

1 STATE OF ILLINOIS)
)
2 COUNTY OF COOK) SS:

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
4 COUNTY DEPARTMENT-CRIMINAL DIVISION

5 THE PEOPLE OF THE)
6 STATE OF ILLINOIS,)
)
7 - vs -) NO. 14 CR 0195401
)
8 SHAUGHNESSY SIMMS,)
)
9 Defendant.)

10 JURY TRIAL

11 EXCERPT REPORT OF PROCEEDINGS had at the hearing of
12 the above-entitled cause before the Honorable MARY
13 MARGARET BROSNAN, Judge of said court, on the
14 27th day of July, 2017.

15 APPEARANCES:

16 HON. KIMBERLY M. FOXX,
17 State's Attorney of Cook County, by
18 MR. GERARDO TRISTAN,
19 MS. NYSHANA SUMNER,
 Assistant State's Attorney,
 appeared for the People;

20 MR. STEPHEN RICHARDS,
21 MR. JOSHUA RICHARDS,
 appeared for the Defendant.

22 DIONE R. RAGIN
23 2650 S. California Ave., 4C02
24 Chicago IL 60608
 Official Court Reporter
 C.S.R. #084-004066

1 (Beginning of excerpt)

2 THE COURT: State, you may address the jury in your
3 opening close.

4 MS. SUMNER: This case is about murder as my
5 partner told you on Tuesday. Ladies and gentlemen, you
6 heard the details of how Jermale Richardson's life was
7 ended on December 27th, 2013 without legal justification
8 when the defendant shot him not once, not twice, but
9 three times.

10 You also heard from three credible witnesses.
11 You heard from Brittany McMahon, Jason McMahon, and
12 Tommeshia Robinson. Now, Brittany McMahon is the mother
13 of Jermale's daughter, Jamia. She has known Jermale for
14 a very long time. Tommeshia Robinson was a friend of
15 Jermale's.

16 Jason McMahon told you on the stand that he
17 considered Jermale his brother. And when he saw Jermale
18 get murdered, he was angry but he also felt a loss.

19 Brittany told you she was home that night with
20 the defendant, with Tommeshia, with her son Darryl, with
21 her brother Jason, and with Jason's friend. She told
22 you that she and Tommeshia and the defendant had gone to
23 get some alcohol. They had gone to get some Hennessy.
24 They returned to the house. And they each had something

1 to drink. And they had approximately a cup a piece out
2 of a fifth of a bottle of Hennessy.

3 She continued to tell you the events of that
4 night. She told you that during that night she and the
5 defendant got into a verbal argument. They got into a
6 verbal argument over the defendant's travel to and from
7 work with a woman. She told you that she got into this
8 verbal argument with the defendant and that she walked
9 away. She walked away from this argument. She went
10 into her bedroom and she made some phone calls, but the
11 defendant was not done with the argument.

12 She told you that when she went to her bedroom to
13 make those phone calls she called Jermale, the victim.
14 She called Jermale, and she wanted to tell Jermale that
15 he didn't need to pick up their daughter the next
16 morning because she wasn't there. But she didn't get a
17 chance to do that. While she was speaking with the
18 victim Jermale on the phone, the defendant he was in the
19 background belligerent, loud, he was upset. They were
20 still arguing about his travel to and from work with a
21 woman and she was on the phone.

22 Jermale heard this. He asked Brittany are you
23 okay. Brittany told him she was.

24 Now, there must have been something in Brittany's

1 voice that caused Jermale alarm because shortly after
2 that conversation Jermale knocks on the door. Brittany
3 hears the knock, and the defendant goes to the door and
4 asks who is there. Jermale responds. Brittany hears
5 this.

6 Now, Brittany gets up and she goes outside and
7 she is speaking with the victim, Jermale. The defendant
8 is still inside of the house. While Brittany and the
9 defendant are at the bottom stairs of this porch
10 speaking, the defendant comes out. There is no threat.
11 Brittany told you they were having a conversation. The
12 defendant comes out and starts a verbal altercation with
13 the victim Jermale. He starts this verbal altercation
14 about Jermale's daughter Jamia who was responsible for
15 taking care of Jamia. Accusing the victim of not taking
16 care of Jamia.

17 The defendant continues his verbal altercation
18 and Tommeshia comes out. And she is speaking with
19 Jermale, and she says hello. She asked for a cigarette,
20 and she is continuing to talk to Jermale and the
21 defendant is still at this porch having a verbal
22 altercation with the victim, Jermale.

23 What happens next?

24 Ladies and gentlemen, there was no physical

1 altercation going on to this point. Nothing. Jermale
2 is at the bottom of the stairs. Brittany at the bottom
3 of the stairs. The defendant is at the top of the
4 stairs on the porch yelling and having a verbal
5 altercation about Jamia. The defendant then decides to
6 pull out a firearm and fire a shot into the air.

7 There is no physical altercation going on. There
8 is no weapons involved. The argument between the
9 victim, Jermale Richardson, and the defendant at that
10 point was verbal. Words do not hurt. He pulled out
11 that weapon, fires into the air, the victim, Jermale
12 Richardson, asked him what are you doing? He says you
13 pulled out that weapon. You are going to have to use it
14 now.

15 You heard Brittany testify to that, but you also
16 heard Brittany testify that while they were on that
17 porch when all four of them, Brittany, the defendant,
18 Jermale, and Tommeshia were on that porch on the same
19 level Brittany was standing in front of the defendant.
20 The victim, Jermale Richardson, was directly behind her
21 and Tommeshia was behind Jermale. What happened after
22 Jermale stated you pulled out that weapon now you are
23 going to have to use it. Still words, ladies and
24 gentlemen.

1 This defendant takes that weapon, reaches over
2 Brittany's shoulder, and shoots Jermale Richardson.
3 After he shoots him, what does he do. He doesn't stay
4 to see if he is okay. He doesn't say, oh, I didn't mean
5 to do that, I am sorry. He turns, takes a step into the
6 house, and comes back and shoots Jermale two more times.

7 One shot hits Jermale in the top of the head.
8 The second shot hit Jermale in his arm. That shot in
9 the head, ladies and gentlemen, execution style.

10 You heard also testimony from Jason. Jason
11 McMahon indicated that after being made aware that
12 something was going on outside his nephew Darryl
13 informed him that. He came out outside and what did he
14 tell you. He told you that he walked into and saw the
15 defendant shooting Jermale Richardson twice.

16 And after the defendant shot Jermale three times,
17 what did he do. He didn't stay and wait from the
18 police. He didn't attempt to render any aid. He drove
19 two hours away to Freeport, Illinois. He fled. He
20 fled. Jermale was taken to the Medical Examiner's
21 Office.

22 And you heard testimony from Dr. Arunkumar. She
23 testified as to the bullet wound that she observed in
24 conducting the autopsy. She testified that the gunshot

1 wounds were the cause of death, multiple gunshot wounds
2 caused the death of Jermale, and that the manner death
3 was homicide.

4 Ladies and gentlemen, this is what the evidence
5 that you have heard this week has proven that the
6 defendant Shaughnessy Simms committed first degree
7 murder on December 27th, 2013. You will have the
8 opportunity to discuss and review the testimony of the
9 witnesses, to observe all of the evidence, and examine
10 all of the evidence, and take a look at all the
11 exhibits.

12 The judge has given you the law in the form of
13 jury instructions. You have been provided those. I'm
14 going to go over a few of the instructions now.

15 To sustain the either the charge of first degree
16 murder or the charge of second degree murder the state
17 must prove the following propositions: First
18 propositions that the defendant performed the acts which
19 caused the death of Jermale Richardson. Ladies and
20 gentlemen, we have proven that. The defendant
21 Shaughnessy Simms shot Jermale Richardson three times.
22 And Jermale Richardson's cause of death was multiple
23 gunshot wounds as you heard from the testimony of Dr.
24 Arunkumar. We have proven that first proposition. The

1 defendant shot Jermale Richardson, Jermale Richardson
2 died, and that was the cause of Jermale's death.

3 Second proposition that when the defendant did so
4 he intended to kill or do great bodily harm to Jermale
5 Richardson or he knew that such acts caused the death of
6 Jermale Richardson or he knew that such acts created a
7 strong probability of death or great bodily harm to
8 Jermale Richardson.

9 Now, ladies and gentlemen, with this second
10 proposition that you have been given, you don't have to
11 agree on which of these propositions we have proven. We
12 have proven all of them. However, if three of you
13 decide that as far as the second proposition is
14 concerned that when the defendant did so he intended to
15 kill or do great bodily harm to Jermale Richardson,
16 that's fine. And if another three of you decide no he
17 knew that such acts would cause death to Jermale
18 Richardson, that's fine as well. We have we meet each
19 of the second propositions that when the defendant did
20 so he intended to kill or do great bodily harm to
21 Jermale Richardson.

22 Ladies and gentlemen, when the defendant steps
23 back into that porch and steps off of that stoop and
24 fired that gun at Jermale Richardson two times shooting

1 him in his head, he intended to do great bodily harm or
2 kill Jermale Richardson. A ten year old can tell that.
3 He knew that such acts would cause death to Jermale
4 Richardson. Taking a firearm and shooting at a person
5 not once, not twice, but three times and shooting at
6 that person while they are laying on the ground in their
7 head, is an act that would cause death to that
8 individual.

9 The defendant knew that on December 27th, 2013.
10 We have met that second proposition. He knew that such
11 acts created a strong probability of death or great
12 bodily harm to Jermale Richardson.

13 Again, ladies and gentlemen, a strong probability
14 of death or great bodily harm. Any individual that is
15 going to shoot a firearm at someone that has been shot
16 once and shoot a firearm at someone in their head and
17 shoot them two more times knows that those acts create a
18 strong probability of death or great bodily harm to an
19 individual. So as to that second proposition, we have
20 met all three of those. However, you only have to
21 choose one.

22 The third proposition that the defendant was not
23 justified in using the force which he used. Shaughnessy
24 Simms, the defendant, was not justified in using the

1 force that he used. He was not justified shooting in
2 Jermale Richardson three times. A person is justified
3 in the use of force when and to the extent that he
4 reasonably believes that such conduct is necessary to
5 defend himself against the imminent use of unlawful
6 force. However, a person is justified in the use of
7 force which is intended or likely to cause death or
8 great bodily harm only if he reasonably believes that
9 such force is necessary to prevent imminent death or
10 great bodily harm to himself. So what does this mean?

11 The defendant was not justified in using the
12 force that he used. When the defendant shot Jermale
13 Richardson, Jermale hadn't touched the defendant. He
14 hadn't even approached him. He hadn't made any physical
15 contact with the defendant whatsoever. The only thing
16 that had occurred between the defendant and Jermale
17 Richardson up to that point were words. They were
18 arguing about whether or not the defendant was taking
19 care of Jamia, whether or not Jermale was taking care of
20 Jamia. The defendant was not justified in using the
21 force that he used against Jermale.

22 There was no contact with the defendant up to
23 that point such that death or great bodily harm to the
24 defendant was imminent at all.

1 A person who provokes the use of force only if
2 the force used against him is so great that he
3 reasonably believes he is in imminent danger of death or
4 great bodily harm and he has exhausted every reasonable
5 means to escape the danger or the use of force which is
6 likely to cause death or great bodily harm to the other
7 person or in good faith he withdraws from physical
8 contact with the other person and indicates clearly to
9 the other person that he desires to withdraw and
10 terminate the use of force when the other person
11 continues to resume the use of force. Ladies and
12 gentlemen in this case, the defendant was the initial
13 aggressor. The defendant however was not in imminent
14 danger of death or great bodily harm. The defendant had
15 the gun.

16 Now, you did hear the testimony of Tommeshia.
17 She testified that when Jermale was standing there at
18 the porch before he got shot, that she saw the baton.
19 She saw the baton. But she testified that he didn't get
20 a chance to pull that out. She didn't see him swing it.
21 She didn't see him raise it at the defendant. He didn't
22 have an opportunity to. This defendant simply reached
23 over the shoulder of Brittany McMahon who was standing
24 approximately a foot enough away from the defendant and

1 shot Jermale Richardson.

2 There was no imminent danger of death or great
3 bodily harm. And the defendant had not exhausted every
4 reasonable means to escape the danger.

5 He was standing in front of his house. He was
6 standing in front of the kitchen door an open door. He
7 could have turned around and simply walked inside, but
8 he didn't. What he did is he chose to step inside, come
9 back out, and shoot Jermale Richardson two more times in
10 the head. Ladies and gentlemen, that is not
11 self-defense.

12 When we started this case, my partner told you
13 this is a case of murder. It is a case of murder. On
14 December 27th, 2013 the defendant murdered Jermale
15 Richardson. You heard the evidence. You have heard the
16 testimony and the we ask that you render a verdict of
17 guilty that the evidence supports of first degree
18 murder.

19 THE COURT: Thank you, counsel. When you are
20 ready, defense.

21 MR. S. RICHARDS: Thank you, your honor.
22 Shaughnessy, Josh, Yolanda and Jeff, counsel, ladies and
23 gentlemen.

24 As I told you in the beginning, this is a case

1 about self-defense. Now, the state has a right to
2 argue. They do argue that you should enforce the rules
3 against first degree murder. It's no question about it.
4 But the law includes more than a law against first
5 degree murder. It also includes a law of self-defense
6 and defense of dwelling. And those are just as
7 important. I urge you to follow the law. Remember your
8 personal opinions of the law doesn't matter. But these
9 are good laws and they are well drafted and they are
10 well intentioned as you will see when you understand
11 them and when you read them.

12 We all as people who live in society generally
13 you want to live in a society where violence does not
14 happen, is prevented and does not exist. And most of
15 the time and most circumstances the way to do that is we
16 trust in our government who we have elected and our
17 police. And if somebody calls you on the phone and
18 threatens you, if you have a problem, if you have some
19 dispute generally speaking the thing you do is you call
20 the police. And police come and sort it out. They do
21 whatever. However in certain circumstances you don't
22 have the time, you don't have the option, and you are
23 not required to.

24 If somebody comes to your home, to your dwelling

1 place, somebody threatens you at your dwelling place,
2 somebody pushes passed, goes up on to a porch even if
3 they have been told to stay back and somebody physically
4 tries to keep them back, if that person comes to your
5 doorway, appears that they believe they have a right to
6 enter your dwelling despite the fact that you don't want
7 to, if that person engages in words. Words, ladies and
8 gentlemen, in certain instances are stones. How do we
9 know what's in other people's minds?

10 MR. TRISTAN: Objection.

11 THE COURT: Overruled.

12 MR. S. RICHARDS: How do we know what's in other
13 people's minds. How do we know their intentions. How
14 do we know what they might do to us, by what they said.
15 When somebody says I want to beat your ass, that's not
16 mere words. That's a threat. That's somebody saying I
17 am going beat you up. That's what I need to do. Could
18 they be boasting. Maybe but you don't know that.

19 And when somebody says to you if you pull out
20 that gun you better use it, you better kill me, show me
21 where your heart is at, that's not mere words. That's a
22 threat. That is a statement to me that if I do not
23 protect myself the person who is feet from me, armed
24 with a weapon as it happens baton, if I do not defend

1 myself, I am going to come over there, I am going to
2 take your gun, I am going to beat you up. That's
3 immediate. That's direct. And it happens at
4 Shaughnessy Simms doorstep at 4:00 in the morning. It
5 is totally unjustified outrageous behavior. There is no
6 excuse for it whatsoever. And Shaughnessy Simms acted
7 reasonably when confronted with this threat.

8 Now, the State's Attorney just gave an account of
9 events but they left out some important things. And
10 before I should remember to leave these questions for
11 them. I think these are questions they haven't answered
12 but go to the heart of the case.

13 One question is this. How did Jermale Richardson
14 get that baton? Two, why did he take it out? And,
15 three, how in the world could Shaughnessy Simms inflict
16 those wounds while Jermale Richardson is lying on the
17 ground lying like this? How in the world did he get a
18 bullet into the top of his head going into his abdomen?
19 How in the world does he get wounds in his left arm when
20 he is lying there in a photo with his left arm under his
21 body so that you can't even see it?

22 They can't answer these questions. They don't
23 have a case and they don't.

24 MR. TRISTAN: Objection.

1 THE COURT: Overruled. The jury will make the
2 determination.

3 Go ahead.

4 MR. S. RICHARDS: I will leave those for them. But
5 let me give the answers from the point of view of the
6 defense. What happens here. First of all Brittany and
7 Shaughnessy did have a dispute. That's clear. But the
8 idea that she just called, Jermale heard something in
9 her voice, and decided to come by. That I would suggest
10 to you is ridiculous. Brittany called him to come over
11 and to beat up Shaughnessy Simms. Why? Because she was
12 mad at Shaughnessy Simms.

13 And when Jermale got there interesting. She
14 hasn't invited him into the house. She takes him
15 outside. She goes outside. She has her robe. What did
16 she give him? She gave the baton. The baton that was
17 found in his hand. The baton that she gave him. Her
18 baton.

19 Now, you have seen this a number of times. But I
20 would suggest to you you can go into every Walmart,
21 every sporting good store around the state and I bet you
22 you couldn't buy one of those. It's a law enforcement
23 tool. It's something the police officer has. It's
24 something a security guard has. It's not something that

1 Jermale Richardson has legitimately. It's her baton.
2 She gave it to him. She gave it to him because she was
3 bringing Jermale Richardson over to beat up Shaughnessy
4 Simms. It was a plot. That's what she wanted to do.

5 Now, things didn't go according to her plan. And
6 let me also say that about Brittany's testimony. First
7 of all three of the state's civilian witnesses are stone
8 cold liars. Not every word they said was a lie. But on
9 essential points they were not telling the truth. They
10 are each different kind of lies. Brittany who is kind
11 of quasi security guard law enforcement officer. You
12 can see when she testified that even though she told
13 lies. She claimed she lost her baton five months
14 before. Obvious lie. She also told other lies. The
15 lies about the shooting on the ground which I will get
16 to. But in her heart of hearts I will say this for her.
17 You can consider the manner of a witness while they are
18 testifying. I will talk a little about the manner of
19 Jason and Tommeshia in a moment.

20 Brittany did not testify in a disrespectful or
21 aggressive manner. She testified some what quietly and
22 subdued fashion. In her heart of hearts she knows that
23 she started the chain of events that lead to the death
24 of her the father of her child. She did it by calling

1 him, by bringing him over, by giving him the baton. So
2 she is slightly more accurate on certain events and
3 certain things that were said than other people are.
4 Because in her heart of hearts she knows there is
5 something wrong with the whole scenario.

6 Let's go on to talk about mannerisms. Tommeshia
7 this woman had attitude which is out to here. She
8 couldn't answer a straight question. She made the
9 ridiculous claim that a statement that she made to the
10 police and that she signed and initialed in six or seven
11 places wasn't hers at all. The police just made it up.
12 They just made it up. And why because in the statement
13 she put in as extra that she saw Jermale take the baton
14 out of his pocket after the warning shot was fired. She
15 doesn't want to say that now but that is the fact, the
16 truth. If she was out there, she did see him take the
17 baton out. It really doesn't matter a great deal
18 whether she was out there or not.

19 Jason. Jason is like a brother to Jermale. He
20 got a felony conviction. Jermale is his guy.

21 Now, by the way in terms sequence of shots as you
22 have noticed these guys can't keep their story straight.
23 Two shots, pause, three shots. One shot, pause, one
24 shot pause, two shots. They are all over the place.

1 They can't keep their story straight. But we know that
2 they are all blind on one critical point. They are
3 lying about shots being fired while -- while Jermale was
4 on the ground. As I demonstrated before, it's not
5 physically possible. You can't shoot through a left arm
6 that's under somebody's body. You can't do a shot
7 through the top of the head unless you put the gun down
8 on the ground and shoot parallel to the ground. Nobody
9 testified that happened. The problem with liars is you
10 know you makeup whatever story you want but they
11 couldn't get to the Medical Examiner Office and they
12 couldn't change the physical evidence.

13 So then the question arises since they lied about
14 that, why did they lie. They lied because they want
15 Shaughnessy Simms convicted. One of them because she
16 knows she is really at fault but she is in the situation
17 she is in. Brittany.

18 Second Tommeshia because she is a friend of
19 Jermale, she's got an attitude. And she doesn't care
20 about the truth as we have seen. The third Jason
21 basically the same thing. This is my guy. I want to
22 get Shaughnessy. I'm going to perjur myself on this
23 witness stand and tell a story that's contradicted by
24 the physical evidence. That's what all three of them

1 did. So throw their testimony out the window. It has
2 no value. And, in fact, let's go backwards and talk a
3 little bit about the law. State's Attorney did and I
4 want to as well.

5 First of all, what is the law as the use of force
6 in self-defense. The law is not that you have to be
7 absolutely right all the time. Sometimes mistakes are
8 made. Sometimes you see an object in a person's hand
9 and you think it's that gun. It turns out to be a pack
10 of cigarettes.

11 MR. TRISTAN: Objection. Misstatement of the law.

12 THE COURT: Sustained. Sustained.

13 MR. S. RICHARDS: The key is reasonableness. What
14 did you reasonably believe. Not that you are
15 necessarily correct but what did you reasonably believe.
16 Now, as it happens Shaughnessy -- because that baton was
17 found next to Jermale. It wasn't found in his pocket.
18 It was found out and fully retracted. Ready to be used.

19 As you can see when you look at and get back in
20 the jury room in the unretracted state it's like this.
21 Retracted it's a long pole that you can use the wheeled
22 it. He had it out unretracted. He had to take it out
23 of his pocket unretracted. He had to do those things
24 because he was planning to use it on Shaughnessy Simms.

1 And he would have used it on Shaughnessy Simms and
2 Shaughnessy Simms might be lying dead right now had
3 Shaughnessy Simms not acted in self-defense.

4 State also said there is three shots. Is there
5 some rule that you have to fire just once. Is it the
6 rule that if somebody is coming after you, you fire
7 once, you see did he fall, did I hit him. Oh, he is
8 still coming. I fire again. Oh, fire again. That's
9 not the way it is. That's not real life.

10 When somebody is coming at you know and you are
11 acting in self-defense you fire until a person falls
12 because the person falls you don't know if they have
13 been hit. You don't know if they are still a danger.
14 You know what is going to happen to you. The three
15 shots with a man charging at you with a baton who is
16 going to kill you. A man who is threatening to kill you
17 moments before, that's reasonable force. There is
18 nothing unreasonable about that whatsoever.

19 Now, there is another principle which is
20 important as well. In self-defense cases and this is
21 it. In this state as the jury as you will be instructed
22 a person who does not -- is not the initial aggressor.
23 A person who is where he has a right to be, doing what
24 he has a right to do, does not have to retreat before

1 using reasonable force. There is no duty to retreat,
2 there is no duty to run away. I would argue that, in
3 fact, there can't be a duty to run away even in this
4 instance because he is at his house. Where is he going
5 run to? Is the law that when somebody confronts you at
6 your house you got to creep away and run away not
7 knowing if they have a gun or will shoot you in the back
8 and run --

9 MR. TRISTAN: Objection.

10 THE COURT: Sustained.

11 MR. S. RICHARDS: The instruction you will be given
12 on this point is quite clear. A person who has not
13 initially provoked use of force against himself has no
14 duty to attempt to escape the danger before using force
15 against the aggressor. That's the law.

16 Now, the state maintains that Shaughnessy Simms
17 provoked the use of force against himself. Quite the
18 contrary. When he was threatened, he told him go away.
19 And there is no evidence of Brittany said come on
20 Jermale is my guest he can come in. No, Brittany was
21 also apparently trying to keep him out at least to that
22 point. Shaughnessy who is a credible witness said that
23 they was threatened after he engaged in this
24 conversation and just says go away. He doesn't say come

1 up, I am here fight me. Sure.

2 He may say things about this is my house because
3 it is his house. He lives there. He helps pay the
4 rent. He also supports the people there. Of course,
5 it's his house.

6 There is no duty for him to ran away from his own
7 house. If you stand in your house and shout insults at
8 your neighbors, it may be a stupid thing to do but you
9 have a right to do it. If somebody comes to your house
10 unannounced at 4:00 in the morning, someone you haven't
11 seen for months, of course, you have a right to speak to
12 them as you choose. I think you can tell from the way
13 Shaughnessy spoke on the witness stand from the
14 testimony of Detective Jacobs from the little snippets
15 of intersection you saw between Shaughnessy Simms and
16 Detective Jacobs.

17 As Detective Jacobson said he is a gentleman. He
18 is not some thug shouting at out insults. He is polite.
19 He just said, please, go away. It's 4:00 in the
20 morning. No one invited you here. I don't want you
21 here. That's not provoking. That's not being the
22 initial aggressor.

23 And he doesn't fire a warning shot until
24 according to their evidence Jermale pushes himself up

1 the stairs on to the landing. He doesn't fire a warning
2 shot when Jermale was down there. He fires a warning
3 shot when Jermale has come to the same level and is
4 disobeying and apparent attempt to keep him out. That's
5 not being the initial aggressor.

6 But even assuming giving the state all the credit
7 you want to assume for a moment you decide he is the
8 initial aggressor. Read the instruction carefully. It
9 says even if you are the initial aggressor you can use
10 deadly force if you have withdrawn, if you have
11 withdrawn and in good faith discontinue conflict.

12 What did Shaughnessy tell you? He fired the gun.
13 He heard more smack being talked by Jermale and then he
14 is about to go in the house, he turning towards going in
15 the house. He is withdrawing when Jermale attacks him.
16 When Jermale comes after him with that baton in his
17 hand. Even assuming he was the initial aggressor. He
18 had withdrawn. Jermale was continuing the conflict and
19 he had a right to use deadly force to protect himself at
20 that point. It's absolutely no question about it.

21 Now, you will also get some instructions on
22 defense of dwelling which is slightly different. And I
23 won't go into those in great detail. But basically as
24 you read it's a little bit broader what it says if your

1 dwelling is attacked, if you reasonably fear that
2 someone is going to come into your dwelling, if they are
3 entering in a riotous, tumultuous, or clamorous manner,
4 big legal words, but you can see what's involved. And
5 you think they are offering personal violence to you,
6 offering personal violence --

7 MR. TRISTAN: Judge, I am going to object.

8 THE COURT: Let's stick to the exact wording of the
9 instructions, please.

10 MR. S. RICHARDS: Well, while we look for that let
11 me go on to another point. And I think that this point
12 is also important. There is a dispute. It's really a
13 small dispute. Because most of the evidence is in our
14 favor on this point as to whether Jermale charged
15 Shaughnessy Simms. Whether after Shaughnessy Simms
16 fires the warning shot, turns to go back into the house.
17 Whether Jermale is going forward, and whether he is
18 moving in the direction of being about to attack
19 Shaughnessy Simms. What's the evidence we have of that
20 happened? It's really dispositive. Really clear.

21 One, why in the world would you take out the
22 baton unless you are going to use it to attack. I mean
23 when somebody really stands there with a baton and a man
24 with a gun and say you got the gun, I got the baton,

1 come on. It's like bringing a knife to a gun fight.
2 Nobody does that. He took out the baton, extended it
3 because he intended to use it.

4 The only way he can use it is to get to
5 Shaughnessy Simms. The only way to get to Shaughnessy
6 Simms is to move towards Shaughnessy Simms.

7 Now, the second point is a little bit more
8 subtle. Question is why in the world would Jermale
9 Richardson be so crazy as to attack a man with a gun.
10 Well, I think we have the evidence which tells you about
11 that. What do we know about Jermale Richardson. We
12 know from the evidence he is a violent person.

13 MR. TRISTAN: Objection.

14 THE COURT: Overruled.

15 MR. S. RICHARDS: You will get an instruction on
16 how you consider his prior act. It says that in this
17 case the state must prove beyond a reasonable doubt the
18 proposition that the defendant was not justified in
19 using the force which was used. You have heard evidence
20 that Jermale Richardson's prior act of violence. It is
21 for you determine whether Jermale Richardson committed
22 the act. If you determine that Jermale Richardson
23 comitted the act, you may consider that evidence in
24 deciding whether the state has proved beyond a

1 reasonable doubt that the defendant was not justified in
2 using force which he used.

3 Well, what do we know. He committed a prior act
4 of violence on his 17 month old son. And it was an
5 extreme act of violence which he admitted to in open
6 court. What he did was he apparently pulled up a 17
7 year month old child by the penis and struck him hard
8 enough to cause serious internal injuries. That's nuts.
9 Somebody who would do that would attack a man with a gun
10 only with a baton. There are people who are violent and
11 crazy enough to do that. Jermale Richardson is one of
12 those people.

13 Now, I think I need to take a little bit -- let
14 me talk to you now since I have gotten it out of order.
15 Just about the offense of dwelling. You heard the
16 instruction. Let me read it to you again and just say
17 how I think it applies. A person is justified in the
18 use of force when and to the extent necessary when and
19 to the extent that he reasonably believes that such
20 conduct is necessary to prevent or terminate another's
21 unlawful entry into or attack the common dwelling.
22 However a person is justified in the use of force which
23 is intended or likely to cause death or great bodily
24 harm and only if the entry is made or attempted in a

1 violent riotous, or tumultuous manner and he reasonably
2 believes that such force is necessary to prevent an
3 assault upon or offer of personal violence to himself.
4 Do we have that here? Of course.

5 The entry from the stairway to the porch was made
6 in a riotous manner because Brittany says baby stop him
7 but he pushes baby aside according to what Tommeshia
8 says. According to what Shaughnessy says he pushes
9 Brittany aside. Doesn't matter. He pushed somebody
10 aside. And that's how he got up there. And he
11 reasonably believes such force, deadly force, is
12 necessary to prevent assault upon or offer personal
13 violence to himself.

14 So here it's just an assault or offer of personal
15 violence. It's a little lesser standard than the normal
16 standard because we are dealing with the dwelling and
17 keeping somebody from coming into the house where you
18 occupy. You have heightened rights. This is your
19 personal space. This is your castle. You can use
20 deadly force.

21 Was Jermale trying to get in. Of course, he was.
22 He kept saying I have a right to be here. You can't
23 stop me. I can go in here. And, of course, he had to
24 have known that his daughter was there. That wasn't an

1 excuse. She was at somebody's else house. He wanted to
2 go in here because probably in his twisted mind, he was
3 riding back to the rescue of Brittany and was going to
4 take Shaughnessy Simms place physically by going into
5 the house. He was a nut case. And that's how he met
6 his death. It's sorry. It's tragic. It shouldn't have
7 happened. But he was like comet flying through the sky,
8 a meteor, and eventually his violence met resistance.
9 And he died and that's what happened.

10 So it's clear we know from the physical evidence.
11 We know from Shaughnessy Simms' testimony that Jermale
12 charged Shaughnessy Simms. We know from his position.
13 Where is he found. He is found with his head right next
14 to the door. He is charging forward. He's got his
15 probably left arm up like this. He charges forward. A
16 bullet hits. That goes back in the arm, goes in the
17 chest. He falls. Another bullet goals like this in his
18 head. His head is either bent as he is charging or bent
19 because he is falling and the last bullet goes like
20 that. That's the only explanation of what happened.

21 For other explanations we had to bring in ladders
22 where Shaughnessy Simms is standing above him or trick
23 shots or something weird or ricochet. Who knows what.
24 The physical evidence bears out that Shaughnessy Simms

1 said.

2 Now, the last thing I need to deal with I guess
3 is these attempts to impeach Shaughnessy Simms by the
4 interrogation with the officer. An hour long
5 interrogation and they chose to show you a few snippets.
6 Out of all of an hour what could they find to contradict
7 Shaughnessy Simms.

8 MR. TRISTAN: Objection.

9 THE COURT: Sustained.

10 MR. S. RICHARDS: What did they show you about
11 that. What did they show you. One was the detective
12 talking to him about whether he saw something in the
13 hand. But the detective admitted when I asked him you
14 never actually saw both hands. You never asked him what
15 you believe there was a gun. There was a -- there was a
16 weapon in this case. That was a baton. He never asked
17 him whether he saw a baton. As it happened Shaughnessy
18 -- said no I didn't see the baton.

19 But why in the world wouldn't the officer ask.
20 We found a baton on the scene next to the person you
21 shot. Did you see the baton. He never asked that
22 question.

23 And the second -- the second interrogation
24 basically the officer trying to bully Shaughnessy into

1 saying something. You did it. You did it. You shot
2 him while he was on the ground. Shot him while he was
3 on the ground, etc., etc. What in the world does that
4 prove except that may be Jacobson should work on his
5 interrogation techniques.

6 MR. TRISTAN: Objection.

7 THE COURT: Overruled.

8 MR. S. RICHARDS: Because the bullying thing didn't
9 work and it doesn't work and it doesn't work in a court
10 of law. Shaughnessy Simms testified credibly. He acted
11 in self-defense.

12 Now, the last thing I want to deal with is you
13 will get instructions on both first degree murder and
14 second degree murder. And you have three verdict forms.
15 Let me just tell you what our position on those things
16 is.

17 First of all, we respect to any verdict you
18 reach. You are the jury. You judge. Nobody questions.
19 We believe particularly if you apply reasonable doubt
20 that the state has met not --

21 MR. TRISTAN: Objection as to what they believe.

22 THE COURT: Overruled. You may argue.

23 MR. S. RICHARDS: We are arguing -- my personal
24 belief doesn't matter. We are arguing that they have

1 not proved beyond a reasonable doubt that Shaughnessy
2 Simms acted unjustifiably. And if you believe
3 Shaughnessy Simms, his actions were justified not
4 guilty. If you don't believe the testimony of their
5 witnesses, Shaughnessy Simms acted in self-defense and
6 the verdict is not guilty. That's the proper verdict.
7 If you are not sure who to believe, we suggest there is
8 a reasonable doubt and again the proper verdict is not
9 guilty of first degree murder.

10 So where does second degree murder come in.
11 Second degree murder comes in if you believe that
12 Shaughnessy Simms was using the force either on his
13 dwelling or to protect himself but his actions were
14 unreasonable. You would have to believe that by a
15 preponderance of the evidence the instructions said. We
16 think his actions were reasonable. There is no proof
17 beyond a reasonable doubt that there weren't so it's not
18 guilty. Not guilty. Period.

19 The only way I think it would be reasonable to
20 find second degree is if you believe the testimony of
21 the these lying witnesses that Shaughnessy Simms stood
22 over the body and fired. That would be unreasonable.
23 It didn't happen but that would be unreasonable.

24 MR. TRISTAN: Objection, your honor.

1 THE COURT: Sustained as to that. The jury is the
2 one who will determine those facts.

3 MR. S. RICHARDS: You would determine that if you
4 thought that the actions were unreasonable to prove by a
5 preponderance the verdict would be second degree. And
6 again if you sign that verdict, we respect that.

7 All I ask you to do is this. When you
8 deliberate, your instructions tell you that the verdict
9 must be so unanimous verdict of all of you. Not a
10 compromise, not half of one, half of another. It has to
11 be unanimous. If think it's second degree, if you think
12 that they proved their case first degree murder and
13 second degree has also been proved by preponderance,
14 then you all should return a second degree. We don't
15 think it makes any sense --

16 MR. TRISTAN: Objection.

17 THE COURT: Finish your sentence.

18 MR. S. RICHARDS: Okay. We don't think that's the
19 proper verdict for that -- you have made that
20 determination. But the proper only verdict, not the
21 compromise, the real true verdict is not guilty. They
22 haven't proved that Shaughnessy Simms actions were
23 unjustified. In fact, we have proved that they were
24 justified. Therefore your verdict should be, has to be,

1 and must be not guilty. Thank you.

2 THE COURT: Thank you, counsel.

3 MR. TRISTAN: Good afternoon, ladies and gentlemen.
4 I don't know what trial the defense attorney sat through
5 but you heard the evidence. You heard three credible
6 witnesses, none of them with a motive to lie, tell you
7 what happened that day. You heard that on Tuesday the
8 first day of testimony. What you heard today were the
9 lies of the defendant to try to justify what he did.
10 But there is no justification because not only was the
11 death of Jermale Richardson murder, it was an
12 assassination at the hands of the defendant. And how do
13 we know that.

14 Brittany McMahon, a woman who relies on the
15 defendant for support, who relies on the defendant for
16 support, who was in a relationship with him, tells you
17 what happened. She was holding him back when he first
18 came out and started yelling at the victim Jermale
19 Richardson. You don't take care of your daughter. Get
20 out of here. He was crazed. And why was he crazed
21 because he was upset. How dare Brittany question him
22 about who he goes out with or who gives him a ride to
23 work or what he does at work.

24 When Jermale Richardson is showing up at his

1 doorstep. Violence, riotous entry into a dwelling.
2 Jermale Richardson knocked on the door. The defendant
3 opened the door. He found out who it was. Jermale
4 Richardson didn't come in and attack him. He was down
5 the stairs. Brittany goes down the stairs to talk to
6 him.

7 There is no violence. There is no riot. The
8 defendant is lying. How else is Brittany's testimony
9 corroborated. It's corroborated by Tommeshia Robinson.
10 Again the friend of the defendant. She has known the
11 defendant longer than Brittany has known the defendant.
12 The defendant testified to that. She didn't have may
13 problems with him. They didn't get into arguments.
14 What's her reason to lie.

15 And if you believe the defendant and if you
16 believe his lies, Tommeshia wasn't even out there. What
17 interest would Tommeshia have to come in and testify and
18 lie and put herself in a situation if it isn't the
19 truth. She is telling the truth. That's how it
20 happened.

21 How else do we know? Jason, Jason McMahon, the
22 brother. He comes out and he sees the same thing. The
23 defendant is out there. He sees his sister Brittany not
24 holding Jermale Richardson back, not holding on to him.

1 He sees Brittany McMahon step in front of the defendant
2 as the defendant fires at Jermale and when he steps out
3 after he fires at him he sees Tommeshia out there as
4 well. All three of them credible. All three of them
5 gave you consistent testimony.

6 Now, he makes a big deal about the succession of
7 shots. One heard two. One heard one. Bam, bam, bam.
8 Well, they each experienced that event in a different
9 way. We all experience events in a different way and
10 not only that we have different vantage points. That's
11 why you pay more money for a 50 yard line seat than you
12 do for an end zone seat.

13 But you are at a ball game and you are watching
14 the game, the running back goes by and scores the game
15 winning touchdown the person sitting at the 50 yard line
16 is going to tell you that the running back went right by
17 me and he scored the touchdown. The person in the zone
18 is going to say that running back was coming right at me
19 and he scored the winning touchdown. The winning
20 touchdown was scored. They just have different
21 perspectives and all three of these witnesses had
22 different perspectives.

23 Brittany McMahon is trying to hold the defendant
24 back. She's got her back turned to Jermale Richardson

1 while this is going on. But what she could see and what
2 she told you was that the defendant reached over and
3 shot and fired that gun at Jermale Richardson.
4 Tommeshia Robinson told you that she was standing next
5 the defendant and she was trying to hold him but he
6 couldn't have been coming at her. He could not have
7 been charging the way that the defendant says. As a
8 matter of fact the way the defendant says Tommeshia is
9 not even there. Tommeshia is holding back Brittany. I
10 am sorry Tommeshia is holding back -- Brittany is
11 holding back Jermale is what the defendant says.

12 But how will Brittany get in the way -- get in
13 front of the defendant. She is the one that is holding
14 him back. And Tommeshia sees it differently. Brittany
15 is seeing the father of her daughter her ex-boyfriend
16 being shot. Tommeshia Robinson is seeing her friend
17 getting shot.

18 But more importantly, more than that she is in
19 danger of getting shot as well. She is standing closest
20 to him. She says that shes comes back down the stairs a
21 little bit. After the defendant goes up -- after
22 Jermale Richardson goes up the stairs. Darryl or Darren
23 -- I am sorry. Jason McMahon. Jason McMahon is getting
24 up. He is woken up by the 16 year old -- Brittany's 16

1 year old son Darryl. Yes, Brittany. He is woken -- he
2 wakes him up and tells him hey there is something going
3 on out there. He goes out there and as soon as he steps
4 out there he tells you what he sees. And he experiences
5 a little bit differently. The gun he says he fired once
6 and then he steps inside and then he says I told that
7 guy, I told that nigger -- excuse my language but those
8 were his words. That's what he said. He says I told
9 that nigger if he steps back out on to the -- doesn't
10 step out on to the porch. He steps out on to the thresh
11 hold the little steps that you have seen and he shoots
12 at him and he assassinates him.

13 Now, again the physical evidence does not lie.
14 And the physical evidence corroborates the testimony of
15 all three eye witnesses. How is that? If you look at
16 People's Exhibit Number 13 -- People's Exhibit 15. If
17 you look at People's Exhibit Number 15, here is the step
18 that Jason is talking about. This is the step that
19 Brittany is talking about seeing the defendant go in.

20 Tommeshia doesn't say that she sees that but you
21 remember Tommeshia is down the stairs a little.
22 Tommeshia is further down the stairs afraid of getting
23 shot. But both Jason who is coming out and Brittany who
24 is standing right next to the defendant say that he

1 shows up, he steps up on to that stair. So you don't
2 need a 50 foot ladder, you don't need an 11 foot ladder.
3 All you need is that step to show that he is shooting
4 downward and he shoots him.

5 And how do you know that's what happened because
6 that's what he told Detective Jacobson. He told
7 Detective Jacobson in that clip, I stepped in, I stepped
8 up, I went down and I shot him. He says he tries to
9 justify it. Oh, the trigger pulled. That trigger did
10 not pull.

11 You heard the testimony from the evidence
12 technician. I am sorry. From Mark Pomerance. Mark
13 Pomerance testified that this gun was functioning
14 properly. That it was working properly. That it has
15 four safety that the way that this gun operates is if
16 you pull the trigger. He pulls the trigger, ladies and
17 gentlemen. He assassinated the victim in this case.
18 That is an assassination. It is not self-defense.

19 How else does the physical evidence corroborate
20 what Brittany Tommeshia and Jason said. Four shots.
21 Everybody says four shots. Well, not everybody because
22 Jason you remember was asleep when that warning shot
23 went off. Jason says three shots. Tommeshia says four
24 shots. Brittany says four shots. Brittany and

1 Tommeshia were out there the whole time. They saw
2 everything that went on with the defendant.

3 How many cartridge cases were collected ? Four of
4 them. Mark Pomerance again testified that when a
5 cartridge is used and cartridge is fired it ejects out
6 of this chamber. And another one reloads. And it's
7 done with a trigger pull that has four safeties to avoid
8 that trigger accidentally pulling. And that gun
9 accidentally firing. There are four cartridge casings.

10 How else does that physical evidence corroborate
11 what our witnesses eyewitnesses said. Three bullets.
12 Three bullets are recovered. Two of them they are on
13 the scene.

14 Evidence Technician LeFlore told you he found two
15 bullets inside the jacket of our victim. Dr. Arunkumar
16 during her examination found the third bullet in the
17 victim's stomach or in the victim's right chest.

18 Look at the injuries. Look at the injuries to
19 the victim. Number M20 please. People's Number 54
20 shows you where that gunshot exited, and it is number
21 two -- I am sorry. Number injury three. On the left
22 arm 15.5 inches beneath the top of the head there is a
23 circular gunshot wound of entrance .3 inches in diameter
24 a ring of abrasion is present around the wound. The

1 wound course involves the skin and subcutaneous tissue
2 in the area. Left humerus and the muscle of the left
3 arm. Finally the wound course exits the body on the
4 left arm 18.2 inches beneath the top of the head where
5 there is a lacerated gunshots wound of exit. This is
6 that gunshot wound of exit. This is that corresponding
7 entry wound. She testified that this is the entry
8 wound. This one is 15.5 inches below the head. And
9 that it goes through and through. That's the first
10 shot.

11 If you are going to believe self-defense, if you
12 are going to believe that he was reasonable in
13 self-defense which we are not conceding because there is
14 nothing reasonable about a man coming over to somebody's
15 house, yelling words at him, words and then getting
16 shot.

17 That's not the law. That's is not what the law
18 says. Words. And even the defense concedes that's all
19 it was words. There is nothing reasonable about that.
20 But let's say that you find that it is reasonable, that
21 first gunshot wound to the arm that's it. Should have
22 been done, over. Even if he did have that baton in his
23 hand which again why wasn't that baton mentioned earlier
24 because nobody saw it. Brittany never saw it. Darryl

1 or Jason never saw it. Tiffany doesn't remember seeing
2 it but she did say in her handwritten statement yes the
3 baton after the defendant fired the warning shot she saw
4 Jermale reach for something or reach for a stick I
5 believe is what she said. And you heard the testimony
6 but she didn't -- he didn't get to use it because the
7 defendant shot him, and there is a jury instruction
8 about that.

9 A person who has not initially provoked the use
10 of force against himself has no duty to attempt to
11 escape the danger before using force against the
12 aggressor. The defendant was the aggressor on that
13 night all day long. Brittany says it. Tommeshia says
14 it. Jason says it. He was the aggressor. Jermale
15 Richardson had no duty escape. He has no duty to escape
16 any danger if he took that -- if he took that asp out,
17 that baton which we don't know that he did because the
18 evidence doesn't support any of it. The defendant
19 himself says he never saw a gun. That's the physical
20 evidence now.

21 If you are to believe that it's reasonable,
22 that's it. Then yes. But that wasn't it. He was not
23 done. As the testimony says and as the physical
24 evidence corroborates, he went inside of the house. And

1 when he stepped up on to that stoop and he stepped up on
2 to that stoop he then fired two additional shots.

3 Who said that? Brittany said that. Tommeshia
4 said that. And again Jason said there three shots. And
5 he said Jason says, yeah, he pointed down at his head or
6 he pointed down. He couldn't see because he was inside
7 the kitchen but he knew where his friend was because he
8 had peeked out originally, and he says that he shot him.
9 And how did that happen.

10 First of all, defense wanted me to answer some
11 questions. How did the baton get there. Well,
12 certainly didn't get there with Brittany. Brittany
13 didn't give it to him because we are to believe that
14 Brittany had the baton then the defendant testified that
15 that she had lost it and she hadn't seen it. And where
16 was she keeping this magic baton that she orchestrated
17 and attacked against the defendant. There is no
18 evidence of this baton ever being used.

19 Why did Detective Jacobson not ask about the
20 baton? Well, because Detective Jacobson is there to see
21 and to investigate and to interview the defendant as to
22 what happened. And what was missing there. The
23 defendant never told the detective what he wants you to
24 believe. That he thought that this hand that he didn't

1 see contained a firearm.

2 That's not reasonable. There is nothing
3 reasonable about what he did. This is not self-defense.
4 It is not defense of dwelling because the victim was
5 never going into that house. The testimony from the
6 defendant himself is that the victim was out there for
7 20 minutes. How was he attempting to enter the
8 dwelling. He wasn't. He was there to check on Brittany
9 and his daughter because he was worried about the
10 screaming that he heard that the argument that they were
11 having.

12 But again the physical evidence and how it
13 corroborates all of this, this second entry wound the
14 second entry wound at the top it says the medical
15 examiner described as on the left arm 10.7 inches
16 beneath the top of the head a circular gunshot wound of
17 entrance. And it courses from the from left to the
18 right in a downward fashion. And it exits the front of
19 the chest. It exits at that entry wound has this
20 corresponding exit wound here. This is the front of the
21 victim. This it what the defendant was seeing because
22 to believe what the defense is saying that he was
23 attacking him like this would be to believe that Jermale
24 Richardson was flying and he was perpendicular to the

1 ground. That is impossible. Because this wound of
2 entry if he is flying at him like this, that magic
3 bullet would have had to pass Jermale Richardson and
4 that magic bullet would have defied all gravity, all
5 laws of physics and turn around and entered the top of
6 his shoulder and then entered downward exiting his
7 chest. If he was shooting him as the victim was
8 attacking -- as Jermale Richardson was attacking him,
9 you'd see an entry wound in the chest. What do you see.
10 You see an exit wound in the chest. Impossible for it
11 to happen that way.

12 He wanted me to answer how the head wound started
13 or how the head wound happened. Well, that's easy too.
14 The doctor describes the -- medial examiner describes
15 the head wound as on the head .5 inches beneath the top
16 of the head. The wound course involves the skin,
17 subcutaneous tissue in the area of the left parietal
18 bone of the skull, left parietal lob of the brain, the
19 cerebellum of the brain, crosses the midline and
20 involves the right posterior cranial fossa and the base
21 of the skull, the right neck muscles, it goes through
22 the right first rib, the upper lob pierces his lung, and
23 then comes to rest on the right side of his lung. Well,
24 how does that happen. It course from left to right.

1 Where is the victim? The left side of his body
2 is on the ground.

3 What did Tommeshia Robinson tell you? What did
4 she say? After he is hit that first time and goes up
5 against the wall and he slumps. He is sitting and he is
6 trying to catch his breath. And he is trying to react.
7 That's what she sees because she is downstairs. She is
8 down that first step. She has the perfect vantage point
9 of him looking out towards the parking lot. As the
10 defendant then comes in, he takes a step up here. He
11 fires downward twice. That's the first entry wound to
12 the upper arm.

13 That then goes again from left to right and as
14 you can see here the left to right and it comes to sit
15 and exit out the front of his chest or I am sorry. As
16 it comes to the front of his chest, the other one that
17 goes into his head. Again wound course left to right,
18 comes to be recovered on the right side of -- the right
19 side of his chest. That's what the physical evidence
20 shows. The victim was sitting up here. Up against the
21 wall trying to catch his breath and then it goes down.

22 What else does the physical evidence tell us.
23 There was no evidence whatsoever of close range firing.
24 None. It's in her report. There is no stippling. No

1 evidence of close range firing. The defendant lied when
2 he told you that the victim came within a foot of him.
3 It didn't happen. The doctor said in her testimony he
4 would have had to have been at least two feet away.
5 Now, not an exact science. It's not an exact science,
6 but that is not close range. That is not the victim
7 attacking the defendant.

8 P42. Again the evidence the physical evidence.
9 Where are the defendant's feet? They are over here.

10 MR. S. RICHARDS: Objection.

11 THE COURT: Overruled.

12 Ladies and gentlemen, you can view the exhibit
13 and make your own determination.

14 Go ahead.

15 MR. TRISTAN: Where are Jermale Richardson's feet.
16 Jermale Richardson's feet are closets to the stairs
17 because that's what he did. When he saw the defendant
18 point that gun over Brittany, yeah, he might have had a
19 little bit of bravado. He might have stayed there and
20 said oh really, are you really going to shoot me not
21 thinking that the defendant was going to follow through
22 and again what was he -- those were words. Words that
23 the defendant was in no imminent danger, not
24 self-defense, not justified. What the victim was trying

1 to do was turn around then and leave. That's when that
2 first bullet hits him. That's when the first bullet
3 that comes out the door that comes out of the arm.
4 That's it. And again that was not justified. The
5 evidence does not show that any of the bullets that the
6 victim -- that the victim suffered any of the wounds
7 that the victim suffered were inflicted with
8 self-defense. There is absolutely no justification for
9 it.

10 And again I think I have answered the question
11 about the baton. The baton has absolutely no relevance.
12 It was found there and again if Jermale Richardson was
13 going to use it he was justified because the defendant
14 had already fired that warning shot. The defendant
15 became the initial aggressor at that time because even
16 though there were words exchanged between the two of
17 them he took it to the next level by firing that gun up
18 in the air. And again he cannot claim self-defense if
19 he is the initial aggressor.

20 MR. S. RICHARDS: Objection.

21 THE COURT: Overruled.

22 Ladies and gentlemen, you can read the
23 instructions and follow the law.

24 MR. TRISTAN: Now, finally what does the defendant

1 do after allegedly firing in self-defense. He flees to
2 Freeport. He goes. He runs away. He doesn't call any
3 help. He doesn't call the fire department, the
4 paramedics to come and assist him. He doesn't go to the
5 police and say oh somebody tried to attack me at my
6 house. He doesn't do anything. He flees. He runs.

7 The fact that he is a gentleman only makes him a
8 gentleman assassin. That's all. That has absolutely
9 nothing to do with what happened on that night. He
10 could have been the most peaceful person in the world on
11 that night. He was not justified in using the force
12 that he used.

13 We are going to ask that you find the defendant
14 guilty. Find the defendant guilty of first degree
15 murder because there is no justification. There was no
16 reasonable belief that a mitigating factor existed.
17 There is absolutely no evidence.

18 Think about it. What evidence is this? What
19 evidence do you have that there was a mitigating factor.
20 None. There isn't. So after you find him guilty of
21 first degree murder, we are going to ask that you
22 continue with your deliberation.

23 And when you continue with those deliberations,
24 we are going to ask you to consider following. We have

1 alleged that during the commission of the offense of
2 first degree murder that the defendant personally
3 discharged a firearm that proximately caused death to
4 another person. Well, we have proven that. We have
5 proven that beyond a reasonable doubt. The defendant
6 pulled that trigger, expelled that bullet, expelled the
7 cartridge set in motion that reaction that put that
8 bullet into Jermale Richardson's body, put those three
9 bullets into his body, and he personally caused the
10 death.

11 Dr. Arunkumar told you the cause of death was
12 gunshot wound. The manner of death was homicide.
13 The defendant on that night assassinated Jermale
14 Richardson. When you go back and you deliberate use
15 your common sense, apply the facts to the law, and
16 render the only verdict that the evidence proves and
17 that justice demands. Find him guilty. Find that he
18 personally discharged a firearm that killed Jermale
19 Richardson.

20 THE COURT: Thank you, state. All right.

21 (End of excerpt)

22

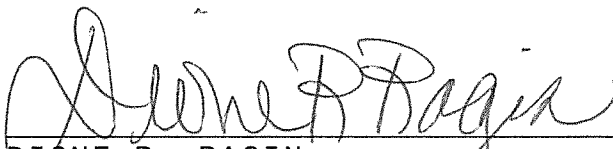
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24

1 STATE OF ILLINOIS)
2 COUNTY OF COOK) SS:

3
4 IN THE CIRCUIT COURT OF THE COOK COUNTY, ILLINOIS
5 COUNTY DEPARTMENT-CRIMINAL DIVISION

6 I, DIONE R. RAGIN, Official Court Reporter of
7 the Circuit Court of Cook County, County
8 Department-Criminal Division, do hereby certify
9 that I reported in shorthand the proceedings had on
10 the hearing in the aforementioned cause; that I
11 thereafter caused the foregoing to be transcribed
12 into typewriting which I hereby certify to be a
13 true and accurate transcript of the Report of
14 Proceedings had before the Honorable MARY MARGARET
15 BROSNAN, Judge of said court.

16
17
18 
19 _____
20 DIONE R. RAGIN,
21 Official Court Reporter
22 #084-004066

23 Dated this 15th day
24 of February, 2018.