

Prosecutor arguing to jury against Lazor:

1588

1 DETERMINE WHAT IS TO BE BELIEVED AND WHAT IS NOT TO BE
2 BELIEVED. THAT, TO ME, IS PERHAPS THE STARTING POINT OF YOUR
3 DELIBERATIONS. BEFORE YOU CAN REALLY DISCUSS THE TESTIMONY
4 PART OF THE EVIDENCE, I THINK YOU HAVE TO PASS UPON THE
5 CREDIBILITY OF WITNESSES. WE HAVE HAD 28 INCLUDING THE
6 DEFENDANT, WHO IS A WITNESS, AND YOU HAVE TO PASS UPON
7 CREDIBILITY, IS THIS PERSON TO BE BELIEVED, AND IF THE PERSON
8 IS TO BE BELIEVED, IS ALL OF THE TESTIMONY TO BE BELIEVED OR
9 ONLY A PORTION OF THE TESTIMONY TO BE BELIEVED.

10 IT BE ALL OF
11 THE TESTIMONY OR SOME OF THE TESTIMONY, IS THAT PORTION, IF
12 BELIEVED, REALLY IMPORTANT

13 SO MY SUGGESTION TO YOU IS, FIRST
14 OF ALL, AS TO THE AREAS OF THE WITNESSES, TO DETERMINE WHO IS
15 TELLING THE TRUTH AND WHAT PORTION OF THE TESTIMONY IS
16 TRUTHFUL AND THEN, SECONDLY, HAVING MADE THAT DETERMINATION,
17 FIND OUT FROM THAT BELIEVED CREDIBLE TESTIMONY WHAT FACTS ARE
18 IMPORTANT TO YOU

19 T WITH THE WITNESSES UPON WHICH TO BASE
20 YOUR DELIBERATIONS. AND I WOULD SUGGEST THAT YOU USE THE SAME
21 PROCESS AS TO THE OTHER ITEMS OF EVIDENCE AS YOU FIND IT

22 PRACTI

ADDED COMMENTARY

PROSECUTOR RIGHTLY EMPHASIZES HOW CRITICAL
IS "CREDIBILITY" TO THE VERDICT, AS THE
WHOLE FOUNDATION OF DELIBERATIONS

23
24 FACTS

25 SHOULI

26 GIVEN.

27 WE KNOW WHAT THE ELEMENTS OF THE LAW WILL BE. YOU
WILL HAVE THE JURY INSTRUCTIONS WITH YOU. I HAVE DIS

28 THEM, I HAVE CHARTED THEM WITH YOU. YOU WILL SEE THE

ANT
YOU
BE

EXHIBIT
AA
7 PAGES

Prosecutor arguing to jury against Lazor:

1612

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEFENDANT

WHICH TESTIMONY HAS MORE CONVINCING FORCE, THE TESTIMONY OF TWO EYE WITNESSES WHO SAID THAT BB GUN DID NOT GO INTO THE GARAGE AND I SAW THE DEFENDANT PICK IT UP, OR THE DEFENDANT WHO SAYS TO YOU I ASSUMED IT WENT INTO THE GARAGE? WHICH HAS MORE CONVINCING FORCE?

BELONG
MID-C
LOCK
SPECI
LOCK,
BRIEF
DEFEN

ADDED COMMENTARY
PROSECUTOR TELLS THE JURY THIS WHILE KNOWING THAT HE HIMSELF HAD DESTROYED THE ATTACKER'S FINGERPRINTS WHICH PROVED HE HAD THE GUN, (NOT TO MENTION THE MEAT CLEAVER). EITHER ONE WAS SUFFICIENT FOR SELF-DEFENSE ACQUITTAL. (SEE EXHIBIT A)

THAT
K, A
SAW
DOOR
NT'S
THE
THE

WHAT I AM SAYING TO YOU, LADIES AND GENTLEMEN, IS YOU SAW THE Demeanor AND THE Manner IN WHICH THOSE TWO GENTLEMEN TESTIFIED, MR. WALLIS AND MR. ELLIS. YOU ARE GOING TO HAVE TO MAKE YOUR JUDGMENT. THEIR TESTIMONY ALONE, IN AND OF ITSELF, IS ENOUGH TO MAKE THE DEFENDANT A LIAR AS IT RELATES TO WHAT HAPPENED ON JANUARY 10TH. AND WHEN YOU CONSIDER THE TESTIMONY OF MR. WALLIS AND MR. ELLIS, CONSIDER ANOTHER THING. THEY WERE INTERVIEWED SEPARATE AND APART FROM ONE ANOTHER REGARDING THE DEFENDANT'S POSSESSION OF THE BB GUN ON DIFFERENT TIMES AND DIFFERENT DATES BY DETECTIVE MC CARTY.

PLEASE CONCERN ABOUT THE TRUTHFULNESS OF THEIR OBSERVATIONS REGARDING THE DEFENDANT'S SECRETING THAT BB GUN, MR. SCHROEDER WOULD MOST

Prosecutor arguing to jury against Lazor:

1618

1 INTERESTING THAT HE DROPPED HIS KEYS IN POSITION NO. 2, BUT IF
 2 HE ACTUALLY HAD A BB GUN AS CLAIMED BY THE DEFENDANT, YOU
 3 WOULD
 4 LOCAT
 5 LOCAT
 6 THE B
 7 AND A
 8 ENOUG

ADDED COMMENTARY

TWISTING LAZOR'S SKILL AS A STAGE PERFORMER, INTO HIM BEING A DIS-CREDIBLE "LIAR" WAS MADE POSSIBLE ONLY BY THE CONCEALED ALTERED, DESTROYED EVIDENCE AND SCHROEDER AIDING THE STATE ACCORDINGLY

9 BB GUN IS IN A DIFFERENT PLACE THAN THE KEYS AS SEEN BY THE
 10 DEFENDANT BUT IT THERE

11 LASTLY, WHEN YOU CONSIDER THE DEFENDANT'S MOTIVE TO KILL
 12 HIM, WHAT YOU HAVE TO CONSIDER IS HIS CREDIBILITY, HIS
 13 TRUTHFULNESS. NOT THE FACT THAT HE TOOK AN OATH, BUT HIS
 14 TRUTHFULNESS, AND YOU HAVE TO MEASURE HIS CREDIBILITY BY THE
 15 SAME STANDARDS AS YOU WOULD ANYBODY ELSE. USE THE SAME
 16 STANDARDS, WHETHER IT BE A WITNESS WHO IS A SECURITY GUARD,
 17 WHETHER IT BE A WITNESS WHO IS A CARPENTER, WHETHER IT BE A
 18 DETECTIVE FROM THE LOS GATOS POLICE DEPARTMENT, A DEFENDANT,
 19 ANYBODY. YOU USE THE SAME STANDARDS.

20 AND ONE OF THE STANDARDS THAT THE COURT WILL INSTRUCT YOU
 21 ABOUT IS THE PERSON'S DEMEANOR WHILE TESTIFYING, THE MANNER IN
 22 WHICH THE PERSON TESTIFIES. AND IN PARTICULAR, I WANT YOU TO
 23 NOTE THAT DEMEANOR AS IT RELATES TO THE DEFENDANT. WE HAVE
 24 GONE THROUGH 28 WITNESSES, AND I THINK IT WOULD BE A FAIR
 25 STATEMENT WHEN IT COMES TO PERFORMING, DID MR. LAZOR PERFORM
 26 PARTICULARLY IN LIGHT OF THE PREVIOUS WITNESSES? SURE, HE
 27 DID. THE DEFENDANT, LADIES AND GENTLEMEN, IS A PERFORMER.
 28 HE'S A PROFESSIONAL PERFORMER WHO IS USED TO SHOWS, HE'S USED

CONTINUED

1 TO AUDIENCES, AND WHAT HE WAS DOING WITH YOU, LADIES AND
 2 GENTLEMEN, IS TRYING TO SELL HIS CASE. I DON'T FAULT THE
 3 DEFENDANT FOR TRYING TO SELL HIS CASE. OBVIOUSLY FROM THE
 4 PROSECUTION POINT OF VIEW, WE TRY TO SELL THE CASE, BUT AS IT
 5 RELATES TO HIS DEMEANOR, HE OVERSOLD.

6 THINK ABOUT HIS DEMEANOR, AND WHEN YOU THINK ABOUT HIS
 7 DEMEANOR AND THE MANNER IN WHICH HE TESTIFIED, CONSIDER
 8 ANOTHER FACTOR THAT YOU WILL BE INSTRUCTED: WHETHER OR NOT
 9 THERE WAS BIAS OR MOTIVE IN THE TESTIMONY. CLEARLY, THERE
 10 WAS. WHEN YOU CONSIDER THE ALL IMPORTANT ISSUE OF THE GUN,
 11 THROW DOWN GUN, WHETHER IT WAS REAL OR WHETHER IT WAS
 12 CONTRIVED, IF YOU THINK OF ALL THOSE THINGS THAT THE DEFENDANT
 13 HAS TOLD YOU, WHEN YOU PUT THOSE TOGETHER WITH THE TESTIMONY
 14 OF TWO EYE WITNESSES, MR. WALLIS AND MR. ELLIS, WHO ARE INTER-
 15 VIEWED SEPARATELY AND APART AT DIFFERENT TIMES AND DIFFERENT
 16 DATES, AND YOU SAY THAT THE TESTIMONY OF A SINGLE WITNESS,
 17 MR. LAZOR, MAKES SENSE, I SUBMIT TO YOU IT DOES NOT, IT
 18 DOESN'T EVEN COME CLOSE. THE CONCLUSION, LADIES AND
 19 GENTLEMEN, IS THAT THE DEFENDANT SHOT AND KILLED MR. ALLRED,
 20 WHO WAS IN FACT UNARMED AND IT WAS UNLAWFUL. HE HAD NO RIGHT
 21 TO SELF-DEFENSE BECAUSE THERE WAS NO GUN.

22
 23 WHEN YOU TURN TO THE AREA OF MALICE, YOU HAVE TO ASK YOURSELF
 24 WAS OWN
 25 ADMI: **ADDED COMMENTARY** VERY
 26 LEAS: **...MORE OF SAME, TIED INTO PROOF OF MURDER** HE
 27 DID HE
 28 SAID, WITH A .45 IN HIS RIGHT HAND AND FIRED OFF THE INITIAL

Prosecutor arguing to jury against Lazor:

1693

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

REMEMBER THE

DEFENDANT'S TESTIMONY TO THAT EFFECT? AND MR. SCHROEDER MADE
SOME COMMENT ABOUT, WELL, MAYBE MISS HARPER DIDN'T HEAR IT OR
WHAT HAVE YOU, AND THEN HE DROPPED IT. AND THERE IS A
PARTICULAR REASON WHY HE DROPPED IT: BECAUSE JOAN HARPER
DIDN'T HEAR IT, AND WHY DIDN'T JOAN HARPER HEAR IT? BECAUSE
IT WASN'T SAID. AGAIN, IT'S THE DEFENDANT PERFORMING FOR YOU
AS AN AUDIENCE.

THAT JOAN HARPER IS IN THE TELEPHONE BUSINESS. THAT'S WHAT
SHE DOES. SHE RECEIVES CALLS SHE'S USED TO TALKING,

LISTEN
WHAT
PART
FOLLOW
NOTE
IMPO

ADDED COMMENTARY

*DELIBERATELY HIDDEN EVIDENCE ALLOWED THE
PROSECUTOR TO INVERT LAZOR'S OUTSTANDING
CREDIBILITY, KNOWN TO HIS COMMUNITY AS
EXCEPTIONAL, INTO BEING A PROFESSIONALLY
TRAINED "LYING-PERFORMER." ALL CONTRARY
EVIDENCE WAS KEPT FROM THE JURY AND COURT*

REMEMBER
THAT
ACTUALLY
DOWN
WAS
THOUGH

SHE CERTAINLY HEARD HIM BEFORE SHE SAID THE WORDS THAT THE
DEFENDANT SAID MR. ALLRED HAD STATED. I SUBMIT TO YOU, LADIES
AND GENTLEMEN, THE DEFENDANT IS AGAIN NOT TELLING THE TRUTH.

NOW, LADIES AND GENTLEMEN, ANOTHER THING THAT THE
DEFENDANT SAID THAT I WANT TO COMMENT ON AS IT RELATES TO THE
BB GUN IN PARTICULAR. THE DEFENDANT SAID THAT HE MOVED THE BB
GUN AWAY FROM MR. ALLRED A SHORT DISTANCE. I BELIEVE THE
WORDS HE USED: A SHORT DISTANCE WITH THIS RAG BECAUSE
MR. ALLRED WAS MOVING AROUND, STILL NOT DEAD AND HE DIDN'T
WANT THIS BB GUN -- TURNED OUT TO BE A BB GUN -- IN
MR. ALLRED'S POSSESSION BECAUSE THAT WAS BASICALLY THE GUN

Judge reading jury instructions to jury:

1701

1 NEITHER SIDE IS REQUIRED TO CALL AS WITNESSES ALL PERSONS
2 WHO MAY HAVE BEEN PRESENT AT ANY OF THE EVENTS DISCLOSED BY
3 THE EVIDENCE, OR WHO MAY APPEAR TO HAVE SOME KNOWLEDGE OF
4 THESE EVENTS, OR TO PRODUCE ALL OBJECTS OR DOCUMENTS MENTIONED

5
6 EVERY PERSON WHO TESTIFIES UNDER OATH IS A WITNESS. YOU
7 ARE THE SOLE JUDGES OF THE BELIEVABILITY OF A WITNESS AND
8 THE WEIGHT TO BE GIVEN THE TESTIMONY OF EACH WITNESS.

9 IN DETERMINING THE BELIEVABILITY OF A WITNESS, YOU MAY
10 CONSIDER ANYTHING THAT HAS A TENDENCY IN REASON TO PROVE OR
11 DISPROVE THE TRUTHFULNESS OF THE TESTIMONY OF THE WITNESS

12
13 OPPORTUNITY OR ABILITY OF THE WITNESS TO SEE OR HEAR OR
14 OTHERWISE BECOME AWARE OF ANY MATTER ABOUT WHICH THE WITNESS
15 HAS THE OPPORTUNITY OR ABILITY TO SEE OR HEAR OR OTHERWISE

16 **ADDED COMMENTARY**
17 **THIS IS AN ACTUAL JURY INSTRUCTION:**
18 **ONLY LAZOR'S CREDIBILITY WAS ATTACKED OUT**
19 **DIRECTED ONLY AGAINST MR. LAZOR**

20 THE ATTITUDE OF THE WITNESS TOWARD THE ACTION IN
21 WHICH TESTIMONY HAS BEEN GIVEN BY THE WITNESS OR TOWARD THE
22 GIVING OF TESTIMONY; A STATEMENT PREVIOUSLY MADE BY THE
23 WITNESS THAT IS CONSISTENT OR INCONSISTENT WITH THE TESTIMONY
24

25
26 A WITNESS WILLFULLY FALSE IN ONE MATERIAL PART OF HIS
27 TESTIMONY IS TO BE DISTRUSTED IN OTHERS. YOU MAY REJECT THE
28 WHOLE TESTIMONY OF A WITNESS WHO WILLFULLY HAS TESTIFIED

CONTINUED

AA-6

Judge reading jury instructions to jury:

1702

1 FALSELY AS TO A MATERIAL POINT UNLESS FROM ALL OF THE
2 EVIDENCE, YOU SHALL BELIEVE THE PROBABILITY OF TRUTH FAVORS
3 HIS TESTIMONY IN OTHER PARTICULARS.

4 S TESTIMONY AND THAT OF
5 OTHERS, IF THERE WERE ANY, DO NOT NECESSARILY MEAN THAT THE
6 WITNESSES SHOULD BE DISCREDITED. FAILURE OF RECOLLECTION IS A

7 COMPLETION OF THE TRIAL IS NOT
8 UNCOMMON. *ADDED COMMENTARY*
9 *SINCE LAZOR WAS NOT ALLOWED TO BACK UP*
10 *ANY OF HIS (ATTEMPTED) FAVORABLE TESTIMONY*
11 *WITH WITNESSES OR EVIDENCE, EVERYTHING*
12 *OR THAT HINTED AT SELF-DEFENSE LACKED*
13 *A DEDUCIBLE CREDIBLE SUBSTANCE*
14 THER
15 TO A
16 ITS
17 SIGNIFICANCE.

18 YOU ARE NOT BOUND TO DECIDE IN CONFORMITY WITH THE
19 TESTIMONY OF A NUMBER OF WITNESSES WHICH DOES NOT PRODUCE
20 CONVICTION IN YOUR MIND AS AGAINST THE TESTIMONY OF A LESSER
21 NUMBER OR OTHER EVIDENCE WHICH APPEALS TO YOUR MIND WITH MORE
22 CONVINCING FORCE. THIS DOES NOT MEAN THAT YOU ARE AT LIBERTY
23 TO DISREGARD THE TESTIMONY OF THE GREATER NUMBER OF WITNESSES
24 MERELY FROM CAPRICE OR PREJUDICE OR FROM A DESIRE TO FAVOR ONE
25 SIDE AS AGAINST THE OTHER. IT MEANS THAT THE FINAL TEST IS
26 NOT IN THE RELATIVE NUMBER OF WITNESSES, BUT IN THE RELATIVE
27 CONVINCING FORCE OF THE EVIDENCE.

28 TESTIMONY WHICH YOU BELIEVE GIVEN BY ONE WITNESS IS
SUFFICIENT FOR THE PROOF OF ANY FACT. HOWEVER, BEFORE FINDING
ANY FACT REQUIRED TO BE ESTABLISHED BY THE PROSECUTION TO BE
PROVED SOLELY BY THE TESTIMONY OF SUCH A SINGLE WITNESS, YOU
SHOULD CAREFULLY REVIEW ALL THE TESTIMONY UPON WHICH THE PROOF