

1 chance to go back and forth and answer each other. One
2 argument each and the Defense is first. Then after both
3 closing arguments, I will instruct you on the law that
4 will probably occur tomorrow morning. I am not really
5 sure how much time is going to be involved here. At this
6 point in time, counsel may begin closing argument.

7 MR. EPSTEIN: Thank you, Your Honor.

8 Ladies and Gentlemen, when I addressed you in the
9 opening statement, I said there is a very simple point
10 that one person cannot be in two places at one time.
11 There is a great part of me that's tempted to give the
12 shortest closing imaginable, hold this card up and sit
13 down, because of the attention that you paid so carefully
14 to this case. I cannot do that. I cannot do that and
15 complete my duty to Willie Veasy or to you or to the
16 search for truth.

17 This case, although relatively brief in time, has
18 been most complex, and although I will certainly return
19 to this time card and that very simple proposition that
20 no human being can be in two places at the same time, I
21 will ask you to bear with me because this case is so
22 critical to Mr. Veasy that I will review with you the law
23 and the facts and the multitude of reasons that stand
24 right alongside this card and say Willie Veasy is not
25 guilty of any crime, let alone the most serious crime

1 known to us, murder. Because of the seriousness and
2 because of the complicated issues, I will be speaking
3 from notes and from time to time be going back to get my
4 notes, and I ask you to bear with me. If that's a flaw
5 of mine, I'm sorry, but again, I don't wish to misspeak
6 and I wish to be precise and there are too many details
7 in this case.

8 To make sense of the review of the evidence that I
9 intend to conduct with you, I am going to briefly discuss
10 several of the points of law that His Honor will instruct
11 you on. And the first is just a few words, it's called
12 proof beyond a reasonable doubt. And the Judge will tell
13 you in his instructions either later today or tomorrow
14 that proof beyond a reasonable doubt means the following:

15 A reasonable doubt is the kind of doubt that would
16 cause a reasonable person such as any of you from
17 hesitating or refraining from acting in a matter of high
18 importance in your own life. It's a fancy way of saying
19 how certain do you have to be? And if you break those
20 words down, they actually have a very common sense
21 comprehensible meaning.

22 If I said to you let's go to the movies tonight
23 and you said well, there is supposed to be terrible
24 weather and the movie got a lousy review and I am tired,
25 those are lots of doubts, but you say what the heck, I go

1 to the movie. It's not an important decision in your
2 life.

3 When there is an important decision in your own
4 life, a decision equivalent in your life to the decision
5 of whether to brand this man murderer and possibly take
6 his life, you know that before making that quality of
7 decision, if you have even a small doubt left, one based
8 on your reasoning capabilities that you have a reason to
9 doubt, a reason to say I hesitate, I refrain from acting.

10 Now, if this case were an auto accident case and I
11 was trying to prove somebody ran into your car, I would
12 only have to convince you 51 percent, slight tipping of
13 the scales. If this were a case where the Government
14 came to try and take away someone's child and say you're
15 not fit to be a parent anymore, no judge could do that in
16 any place in the United States unless he or she was
17 presented with what is called clear and convincing
18 evidence, a much higher degree of certainty, and you know
19 what? It's the highest degree of certainty on which is
20 the proof beyond a reasonable doubt standard which
21 applies here and in any and every criminal case.

22 So when the District Attorney asked many, if not
23 all of you, during jury selection, sir or ma'am, although
24 this is a criminal case, because the Government might
25 seek the death penalty, would you want to be more certain

1 or have a higher degree of certainty than beyond a
2 reasonable doubt? And at least one of you -- yeah, I
3 believe it was this juror number four, yeah, I want to be
4 real sure. You actually didn't have to say that, because
5 that is what proof beyond a reasonable doubt is. That
6 sure.

7 The second point of law, Ladies and Gentlemen,
8 which I will touch on very briefly right now, is that of
9 evidence of good character. And this is one of the
10 places where the law and our common experience meet. If
11 you have lived a life so that the people in your
12 neighborhood, the people in your place of work or your
13 place of worship or your community center or wherever
14 know you and know what other people say about you and
15 that you have lived a good life and earned a good
16 reputation, the law says that that alone is enough to
17 give you that reason to doubt, because the reasonable
18 assumption is that if I have lived a good life and earned
19 that reputation that I will continue to act in that
20 manner. So that's point of law number two.

21 You're going to hear a lot of talk about a
22 statement, what some people would want to call a
23 confession, and the Judge among the many rules he gives
24 you tomorrow is going to give you this rule, that a
25 confession is not evidence if it was not voluntarily

1 given. That the issue of whether a statement was the
2 product of free will is an issue that each and every one
3 of you must consider.

4 Pay heave to that instruction because it's
5 obviously critical to this case. Because not every,
6 quote, confession is a confession, not every, quote,
7 confession is given of a person's free will, and hence,
8 it's not reliable, and hence, it's not evidence.

9 And speaking of the word reliable, here is another
10 place where the law and common experience meet, and
11 that's the issue of eyewitnesses and how reliable are
12 they? And the law has distilled a list of factors, if
13 you will, that when you judge an eyewitness who comes
14 into court and says I saw something, there is certain
15 common sense features that you ask. Did you have a good
16 opportunity to observe? Did you have your glasses on?
17 Was the lighting good? Whatever those factors are, the
18 law said that if some of those question marks are there,
19 that you are supposed to treat such testimony with
20 caution. You can ultimately accept it, but it's a
21 warning sign of saying be careful, because people make
22 mistakes.

23 And there is a last principal of law, Ladies and
24 Gentlemen, and then I wish to turn to the case, and it's
25 a law of what is called alibi. I don't like the word

1 alibi, because I think we have come to say what is your
2 alibi, what is your excuse. That's not what the word
3 alibi means. In a courtroom it means where were you
4 other than at the scene of the crime. And the Judge will
5 tell you how to weigh alibi testimony and how to
6 understand what is quite obvious. If you weren't there,
7 you couldn't have committed the crime.

8 Now, with that, Ladies and Gentlemen, I turn to
9 the ^{facts} facts of this case. And although normally as a
10 defense lawyer I might stand up here and say let me tell
11 you about all my witnesses, I am going to start with the
12 Government's case, because I suggest to you that if there
13 was no evidence in this courtroom except the Government's
14 case, there would still have to be a reasonable doubt
15 before we brought you that time card, and before we went
16 out and brought you some of these witnesses who were on
17 the scene who saw things a little or quite a lot
18 differently.

19 But what is the Government's case boil down to,
20 Ladies and Gentlemen? Two points. Denise Mitchell, I
21 saw and a statement. So let's start by examining those
22 two, because if they don't hold up on their own, then you
23 have to have a reasonable doubt.

24 Denise Mitchell is in her house at night with a
25 light on in her room. I asked her that. She talked

1 about a 75 watt bulb. Why is that important? You ever
2 look outside your room at night? Is it easier to see
3 outside if your room is dark because then your pupils
4 open wider, or if there is a light on in your room where
5 your pupils are smaller? Isn't your own experience that
6 you turn off the light, you get a better look outside?

7 Well, she has the light on in her room and the
8 streetlights, Ladies and Gentlemen, are at 705, and we
9 talked about the other one being down here around 719.
10 No illumination in front of 712 where she says the action
11 is happening. No illumination as reflected in this
12 photograph which the police department took to accurately
13 represent using their crime lab photo -- or equipment,
14 what that scene looked like that night, looking from up
15 there as we demonstrated with the clock down to what?
16 Onto peoples' heads. Because Officer Meissler said and
17 Miss Mitchell said that the action was, up against or
18 right in front of 712. That's where Officer Meissler
19 said he found Mr. Gonzales. That's where Miss Mitchell
20 says she looked down, not further out. You know, if this
21 is the wall of her house, not out here where you are
22 getting more of a view, she's looking down next to the
23 wall of the home adjacent to her and what does she see?

24 Ladies and Gentlemen, there is a stop watch. It's
25 set at zero. She sees the following? Go. Push the man

1 up against the wall, pat him down, shoot him, shoot.
2 Bang. I have 7.28 seconds. Now, maybe it happened
3 slower, maybe it happened faster, that's for to you
4 decide. What she also acknowledged though, is that from
5 the point where the man was shooting down the street, and
6 this is assuming for the moment her version is accurate,
7 because you also have to consider Andrew Bagwell and
8 Henry Montero who we'll get to.

9 She's looking at the back of the person then,
10 again with her 40 over 100 uncorrected vision. Now,
11 there is no question that at 1:00 o'clock the next
12 morning or thereabouts, when Denise Mitchell is in police
13 headquarters, she gives a description of Willie Veasy
14 that's perfect. But she admitted I didn't see those
15 things that night, I am describing the man I have known
16 for many years. So let's not focus on, well, she
17 described a scar. Yes, she described a scar, and Willie
18 Veasy has a scar, but she's saying I didn't see the scar
19 that night. When I asked what do you remember, for
20 example, of what the man was wearing, the best she could
21 say was a red sweat shirt with the hood sort of bunched
22 up, not pulled over, but but bunched up around the back.

23 Let's not be confused between who she described
24 and what she saw and let's ask this question? When you
25 are looking down from a second floor window, can you

1 accurately gauge somebody's height, especially in a dark
2 area at night with that eyesight? And if Denise Mitchell
3 saw that at that time, did we have any of the police
4 officers who came to the scene who were gathering
5 witnesses who were looking obviously for some clue to who
6 did this say somebody came up to me and said a guy named
7 Pee Wee did it?

8 Isn't the only information we have that the only
9 thing they were looking for was a red car? Some hours
10 later, yes, we get to Pee Wee, and isn't it interesting
11 that it's Denise Mitchell's brother Charles King who the
12 Defense called who yesterday said near the end of his
13 testimony there was a rumor on the street that Pee Wee,
14 who is short, did it. That was one of the last things he
15 said. Maybe two and two put together, and as the kids
16 like to say, instead of making 4, it made 22. I don't
17 know. But when you start with this, understand that
18 she's the only person who gave a lead with some kind of
19 name that the police could follow, and as I suggested to
20 you in my opening statement, Ladies and Gentlemen, that's
21 the beginning of a potential snowball that rolls and
22 rolls and gathers more snow. Well, that's half of the
23 Government's strong case and the other half is the
24 statement.

25 Now, I don't know if anybody has ever been

1 interviewed for a job or maybe even a victim of a crime
2 or a witness or how you have been treated in an
3 interview, but let's understand the setting of this
4 statement. You're a tenth-grade educated dishwasher at
5 home where you live with your mom and your stepfather of
6 20 years and some little kids, and it's 6:00 o'clock in
7 the morning. All hell breaks loose. Guys in black
8 fatigues bearing shotguns and pistols come in your house,
9 take you out without even shoes, have your mother and
10 father -- or stepfather under detention with guns on them
11 and hustle you downtown where you get around 6:15 or
12 6:30. And they leave you in a chair in a room with no
13 window and the chair is bolted to the floor. And you're
14 left in that room and you're sitting in that room and
15 somebody comes in at some point and takes some
16 biographical information and you're left in that room.
17 And then somebody comes in and says you're charged with
18 murder, you ain't going home. You're not getting out of
19 here today. This is the most important day of your life
20 and we want to hear the truth and every time you say I
21 didn't do it, auto auto, that's not the truth.

22 That's the setting of the statement as best we
23 know it, because there are no handwritten notes. There
24 is no tape recording. There is no audio recordings -- or
25 video, I'm sorry. There is no anything. So how it felt

1 in that room and how it looked and what level of voices
2 were used and what words were used, we cannot replicate.

3 And who is talking to Willie Veasy? Detective --
4 Homicide detectives, people who have conducted hundreds
5 upon hundreds upon hundreds of investigations and
6 interrogations. The Special Investigations Unit whose
7 job it is to clear a case where somebody else couldn't
8 solve it, but they have got a lead that they are
9 pursuing.

10 Well, that's part one of talking about the
11 statement, Ladies and Gentlemen. Let me suggest to you
12 that this statement has two strands or concepts running
13 through it. Part of the statement is a story from Willie
14 Veasy is quote facts known to the police, told by the
15 police to Mr. Veasy. There was a car. His story there
16 was a car. There was a robbery. There was a robbery.
17 It was on Russell Street. It was on Russell Street.
18 There were several guys in the car. There were several
19 guys in the car. Okay. Somebody was at the corner, he
20 got shot and then, Ladies and Gentlemen, there are what I
21 suggest to you are facts that aren't merely made up, but
22 are so wrong that they are holes that show the
23 unreliability of this statement.

24 What are they? Well, Detective Jastrzembski
25 testified when I asked him if Efraim Gonzales was robbed

1 of \$10 in cash. Nobody said that to Mr. Veasy. Mr.
2 Veasy's share of the ten floor robbery, according to the
3 statement, was \$150. You do your own mathematics. You
4 figure out where that came from. You tell me the
5 motivation of someone to admit taking or getting more
6 than could possibly come from a crime he was involved in.
7 That's a hole maybe.

8 His car is blue. The car is red. His is a blue
9 car because they didn't tell him the color of the car.
10 You have statement number one, which says I got out of
11 the car, I stood there with a gun. Did you fire it? No.
12 Then you have statement number two where Detective Rocks
13 comes in and he says, I didn't sit down and say look,
14 Willie, no offense, but this is a lot of balogne, we know
15 you shot it.

16 There is no preamble, no kind of confrontation,
17 even though in his opening statement the District
18 Attorney said to you that Willie Veasy was confronted --

19 MR. GILSON: Objection, Your Honor.
20 Statements are not evidence.

21 THE COURT: Counsel may argue from
22 evidence that was produced.

23 MR. EPSTEIN: Fine.

24 THE COURT: Or the lack thereof.

25 MR. EPSTEIN: There was no anything,

1 and all Detective Rocks says is go on and tell me about
2 the gun or the guys at the corner, and all of a sudden we
3 have a new statement. Now, I am going to be the first to
4 adm't to you that yes, sometimes somebody admits a little
5 and then when confronted may admit more. That's natural.
6 When you're a parent and you're questioning your kids,
7 all right, daddy, I spilled a little. All right, daddy,
8 I spilled it all. But usually that's because somebody in
9 some way pushes them a little further. No, we didn't
10 push anybody here. I just said, Willie, go and tell us
11 and all of a sudden we have story number two. That's for
12 you to decide whether you believe.

13 And then of course handwritten into that statement
14 is an error. Remember I shot the corner at the corner?
15 So that Willie Veasy would have to sign something. I
16 shot the guy at the corner. So now, okay, we have a
17 statement with a built-in correction so that it looks
18 like the guy was really involved in this. Then we have
19 Lyndel. Lyndel did it with me. And of course what
20 happens? We learn although nobody decides to write it
21 down, because I guess it's not important, that the police
22 pursue that and go to their witness, Denise Mitchell, and
23 show her the photo, and she said I know Lyndel, he's a
24 fun guy. He had nothing to do with this.

25 And then there is Houlihan's. Detective Worrell.

1 Did Willie Veasy ever say that you didn't tell him what
2 night of the week it was but it was back in January. Did
3 he ever say to you I might have been at work? No. Did
4 he ever say please, call Houlihan's? No. Did he ever
5 say that to anybody? Nope. And what did Detective Rocks
6 say? Either that day or the next we contacted Houlihan's
7 and at some point were faxed the time card. Detective
8 Rocks, do you have any explanation of why if Mr. Veasy
9 never mentioned that in his denials, somebody called and
10 he said I have no way of explaining this, that that's the
11 Government's case at its best, Ladies and Gentlemen.

12 And I now intend as briefly as I can to walk
13 through every other witness they called, because I
14 suggest to you that not one of those witnesses helped
15 their case, and in fact every one of those witnesses some
16 way contributes to showing that Willie Veasy should not
17 be on trial in this courtroom, and let's start in
18 chronological order.

19 Office Valentin. The gentleman over here, sir.
20 Officer Valentin. What does he have? The one he --
21 thing he says we're looking for, we got some information
22 about a red car and yeah, the lighting on this street and
23 you have seen this. Okay. And we have talked about the
24 lighting. Well, that certainly doesn't help the
25 Government.

1 Officer Meissler. He puts the body right in front
2 of 712. That doesn't help because it makes it harder for
3 Denise Mitchell to see. Sergeant Cray talks about the
4 lighting, looks at these photographs and says these
5 accurately depict and this is obviously with some
6 nighttime camera, what it looked like on that street,
7 this photo, so you know is from 708 looking west, right
8 towards where Denise Mitchell without eye glasses is
9 supposedly looking. That doesn't help.

10 Well, the next witness was Denise Mitchell and we
11 have talked about her. So let's get to the very next
12 witness, Andrew Bagwell. Why is Andrew Bagwell no help
13 to the Government's case? Andrew Bagwell's best friend
14 died that night. Andrew Bagwell had every interest in
15 the world in saying to the police I am going to be as
16 accurate as I can because I lost my friend and I want to
17 help you find him.

18 Well, when the District Attorney calls him, the
19 District Attorney has the same statement. He marked it
20 as evidence, I believe. Did he say Mr. Bagwell, tell us
21 about this red car or the car and the guys with the
22 jewelry? No. You didn't hear that from the
23 Commonwealth. But what does he describe that he told the
24 police that very night? He was a black male, a little
25 taller than me, and we saw this gentleman was about 5'6"

1 or 5'7", about the same build. He was wearing a red
2 jacket with a fur collar on it like the male who was
3 doing the shooting later on Russell Street. He was in
4 his late teens, early 20s and had the gold chain on the
5 outside of his jacket. The chain was a Gucci link. The
6 chain was about 20 inches long.

7 "QUESTION: Was there anything that stood out
8 about this male?

9 He was dark complexion and had darker brown eyes
10 than me. All he said was do you want to buy a chain. He
11 put his thumb under the chain showing me. I told him no
12 and he kept walking."

13 That's Andrew Bagwell. And again, he's not coming
14 into this courtroom with any motive in the world to help
15 someone who might possibly have killed his friend.

16 And that brings us to Henry Montero, Ladies and
17 Gentlemen. I am going to ask you to bear with me for a
18 minute. Mr. Montero's statement is quite different from
19 anybody else's. Mr. Montero was not a friend of anybody,
20 so arguably no motive. He's not on anybody's side. He
21 says, if you recall, I was here either in the door or the
22 window of 703. Now, Mr. Bagwell says that he and Mr.
23 Lewis came around this corner, they were coming south on
24 7th and around the corner. Mr. Montero says a car drives
25 down the street and the drug dealer, apparently Mr.

1 Gonzales, goes over to the car and that Mr. Lewis came
2 around 7th going this way, alone.

3 Let me ask you something. I hope none of you ever
4 goes down a drug street. But is one of the practices
5 when somebody drives down a drug street to buy drugs that
6 you roll down your window when the drug dealer comes up
7 to the car? That's what Mr. Montero said happened. He's
8 the one standing here with no obstruction. He's the one
9 watching and he says Mr. Gonzales walks up to the car,
10 leans in the window and is -- a shot is fired. And then
11 another shot or shots come from the car, not that anybody
12 is outside of the car, and this Mr. Lewis is hit and goes
13 across the street and falls to the ground, next door to
14 him.

15 Ladies and Gentlemen, if you take that testimony
16 with the combination of the Medical Examiner's testimony,
17 which I will turn to now, it makes an awful lot of sense
18 and here is why. The Medical Examiner said the
19 following: The half of the bullet that struck Mr. Lewis,
20 who is approximately 5'9-1/2", went in about here at an
21 upward angle. If Mr. Lewis were standing here, whichever
22 side of the street it's actually on, and the car is over
23 here and somebody is seated in the car and a bullet is
24 fired down the street, it would go at -- or could go at
25 an upward angle. If Mr. Veasy, who is 6'3" tall and is

1 described as standing on the street and shooting down the
2 street, and let's assume for the purpose -- you know, how
3 wide is a street. There is a parking lane and there is
4 the driving lane, that's all this street has. Let's say
5 from where you are to here, and Mr. Lewis is at 705, and
6 I guess 712 would be maybe somewhere back here, if Mr.
7 Veasy is firing at any upward angle, would the bullet end
8 up going up as it travels across space? How does it go
9 up into a man who's 5'9-1/2" at that distance? If the
10 man were bending down to duck it would come in like this,
11 or to be going into his head it would have to be shot
12 like that. The man was looking up. It might go in like
13 this and come out the top. I don't know what happened
14 that night. You don't know what happened that night.
15 But a fair question is why is Mr. Montero saying he saw
16 it that way? Why is there that upward angle? How does
17 it make sense in the world of real people and physics?

18 Detective Jastrzembski I have talking about. He's
19 the one that told you \$10. It's hard to get a \$150 share
20 from a \$10 robbery. Then there is Detective Stephen
21 Vivarina, Detective Steve Vivarina who tells you about
22 the HEAT, Homicide Entry and Apprehension Team, and that
23 they come in and he described and I don't have to repeat
24 that to you. You know the phrase he guilded the lilly?
25 Anybody here watch football games. You know the foul for

1 piling on?

2 Well, it's easy to make a guy look guilty. It's
3 easy to say well, he tried to get away. We came in the
4 house and that Willie Veasy tried to run. He ran into
5 the bathroom. Now, there is an awful lot of room in the
6 bathroom to hide. I guess he must have been hiding
7 behind the shower curtain. That's a great idea, Willie,
8 but HEAT didn't just run into the bathroom. He put it in
9 his report plus I read it to him. He had the nerve to
10 write parenthesis in a lying position. Now, I have
11 always understood that a -- this is a lying position.
12 You show me how in God's name Willie Veasy assumed a
13 laying position in the bathtub on that morning or is this
14 piling on? Is this -- got a little more evidence? I
15 didn't write that report. I don't know why he put that
16 in there. I don't know what makes that man particular,
17 but you have got his report and you have got these photos
18 and there is no other bathroom or bathtub in that house.

19 That's Detective Vivarina's contribution to the
20 Government's case. Of course there are no guns
21 recovered. Well, maybe he gave it to Lyndel who doesn't
22 exist. That's in his statement. Is there any clothing?
23 They went in every room in the house, we have been told.
24 Any clothing that matches any of the different
25 descriptions that was described? No. Then we spoke

1 about Detective Worrell and Detective Rocks, and I -- as
2 I turn to the next page, what I preface it is that's the
3 case you were permitted to hear.

4 You say wait a minute, what do you mean that was
5 the case we were permitted to hear? Well, the Government
6 also knew about Charles King. They had his statement.
7 The Defense had to call Mr. King to make sure you heard
8 him. And finally we got read in his description of the
9 men who came with the jewelry. Today was the first time
10 that I saw them. There were four black guys in a small
11 four-door car. They were selling gold Gucci link neck
12 chains and watches in a black velvet case. The car was
13 parked on the corner of 7th and Russell. I saw them at
14 4:00 p.m. I was with Lloyd and the driver of the car was
15 selling the watches. He got out of the car. He was
16 heavy set, about 170 and about 5'9", about 26 years old,
17 dark skin with long side burns, some hair on his chin.
18 The other guy that was selling the chains was out of the
19 car. He was 5'4", 5'5", dark complected, about 18 years,
20 wearing a 3/4 length jacket. He had a thin face. The
21 other two guys never got out of the car.

22 Well, at least we can find those people, but where
23 is the report that was written down when Denise Mitchell
24 made no identification? Where is the report that was
25 written down when Susan Meyers or people from Houlihan's

1 spoke to people at Homicide in the day or days after
2 Willie's Veasey's arrest and said here's the time card?
3 Where is the report of showing this photo of Lyndel to
4 Denise? Why are you going to her? One reason is
5 confirmation of story, right? Where is the report
6 written by the police saying we talked to her and she --
7 nah, he's a fun guy, he wasn't involved.

8 Is there a pattern and practice here that you
9 write down the bad and leave out the good? Do we
10 prosecute by burying evidence that casts doubt? Is this
11 a case of a snowball that built and built and ran
12 straight ahead? And I understand that if you're a police
13 officer, maybe there is a lot of pressure. I wouldn't
14 want that job, and I have a lot of respect for people who
15 do it, but there is a tremendous amount of pressure to
16 get things done, and you have something that maybe you
17 sincerely believe, maybe you're on it right or wrong is
18 the suspect. You run after it but sometimes you end up
19 ignoring an awful lot. Because as Detective Rocks said
20 to you, we had no other suspect.

21 Okay. Let's turn to the alibi. I think all of
22 you are now experts in time cards, time clocks, time
23 stamps, payroll books. Let's cut through it to a very
24 simple couple of points. Point one. Every two weeks
25 every employee at Houlihan's gets a card. Sometimes they

1 put the correct date up here, sometimes they put no date
2 up here. Sometimes they use an old card or a card with a
3 wrong date. Who cares, because you get one card. You
4 use it for two weeks and at the end of the two weeks it's
5 collated. It's added up and at the end of the two weeks,
6 they put it in this book, the payroll book. And you get
7 paid for those hours. And after how much questioning I
8 don't recall, there was sort of an agreement that this
9 card says 56.75 hours and that the payroll period ending
10 February 3rd, 1992 is for 56.75 hours.

11 Now, if you want to go off on a wild goose chase
12 and spend your time worrying about their card, that's
13 fine. It's these two that go together. So that this
14 card is the card for the two-week period and includes
15 Friday, January 24th. Simple enough proposition.

16 The Government would like -- I would lap he want
17 to be the book each er here. I don't think they do it as
18 well as they should. That doesn't take away from the
19 validity of this card, and if the Government wants to
20 rant and rave about is this the professional organization
21 or the military thing or whatever they called themselves,
22 let them do it. Explain otherwise how you have 56.75
23 here and 56.75 there. So that's step one of alibi.

24 Step two is you go to the dates. Nobody is
25 questioning the mechanics of the time clock. In other

1 words, it's a 24-hour clock. It has Thursday and then
2 Friday and then is the day and then back to Monday. And
3 no one is questioning that it has markings from that
4 Friday night at 6:00 o'clock, although it was originally
5 5:59 and at 1 -- I think it's 1:54 reduced down to 1:50
6 by Susan Meyers. Why? Because I tend to dock people
7 those few extra minutes if they go to the bathroom or
8 they change their clothes and I review them every night.
9 Simple enough proposition. It took days to get through
10 it, but those are very simple points.

11 I want to ask you a question that has puzzled me.
12 Why -- one of the judges tells you when you assess any
13 and all witness you're permitted to ask a question, does
14 this witness have any motive to testify favorably or
15 unfavorably? And that's obvious. You do that when
16 somebody talks to you. Why is he saying this to me,
17 because he has something to gain or something to lose or
18 what's going on here? Why would Susan Meyers and Seth
19 Sharam have any motive to come in and exaggerate,
20 overstate, misstate or down right lie? Do they have any
21 motive to get a possible murderer back on their staff?
22 Very fair question.

23 If you were working at a restaurant or somebody
24 was working at a restaurant and they think they have got
25 a problem here, they are not being sued, they are not

1 going to get in any trouble if they admit, well, our
2 cards aren't so great. They have no motive, I suggest to
3 you, although you're the final decision makers on that.
4 For coming in for one of maybe a hundred employees, the
5 guy that has been promoted from washing the dishes to
6 putting the pickles on the side of the plate, what motive
7 do they have? And I suggest the answer is a resounding
8 none.

9 Well, what else did the Defense present? Very
10 briefly, my client's parents. They confirmed to you what
11 even officer -- or Detective Vivarina couldn't deny, that
12 they too were the subject of the police invasion of their
13 home, that Willie was taken out barefoot. I understand
14 that. You know the police want to get anybody who they
15 suspect. The murderer, the heck out of there. I am not
16 angry at them. But the question is what impact did it
17 have on Willie? What impact did it have on Mr. Veasy?

18 And then of course the Defense presented evidence
19 of character. And I wish to just take a minute here.
20 What is character evidence? I don't know how each of you
21 is in your own neighborhood. In other words, I don't
22 know if you stay in the house or gather on the corner or
23 talk over the front porch. That's all that character
24 evidence is. If you're the kind of neighbors who -- or
25 people at work that talk to each other. I used to

1 describe it talking to people up or down, that's what
2 people do. Yes, I will agree, I am sure that never in
3 their lives in the course of their conversations of the
4 words -- the technical words we have to use in court,
5 peaceful and law abiding, passed anybody's lips. I don't
6 talk that way to my neighbors when I say he's good or
7 he's bad, he's the trouble maker in the neighborhood,
8 he's the one who is good. In court we're forced to use
9 certain language.

10 But what is character evidence? It's people who
11 know you. Again, is there a great motive for them to
12 come in? Some are sort of family. There is a godsister.
13 Some are sort of friends. Who else are you going to get?
14 Perfect strangers can't give character testimony.

15 I am going to ask you one other thing. Does any
16 of these people appear to be a shut in? Is any of these
17 people the kind of person who doesn't get out? Do you
18 think Miss Moye, who has been living on the block, I call
19 her the mayor of the block, this is a lady who has lived
20 in that neighborhood. Do you have a sense from listening
21 to her that she knows what's going on on the block?
22 Because that's what I am asking you to decide about these
23 characterize witness. Do they legitimately know what is
24 going on? And if they know what's going on and you find
25 that their perceptions are accurate, that's good

1 character evidence, good character evidence that has not
2 been rebutted, that has not been challenged or disproved
3 in any way.

4 Ladies and Gentlemen, His Honor has told you that
5 I am not permitted to stand up after Mr. Gelson makes his
6 argument. I don't like that system. I am sure you're
7 thrilled with it, because you won't want to hear me any
8 more. Maybe a lot of people, I don't know. That's the
9 rule and I am stuck with it. I don't get to see his
10 notes, he doesn't get to tell me what he's going to
11 argue, and all I can do is anticipate. So please, bear
12 with me for a short time because I must try now to
13 address points that I feel he will raise.

14 And the first points, if I were the District
15 Attorney, might be give me a break. People don't confess
16 to something they didn't do, especially murder. And you
17 know something? There is something appealing about that.
18 It's nice and simple. And it's defied by both common
19 sense and the law. Children of all ages and adults of
20 all ages sometimes break under pressure and take
21 responsibility for things they didn't do.

22 If Mr. Gelson were right, we could also eliminate
23 this process that we have that makes our country so
24 different from others, the process called a trial, and if
25 Mr. Gelson were right, the law in its wisdom would not

1 instruct you that not every confession, quote, is
2 reliable, that not every statement need be accepted by a
3 jury, that you have that understanding, that power and
4 that authority to make the decision and say this wasn't
5 voluntary under the circumstances. It doesn't have to be
6 physical arm twisting. Here this late in the 20th
7 century, no one has to be told that there can be both
8 subtle and gross kinds of psychological arm twisting.

9 And Mr. Gelson is a tenacious, highly-educated,
10 hardened homicide prosecutor, and if he were in that
11 room, perhaps he wouldn't have done that. And if he were
12 the suspect, perhaps they wouldn't have come to his house
13 in the black fatigues, and if he were in that room,
14 perhaps his family would have had the wherewithal to call
15 a lawyer that morning, who might be knocking on the door.

16 But Mr. Gelson isn't Willie Veasy, and if you
17 focus on that, you end up forgetting the alibi. That is
18 point one if I were a prosecutor. Let me go to a couple
19 of others, please.

20 If Mr. Gelson wants to argue the reliability of
21 Denise Mitchell, that's for him to argue and for you to
22 evaluate. We've been through it. I have no desire in
23 prolonging this and letting it bear repeating. You
24 decide what she possibly could see. You decide where
25 that name Pee Wee came from.

1 I talked before about is this shift in the, quote,
2 confession. In other words, I held the gun, I didn't
3 fire it, and then a few minutes later, without any kind
4 of focused questions, without any kind of confrontation,
5 I shot the gun at the guys at the corner because I
6 thought they shot at me and I am paranoid. Again, that
7 he might say sure, it's normal for people to fess up in
8 stages, but again, I say to you, you would imagine that
9 there is some processor questioning that creates that
10 next step. It just doesn't dribble out.

11 And if I were a District Attorney, I would say
12 this, these good police officers and detectives have no
13 motive to frame Willie Veasy. And I will agree with that
14 because that's not the question here. The question is
15 different. The can't police make mistakes and run with
16 it blindly? Are they immune from those kinds of errors
17 or aren't they human the same as every one of us? I
18 don't know what motivates some of the people you have
19 heard. I am not here to argue that. I guess the simple
20 statement is no one's perfect.

21 This is a -- you know, when Charles King was on
22 the stand, Mr. Gelson started asking him was there this
23 thing about a rumor after I am done asking him about the
24 car, there is a rumor around the neighborhood that there
25 was a red car and it was the guys with the jewelry.

1 Well, if he wants to argue that I am arguing the rumor to
2 you, let me correct that right now, because it was more
3 than a rumor, it was Andrew Bagwell, the only person who
4 saw both incidents, who makes that link. It was the
5 police who said that the information they got was of a
6 red car early on when they are out on the scene. So if
7 you want to call that a rumor, you're obviously free to
8 do so. But I suggest to you that the evidence doesn't
9 support that characterization.

10 Well, it seems to me that that brings us down to
11 the, quote, alibi. I have already talked to you about
12 the time card. If he wants to argue that that time card
13 does not come from that time period, you have heard my
14 argument. You have seen those box and the correspondence
15 of 56.75. You make your decision there.

16 Well, I guess then if the card is real something
17 else must have happened, and let's walk through those
18 scenarios. What could have happened first? I have got
19 it. Willie Veasy went to work that night, and in the
20 middle of the 848 dinners being served, slipped out the
21 door, even though he normally rides the bus, and somehow
22 got down to north Philadelphia, participated in this
23 crime and then got back to Houlihan's without getting
24 caught.

25 Where was the crime planned, Ladies and Gentlemen?

1 By whom? And I'm raising to you now what I asked you to
2 consider as the major problem with any of these
3 arguments. If Willie Veasy phoned up this alibi either
4 before, during or after January 24th, 1992, then when the
5 police got him in the station, why didn't he simply sign
6 a statement saying you guys are completely wrong. I
7 couldn't have done this. I was at Houlihan's. Go check
8 my time cards. If this is the diabolical, preplanning,
9 premeditated, go out and rob them, and if a murder
10 happens, so be it, guy, who then somehow before February
11 3rd, when that time card is completed and the payroll is
12 completed, figures it out and gets that locked in.

13 That is the best excuse in the world to give to
14 the police. It is not you can call my job or maybe I was
15 at work, it is hey, I am cool, I have got a rock solid
16 alibi. That is the diabolical Willie Veasy.

17 If he didn't sneak out in the middle of the shift,
18 maybe he didn't go to work at all that day and he was
19 playing basketball. Well, if he was playing basketball
20 as in the statement, and the guys just rolled up and
21 invited him along, what did he then do? Had he
22 coincidentally by convenience called a buddy at work and
23 said I am not going to come in, I am going to play
24 basketball and maybe hang around in case someone invites
25 me to do a robbery, do me a favor and punch me in and

1 punch me out?

2 Then that brings you back to the problem of is
3 Susan Meyers accurate when she says at the end of the
4 night I doctored him four minutes? You come up with any
5 angle you want, the question is how did that time card
6 get done, by somebody else? How is this planned, and if
7 all that happened, then why in God's name didn't Willie
8 Veasy say I have got an alibi? I am a slick robber. I
9 have got an alibi, call my boss. I ain't talking
10 further.

11 Did he not go to work one month after he started a
12 new job where he heard he did so well that he got
13 promoted? I will take a day off and risk a career.
14 Whether you call working in a restaurant a career, in
15 this economy, it is a job. He is living with his mom and
16 dad. He's got a job. He's bringing home a paycheck.
17 Nah, I won't go.

18 I have talked for a very long time, and to the
19 extent that it's been too much, I apologize to you. I
20 promised you in the opening statement that Mr. Matthews
21 and I will do everything possible to bring as much into
22 this courtroom as we could.

23 We brought in photos of the bathroom. We went to
24 Houlihan's last night to bring you a film to show you
25 what it looks like, how close this setting is. We called

1 witnesses the Government didn't call. We asked questions
2 of the Government witnesses that the Government didn't
3 ask, to lay it all on the table. And soon it will be in
4 your hands.

5 When I stood up here the other day, I said did you
6 hear the one about, and said to you that it wasn't funny.
7 There is not a funny thing in this case, Ladies and
8 Gentlemen. What happened to John Lewis is a tragedy and
9 there is no if, ands or but about that. But His Honor
10 told you the other day that a jury verdict is not a vote
11 on is his crime terrible or is what happened to John
12 Lewis and his family a crime and a shame, and a human
13 tragedy. A jury verdict is a very focused question.

14 Has the Government, with all its resources, shown
15 you to your satisfaction that this man stood in that
16 street and fired that gun? A verdict in a criminal case
17 is like a brand on a steer. It stays with you. It is a
18 mark.

19 The verdict in this case that is being sought is
20 to brand Willie Veasy for life, and possibly for death, a
21 murderer. And it's because of that that a verdict
22 requires the highest degree of precision. That is what
23 our country stands for, head and shoulders over so many
24 around the world. A precision that I say to you was
25 sorely lacking from the investigation of this case.

1 Can you brand Willie Veasy a murderer based on the
2 7.28 seconds of a viewing by a woman with 40 over 100
3 vision looking into the dark? Because that is where the
4 snowball began, Ladies and Gentlemen. Can you brand
5 Willie the dishwasher who lives with mom and dad who,
6 when he is around, watches the kids after school and
7 plays Nintendo and cooks and has these fine people who
8 know him a murderer?

9 Can you accept that Willie Veasy never said on
10 that morning you haven't told me what night of the week
11 this was, but maybe, just maybe, I was at Houlihan's?
12 No, he never said that, but somehow a call is made to
13 Houlihan's for the time card and the only response is I
14 can't explain.

15 What is a jury? I suggest to you that you embody
16 two things. You embody both our concept of justice and
17 our demand for justice. You the Jury embody our
18 collective wisdom and our collective common sense, and I
19 want to quote to you a definition of common sense that
20 was given to you by Mr. Gelson, and I hope I have this as
21 accurately as I can, otherwise my apologies.

22 That common sense is, quote, being able to see
23 things as they really are and the ability to do things
24 that ought to be done. And all we ask and all we
25 literally beg is that you see things as they really are.

And Closing

1 The Government has made an accusation. The
2 Government has accepted a burden of proof and it has
3 failed, and failed miserably, and because of that,
4 please, please, please, return the verdict of not guilty
5 for Willie Veasy.

6 I thank you for your kind attention.

7

8

(Whereupon, a brief recess was

9

taken.)

10

11

(Whereupon, the following discussion

12

was had on the record in chambers.)

13

14

MR. GILSON: Your Honor, prior to the

15

closing we had a discussion about the charges, and the

16

charge and the instructions that were going to go out

17

with the Jury, and no one has had brought up or discussed

18

the charge of voluntarily manslaughter. I received a

19

copy of the verdict sheet and one of the charges that

20

appears as though is voluntary manslaughter.

21

Your Honor, there may have been some evidence by

22

which the Jury could have returned a verdict of

23

involuntary manslaughter, but I submit to the Court that

24

there is simply no evidence by which the Jury could

25

reasonably conclude that the Defendant would be guilty of

1 voluntary manslaughter.

2 For reliance, Your Honor, again, as in all my
3 arguments, I have case law.

4 THE COURT I have case law too, that
5 says that in any way was where a person could be found
6 guilty of murder, if requested, voluntary manslaughter
7 has to be given, not may, must.

8 MR. GILSON: What case is that,
9 because there is a recent Supreme Court case which
10 overrules --

11 MR. EPSTEIN: Can I save some time?
12 There is another reason. The Government introduced a
13 statement of my client in one form says I shot at the guy
14 at the corner because I shot at him. Isn't that
15 mistaken --

16 MR. GILSON: In the commission of a
17 robbery, that is what is significant.

18 MR. EPSTEIN: If they believe there
19 was a robbery, that is for the Jury to decide, given that
20 there is no complainant here.

21 MR. EPSTEIN: I would say that
22 independent of the Court's rational there is a separate
23 rational.

24 THE COURT: Okay, I will give it.

25 -----

1 (Whereupon, the discussion on the
2 record in chambers was concluded.)

3 -----

4 MR. GILSON: May it please the Court,
5 members of the Lewis family, Ladies and Gentlemen, this
6 case, I submit, really comes down to three pieces of
7 evidence. The testimony of Denise Mitchell, the
8 confession of Willie Veasy and this piece of paper.

9 Denise Mitchell came into this courtroom and took
10 that witness stand and testified under oath about the
11 night in question. You saw her and you heard her. She
12 was subjected to both direct and cross examination. The
13 Defendant's own words in his signed confession about what
14 happened on the night in question came out from that
15 witness stand. You heard them.

16 This card is not going to testify in this case.
17 It did not testify. It did not say where Willie Veasy
18 was on January 24th at 10:00 o'clock. It cannot say and
19 it never will say. You can put it on the witness stand
20 and you can ask it questions until you're blue in the
21 face, it will say nothing. Tell me, Mr. Card, where was
22 Willie Veasy on the night in question? There is no
23 reply.

24 Let us discuss Denise Mitchell, the Commonwealth's
25 eyewitness. The Judge will give you instructions on how

1 you should consider the evidence of every witness who
2 testifies, regardless of who they were or which side
3 called them, and one of the first things that he will
4 tell you is that when a witness takes the witness stand,
5 ask yourself do they have an interest in the outcome of
6 the case, something to gain? Do they have a bias on
7 behalf of someone or against someone? Do they have some
8 reason to come in here and be less than truthful? Ask
9 that question of Denise Mitchell.

10 What was her motivation to come into this
11 courtroom and testify as she did? Denise Mitchell is not
12 a Commonwealth witness. Denise Mitchell is not a Defense
13 witness. Denise Mitchell is an eyewitness, somebody who
14 saw something and probably wishes she never saw it, and
15 probably and in fact told you she didn't want to be here
16 on the night -- or today in this courtroom or yesterday
17 testifying and telling you what happened. You saw her
18 testify. She is frightened, she is very afraid. She is
19 reluctant to get involved. You watched her composure,
20 you watched her demeanor. If there was any chance she
21 may have been mistaken, and the Defense suggested that to
22 her, Denise, consider the time of the night, consider
23 where you were, consider how quickly it happened,
24 consider all these things, isn't there a chance you're
25 making a mistake, you better believe Denise Mitchell

1 would have grabbed it, because the last thing she wanted
2 to do was come into this courtroom, point out this man
3 and be the only eyewitness in a murder. Not a smart
4 thing to do. She is very afraid and you saw that and she
5 told you that if she was making a mistake, she would have
6 seized at the opportunity to say that. But she didn't.

7 When she was asked to identify the person she saw
8 that night, out on Russell Street, she pointed to him,
9 Pee Wee the guy she has known for ten years. From her
10 neighborhood. No motive, no interest in the outcome of
11 the case. If she wasn't subpoenaed to be here, ordered
12 to be here, she would not have come in because she has no
13 interest in the outcome of this case. She has nothing to
14 gain by what happens here today.

15 When you are considering interest or motive,
16 consider some of the other witnesses who testified, and I
17 will discuss them later. But when you look at Denise
18 Mitchell, you will see nothing there. She likes Pee Wee.
19 She has no prejudices against him. They grew up in the
20 same neighborhood. She has brothers who know him. She
21 has spoken to him. She thinks he's cute. Why would she
22 come in here and involve him in a murder unless she saw
23 it and she is sure about it.

24 The next thing the Judge will tell you is that
25 consider if the witness was inconsistent with prior

1 testimony or a prior statement that they gave. Did they
2 testify differently in the courtroom with what they told
3 people outside of the courtroom or at a different
4 hearing? Well, you know that on the night in question
5 Denise Mitchell went down to Homicide and was interviewed
6 and that she gave a statement, nine pages long, detailing
7 what she saw that night, and that you know that the
8 Defense had a copy of this statement. And you saw how it
9 works. In Charles King --

10 MR. EPSTEIN: That is an attempt to
11 argue evidence not in the record.

12 THE COURT: The Court directs both
13 counsel that arguments shall be limited to their
14 recollection of the evidence or the lack thereof. So
15 therefore, you may argue from that and any inferences to
16 be derived.

17 MR. GILSON: When Charles King
18 testified, took the witness stand, he testified that
19 these guys had been selling jewelry earlier that night.
20 She had seen them before. Remember that. Then I cross
21 examined him, no, Charles, didn't you tell the Homicide
22 detective that this was the first time you had seen them
23 and in fact you told them twice? Which one is it? You
24 are inconsistent with your statement.

25 Does anyone here remember Denise Mitchell being

1 cross examined with her statement and any inconsistencies
2 in it? No, there were none. The fact of witness has
3 been consistent in the courtroom with prior statement or
4 prior hearing as to her credibility, as to her
5 believability, as to her truthfulness and the
6 truthfulness of her testimony, not one inconsistency.

7 The next thing that the Judge will tell you to
8 consider is whether or not Denise Mitchell's testimony
9 has what is known as a ring of truth to it. Is it
10 believable? Is it credible? Does it ring true? What
11 she described happening that night is where she was, how
12 she saw it, I submit to you is very believable given what
13 we know about 7th and Russell Street. It is a drug
14 neighborhood. It is a drug corner. There are drug
15 dealers out there at any given moment, 24 hours a day.
16 If we got in a bus and went up to 7th and Russell Street,
17 I guarantee you each and every one of us here would be
18 able to stop and buy some drugs there. That is what they
19 do there. And drug dealers are the perfect people to rob
20 because they can't do anything about it. You can't call
21 the police and say I was robbed of my drugs or my drug
22 money. You can't do it. It is the perfect crime in
23 many, many ways.

24 And when Denise Mitchell tells you that she saw
25 one of young drug dealers out there getting robbed that

1 night and it happened the way that she said it happened,
2 it has a ring of truth to it. And no one in fact is
3 denying that she saw what she said she saw that night.
4 But you don't have to take Denise M'tchell's words for
5 it, you don't.

6 The Judge will instruct you on something called
7 corroboration, a witness' testimony can be rated either
8 by other witness' testimony or by physical evidence.

9 Well, let's consider Denise Mitchell's testimony.
10 She testified that she went home that night and that she
11 lives on that street. Well, we know that she does. She
12 testified that she went upstairs to the second floor and
13 that there were a lot of people out there on 7th and
14 Russell Street, and other witnesses have testified
15 likewise. She heard a commotion and it sounded something
16 different than what normally happens out there. And she
17 was curious so she went to the window to look out. She
18 saw this red or maroon color car come down the street
19 with four men in it, and we know that this is the same
20 thing that Andrew Bagwell and Henry Montero said, and
21 that the car pulled up Russell Street and parked a little
22 bit past her house and that a young Hispanic drug dealer
23 went down to sell drugs, and we know that is how it's
24 done. And that a man whom she has identified as Pee Wee
25 got out of the car and approached the drug dealer on her

1 side of the street, said give it up and he had a gun.
2 And that is the same thing that Henry Montero described,
3 that the drug dealer was spun around and was shot in the
4 back. And the medical records from the hospital bear
5 that out.

6 That is physical corroboration, they don't lie.
7 He was shot in the back. So she saw what she said she
8 saw and that that drug dealer collapsed almost
9 immediately beneath her on the sidewalk one house up, and
10 the police told you that is where the body was found.
11 That is physical corroboration. And that Pee Wee then
12 turned and pointed the gun up the street to the other
13 side where there were some guys standing and shot several
14 times. And there was corroboration, physical
15 corroboration, because that is where the body of John
16 Lewis was found, on the street on the other side, the
17 murder victim, and that is also the same testimony that
18 Andrew Bagwell gave, corroboration by another witness.
19 You don't have to take just her word for it.

20 How is it possible that she can describe this
21 incident so well and be so accurate and yet be so
22 mistaken about Willie Veasy? And your common sense is
23 going to tell you that she couldn't have been so mistaken
24 about Willie Veasy and be so accurate about everything
25 else.

1 But consider the person that she is identifying.
2 She is not identifying someone who she has never seen
3 before, or someone that she has only seen briefly, she is
4 identifying a person she has known for some time, ten
5 years. Her recognition factor is extremely high and
6 extremely reliable, because Denise Mitchell has paid
7 close attention to Willie Veasy in that ten-year period.
8 She is able to describe him, and I am not talking about
9 on the night in question, but I am talking about over
10 that ten-year period.

11 I have known people over a ten-year period who, if
12 I were asked to describe, I could describe nearly as well
13 as Denise Mitchell described Pee Wee. And that can only
14 point to one conclusion, she's looked at him and she has
15 looked at him very well over that ten-year period.

16 She describes him in height, 6'3". He is 6'3".
17 She describes him medium build. He is medium build.
18 Describes him as 17. He is about 17, 18. She knows him
19 as Pee Wee. That is his nickname. She knows him from
20 13th and Venango. He lives a block and a half away. She
21 knows or noticed the scar over his eye. She has gotten a
22 very, very good look in ten years at this man's face.
23 And there was nothing wrong with her eyesight then that
24 prevented her from seeing him. Her recognition factor on
25 -- in this particular case is extremely high.

1 The only thing that the Defense can point out in
2 regard to Denise Mitchell is that she's admitted she
3 doesn't have perfect eyesight. And that at one time she
4 was asked to view some photos, of which one of them, one
5 of them had Willie's picture in it and she didn't
6 identify anybody. That is the only thing they have going
7 for them in this case.

8 But consider her opportunity to observe. Some of
9 you people have lived in row homes similar to the ones
10 that are on Russell Street. You know from experience
11 what they looked like. You know how high up the second
12 floor window is. It is not like standing at the top of
13 the Empire State Building. And looking down from the
14 second floor window of a north Philadelphia row home to
15 the street below is a distance of maybe 12 to 15 feet.

16 Any mother or father who has looked out their
17 window in north Philadelphia on a street like Russell
18 Street at 10:00 o'clock at night to see what their kids
19 were doing I am sure was able to see their children, even
20 if they were further up the street than what -- where
21 this occurred. I am sure they were able to see that and
22 I am sure they were able to recognize them.

23 Use your common sense. Use your human experience
24 here. It is not as far on Russell Street as they want
25 you to believe. Now, they can pick and choose amongst

1 several photographs, and of course they picked one, which
2 is very dark, and tried to convince you that this is an
3 accurate representation of how light or dark it is out on
4 Russell Street, when you have other photographs which are
5 much brighter, much lighter.

6 Now, which is an accurate representation of
7 Russell Street, this photograph here or this photograph
8 here or the one that they picked out? You can't rely on
9 the photographs to tell you how bright or how well
10 illuminated it was on Russell Street. You have to use
11 your common sense and your human experience. We all
12 lived in the city. We all know what streetlights are
13 like in this city. We all know that they are usually on
14 one side of the street. They go up and they extend out
15 into the street and that they are spaced apart and we all
16 know how bright they are.

17 We have, I am sure, at one point in our lives
18 looked out a window of our house to the street below and
19 saw or recognized somebody standing in the street,
20 without any problem whatsoever, because the mercury vapor
21 lights on the Philadelphia street light provide
22 sufficient illumination to see, especially on a street
23 like Russell Street because it is not a wide street.
24 Even if the lights are on the other side of the street,
25 we are talking about a street here where there is barely

1 enough room for a car to get by, if there are cars parked
2 on one side, a street maybe ten feet wide in length.

3 As concerning Denise Mitchell's eyesight,
4 interestingly enough, when she testified from the witness
5 stand and she was asked to identify Mr. Veasy and she
6 looked over here, anybody see her squint? Anybody see
7 her having problems recognizing him or anything else that
8 happened in this courtroom? If you remember, Mr. Epstein
9 had this demonstration where he went all the way back
10 into the corner over here, and he asked her to look at
11 him and he asked her some questions. Did anybody see her
12 squint or have a problem seeing him in the courtroom at
13 all?

14 She was asked to take a look at her statement.
15 When she was handed it, she looked at it. As she was
16 holding it in her hands, did anybody see her have any
17 difficulty reading what she was reading or holding it?
18 She told that you she does not have perfect eyesight, but
19 that is the type of eyesight where she has trouble seeing
20 things at a distance, and even if in this courtroom from
21 the distance of that witness stand chair back to where
22 the water cooler was, she had no problem seeing anything,
23 even if it was light in here, she had no problem seeing a
24 thing. And this did not occur that much further away
25 from her. It occurred right there on the street.

1 They make a big deal about the fact that she is
2 not at street level and couldn't get a good enough look
3 at Pee Wee's face to see him. You all know and have
4 heard the expression of a bird's eye view, and on this
5 particular night, Denise Mitchell had a bird's eye view
6 of what happened. In fact, if anyone, she was in the
7 best position to see, because even like the people who
8 were at street level on Russell Street, she did not have
9 to duck bullets that were flying everywhere or was not in
10 fear for her life. She had the leisure of being able to
11 look out a window without fear of her own safety, and
12 look at someone who is not directly beneath her. That is
13 not how it occurred.

14 You heard the testimony of Andrew Bagwell. This
15 person was standing in the street pointing a gun,
16 shooting up everyone in the street. So if she's up at
17 the second floor window, you have sidewalk, then you have
18 the street. This was her front of the house and she's
19 looking out the window. The street would probably be
20 about where you folks are sitting. She's not looking
21 directly down at the top of the guy's head, she is
22 looking out and down.

23 And I don't know where this 7.8 seconds or
24 whatever it was came from, because evidence is what you
25 hear from the witness stand, not what the attorney says

1 and not some in-court demonstration that he makes, that
2 he doesn't get a chance to ask Denise Mitchell is that
3 about how long it takes, 7.8 seconds. He didn't ask her
4 that question. He did that demonstration, now he wants
5 you to assume that is -- that's evidence.

6 That is not evidence. We don't know how long this
7 incident took. I am not saying it took a half an hour,
8 or a minor half an hour. How long do you have to look at
9 somebody to recognize them if you have known them for ten
10 years? Maybe a few seconds, and she had more than 7
11 seconds to look at Pee Wee.

12 Denise Mitchell's testimony alone, standing alone,
13 one eyewitness standing alone under the law is sufficient
14 to convict Willie Veasy of these charges. You won't need
15 anything more, if you just had her testimony, but the
16 Commonwealth's evidence did not stop there.

17 I heard testimony that on June 9th of 1992, when
18 Willie Veasy was arrested, when the police went into the
19 house, he ran and hid in the bathroom in the bathtub.
20 This type of evidence is known as a consciousness of
21 guilt. It is a common sense principal. People who have
22 done nothing wrong, people who are innocent have the mind
23 of the innocent. People who have done something wrong
24 have the mind of the guilty.

25 Let me give you an example. I have a little girl

1 at home. She is a year and a half old. In my front room
2 I have a plant with dirt and for some reason she likes to
3 play with it. She knows she is not supposed to play with
4 it, but she does it anyway. And sometimes I will be in
5 another room and it will be quiet, and parents know that
6 when it's quiet, with a 1-1/2 year old, something is
7 going on. I will get up and I will go to the other room.
8 I will yell her name and invariably she will run from
9 that plant to a corner and try to hide behind the couch
10 and a table. She is a year and a half old. I didn't
11 teach her this. Where did she get it from? It is
12 instinctive. You don't even think about it.

13 They say that conduct or action speaks louder than
14 words. On June 9th of 1992, Willie Veasey's guilty mind
15 and his conduct and his actions betrayed him. They have
16 the show on T.V. It is called Cops and they have a song,
17 like bad boys, bad boys, what you going to do when they
18 come for you, and invariably what they do is they run,
19 and that is exactly what he did. He ran and he hid in
20 the bathtub.

21 Now, I am not suggesting that when Willie Veasy
22 was hiding in that bathtub, he was trying to lay prone
23 like the people in the pictures. I don't think you heard
24 any testimony like that. He can fit into a bathtub. And
25 in fact, the people who testified here as to these

1 pictures admitted that Willie has no problem fitting into
2 that bathtub. He could obviously not conceal himself in
3 this bathtub, but at 6:15 in the morning, when the police
4 come into your house, and, you know, and you have that
5 guilty conscience and that guilty mind, you're not
6 exactly thinking that hiding in the bathtub ain't exactly
7 a great idea, you're just reacting instinctively. Your
8 actions are giving you away. That is consciousness of
9 guilt.

10 But the Commonwealth's evidence doesn't stop
11 there, because the next piece of evidence from the
12 Commonwealth is Willie Veasey's confession, and I am
13 going to say it, folks, people who have no idea who
14 weren't there, who weren't involved, do not confess,
15 especially to murder. It goes against everything you
16 have ever known and all your common sense. No one
17 confesses to a murder that they did not commit, no one.

18 When Willie Veasy was asked what happened on
19 Russell Street that night, this is what he said. This is
20 what Willie Veasy said. Even Willie Veasy never said he
21 was at Houlihan's Restaurant when he was asked by the
22 detective. He didn't say he was at work. He never
23 mentioned he was at work. The statement of Willie Veasy,
24 the Defense says, is involuntary. It is coerced. Where
25 was the evidence of that?

1 There is this thing in the law called evidence.
2 Evidence is what witnesses say when they take the witness
3 stand. Where was the witness who said this statement was
4 involuntary, it was coerced, it was untruthful? There
5 was no evidence. There was no witness. The statements
6 and arguments of the Defense counsel are not evidence.
7 No one took the stand, other than the detective, to
8 describe how this statement was taken. There is no
9 evidence that it was involuntary. There was no evidence
10 that it was coerced.

11 Let us consider the statement itself. The
12 statement of Willie Veasy has a lot of progression to it.
13 They say when people lose someone close to them, when
14 someone close to you dies, you go through stages of
15 grief. Usually there is a denial, and then you're sad,
16 and then there is usually anger, and finally, acceptance.
17 And as you can imagine, when someone is confronted with
18 the fact that they committed a crime, they are going to
19 go through some stages too in their mind. And what
20 happened on June 9th of 1992 has a logical progression to
21 it. When first confronted with the fact that he was
22 being arrested for murder and asked to talk about it,
23 Willie had no problem. Hey, I will talk to you because I
24 didn't do it, I know nothing about it. Denial. The
25 first stage, denial.

1 Then the police officers confronted him. Willie,
2 we have a witness. We have witnesses who said they saw
3 you out there on Russell Street. You want to tell us
4 about it? He doesn't continue to deny them, then. He
5 goes to the next stage. Okay. I was there. But I
6 didn't do anything. It was the other guy, Lyndel, the
7 other guy, trying to shift blame, shift responsibility.
8 I went in that car. I knew what they were going to do.
9 I took a gun but I didn't shoot the gun. I didn't rob
10 anybody. And then afterwards they gave me money. Puts
11 himself there but shifts the blame, shifts the
12 responsibility. Probably thinks he's helping himself.
13 He got me. They got witnesses who saw me there. They
14 know I was involved. I better do something to help
15 myself. I know what I'll do, I'll shift the blame to
16 someone else, and that is exactly what he does, and your
17 common sense tells you that is exactly what most people
18 would do, deny it, and then when you are confronted,
19 shift the blame, blame somebody else.

20 And then finally, when they come back in and ask
21 them again, tell us what you did when you were there,
22 Willie, that is all it took, Ladies and Gentlemen. No
23 additional prompting was necessary, because we all know
24 from human experience that you can ask someone a question
25 one time, wait a while, come back, ask them the same

1 question, you get a completely different response.

2 Hell, we saw it in this courtroom. I would ask a
3 witness a question early on, I would come back and ask
4 the same question later on, I get a different response.
5 That is what happened that night. When they came in the
6 second time and said Willie Veasy, what happened that
7 second time or what happened, Willie, tell us again what
8 happened, at that point it's the justification, the next
9 stage, denial. Name somebody else. Now justify your
10 conduct. Okay, okay, I shot the guys up at the corner,
11 but they shot at me. They shot at me. A car -- a bullet
12 hit the car and ricocheted and I was just defending
13 myself. A logical progression to the statement that was
14 taken on the night in question.

15 If the Defense in this case says they have nothing
16 against this police officer, they admire police officers,
17 they wouldn't want do the job that they do, hog wash.
18 Hog wash. They are trying to clean it up for you, folks.
19 What they are doing is, they are calling these guys right
20 here, this guy right here and that guy right here liars.
21 They are liars. They took an innocent man, they forced
22 him to confess to something he didn't do. They framed
23 him and they made him sign it. They don't admire them.
24 In order to dismiss this confession, that is exactly what
25 you have to believe, you have to believe that they lied,

1 that all of them lied, that it was a big conspiracy, that
2 they don't really care who did this murder. They don't
3 care. They are going to frame an innocent man, right
4 there. And they can say it any way they want to say it,
5 and they can try to clean it up and they can try to soft
6 sell it to you, and -- but let's get down to it folks,
7 that is exactly what they are telling you they did. They
8 lied.

9 Well, if these detective were going to lie, and
10 even if the Defense said they have a lot of experience,
11 they have been doing this a long time, they could have
12 done a lot better job of lying, because detectives in
13 this case knew the facts. They knew what color the car
14 was. They knew that there was only one gunman. They
15 knew that the drug dealer said he only had \$5 taken off
16 of him, and I will get to that one. They knew things
17 that Willie Veasy did not tell them in the statement.
18 And if they were going to frame him, then they would have
19 framed him with a statement that was consistent with what
20 they knew and what the witnesses were saying. But they
21 didn't, they let Willie Veasy tell it the way he wanted
22 to tell it and they confronted him and said Willie, we
23 don't believe you're telling us the truth. We believe
24 you shot the gun. We believe you were the robber. That
25 is not the way the statement came out. The statement

1 came out completely different because these are Willie
2 Veasy's words.

3 An experienced Homicide detective, if he wanted to
4 lie, could have told a much better lie than this
5 statement, because this statement is, in a sense, not
6 really a confession. If you look at it from the point of
7 view of Willie Veasy, a layman, someone not versed in the
8 law, Willie Veasy doesn't think he's confessing to
9 anything. What he's saying is somebody else did this. I
10 was just there and if I did shoot my gun, I was justified
11 in doing it.

12 But Willie Veasy doesn't understand conspiracy and
13 he doesn't understand accomplice liability. What he
14 doesn't understand is that by putting yourself there in
15 the car, by admitting that you knew what was going to go
16 on, by admitting that you took a gun, by admitting that
17 you got out of the car with the gun, even if you didn't
18 do anything, and by admitting that you took money, you're
19 an accomplice. You share under the law in the
20 responsibility for everything that everyone else in that
21 car did.

22 So you can say that Lyndel was the guy who did the
23 robbery and shot the drug dealer in the back, and you can
24 say it was the other guys who got out of the car, like
25 professional hit men, and shot the guys up the at the

1 corner, but you're an accomplice, pal, and under the law
2 you're just as guilty as they are. He doesn't understand
3 that and he doesn't understand conspiracy.

4 And he also doesn't understand that when you get
5 involved with -- in a robbery like this, you don't have
6 the defense of justification. You're not able to avail
7 yourself of self-defense. When you put events into
8 motion or you agree to put events into motion with other
9 people such as a robbery, even if somebody tried to stop
10 that robbery, maybe by pulling out their own gun and
11 shooting at you, you're not justified in shooting back at
12 them because you're the provoker, and if you're a
13 provoker, you don't have the justification defense or the
14 defense of self-defense. It is not available to you.

15 But he wouldn't know that when he confessed to
16 this crime. So when he confessed, the obvious inference
17 is that he thought he was helping himself. There was
18 absolutely no evidence in their case of any kind of
19 trickery, of any kind of physical abuse, any kind of
20 psychological abuse, none whatsoever from that witness
21 stand. That is evidence. Remember that. The jurors
22 take an oath, decide the case on the law and the
23 evidence, not on the arguments of this attorney.
24 Evidence. No one took the stand and testified other than
25 the detective as to how this occurred inside this room.

1 No other evidence.

2 Probably the best evidence of Willie Veasey's
3 state of mind on the night in question are these
4 photographs, the black and white photograph. You a l had
5 a chance to look at it. This is the face of a man who
6 confessed to a murder after the murder, after the
7 confession was taken. Is this the face of a man who is
8 under strain, who is being coerced, who confessed or was
9 forced to confess, or tricked into confessing to
10 something that he didn't do?

11 This is the color photograph, the stand up
12 photograph, his entire body. Is this the face of a man
13 under extreme pressure, whose willpower was overborn by
14 coercion?

15 And finally the large photograph. Is this the
16 face of a man who was coerced into confessing to
17 something he didn't do?

18 Ladies and Gentlemen, this is the face of a man.
19 This is the face of a man who confessed to a murder that
20 he thought he was getting himself out of.

21 The other evidence for to you consider, because
22 there is some evidence as to what the Defendant's state
23 of mind is, is the signature on the statement. Remember
24 I kept asking Susan Meyers questions about the time card,
25 did he sign that, is that his signature, do you recognize

1 that? I was doing that for a reason. It want you to
2 take a look at the signature of Willie Veasy that appears
3 signed it once, twice, three, four, five, six, seven,
4 eight, nine, ten times he signed this confession, and ten
5 times he signed it the exact same way, every single time.

6 Now, if you're under a lot of stress, you're under
7 a lot of pressure, you're being coerced and you're asked
8 to sign something, does that look like the signature of a
9 person that's under pressure and compair it to the
10 signature on Willie Veasey's time cards, time cards that
11 he signed back in February, March, April, up at
12 Houlihan's. The same signature, the same way, every
13 single time, Willie Veasy.

14 There is evidence as to Defendant's state of mind
15 in this case, I presented it to you. These pictures,
16 those signatures, other than that, you have no other
17 evidence that he was coerced, that he was under stress.

18 In the statement that Willie Veasy was asked to
19 look at, he makes a correction and that's important, very
20 important. He corrected a sentence to read I fired once
21 at the two corner on the corner. And he changed it to
22 read I fired once at the two guys on the corner. In his
23 handwriting, his handwriting with his initials.

24 If this were not Willie Veasey's words, common
25 sense tells you what would have happened was these

1 detectives would have written something up, they would
2 have said Willie, read this and sign it, and he would
3 have done what Denise Mitchell did the first time she was
4 asked to take a look at photographs, looked at it very
5 quickly and just signed his name on the the bottom
6 without making a correction. After all, these aren't
7 supposed to be his words. This isn't his statement. The
8 fact that he made a correction indicates that he wanted
9 it to be the way he said it. He read it, he found
10 something wrong and he corrected it.

11 When Denise Mitchell didn't make an identification
12 of Willie Veasy the first time she was asked to do so at
13 the photo spread, consider the circumstances surrounding
14 that. This is three weeks after the incident happened.
15 She's still living on Russell Street. She's scared and
16 she's frightened. She knows the guy that did it. The
17 guy that did it knows her. Two people have been shot,
18 one of them killed, shot in the head, the other one shot
19 in the back. You're dealing with some pretty serious
20 customers here. She has become involved and she doesn't
21 want to get any more involved. They come to her and they
22 are asking her, now, do the ultimate, identify someone if
23 you can. Doesn't want to do it.

24 Obviously common sense tells you why not, nobody
25 wants to get involved in a murder investigation. Nobody

1 wants to step forward and point the finger. No one
2 especially wants to be the only person to step forward
3 and point the finger. So she declines. She looks
4 through it real quick, says I don't see anybody, and
5 ultimately tell tells you the reason she did it is
6 because she didn't want to get involved. She explained
7 it. What did the police do? They wait. They let things
8 calm down. Five months later, they go back to Denise and
9 they ask her at that point if she would be willing to
10 look at some photographs, and at that point she looks and
11 she identifies Pee Wee's photo, nobody else's photo.
12 Without pausing, without hesitating, without qualifying,
13 without saying I think it's Willie, it looks like the
14 guy, I am not sure, it could be him.

15 No, what she tells the detective is, is this the
16 male you told police about before you knew -- is this the
17 male you told police before that you knew as Pee Wee?
18 Answer. Yes. Is this the male that did the shooting?
19 Yes. That's exactly the way she testified in here, not I
20 think it might be him, it looks like him, it could be
21 him. No, it's him.

22 The last question I asked her, is there any doubt,
23 ma'am, that was the person? No. And remember when I
24 asked her to point him out? It was very hard for her to
25 do that, very hard.

1 I submit to you that just adds to her credibility.

2 The confession in this case, the manner in which it was
3 obtained, whether or not these are Willie Veasey's words
4 are un rebutted and unrefuted, un rebutted and unrefuted.

5 The last piece of evidence I told you there were
6 three things, Denise Mitchell, this confession, and the
7 that time card. I would like to turn now and discuss
8 with you the time card.

9 If we know anything now, folks, about these time
10 cards, we know that they don't always mean what these
11 people want you to believe they mean. They don't always
12 say what they say or what they want you to believe that
13 they say.

14 Now, the interesting thing about the time cards is
15 this, no one, no one said from that witness stand they
16 saw Willie Veasy there on January 24th. No one has said
17 that, no one ever will. Instead they bring you this time
18 card and their whole alibi defense stands or falls with
19 this piece of paper. What was interesting about the
20 alibi, that if you remember Susan Meyers testified on
21 Tuesday and she spent most of her testimony not
22 testifying about the card, but about all the procedures
23 around Houlihan's. When she left the witness stand, I am
24 sure everyone here had a mental picture of what it was
25 like up there at the restaurant, and the testimony that

1 she presented would lead someone to believe that they ran
2 a very tight ship up there, well oiled, very structured,
3 programmed concerning records, accounting procedures and
4 time card keeping procedures.

5 And what was interesting about the Defense was
6 that they only presented to you this one card and the
7 only problem with it was the change from 5:59 p.m. to
8 6:00 p.m. and from 1:53 a.m. to 1:50 a.m. Hey, no big
9 deal. That doesn't mean you can't accept this card. It
10 doesn't mean that's unreliable. That's all they
11 presented. We recessed for the day and you went home and
12 you probably said to yourself, boy, they run a pretty
13 tight ship up there at Houlihan's, and this guy looks
14 like he has himself a time card that was going to say he
15 was up there and there is no other way around it.

16 The fact is, you didn't see both sides. When we
17 came back here the next day, it was me who brought out
18 all the other time cards for Willie Veasy and how to --
19 had her go through them for an hour and a half, cross
20 examination, and you learned how I got these time cards.
21 Isn't it interesting how I got them?

22 You heard -- what was his name, Seth Sharam
23 testify that last Friday I went up there in the afternoon
24 and I asked to see that time card, this time card,
25 because I hadn't seen it in the original, and I wasn't

1 able to see it. So I asked the guy named Fletcher Vomer
2 if I could see the other time cards for this period that
3 deal with Willie Veasy. I was told to come back in half
4 an hour, and I left and I came back in half an hour. And
5 I talked to Mr. Vomer. And that guy Seth was standing
6 right there. And I asked him where are these time cards,
7 and I was told they are locked up. The guy who has the
8 key, he's on vacation. He won't be back until Tuesday,
9 at which point Seth interjected, no, he won't be back
10 until Thursday, and we might not even have these time
11 cards, we might have burned them.

12 Burned them. What did he tell you from the
13 witness stand when he testified? He had the key the
14 whole time. When I was there that Friday, they had that
15 key the whole time. He lied to me.

16 There is a maxim in the law, false in uno, false
17 in omnibus. It means false in one, false in all. If the
18 witness doesn't tell you the truth about one thing, how
19 can you believe him about anything? They didn't want me
20 to have the time cards, it was obvious and you know why
21 now because you have seen them and you have seen the
22 problems with these time cards. They didn't want me to
23 have them. They weren't going give them to me.

24 Susan Meyers told you how they came to be in this
25 courtroom. I send them a subpoena, bring them, Court

1 order. You don't have any choice. Even when she brought
2 them, she never mentioned them on direct examination. I
3 brought them out on cross examination. Who is hiding
4 things around here, folks? Who is concealing things
5 around here?

6 These time cards have a lot of problems, or I
7 think as she put it, adjustment, lot of adjustment. Many
8 -- they have time cards with no dates. How do you know
9 what week this is that he worked? You have time cards
10 with -- where people forget to stamp. If you forget to
11 stamp in, how do they know what time you got there? They
12 have to take your word for it. It's like an honor
13 system. How do they know what time you left? You have
14 to take their word for it. It's an honor system. You
15 have time cards people forgot to stamp in, stamp out.
16 You had time cards -- two time cards for the same week.

17 It isn't as simple as the Defense wanted it to be.
18 One time card for every two weeks. You had time cards
19 here that are dated February 13th and another time card
20 that's dated February 13th. Two time cards for the same
21 week, but the real clincher is this one, the one that has
22 the name of Jessie Devine on it. Jessie Devine, crossed
23 out, scribbled out, and Willie Veasy put over top of it.
24 Whose time card is this? You remember her explanation
25 that she gave it to you? Well, the manager must have

1 indicated they are at the end of a two-week period,
2 realized it was Willie's time. Jessie Devine, she was
3 somebody that used to work there and they put Willie's
4 name on it.

5 In other words, for a two-week period of time,
6 somebody was coming in, punching this Jessie Devine's
7 time card, and two weeks later, somebody said no, that
8 has to be Willie Devine's time card -- or Willie Veasey's
9 time card. The other reported that the Houlihan's people
10 brought in here don't say anything in terms of what days
11 of the week Willie Veasy worked, all they say is that
12 during the two-week period of time he got paid X amount
13 of dollars. I am not disputing that. I am not disputing
14 that, but the real kicker in this case is they have a
15 document which shows that Willie Veasy was terminated May
16 5th of 1992, voluntarily job abandonment without giving
17 any notice, and then they bring in records that show
18 well, he was terminated on May 5th of '92 according to
19 this paper, but a week or two later they gave him a raise
20 and promotion, and then other records that show no, he
21 was paid up until June of '92, then I asked this lady, I
22 guess what you're telling us is that I was mistaken, the
23 relying upon one document to say what it was supposed to
24 say, and that is exactly right. You can't rely on the
25 their documents to say what it is they are supposed to

1 say because their bookkeeping procedures and their
2 accounting procedures are a mess up there. But they
3 wouldn't admit that.

4 I cross examined Susan Meyers for an hour and a
5 half on this stand and I couldn't get her to admit
6 something as simple as your bookkeeping procedures, your
7 timekeeping procedures, your management procedures are
8 not as organized as you think they are. I couldn't get
9 her to admit something as minor as that. And by the same
10 token, if I couldn't get her to admit to that, and I like
11 to consider myself to be a pretty seasoned prosecutor or
12 an attorney, if I can't get her to admit to something
13 like that, how in the world do you get somebody to admit
14 to a murder that they didn't commit? In the same amount
15 of time?

16 He was questioned for about two hours down at the
17 police station. They didn't keep him there for days.
18 They didn't beat him up. Two hours in that police
19 station and Willie Veasy told them everything that
20 happened out there that night. An hour and a half on
21 that witness stand I couldn't get one witness to agree
22 with me about anything. These people had an answer for
23 everything. Every question I asked Susan Meyers, how do
24 -- explain -- how do you explain this, how do you explain
25 that, she had an answer for everything. Same thing about

1 that guy Seth Sharam, she had an answer for everything.

2 The reason Susan Meyers and Seth Sharam were
3 called in to testify in this case, I submit, is because
4 they knew that these time cards were not enough, because
5 there are so many problems with them, so what had to
6 happen was two people from the company had to come in and
7 testify about the management there, to say that okay, we
8 have problems with our time cards but when I am working
9 there that night, I watch people like a hawk, and nothing
10 gets by me.

11 Interestingly enough, the best evidence of what
12 Willie Veasey's two hours were that night would have been
13 a schedule. There was no schedule presented to you in
14 this case. When Susan Meyers came in here today she
15 testified that I have kept my schedules from three years
16 ago, that's the kind of person I am. If you did, Susan,
17 where is the schedule for this week? From three years,
18 where is the work schedule for this week? You don't have
19 it. You don't know where it is. You can't present it.

20 Defense counsel posed a question: What possible
21 motivation -- or what interest could Houlihan's have in
22 the outcome of this case? Think about it. Can
23 Houlihan's management get up there and admit that one of
24 their employees was not where they said he was supposed
25 to be but instead was somewhere else, even if it was to

1 do something innocent as drive a car? I am not saying a
2 murder, of course they can't admit to that, because that
3 opens up the door to all kinds of liability for the
4 corporation.

5 If you were supposed to be working in a Houlihan's
6 Restaurant and you left and you went and did something
7 and somebody got hurt, you better believe Houlihan's is
8 going to get sued, and what interest did Susan Meyers and
9 Seth ~~Sullivan~~ have in this case? They are the managers who
10 were on duty that night. Do you really expect them to
11 get up there and admit that they weren't watching people
12 and watching things as closely as they say they were?
13 They can't admit that, they would get fired. They can't
14 admit that. They got to come in here and they have to
15 toe the company line. We have procedures. We watch
16 people. When they clock in, we take their time cards.
17 When they clock out we take their time cards. We know
18 who is there, we know who is not there.

19 Come on, folks, some of you people have worked in
20 restaurants, some of you people have worked with time
21 clocks. It's the oldest trick in the book, to clock
22 somebody in or out who is not there. You have time cards
23 here that show that Willie or somebody or other people
24 clocked in at 7:00 o'clock, scribbled out and written in
25 over it 8:00 or 9:00 o'clock. What do you think that was

1 all about? Well, the obvious inference is that somebody
2 took somebody else's time clock and clocked them in at
3 7:00 o'clock, and when that person showed up at 8:00 or
4 9:00 o'clock, the manager caught them and scribbled out
5 that 7:00 o'clock and wrote over an 8:00 or a 9:00
6 o'clock.

7 The alibi in this case rises and falls with this
8 one particular time card. You have to consider this time
9 card in light of all the other time cards, in light of
10 all the other documents they presented to you in this
11 case, in light of their testimony.

12 I told you in the beginning that you should use
13 your common sense in this case. It's true that you must
14 follow the law. It's true that you must decide the case
15 on the evidence, but you're permitted to use common sense
16 and human experience, including your own personal
17 experiences.

18 Some of you may have worked in a Houlihan's
19 Restaurant or a restaurant like that. Susan Meyers made
20 a statement to me from the witness stand, you obviously
21 never worked in a restaurant. Well, I don't know if any
22 of you did and she didn't know if I ever did, but I can
23 tell you, when I was in high school, when I was in thing
24 I Ryan High School, I worked as dishwasher in a
25 restaurant for four years.

1 Call upon your own experiences when it comes to
2 time cards, when it comes to clocks, when it comes to
3 restaurants, when it comes to places like a Houlihan's.
4 These people hadn't been managing that long. Remember
5 Susan Meyers, about two years, but when I asked her on
6 the witness stand, it actually ended up being seven
7 months as of the date that this happened. We would have
8 been led to believe it was a year so it really was as
9 June to July. July it had been there a month.

10 These people were relatively knew. Their job is
11 not to watch people like a hawk. There is no one, no
12 guard standing by that door. There is no guard standing
13 by that clock. Anybody can leave. In fact, people do
14 come and go.

15 The Commonwealth's evidence in this case, Denise
16 Mitchell, the confession, prove beyond a reasonable doubt
17 that on the night in question Willie Veasy is -- was on
18 the 700 block of Russell Street, not at Houlihan's. The
19 alibi in this case has so many holes in it it wouldn't
20 hold water.

21 The only question I submit for this Jury to decide
22 is just what is Willie Veasy guilty of? You're going to
23 be charged on murder and manslaughter. The Judge will
24 instruct you as to the law. He will be confined to
25 reading from a book. I would like to take just a moment

1 to discuss it with you in common, everyday terms.

2 Basic difference between murder and manslaughter
3 is what is known as malice. If you kill somebody with
4 malice, you're guilty of murder. If you kill somebody
5 without malice, you're guilty of manslaughter. Malice
6 has been defined as a hardness of heart, cruelty, wicked
7 disposition, a person who acts regardless of his social
8 duty, or regardless of the -- a person acts regardless of
9 consequences of their actions.

10 Malice can be inferred from the fact that you use
11 a lethal weapon on a vital part of a person's body. In
12 this case it happened twice that night. A person who
13 agrees to commit a robbery, gets a gun, who goes to
14 street, robs a man, who shoot him, who takes the gun,
15 points it up the street and shoots somebody else just
16 because they are there is a person who kills with malice.
17 If you find malice in this case, then you must find
18 murder.

19 The question of what degree. Manslaughter is a
20 killing without malice. For instance, voluntary
21 manslaughter is where you kill someone but you reasonably
22 believe you were justified, that you were defending
23 yourself, but under the circumstances that belief was not
24 reasonable, therefore you couldn't have killed them with
25 malice because you honestly felt or you had a reasonable

1 belief you were justified in what you were doing.

2 No reasonable person could believe Willie Veasy
3 was justified in doing what he did that night.

4 Involuntary manslaughter is when you kill somebody
5 recklessly. For instance, if I was driving down Broad
6 Street and the light turned yellow in the intersection
7 and I went to beat the lights and I floored the car and
8 somebody stepped off the curb in front of my car and I
9 hit them, you would be hard pressed to say that I
10 intended that to happen or even that I did it with
11 malice. No, you wouldn't be able to say that I killed
12 somebody due to my own reckless conduct. That's
13 involuntary manslaughter.

14 This is not a case of involuntary manslaughter.
15 This is not a case of voluntary manslaughter. This is
16 not a case of manslaughter, period, this is a case of
17 murder. There are three degrees of murder. Murder in
18 the first degree, murder of the second degree and murder
19 of the third degree. All murders are killings done with
20 malice. Murder of the third degree is an unintentional
21 killing done with malice. The best way I can explain it
22 to you is give an example.

23 Let's say that I had somebody in life and I really
24 didn't like. And I saw this person walking on the street
25 one day and I decided that I was going to take a razor

1 and I was going to cut their knee cap and I was going to
2 give them a limp for the rest of their life just so they
3 could remember that I don't like them, and I walked up to
4 that person and I cut their knee and I left. What I
5 didn't realize at the time is that the person, when they
6 fell down on the sidewalk, was unable to get up and get
7 to a hospital in time and ended up bleeding to death.
8 And they died. I would be guilty of third degree murder
9 because I killed somebody unintentionally. I didn't mean
10 to kill you, I just meant to hurt you, but I killed you
11 with malice in my heart. I did something that a
12 responsible person would never do. That's murder of the
13 third degree. This is not a case of murder in the third
14 degree.

15 Murder of the second degree is any killing that
16 occurs in the commission of a felony like robbery. If
17 you agree to commit a robbery with other people or even
18 alone, in the commission of that robbery somebody gets
19 killed, you're guilty of murder of the second degree,
20 called felony murder. The felony is robbery than which
21 is in the commission of the robbery somebody dies. It
22 doesn't matter that you meant for it to happen. You
23 might not have even agreed upon it for it to happen. Let
24 me give you examples.

25 If I went in to rob the owner of a 7-Eleven and it

1 was an elderly man with a heart condition and I pulled
2 the gun and stuck it in his face and said give it up, he
3 had a heart attack, I didn't intend for that to happen.
4 I didn't mean for anyone to get hurt.

5 In the commission of this robbery a man died
6 intentionally, that's murder of the second degree. When
7 I was committing this robbery, this store owner turned to
8 get the money and slipped on something that was on the
9 ground and fell and cracked his head and died. I didn't
10 intend for that to happen. That's murder of the second
11 degree. At the very least this case is a case of murder
12 in the second degree, a murder in the commission of a
13 felony.

14 I'm going to tell you why this is a case of murder
15 in the first degree. Murder of the first degree is an
16 intentional, a deliberate, premeditated, willful killing.
17 You meant to kill the person. You intended for it to
18 happen. One of the ways that you determine what
19 somebody's state of mind is, what was their intent,
20 obviously is by their conduct, by their actions.

21 If I take a gun and I point it at your head and I
22 pull the trigger, I couldn't come into the courtroom here
23 and say I didn't realize you were going to die. I didn't
24 mean to kill you. You would laugh at me. Anybody who
25 takes a lethal weapon and point it at a vital organ of

1 another person obviously means to kill them, or you can
2 at least infer that.

3 Let us look at all of the deliberate, intentional
4 conducts Willie Veasy engaged in on the night in
5 question. He had a gun. He got a gun. A lethal weapon.
6 He knew what it was capable of. He agreed to participate
7 in a robbery. He went to the Russell Street scene. He
8 got out of the car. He robbed the drug dealer. He spun
9 him around and he shot him in the back.

10 That was no accident, that was deliberate,
11 intentional. He meant to do that. And then you heard
12 the testimony of Bagwell, Montero and Mitchell. After he
13 did that, he took the gun and he pointed it up the street
14 at the group of men in front of 705 and he pulled the
15 trigger, not once, but at least twice, maybe more times.

16 The more times you pulled the trigger, the more
17 intentional your conduct is. Pull it twice. If you pull
18 it three times, you mean to shoot it. If you point it,
19 you mean for it to go somewhere. And ultimately it hit
20 John Lewis in the head and killed him. A deadly weapon
21 was used on a vital part of that man's body and he died.
22 And there was no reason for it. John Lewis was an
23 innocent bystander. He had done nothing. He wasn't
24 involved in the robbery. He wasn't trying to stop the
25 robbery. He was just there. For no reason whatsoever,

1 with malice in his heart, Willie Veasy intentionally,
2 deliberately pointed that gun and fired several shots at
3 him, at Andrew Bagwell and at everybody else up there
4 with intent. That's murder in the first degree.

5 You're also going to learn about conspiracy and
6 you're also going to learn about accomplice liability.
7 Listen and pay very close attention to it. A conspiracy
8 is when one or more people agree to commit something
9 which would constitute a crime. If you agree to commit a
10 crime with somebody, you're a co-conspirator and it
11 doesn't have to be verbally by actions. I got into a car
12 with somebody and they told me they were going to do a
13 robbery and gave me a gun and asked me to go along even
14 in the I said nothing, but I went and held the gun and
15 got out of the car. By my actions I have demonstrated
16 that I agreed to participate in this.

17 That's a conspiracy. The interesting thing about
18 a conspiracy is if you enter into one, then you're
19 responsible for the actions of your co-conspirators. The
20 act of one are the acts of all. So even if it's agreed
21 upon that no one is supposed to get hurt, if one of your
22 co-conspirators pulled that gun and starts shooting up
23 that street and somebody gets hit and somebody dies,
24 you're responsible for it. Because you agreed to
25 participate.

1 Accomplice is a little bit different. An
2 accomplice, you don't have to agree. You can find
3 somebody guilty of the crime even if they didn't agree to
4 participate in it. If they aided, abetted, furthered or
5 encouraged it, if some way by their presence they made it
6 possible.

7 In this particular case Willie Veasy was clearly a
8 co-conspirator and he was clearly an accomplice. Just by
9 being there and having a gun on Russell Street he made
10 everything that happened out there that night possible.
11 So even if you want to accept Willie Veasey's statement
12 as to the fact that Lyndel was the guy that shot the drug
13 dealer and then I was the guy that shot up the street,
14 Willie Veasy is responsible for this guy Lyndel's
15 behavior if in fact there ever really is a Lyndel. He's
16 responsible for it. He's a co-conspirator and he is an
17 accomplice.

18 In the beginning of the trial I asked you people
19 to use your common sense and I gave you an explanation
20 or a definition, common sense, seeing things as they
21 really are and doing things as they ought to be done.
22 See things as they really are, folks. This is a case of
23 a man who confesses to murder then tries to alibi his way
24 out of it. See things as they really are and then do
25 things as they really ought to be done. The evidence in

1 this case is overwhelming, the signed confession, the
2 positive identification, an alibi that doesn't hold
3 water. Willie Veasy, based upon all of the evidence is
4 guilty of first degree murder, conspiracy and possessing
5 a gun.

6 Thank you.

7 THE COURT: Members of the Jury,
8 arguments are completed for today. You will be dismissed
9 but do not discuss the case with anybody. Come back here
10 tomorrow morning for my charge.

11 MR. EPSTEIN: If Your Honor please, I
12 would like to place on the record the following
13 objections to the District Attorney's closing, which
14 either singly or cumulatively warrant -- first of all, I
15 ask to you rule on the objection, then depending on how
16 you rule, I may ask for further relief.

17 Number one, I made an objection at the beginning
18 that the District Attorney was arguing facts not in
19 record. The objection was overruled but the District
20 Attorney persisted in arguing that there was a statement
21 that I didn't impeach someone with, implying therefore
22 that there was impeachment material in there. Absolutely
23 forbidden.

24 Number two, the District Attorney repeatedly made
25 as close to direct comment on my client's silence as any