen  
18          of the jury, you didn't hear about this in the State's  
19          opening. And you also didn't hear about it in their  
20          first closing argument.

21          You will get an opportunity to read this when you go  
22          back. It is a three-page contract. It's styled A  
23          Proffer of Brian Winchester, as you can see. It is not  
24          the Brian Winchester Life Policy. That probably would  
25          have been a little too obvious. But this three-page

1 document was entered into by the Office of the State  
2 Attorney and Mr. Winchester and Mr. Winchester's lawyers.  
3 And what does it do, ladies and gentlemen? We, the State  
4 of Florida, will give you use and derivative immunity for  
5 anything you tell us.

6 Now, what do we know about October of 2017? We know  
7 that up until then law enforcement has no independent  
8 evidence of the murder of Mike Williams. They have  
9 nothing. No one has been arrested. No one has been  
10 charged. They have a few little suspicions. They have a  
11 few little things that look funny.

12 They look at, well, she married him, she must know  
13 something. They want you to believe that's got something  
14 to do with something. That she married a guy that she's  
15 known since she was three. She didn't know he was a  
16 murderer. Did find out, ultimately, that he was a bad  
17 husband. Ms. Thomas knew that. I think Ms. Stafford  
18 knows that. I mean, everybody knows he's a bad husband.  
19 But up until October of 2017 there's no evidence.  
20 Nothing's going to happen on this case.

21 So Mr. Winchester sells the Brian Winchester Life  
22 Policy to the State Attorney's Office. And what does he  
23 get? He gets never arrested for Mike Williams' murder.  
24 He gets never charged with Mike Williams' murder. He  
25 gets never had to come into a court and account for a

1 murder. He will never get sentenced for that murder. He  
2 will never do time for that murder. He will never do  
3 probation for that murder. He will never pay a fine for  
4 that murder. He will never have to write a letter of  
5 apology for that murder. Nothing.

6 But he was a better salesman, because he added some  
7 more. The State agrees they're going to seek no more  
8 than 45 years in prison, as a cap. The State agrees that  
9 they will not tell Judge Hankinson about the witness  
10 tampering. Because it would be fair comment on the  
11 evidence to suggest that Judge Hankinson would not take  
12 kindly to that.

13 He got everything he could ever hope for for  
14 himself. And all he had to do was tell a little story  
15 and take them to where he had buried Mike. Because, of  
16 course, he knew where he buried Mike.

17 Because what we know is that he took Mike Williams  
18 to a place they had hunted before. A place they knew.  
19 Took his best friend. Talked to him every day. Known  
20 him since high school. Kids were about the same age.  
21 Starts a plan. Early morning when it's dark -- sounds a  
22 lot like what he was going to do to Denise Williams. Of  
23 course, he hadn't perfected his murder, disposing of  
24 bodies tarp plan in 2000.

25 But he took -- he went with his best friend to Lake

1 Seminole. Put him in a boat, and he threw him out of the  
2 boat.

3 Now, this thing about waders, ladies and gentlemen  
4 of the jury, has nothing to do with anything. Because  
5 Brian winchester and Mike williams hunted together. They  
6 knew each other for years. There was no reason to  
7 believe that Brian winchester would not have known that  
8 Mike williams had had that wader training.

9 He knew how to get out of waders. There's no reason  
10 to suspect that Mike williams ever didn't tell Brian,  
11 hey, listen, I don't know how to get out of waders. Of  
12 course you do. You did it in the guy's backyard. You  
13 knew how to do it. That's what hunters tell each other.  
14 You know, hey, I know how to do it.

15 It's called drown proofing. People do it to their  
16 kids. Put them in waders, throw them in the water. How  
17 to get out. When you're a hunter, you learn these  
18 things. You know how to do these things. You teach your  
19 children how to do it. I teach my children how to do it.

20 But what does he do? He gets Mike in the water. He  
21 starts circling around him in his own boat, through the  
22 stump field. And in the cold water, the dark water, the  
23 black water, Mike makes it to a stump. And he's yelling.  
24 He's yelling at Brian winchester. And Brian is circling  
25 him. Circling him in Mike's own boat. He's circling

1           him.

2                   And he gets up close to him. He pumps his shotgun.  
3           Mike's yelling. He's bringing the boat. He gets up to  
4           three feet and he shoots him in the face. Looked him in  
5           the eyes, probably one last time, before he took away the  
6           front of his head. Three feet.

7                   Circles around again. Reaches down in the water  
8           with his wet left hand. Goes all the way down, pulls the  
9           body. Drives over. Leaves the body on shore. Backs his  
10          truck up. He takes the lifeless, faceless body of his  
11          best friend and he shoves the head into a dog crate.  
12          Into a dog crate. And he speeds back to Tallahassee.

13                  Says he gets in bed with his wife. Interestingly,  
14          his wife never testified about remembering that. She  
15          said, I saw him around three o'clock at the family  
16          function. Drives around, says he sees Mike Phillips at  
17          Wal-Mart. Mike Phillips didn't see him at Wal-Mart. But  
18          he did get a tarp and he got a tool. And he went out, he  
19          dug a shallow grave. Pulled his best friend out of the  
20          dog crate, rolled him up, put him in a tarp, put him in a  
21          hole. That's what he did.

22                  Now, he says -- you know, when I ask him questions  
23          he says, we did it. I asked him if Denise Williams was  
24          with him on that cold morning in December of 2000. He  
25          says, She was in my head. There's no telling what else

1        was in Mike -- Brian Winchester's head. What voices he  
2        was hearing. He said, She was in my head.

3                So he's got the story. Because, of course, he knows  
4        the details because he killed Mike. He knows the  
5        details. That, ladies and gentlemen, is not  
6        corroboration. That's called a confession. If I tell  
7        you where I buried the body, I am not corroborating  
8        another fact. I am confessing to you what I have done.

9                And he told whoever would listen, this is where the  
10       body is. Let's go dig it up. Let's have a field trip.  
11       Because I'm good. I can feel relieved because I have the  
12       Brian Winchester Life Policy. It does not matter how bad  
13       this looks. It does not matter how bad it sounds. I am  
14       going free on the murder. Scot-free.

15               So a couple of months pass. Mr. Winchester is  
16       brought before the Court. He enters a plea. Judge  
17       Hankinson, who, by the terms of this agreement, is not  
18       aware of the Wade Wilson case. Read it carefully.  
19       Mr. Winchester and the State agreed not to tell the Judge  
20       about the witness tampering.

21               It's extremely unclear that the Judge would have  
22       even known that that agreement existed. Because they  
23       entered an open plea, the Judge considered only the  
24       kidnapping, only the armed assault. That was all that  
25       they told Judge Hankinson about.

1           So Judge Hankinson sentenced Brian Winchester to 20  
2 years in prison. Twenty years. He hemmed and hawed a  
3 little bit about how much of that time he'll actually  
4 serve. But it's no more than 20 years from that date he  
5 got arrested in August of 2016.

6           So the longest -- from the testimony -- that Brian  
7 Winchester is going to be locked up is until 2036. And  
8 it's only for kidnapping Denise. It's only for sticking  
9 a gun in her ribs. It is not for shooting his best  
10 friend in the face with a 12-gauge shotgun.

11           And so now the State has the Brian Winchester Life  
12 Policy. And they've got -- well, we found the body. But  
13 we're prosecutors and so we're kind of in the  
14 somebody's-got-to-pay business. Brian Winchester is over  
15 there saying, hey, Denise helped me. Hey, why not?  
16 Denise did it.

17           Because what do we know about Brian Winchester?  
18 He's a liar and he's a murderer. I mean, he lied  
19 about -- you know, from the beginning of this case. He  
20 lied to his father. He lies to all these women over the  
21 years. He lies about -- he just lies. He's a murderer  
22 and a liar. But he's also a salesman and a planner. And  
23 he -- the fifth thing, he likes to obstruct justice.

24           So now he's got these FDLE guys all on the hook.  
25 They are racked in on the Brian Winchester Life Policy.

1        So what does law enforcement do? well, let's set up some  
2        things where we're going to lie to her. Yeah, that's a  
3        good idea. Let's do some lying. We're FDLE. As if they  
4        take a page out of the Brian Winchester playbook. Let's  
5        not be truthful. Let's tape this phone call.

6                This so-called phone call, ladies and gentlemen,  
7        please listen to it. Don't listen to the edited parts.  
8        Look at your notes. That phrase, I'm going to tell --  
9        tell Marcus to tell Brian I'm not going to talk. That's  
10       not in that audio. What it is is, it's Cathy Thomas, who  
11       has been scripted by the Florida Department of Law  
12       Enforcement. Who is putting on a semi-Oscar-worthy  
13       performance with the snot and sniffing talking about her  
14       marriage. She's the one that's bringing that up.

15               There is no recording, e-mail, text message, any  
16       kind of evidence that suggests Denise Williams ever said,  
17       tell Brian to tell Marcus or whoever. And if she did  
18       make that statement, she would have made that statement,  
19       according to the State, some time in 2016. But all of  
20       these recordings that Ms. Thomas is doing, they're in  
21       2018.

22               Ladies and gentlemen of the jury, I don't mean to  
23       particularly harp on Ms. Thomas, but one of the  
24       instructions is, you can look to how a witness answered  
25       questions. If you think back on how Ms. Thomas was on

1       answering questions and time, and how things happened,  
2       and what order they happened in, she's confused and she  
3       doesn't really know exactly what that was about.

4               what she does know is Denise Williams told her, I  
5       don't want to talk to Mr. Devaney, because I don't like  
6       him. Mr. Devaney is a jerk. That's what she told her.  
7       And she and Ms. Thomas talked every day by phone or by  
8       text.

9               Ms. Williams didn't have a hard time talking to Leon  
10      County Sheriff's Office when Brian Winchester shoved a  
11      gun in her. It's something that kind of looks good. But  
12      it's got to work with the Brian Winchester Life Policy.  
13      Because somebody has to pay.

14              That's what the State needs you to do. They need  
15      you to come out and give them cover for not thinking  
16      about how bad this policy was going to be for them. They  
17      gave a free pass to a murderer and they got nothing else.

18              So, ladies and gentlemen of the jury, it's always  
19      the wife. Follow the money. Do the easiest thing you  
20      can do. Just throw it up there and hope something  
21      sticks. Let's help Brian get that revenge he needs.  
22      Let's go after Denise. Because that's the story  
23      everybody wants to hear. That's the easy story.

24              When Mr. Fuchs was talking to you and he was  
25      pointing to things, and he would say, you know, the

1 evidence corroborates, the evidence does this, the  
2 evidence does that. Ladies and gentlemen of the jury,  
3 hindsight is 20/20. If you know what lie you're trying  
4 to spin, you can look back in your catalog of memories  
5 and try to find things that maybe work with the lie or  
6 the story you're making up. If you know what the story  
7 needs to be in 2017, you can give the person who's  
8 listening the facts you think that help support it.

9 In the span of 21 years, ladies and gentlemen of the  
10 jury, without Brian Winchester -- without Brian  
11 Winchester, they have come up with this.

12 It is not your place, ladies and gentlemen of the  
13 jury, to feel sorry for anyone. Certainly not your place  
14 to feel sorry for the State Attorney's Office for the  
15 horrible decision they made to give the murderer a free  
16 pass. But you certainly don't have to try to help them  
17 undo that horrible decision.

18 This case is only about Brian Winchester. It is  
19 only about him killing Mike Williams. It is only about  
20 him doing the most heinous thing that can be done to  
21 another human being. He took his life. He took away  
22 Denise's husband. He took away Anslee's father. He took  
23 away Cheryl's son. He took away Nick's brother. He took  
24 away all of the friends and family. Brian Winchester did  
25 that. Not Denise Williams.

1           There is no evidence that supports any of the  
2           allegations against my client. Not accessory. Not  
3           principal. Not conspiracy.

4           I want to leave you with the final thought that I  
5           maybe touched on earlier, that when Brian Winchester was  
6           asked all these questions and I was standing there. And  
7           I was talking faster than I probably am now -- although I  
8           sense from the court reporter that I'm probably about 300  
9           words a minute right now. Okay. Maybe a little under.

10          But as I was standing there and I was asking him  
11          questions, you remember that at every gratuitous  
12          opportunity he would say we, we, we. His scripted moment  
13          he would say we. Because he could think that maybe,  
14          maybe that fat, fuzzy lawyer is going to get up there in  
15          that little snarky tone he takes. He's going to poke at  
16          me, so I need to be prepared for that. Because what am  
17          I? I'm a planner and a salesman and a murderer and a  
18          liar and an obstrucuter of justice. But when that lawyer  
19          comes at me, I'm going to say we. I'm going to show him.  
20          And I'm going to show the jury that it's we.

21          He was waiting for those questions. You can tell.  
22          Think back. Go through your memory. Go through your  
23          notes. Think about all the times you heard the word we.

24          But then at the end I asked the two questions that  
25          every defense lawyer on the planet would hope to ask and

1        never expect an answer. Mr. Winchester, you are a  
2        murderer? Yes, I -- I am.

3                The next question, the one that every lawyer dreams  
4        of to ask a witness in a trial. Mr. Winchester, you are  
5        a liar? Yes, I am. There is no we, ladies and gentlemen  
6        of the jury. There is only the I that is him. That is  
7        Brian Winchester. who viciously murdered his best  
8        friend, dragged his body back to town in a dog crate,  
9        buried him in a shallow grave.

10               To make this work for Brian Winchester, it doesn't  
11        really matter anymore. He's gotten all the benefit he's  
12        ever going to get out of that agreement, that deal, that  
13        Brian Winchester Policy. But, see, the State's left with  
14        it now. They bought the policy. They bought it. They  
15        agreed to it.

16               You don't have to. You don't have to buy a single  
17        thing that he sold them. You don't have to believe it.  
18        You don't have to do it. Because, ladies and gentlemen  
19        of the jury, you took three oaths to tell the truth. It  
20        got you to where you are sitting here today. And I'm  
21        going to respectfully hold you to those oaths. And  
22        Denise Williams is going to hold you to those oaths.

23               You're going to look at those instructions and  
24        you're going to see it. And you're going to look through  
25        it and you're going to look at that evidence. And you're

1 not going to feel sorry for the State. You're not going  
2 to feel the need to somehow give them a conviction so  
3 they get something out of this. That's not justice.

4 And these instructions will contain a phrase,  
5 miscarriage of justice. We are counting on you to return  
6 a verdict that speaks the truth and that verdict is not  
7 guilty. To fail to follow the instructions is a  
8 miscarriage of justice. We believe you will not do that.

9 We do know, however, ladies and gentlemen of the  
10 jury, Brian Winchester will obstruct justice.

11 Denise Williams is not guilty.

12 THE COURT: Let's stand up for just a minute, if we  
13 would. Everybody okay? We're going to go into  
14 Mr. Fuchs' argument.

15 MR. FUCHS: Your Honor, before I go --

16 THE COURT: Anybody need --

17 MR. FUCHS: I'm sorry. Before I go into argument, I  
18 also need a sidebar too.

19 THE COURT: Okay. Anybody need to take a break?

20 (No audible response.)

21 THE COURT: Okay. We're good.

22 All right. We'll go sidebar.

23 (Sidebar had as follows):

24 MR. FUCHS: Your Honor, yesterday there was a motion  
25 in limine regarding statements having to do with whether

1 she cooperates or does not cooperate with law  
2 enforcement. Mr. Way argued that extensively. And I'd  
3 argue that it opened the door for me to talk about the  
4 fact that the change of circumstances, her contacting law  
5 enforcement -- she didn't respond to calls from Will  
6 Mickler and the other items that we talked about  
7 previously.

8 THE COURT: Mr. Way?

9 MR. WAY: I don't have a position.

10 THE COURT: I agree. He said several things that  
11 opened the door. But, still, you need to do it  
12 carefully.

13 MR. FUCHS: Yes, sir.

14 THE COURT: Because it can -- if in-artfully stated,  
15 could become a comment on her right to remain silent.

16 MR. FUCHS: Yes, sir.

17 (Sidebar concluded.)

18 MR. FUCHS: Yes, I have a Power Point. It's how I  
19 keep my notes.

20 Mr. Way said, let's take Brian out of the equation.  
21 Without Brian there's nothing. Brian's a liar. Brian's  
22 a murderer. Yeah, he is.

23 But let's start off by taking Brian out of the  
24 equation and let's go to that recording. Previously,  
25 I've already played to you -- you've heard the entire

1 recording. It's 23 minutes. So I've taken snippets out  
2 so you don't have to sit here for the full 23 minutes.  
3 But there's more to that recording than just the one  
4 statement.

5 And when you listen to this next one that we have  
6 here, I want you to look at this through this  
7 perspective. On the cross-examination of Cheryl  
8 Williams, and they were talking about Anslee,  
9 Mr. Padovano asked Ms. Cheryl Williams, If she was  
10 innocent and accused of murdering Mike -- talking about  
11 Denise -- you would expect her to react in anger,  
12 wouldn't you? Yes.

13 In that recording she accuses -- Cathy accuses  
14 Denise Williams of planning and plotting and her  
15 involvement in the murder.

16 (Audio playing)

17 MS. THOMAS: Brian told me that y'all planned it.

18 MS. WILLIAMS: Planned what? Oh, my gosh.

19 MS. THOMAS: And Marcus showed up at the shop later  
20 that afternoon.

21 MS. WILLIAMS: Uh-huh.

22 MS. THOMAS: You know, telling me how I would have  
23 to take this to my grave.

24 MS. WILLIAMS: Wait. Wait. So --

25 MS. THOMAS: That it would ruin (inaudible) life.

1           It would ruin -- you know, apparently, Brian told Marcus  
2           that he had talked to me. And he went on to just tell  
3           me -- Marcus went on to tell me how my life would be  
4           ruined. How I would never be able to start over if  
5           Stafford's life was ruined. If --

6           MS. WILLIAMS: So Marcus knew? When you said Brian  
7           said y'all, you're talking about me and Brian, or Marcus,  
8           or who?

9           MS. THOMAS: You and Brian.

10          MS. WILLIAMS: And that Marcus is involved? I mean,  
11          obviously, if he came and talked to you.

12          MS. THOMAS: well, there's just a whole, you know,  
13          shut it down, shut down. So, you know, whenever --

14          MS. WILLIAMS: what in the world?

15          MS. THOMAS: I mean, it's -- it's -- it's --

16          MS. WILLIAMS: And then you got a letter from Chuck.  
17          My parents got a letter too. But you got a letter from  
18          Chuck and he's talking about it too, or no?

19          MS. THOMAS: Chuck told me what happened in Atlanta.

20          MS. WILLIAMS: In Atlanta. Okay. Yeah.

21          MS. THOMAS: So, here's the deal. Here is the deal.  
22          Hang on. Somebody's texting me. Rex is not doing well.

23          MS. WILLIAMS: Aw. Yeah, you know, that's pretty  
24          major. Especially with Marcus involved.

25          (Audio stopped.)

1           MR. FUCHS: She is just accused of murdering her  
2           ex-husband by her friend and her concern is that Marcus  
3           was involved. That's her issue? Brian told me that  
4           y'all conspired, planned and killed Mike Williams. Wait,  
5           Marcus is involved?

6           This is the same person that cut off the grandmother  
7           from the granddaughter because she made accusations  
8           against her. In this recording she's concerned about  
9           Rex.

10          Just accused of murder and the only thing she wants  
11          to know is, Marcus was involved. Why? Because the pact  
12          that she had with Brian Winchester was that nobody else  
13          would know. Just them. And that's how they kept it a  
14          secret for that 17, 18 years. That's why she's concerned  
15          about maybe Marcus is involved. It's not the fact that,  
16          oh, by the way, I've been told that you killed your  
17          husband. Her concern is Marcus is involved.

18          I'm not going to play the whole thing, but she  
19          actually accuses her twice. Two times. It's not even  
20          what she says. It's what she doesn't say. In this  
21          recording she's just accused by one of her best friends  
22          of plotting to murder her husband, who was, in fact,  
23          murdered, and never says, oh, no, I didn't. What she  
24          says is, wait, Marcus is involved.

25          You go back -- and you'll have the opportunity,

1       because you have this entire recording to go back there.  
2       Again, I'm not going to sit up for 23 minutes and just  
3       play it again. But you have the ability to do so back in  
4       the jury room. Go back and listen to this recording. It  
5       lays out this entire case without Brian.

6               Accuses her of the homicide, we've already heard  
7       that part. Two times. Talks about the Chuck Bunker  
8       thing. And actually says -- and Denise admits to the  
9       fact that Chuck Bunker -- she was actually cheating on  
10      Brian by going with Chuck Bunker up there in Atlanta.

11             When she accuses a second time, she goes, why  
12      couldn't y'all have just gotten a divorce. She asked if  
13      Mike knew. And they talk about things like money. And  
14      Mike didn't find out about anything. That he didn't  
15      suspect anything. Didn't suspect the affair.

16             That recording goes beyond just the statement that  
17      implicates her for the accessory after the fact. That  
18      recording, without Brian, lays out the whole thing.  
19      Listen to it. Use that common sense. Use those skills,  
20      your education, your life skills that you use each and  
21      every single day, and listen to that recording and what  
22      is said and what is not said. And even if you take Brian  
23      out of it, it tells you the whole story that you need to  
24      return a verdict of guilty.

25             Mr. Way says this is not about justice for Mike.

1 This absolutely is about justice for Mike. This is about  
2 holding that person accountable for it in what her role  
3 is. That's what you are here to decide, what her role  
4 was in all of this. That is solely what you are here  
5 for.

6 He says, take Brian out of the equation. That guy  
7 is a bad, bad, bad man. He held up the proffer  
8 agreement. My signature is on that proffer agreement. I  
9 had to make a decision to solve a 17-year-old homicide  
10 case. Was it a good decision? I don't know. Time will  
11 tell. That is a cross that I must bear.

12 To sit here and listen to him describe how he killed  
13 his best friend while asking him the questions turns my  
14 stomach, just like it did everybody else. But he is a  
15 part of this case, like it or not. He is not going free.

16 Jason Newlin, the investigator for the State  
17 Attorney's Office that conducted the proffer agreement,  
18 told you what we were there for on the proffer agreement.  
19 The proffer agreement was to get closure for the family  
20 and to find Mike Williams. At no point was this proffer  
21 agreement about implicating Denise Williams.

22 We are here today because that's where the evidence  
23 took us. And it wasn't based upon -- solely upon Brian's  
24 testimony. It was based upon going back and looking at  
25 the things and finding the witnesses that we found

1 afterwards to corroborate not only his story, but also to  
2 get that recording that tells the picture. The totality  
3 of everything. And that's your job too, to sort through  
4 that as well.

5 Brian Winchester is not going free. He has 20 years  
6 in the Department of Corrections followed by 15 years of  
7 probation. While he's sitting there in the prison  
8 cell -- as he wakes up every day on that bed and stares  
9 at those bars -- at no point, I assure you, does he say,  
10 I'm glad I'm here on this and not that.

11 He is in prison. A prison cell looks the same  
12 whether you're there for murder or whether you're there  
13 for kidnapping. And he's got 15 years of probation. If  
14 at any point he violates that probation, gets in a fight  
15 at the prison, I assure you, we're coming after him.

16 But, also, let's take a look at that proffer  
17 agreement. You've got the entirety there, just like  
18 Mr. Way told you. If at any time he lies or purgers  
19 himself under oath about anything contained in any of his  
20 statements, the entire statement can be used against him  
21 and he can be prosecuted for murder.

22 Now, normally an immunity situation you think, well,  
23 maybe he's lying. Ladies and gentlemen, that man has  
24 absolutely every reason to tell you the truth. Because  
25 if he lies in any way, shape or form, that immunity

1 agreement gets shredded and he goes down for murder by  
2 his own confession.

3 On its face you say, wait a second, immunity thing.  
4 But when you look into it, that man has got the ultimate  
5 motive to make sure that he is telling you the truth.  
6 Yes, it's awful.

7 I don't in any way, shape or form think I'm Eliot  
8 Ness or the U.S. Government, but that's exactly what they  
9 did with Al Capone. They got him for tax evasion. Just  
10 like Brian Winchester, he was a murderer as well. They  
11 got him for what they could get him for. And that's why  
12 the immunity agreement exists.

13 And the only thing the immunity agreement says is I  
14 couldn't ask for life imprisonment. I asked for 45  
15 years. I got 20. If he violates, I'll get more.

16 This is about justice for Mike. And what her role  
17 was in all of this. Use your common sense, your  
18 experience, your education and life skills. Why send  
19 that message? Why send that message? Because she knew  
20 that she had went to law enforcement and she knew a very  
21 real possibility in this situation was that Brian was  
22 going to turn around and dime her out. And she wanted to  
23 make sure that she told him, hey, I want you to know I  
24 didn't say anything. Say anything about what? Tell  
25 Marcus to tell Brian I didn't say anything. Say anything

1           about what?

2                   She's sitting there talking to law enforcement. why  
3           send that message unless what Brian tells you is true,  
4           that there was an agreement that they would never talk to  
5           law enforcement together. It's the only thing that makes  
6           sense for that entire message. It's the only thing that  
7           makes sense.

8                   She wants to make sure -- she understands that he  
9           has the ability now to dime her out. And she wants him  
10          to make sure that he knows that she didn't do it, and,  
11          therefore, he shouldn't do it either and he should stick  
12          to the pact. Stick to the agreement that they had.

13                  It's the only logical reason for sending that  
14          particular message within the week of his arrest. Again,  
15          I'm not going to play it, but you don't have to take my  
16          word for it. We have it on the recording.

17                  If nothing else, nothing else, argument will say  
18          that she wasn't part of the conspiracy, wasn't part of  
19          the murder, and found out later on that Brian was  
20          involved and actually did commit the murder of Mike  
21          williams. That statement itself implicates her on the  
22          accessory after the fact.

23                  As I said, you apply everything else back in now  
24          that we take and know what Brian told us. Because he is  
25          a part of this. He does have incentive to tell you the

1 truth. And what he told you is corroborated by the  
2 witnesses.

3 But let's talk about this, what we know about Denise  
4 Williams. We know that over the years there at Ketcham  
5 Realty she would regularly call up, Brian -- I mean,  
6 Mike, come get me my gas in my car, bring me food. I'm  
7 going to go talk to Brian instead of you. A little  
8 controlling, maybe?

9 Use your common sense, experience, education and  
10 life skills. How do they not have a conversation like  
11 this -- on the day of their anniversary when they're  
12 going to Apalachicola, how is it that he doesn't ask her  
13 for permission to go? Is it all right if I go hunting  
14 Saturday morning before we go to Apalach? Sure. Who are  
15 you going hunting with? Brian. All right. What time  
16 you going to be back? What time are we leaving? Okay.  
17 That works.

18 So use your common sense. Use your skills,  
19 experience, life skills. This conversation occurs,  
20 what's the first thing she says to law enforcement, or  
21 anybody for that matter, when Brian doesn't -- when Mike  
22 doesn't come back from hunting? Call Brian, he's the one  
23 that was with him. That's the first thing you would do.

24 Law enforcement will go talk to Brian. Where were  
25 you? Maybe we would have uncovered all this back then.

1 I don't know. But your skills, your education, your life  
2 skills tells you, this is the way it would have gone  
3 down. Unless they have a plan and a pact to set up  
4 alibis and not dime each other out. And she's involved  
5 in the homicide. Because then the answer is; I don't  
6 know. He just went hunting and he didn't come back.

7 She's arrested by law enforcement -- I'm sorry. On  
8 the day she goes for the kidnapping -- excuse me. On the  
9 day she goes for the kidnapping Mike Devaney says,  
10 involved in any way, shape or form. At no point does she  
11 say, you know, there have been rumors for years about  
12 this thing, but I never wanted to believe it. I was in  
13 love with the guy. But maybe after what happened this  
14 morning, it's true.

15 Nope. What she tells Devaney is, no way he did it.  
16 I never would have married him if I thought he did. No  
17 way he did it. Part of the pact. Part of the agreement.

18 Mr. Way talked a little about law enforcement. How  
19 cooperative she was with law enforcement. Think back.  
20 How cooperative she was with Dr. Woot -- with Sergeant  
21 Wooten. Yeah. Until Sergeant Wooten says, Florida  
22 Department of Law Enforcement is involved. And what does  
23 she know about Florida Department of Law Enforcement?  
24 Mike Devaney came in and said, I'm investigating the  
25 murder of Mike Williams and Brian's involvement in that.

1 And what happened when Florida Department of Law  
2 Enforcement got involved? She stopped returning will  
3 Mickler's phone calls.

4 If Brian's lying to you, why, why are you  
5 threatening the grandmother to stop the investigation on  
6 two occasions? And you'll never see your granddaughter  
7 again. Brian didn't make that threat. She did. The day  
8 before her birthday. If you don't stop this  
9 investigation, you'll never see your granddaughter again.  
10 The day before her birthday. And she never did.

11 Ladies and gentlemen, that's not the actions of an  
12 innocent person. That's the actions of someone who was  
13 in a plan to commit a murder. A murder was occurred.  
14 And was afraid of an investigation and all the hubbub  
15 that Ms. Cheryl was making. She was afraid Cheryl would  
16 succeed. And she did.

17 Let's talk a little bit more. Go back to the money,  
18 the motive. Follow the money. Brian can't get it.  
19 She's the sole beneficiary. He can't get it.  
20 \$1.75 million isn't a motive for him because he doesn't  
21 get a dime of it. Only Denise can collect that money.

22 And what did she do? She wasted no time. Kansas  
23 City Life, \$1 million policy, \$250,000, \$1.25 million  
24 submitted for, her signature. Look at the date, January  
25 4th of 2001.

1           Ladies and gentlemen, the search didn't even end  
2           until February. Brian's friends, family, law enforcement  
3           are on the lake looking for him. Extensive search all  
4           the way through February. And 19 days later she's filing  
5           for his insurance payment of \$1.25 million. Nineteen  
6           whole days. That's a cold individual. That's a person  
7           that's involved in a homicide.

8           Ladies and gentlemen, as I said, I was thanking you  
9           for the way that you pay attention. Not only to the  
10          evidence presented, but the things that happened in this  
11          courtroom. Think back three days ago. Brian Winchester  
12          is on the stand describing how he shot his best friend.  
13          How he circled around the stump. Approached, three feet  
14          away, shot him in the face. Everybody in this entire  
15          room was moved by that and the sheer horror of that  
16          situation, except for one person.

17          That one person sat here and listened to Brian  
18          Winchester describe how she had -- how he had shot and  
19          killed her husband -- the man she supposedly loved and  
20          cherished -- absolute stoned face. Didn't bat an eye.  
21          Didn't shed a tear. Use your life skills, your  
22          experience, your education. How does that apply in all  
23          of this?

24          Again, back to that recording. Go back, listen to  
25          it. You've got it. It lays the entire case out without

1 Brian winchester's involvement.

2 But the simple fact is, Brian winchester is  
3 involved. He's involved because he pulled the trigger.  
4 He's involved because he had a three-year-affair, prior  
5 to the murder, with Denise. He's involved because he  
6 helped plan it with her. Yeah, he got the immunity deal.  
7 He's serving prison time for what he is. But that  
8 doesn't change her involvement and that's what you're  
9 here for.

10 (Audio playing)

11 MS. THOMAS: Like, I've always thought to myself, if  
12 I had said, Mike, I think Brian has a girlfriend. I've  
13 always wondered if he would still be here. Like, why  
14 couldn't y'all just get a divorce? I've always known  
15 that you and Brian loved each other.

16 (Audio stopped.)

17 MR. FUCHS: Mr. Way made a little bit of an issue  
18 about the divorce. She could get a divorce from Brian  
19 winchester because Anslee wasn't involved. That's why  
20 she couldn't get the divorce from Brian -- I mean, from  
21 Mike. She didn't want to have to share custody with her  
22 father.

23 Doesn't that make sense for the same person that  
24 took Mike williams' daughter away from the grandmother?  
25 who 19 days later filed for an insurance claim. who sat

1           here stone faced.

2           Ladies and gentlemen, Mike Williams was a devoted  
3           father. He was a devoted husband. Mike Williams died  
4           with his ring on. With that devotion. The only part of  
5           that that Denise Williams took to heart is till death do  
6           us part. And she took it to the extreme.

7           And she, along with Brian Winchester, made sure that  
8           death did him part. She helped plan it. She held up her  
9           end of the bargain by helping with alibis. She helped  
10          with her bargain by helping him afterwards. By making  
11          sure that even though she had him arrested, that she  
12          didn't say anything.

13          And when you take all that into account, that lady  
14          right there, Ms. Denise Williams, is guilty of conspiracy  
15          to commit murder, first-degree murder, and accessory  
16          after the fact. Thank you.

17          THE COURT: Let's turn back to page 10 of your jury  
18          instructions, please, folks. Submitting case to the jury  
19          at the bottom of page 10.

20          In just a few moments you'll be taken to the jury  
21          room by the bailiff. The first thing you should do is  
22          choose a foreperson who will preside over your  
23          deliberations.

24          The foreperson should see to it that your  
25          discussions are carried on in an organized way and that

1 everyone has a fair chance to be heard. It is also the  
2 foreperson's job to sign and date the verdict form when  
3 all of you have agreed on a verdict and to bring the  
4 verdict form back to the courtroom when you return.

5 During deliberations jurors must communicate about  
6 the case only with one another and only when all jurors  
7 are present in the jury room. You are not to communicate  
8 with any person outside the jury about this case.

9 Until you have reached a verdict you must not talk  
10 about this case in person or through the telephone,  
11 writing or electronic communications such as a blog,  
12 Twitter, e-mail, text message or any other means. Do not  
13 contact anyone to assist you during deliberations.

14 These communication rules apply until I discharge  
15 you at the end of the case. If you become aware of any  
16 violation of these instructions, or any other instruction  
17 I have given in this case, you must tell me by giving a  
18 note to the bailiff.

19 Many of you may have cell phones or other electronic  
20 devices with you. The rules do not allow you to bring  
21 your phones or any of those types of electronic devices  
22 into the jury room during your deliberations. kindly  
23 leave those devices with the bailiff while you  
24 deliberate.

25 If you need to communicate with me, send a note

1 through the bailiff signed by the foreperson. If you  
2 have voted, do not disclose the actual vote in the note.  
3 If you have questions, I will talk with the attorneys  
4 before I answer so it may take some time. You may  
5 continue your deliberations while you wait for my answer.  
6 I will answer any questions, if I can, in writing or  
7 orally here in open court.

8 During the trial items were received into evidence  
9 as exhibits. You may examine whatever exhibits you think  
10 will help you in your deliberations. The exhibits will  
11 be delivered to you shortly.

12 In closing, let me remind you that it is important  
13 that you follow the law spelled out in these instructions  
14 in deciding your verdict. There are no other laws that  
15 apply to this case. Even if you do not like the laws  
16 that must be applied, you must use them. For two  
17 centuries we've lived by the Constitution and the law.  
18 No juror has a right to violate the rules we all share.

19 Let's go sidebar, please.

20 (Sidebar had as follows):

21 THE COURT: Any additional objections to the  
22 instructions as read?

23 MR. FUCHS: No, sir.

24 MR. WAY: No. Just renewal of previous objections.

25 THE COURT: I think the only objection was on the

1 principal instruction, correct?

2 MR. WAY: Yes, sir.

3 THE COURT: My notes indicate Ms. Barney and  
4 Ms. Barnes are our alternates. Are we in agreement about  
5 that?

6 MR. FUCHS: Yes, sir.

7 MR. WAY: Yes, Your Honor.

8 THE COURT: We'll hold those two jurors and send the  
9 others out to deliberate.

10 I want the attorneys to go through the evidence.  
11 Make sure what's being sent to the jury room is what's  
12 been properly placed into evidence. We need to be  
13 particularly careful with the exhibits that were not  
14 admitted. The clerk has to make sure those don't get  
15 mixed in.

16 MR. FUCHS: Yes, sir.

17 THE COURT: You can be doing that while I talk to  
18 the alternates. Anything else from either side?

19 MR. FUCHS: No, sir.

20 (Discussion off the record.)

21 THE COURT: Anything else?

22 MR. WAY: No, sir.

23 THE COURT: All right.

24 (Sidebar concluded.)

25 THE COURT: Ms. Barney and Ms. Barnes, you need to

1       remain here with us. The rest of you may step out to  
2       begin your deliberations. Take your notepad, your pen,  
3       your instructions. Even if you didn't make any notes,  
4       you might want something to write on so take that with  
5       you. We'll be sending you the evidence.

6             All right. You may step out with the bailiff.

7             (Jury exits.)

8             THE COURT: Ms. Barnes, Ms. Barney -- everybody be  
9       seated, please, or you can step out.

10            we pick alternates in these cases. A lot goes into  
11       getting these cases started. We don't want to have to  
12       start all over again because we lose someone. We  
13       actually had two situations during the course of the week  
14       I thought we might lose a juror. It turned out we  
15       didn't.

16            Y'all need to keep it down just a little bit.

17            I hope you don't feel like we wasted your time. As  
18       I say, a lot goes into starting one of these cases. We  
19       don't want to have to start all over again because we  
20       lose someone. It is an important function for us that  
21       there is still a slight possibility that we would have to  
22       call upon you if some juror were to get indisposed before  
23       we reach a verdict.

24            Because of that, I would ask that you do two things  
25       for me: I would ask that you not discuss the case with

1 anyone until we get a verdict. You might get inquiry  
2 from media, from friends or whatever. I would ask that  
3 you just not discuss it until we get a verdict. I'll ask  
4 the deputy to call you when we get a verdict and let you  
5 know we have a verdict.

6 Once we get a verdict, you can discuss it or not as  
7 you see fit. You don't have to stay here, although  
8 you're welcome to stay here if you want to stay here and  
9 see what happens. The deputy will find a comfortable  
10 place for you to sit.

11 But if you want to go about your business, I would  
12 ask that you give him a phone number where he can reach  
13 you in an emergency. Like I say, you're welcome to stay  
14 or you're welcome to go. We just need a way to contact  
15 you in an emergency.

16 You can't go back in the jury room. Hopefully, the  
17 deputy has gathered your personal effects. We do  
18 appreciate your time and attention. I know that's a long  
19 time to ask you to sit and then tell you you don't get to  
20 take part. But it was very important to us and we  
21 appreciate that.

22 Have you gotten their things, Jay?

23 BAILIFF: Yes, sir. I believe so.

24 THE COURT: All right. I'll let you step out.  
25 You'll have to step out -- not through the jury room,

1 Deputy. You can go out behind me here.

2 (Jurors exit.)

3 THE COURT: All right. Have the parties had a  
4 chance to go through the evidence?

5 MR. FUCHS: Yes, sir.

6 MR. WAY: Yes, Your Honor.

7 THE COURT: Confirm that what's being sent to the  
8 jury is what was properly placed in evidence?

9 MR. FUCHS: Yes, sir.

10 MR. WAY: Yes, Your Honor.

11 THE COURT: All right. Any issues from either side?

12 MR. FUCHS: No, Your Honor.

13 MR. WAY: No, Your Honor. Other than what's been  
14 previously raised.

15 THE COURT: All right. I do appreciate the  
16 professional manner in which both sides have conducted  
17 themselves. It's been very aggressively but very  
18 professionally presented. Makes my job a lot easier. So  
19 for that I'm appreciative.

20 we'll be in recess until we hear from the jury.

21 MR. FUCHS: Your Honor, just so you're aware, I made  
22 a copy earlier of my Power Point presentation for  
23 supplementing into the record. I may go back and change  
24 them, because based upon Mr. way, I have to make a couple  
25 of changes. So I'm going to go back, re-burn them and

1           then give them to the clerk.

2           THE COURT: All right. That will be good. Thank  
3           you.

4           MR. FUCHS: And they're going to be marked -- how do  
5           we want to mark those?

6           THE COURT: Court Exhibit whatever is next.

7           All right. We'll be in recess.

8           (A recess was had.)

9           THE COURT: We've received a question from the jury.  
10          I believe each of you have been given a copy of it; have  
11          you not?

12          MR. FUCHS: Yes, sir.

13          MR. WAY: Yes, Your Honor.

14          THE COURT: It says, what is a series of, quote,  
15          act, end quote, question mark. Paren, series of related  
16          actions, closed paren.

17          I've drafted a proposed response to the jury. I'll  
18          read it and then I'll get your comment.

19          Dear Jurors, you have asked me about the statement  
20          in the jury instructions, an act -- and act is in  
21          quotations -- includes a series of related actions  
22          arising from and performed pursuant to a single design or  
23          purpose. That would be the end of the quote.

24          These terms do not have any special legal  
25          definition. You should define these terms as you would

1 in everyday normal usage.

2 The explanation is given simply to say that the,  
3 quote, act, end quote, might be a single act or it might  
4 involve multiple acts. In the latter case, the multiple  
5 acts have to relate to a, quote, single design or  
6 purpose, end quote.

7 I hope this answers your question. If not, please  
8 clarify what you're confused about with another question.

9 State?

10 MR. FUCHS: No objection, Your Honor.

11 THE COURT: Defense?

12 MR. WAY: No objection, Your Honor.

13 THE COURT: All right. We'll give that to the jury  
14 and wait to hear further.

15 (A recess was had.)

16 THE COURT: Be seated, please, folks.

17 All right. We received a question from the jury. I  
18 believe each side was given a copy of it; is that  
19 correct?

20 MR. FUCHS: Yes, Your Honor.

21 MR. WAY: Yes, Your Honor.

22 THE COURT: All right. The question, for the  
23 record, says, If we find Denise guilty on Count 1, does  
24 that mean she is guilty on Count 2 because Count 1 is a  
25 criminal act, question?

1 I've written a proposed answer. Read this and then  
2 hear your comments.

3 Dear Jurors, your question asks me to apply the  
4 facts to the law. I cannot answer that type of question.  
5 It is your job to decide the facts and apply the facts to  
6 the law. However, I would remind you of the instruction  
7 on page 10 that provides -- and this is just a quote from  
8 our jury instructions on page 10 -- a separate crime is  
9 charged in each count of the indictment. And although  
10 they have been tried together, each crime and the  
11 evidence applicable to it must be considered separately  
12 and a separate verdict returned as to each. A finding of  
13 guilty or not guilty as to one crime must not affect your  
14 verdict as to the other crime charged. That would be the  
15 end of the quote.

16 If that provision does not answer your legal  
17 question, you will need to clarify your legal question.

18 Comments?

19 MR. FUCHS: I believe that's a correct statement of  
20 the law.

21 MR. WAY: Yes, Your Honor. That's very well  
22 written.

23 THE COURT: I did notice as I was reading this I  
24 should have said as to the other crimes charged, because  
25 there are more than two. But, anyway, I don't think I'm

1 going to get into changing it at this point in time.

2 That's the way the instruction was given, so...

3 Either side have objection?

4 MR. FUCHS: No, Your Honor.

5 MR. WAY: None from the defense.

6 THE COURT: All right. We'll give that to the jury  
7 and wait to hear further.

8 (A recess was had.)

9 THE COURT: Be seated, please, folks.

10 All right. We had an inquiry from the jury. I  
11 believe you all have copies of it, do you not?

12 MR. FUCHS: Yes, sir.

13 MR. WAY: Yes, Your Honor.

14 THE COURT: All right. It says, Could we have  
15 Brian's testimony? Is it possible?

16 I think what they're thinking is that we'll just  
17 give them a transcript. Obviously, we're not going to  
18 just give them a transcript. From talking to the court  
19 reporter, we're probably talking about, as a read back,  
20 about three hours worth of testimony.

21 What I'm inclined to do is bring them in and tell  
22 them that, you know, we can't give them a transcript. I  
23 don't think that would be appropriate. We don't have  
24 transcript to give them. But even if we could, I don't  
25 think it's appropriate to give them a transcript of trial

1 testimony.

2 That we can read back to them the testimony, but  
3 that it will take about three hours worth of reading. If  
4 they want that, we will do that. I'm not certain that we  
5 would try to do that tonight. I may make the suggestion  
6 that if we're going to do that, that we break for the  
7 evening.

8 But tell them that if they want to narrow down what  
9 it is they're wanting to hear, that we would be  
10 interested in hearing what it is in particular they wish  
11 to hear. And then send them out to see if, you know --  
12 how they wish to proceed. And if they want to hear a  
13 read back, hopefully, to give us a little bit more  
14 guidance on what it is they want to hear.

15 The court reporter's have prepared it sufficient  
16 that they can do a read back. But, like I say, it's  
17 three hours worth. Obviously, they've got to break some  
18 while they're reading it.

19 So, I mean, we're probably saying if we were to  
20 start at seven o'clock with it. It would be ten o'clock  
21 before we even finished a read back. I'm not sure I want  
22 to have them start back deliberating at ten o'clock.

23 But, anyway, those are my thoughts. I'll hear from  
24 y'all, what you think.

25 MR. FUCHS: That was actually exactly what my

1 thoughts were, sir. And I discussed with counsel.

2 THE COURT: Mr. Way?

3 MR. WAY: Yeah, that -- Yes, Your Honor. That's  
4 what we all came up with.

5 THE COURT: Okay. So I'm going to kind of make  
6 those thoughts known to them. And it's going to be a  
7 little free wheeling. I don't have a script here. And  
8 then I'm going to send them back out to give us further  
9 guidance as to what we want to do.

10 what I'll do is, before I send them back out, we'll  
11 go sidebar. And if somebody has something additional you  
12 want me to say to them, I'll give you the opportunity to  
13 do so. Anybody have a problem with that procedure?

14 MR. FUCHS: No, sir.

15 MR. WAY: No, Your Honor.

16 THE COURT: All right. Let's have them.

17 Well, let me -- I mean, I'd assume everyone agrees  
18 that it's not appropriate just to give them a transcript.  
19 Are we in agreement on that?

20 MR. FUCHS: Yes, sir.

21 MR. WAY: Yes, Your Honor, I'd agree with that.

22 THE COURT: All right. Let's have them in, please.

23 (Jury enters.)

24 THE COURT: Well, I know y'all have been working  
25 hard.

1           Everybody be seated, please.

2           I received your note. And let me -- I don't want  
3 anybody to say anything or react in any way. What -- I'm  
4 going to explain some things to you. And then I'm going  
5 to let you all step back out and send us a note as to,  
6 you know, how you wish to proceed. But I want to make  
7 sure there's a couple of things that you understand.

8           First, if your note is -- if what you mean by your  
9 question is whether we can give you a transcript of the  
10 testimony, the answer is no, we cannot give you a  
11 transcript of the testimony. That's not legally --

12           First, it's not practically possible. But it's not  
13 legally appropriate for us to send testimony back to the  
14 jury room with you in a written transcript. The Courts  
15 would say that we were emphasizing that testimony over  
16 some other testimony. So that's not a possibility.

17           You say, is it possible to have the testimony read  
18 back to you. It is possible to have the court reporters  
19 read the testimony back to you. But you need to  
20 understand it is about three hours of testimony. Court  
21 reporters are human, they need to -- they can't read  
22 straight for three hours. It takes -- it's going to take  
23 some breaks. So, you know, we're probably talking about  
24 three, three and a half, maybe four hours of reading it  
25 back to you to get it to you. That is possible. And if

1           that's what you want, we will in all likelihood do that.

2           Couple of, you know, other options. If y'all are  
3           able to narrow down if there's some particular part that  
4           you were wanting to hear. If you could give us a part or  
5           parts, frankly, that you want to hear, we can, you know,  
6           speed things up a little bit by that.

7           Frankly, if you want to hear it all, I would not be  
8           inclined -- I'm not making a final decision -- I would  
9           not be inclined to do that tonight.

10          I would probably, if that's what you want to do,  
11          break for the night and have you all come back in the  
12          morning. Because it's 6:35 now, you know, we're talking  
13          about seven o'clock before we get started on that. We're  
14          talking about it being ten or eleven o'clock before we  
15          finish reading to you. And then sending you back out to  
16          deliberate further. I don't think that's fair to  
17          anybody. So what we would probably do is break for the  
18          night and come back in the morning.

19          So, anyway, I kind of just throw those things out  
20          for you so you kind of understand the situation a little  
21          bit better. Obviously, we don't want to have you having  
22          a discussion here in the courtroom. But let me talk to  
23          the attorneys just a second, make sure they don't have  
24          something else they want me to indicate.

25          (Sidebar had as follows):

1           THE COURT: Anybody have a problem with what I've  
2 said so far?

3           MR. FUCHS: The only thing I would say, Judge, is to  
4 tell them that if you they do elect to just have a  
5 portion read back, that we could probably accomplish that  
6 this evening. And let them know that that's where --

7           MR. WAY: We don't know until they tell us what.

8           MR. FUCHS: Agreed. But he was giving them an idea.

9           THE COURT: I think I was pretty clear.

10          MR. FUCHS: Okay.

11          THE COURT: We're not going to do that tonight. You  
12 have objection to what I'm saying?

13          MR. WAY: No, sir.

14          MR. FUCHS: No, sir.

15          (Sidebar concluded.)

16          THE COURT: I guess the attorney -- I think I've  
17 said this, but I'll be a little clearer. Maybe if  
18 there's some portion -- if we can narrow it down to a  
19 smaller portion of the transcript, we may be able to do  
20 that tonight. But what I was saying is, if we're going  
21 to do all of it or most of it, it's probably too late to  
22 launch into that tonight.

23                 So what I'd like you to do is step back out, you  
24 know, draft me a note as to how you wish to proceed and  
25 we'll wait to hear from you. All right.

1 (Jury exits.)

2 THE COURT: Anybody have anything else at this  
3 point?

4 MR. FUCHS: No, sir.

5 MR. WAY: No, sir.

6 THE COURT: All right. We'll wait to hear.

7 (A recess was had.)

8 THE COURT: Be seated, please, folks.

9 I'm informed we have a verdict. I know that this is  
10 an emotional issue for many of the people involved in  
11 this. But, you know, this jury was drafted. They didn't  
12 volunteer to be here. I know they've worked hard and  
13 done the best they can. I'd be very offended if anyone  
14 were to react in front of the jury. There shouldn't be  
15 any reaction at all.

16 If you don't feel like you can abide by that, I  
17 would suggest you step out. I would be very offended if  
18 somebody acts out in front of the jury. So if you don't  
19 feel like you can, with dignity, accept whatever is said  
20 by the jury -- and I don't know what that is, I'll be  
21 learning about it at the same time -- you would do  
22 everybody a favor and just step out.

23 We ready for a jury?

24 MR. FUCHS: Yes, Your Honor.

25 MR. WAY: Yes, Your Honor.

1 THE COURT: All right. Let's have a jury, please.

2 (Jury enters.)

3 THE COURT: Ms. Idlett, I see you with the papers in  
4 your hand. Are you our foreperson?

5 MS. IDLETT: Yes, sir.

6 THE COURT: Has the jury arrived at a verdict?

7 MS. IDLETT: Yes.

8 THE COURT: Would you hand it to the bailiff,  
9 please?

10 State of Florida versus Denise Williams. We, the  
11 jury, find as follows as to Count 1 of the indictment:  
12 The defendant is guilty of conspiracy to commit  
13 first-degree murder.

14 As to Count 2, we, the jury, find the defendant is  
15 guilty of first-degree murder.

16 We, the jury, find as follows as to Count 3 of the  
17 indictment: The defendant is guilty of accessory after  
18 the fact of first-degree murder.

19 It's been dated and signed by the foreperson.  
20 Ms. Idlett, did I accurately reflect the verdict of the  
21 jury?

22 MS. IDLETT: Yes.

23 THE COURT: Either side wish to have the jury  
24 polled?

25 MR. WAY: Yes, Your Honor.

1           THE COURT: All right. Polling means that I need to  
2 confirm with each of you that this is your individual  
3 verdict, as well as the verdict of the jury as the whole.

4           I'll start with Juror No. 1. Is this your verdict,  
5 as well as the verdict of the jury as a whole?

6           JUROR NO. 1: Yes.

7           THE COURT: Number 2?

8           JUROR NO. 2: Yes.

9           THE COURT: Number 3?

10          JUROR NO. 3: It is.

11          THE COURT: Number 4?

12          JUROR NO. 4: Yes.

13          THE COURT: Number 5?

14          JUROR NO. 5: Yes.

15          THE COURT: Number 6?

16          JUROR NO. 6: Yes.

17          THE COURT: Number 7?

18          JUROR NO. 7: Yes.

19          THE COURT: Number 8?

20          JUROR NO. 8: Yes.

21          THE COURT: Number 9?

22          JUROR NO. 9: Yes, Your Honor.

23          THE COURT: Number 10?

24          JUROR NO. 10: Yes.

25          THE COURT: Number 11?

1 JUROR NO. 11: Yes.

2 THE COURT: Number 12?

3 JUROR NO. 12: Yes, sir.

4 THE COURT: The jury has unanimously confirmed the  
5 verdict. It appears to be in order. It will be filed.

6 This will conclude your service with us. We do  
7 appreciate the time and the attention that you've given  
8 us. I know this is a difficult duty, to come in and make  
9 decision of this nature.

10 It's not appropriate for a judge to comment on a  
11 verdict one way or another, so don't take my comments as  
12 that. But I do appreciate the fact you came in and  
13 worked hard, given us many hours of your time. For that,  
14 we're appreciative.

15 Let me make you aware of one right that you have as  
16 a juror. You have a right not to discuss your  
17 deliberations. That doesn't mean you're prohibited from  
18 talking about them. You can talk about them if you wish.  
19 But it is possible someone would inquire of you. It's  
20 possible they would inquire to find fault with what  
21 you've done. You have every right to simply say, I'd  
22 prefer not to talk about it.

23 As I say, that's your right. And if you desire to  
24 talk, you're free to do so. We've taken up enough of  
25 your time so we won't be in any long speeches.

1           Have you made arrangements to get them safely out of  
2 the building, Deputy?

3           COURT DEPUTY: Yes, sir.

4           THE COURT: I will let you step out with the  
5 deputies.

6           COURT DEPUTY: All rise for the jury.

7           THE COURT: I'll have the audience remain until the  
8 jury's cleared the floor.

9           If y'all will let me know when you've cleared the  
10 floor, please.

11          COURT DEPUTY: Yes, sir.

12          (Jury exits.)

13          THE COURT: All right. Everybody be seated.  
14 Ms. Williams is remanded to custody pending sentencing in  
15 this matter. I know she's held without bond at this  
16 point in time. Set a case management, Mr. Fuchs. I  
17 think your next date is December 18th, next Tuesday.

18          MR. FUCHS: It will be Tuesday. Yes, Your Honor.

19          THE COURT: We'll set a case management date then.  
20 Give you all a chance to discuss a sentencing date.

21          Does the defense request that we have a presentence  
22 investigative report started?

23          MR. WAY: I would, Your Honor. And, respectfully,  
24 is there any way we could do the case management perhaps  
25 in early January versus --

1           THE COURT: I mean, it's largely just to make sure  
2 we have a date so y'all can start on getting the  
3 sentencing date set.

4           MR. WAY: I'll find someone to cover for me.

5           THE COURT: What's that?

6           MR. WAY: I apologize. I scheduled something in  
7 Jacksonville. But I'll make arrangements to get that  
8 covered.

9           THE COURT: All right. And if you can communicate  
10 with Mr. Fuchs, we'll work out a sentencing date.

11          MR. FUCHS: Yes, sir.

12          THE COURT: Madam Clerk, would you order a  
13 presentence investigative report be ordered, please?

14          THE CLERK: Yes, sir.

15          THE COURT: Anything else from either side?

16          MR. WAY: Your Honor, may I waive Ms. Williams'  
17 presence at the December 18th case management?

18          THE COURT: Certainly. Certainly. We don't need  
19 her presence at the case management. We don't generally  
20 have defendant's at case management. Although, I guess,  
21 sometimes on the first-degree murder cases they do. So,  
22 yeah, we'll waive her presence for then.

23          MR. WAY: Thank you, Your Honor.

24          THE COURT: All right. Anything else?

25          MR. FUCHS: No, Your Honor.

1 MR. WAY: No, Your Honor.

2 THE COURT: We'll be in recess.

3 (Proceedings in the matter concluded.)

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## 1 CERTIFICATE

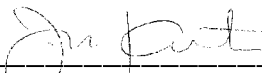
2  
3 STATE OF FLORIDA:

4 COUNTY OF LEON:

5 I, JOHANA KESTERSON, Official Court Reporter, do  
6 hereby certify that the foregoing proceedings were taken  
7 before me at the time and place therein designated; that my  
8 shorthand notes were thereafter translated under my  
9 supervision; and the foregoing pages are a true and correct  
10 record of the aforesaid proceedings.

11 I FURTHER CERTIFY that I am not a relative,  
12 employee, attorney or counsel of any of the parties, nor  
13 relative or employee of such attorney or counsel, or  
14 financially interested in the foregoing action.

15 DATED this 18th day of April, 2019.  
16  
17

18 

19 \_\_\_\_\_  
20 JOHANA KESTERSON  
21 OFFICIAL COURT REPORTER  
22 LEON COUNTY COURTHOUSE  
23 TALLAHASSEE, FLORIDA 32301  
24  
25