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THE COURT: Mr. McGlaughlin, are you ready to proceed?

ATTORNEY MCGLAUGHLIN: Your Honor, I am. Thank you, Your Honor. The Commonwealth; good morning, ladies and gentlemen.

Ladies and gentlemen, obviously you know what this is. This is the closing argument, and before I proceed into the merits of it, I do want to say a few preliminary remarks. I am not in the habit of thanking jurors. Ladies and gentlemen, I believe it's an obligation of service that befalls a citizen in our country, but I think that your service on this jury deserves some special mention.

We have grabbed you from your lives and thrown it together as a jury and asked you to do a very difficult task, and I believe that it deserves some special recognition and praise, ladies and gentlemen.

Each and every one of you could have said something to stay off this jury, but you answered the questions honestly and as carefully as you could, and you answered them to the satisfaction of Mr. Witman and myself to the point where we believed you when you said that you

1           could afford him a fair trial.

2                           As you recall, I told you what a fair trial  
3           is, ladies and gentlemen, is one which affords him the  
4           presumption of innocence, which means as he sits there  
5           even now, you must set in your mind that he didn't do  
6           this, he did not murder his brother, and that you would  
7           require the Commonwealth to prove its case to you beyond a  
8           reasonable doubt, the highest burden of proof in the  
9           world.

10                           Now, Judge Uhler will tell you when he  
11           instructs you that reasonable doubt can arise out of the  
12           evidence presented or the lack of evidence presented, and  
13           he'll tell you that -- he'll define reasonable doubt for  
14           you. He'll tell you what that standard is as to how you  
15           utilize that in determining whether or not the  
16           Commonwealth has met that burden, and the other thing, of  
17           course, I mentioned that if Mr. Witman does not take the  
18           witness stand -- and he hasn't -- that your oath as jurors  
19           requires you not to take that as any evidence of his guilt  
20           or use that against him in anyway whatsoever. You must  
21           not, and you cannot. He has a constitutional right to do  
22           what he has done.

23                           And, the final thing that's unique to this  
24           case, as I mentioned to you folks, you cannot say, "If not  
25           him, who else?" That's not a proper basis on which to

1 base a verdict.

2 As I said to you, the Commonwealth has  
3 charged this man, this young man. They have charged him  
4 with the murder of his brother. It's their obligation to  
5 prove that he did it.

6 If they fail in that burden, ladies and  
7 gentlemen, that's it. If they succeed in that burden,  
8 that's it. If they fail in that burden, that's it.

9 Now, as I told you -- and as you see now  
10 after this case is closed -- there was indeed a mountain  
11 of evidence in this case, and as I told you in my opening  
12 statement, very little of it points to Zachary Witman.  
13 All they ever had, ladies and gentlemen, was that he was  
14 there and that his sweatshirt had blood on it.

15 Well, Judge Uhler is going to tell you that  
16 mere presence at the scene of a crime is not evidence of  
17 anything. That's not evidence of guilt, and as far as the  
18 sweatshirt is concerned, ladies and gentlemen, you heard  
19 the 911 tape. You heard that he was told to move  
20 Gregory's body.

21 So, let's talk about the sweatshirt and  
22 Deborah Calhoun. Let's start right off the bat about  
23 talking about her.

24 Ladies and gentlemen, she was a difficult  
25 witness for the defense. She had many good qualities.

1 She was glib. She was intelligent. She was well read.  
2 Lord knows she zinged me a couple of times. I had some  
3 questions for her. She even had the same books that I  
4 did, and she was ready. She was well prepared, and, in  
5 fact, the vexing thing about Ms. Calhoun, ladies and  
6 gentlemen, is that some of her conclusions I agree with.  
7 Some of her conclusions were correct, and others were  
8 wrong.

9 From our perspective, we disagree with some  
10 of them, but some of them were correct, and that made it  
11 very difficult because how do you pick and choose; how in  
12 terms of presenting a cross examination? But, one of the  
13 main things that to consider about Ms. Calhoun is the fact  
14 that her evidence is opinion. Her evidence is not fact.

15 She did not give you any facts, ladies and  
16 gentlemen. All she gave you was an opinion, and there is  
17 a big difference, and I use the example of a bad check  
18 case.

19 In a bad check case, the check bounces.  
20 Well, if the Commonwealth brings in the merchant who says,  
21 I saw that individual write that check out, he handed it  
22 to me, and it bounced, well, that's a fact. That's direct  
23 evidence. That's a fact.

24 But, if the Commonwealth brings in a  
25 handwriting expert and compares that check with a known

1 example of the Defendant's handwriting and he says, well,  
2 in my opinion both of these documents were written by the  
3 same person, well, that's not a fact. That's an opinion.  
4 That's something that exists, and there is a difference,  
5 ladies and gentlemen. Her opinions are based on  
6 subjective conclusions; subjective conclusions.

7 Let me give you an example of what I am  
8 talking about. Do you remember the first photo in her  
9 slide presentation, the handprint where the fellow shot  
10 his finger off? Remember my question, if she didn't know  
11 that person had shot their fingers off, she wouldn't just  
12 by looking at that handprint, she wouldn't know that. She  
13 couldn't tell that simply by looking at that print.

14 That's an example of what I am talking  
15 about, ladies and gentlemen. There was something much  
16 more fundamentally wrong with her analysis, and that is,  
17 ladies and gentlemen, that she had the theory before she  
18 had the facts from the evidence.

19 That evidence was delivered on October 8th,  
20 1998, and in the ensuing month before she started to  
21 examine this evidence, she had the Commonwealth, the  
22 police were talking to her.

23 Don't forget she works for the state  
24 police, folks, and the police were talking to her, and  
25 basically they had come to the conclusion that Zachary

1 Witman was guilty. They arrived on that scene. Zachary  
2 Witman was there; no one else. He has blood on his  
3 sweatshirt. He is guilty. You are the guilty person.

4 And that, ladies and gentlemen, drove her  
5 entire analysis of the evidence in this case. Again, not  
6 to say that some of her conclusions weren't correct, not  
7 to say that some of her conclusions weren't accurate, but  
8 some of them were wrong.

9 She had to fit the facts into the theory  
10 instead of the other way around; the other way around, as  
11 you look at the facts and then you develop your theory.

12 You say, well, what about some example  
13 about that Mr. McGlaughlin?

14 I'll give you some examples of that, not  
15 many, but some of the most important examples.

16 Do you remember when I asked her about the  
17 rug that was found bunched up sort of under Gregory's body  
18 and next to him, and I said, weren't you requested to  
19 examine that rug for hairs and fibers and also the door  
20 mat, too?

21 Remember that, too?

22 She never bothered. She made a unilateral  
23 decision not to examine those items for fibers and hairs.

24 Do you remember what she said as why it was  
25 Mr. Barker who came back on redirect examination and asked

1 her why didn't you do it? Do you remember her answer?

2 It wasn't probative. We already had the  
3 suspect. We already had the guy, but what was the reason  
4 why I had to examine for hairs and fibers, we already had  
5 the guilty person.

6 Essentially, she didn't say it that way, of  
7 course, but that was what was behind what she said in that  
8 answer.

9 There is another example, ladies and  
10 gentlemen, that's absolutely stunning. It is  
11 unbelievable. It has to do with Gregory Witman's  
12 fingernails.

13 Ladies and gentlemen, when a person dies  
14 violently, it's obvious that they resisted to their last  
15 breath they resisted, and it was obvious that Gregory  
16 Witman's nine defensive wounds on one hand, right-hand,  
17 and sixteen defensive wounds on his left hand, they were  
18 from the knife.

19 Of course, who knows what Gregory did at  
20 scratches and including at his attacker.

21 And, what do they do when they get to the  
22 autopsy?

23 They clip his fingernails, folks.

24 Now, to be fair to Dr. Funke, she indicated  
25 that it wasn't her responsibility. She clips them. Well,

1 she said, we clip them pretty far back. Well, ladies and  
2 gentlemen, you scrape a person's fingernails in that  
3 situation for genetic material. The person is deceased.  
4 You are not going -- it doesn't matter. You can scrape  
5 the inside of the fingernails and collect that genetic  
6 material and send that off to a lab.

7 ATTORNEY BARKER: Objection, Your Honor.  
8 These are arguing facts not in evidence. There was no  
9 testimony regarding the accepted methodology.

10 THE COURT: Move on, counsel.

11 ATTORNEY MCGLAUGHLIN: Thank you, Your  
12 Honor.

13 You send that off to a lab, and, again, Dr.  
14 Funke said, well, you know, that's not my job, I am a  
15 pathologist. My job is to do an autopsy. Fair enough.  
16 Fair enough. Dr. Funke, that's fair enough.

17 So, she clips the nails. She gives them to  
18 the police. It's now their job to do with them as they  
19 want.

20 But, what does Deborah Calhoun do?

21 Does she send them off to the lab?

22 Does she send them off to Greensburg with  
23 the other items, two of which included known samples of  
24 Gregory and Zachary's blood for DNA analysis?

25 Does she send them off to Greensburg for

1 Mrs. Kucherer to analyze to see if there is genetic  
2 material there?

3 No. All she does is type them for  
4 Gregory's blood.

5 Why?

6 Because they already have the guilty  
7 person.

8 What difference does it make? So what?  
9 That's an example of her thinking, ladies and gentlemen.  
10 That's an example of how her analysis is flawed because  
11 she has the theory before she looks at the facts, and  
12 sometimes the facts don't matter.

13 There is another example. We went over a  
14 lot of her conclusions and compared her notebook, the  
15 things that were in her notebook to her final report, and  
16 I am only going to select one of the most important she  
17 had in her notebook, ladies and gentlemen.

18 It was separate places the fact that in the  
19 large pool of blood -- in the large pool of blood that was  
20 found by the backpack, ladies and gentlemen -- she saw air  
21 bubbles. That was in her notebook that she saw air  
22 bubbles.

23 Well, what does that mean?

24 Well, to her that means that the person's  
25 throat was compromised. Remember how she talked about the

1 air bubbles you could see. She diluted with saliva and  
2 mucus and things like that.

3 Did she put it in her report?

4 No, she did not; again, another example,  
5 ladies and gentlemen, of the flawed analysis because she  
6 had theory before she looks at the facts. She had the  
7 guilty person; what difference does it make that I put the  
8 air bubbles in my final report.

9 And, finally, there was a gap and lapse in  
10 her presentation. Remember the PowerPoint, initial  
11 presentation of the different types of bloodstain patterns  
12 and so forth?

13 Ladies and gentlemen, she never even  
14 mentioned directionality. Directionality is huge in this  
15 case in analyzing the evidence. That wasn't even a basis  
16 for her initial explanation to you of what bloodstain  
17 pattern was all about, but directionality was huge, and,  
18 remember, I had to have her draw an example of what that  
19 means.

20 Blood drops where there is a directionality  
21 look like this or this or this, and we find out from the  
22 research about bloodstain pattern, that actually the tail  
23 on a blood drop like this points in the direction of  
24 travel.

25 Now, there is two ways to achieve that kind

1 of shape. That's where a blood drop is going straight  
2 down on an angled surface, you will get that shape.  
3 That's one way. The other way is if the person who is  
4 dropping blood is running, is in motion, that's another  
5 way that you will get that shape.

6 And, the analysis of the blood in the  
7 hallway regarding directionality is very important, yet,  
8 ladies and gentlemen, that wasn't even a part of her  
9 presentation to you about bloodstain pattern analysis in  
10 general; the slide show, as it was called.

11 Well, what about the sweatshirt? What  
12 about Zachary Witman's sweatshirt?

13 This is it. This is it, ladies and  
14 gentlemen. This is the sweatshirt. Here it is. That's  
15 it. That's all they have had, ladies and gentlemen, was  
16 Zachary Witman's sweatshirt.

17 Now, her analysis of that sweatshirt, did  
18 that really factor in anything about Greg -- Zachary's  
19 moving the body and Zachary's position during that  
20 process?

21 You heard the 911 tape. Mr. Krebs, as I  
22 said before, to be fair to the man, he didn't realize how  
23 badly injured Gregory was. He said, put him on his back.

24 Does that factor in anything we heard about  
25 her experiment, her experimental sweatshirt where she uses

1 a white one in her experiment, and all her experiment was  
2 stabbing a sponge with blood on it 90 times while she is  
3 standing. She doesn't have anything -- that experiment  
4 has nothing to do with this case, and look at the pattern  
5 that results, a few high speed dots on the sweatshirt.

6 Does this look anything at all like this?

7 Of course, it doesn't; of course, it  
8 doesn't.

9 And, did she do anything with experimenting  
10 about a body falling into a pool of blood supply or a head  
11 falling into a pool?

12 You saw -- you saw what that scene looked  
13 like in that laundry room, ladies and gentlemen, and let  
14 me digress for just a second, ladies and gentlemen. I  
15 apologize to you for having to show you that. That was  
16 horrifying, horrifying, but you had to see it. You had to  
17 know what it looked like. You had to see how much blood  
18 there was in that room. You had to see Gregory's blood  
19 drenched shirt, a shirt that was white to begin with, but  
20 turned red with the stains of his blood.

21 You had to understand what it was that  
22 Zachary Witman walked into, and is it so unreasonable to  
23 assume that a body who falls over on its back, it's pure  
24 weight -- at that point, folks, Gregory Witman was dead.  
25 He was dead, and that was pure weight falling into -- he

1 weighed 63 pounds -- falling into that blood.

2 Is that so unreasonable to assume that  
3 blood would splash?

4 Is it so unreasonable to assume his head  
5 might not flop and splash blood, too?

6 Is it so terribly unreasonable to assume  
7 every single major artery and vein in your neck severed  
8 just moments before that some blood would spurt or squirt  
9 out of there?

10 I had to use that term. Dr. Funke  
11 disagreed. To her, a spurt -- remember, we finally got  
12 the semantics down -- to her a spurt has a pulse behind  
13 it.

14 Well, Gregory Witman at that point, ladies  
15 and gentlemen, had no pulse. He was deceased. The point  
16 of it is that is one of the problems with the type of  
17 so-called science, that they -- that people present  
18 nowadays with people who aren't really scientist --

19 ATTORNEY BARKER: Objection, Your Honor.  
20 This goes to admissibility of evidence, which is a legal  
21 question, not a question of fact.

22 THE COURT: Counsel, I am going to permit  
23 it.

24 Let's proceed.

25 ATTORNEY MCGLAUGHLIN: Thank you, Your

1 Honor.

2 That's what this is all about, somebody's  
3 interpretation. They use this type of person who  
4 testifies. They testify with a veneer of science behind  
5 them. Remember, she zinged me? Remember I asked her  
6 which Newtonian law of physics do you use in your  
7 discipline?

8 She spit it right out. It's very simple.  
9 It's the law of bodies, liquid, and motion acted on by a  
10 force. That's very simple. She had it. She had it down,  
11 but it's in the interpretation, ladies and gentlemen, that  
12 we break down. She can't. It's not subject to the  
13 scientific method because it's not subject to  
14 experimentations.

15 You can't develop a hypothesis that  
16 develops an experiment and confirms that hypothesis, not  
17 even fair to ask them to. I mean, carried to its logical  
18 absurd extreme, you would have to kill somebody else, and  
19 then how could you ever, ever get all the variables and  
20 all the conditions identical. You just couldn't do it,  
21 and that's the problem when she tries to do an experiment,  
22 ladies and gentlemen, to show you that and try to  
23 duplicate that.

24 What else about that sweatshirt?

25 Ladies and gentlemen, it's ruined. The

1 integrity of that sweatshirt is ruined. Ladies and  
2 gentlemen, this is what the sweatshirt looked like, and  
3 don't tell me that the application of amido black to this  
4 sweatshirt didn't ruin its integrity. Don't tell me it  
5 looks the same.

6 Look at this area up here. Do you see any  
7 staining up here?

8 Now you do.

9 Look, do you see any staining here?

10 And here?

11 Now you do.

12 It looks different, folks. Remember what  
13 Ms. Calhoun told you what amido black is. It's a protein  
14 stain. Linda Grass told you they use it for fingerprints.

15 Well, ladies and gentlemen, you heard the  
16 evidence. I finally pulled it out of her a little bit,  
17 what you have on your hands, what you leave as  
18 fingerprints are the proteins and your amino acids.  
19 That's what amido black does. It reacts with that.

20 She tried to fudge it. Ms. Grass tried to  
21 fudge it. I was requested to look for blood and  
22 fingerprints. Well, when we finally got to the memo that  
23 was sent to her, we find out that her request was to look  
24 for fingerprints or palm prints.

25 That's because, ladies and gentlemen, they

1 were so desperate to find a connection with that  
2 sweatshirt and Gregory Witman, that they were willing to  
3 ruin the sweatshirt.

4 Do you remember when I asked Ms. Grass,  
5 remember that question, didn't you warn them, didn't you  
6 tell them what was going to happen to the sweatshirt?

7 Yes, I did.

8 Well, ladies and gentlemen, what does she  
9 have to warn them for if what she's going to do to the  
10 sweatshirt isn't going to hurt it?

11 Why even give a warning if it's not going  
12 to alter its appearance and integrity as an exhibit?

13 What did they say?

14 Go ahead and do it. They already had the  
15 analysis of it; go ahead, and then they tried to keep me  
16 from seeing it after they did that.

17 Now, admittedly we gave you a stipulation.  
18 You heard about there was a letter written directly to Mr.  
19 Goodfellow by me. I am allowed to do that. That's  
20 permissible. It's not like he is off-limits. I can write  
21 to him. I wrote to him. See, we were going to try this  
22 case a year ago. Why we didn't is unimportant. Nobody is  
23 at fault; nobody is to blame.

24 People were gearing up for trial last  
25 winter. I wrote to him in January, "I want to see the

1           sweatshirt." I get a response, "You can't see it."

2                           Well, you heard about the stipulation.

3           There was a phone call. Of course there was a phone call.

4           "What do you mean I can't see it? I am the lawyer. Don't  
5           tell me I can't see it."

6                           And then, of course, I did see it, and this  
7           is what it looked like then. This is what it looked like.

8                           Even the analysis of the sweatshirt, ladies  
9           and gentlemen, contained conclusions from Mrs. Calhoun  
10          that I agree with. We are right back to this same  
11          dichotomy here. Remember what she said about cast-off  
12          pattern, the cast-off pattern that was in this area that  
13          she looked at the cast off from fingers?

14                          She said cast off from fingers -- what did  
15          she say to you about that? She said six to twelve inches  
16          and low force.

17                          Well, do you remember the testimony from  
18          eyewitnesses as to what Zachary Witman was doing with his  
19          bloody hands?

20                          Six to twelve inches and low force, we are  
21          not talking about flinging your hands, bloody hands at a  
22          piece of paper on a wall. We are talking about a kid who  
23          was going like this. That's not high force, folks.  
24          That's low force. That's exactly what Ms. Calhoun saw on  
25          that sweatshirt in her interpretation.

1                   An example of us agreeing with her.

2                   Even her conclusion regarding the spurting,  
3 all she said was it was consistent with an arterial spurt.

4                   Does that prove beyond a reasonable doubt?

5                   Certainly it's something that we disagree  
6 with or at least believe that there could be alternative  
7 explanations for, but, no, that's what she said, and that  
8 was her conclusion.

9                   Well, ladies and gentlemen, think about it.

10                  One last thing, the cuff stains on this  
11 sweatshirt. Do you remember what Mrs. Witman told you  
12 about Zachary's habit of pulling his sleeves down when he  
13 wants to touch something distasteful to him?

14                  Do you think for one moment Mrs. Witman  
15 looked at this sweatshirt before she testified about that  
16 habit?

17                  And, what do we find on the sweatshirt  
18 right down to the cuff?

19                  And, Mrs. Calhoun said it was the area of  
20 the heaviest staining, totally consistent, ladies and  
21 gentlemen, with Zachary Witman pulling his sleeves down  
22 before he touched Gregory's body, the area of the heaviest  
23 stain.

24                  Ladies and gentlemen, there was finished up  
25 the cross examination of her by a reference to the book --

1 reference to the book written by the guru of bloodstain  
2 pattern analysis in the United States of America. This is  
3 the man that started it all in the modern era, and she  
4 even grabbed it -- and remember she grabbed it off my  
5 table to make a point about what the stains look like in  
6 the back cover.

7 She was well aware of this book, folks, and  
8 remember what I finished up with? The quote in the  
9 summary from Mr. McDonnell that said that bloodstain  
10 pattern interpretation is not a panacea, and it will  
11 rarely be sufficient standing alone to solve a crime,  
12 rarely sufficient standing alone. Yet that, ladies and  
13 gentlemen, is all they have. All they have is that is her  
14 opinion regarding the stains on this sweatshirt.

15 Ladies and gentlemen, what about Zachary  
16 Witman, the boy -- and I say boy because you can't forget  
17 for one moment that this is what Zachary Witman looked  
18 like when he was 15 years old, not now, not now, and even  
19 now he is pretty slight, but this is what he looked like  
20 in 1998. This was taken, Mr. Witman told you, in July of  
21 1998. This gives you an idea of his stature, his stature  
22 at the time, ladies and gentlemen. He is standing next to  
23 his father. Mr. Witman is not a big man, so you can judge  
24 for yourself. Look what he looked like.

25 Let's talk about Zachary Witman the boy.

1 Ladies and gentlemen, the Commonwealth has conceded, as  
2 they must in this case they have no motive -- no motive.

3 Now, what does that mean?

4 What that means, ladies and gentlemen, is  
5 that they don't have a reason; they don't have an  
6 explanation; they don't have a reason or explanation why  
7 Zachary Witman would murder his brother. Ladies and  
8 gentlemen, that is huge.

9 Now, admittedly, I have told you I was a DA  
10 once. I argued against things like that, to say we don't  
11 have to prove motive. It's true, the Commonwealth never  
12 has to prove motive. Whether it's illegally parking or  
13 first-degree murder, they don't have to prove motive. You  
14 can't require the Commonwealth to prove somebody's reasons  
15 for doing something. That's impossible.

16 But, that doesn't -- Judge Uhler will tell  
17 you in his closing remarks, folks, that doesn't mean it's  
18 not important. People don't usually kill people for no  
19 reason. So, the lack of a reason, the lack of an  
20 explanation as to why he would do this is very important.

21 We presented character testimony. Now,  
22 I'll be the first to admit it was a little ragged, and it  
23 was a little embarrassing. Part of the problem is that  
24 people just don't understand there is a difference between  
25 the legal -- what the legal requirements for character

1 testimony are and what people have in their head as common  
2 conception of what it means.

3 But it came out, folks, the importance of  
4 it is twofold: Number one, Judge Uhler will charge you on  
5 character testimony and character evidence, what that  
6 means, and it's important character evidence standing  
7 alone all by itself, if it's important and strong, you  
8 have enough for you to accept it and believe it, that in  
9 itself, just that one thing is enough to raise a  
10 reasonable doubt about the person's guilt.

11 But there is another aspect to it that's  
12 important also, folks, and that is that once you introduce  
13 character testimony, the Commonwealth has the right to  
14 come back and offer anti-character or counter --

15 ATTORNEY BARKER: Objection, Your Honor,  
16 arguing facts not in evidence.

17 THE COURT: Cross examination of character  
18 witnesses is the extent of where we have gone. Let's move  
19 on, counsel.

20 ATTORNEY MCGLAUGHLIN: Understood.

21 The point is, folks, did you hear anything  
22 about any bad blood between these boys?

23 ATTORNEY BARKER: Objection, Your Honor,  
24 same grounds.

25 THE COURT: Sustained.

1                                   ATTORNEY MCGLAUGHLIN: Well then, let's  
2 talk about lack of motive.

3                                   Again, let's go back to motive. With no  
4 reason did you hear anything about any kind of reason, bad  
5 blood, a girl, money, a rivalry, did you ever hear any  
6 evidence about Zachary Witman beating up his brother or  
7 harming his brother prior to this? You didn't. You  
8 didn't.

9                                   There are some other aspects about it,  
10 folks. Think about the crime and the circumstances and  
11 the timing. Assuming for just a moment that it was  
12 Zachary Witman's goal and his plan to kill his brother in  
13 this fashion, he has accomplished his goal. Gregory is  
14 laying dead on the laundry room floor. His parents are  
15 away. His mother is in Baltimore. His father is in  
16 Chicago. His brother is dead. No one else home. What's  
17 the hurry? What is your hurry?

18                                  Why don't you take your time, take off your  
19 bloody clothes, wash your hands, put them in the basement,  
20 some corner of the basement where nobody hardly looked  
21 around?

22                                  The testimony was the police went down and  
23 looked around and walked out.

24                                  Why don't you clean yourself up?

25                                  What is the major league hurry to get on

1 the phone to 911?

2 You have now accomplished your goal. There  
3 is no reason why you have to suddenly pick up the phone  
4 and dial 911 and get a -- get the police and the fire  
5 people there. It doesn't make sense. It doesn't fit.

6 Why not use a different knife?

7 You saw the photograph about the knife  
8 collection. There were 16 knives to choose from, some of  
9 them pretty substantial.

10 Are you going to pick that little razor  
11 knife as your weapon of choice?

12 This doesn't make sense either.

13 Ladies and gentlemen, you heard a little  
14 testimony about their camping trip.

15 Why don't you wait until you are out in the  
16 boondocks somewhere?

17 Why don't you do it there?

18 What are you doing it in your home for?

19 I mean, these are all questions -- these  
20 are all question marks that should arise in your minds,  
21 too, to show you it just doesn't make sense.

22 I suppose the question is, are his actions  
23 the actions of a diabolical killer, an orchestrated act,  
24 or are they part of a scenario involving a terrified  
25 15-year-old boy from the events that happened after

1 Gregory's death?

2 There is more. There is more, ladies and  
3 gentlemen.

4 What about Erynn Jeffery, ladies and  
5 gentlemen?

6 Circumstances thrust that young lady right  
7 in the vortex, right smack dab in the middle of this case.  
8 She is right there in that little time line window where  
9 Gregory got off the bus and the 911 call came in.

10 She called that house twice within that  
11 window; the first time as a hang up, and she told you --  
12 she told you why. She knew she called the house all the  
13 time. She was essentially -- as much as 13-year-olds can  
14 have a girlfriend -- I mean, you know, you have to expand  
15 on that a little bit, but you know she called the house  
16 frequently. She was his girlfriend, and she had this  
17 strange little proclivity for hanging up last. That was  
18 what she did, and because of that, she knew the difference  
19 between upstairs phones and downstairs phones, and they  
20 are going to argue it was the Mickey Mouse phone in  
21 Gregory's room.

22 Well, she didn't say that in her original  
23 statement, folks. She did not say that in her original  
24 handwritten statement that was given that day or the next  
25 day. All she said was it was a downstairs phone with the

1 hang up; call, ring one, pick up, hang up. That's it.

2 She knew it was the downstairs phone. I  
3 suggest to you, ladies and gentlemen, that was the killer  
4 who hung that phone up.

5 She calls back at 3:15. She has a little  
6 job that sits on the phone that she can tell the time.  
7 She said 3:15 she called back, two minutes before the 911  
8 call. She gets Zachary on the phone.

9 What does she tell you about his demeanor?

10 He sounds normal. There is nothing wrong  
11 as far as she knows from the way he sounds.

12 Well, ladies and gentlemen, I told you do  
13 the backwards math. This is basic. This is first grade  
14 arithmetic: 3:17 minus two is 3:15, two minutes before  
15 the 911 call.

16 Now, think of the timing involved. She had  
17 to either interrupt him in the middle or just at the end  
18 of killing Gregory, or she had to catch him at the very  
19 end of it, and he sounds normal. He is not even breathing  
20 hard. There is nothing out of the ordinary that she  
21 notices from the way he sounds on the phone.

22 And one last thing, folks. Isn't it just a  
23 little curious that the defense had to call Ms. Jeffery?

24 Now, I guess you could say she didn't have  
25 anything that the Commonwealth was interested in bringing

1 out. I suppose that's true, but, ladies and gentlemen,  
2 she was the closest thing to an eyewitness that exists in  
3 this case; not completely an eyewitness, but she was the  
4 closest thing there is to an eyewitness, and she wasn't  
5 even called by the prosecution.

6 Now, after 3:17, then Zachary Witman's  
7 world changed forever.

8 After 3:17, what does every single  
9 eyewitness confirm to you from that witness stand?

10 That this boy was hysterical.

11 The 911 call, the firemen, Officer Siggins,  
12 Chief Childs, June Weigle, Mr. Shughrue, Dr. McCurley, and  
13 even Detective Goodfellow -- how could he not -- everyone  
14 else confirmed it that this boy was hysterical, absolutely  
15 out of his mind with hysteria.

16 More than that, ladies and gentlemen, he  
17 told the basics of the story five separate times, and ask  
18 yourself -- I know there were some differences, there was  
19 some details, some bizarre details about turning him over,  
20 something sharp, heard him suffering and things like that,  
21 but the basics of the story -- the basics of that story  
22 were told five separate times that day, 911 tape, Chief  
23 Childs, June Weigle, Dr. McCurley, and even Mr. Clancy, as  
24 traumatized as he was, he managed to tell the same story.

25 Does that have a ring of truth to it,

1 folks?

2 I suggest that it does.

3 And, what about June Weigle?

4 You know, she was the one who spent more  
5 time with him than anybody else. She took a 20-minute  
6 ambulance ride with him to the York Hospital, so she  
7 talked to him and heard things that he said. He said more  
8 to her than to anybody.

9 You remember what I said, what I brought  
10 out he kept saying over and over. It was a bad dream,  
11 tell me I'll wake up, tell me it didn't happen.

12 Does that comport with reality?

13 Does that comport with human experience?

14 Ladies and gentlemen, ask yourself the very  
15 first time each of you saw the World Trade Centers  
16 collapse, didn't you say to yourself, wasn't there a  
17 moment you said to yourself, can this be real? Am I  
18 dreaming? Is this a movie? What's going on? I can't  
19 believe my own eyes.

20 Isn't that a normal human reaction?

21 Isn't what he said in that ambulance to  
22 June Weigle a normal human reaction? "Tell me it's a  
23 dream. Tell me I'll wake up. He should be playing  
24 soccer. Did you see him? Did you see all the blood?  
25 They told me to move the body."

1                   Isn't that a basic human reaction? Doesn't  
2                   that have the ring of truth to it?

3                   Why would he say that if it wasn't true?  
4                   All part of some act, some performance that he has cooked  
5                   up in his head?

6                   Not likely.

7                   The part about hearing him suffering,  
8                   remember I asked the question, I said, you don't know what  
9                   context that was in. You know, he heard a commotion. He  
10                  said he thought it was wrestling. He heard something.

11                  Isn't it reasonable to say that in his mind  
12                  now that he looks back, I heard him suffering, isn't it  
13                  reasonable that that's where that little snippet came  
14                  from?

15                  And then they get to the hospital, and what  
16                  do we hear from Dr. McCurley, ladies and gentlemen? What  
17                  do we hear from him?

18                  We hear essentially the same story, and  
19                  that Zachary Witman for all intents and purposes doesn't  
20                  have a mark on him.

21                  Is that consistent with a life and death  
22                  struggle with his brother? Is that consistent at all?

23                  Dr. McCurley noted a blood spot on his  
24                  neck, under which there was no mark, no cut. Don't you  
25                  think he would have noted had he had blood on his face or

1 in his hair?

2 He had no abrasions, no lacerations, and he  
3 called minor little lacerations -- he put it here; June  
4 Weigle put it here, we don't know where it was. I guess  
5 it was somewhere on his left-hand, but other than that,  
6 folks, no bruises, no abrasions, no contusions, nothing,  
7 zero evidence of trauma.

8 And, you know Dr. McCurley, he had his  
9 report with him to refresh. He is an ER doctor, folks,  
10 and what is his diagnosis? What does he come up with, his  
11 diagnosis?

12 Acute grief.

13 Now, is it likely that this doctor is  
14 going -- he is a trained, licensed physician. He is a  
15 grown man. He is dealing with a 15-year-old boy. What  
16 does the diagnosis of acute grief tell you in terms of  
17 what he saw, what he saw as a medical man that was wrong  
18 with that boy? Acute grief.

19 What about luminol?

20 Luminol -- the key to showing that this  
21 luminol is just ridiculous is his bloody hands, we will  
22 tie that in just a moment.

23 Well, ladies and gentlemen, ask yourself  
24 was this a red herring, or was it -- it actually creates  
25 reasonable doubt, folks. It actually helps Zachary

1 Witman, not hurts him. It actually helps his case, not  
2 harms it.

3 First of all, ladies and gentlemen, we have  
4 the tremendous conflicts between what Trooper Woodcock  
5 said and what Detective Goodfellow said. Let's not forget  
6 it was Trooper Woodcock who was doing the spraying that  
7 night. He was spraying it.

8 What did he tell you he found as far as  
9 where the luminol glow was?

10 He found it here in the family room, and he  
11 found it out through this door out onto the sun porch,  
12 screen porch, down the steps, and over by the tree.  
13 That's what he said.

14 I specifically asked him about any other  
15 areas in this house. He said no. That was in direct  
16 conflict with what Mr. Goodfellow told you.

17 And, what was his excuse?

18 Well, I was behind everybody in the dining  
19 room. I couldn't see too well.

20 Come on. I suggest to you that luminol  
21 isn't all it's cracked up to be, folks. In fact, what was  
22 the testimony about the garage door opener in the 911  
23 tape?

24 Zachary asks for permission to open the  
25 garage door, "Can I open the garage door?"

1                   They say yeah.

2                   I don't know if you heard it when you heard  
3 the tape, but you can hear the garage door going up, so we  
4 know he touched the garage door opener.

5                   What did Mr. Goodfellow say about the  
6 luminesce area around the garage door area?

7                   Didn't do it; didn't happen.

8                   So, what does that tell you about luminol?

9                   This is not TV, folks. This is not CSI  
10 where they spray it and they get blood and the person is  
11 arrested. The luminescence, folks, was here and here  
12 according to Trooper Woodcock, who was doing the spraying.

13                   Well, ladies and gentlemen, remember what I  
14 asked him. You can't tell who left the prints, you can't  
15 tell how they were left, and you can't tell when they were  
16 left?

17                   Even Trooper Maiolino, as bad as he was on  
18 photography, at least you knew about luminol, and he said  
19 as a last resort it is used on old blood, not fresh blood,  
20 and he knew about the other substances common in a  
21 household upon which luminescence or glow will occur,  
22 detergents and bleach items.

23                   Consequently, you know what they have to  
24 do, ladies and gentlemen? They have to test before a  
25 glowing thing can be determined to be blood, they have to

1 test what it is that glowed and confirm whether or not the  
2 substance was blood.

3 Did they do that for any stain whatsoever,  
4 anything whatsoever that glowed?

5 They did not. It's even worse because you  
6 know they went back in January of 2000. Remember I asked  
7 Mr. Goodfellow about that? They went back 15 months  
8 later. They went back with luminol again, and this time  
9 they took something. They took two things. They took a  
10 piece of the indoor/outdoor carpet from the screen porch  
11 and some wood chips from the steps.

12 Well, when they finally got around to  
13 testing the carpet 40 months later -- 40 months later --  
14 what did Deborah Calhoun tell you were the results?

15 No blood. It wasn't even blood. They  
16 haven't even bothered -- here we are 56 months later,  
17 folks, and they never even tested the wood chips. I guess  
18 you can't blame them. I guess you can't blame them when  
19 the carpet, the indoor/outdoor carpet comes up negative  
20 for blood, probably not too interested in testing the wood  
21 chips for blood to see if it confirms.

22 Ladies and gentlemen, at the time on  
23 October the 2nd onto the 3rd, would it have been too much  
24 trouble to grab a few blades of grass? Would that have  
25 been too much trouble to pick up some grass and see if

1           there is blood on it that nobody can see, of course?

2                           What about the footprints, evidence of the  
3           footprints?

4                           Even Judge Uhler asked the question, "Were  
5           there any measurements taken?"

6                           We don't have any photographs.

7                           Do we have any measurements of them?

8                           No, we don't; one more thing we don't have  
9           in this case.

10                           But, it was described as a foot, wider at  
11           the top, narrow at the heel; I could tell it was a foot,  
12           it was a definite shape of a foot; nope, no pattern, no  
13           tread, but a foot.

14                           Ladies and gentlemen, look at the bottoms  
15           of these socks. You know, presumably it's going to glow  
16           where you have stepped in blood. Now, look at the bottoms  
17           of these socks. Does that -- is that the shape of a  
18           complete foot?

19                           Is that the shape that would leave a  
20           complete footprint in blood for luminescence?

21                           Look at these voided areas. Look at them.  
22           That's not going to leave a complete recognizable  
23           footprint in blood. It's just not going to do it.

24                           The other thing to remember about it -- I  
25           know I have a lot to cover, and I apologize, folks, but we

1 are making progress. We are making progress.

2 THE COURT: If the jurors need a break,  
3 just alert, and we will take a brief recess.

4 ATTORNEY MCGLAUGHLIN: Would you like to  
5 ask the jury, Your Honor? I can take a break, too.

6 THE COURT: Are you in a position to go  
7 forward?

8 THE JURY: Yes.

9 THE COURT: Everyone is all right?

10 ATTORNEY MCGLAUGHLIN: Okay.

11 I was going to finish up the luminol by  
12 pointing out, folks, that the witnesses who arrived at the  
13 scene all confirmed that Zachary Witman had blood on his  
14 hands. There is no question about that. We concede; we  
15 agree Zachary Witman had blood on his hands.

16 Well, if he had blood on his hands, folks,  
17 he had to touch this door, this door, and then come back  
18 in because that's their theory, that he came back in this  
19 way. He had to touch three -- four separate doors.

20 Is there any evidence whatsoever that they  
21 photographed or collected blood from either side of this  
22 door or even either side of this door?

23 Now they say, well, they took the latch,  
24 they took the latch on the outside of this screen porch.  
25 Mr. Goodfellow said he thought he saw a print. He

1           carefully unscrewed it and carefully preserved it and  
2           carefully bagged it and carefully sent it off to Deborah  
3           Calhoun and Lieutenant Loose and Mr. Evans, the other  
4           state police guy, and Mr. Cooke. I love Mr. Cooke. He  
5           has got an electron microscope. Forget about the soil for  
6           a moment.

7                           Did they find any blood anywhere on any of  
8           these doors, particularly this latch?

9                           The answer is no; no blood whatsoever.

10                          Yet, Zachary Witman, does anybody want to  
11           explain to me how he had accomplished that feat of leaving  
12           here, going out here, and then coming back in without  
13           leaving any blood whatsoever?

14                          Zero. It doesn't make sense. It doesn't  
15           fit, ladies and gentlemen.

16                          The DNA, well, ladies and gentlemen, I  
17           suppose that they thought that cut that was described as  
18           on his finger which Mr. Goodfellow said as far back as the  
19           preliminary hearing was oozing blood -- remember that  
20           that's what he said, oozing blood?

21                          Well, they sent that glove off, the left  
22           glove. They sent that off to Greensburg for their DNA  
23           analysis. See Deborah Calhoun even earmarks where she  
24           wanted to have them analyze it for DNA. She blocked it  
25           off with little pieces of masking tape.

1                   Let me tell you what, folks. This glove  
2 comes back with Zachary Witman's blood on it and his DNA  
3 on it, we are not here, we are not doing this case; case  
4 closed because they have tied this glove worn by the  
5 killer to Zachary Witman.

6                   But that doesn't happen, ladies and  
7 gentlemen, no Zachary Witman blood and no Zachary Witman  
8 DNA on this glove. There is no DNA tie-in anywhere.

9                   Do you remember Ms. Cross, when I asked her  
10 yet 19 items, 19 items, and 19 times, what did you say at  
11 the end of your paragraph: "Thus Zachary Witman can be  
12 excluded as a source of this sample."

13                   Oh, there was a little testimony about some  
14 difficulty in obtaining a valid sample, but remember what  
15 I asked her?

16                   I said, do you have any difficulty in the  
17 confidence of your conclusions?

18                   No.

19                   So, the DNA was there is no DNA, no DNA.

20                   The mitochondrial DNA, ladies and  
21 gentlemen, they tested those hairs and things in 2002.  
22 They finally got around to do the mitochondrial DNA tests,  
23 and I was anxious and, yes, I was hoping that there would  
24 be a stranger, you better believe it.

25                   Was I disappointed when it came back no

1 stranger?

2 Yes, I was, but what did it really tell  
3 you?

4 It didn't hurt anything because the  
5 mitochondrial DNA is different. Every one of you that has  
6 a sibling, a brother or sister, you share the exact same  
7 mitochondrial DNA with that sibling, and it comes directly  
8 from your mother only; not the man, the woman.

9 And, in fact, what they found, so Zachary  
10 and Gregory have identical mitochondrial DNA, which is  
11 identical to their mother, and, in fact, I thought it was  
12 interesting they had so little differences in Mr. Witman.  
13 Apparently somebody in his maternal lineage had DNA that  
14 was so similar to his wife's and his children, that there  
15 was only one difference. Remember the one difference?  
16 They needed two differences to exclude him from the  
17 mitochondrial DNA, and because there was only one, they  
18 said -- Mr. Weiss said, I can't exclude him either, so  
19 claiming the hairs could come from anybody in that family,  
20 you can make the argument, yes, could it have come from  
21 Zachary, yes, but you could also make the argument that it  
22 could have come from Gregory or even Sue Witman or even  
23 the father.

24 Now that -- ladies and gentlemen, the  
25 importance of that is that that is not proof beyond a

1 reasonable doubt.

2 So, even the mitochondrial DNA, ladies and  
3 gentlemen, does not help the Commonwealth's case.

4 We heard from Mr. Exline. I like that guy,  
5 too, because he talked about a special vacuum cleaner that  
6 they could have used to pick up hairs and fibers. They  
7 could have gone all over that house with this special  
8 vacuum cleaner.

9 But, did they do this?

10 No.

11 I'll tell you why they didn't. I suggest  
12 it's because when they got there, they found Zachary there  
13 alone with blood on his sweatshirt and said that you are  
14 guilty, you are the Defendant, you did it. In their minds  
15 they said, you did it.

16 What's the need? What do we need to bring  
17 in a special vacuum cleaner for to find fibers?

18 But, there was other things that Mr. Exline  
19 said that were interesting. Remember what he said about  
20 how fibers get on your hands, especially if there is -- if  
21 it's wet.

22 You know, Mr. Barker brought out -- and  
23 it's true -- dry skin is not necessarily a very good  
24 medium to transfer fibers from. If I was to put this  
25 glove on, take it off, turn it inside out, chances are

1           there may not be a fiber in there, but let's change the  
2           conditions.

3                           Let's drench this glove in blood and let's  
4           murder somebody wearing it, then do you think just maybe  
5           that you might have a fiber or two?

6                           Especially remember he said it was  
7           important to break the fibers in order to get them on your  
8           hands. Look at this. They didn't do this, folks. The  
9           police department did this. They didn't tear it up. They  
10          didn't make these break, and look how we have these extra  
11          fibers sticking out.

12                          This is inside out, ladies and gentlemen.  
13          Look here. Here's fibers. I mean, it's attached, but the  
14          point of it is that remember what Mr. Exline said to you  
15          about how fibers can get from the garment onto your hands  
16          or skin, and add to that, ladies and gentlemen, that they  
17          are drenched in blood, not just water, but blood.

18                          And, what does that tell you?

19                          Well, now we know that the killer took  
20          those gloves off and put them in that hole along with the  
21          knife. We know that. So -- and we know that other  
22          witnesses said Zachary Witman was wiping his hands on his  
23          sweatshirt. Look at these. You know all you have to do  
24          is look at some of these stains here to see that it was  
25          wiped, yet what do we find as far as fibers?

1                    Nothing; zero; not one fiber; not even a  
2                    piece of one, ladies and gentlemen, do we find on that  
3                    sweatshirt.

4                    We don't find any fibers on the towel  
5                    either, the towel used to wipe his hands. Maybe there was  
6                    one left over. Maybe it was sticking in his fingernails  
7                    or in between his fingers.

8                    Not on the towel; not on the towel either,  
9                    no fiber association whatsoever.

10                   And, finally, ladies and gentlemen, the  
11                   soil, as far as the forensics. The soil, I told you Mr.  
12                   Cooke -- I mean, now there, ladies and gentlemen, there  
13                   was an example of a true scientist. There was a man with  
14                   a degree in geology, degrees where he went to college for  
15                   his science.

16                   He knew about peer review publication. He  
17                   knew about submitting articles in for acceptance in peer  
18                   review publication. It doesn't always happen. There is a  
19                   screening process you have to go through. Mr. Cooke was  
20                   extremely impressive. If his testimony had been very  
21                   damaging to Zachary, I wouldn't have much to do. I  
22                   couldn't touch that man.

23                   He told you what a micron was. He told you  
24                   what kind of soil, and he found a little soil on that  
25                   towel, no doubt about it. He didn't find any on the

1           sweatshirt. He didn't find any on the socks, but he found  
2           a minute quantity on the towel.

3                           Remember what I asked him, the first  
4           question, how big is a micron?

5                           He used 63 micron filter to find this dirt  
6           or soil or this mineral mica muscovite. He said 100  
7           microns is about as big as a grain of sand. Ladies and  
8           gentlemen, that's the kind of quantity that we are talking  
9           about in terms of the soil.

10                           Is that what you expect to find where a  
11           person has taken off bloody -- blood drenched gloves and  
12           put them in a hole and covered up the hole with dirt with  
13           blood, is that the kind of quantity you would expect to  
14           find?

15                           Remember what I asked him? I said, if you  
16           take your hand in blood and go like this in dirt, the  
17           amount of dirt you are going to get would be huge,  
18           wouldn't it be by your standards?

19                           He said, oh, yeah, definitely.

20                           Another question mark, folks; another piece  
21           that doesn't make any sense.

22                           To use the current invoked phrase, folks,  
23           what's wrong with this picture? What's wrong with this  
24           picture?

25                           All right. Time to talk about our theory;

1 time to talk about a review of the evidence from our  
2 perspective and what it shows, and, Your Honor, would you  
3 care to inquire at this point?

4 THE COURT: What time?

5 ATTORNEY MCGLAUGHLIN: We are talking  
6 perhaps another 30 minutes, Your Honor.

7 THE COURT: Let's take a recess now. We  
8 will return in ten minutes.

9 \* \* \*

10 (Recess.)

11 \* \* \*

12 THE COURT: You may continue.

13 ATTORNEY MCGLAUGHLIN: Thank you, Your  
14 Honor.

15 Ladies and gentlemen, I am at the last  
16 phase of this closing address to you, involves our  
17 interpretation of the evidence after a review of that  
18 evidence. Because you see, ladies and gentlemen, I didn't  
19 spend four minutes looking at this evidence. I didn't  
20 spend four days. I didn't spend four hours. I didn't  
21 spend four weeks. I spent four months.

22 ATTORNEY BARKER: Objection, Your Honor.  
23 This sounds like we are going go into counsel testifying.

24 ATTORNEY MCGLAUGHLIN: Looking at the  
25 evidence --

1 THE COURT: Pardon me, counsel?

2 ATTORNEY BARKER: It sounds like this is  
3 going into the area of counsel testifying, his personal  
4 opinion, that being improper, Your Honor.

5 THE COURT: Counsel?

6 ATTORNEY MCGLAUGHLIN: I am -- Your Honor,  
7 I am only talking about how long it took me to look at the  
8 evidence. I don't think that qualifies as testifying.

9 THE COURT: Ladies and gentlemen of the  
10 jury, just so you understand, counsel's objection, in  
11 closing are not to interpose their personal view on truth  
12 or truthfulness of a particular witness, nor may they  
13 vouch for anyone.

14 Let's proceed.

15 ATTORNEY BARKER: Thank you, Your Honor.

16 ATTORNEY MCGLAUGHLIN: Understood, Your  
17 Honor. Thank you.

18 Ladies and gentlemen, we are not talking  
19 about my personal opinion. We are talking about my view  
20 of the evidence that I am going to put before you, our  
21 view -- call it Zachary Witman's view, call it whatever  
22 you want, just argument to you as to what the evidence  
23 shows you and what it demonstrates to you.

24 When you examine that evidence, ladies and  
25 gentlemen, you do so with an open mind. You don't have a

1 theory before you look at the evidence. You look at the  
2 evidence and develop a theory, what is this evidence  
3 saying, what is its message to you.

4 You start off, ladies and gentlemen, with  
5 questions. You don't start off with answers. You start  
6 off with questions, things like, why is there so little  
7 blood in the dining room that was clearly the path of  
8 travel of -- as Ms. Calhoun coldly puts it -- the blood  
9 source, why so little blood on Gregory's shoes, the bottom  
10 of his shoes.

11 All I had first was photographs. It didn't  
12 look like there was any blood on them. Now, of course,  
13 when you get the real sneaker, you can see there is a  
14 little blood.

15 But, why don't we see his tread pattern  
16 anywhere as he ran? Why no disruption of the blood in the  
17 hallway except for where somebody stepped in it a couple  
18 of times?

19 Who made those hand stains?

20 Why?

21 What are the clues?

22 Did we see the number of marks?

23 Did we look at them for why no  
24 directionality of blood drops in the hall if Gregory  
25 Witman is running for his life as the Commonwealth's

1 theory has it?

2 Why no directionality towards the back door  
3 if he is running for his life as the Commonwealth's theory  
4 has it?

5 How would he handle getting over that dog  
6 gate that was propped up?

7 Ladies and gentlemen, there was a dog gate  
8 right here. How did he get over that with all of his  
9 injuries with somebody presumably behind him chasing him?

10 And, more than that, ladies and gentlemen,  
11 how did Gregory Witman get up and start running after this  
12 vicious assault, this attack on him?

13 How could he?

14 He had 20 pounds of books. He had about a  
15 third of his weight on his back with his book bag. How  
16 did that happen? How did that? How could that possibly  
17 have happened?

18 How could he get away from somebody who is  
19 obviously so determined to kill him?

20 Well, the first thing to consider, ladies  
21 and gentlemen, is we had a little bit of a luxury here in  
22 that sense because we only really had to account for  
23 approximately eight to ten minutes. We didn't have an  
24 hour's worth of time that we had to deal with. We had  
25 roughly eight minutes to try to figure out the event that

1           happened and in some semblance of a sequence. So, that  
2           part of it was a good thing in terms of trying to figure  
3           it out.

4                            You know, there was a famous photographer  
5           by the name of Robert Edgerton. He is the one that did  
6           the famous photographs of the bullet through the apple.  
7           Probably some of you probably seen it. It's years old.  
8           He was a pioneer in stop action and strobe photography,  
9           and his saying was that it was not so much the measure of  
10          time that's important, it's the events that take place in  
11          that measure of time.

12                           I always use the example of the last flight  
13          of the X15, a guy by the name of McKnight, he was flying  
14          through the air at 7,000 miles an hour -- do you know how  
15          fast that is, one and a quarter miles a second -- so the  
16          measure of time for him that day was one second, but what  
17          happened within that one second, he was a mile and a  
18          quarter in one second. So, it's not so much the measure  
19          of time, but what happens in that measure of time.

20                           The first thing to consider, ladies and  
21          gentlemen, is to consider the mind of someone who would do  
22          this to Gregory Witman. This crime has all the earmarks  
23          of monumental hatred; hatred so vast and so deep that it  
24          almost defies human understanding and human description.  
25          To do this -- to do this to a 13-year-old boy, ladies and

1 gentlemen, is unspeakable, unbelievable in its ferocity  
2 and viciousness.

3                   You have to think about who would do this.  
4 What kind of a person would do this, a 15-year-old boy or  
5 a grown man? Not a woman, but a man, ladies and  
6 gentlemen, and I suggest to you that this person knew  
7 exactly -- there was one goal that person had, one goal in  
8 mind, and that was to kill Gregory Witman.

9                   There isn't any burglary. There isn't any  
10 robbery. There isn't any other reason. That person's  
11 stated goal by what his actions were was to kill this boy,  
12 and I suggest to you that these gloves are a sinister  
13 message and calling card which that person -- these are  
14 soccer gloves. We know that Gregory played soccer. There  
15 is a reason why these gloves were used, just like there  
16 was a reason for the selection of the knife, that little  
17 knife; that wouldn't you say to yourself, my God, using  
18 that knife to kill this boy.

19                   But, ladies and gentlemen, that knife was  
20 selected for a reason. That knife was selected on purpose  
21 because it fit exactly what this person had in mind.  
22 There might be some military experience behind this. I  
23 don't know. I don't know, there might be, because I'll  
24 tell you why.

25                   Ladies and gentlemen, when Gregory Witman

1           came through that door that day upon coming home from  
2           school, he never even got the door closed.

3                           Remember the testimony that the door wasn't  
4           even latched. He never even got the door closed before he  
5           was cut right here. See what it says, near transected.

6                           Remember what Dr. Funke said?

7                           His windpipe was cut. That was no  
8           accident. That was no lucky hit, folks. That was done on  
9           purpose because it accomplished two very important things  
10          for the killer's purposes. The first thing it did,  
11          because it's below your vocal cords, it silenced Gregory  
12          Witman. Didn't you notice in all of Zachary's statements,  
13          there is not one word mentioned about hearing Gregory  
14          scream or any sound for that matter except the sounds of a  
15          struggle or wrestling or whatever the commotion. I  
16          suggest to you that was the table crashing onto the floor.

17                           No sounds when you cut a person's windpipe.  
18          You eliminate immediately their ability to scream or make  
19          any sounds whatsoever.

20                           You know, we take speech for granted so  
21          much, folks. We tend to forget how it's done. Speech is  
22          nothing more than the passage of air over our vocal cords.  
23          That's how we communicate with one another. That's how we  
24          make sounds and scream and sing and laugh. That's how we  
25          communicate, the passage of air over our vocal cords.

1 Well, what if you can't do that?

2 If you can't do that, Dr. Funke told you,  
3 you're silenced, and that was purpose number one for this  
4 cut.

5 Now, you know you say, well, wait a minute,  
6 Dr. Funke said she couldn't or didn't sequence the wounds.  
7 That's because she wasn't asked to do it. That doesn't  
8 mean she couldn't or someone else couldn't by looking at  
9 these charts in evidence, and when Mr. Kelley put this  
10 chart up, it was obvious this cut was first. It  
11 accomplished two goals; the first to silence Gregory  
12 Witman, to keep him from screaming.

13 The second goal was much more important for  
14 the purposes of the killer. That goal was to doom Gregory  
15 Witman, doom him, because it cut off his air. He could  
16 not breathe. That boy was doomed when this cut was  
17 inflicted.

18 He had enough to get one lung full of air.  
19 Remember again what Dr. Funke told you about the autopsy:  
20 Minimal blood in the lungs. That boy had one lung full of  
21 air.

22 Now, ask yourself if you sit down and try  
23 to hold your breath even for 60 seconds, just sitting in  
24 the chair, see how long -- take your watch and just see  
25 how long you can hold your breath, for all he had was one

1 lung full of air to deal with, folks. In the process, he  
2 has got to fend off and fight his killer. That's when he  
3 incurred those defensive wounds on his hand. That's when  
4 he had the air and the energy.

5 Why do you think you start puffing when you  
6 run a mile, you start breathing?

7 You need more oxygen.

8 Physical activity, Dr. Funke confirmed,  
9 uses oxygen.

10 Well, not only does he only have one lung  
11 full of air, he has got to fight his attacker, ladies and  
12 gentlemen, in the process, from this -- this is a  
13 horrifying wound, and then add to that all the wounds on  
14 his hands, you can understand why there is amazing  
15 bloodshed in the hallway; bloodshed in the hallway, the  
16 drops.

17 Remember what Ms. Calhoun told you about  
18 the dog floor mat by the front door, the floor mat using  
19 her artistic talents, she counted, actually put the dots  
20 on the dog mat in her drawings, and when I asked her to  
21 count them, she said approximately 56 drops. Fifty-six  
22 drops, folks, on the door mat alone, and, remember, I kept  
23 asking everybody, did you ever count the number of drops  
24 in the hallway?

25 No.

1 Well, okay. Did you ever make a map?

2 Did we have a mapout where the bloodshed  
3 was so we can see in a large picture the extent of the  
4 bloodletting in that hallway?

5 No, we didn't.

6 Well, ladies and gentlemen, here is the  
7 extent of the bloodletting in that hallway, because what  
8 happened is Gregory Witman at some point while he is  
9 dropping drops of blood with very little directionality  
10 mind you, he hits, he goes over to the table that was  
11 sitting inside the front door, and how do we know this?

12 Say, how do you know that, McGlaughlin?

13 I'll tell you, because remember Ms. Calhoun  
14 confirmed there is a void here, this void, this void  
15 conforms to where the table was. This boy is bleeding.  
16 He is dropping these drops until he gets to this table.  
17 The table is there. The drops don't fall on the floor  
18 because the table is in the way, and at some point, ladies  
19 and gentlemen, he grabbed the front door. I agree with  
20 Ms. Calhoun that stain on the floor door is from Gregory  
21 Witman.

22 He had a handful of blood from his  
23 defensive wound. He tried to grab the door. Remember the  
24 little marks that went out, radiated out directionality.  
25 There she even corrected me. I said, see this one. She

1           said, yeah, there is two more. See those. I agree with  
2           her that he grabbed that front door, but at some point he  
3           is flung into that table or staggers to the table, I don't  
4           know that much. I can't tell you. I don't know.

5                                What I do know is that Gregory Witman ends  
6           up facedown on the floor with the table broken and  
7           facedown bleeding from his neck wound, leaving this puddle  
8           of blood, ladies and gentlemen, and while that's happened,  
9           what do you think the killer is doing?

10                              That killer is on him. He is on that boy,  
11           and he is stabbing him viciously, horribly stabbing him.

12                              Folks, do you remember what Ms. Calhoun  
13           told you, 41 cuts in the back of his jersey, 41 alone. We  
14           have 65 stab wounds all told. For lack of a better term,  
15           I called them secondary wounds to try to differentiate  
16           between this giant wound and all the other wounds, and at  
17           some point during this process, ladies and gentlemen, with  
18           Gregory facedown with his 20 pounds of books on his back  
19           helpless with one lung full of air, finally mercifully, he  
20           loses consciousness. He runs out of air, folks, and he  
21           loses consciousness because of it.

22                              Thank God for that at least, because -- and  
23           see, McGlaughlin, how do you know that? How do you know  
24           that?

25                              I'll tell you. It's Dr. Funke again and

1 her complete autopsy report because she told us those  
2 secondary wounds consisted of essentially two types, one  
3 where either the knife or the victim is twisting, twisting  
4 turning wounds, and the other type are just what they call  
5 flat wounds, in and out.

6 That tells you, ladies and gentlemen, that  
7 he had stopped moving. That tells you that his resistance  
8 was over while he is on the floor facedown. He loses  
9 consciousness. He stops resisting. He didn't -- he at  
10 that point, ladies and gentlemen, he is much more dead  
11 than alive.

12 He may have even died right there in that  
13 hallway. Again, I can't tell you that, but what does the  
14 killer do?

15 Oh, he is not done, folks. He is not  
16 finished by a long shot. He still has more to do to  
17 Gregory Witman.

18 What does he do?

19 He rolls him over and keeps stabbing him  
20 because the wounds that we saw here, we know he was  
21 stabbed under the chin even.

22 And what does he do?

23 Ladies and gentlemen, he takes him out of  
24 his book bag because his book bag is laying right there.  
25 His book bag doesn't move. He doesn't need that book bag.

1 He doesn't need to carry the book bag, but he takes  
2 Gregory and pulls him, literally pulls him out of his book  
3 bag, folks, leaving the book bag right there where it fell  
4 while he is on his back.

5 You say, well, how do you know? How do you  
6 know, McGlaughlin?

7 I'll tell you how we know. The key is this  
8 book bag folks and the stains that are on the back of this  
9 book bag. See how it collected down here? See how it ran  
10 down? It's heavier here at the top how it was on his  
11 straps and collected in here.

12 What does that tell you?

13 That tells you that he was on his back long  
14 enough to create these stains, so he was on his back  
15 creating these stains.

16 Well, he is not found on his back. He is  
17 not found in the hallway. He is found in the laundry  
18 room.

19 Well, how did he get there, ladies and  
20 gentlemen? He didn't run there. He didn't run there.

21 His killer carried him there. He took him  
22 out of that book bag, and he carried him through the  
23 dining room. That explains why there is essentially no  
24 blood whatsoever in the dining room and literally hundreds  
25 of drops in the hallway.

1                   He does -- if he is running, folks, how  
2                   does he magically stop bleeding at the dining room door?

3                   How does -- somebody want to explain that  
4                   to me, how he suddenly stops bleeding at the dining room  
5                   door and managed to get all the way through the dining  
6                   room and over a dog gate without bleeding like he is just  
7                   bleeding seconds before in the hallway?

8                   The answer is, folks, that he was carried.  
9                   He was carried by the killer.

10                  There is even more clues, ladies and  
11                  gentlemen. You see, the killer had to negotiate that dog  
12                  gate, and he had to negotiate the dog gate with Gregory  
13                  Witman in his hand or arms, and he steps over the dog  
14                  gate.

15                  Why he didn't kick it out of the way, I  
16                  don't know, but he steps over it. Maybe he thought it was  
17                  secure. He steps over it, and as he does with his weight,  
18                  with his 63 pound weight, he stumbles. He loses balance,  
19                  and he sticks his hand out, and he catches himself on the  
20                  molding of that door of that hallway.

21                  I knew this would happen. Ladies and  
22                  gentlemen, you remember the striation pattern that we saw,  
23                  the striated pattern in that stain, the one with the hair  
24                  in it. We blew it up. You saw it. Remember I asked  
25                  Deborah Calhoun about the striations, the lines in it?

1 That is perfectly consistent with these nubbies, ladies  
2 and gentlemen, perfectly consistent with being created by  
3 these rubber nubbies on this glove.

4 That person hit that wall with some force,  
5 force enough to smash one of his hairs into the blood and  
6 slide off and create -- it's one thing to create the marks  
7 with just the dots, but if you take the dots and go like  
8 this, you are going to get lines, exactly what you saw in  
9 that molding, and there is more. There is more, ladies  
10 and gentlemen.

11 Oh, here it is. Here's the photo. You see  
12 the lines, the striations that I talked about?

13 Perfectly consistent with hitting the wall  
14 with the left hand and stumbling, and more than that,  
15 ladies and gentlemen, what do we have underneath? What do  
16 we have underneath the stain on the molding? We have  
17 drops. We have drops underneath, right smack dab  
18 underneath that stain, which is consistent with him  
19 stumbling with Gregory's body hitting the molding and  
20 shaking some drops loose.

21 Now, of course, the Commonwealth claims  
22 that Gregory is running for his life.

23 Now, do you know why I called that absurd?

24 Now, do you know why I called that  
25 ridiculous?

1                   Because from that point on into the laundry  
2                   room, we don't see any more blood drops. Again, the  
3                   killer has him. This is the laundry room, folks. He is  
4                   facedown on the floor, but not before the killer makes two  
5                   stains. He does this one and this one on the door. The  
6                   door to the garage has this, and there is this underneath  
7                   the light switch.

8                   You say, how do you know?

9                   Well, it's true that the dot marks are  
10                  different, but the lines are the same. The lines are the  
11                  same. The striation pattern, now this isn't going to be  
12                  carbon copies, folks. This is not. This is reality.  
13                  It's not going to be identical, but here's the lines, and  
14                  here's the dots, and this now -- this is where the -- this  
15                  is where Ms. Calhoun and I part company, and I mean we  
16                  really part company.

17                  She claims that this was Gregory's hand,  
18                  his left hand who made this stain. Ladies and gentlemen,  
19                  you don't have to be a scientist to know that it was a  
20                  right hand that made this stain, and she said the greatest  
21                  area of staining was in the fingers.

22                  Now, ladies and gentlemen, your own two  
23                  eyes can tell you the greatest area of staining is right  
24                  here. Right here is where the greatest area of staining  
25                  is.

1                   But, you see here is an example of why the  
2 facts had to fit the theory. Remember, she said it had to  
3 be the left-hand because it conformed with the marks on  
4 his -- ladies and gentlemen, this is a left hand. This is  
5 his left hand. Do you see these cuts here?

6                   Her theory had to conform to the facts, so  
7 they found the fact that his left hand had these cuts on,  
8 it had to be his left hand.

9                   It was not his left hand. It was the  
10 killer's right hand. It was this glove. This is the very  
11 glove that made that stain, ladies and gentlemen, because  
12 you know if you look closely, and you can use -- when you  
13 deliberate, you can use my magnifier, you can use my  
14 loupe, or anything you want to look at these photographs,  
15 and when you look at this area here, you will see what  
16 Trooper Woodcock saw. You will see dot marks. You will  
17 see little round marks.

18                  Even he reluctantly admitted that he saw  
19 them and used my loupe. Remember? Those dot marks,  
20 folks, come from this glove, so that you will know that it  
21 was a right-hand glove hand that made this stain, not a  
22 left Gregory Witman's hand that made this stain.

23                  Well, the killer is about done now, and  
24 it's also consistent with making those marks, folks. He  
25 is manipulating his body, puts out his hand to steady

1           himself in some fashion.

2                           How, specifically, of course, I don't know.  
3           I can't tell you that, but he gets Gregory Witman on the  
4           floor facedown, and you know what he does, folks? You  
5           know what he does? He takes that razor knife, and he  
6           essentially cuts his head off.

7                           Dr. Funke told you, remember what she  
8           described to you about the number of wounds over on that  
9           boy's throat, 14 wounds, 14 draw marks that she  
10          specifically saw; separate marks.

11                          Ask yourselves, ladies and gentlemen, is  
12          somebody alive -- is somebody that's alive and just been  
13          running and just been resisting, are they going to sit  
14          still for that? They are going to resist that, too. They  
15          are going to fight like hell for that, too.

16                          The only thing that makes sense, the only  
17          thing that is consistent with what Dr. Funke told you  
18          about that is the fact that this boy was already dead.  
19          His resistance had stopped. His resistance was over.

20                          How could you possibly with that little  
21          knife cut somebody's head off if they weren't already dead  
22          and all resistance had stopped?

23                          That's how it was accomplished, and then  
24          you know what happened, ladies and gentlemen, the phone  
25          rings, then the phone rings, it's 3:15. We are getting

1 close to 3:17, folks. It's 3:15. The phone rings, and  
2 what happens?

3 Zachary answers the phone upstairs. Now  
4 the killer knows that he is not alone. You know, up until  
5 that point, the dogs haven't barked. Zachary is upstairs  
6 with the door closed sleeping, whatever there is. No, the  
7 killer doesn't know. I suggest maybe he does, maybe he  
8 doesn't. Maybe Zachary was a target, too. Maybe he  
9 wasn't. Maybe staying home from school saved his life. I  
10 don't know.

11 There are things I don't know. There are  
12 things I couldn't tell you, but the phone rings. That  
13 much we do know. The phone rings, and then the killer  
14 says, I got to get out of here. He abandons all efforts,  
15 all further efforts with regard to Gregory Witman because,  
16 you know, ladies and gentlemen, as horrifying as it seems  
17 to even contemplate with the marks that were on his bones,  
18 there is a possibility, there is a reasonable possibility  
19 that this killer was trying to remove his head, but when  
20 the phone rings and it's answered, that killer knows he  
21 has to leave and leave quickly, and out the door he goes.

22 And what does he grab?

23 He grabbed the door handle, ladies and  
24 gentlemen. And anybody would normally on a left-handed  
25 handle -- these types of left-handed handle seems to be

1 very popular in this area. They are all over the place  
2 where I am staying. I don't know about the Yorktowne.  
3 When you go up to a handle like this, do you grab it with  
4 your right hand?

5 No, you reach out and grab it with your  
6 left hand. You open the door and you walk through. It is  
7 inconsistent and ridiculous to suggest that Gregory  
8 Witman, who is running for his life, uses his right hand  
9 to open this door as the Commonwealth witness told you.

10 Why?

11 Because there is a photograph of his right  
12 hand where his knuckles, the blood is off his knuckles;  
13 also not four of them, not four of them now, but three of  
14 them, but that is still consistent with grabbing the door  
15 with his right hand.

16 No, ladies and gentlemen, it's not  
17 consistent. This was made by the killer with his left  
18 hand drenched in blood, and the glove -- and you look, you  
19 don't have to take my word for it, look, there are four,  
20 one, two, three, four -- one, two, three, four -- one,  
21 two, three, four -- four knuckle marks.

22 You can look at this. You will be able to  
23 look at this, and do we see the kind of impact spatter  
24 that we saw on the front door? Do we see any kind of  
25 radiating dots?

1                   No, he was in a hurry, grabbed it, and  
2                   opened, not even stopping long enough to close it.  
3                   Remember, that, too, was left open. The testimony was  
4                   when they first entered the door it blew shut, but it was  
5                   still open. It wasn't even closed.

6                   And finally, ladies and gentlemen, where  
7                   was his right hand?

8                   Where was his right hand?

9                   The right hand steadied himself on this  
10                  drawer, ladies and gentlemen.

11                  Again, the Commonwealth would have you  
12                  believe this is a back-to-front movement by Gregory's  
13                  shirt. Ms. Calhoun said the only other evidence that  
14                  could make this stain was his shirt.

15                  Well now, excuse me, excuse me. Here you  
16                  got Gregory Witman, he is already stabbed and cut, he is  
17                  running for his life, he is using his right hand on the  
18                  door, and got time to put his shirt up on the dryer and  
19                  make this stain?

20                  I don't think so.

21                  What's wrong with this picture?

22                  There is something else in this picture, in  
23                  this photograph, too, that you have -- all you have to do  
24                  is use your eyes. All you have to do is use your brain  
25                  and your eyes to know if this is a backward to forward

1           what made this stain here, where is the blood behind this  
2           stain to justify or verify that it was backwards to  
3           forwards?

4                           There is not even anything there.

5                           How about this stain over here on the edge,  
6           what made that stain?

7                           How did that get there?

8                           No, ladies and gentlemen, that's consistent  
9           with all one motion. You put your hand up on the dryer,  
10          you opened the door, and it slipped. We all know how  
11          porcelain is. Appliances, they have a finish on them.  
12          It's slippery. That wet saturated glove hit that and slid  
13          not back to forward, but forward to back; otherwise,  
14          folks, this piece of clothing here would be more heavily  
15          stained than it is.

16                           It's consistent with going back -- forward  
17          to back and skimming off the blood on the edge as it  
18          made -- as it did so. If I have blood on my hand and I go  
19          like this, the blood is going to collect here and drip  
20          down.

21                           What do we see on the front of this dryer?

22                           We see drip marks, again consistent, and,  
23          finally, ladies and gentlemen, what else do we see in this  
24          photograph?

25                           At four separate places, here, here, here,

1 and here; here, here, here, and here, we see those dot  
2 marks. We see the same dot marks that Trooper Woodcock  
3 saw and confirmed, and we saw the same dot marks that were  
4 in the other stain on the wall, here, here, here, and  
5 here, and you can see them with your own two eyes.

6 What does that tell you, ladies and  
7 gentlemen?

8 That tells you it was not -- that stain was  
9 not made by Gregory Witman's shirt. It was made by this  
10 glove. This is the very glove that did it.

11 These were the killer's calling card, the  
12 sinister message to the Witman family regarding Gregory  
13 and his soccer.

14 No accident, ladies and gentlemen, no  
15 accident. Out the door the killer goes over to the tree  
16 to bury the gloves.

17 You know, there is something that occurred  
18 to me awhile back that nobody has ever talked about. Is  
19 it entirely possible that the killer dug that hole before  
20 he went into the house?

21 Is that so off the wall?

22 Is that so unreasonable that the killer was  
23 already -- because, think about it, that you have that in  
24 your mind, I am going to kill this boy, when I get out of  
25 there, I am going to ditch those gloves, because those

1 gloves, ladies and gentlemen, they are the connector.

2 If he is found or caught or somehow found  
3 with those gloves, that's it. You got to get rid of those  
4 gloves and that knife, and another reason why that knife  
5 was selected, so small, easily disposed of under a tree,  
6 maybe they will blame Zachary Witman for it, maybe they  
7 will blame someone else for it, and maybe they just won't  
8 figure out.

9 But, those gloves have to be disposed of,  
10 and is it so unreasonable, is it so bizarre to suggest  
11 that that hole was prepared already?

12 There is one final thing, ladies and  
13 gentlemen, one final thing that has to do with Gregory  
14 Witman's left sneaker, and believe it or not, one of  
15 Deborah Calhoun's findings, I told you, I told you, ladies  
16 and gentlemen, some of her findings we don't disagree  
17 with. We agree with them. They are correct, and that  
18 involves this stain right here.

19 What did she tell you about that stain on  
20 this left sneaker?

21 She said that her conclusion was is that  
22 when this stain was made and this drip effect happened,  
23 this sneaker was perpendicular to the floor. That means  
24 that his sneaker was like this to the floor when it was  
25 dripped on.

1                   Well, ladies and gentlemen, isn't that  
2                   consistent with what Zachary Witman said about the  
3                   position of his brother before he moved him?

4                   Isn't that entirely consistent about where  
5                   Gregory Witman was when he saw him before he put him on  
6                   his back?

7                   I suggest to you that this drip happened  
8                   after Gregory Witman was -- was almost decapitated, just  
9                   like the drip on the floor that I showed in that one photo  
10                  where if you look closely -- where is it? Here it is.

11                  Do you see this drip of blood under his  
12                  foot -- or not under it, but that's so close to his foot?

13                  Ladies and gentlemen, that drip had to have  
14                  been made after he was down; otherwise, if you stood  
15                  Gregory Witman upright from his position here, he is  
16                  standing in that blood drop, folks. He is standing in it,  
17                  and it's not -- it isn't blemished in any way. This one  
18                  is where his foot moved and hit it. When he went over,  
19                  that one is moved, but not this one, and the reason is  
20                  because that drop was made after Gregory Witman was in his  
21                  final position.

22                  As the killer left the house with blood  
23                  literally dripping from his gloves, the rest you know  
24                  because at 3:17, Zachary Witman made the 911 call, and his  
25                  world changed forever. The world of the entire Witman

1 family changed forever because I suggest to you, ladies  
2 and gentlemen, that the killer's goal was not just to  
3 destroy Greg Witman, but that killer's hatred was so vast,  
4 so deep, that his goal was to destroy the entire Witman  
5 family.

6 Why?

7 Ladies and gentlemen, I don't know. I  
8 can't tell you that. That's not part of the case per se.

9 All I can tell you is all I can judge is  
10 from his act, what he did to that 13-year-old boy.

11 Ladies and gentlemen, I won't go -- I am  
12 not -- I debated whether to play the tape for you again,  
13 and I decided that I wouldn't. I decided that if you  
14 decide that you want to listen to it in the deliberation  
15 room, you can do so. That's up to you, and I won't play  
16 it for you again.

17 But, I'll point out a few things about it.  
18 If you do listen to it again, look for the points, look  
19 for the fact that the second sentence into it, Zachary  
20 Witman is saying, you have got to help me, help me, help  
21 me.

22 Six times he asked to call his mother, and  
23 four separate times -- it's not -- I mean, it's not  
24 crystal clear, but you can easily discern that four  
25 separate times he manifestly said, I don't want to touch

1           him, I don't want to touch him, but the 911 operator --  
2           again, he doesn't know how badly he is hurt. He says, you  
3           got -- they have a protocol. They have a chart.

4                        If somebody is bleeding, well, we have got  
5           to get him, and they look at it, and they go through  
6           steps, and it's not his fault, but he gets Zachary to move  
7           Gregory's body, and four separate times on that tape he  
8           doesn't want to do it, but he does it.

9                        And remember on the tape the reaction from  
10          Zachary when he did actually do it, when he actually did  
11          it and his head almost fell off, remember how he reacted,  
12          ladies and gentlemen?

13                      I have spoken once or twice about what we  
14          call the ring of truth, and in our business in court,  
15          people that are in court a lot, we deal with witnesses all  
16          the time, and there is a saying that we have, and that is  
17          whether somebody testifies or makes a statement whether or  
18          not it had the ring of truth to it.

19                      Ask yourselves, ladies and gentlemen, when  
20          you listen to that tape did that have the ring of truth?

21                      Did that have the ring of truth to it?

22                      Was that an oscar-level performance by a  
23          15-year-old boy who just murdered his brother, a  
24          diabolical killer, or was that the voice of a terrified  
25          15-year-old boy who started the day homesick from school

1 and ended the day with a vision of his tragically  
2 decapitated brother.

3 It's one or the other. It's one or the  
4 other. There is a choice to be made.

5 All right.

6 I am about done. Let me leave you with  
7 this thought. It's an important one, ladies and  
8 gentlemen. It has to do with the word justice.

9 Over the last several years, the word  
10 justice has been perverted and distorted and morphed by  
11 the media, by the police, by prosecutors giving press  
12 conferences all over the country in various cases, and  
13 that somehow justice has come to mean a conviction, to be  
14 equated with a conviction, but it's not.

15 Ladies and gentlemen, Alexander Hamilton,  
16 one of our founding fathers, wrote in the Federalist paper  
17 over 200 years ago is that justice is not a result, it is  
18 a process.

19 Justice is a process, and to illustrate  
20 that to you, ladies and gentlemen, if in a criminal case  
21 if the Commonwealth proves its case and the jury lives up  
22 to their oath to weighing the evidence carefully, and if  
23 the Commonwealth proves its case beyond a reasonable doubt  
24 and the verdict is guilty, well then, that's justice, but  
25 on the other side of the coin, ladies and gentlemen, if

1 the Commonwealth fails in its burden of proof and they  
2 don't prove their case beyond a reasonable doubt and the  
3 verdict is not guilty, ladies and gentlemen, that's  
4 justice, too. It's the process by which you achieve a  
5 result.

6 Ask yourselves, ladies and gentlemen, deep  
7 down inside at the end of this case, has the Commonwealth  
8 proven that Zachary Witman murdered his brother?

9 Remember, reasonable doubt can arise out of  
10 the evidence presented or the lack of evidence presented,  
11 and I suggest to you that after careful deliberations by  
12 you in this case, that at the end of this case, you will  
13 come back into this courtroom, and you will find this boy  
14 not guilty.

15 THE COURT: Ladies and gentlemen of the  
16 jury, the time is now 12:00 noon. Obviously, we have had  
17 a lengthy morning. Where are the jurors being fed?

18 MS. JULIUS: Yorktowne.

19 THE COURT: I am going to declare a recess  
20 for the noon hour, and we would like to begin anew at  
21 1:15. That way we won't have the prosecutor breaking up  
22 his closing statements.

23 And I remind you again as jurors, you are  
24 not to be forming any premature opinions. You have heard  
25 all the facts and defense counsel's closing statement.

1 The prosecution likewise has an opportunity to provide a  
2 closing statement, and even those have been received by  
3 you, you still should not be forming or reaching any  
4 resolutions regarding this case until such time as you  
5 have had the benefit of the instructions on the law.

6 You should not be discussing this case  
7 amongst yourselves over the noon hour or permit others to  
8 discuss it with you, and, of course, avoid the  
9 happenchance of reading any written material regarding  
10 this case in newspapers or otherwise or overhear any  
11 television or radio broadcast.

12 Keep your minds open, and we will begin  
13 anew at 1:15. That should give ample time for the  
14 Yorktowne.

15 We are in recess, although remain where you  
16 are until the jurors have an opportunity to leave.

17 \* \* \*

18 (Recess.)

19 \* \* \*

20 THE COURT: Attorney Barker.

21 ATTORNEY BARKER: Thank you, Your Honor.  
22 May it please the Court, Mr. McGlaughlin, ladies and  
23 gentlemen of the jury.

24 I know it's a long couple of weeks for you.  
25 You came here to York County to hear a case of great

1 importance, a case where the charge alleged is murder in  
2 the first degree, very serious matter, no ifs, no ands, no  
3 buts.

4 So, I am going to dive right into what are  
5 the pertinent issues in this case. You have been here  
6 long enough, it is now time to get you to the Court's  
7 instructions so you can go out and you can deliberate on  
8 what you feel happened, deliberate on whether or not the  
9 Commonwealth has proven it's case beyond a reasonable  
10 doubt that the Defendant, Zachary Witman, when he was a  
11 15-year-old man -- 15-year-old boy, if you want to call  
12 him that -- a teenager, that he brutally murdered his  
13 13-year-old brother, Gregory Witman.

14 Now, I want to give you a little overview  
15 of where we are going to be going. First, I am going to  
16 comment on a couple of items that the defense had touched  
17 on, and I am going to do it more so throughout the course  
18 of explaining the different things the Commonwealth has to  
19 establish.

20 See, for us in this case, there are two  
21 main issues that we have to prove to you beyond a  
22 reasonable doubt in order to satisfy you that we have met  
23 that burden.

24 The first course that we have to establish  
25 is what exactly did happen. As you can hear, there is a

1 clear dispute between the defense and the Commonwealth  
2 about what happened; not that Gregory Witman was brutally  
3 murdered. That's not at issue.

4 What is at issue is what exactly transpired  
5 in the course of that murder, and then from there we get  
6 to the ultimate question who did it, and the Commonwealth,  
7 of course, asserts that the person that committed this  
8 crime beyond a reasonable doubt is Zachary Witman. That  
9 is who we assert did it.

10 So, we are going to go step by step through  
11 this process to show you how the evidence and testimony  
12 from that stand and all the exhibits that you saw marked  
13 during the course of this trial, how that establishes that  
14 Zachary Witman committed this murder of his 13-year-old  
15 brother.

16 Now, after we are done discussing that, we  
17 are going to go over a couple of aspects of the reasonable  
18 doubt standard that are very important, very important to  
19 consider in this case.

20 See, this case has a real heart wrenching  
21 and disturbing aspect to it, and it's in the nature of the  
22 relationship of a 15-year-old brother murdering his  
23 13-year-old brother, and we need to discuss just what your  
24 duty is when you go out there and what role that that  
25 plays in your consideration of this case.

1                   But, before we get there, we need to start  
2                   at the beginning, and starting at the beginning, what I am  
3                   telling you right now is not evidence. It is not  
4                   testimony. I am an attorney. I am a prosecutor for the  
5                   District Attorney's Office, and my job right now is to  
6                   argue our position to you, to explain to you how the  
7                   testimony that you heard from that witness stand allows  
8                   you to convict that Defendant beyond a reasonable doubt of  
9                   the crime of murder in the first degree.

10                   And what you heard from Mr. McGlaughlin,  
11                   defense counsel, was also argument. Mr. McGlaughlin  
12                   cannot testify. His words are not evidence. They are  
13                   argument to the extent that you wish to evaluate them. As  
14                   to whether or not to what value to place on the testimony  
15                   and the evidence you heard in this Court, please do so.  
16                   That's what we are going to ask you to do the same, but to  
17                   the extent that his analysis and his individual opinion  
18                   how that's to be reviewed and taken, that is argument.  
19                   That is not evidence.

20                   And, from that standpoint, this is where we  
21                   begin, and we will start off with the first concept, and  
22                   the first thing that the Commonwealth told you in its  
23                   opening, remember when Mr. Kelley stood up and discussed  
24                   with you what you would be hearing and what would be  
25                   occurring in this case?

1                               What was something that the Commonwealth  
2                               told you up front?

3                               We would not be presenting a motive for  
4                               this crime, and we haven't. We haven't presented a  
5                               motive. We haven't told you why.

6                               Now, the role of why something occurs is  
7                               special within the law. When you hear the elements of the  
8                               crimes of which the Defendant is charged, you are going to  
9                               hear, for instance, murder in the first degree, that you  
10                              must find beyond a reasonable doubt that Gregory Witman is  
11                              dead, that the Defendant caused his death, the Defendant  
12                              killed him, and that the Defendant did so with the  
13                              specific intent to kill, premeditated and deliberate  
14                              killing, lying in wait, and did so with malice  
15                              aforethought, that hardness of heart, wickedness of  
16                              disposition, an action with extreme indifference to the  
17                              value of human life.

18                             Nowhere in there will you hear that you are  
19                             to go out and try to explain why this crime happened.  
20                             It's not an element of the crime, and what you must focus  
21                             on is what happened and who did it, why this occurred,  
22                             this atrocity occurred. You don't have that evidence  
23                             before you -- it's not there -- but what happened and who  
24                             did it is, and that's what the law is going to ask you to  
25                             decide.

1                                   And the answers to that are Zachary Witman  
2                                   killed his brother, Gregory Witman, with the specific  
3                                   intent to kill and malice aforethought.

4                                   Now, the interesting aspect about motive  
5                                   is -- defense brought up is you can look at lack of a  
6                                   motive to say, hey, if there is no motive, normally we  
7                                   like to know why these things happened. If we don't know  
8                                   why, how do we put that into play with whether or not the  
9                                   Defendant actually did this.

10                                  The interesting aspect -- and I ask you to  
11                                  consider this very carefully -- is remember when the  
12                                  defense put forth their theory of what happened here,  
13                                  remember the last half hour to 45 minutes of defense's  
14                                  closing argument was on their theory of what actually  
15                                  happened, that's not something that they are required to  
16                                  do.

17                                  Burden of proof is on us. You must be  
18                                  satisfied that we have proved our case beyond a reasonable  
19                                  doubt, not that the defense has put forth a counter-theory  
20                                  that you can believe or that you can buy, that's  
21                                  understood up front, but they did put forth a theory, and  
22                                  in doing so, remember how defense counsel said that this  
23                                  crime had to have been committed by somebody with hatred,  
24                                  somebody with such extreme hatred choosing to use gloves  
25                                  that were soccer gloves, just how Gregory played soccer,

1 and choosing to use a knife, the type of knife that was  
2 used, and when defense tried to explain to you why it  
3 happened, they said, well, we don't know why this man  
4 would have broken in and done this, we don't know why it's  
5 not important, well, how is it not important in them  
6 presenting their theory, yet it is important for us?

7                   The same factor applies here, and this is  
8 how it applies: Motive is not an element of the crime.  
9 If you -- if you are satisfied with what happened and you  
10 are satisfied with who did it, that is where the law asks  
11 you to stop. Then we have met our burden beyond a  
12 reasonable doubt, and that is the simple, plain legal  
13 statement on motive.

14                   Now, moving forth to what happened. Now  
15 defense has put forth an alternative theory, and we, of  
16 course, will argue what the facts that are in evidence  
17 reveal, and it is night and day between what the defense  
18 put forth and what we have put forth, what we say the  
19 facts and the testimony explained to you reveal.

20                   Now, the first part of what happened -- and  
21 for this I am going to begin by turning around this  
22 diagram. This is the floor plan. It was shown again in  
23 defense closing. I am going to use this as a basis. It's  
24 a good basis to have not only marked very carefully by  
25 Trooper Woodcock, but the Trooper recovered the evidence

1 in question in this case, and the markings placed very  
2 carefully on here including the markings of luminescent  
3 footprints, and we will get back to those luminescent  
4 footprints in a moment, and I think where there is  
5 noticeable disagreement where the brutal attack with  
6 Gregory Witman began was right here in the foyer -- I  
7 should say the hallway of the foyer.

8 Now, Commonwealth Exhibit No. 11, we begin  
9 with a photograph of the table as it's overturned, the  
10 backpack, the jacket, the closet door open, the key on the  
11 lanyard, and the pool of blood and the blood drops leading  
12 up towards the door, this is a close-up angle, and here  
13 you get the further picture to complete the scene.

14 This now is going from the backpack. You  
15 can see in the middle of the picture now is the key and  
16 the lanyard heading up to the askew floor mat in front of  
17 the front door.

18 Now, an important aspect about what these  
19 pictures show and what they reveal to us is that you  
20 notice, first of all, where the closet door is located,  
21 the positioning of the closet door that's open is at the  
22 far end. It's at where the -- I believe they call it the  
23 breakfast nook area, but where the part leading into the  
24 kitchen begins.

25 Why is that so important?

1                   The reason that that is important is  
2                   because with the closet door open, the unstabbed jacket  
3                   that's found on the floor -- remember, no cut marks to the  
4                   jacket, yet there are cut marks to the back of the  
5                   backpack, not many, but there are a few cut marks to the  
6                   back part of the backpack.

7                   What does that tell us?

8                   That tells us that Gregory's jacket was  
9                   off, his backpack is on, and what is he doing with the  
10                  closet door open. He is hanging the -- hanging -- excuse  
11                  me, hanging his coat up in the closet.

12                  Based upon where the stab marks begin,  
13                  where they occur in his back and going through the  
14                  backpack, this is an attack that comes from behind.

15                  Now, this is an important fact to remember  
16                  of how this attack begins because by it starting from  
17                  behind, it means that Gregory's killer had to have come  
18                  from a location where he could have attacked him from  
19                  behind and been able to do it successfully.

20                  What is right around the corner from the  
21                  closet door, and you can see it even easier from this  
22                  photograph looking at it from another angle, this  
23                  photograph is taken closer from where the front door area  
24                  is going down the hallway.

25                  See behind the table, see behind there the

1 closet door, and when you compare it to this photograph as  
2 well, see the changes in the doorjamb?

3 See the white molding strip. See the  
4 changes in the hallway affect the kitchen, and you can  
5 look from this diagram too is right around the corner  
6 right here. It meant that Gregory's killer was waiting  
7 for him around the corner in the kitchen.

8 Why wouldn't he have come from another  
9 angle?

10 Well, Gregory would have had the  
11 opportunity to see his killer, see the person coming onto  
12 him with his knife. The backpack is still on, and the  
13 coat is dropped in place, and the blood begins to form at  
14 that location.

15 Remember the blood that is found on the  
16 closet door, and it's important to note that type of blood  
17 was found on the closet door and down lower, it was impact  
18 spatter.

19 Now, we are going to get eventually to some  
20 more detail discussion of bloodstain pattern analysis.  
21 Remember impact spatter. Remember the force behind the  
22 cut that needs to be generated; the spatter that comes off  
23 of that; the detailed descriptions provided by Deborah  
24 Calhoun and the explanation of the experiment she  
25 conducted.

1                   There was impact spatter on the lower  
2 closet door, meaning those impacts began there, and we  
3 know also from the fact that in the pool of blood that  
4 there is a hair swipe, that this impact, that the stabbing  
5 to the back of Gregory's body was continuing while Gregory  
6 was down on the ground. He is being stabbed in the back.

7                   We know that there is numerous -- excuse  
8 me -- stabbings that occurred to the back that are of the  
9 same type and nature as this.

10                  How do we know?

11                  From the back of his shirt.

12                  You also heard the description from Dr.  
13 Sara Funke, the nature of those wounds. Remember the  
14 slicing wounds were on the front, not on the back.  
15 Gregory Witman had been stabbed repeatedly before he would  
16 wind up meeting his final fate, which is the slashing,  
17 slicing wounds on the front of the throat.

18                  His killer caught him by surprise. The  
19 only area he would have caught him by surprise to begin at  
20 was from the kitchen area.

21                  Now, Gregory goes down. There is impact  
22 spatter at the baseboards at the closet door. There is  
23 two different types of contact stains contained on the  
24 backpack and contained on the jacket. Remember Deborah  
25 Calhoun's testimony about that, how the contact staining

1 did not line up between what was on the jacket and what  
2 was on the backpack. It's because the bloody contact was  
3 occurring by two separate sources of blood from Gregory's  
4 body touching him at that area.

5 Now, Gregory gets up, don't know how or  
6 what happened to be able to distract Gregory -- mean to  
7 distract -- I should say Zachary, in the course of his  
8 killing, to allow Gregory to get up for those moments,  
9 that he can, but he is able to get up.

10 And how do we know?

11 Remember the contact staining that occurred  
12 on the far wall and remember the blood drops, the downward  
13 blood drop that occurred on top of the pool, and you can  
14 tell it occurred after the pool of blood because it was on  
15 top. That was a key point, a very key point, not to be  
16 lost.

17 Had it occurred before the pooling, you  
18 wouldn't have been able to see it. You couldn't have told  
19 what it was because the pooling would have obscured it.

20 Remember the discussion of the difficulty  
21 of being able to tell exactly what happened in the area in  
22 terms of drip bleeding around Gregory's body in the  
23 laundry room because of the amount of the pooling that  
24 occurred.

25 Could -- and remember Deborah Calhoun

1           saying there could be other bloodstain patterns that at  
2           one time there that we are not going to be able to tell  
3           because the pooling went and basically obviated it, wiped  
4           it out. Well, that drip occurred on top of it, and also  
5           on top of it are contact stains, and the contact stains  
6           occur when Gregory gets up.

7                                 Remember this photograph was the very  
8           telling one, 108, and unfortunately we do have the  
9           unexposed part of the side, but from what you can see  
10          there, see the contact staining, see the blood drop  
11          occurring on top of the pooling, the edges of the pooling,  
12          that is where Gregory got up.

13                                Something happened that allowed Gregory to  
14          get up. Was it the first phone call from Erynn Jeffery  
15          requiring Zach to go and hang up the phone? What was it  
16          that lead to that momentary lapse, we don't know.

17                                All we can tell you is what the facts show  
18          what as Deborah Calhoun put the snapshots in time show, so  
19          we are trying to take a snapshot and try to turn them into  
20          a movie.

21                                It's more like the old -- if you remember  
22          the old flip books, where the little cartoons drawn at the  
23          edge of the page, and when you flip them fast, you see  
24          them move, and it looks like the movie. You can't always  
25          flip them so fast, there is always going to be gaps. This

1 is one gap we don't know how he got up. How he did, he  
2 got up, and that we know because of what occurs next.

3 What occurs next and you have been shown  
4 this picture before is the blood drops leading in the  
5 foyer, and you see it's heavy, slower bleeding.

6 The drops -- first of all, you are told  
7 about the difference between when blood hits tile versus  
8 cloth about how the cloth will absorb and make the blood  
9 drop smaller by nature, because when blood hits tile, it  
10 expands, and no absorption of the blood drops like that  
11 size, and where if it were carpeting, it would be smaller.

12 Be that as it may, there is a high  
13 concentration of blood drops in that area.

14 Now, defense has argued the void right here  
15 means that that's where the table was and that the table  
16 somehow was overturned.

17 Maybe.

18 Deborah Calhoun didn't use the term void.  
19 The void is not the same as the void that is found on  
20 Zachary's sweatshirt in the area of his left arm, which we  
21 will explain later, but there isn't the concentration of  
22 blood drops in that area where defense is saying the table  
23 would have been.

24 What you have though is the concentration  
25 of drops, which you will notice some smear marks through

1 the drops have disturbed it and also stains that show that  
2 while the blood was wet, that there was more uniform  
3 absorption of the blood into the socks, and I am going to  
4 say specifically the socks because that is what absorbed  
5 and smeared the blood.

6 The ironic aspect when defense argues about  
7 the lack of blood on the sneakers of Gregory Witman, that  
8 should be of no surprise, how is he going to walk through  
9 his own blood when you don't walk like this and go  
10 through, and even if you were, how was the blood falling  
11 in front. The person that walks through the blood and  
12 picks up the blood is the individual who's walking behind,  
13 and that individual happened to be wearing an extremely  
14 absorbent material to be able to pick up some of that  
15 blood, and that individual was Zachary Witman, and we will  
16 come back to that when we explain to you who did this and  
17 just what exactly those socks reveal, because the socks  
18 absolutely are loaded with evidence that establishes  
19 beyond any and all doubt that Zachary Witman killed his  
20 brother Gregory.

21 This concentration you heard defense say --  
22 and we do not dispute and Deborah Calhoun had put forth as  
23 well, while you can't tell the exact speed that an  
24 individual was moving, that they were moving at least at a  
25 pace and in a pattern that would have lead to the

1 concentration of blood going in that area.

2 Now, what happens to be, if you are coming  
3 up this way and you are going towards the door area, what  
4 happens to be in line with that?

5 Well, what happens to be in line with that  
6 would be the door handle. Now, we have referred to -- not  
7 to be callous to Gregory's Witman memory -- we have  
8 referred to it from time to time as the blood source  
9 because we had to talk in scientific terms, and  
10 unfortunately for purposes of analyzing what happened,  
11 that is unfortunately what he has become.

12 To understand what occurs in these  
13 pictures, a 13-year-old vibrant life had become a blood  
14 source, to understand just what exactly happened, and in  
15 the final moments of his life, and it is through his blood  
16 in many respects that he spoke to us all to say what  
17 happened to him and who killed him, and in this particular  
18 part, we are able to see in his blood how the drops go  
19 over and head towards the door and how when they head  
20 towards the door, you see on the handle, you see impact  
21 spatter.

22 Now impact spatter again lined up with the  
23 blood that is on the handle meant that there was some very  
24 violent, very blunt force to a particular blood source at  
25 that time, and we would presume it would be based upon the

1 numerous wounds on Greg's hand, that it would be on his  
2 hands.

3                   During this time period in this hallway,  
4 Gregory is beginning to fight for his life, and he is  
5 beginning to sustain contact wounds, defensive wounds to  
6 his hands, wounds that eventually as we get to the laundry  
7 room will be able to tell what he does specifically there  
8 in the laundry room.

9                   Once he gets to that door, he tries to open  
10 it, and you can even see in this photograph that the door  
11 is still slightly open, but he never makes it outside, and  
12 we know no one made it outside this door because when  
13 later on Trooper Woodcock began to luminol, they did the  
14 outside exit of every exit to the home, and only one door  
15 luminesced, the back porch door of the screen room. No  
16 other door luminesced, including the back door behind the  
17 laundry room; the door that defense would have you believe  
18 became the exit position, and then ran across the  
19 backyard, I presume to that one spot in the trees,  
20 ignoring the fact that there are footprints directly going  
21 to that tree where the knife and the gloves are found.

22                   Remember, the only door that luminesced  
23 that lead directly outside was the door to the back porch  
24 of the screen room, but you see next to this door, see the  
25 high contact stain that occurs?

1                   Remember we asked Deborah Calhoun, can you  
2                   tell us more about these contact stains?

3                   She said, no, I can't. She couldn't tell  
4                   more now. When you're trying to evaluate whether or not  
5                   Deborah Calhoun was trying to alter testimony to try to  
6                   fit a theory to prove a point, to try to go ahead and make  
7                   Zachary Witman sound guilty, why does she say, I can't  
8                   tell you what caused these contact stains; I can't tell  
9                   you if they are swipes, finger swipes, or anything like  
10                  that?

11                  She says they are contact stains. That's  
12                  as far as I can go. If she is trying to manipulate her  
13                  testimony, this would have been a perfect point to  
14                  manipulate it. She told the truth. She told what her  
15                  analysis revealed, which is this is contact stain, and she  
16                  couldn't say anything more.

17                  As we have the contact staining going over  
18                  from there, it goes into the dining room.

19                  Now, at this point defense would say that  
20                  this windpipe severed 13-year-old boy who is gasping for  
21                  air is ready to pass out and be carried through the dining  
22                  room to his final resting place and where he is going to  
23                  receive final injuries are going to occur, where his neck  
24                  will finally and fully be slit.

25                  First of all, why would a home invader with

1 a purpose of killing who has got to eventually get out or  
2 be afraid of getting caught, why carry someone to a  
3 laundry room to go ahead and slice them up there?

4 Why not finish the job right where he was  
5 if supposedly that was his condition?

6 For anyone, why would you do that? Why  
7 would the Defendant?

8 The answer is, you wouldn't. That's common  
9 sense, and we are going to get back to common sense later  
10 on and to what it means when you're evaluating different  
11 points.

12 You apply your common sense. What happened  
13 was that Greg was able to extend the futile chase that  
14 made up the remainder of his life a little bit longer and  
15 got to the laundry room.

16 Now, how do we know that he managed to go  
17 through the laundry room at some kind of pace?

18 Well, the absence of blood, that is one  
19 aspect that tells us that. The blood that was there you  
20 will recall especially on the dining room table, remember  
21 this, remember we showed you the tablecloth and how much  
22 larger it really looked in real life, larger tablecloth on  
23 than on a 35 millimeter photograph showed.

24 This is the tablecloth, and on that is  
25 cast-off pattern, those parallel lines that you get with a

1 cast-off pattern that means some moving blood source, be  
2 it a victim or a Defendant went and cast blood off from  
3 them while passing through there, and it had to be in a  
4 cast-off pattern.

5 The parallel lines tell us that this is not  
6 a random dispersement of blood that's cast off, and on the  
7 other side, even though the pattern could not be fully  
8 told, on the other side of the tablecloth is the box where  
9 blood was seen even underneath the flap of the box. Right  
10 there at the flap, see that blood is even seen there and  
11 on this picture, the Commonwealth's Exhibit No. 31, you  
12 are able to see the relation of the box to where the  
13 tablecloth is.

14 Remember, also found on that floor, on that  
15 dining room floor, there was, in fact, blood. There was,  
16 in fact, blood found there.

17 Now, it doesn't look like a lot, and it  
18 doesn't look as impressive. This is carpeting. This is  
19 carpeting. It absorbs by nature, and it will not  
20 produce -- as you heard the testimony from Deborah  
21 Calhoun, it will not produce the same size in terms of how  
22 the blood drop will appear as it did on the tile because  
23 the absorption starts to take hold. There is not a lot of  
24 blood that was seen on that dining room floor. It was not  
25 a lot.

1                                 What does that -- what is that consistent  
2                                 with?

3                                 It is consistent with a faster moving blood  
4                                 source going through that area.  If Gregory Witman's body  
5                                 was carried through -- and, mind you, while he only  
6                                 weighed 63 pounds, if he is being carried through that  
7                                 dining room, what is that going to do with the rate of  
8                                 speed with which he would be carried?

9                                 Imagine carrying 65 pounds in an elongated  
10                                nature, you are carrying like this, carrying like this.  
11                                However you are carrying it, you are not going to be  
12                                moving as quickly.  What does that allow more time to do?  
13                                It allows more time for passive bleeding to come off of  
14                                Gregory's body and to go on to the floor.

15                                Remember defense kept bringing up about the  
16                                issue of time, about the issue of quantity of blood and  
17                                that what that would be consistent with.

18                                It is inconsistent with a slow moving, very  
19                                injured, including according to defense theory, somebody  
20                                with the slash wounds in the neck, already the wounds at  
21                                or around the windpipe, it's inconsistent with the volume  
22                                of blood that would have been coming out of the slow  
23                                moving source.  Also, it's inconsistent with the cast off.

24                                What it's consistent with is a 13-year-old  
25                                boy who has now been stabbed to where he has open blood on

1 his back that is being absorbed by his shirt -- and,  
2 remember the condition of his shirt and the wounds there  
3 that is being absorbed as it's rolling down and not the  
4 quantity of defensive wounds, as of yet defensive wounds  
5 existing on his hands, but not the final quantity that he  
6 will sustain when he is down on the ground making the  
7 final outreach to stop his killer as will be evidenced on  
8 his sweatshirt.

9 We get back to this area right here. As we  
10 come through here, we get to this area, and defense has  
11 made a lot about the dog gate, about how could Gregory  
12 hurdle the dog gate.

13 Well, how did Zachary hurdle the dog gate?

14 By his own story, he says that when he came  
15 downstairs, he went through that path. Leads you to  
16 wonder was the dog gate up?

17 And is that what defense is resting itself  
18 on?

19 Remember, there is one individual who  
20 controlled that crime scene, one individual who had the  
21 opportunity to control what door was open, what door was  
22 shut, what obstacle was up, and what obstacle was down and  
23 had the ability before any police arrived to move  
24 something, and that was the Defendant, and now they want  
25 to say what about the dog gate.

1                               So, okay, is it consistent with the killer  
2 while holding a 65-pound boy that is supposed to be  
3 bleeding profusely, lifting his leg over the dog gate and  
4 then the other leg and lifting the boy over?

5                               Absolutely not.

6                               What is everything most consistent with?

7                               That probably the dog gate, which was found  
8 propped up, wasn't up when this was going on.

9                               Now, turning to the next area, this area  
10 right here. See again the propped dog gate, and you see  
11 the vacuum cleaner with a couple of droplets of blood.  
12 You see the droplets that go around through this  
13 particular area of hallway by the powder room, and you see  
14 the contact stain that has occurred up here on this wall  
15 that defense has made reference to that has been caused by  
16 the glove, that Deborah Calhoun testified, said no, it is  
17 not, it is not consistent with that being made by the  
18 blood in what she specifically cited to was the lack of  
19 consistent pattern that is associated with the glove, and  
20 when it becomes clear of what type of pattern this glove  
21 makes with regards to the fabric with regards to the  
22 nubbies, it becomes very clear with this photograph.

23                               Now, that is a contact stain made by that  
24 glove. That is a contact stain made by the killer's right  
25 hand, made by the glove, and remember what Deborah Calhoun

1           said allowed you to fully see that that was -- even though  
2           that there was a swiping action that was occurring with  
3           it, it wasn't really the presence of the nubbies as much  
4           as the consistency of fabric in the fingertips.

5                                 Remember that the consistency of the  
6           fabric? Remember Deborah Calhoun is an expert in this  
7           particular field; spent a lot of time studying this, and  
8           spent a long time on the stand, standing up under cross  
9           examination. Remember the consistency of the fabric that  
10          is on the inside of the laundry room door leading to the  
11          garage. This is not contained -- this does not contain  
12          that consistency of that fabric, and remember Deborah  
13          Calhoun would not state what caused the contact transfer.  
14          She could only state what did not, that she did not find  
15          indicia to be consistent with that.

16                                 But, we do have this transfer occurring  
17          which is most important right above these few droplets  
18          occurring right here.

19                                 Now, what is happening as we are going  
20          around into this corner as we are going around into this  
21          area?

22                                 As we are going around through here coming  
23          to the laundry room, what is contained here that is the  
24          hope of Gregory Witman to reach and why he would have been  
25          alive and why common sense he is alive and trying to make

1           it?

2                           Another exit.

3                           If you are right here and you have just  
4           been blocked off and your killer is pursuing you and you  
5           are right here, where are you going to go to try to exit  
6           when you can't get out the front door?

7                           You are going to try to come over here to  
8           other exits, and one's right here. Right there is  
9           freedom. Right there is being able to escape from your  
10          killer.

11                          But the killer was close behind. This is  
12          the right hand of the glove on the back of the laundry  
13          room door, the back of this door right here. Now, it's  
14          marked specifically right there, but it was in this  
15          position.

16                          This is the left hand of Gregory Witman.  
17          His left-hand print is right there at this time and in a  
18          swiping fashion, and you can see the direction that it is  
19          going, the direction of going like this.

20                          Why is Greg doing that?

21                          Think about that. You are now trying to  
22          get to where you need to go, trying to get to freedom, and  
23          when you look at the other photographs of the staining  
24          that occurs on the walls within that area, the contact  
25          stain, this is the wall across from the washer and the

1       dryer. When you look at the staining, remember these were  
2       just described as being contact stains, couldn't determine  
3       exactly what it was that caused that stain, and there is a  
4       further back view of the left-hand print. What is Greg  
5       going for?

6                       He is going towards the door. He is going  
7       towards the back door of that laundry room, now based upon  
8       the right hand glove being on the other door.

9                       Does that mean he tried, was planning on  
10      going for the door leading out to the garage?

11                      Possibly.

12                      Could it have been that this is a  
13      13-year-old boy who is running for his life and he is  
14      panicking and he is going for a door that's slightly  
15      further, but he knows it leads directly outside rather  
16      than into a garage?

17                      Possibly, possibly.

18                      But, when he rounds that corner, he puts  
19      his hand up and pushing up and going against that wall,  
20      the stain on the wall shows us that as he is going against  
21      that wall and coming towards that door, what does he reach  
22      out for and gets to grab a hold of, he gets to grab onto  
23      the door latch. He actually succeeds in getting a hold of  
24      it.

25                      Now, this is the back view. This is a view

1           that shows you more from the dryer and washer side, shows  
2           you more of the back area of what occurred.

3                         You will notice and we will look through  
4           some other photos that shows you dripping. Notice blood  
5           drops down here around this area. Notice where the door  
6           handle is. Notice what's occurring there, and here  
7           specifically is the close-up of the door handle. If you  
8           take a look at the door handle, see those stains?

9                         Now, remember how on cross examination  
10          Deborah Calhoun was asked, I think it was approximately  
11          eight questions on cross examination regarding where the  
12          blood was on Gregory's knuckles, and remember even though  
13          defense told you again in defense closing, it was only on  
14          three, three that were clear; in fact, it was four is what  
15          Deborah Calhoun testified to.

16                        She testified it was four, and the  
17          photographs show that clearly, and she based that upon two  
18          different angles that were in the laundry room, one of  
19          which you saw the one of Gregory laying flat.

20                        His final resting position that you saw and  
21          you could see the right hand up across his body and you  
22          could see that all four knuckles did not have blood and  
23          also base it on an autopsy photograph that you did not see  
24          wherein the same condition, all four knuckles photographed  
25          and documented before the autopsy began did not have

1 blood, there was also another close-up that was  
2 specifically of that right hand area that you did not see  
3 but was testified to, when it was requested to have those  
4 exhibits be put in evidence, remember the request to have  
5 all the photographs that Deborah Calhoun looked at and  
6 considered, and we put into evidence, and one of those was  
7 a close-up that included Greg's face where you were able  
8 to see the right hand and see the knuckles, there was no  
9 blood on the knuckles, and the photograph that we had up  
10 on the screen, remember the dueling laser pointers, there  
11 was no blood on those knuckles because that blood is on  
12 that door.

13 He got there. He got to open it slightly,  
14 and he got no further.

15 Now, there has been a lot of discussion  
16 about this item; this item being the dryer, about how the  
17 blood got on there and about how over here, this is more  
18 consistent with just falling back and the gloves sliding  
19 across coming from front to back, excuse me, yes, from  
20 front to back rather than back to front as Deborah Calhoun  
21 testified to.

22 That is a back to front, and see the  
23 overlap and see this lip, and Deborah Calhoun made a point  
24 to point this out, this is a high quantity blood source.  
25 Look how much blood is absorbed in this area and the

1           overlip splash. Think about you are taking a bath and you  
2           are filling up the bath with bath water, and you have it  
3           to where it's near the top of the bathtub, you go ahead,  
4           and remember how water laps up and splashes over, or if  
5           anybody boats, how that occurs if you have a high  
6           concentration or high quantity of water at the lip that  
7           goes over, that's exactly what's occurring here. You have  
8           the runoff and dripping down the side.

9                           There had to be a blood source high enough  
10           in its quantity to be able to produce that, and there was,  
11           and, in fact, there was a blood source that had a pattern,  
12           that had a fabric weave to it, and that blood source was  
13           the soccer shirt that Greg wore.

14                           The soccer shirt that Greg wore was filled  
15           with blood, and it has a pattern. You were shown this  
16           before. This is the shirt. You will notice small stab  
17           wounds. You notice how small in size they really are as  
18           they perforated through consistent with that width of the  
19           NAPA knife blade. Look at the quantity that existed on  
20           that shirt. This is what caused that stain, and Gregory  
21           was pulled back from freedom, pulled back from the back  
22           door and was brought to where he would finally be killed.

23                           By the way, just a quick comment. Defense  
24           has asserted that instead when we were talking about the  
25           left hand of Greg being on the wall, instead it was the

1 right hand of the gloved hand, that would take some very  
2 fine and tricky maneuvering for this individual to be  
3 carrying this lifeless 65 pound, 13-year-old in one hand  
4 and walking along and bracing himself with the other, and,  
5 by the way, why would you brace yourself against a  
6 left-hand wall with your right hand?

7 We talk a lot about common sense, and  
8 common sense pretty clearly puts this picture together  
9 along with the scientific evidence.

10 We then come to the final resting place of  
11 Gregory Witman. Remember after the washer the gap with  
12 the dog dish. Remember that from the photograph of Greg's  
13 body, and I would like not to show it to you again. It is  
14 gruesome. You all remember that that is gruesome, but  
15 after that washer where the dog dish is and the dog dish,  
16 remember containing the combination of water and blood,  
17 and remember the wall that's contained over there, you got  
18 washer, dog dish, wall.

19 Remember the blood on the side of the  
20 washer, and remember the description on the side of the  
21 water dish and on the side of the wall the impact spatter  
22 and in two different locations, and as Deb Calhoun  
23 testified, that meant there were multiple impact sites on  
24 the ground, that there was one that would have occurred  
25 more so over the dog dish and would also account for some

1 of the splash out that occurred onto the ground from the  
2 dog dish, placing that impact spatter at the baseboard  
3 area of the wall.

4 And then there is impact spatter on the dog  
5 dish, on the front of it, and also remember the two  
6 different types of pooling that occurred. The two  
7 different types of pooling that occurred meant that as he  
8 is openly bleeding through his neck, that he was in two  
9 different sites.

10 How did his killer kill him and finally  
11 bring him to an end to where he died?

12 How he finally did would not have been  
13 facedown.

14 Remember on cross examination of Dr. Funke,  
15 and remember now Mr. McGlaughlin stood like this and  
16 actually got into a pose like this?

17 Isn't it consistent with going facedown and  
18 cutting across?

19 And, remember Dr. Funke saying, no, it is a  
20 textbook example, and this is what the textbook usually  
21 shows?

22 This is a front wound where you start at  
23 the deepest cut, the deepest part, and you trail off as  
24 you go across.

25 What was the deepest part on that was cut

1 and severed on Gregory Witman's neck, of these slash  
2 wounds, what was the deepest?

3 The deepest part was on the right side.

4 What was hit on the right side when defense  
5 says that, numerous large arteries and veins were hit,  
6 that is true, but the right side was different from the  
7 left, the right side, the carotid artery was hit. The  
8 left carotid artery was not.

9 Remember the right jugular vein was hit,  
10 and the left jugular vein was hit, but only the right  
11 carotid artery was hit. That is significant, not only  
12 because that's the reason why Dr. Funke tells you it is  
13 more consistent to start where you mean to start, and  
14 falling as you went across, he never went over to the left  
15 carotid artery. It is also indicative of what you are  
16 eventually going to see when we get to the final calling  
17 card of why that Defendant, why Zachary Witman committed  
18 this murder, the arterial pulse on his left sleeve.

19 Yes, the killer was standing over Gregory  
20 Witman as he lay there on the ground, and the killer was  
21 slashing his throat from right to left facing him, and we  
22 further know that because on the body of the killer, the  
23 right carotid artery or the left, its final calling card  
24 for Greg was an arterial pulse that landed on the  
25 Defendant's left arm.

1                   That is what happened, and that's what the  
2                   bloodstain pattern analysis shows, and that's what the  
3                   evidence as it lays out and quite frankly what common  
4                   sense tells us what occurred.

5                   Common sense can't reveal to us any other  
6                   reason that this would have wound up in the laundry room,  
7                   that this would have gone over there. It wouldn't make  
8                   sense, and the evidence is consistent that it began in the  
9                   foyer, and Greg almost made it out. He almost did, and he  
10                  never made it. That is what happened.

11                  Defense's theory is absolutely inconsistent  
12                  with all the evidence. It doesn't hold up with the  
13                  evidence.

14                  What happened, what the evidence supports,  
15                  what the testimony supports is what we just told you.  
16                  That's the why.

17                  Now we are going to get to the who, with  
18                  the what.

19                  THE COURT: Jury, do you need a break now?

20                  THE JURY: No.

21                  THE COURT: Everyone is fine?

22                  THE JURY: (Nods affirmatively.)

23                  THE COURT: I just wanted to make sure of  
24                  that before we launch into something new we didn't need to  
25                  have a break.

1                   ATTORNEY BARKER: I apologize, ladies and  
2 gentlemen of the jury.

3                   In my head thinking about this case,  
4 everything goes so much faster, that when you finally  
5 start to speak about it, and I'll try to make sure I move  
6 at a good pace, I know you have been here for a long time,  
7 and we want to get you to deliberate.

8                   What we have gone through so far is what is  
9 called circumstantial evidence. This case is a  
10 circumstantial case. It's where you take various things  
11 that are testified to, various facts, and when you look at  
12 them all together, you place them together, and you see  
13 how the facts line up together, and what those inferences  
14 are that you can draw from those facts, you are going to  
15 get an instruction of law from Judge Uhler regarding  
16 circumstantial evidence and regarding how you analyze it,  
17 this is a circumstantial case.

18                   What I just took you through is a way of  
19 analyzing circumstantial evidence. It's what the  
20 Commonwealth asserts beyond a reasonable doubt  
21 circumstantial evidence will show you as to what happened.  
22 It is a similar process as to what Mr. McGlaughlin took  
23 you through when he tried to assert what the defense  
24 position is, piecing together what is there.

25                   Who did this? That's final prong, who did

1           this.

2                               Well, a lot of time and attention was  
3 placed on the bloodstain pattern analysis in particular of  
4 the sweatshirt, not only through our testimony -- excuse  
5 me, through our questions on direct examination, but also  
6 on defense questions and cross examination and in the  
7 defense argument.

8                               The interesting thing about this case --  
9 and when you look at it and draw the common sense  
10 inferences and look at all the evidence is that you  
11 realize that the Defendant, the evidence that establishes  
12 that the Defendant committed this crime, that he murdered  
13 his brother beyond a reasonable doubt is all in place  
14 before we ever even get to the bloodstain pattern  
15 analysis, the bloodstain pattern analysis is the giant  
16 exclamation point saying beyond any and all doubt that the  
17 Defendant, Zachary Witman, is the person that murdered his  
18 brother, it is the piece of evidence that excludes  
19 everyone else from possibly being a source.

20                              What evidence do we have, and where do you  
21 begin?

22                              Well, let's begin first of all with the  
23 common sense aspect of this case. Begin with something  
24 called opportunity. The defense has argued that the mere  
25 presence at the crime scene in and of itself is not enough

1 to establish guilt; absolutely correct, that is the law in  
2 this area, but who is home?

3 Who is in the house that we know when the  
4 killing occurred?

5 The Defendant, Zachary Witman. He was  
6 there.

7 So, we begin with that first. Now, why was  
8 he home?

9 Was this a day that he should have been  
10 home?

11 No. He asked to stay home from school.

12 Why?

13 Because he said he had a stomachache.

14 Now, what two other forces come into play  
15 at this time?

16 Where is his mother during this day?

17 His mother is in Maryland working at her  
18 job.

19 Where is his father?

20 His father is in Chicago working at his  
21 job. He is not even remotely close enough he could have  
22 driven home to see him at that time. He was in a business  
23 trip flying home that evening. By staying home from  
24 school, who guarantees himself that he will be in the  
25 house when Gregory Witman walks home and walks through

1           that front door to enter into the house?

2                           Zachary Witman.

3                           So, now we put -- first and foremost we  
4           have an opportunity. He is there. He has the opportunity  
5           to do this.

6                           Mention the front door now. We have heard  
7           various testimony from defense witnesses, and we heard the  
8           Defendant state himself what do they do with their doors.

9                           Well, apparently from the testimony, there  
10          are numerous keys that had been handed out, and we know  
11          also that there was an extra key in the Witman home, and  
12          Zach stayed home from school, and even though they walk  
13          off the bus together, he could have just given Greg his  
14          key. None of that occurs.

15                          What occurs, Zachary Witman leaves his key  
16          and lanyard in the front door as the means of entry for  
17          Greg to walk into the house.

18                          Why is that significant?

19                          Because, again, he walks in through the  
20          front door. That channels what entrance he can take.  
21          It's the one entrance into the house.

22                          And what does it allow the person who's  
23          planning, lying in wait to be able to do?

24                          To come up and to kill Gregory. It allows  
25          him to position himself, if he wishes, in the kitchen

1           where he'll not be seen, where he'll not be known, where  
2           he can turn around the corner, and he can then stab  
3           repeatedly Gregory Witman in the back as he is at the  
4           closet door hanging up his jacket.

5                           That's the further opportunity that it  
6           allows.

7                           How do we know Zach did this?

8                           We know Zachary Witman did this because he  
9           said so. He said he is the one that put the key into the  
10          door lock and that that was there for Greg to enter the  
11          house, didn't leave a door unlocked, didn't just give him  
12          the key and say, hey, when you come on home, just unlock  
13          the door.

14                          Now, at this point in time, I have  
15          mentioned to you about how we know that as a statement  
16          from Zachary. Let's focus on a couple of his statements,  
17          and we can take from that too about whether or not Zachary  
18          Witman is the one who killed his brother.

19                          Well, defense called it minor  
20          inconsistencies, but for the most part, the main story  
21          stayed the same.

22                          What's the main story?

23                          Zachary said, I was sleeping, I got up, I  
24          heard a struggle, I heard suffering. That's the main  
25          essence of what he said, and he said it to numerous

1 people: Chief Childs, Detective Goodfellow, June Weigle,  
2 said it to Dr. McCurley, said it to Detective Skip Clancy.

3 But, along the way, some of the fine  
4 details had changed, such as where was Zachary sleeping.

5 Well, if you ask Detective Skip Clancy,  
6 Zachary was sleeping in his parents' bed with the dogs,  
7 which is the room where they found the dogs at.

8 And if you ask Dr. McCurley though where he  
9 was sleeping was in his bedroom. Remember that on cross  
10 examination how Attorney Kelley went and asked that  
11 specifically where did he tell you he was sleeping at when  
12 he went into that. It was in that bedroom.

13 Now, there is also with regards to the cut  
14 or cuts on the left hand -- which by the way when we get  
15 to the glove, we will talk about the cut on the left hand  
16 of the glove.

17 But on the left hand of Zach Witman, there  
18 was these cuts. What does he tell June Weigle when she  
19 was cleaning his hands about the cuts, oh, I must have cut  
20 it on something sharp when I was turning my brother over  
21 in the laundry room. That point stuck with him so much  
22 you heard Detective Goodfellow say that he touched the  
23 clothes on the top of the dryer to see if anything was  
24 sharp stick out there. They were afraid of cutting their  
25 hands.

1                   What does he tell Dr. McCurley though?

2                   He tells him, I was playing with my dogs,  
3                   and they must have scratched it. My mom doesn't like me  
4                   playing with the dogs like that; a different story.

5                   These are not minor differences considering  
6                   the fact that every time when Dr. McCurley was asked did  
7                   he say anything about how he rendered aid, about when he  
8                   said he tried to help his brother, he said, no, he just  
9                   left it at that; considering the fact that when June  
10                  Weigle is asking what do you mean by suffering, and  
11                  remember how everybody looked and reacted, he kept saying  
12                  I heard suffering, how the Defendant wouldn't go into any  
13                  further detail on that.

14                  Does that strike you as odd to use that, I  
15                  heard suffering? You don't hear suffering. You see  
16                  suffering. You experience suffering. You don't hear it,  
17                  and what suffering exactly would he have heard?

18                  After all, the point has been made clear  
19                  his windpipe has been shattered, his throat has been cut.  
20                  He is down on the floor. Once that occurred, there is no  
21                  suffering to be heard. There is no nothing to be heard  
22                  from Greg.

23                  The only way he would have heard and seen  
24                  suffering, if he were the one who inflicted the suffering.  
25                  Those generalities like that he stuck to, now think about

1 the 911 tape when you're going into further things that  
2 strike you as funny.

3 Remember how comfortable it was for the  
4 Defendant to refer to his brother who he just discovered  
5 in the past tense?

6 Remember he said upon being asked how old  
7 is he, he was 13; he was.

8 Remember his quick assumption in the  
9 beginning of the tape, I think he is dead, goes to that  
10 right away. Remember he doesn't express a desire to go  
11 help his brother, and you hear repeated, and it has been  
12 referenced by defense, that the 911 worker, Mr. Krebs,  
13 kept saying you have got to help him, you have got to go  
14 over, and defense wants you to consider that to say, well,  
15 he went over, and this is how he got the blood.

16 He didn't want to go over. He didn't need  
17 to go over. He knew he was dead and was comfortable  
18 referring to him as such, and remember the beginning of  
19 the tape, the colder tone of Zachary Witman?

20 There is a distinct difference on the tape  
21 in terms of the tone of him as the tape went on. As the  
22 phone call went on is when the more that we can call  
23 hysterical, agitated, any of the terms you heard the  
24 people using those terms began was that is a realization  
25 of what he did, was it because he hears the sirens as he

1 indicates on the telephone and opens the garage door and  
2 the people are now coming?

3 Don't know.

4 Don't know.

5 But when that call begins, that call begins  
6 with a cold tone and an air of comfortableness in  
7 reference to a brother that he supposedly loved in the  
8 past tense.

9 So, now we have considered opportunity. We  
10 have considered the statements of the Defendant.

11 One other contradictory statement, and we  
12 are going to bring up Erynn Jeffery in a little bit, but  
13 the Defendant told Detective Clancy that Erynn Jeffery  
14 called. He mentioned about that, and this is before, of  
15 course, he interviewed her, before they had the chance to  
16 get the written statement of Erynn Jeffery.

17 He says she called 2:55 p.m. She was a  
18 defense witness, and remember what time they made a point  
19 of saying she was thrust into the middle of this, and  
20 closest thing to a direct witness, what time did she say  
21 she talked to Zachary Witman, 3:15 p.m.

22 Who's wrong, the Defendant, Erynn Jeffries?

23 In the end, does it necessarily matter to  
24 the case?

25 But, again, it's another example of the

1 conflicting nature of what the Defendant told to police,  
2 2:55 p.m. It didn't happen, didn't happen at 2:55 p.m.

3 Now, finally, we are ready to move into  
4 another area of physical evidence. In the backyard we  
5 find underneath the pine tree, we find the gloves in this  
6 backyard area, secluded area, difficult to see from any  
7 other place. We find the gloves, and we find the knife,  
8 the murder weapon and the gloves that were used by the  
9 killer in perpetrating this crime.

10 This is the area of dirt before it was dug  
11 up showing the dishevelled nature of this dirt, showing  
12 how it is loosely placed together and when brushed aside  
13 with the rake, we can now begin to see the gloves and  
14 knife to appear what originally due to their balled up  
15 nature, the police thought were socks.

16 Now, at the point in time that they found  
17 those items in the backyard, Zachary Witman had already  
18 been to the hospital, and he was being considered and  
19 treated as a victim who had seen a horrible sight.

20 For the police and detective, they just  
21 seen a horrible sight when they found those gloves and  
22 knife. Now, apply common sense and human experience.  
23 Again, who would bury the murder weapon and gloves used to  
24 commit this murder in the backyard under a tree,  
25 especially considering the fact that you may have a seven

1 to eight-minute window in which you have committed this  
2 murder and are getting out?

3 Who would?

4 Who would if it's the stranger who  
5 supposedly came in, or this person who is even known came  
6 in and committed this crime? What is this consistent  
7 with?

8 It is consistent with it being committed by  
9 Zachary Witman.

10 Why in and of itself is that consistent?

11 He is a 15-year-old boy who was home from  
12 school who needed to hide a bad thing he did. Think about  
13 it. He can't drive anywhere. He can't go anywhere. The  
14 people are out in the neighborhood. Everyone knows each  
15 other, plus the fact he has blood on his body.

16 It's one thing for him to say, oh, I got  
17 bloody because I went up to my brother. It's another  
18 thing to say, oh, I got bloody, and here's the murder  
19 weapon, and here's the gloves.

20 Within an eight-minute span, to be generous  
21 a ten-minute span, a person who lives there would have  
22 done that, that person is Zachary Witman. He had no means  
23 of getting away, and it is consistent with what a  
24 15-year-old boy would do in terms of hiding something he  
25 did that was bad.

1                                Now, what lead the police to there?

2                                Luminescent footprints, the luminol. What  
3                                to do has been made out of luminol. Well, luminol was  
4                                applied outside of exits. Nothing luminescent at any exit  
5                                except this one out the French door of the family room,  
6                                went out the screen porch, and went down here to where the  
7                                gloves and the knife were found, and the return footprints  
8                                were lighter and faded out in the screen porch. That was  
9                                consistent from everyone who saw those footprints, Trooper  
10                               Woodcock, Trooper Maiolino, Detective Goodfellow, that  
11                               they saw those footprints in that area.

12                               There were no other footprints at all.

13                               Now, is it blood, isn't it blood?

14                               Quite frankly, it doesn't matter if it is  
15                               or isn't blood. The answer is no.

16                               What matters is that they show the exit  
17                               that was made out of that house to where the murder weapon  
18                               and the gloves were deposited in the ground and then  
19                               reentered into the house showing that the killer reentered  
20                               the Witman home. So this killer decides to reenter, wipes  
21                               out every trace of what was luminescing on the bottom of  
22                               their feet, and leaves out of another exit in eight  
23                               minutes?

24                               Or, the killer reentered the house and then  
25                               goes over and calls 911, and in the hopes to cover his

1 tracks and say somebody else did this, I didn't do it.

2 Now, was it or wasn't it blood?

3 Luminol is a presumptive test for blood.

4 Other agents do react with it, but what is significant  
5 about the pattern in which those footprints went, what is  
6 significant is the fact that these are Zachary's socks.  
7 This is how they looked when they were photographed and  
8 documented and the condition they were in when they were  
9 seized from him when he had them taken off of his body in  
10 the ambulance.

11 Now, remember the testimony of Deb Calhoun.  
12 When Deborah Calhoun took a look at those socks under the  
13 microscope and Deborah Calhoun testified that there was  
14 blood, she got a presumptive test, phenolphthalein, which  
15 is another presumptive for blood that was throughout the  
16 sock, but the blood that's visible here as well as the  
17 soil that's visible is not at the top of the fibers. It's  
18 down lower on the fibers.

19 What did Deborah Calhoun state that was  
20 consistent with?

21 Someone who was walking.

22 Now, remember footprints and the  
23 description of the foot. Remember even Trooper Woodcock  
24 even drew on the flip-flop showing the arch, and it was in  
25 further and no toe impression and tread impression, which

1 made it look like a socked foot.

2 Remember the footprints going out, and as  
3 they come back much lighter and they fade away. That's  
4 the top of those fibers of the soles of the Defendant's  
5 socks losing the blood that's on them.

6 Remember how when they luminesced in the  
7 garage and they didn't find luminesced footprints in the  
8 garage where the Defendant was jumping up and down, the  
9 reason why is because the wet blood on the surface was now  
10 gone, the agent that would luminesce is now gone, his  
11 socks in the condition they were in is consistent with him  
12 walking out that door to that area of dirt where the  
13 gloves and the knife are buried and walking back in.

14 Now, I mentioned soil. John Evans observed  
15 the socks under the microscope, and the socks had soil on  
16 them, and you heard that described by John Evans, by  
17 Deborah Calhoun. You could even see them that there is  
18 dirt, that there is soil on those socks from the naked  
19 eye.

20 There is also soil found, of course, on the  
21 gloves and the knife. They were, in fact, even caked in  
22 soil. You can see from this they were caked in bloody  
23 soil, and there was soil observed on the towel used to  
24 wipe the Defendant's hands when he went into the  
25 ambulance.

1                   The blood that was dry, remember, they had  
2                   to wet the towel to wipe off his hands, and they couldn't  
3                   even get all of the blood off of it, off of those hands  
4                   because he still had to wash them when he went to the  
5                   hospital.

6                   Remember, he had to wash the remainder of  
7                   the blood off his hands, the blood off his feet, and the  
8                   blood off of the right side of -- excuse me, off the right  
9                   side of his neck. Remember, that was about two inches  
10                  when Dr. McCurley, defense witness, went and turned, had  
11                  it from centimeters into inches.

12                  Now, the soil was found on that towel,  
13                  meaning there was soil on his hands when he was in the  
14                  ambulance. When he went to the hospital after this crime,  
15                  he has got blood and he has got soil. That soil matched  
16                  the soil from the whole distinct mica trait. Remember the  
17                  mica trait testified to by John Evans and then through the  
18                  testing by R.J. Lee Group, which occurred after other  
19                  testing when they were able to find the sufficient amount  
20                  for testing off of the towel, they said it was consistent  
21                  with that.

22                  What's the one item of the Defendant's  
23                  clothing that never had soil?

24                  His sweatshirt.

25                  Just Evans said he looked under the

1           microscope, and remember this is before they conducted the  
2           serology test, this is before they conducted the DNA test,  
3           he looked through the whole sweatshirt with the  
4           microscope, and we asked him, remember, directed, we  
5           specifically asked was the presence of blood a problem for  
6           you determining whether there was soil there?

7                           He said, no, it was not a problem.

8                           What is the significance of not finding  
9           soil on the sweatshirt?

10                          Remember the defense is trying to argue  
11           that the reason for the blood in this area, the swipe on  
12           the belly, is because of his shaking his hands and then  
13           touching himself with his hands.

14                          If he is touching -- and remember the time  
15           that defense in cross examination establishing what would  
16           happen to your hands if you had dirt and blood mixed in,  
17           would you have dirt on your hands, would that occur, the  
18           answer is yes, if he wiped himself on his belly with wet  
19           blood, and knowing that there is dirt on those hands,  
20           because we had it on the towel, where is the dirt? Where  
21           is the soil?

22                          There is no soil on the sweatshirt. The  
23           reason that there is no soil is because that wasn't his  
24           hand. He didn't cause that print. He didn't put that on  
25           his body.

1                               That was caused by Greg Witman as he  
2                               struggled in the last moments of his life to try to keep  
3                               his killer at bay when he is in the laundry room. The  
4                               absence of soil is huge.

5                               Furthermore, why does he have soil on him  
6                               if this is somebody that spent the day sleeping up in bed,  
7                               came downstairs to go ahead and make some soup on the  
8                               stove?

9                               Why are his socks in this condition? Why  
10                              does he have soil on his socks?

11                             Why does he have soil on his hands to the  
12                             point that when they are scrubbed in an ambulance on a  
13                             towel in a dried condition, when they have to wet the  
14                             towel, why is there soil that picks up on that towel?

15                             The reason why he had soil on his socks and  
16                             soil on his hands that went on the towel is because he is  
17                             the person that put the bloody gloves and the knife in the  
18                             soiled hole under the tree. That is why. That is what  
19                             that is consistent with.

20                             That is how come he has soil on his hands  
21                             and how come he has soil on his socks, and he did not put  
22                             those finger swipes on his sweatshirt or else there would  
23                             have been soil on his sweatshirt.

24                             We have now gotten to the point where we  
25                             presented a lot of evidence, a lot of stuff.

1 THE COURT: I am seeing some nods for a  
2 request for a short break.

3 ATTORNEY BARKER: Sure.

4 THE COURT: We will take 15 minutes.

5 \* \* \*

6 (Recess.)

7 \* \* \*

8 ATTORNEY BARKER: Thank you, Your Honor.

9 Ladies and gentlemen of the jury, in terms  
10 of the DNA and mitochondrial DNA, which you heard  
11 mentioned and referenced, well, that doesn't specifically  
12 come back and say that that's the Defendant and that's  
13 true. The DNA in this case, all the blood items that we  
14 had tested came back as being Greg Witman's DNA.  
15 Absolutely true.

16 And you heard the fact that the source of  
17 his blood was so great that it would have taken something  
18 that was on equal source of DNA to be able to measure up,  
19 to be able to be equivalent of, and certainly scratching  
20 surface cuts on his left hand is not going to be enough to  
21 create that DNA, especially the problems Katherine Cross  
22 talked about identifying those makers when you have  
23 brothers involved.

24 What we can say is that Gregory Witman's  
25 DNA is the only DNA found. There is no DNA of Zachary

1 Witman's. There is no DNA of anyone else's that is found  
2 of the nuclear DNA.

3 Gregory Witman's blood overwhelmed it all.  
4 That is neither a positive nor a negative. It is just  
5 what is.

6 But when we turn to mitochondrial DNA, it's  
7 a slightly different point. The mitochondrial DNA, yes,  
8 once again, that comes back to being within the family  
9 line. It comes back to being within the line of Gregory  
10 Witman, Zachary Witman, or Amelia Sue Witman, follows the  
11 maternal line. You heard even though there was a one  
12 marker difference, that Ron Witman could not be excluded  
13 with one marker difference, and what LabCorp uses, they  
14 like to use the two marker system.

15 The hairs that were found, in particular  
16 taken from the gloves, the hairs that were found on the  
17 body of Gregory Witman from his right hand, the hairs that  
18 were taken from his throat, those hairs came back to being  
19 within the line. Now, certainly the gray hair we would be  
20 able to say, well if that gray hair came back to being  
21 within the maternal line of Zachary Witman, Gregory  
22 Witman, or Amelia Sue Witman, we would be more logical we  
23 would conclude, well, that hair without pigmentation, that  
24 gray hair would belong to Amelia Sue Witman. That was the  
25 hair found in the throat. The hair that was inconsistent

1 under the microscope when looked at by Deb Calhoun, that  
2 being Gregory Witman or Zachary Witman's hair, think about  
3 it. Every hair found, the hairs that were tested, the  
4 hairs that came back with the result, those hairs that  
5 came back with the results came back from within the  
6 Witman family.

7 What would you have expected to have seen,  
8 if someone else did this?

9 You would have expected to have seen  
10 someone else's mitochondrial DNA. That was not there, and  
11 that's the power in what it says. It's what you can  
12 almost call negative proof. It's disproving the existence  
13 of something.

14 See, this is important to remember.  
15 Nowhere in the crime scene is there any evidence that  
16 would point you or lead you to anyone else having  
17 committed this crime. The mitochondrial DNA all came back  
18 within the family typing of Gregory, Zachary, or Amelia  
19 Sue Witman.

20 The DNA, the nuclear DNA evidence, is  
21 overwhelmed by the DNA of Gregory Witman. There is no  
22 sign of forcible break-in. There is only one path that  
23 luminesced leading outside the house and back inside to  
24 the house.

25 There is nothing that was found at the

1 crime scene that would be consistent with someone other  
2 than a member of the Witman family having committed this  
3 crime. And as we all know, only one member of the Witman  
4 family was at home, had soil on him, on his socks, on his  
5 hands, was blood covered. That person is Zachary Witman.

6 Also, it happened to be the person that had  
7 a knife collection, who had knives that included an A P  
8 Muffler knife that was similar to the type of knife that  
9 was used, the NAPA Auto Parts knife, which came from  
10 Baltimore, Maryland, a place where his father owned an  
11 auto parts, tire and lube business, that they used auto  
12 parts in.

13 And you will remember many of those knives  
14 had auto parts insignias on them, such as motor sports and  
15 things like that. The theme of cars was extensive within  
16 the knife collection and makes sense considering the fact  
17 that I believe his father testified to that he also had a  
18 car collection as well.

19 Also, in terms of the soccer gloves, those  
20 are all sports soccer gloves that were found and that were  
21 used in the crime. That is consistent with someone who  
22 was in athletics, someone who would have been around and  
23 familiar with and would have been a part of playing  
24 soccer. They were the same type of gloves made by Adidas  
25 rather than made by Brine which was who Greg's gloves were

1 made by, but they were the same type of gloves.

2 We now have nothing that points to anyone  
3 else. We have already shown you substantial evidence that  
4 points to Zachary.

5 Now, we get to the final point. His  
6 sweatshirt. We will agree the amido black has changed the  
7 color of the blood on this sweatshirt, but the patterns  
8 you can see still remain.

9 Now, this was the original condition of the  
10 shirt, the original bloody condition. You can't see the  
11 full cuffs on the end in this picture, but this gives you  
12 an overview of what the bloody condition was at the time  
13 it was collected from the Defendant; blood on the front,  
14 no blood on the back.

15 Remember the discussion of the finger  
16 pattern, the finger transfer pattern that was found on the  
17 sleeve. Remember the discussion of how that was  
18 consistent with coming from Gregory's injuries. This is  
19 the first of the types of blood stain patterns that were  
20 found on Zachary's sweatshirt. And when I say first, it's  
21 not in a specific order. It's just in the order we are  
22 presenting it to you because they are different stains,  
23 and the different stains give a different picture as to  
24 what's occurring.

25 As Deb Calhoun said with her experiments,

1 she couldn't duplicate this. This is too many stain  
2 patterns on it, too many. You can't duplicate this, but  
3 it could be originally created in Gregory's blood.

4 Number two, take a look at the lower area.  
5 This is where and as defense counsel has also argued to  
6 you, this is where you can see the hand swipe impression  
7 at the bottom of the sweatshirt.

8 Now, defense had argued to you that this  
9 was created by the Defendant. However, we argue this was  
10 not and base it upon the fact that if this is placed there  
11 by the Defendant, there would have been soil.

12 What is consistent with this at the  
13 location that this is at?

14 This is consistent with Gregory Witman as  
15 he is going down onto the laundry floor wiping his hand  
16 across the stomach of the Defendant. There is no soil in  
17 that bloodstain. If there was, it would have been  
18 detected by John Evans. It was not. There should have  
19 been soil if the Defendant placed it there.

20 In this particular item, remember Deborah  
21 Calhoun when she showed you this, talked about the hair  
22 swipes found in here and she said hair swipes also found  
23 in this area up here a large contact stain, which she said  
24 she didn't know what caused it. It was just a contact  
25 stain, and right here in this circle you see the cast off

1 patterns.

2 Now, we have another photograph to show you  
3 those cast off patterns. But remember the cast-off  
4 pattern wasn't and could not have come from the Defendant  
5 going like this. Remember what Deborah Calhoun said about  
6 the pattern. It would have been a hand. It was caused by  
7 three fingers, a hand going at a slower pace like this.

8 They did duplication experiments. They  
9 were able to get that pattern when they went like that  
10 with three fingers.

11 Whose fingers were cut with defensive  
12 wounds?

13 Gregory's within 6 to 12 inches going like  
14 that. Not going like that.

15 It would have been literally at that  
16 location in two different patterns. As you can see by  
17 this diagram, it has the highlighted green and the  
18 highlighted orange; as you can see from this picture two  
19 different patterns that would have required the Defendant  
20 to somehow be going like this to himself with a bloody  
21 hand. That didn't happen.

22 This is the hand. This was caused as blood  
23 cast-off from the hand of Greg Witman as he moved his  
24 hands towards his brother, and that was caused by a live  
25 Greg Witman before he died.

1                    Again, within this picture see from a more  
2                    close-up angle the hair swipes again, the hair of Greg  
3                    Witman, the hair swipes that were placed on Zachary's body  
4                    from his handling of Gregory as he was murdering him, and  
5                    then finally, I want to show you this picture.

6                    Now, throughout the sweatshirt as you can  
7                    see, there is amido black aspect, but you can also see  
8                    from here the small little droplets that have been  
9                    described as the impact spatter that was created by impact  
10                    spatter, which was consistent with the Defendant being  
11                    within 6 to 12 inches of Greg's body. When this was  
12                    caused and the experiment, remember Deborah Calhoun  
13                    showing the experiment. She is left-handed. She held out  
14                    with her right and caused this impact spatter that came  
15                    back onto her shirt. She was looking for the size and  
16                    consistency of that spatter, and it came back as matching  
17                    for those aspects from what she did with her experiment,  
18                    and very notably so did a void.

19                    Now, this is what Deborah Calhoun testified  
20                    as a void, this area right here. Deborah Calhoun had that  
21                    same area on her sweatshirt, but because she was  
22                    left-handed, she had it on her right side from going like  
23                    this. The clothing folded over and no staining got here  
24                    in terms of impact spatter.

25                    The same exists on this sweatshirt right

1 here. This void. What does that void tell us?

2 That void tells us that the Defendant as he  
3 was stabbing into his brother was holding his left arm out  
4 and holding him. We know that he caused that impact, this  
5 stabbing impact in the foyer where the impact spatter was  
6 found at the baseboard down on the ground. We know he did  
7 there and we know that he did in the laundry room where  
8 the impact spatter is also found on the baseboard area and  
9 on the side of the dog dish.

10 And then finally, we have his statement  
11 made by Gregory and his blood, which may have been the  
12 last statement he ever made. This is an arterial pulse.  
13 Remember Dr. Funke testified about what would have  
14 happened and what would have been the conservative length  
15 of time that Greg Witman would have been alive would have  
16 been in a position to have his heart beating, his heart  
17 pumping to be able to produce that spurt out of his right  
18 carotid artery. No more than two minutes.

19 Remember Attorney Kelley asking on direct,  
20 could it have been two minutes? Not any more than two  
21 minutes.

22 Now, what's significant about that, about  
23 that time?

24 When it is on the 911 tape that Zachary  
25 Witman says, he goes over and while holding the telephone

1 goes up to his brother and attempts to render aid and  
2 supposedly obtains this amount and different type of blood  
3 stain patterns on his sweatshirt three minutes and five  
4 seconds into the 911 call. It is medically impossible for  
5 Zachary Witman to have sustained this arterial pulse blood  
6 stain pattern on his sweatshirt in the manner that he  
7 contends he did from the 911 call.

8 This occurred when Zachary Witman severed  
9 the right carotid artery of his brother, Gregory Witman.  
10 It occurred when he was facedown in front of him holding  
11 him down and he hits the right carotid artery, and this is  
12 the projected blood stain. This is the arterial pulse.  
13 This came out and this hit him on the left sleeve of his  
14 sweatshirt, and remember it was the right carotid artery  
15 that was severed. Zachary Witman faced his brother as he  
16 severed his right carotid artery and stole the life out of  
17 him.

18 There is other physical evidence that we  
19 haven't fully touched on. It was two weeks of testimony,  
20 such as why if he had just sustained all of this blood  
21 from touching and contacting his brother was there a very  
22 small amount of blood on the telephone?

23 Why wasn't there blood found in any kind of  
24 concentration in the garage? It should have been if he is  
25 covered in it and it's wet, it should have been there. It

1           wasn't.

2                                 But really that says everything. The  
3           evidence is overwhelming as to who did this, and the  
4           person who tells us who did it is Gregory Witman, and he  
5           did so in his own blood. He identified his brother as his  
6           killer. And he did so with the last beats of his heart.

7                                 Now, you are going to be going out and you  
8           are going to deliberate and that term is a very serious  
9           term. The term deliberate means that you are going to go  
10          out and you are going to discuss what happened. You are  
11          going to discuss the evidence. You are going to think,  
12          you are going to reflect, you are going to go over it in  
13          your mind, and you are going to work to reach a verdict in  
14          this case.

15                                The Commonwealth wants you to take every  
16          moment to deliberate and to think very carefully and hard  
17          about this case. This is a very serious case and both the  
18          defense and the Commonwealth deserve that. You are going  
19          to be sitting there and talking and determining whether or  
20          not the Commonwealth has proven its case beyond a  
21          reasonable doubt.

22                                And the important aspect of the beyond a  
23          reasonable doubt standard is -- and even though the  
24          Commonwealth has asserted to you we have proved to you  
25          beyond any and all doubt, we are not required. It is not

1 a mathematical certainty. It is not beyond any and all  
2 doubt. It is not that we have to establish the complete  
3 impossibility of innocence. It is to prove guilt beyond a  
4 reasonable doubt.

5 The most important prong of the reasonable  
6 doubt standard as you go out and deliberate in this case  
7 is that you will be confronted and be reviewing the ugly  
8 awful truth about what happened at 9 Albright Court and  
9 there will be a very strong and passionate desire to not  
10 want to do your duty, to want to manufacture reasonable  
11 doubt, to want to create it to avoid a very difficult  
12 duty, and this is a difficult duty.

13 You heard Mr. and Mrs. Witman testify in  
14 this case. It is understandable they would testify as  
15 they did. They do not want to see and review what is  
16 here. That isn't what you are going to be considering.  
17 It is painful. It is distressing. But, it is the truth.

18 It is okay and understandable for them to  
19 have manufactured reasonable doubt. It is fine for them  
20 to have grabbed ahold of whether or not this was of the  
21 result of Gregory being involved in a fight the night  
22 before at soccer or whether any one of the keys that may  
23 have been floating around could have been the cause of  
24 this.

25 It is fine to manufacture reasonable doubt

1 for them. They have to cope. They have to live. But you  
2 are jurors. You are asked in voir dire whether you would  
3 apply and follow the law. You were asked up front whether  
4 upon being satisfied beyond a reasonable doubt you would  
5 be able to set aside your passions and your sympathies for  
6 what you have to do. And you said, yes, you could.

7 That is what the Commonwealth is asking you  
8 to do your duty. The only way to find Zachary Witman not  
9 guilty of this heinous crime is to manufacture reasonable  
10 doubt. The evidence is overwhelming and the law doesn't  
11 allow you to do that.

12 You must go out there and you must stare at  
13 the awful ugly truth square in the face, and when you are  
14 done, the one verdict you will come back and return is  
15 that Zachary Witman is guilty of first-degree murder for  
16 the heinous murder of his 13-year-old brother, Gregory,  
17 and you will find that he did so beyond a reasonable  
18 doubt.

19 Thank you.

20 \* \* \*

21 (Whereupon, this concludes this requested  
22 portion of the transcript.)

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C E R T I F I C A T I O N

I hereby certify that the proceedings  
and evidence are contained fully and accurately in the  
notes taken by me on the criminal jury trial of the above  
cause, and that this copy is a correct transcript of the  
same.

Christine M. Myers,  
Official Court Reporter