

1 SUPERIOR COURT OF NEW JERSEY  
2 CRIMINAL DIVISION-HUDSON COUNTY  
INDICTMENT NO. 0435-03-07  
3 APP. DIV. NO. A-3348-11T3

4 STATE OF NEW JERSEY :

5 COMPLAINANT :

6 -vs- :

7 ELMO M. RIVADENEIRA :

8 DEFENDANT :

TRANSCRIPT  
OF  
PROCEEDINGS  
(TRIAL)

9 Place: Hudson County Courthouse  
10 595 Newark Avenue  
Jersey City, NJ 07306

11 Date: October 5, 2011

12 BEFORE:

13 THE HONORABLE PAUL M. DE PASCALE, J.S.C.

14 And a Jury

15 TRANSCRIPT ORDERED BY:

16 HELEN C. GODBY, ESQ.  
(OFFICE OF THE PUBLIC DEFENDER)

17 APPEARANCES:

18 JOHN R. MULKEEN, ESQ.  
(ASSISTANT PROSECUTOR, HUDSON COUNTY)  
19 FOR THE STATE

20 JOHN ZUNIC, ESQ.  
(JOHN ZUNIC, ESQ.)  
21 FOR THE DEFENDANT

22  
23 PATTIE JOHNSON, C.C.R.  
24 OFFICIAL COURT REPORTER  
HUDSON COUNTY COURTHOUSE  
595 NEWARK AVENUE  
25 JERSEY CITY, NEW JERSEY 07306

1 (Whereupon the jury enters at 9:30 am.)

2 THE COURT: Good morning, ladies and  
3 gentlemen? Do you have any further witnesses, sir?

4 MR. ZUNIC: I do not, your Honor. Defense  
5 rests.

6 THE COURT: Are you prepared with your  
7 summation, sir?

8 MR. ZUNIC: Thank you.

9 May it please the Court, your Honor, Mr.  
10 Mulkeen, Mr. Rivadeneira, ladies and gentlemen of the  
11 jury, let me first thank you for your time and patience  
12 these last couple of weeks here and for being on time  
13 every day and for paying attention throughout this  
14 trial. I know we all appreciate that.

15 There was a tv show a few years back, it is  
16 not on the air anymore. I believe it was on Channel 7.  
17 It was called Lost. It was about people who ended up  
18 on a deserted island and basically, have to start from  
19 scratch. If this case were to have a name, it would be  
20 Lost. Why?

21 Well, you heard why. Black stocking, lost,  
22 blue glove, lost, white rag, lost, cervical specimen,  
23 lost, letter from the Jail burned, but lost, not  
24 around. And what happens when you have all this  
25 evidence that's lost is, my client and I are deprived

1           Some of the items that the State Police  
2 Laboratory tested as part of the sexual assault  
3 examination kit that Dr. Pelliccia took, these items  
4 included vaginal swabs, anal smear, anal swab, rectal  
5 smear, rectal swab, vaginal smear, oral smear, oral  
6 swab, external genital specimen, dried secretions,  
7 sweat, toilet paper, pubic area swabbing, fingernail  
8 specimen of right and left hand, head hair combings,  
9 debris right and left foot, the New Jersey State Police  
10 Laboratory found no evidence of the Defendant's DNA on  
11 those items.

12           There were two partial fingerprints that you  
13 heard Detective Diaz talk about that were lifted from  
14 that white Toyota. They did not come back to a match  
15 to my client.

16           The victim in this case never identified my  
17 client as being the perpetrator of this crime. And in  
18 fact, we all signed a stipulation to that effect. The  
19 victim was never asked to identify the Defendant in  
20 this case because she described the suspect as wearing  
21 a stocking mask over his head. So you have no  
22 identification either.

23           But remember, she did say he appeared  
24 American. I submit to you, that I think it is obvious,  
25 that my client looks Hispanic and she did tell that

1 first Detective that he looked American.

2 You also heard testimony in the case that  
3 Detectives in this case searched my client's home when  
4 he was arrested and searched a storage pod that he had  
5 as well. Nothing was found that links him to  
6 committing this crime.

7 There was no black hooded sweatshirt. No  
8 Black and Mild cigars. No property belonging to the  
9 victim. None of that was found. No latex gloves. No  
10 black stocking. No white rag or doo rag or T-shirt.  
11 Nothing that contains fibers that apparently would  
12 match what was found on the victim's feet. You heard  
13 nothing like that.

14 Let's remember the car in this case, the  
15 Buick. Although there was a lot of testimony as to  
16 what type of car my client may have been driving during  
17 this time period, not one was a Buick and he was never  
18 linked to any Buick.

19 Now you heard Anne Marie Stella, one of my  
20 client's ex-girlfriends testify here. And part of what  
21 she said was that my client worked on cars with blue  
22 latex gloves during the Winter. Here, it was the  
23 middle of May, certainly not Winter, but regardless, I  
24 think we're talking about a very common item here. In  
25 fact, so common, I am sure some of you noticed it on

1 the Prosecutor's desk, a box of the blue gloves.

2 They had on blue gloves when they handled the  
3 evidence. It appears to be a pretty common item. In  
4 fact; even Lieutenant Diaz said when he uses latex  
5 gloves, sometimes they're blue.

6 But I want to talk about the one blue glove  
7 that was found right next to the victim's home that  
8 night. That's somewhat coincidental. She's abducted a  
9 few houses from her door. We are not sure exactly how  
10 many.

11 She says she first sees this guy double  
12 parked standing outside his car about five houses from  
13 her home. She's walking toward her home. At some  
14 point he comes up on the side and grabs her. She's  
15 close to home. We are not sure exactly how close, but  
16 remember, Officer Floriani was instructed to go back.

17 He was the one that testified yesterday, to  
18 go back to that area and he finds a blue glove laying  
19 on a white rag. He takes it, puts it in a brown paper  
20 bag, hands it over to the Prosecutor's Office  
21 Detectives from the SAVA Unit, the Sexual Assault  
22 Victims Assistance Unit, but that blue latex glove,  
23 even though it is lost now, it was, at some point,  
24 tested. The inside was tested. The outside was not.  
25 The inside of the glove was tested. Male DNA and

1 female DNA.

2 The laboratory determined that the male DNA  
3 did not belong to my client. But I think it is more  
4 than a coincidence this perpetrator wore latex gloves,  
5 there's a blue latex glove next to the victim's home.  
6 Could the perpetrator of this crime, did he wear that  
7 glove that night? It is a legitimate question to ask.

8 You saw the overalls, the Winnie the Pooh,  
9 they're right here on the table. The inside of those  
10 were tested by the laboratory. There was no DNA found  
11 that belonged to my client. But what did they find at  
12 the laboratory?

13 If you remember Cortney Mac Donald, the first  
14 scientist that tested, she was the one that performed  
15 all the test on the swabs, the straps and found a hair  
16 with a root. Remember what the scientist told us about  
17 a hair, you can determine someone's DNA from a single  
18 hair. It's got many, many cells in it.

19 She takes it; she submits it to DNA for  
20 further testing; what happens, they never tested it. I  
21 don't know why. There's really no legitimate reason as  
22 to why they never did. Could it have been the victim's  
23 hair? Possibly. Could it have been the perpetrator's  
24 hair? Possibly. We'll never know. Again, a  
25 legitimate unanswered question.

1 Now, the Prosecutor will probably argue to  
2 you that well, the perpetrator lied about those things.  
3 He lied because he wanted to conceal his identity. He  
4 would throw the victim off by saying these things that  
5 were untrue.

6 Well, then, if that's true, then did he lie  
7 about smoking Black and Mild? Did he lie that the car  
8 was a Buick? Can't ask you to believe certain things  
9 the perpetrator said but then don't believe the other  
10 things he said just because it fits his case.

11 This I found interesting and, I would ask you  
12 to consider this, when the scientists keep calling them  
13 chemistry kits, they indicated that what they found  
14 were skin cells, epithelial cells, skin sells, we heard  
15 about how everyone sheds skin, except, they never  
16 mentioned finding saliva or semen or blood or hair  
17 other than the hair on the overalls, no saliva.

18 The victim said the guy was sweating a lot,  
19 black hooded sweatshirt, middle of May, I assume the  
20 windows were up. I don't believe she had a jacket on  
21 from that photo when she was walking. You could assume  
22 it was probably a hot day and this guy's obviously  
23 sweating, she told us he was sweating when his cheek  
24 touched her cheek, the guy was sweating, yet there's no  
25 sweat on the stocking, just skin cells.

1 She also told us that the perpetrator talked  
2 quite a bit. They were together for quite a while. He  
3 talked. We know he said some things. No matter who it  
4 is, whenever someone is speaking, you almost emit or  
5 throw off some saliva while you're talking, yet there's  
6 no saliva on the stocking. I find that interesting,  
7 too.

8 MR. MULKEEN: Could I be heard at sidebar,  
9 please?

10 THE COURT: Sure.

11 MR. MULKEEN: I am trying not to object  
12 needlessly but, Mr. Zunic, is injecting his personal  
13 opinion at various times saying I think this, I find  
14 this interesting. I am trying to give him some leeway,  
15 but Mr. Zunic is giving personal opinion rather than  
16 talk about the evidence.

17 THE COURT: It is a matter of phraseology I  
18 think more so than objectionable if that's a word.

19 MR. ZUNIC: I would ask them to consider.

20 THE COURT: More appropriate way to express  
21 it.

22 In addition, I don't recall there being any  
23 testimony in this case that your client does not have  
24 four children.

25 MR. ZUNIC: It was never mentioned that he

1 did. You said he doesn't have four children. So I  
2 caution you not to testify or to inject facts into the  
3 case that aren't here. Just watch phraseology.

4 MR. MULKEEN: On that note, Mr. Zunic did  
5 reference in his opening statement that the client has  
6 one child but there's been no testimony about any  
7 children. That's essentially, twice that the personal  
8 opinions are getting injected or Mr. Zunic's testifying  
9 to facts not established in evidence.

10 MR. ZUNIC: Do you want me to go back and  
11 correct it?

12 THE COURT: No. You go on.

13 (Whereupon the following takes place in open court.)

14 THE COURT: Objection is sustained. You may  
15 proceed.

16 MR. ZUNIC: Now, if you remember, when the  
17 scientist was talking about skin cells, she also  
18 indicated that maybe she shed some skin cells while she  
19 was testifying. All of us emit and shed skin cells  
20 during the day.

21 → Again, the Prosecutor wants you to believe  
22 that my client wore that stocking that night. Why  
23 isn't his saliva or his sweat or his hair on it? Which  
24 leads to the next question, is that really the stocking  
25 that was used in this attack?

1 Now, did the victim ever identified it as  
2 being the stocking? Never identified it as being the  
3 stocking similar to what the perpetrator wore. Only  
4 thing she told us about the stocking was that it was  
5 sheer. She never told us the color of it. The color  
6 here from the photo is black. The one that was found  
7 by the Detective, was it the one that was used? We  
8 don't know. We don't have proof of that.

9 → You also heard from I believe the scientist,  
10 Ms. Mac Donald, and perhaps from Lieutenant Diaz as  
11 well, that the stocking had dirt on it. She mentioned  
12 cardboard and debris on it. ← How long was it there on  
13 that lot, a few hours, a few days, we don't know.

14 Now, is it possible the perpetrator found  
15 this item and wiped down the victim with it? It is  
16 possible. You recall she testified she was wiped down  
17 after each attack.

18 → There's another odd thing about this, there  
19 was certain testimony with regard to the stocking, ← the  
20 DNA, specifically you heard that most of the DNA was  
21 found on the outside of the stocking, the female and  
22 male DNA found on the outside of the stocking. I  
23 submit to you, I am not sure if that makes sense, you  
24 would make the male DNA would be on the one side, the  
25 majority of the female DNA would be on the outside.

1 That's not what we had here, if you recall the  
2 testimony.

3 Now, with regard to this theory that my  
4 client wore that stocking that night, there are a few  
5 problems with that theory. First, the scientist, if  
6 you recall, told us they can't tell you when the DNA  
7 got on the stocking, either male or female DNA, they  
8 don't know, could have been days before, hours before,  
9 weeks before, could have been months before. We don't  
10 know.

11 Second thing they told you they don't know,  
12 they cannot tell you for certain whether the male DNA  
13 found was Hispanic, Caucasian or African-American.  
14 Even though the African-American's more remote, in this  
15 case, we know victim told us the perpetrator appeared  
16 American. DNA does not tell you someone's race or  
17 someone's age. It does not tell you when the item got  
18 in the stocking. In fact, it does not tell you if the  
19 male or female DNA got there at the same time.

20 I mentioned that the victim never said it  
21 looks like the stocking worn by the perpetrator. That  
22 did not come out in her testimony. Really, the biggest  
23 problem with the stocking theory is we don't have it  
24 here. I could have looked at it. Does it fit a human  
25 head? Been there for weeks or months? We don't know

1 because we don't have it because they lost it.

2 Another question for you to consider is, was  
3 this stocking perhaps contaminated when Detective Diaz  
4 had it in his car for six hours? I don't know. He  
5 said it takes an hour, hour and a half to get to Sea  
6 Girt, I give you two hours with traffic. To take it  
7 from point A. to point B., took it six hours, he had no  
8 explanation as to why it took six hours. He is driving  
9 around with this evidence in his car on a hot may day,  
10 yet he can't tell you why he had it for six hours.

11 What happens when he gets to the lab and Ms.  
12 Mac Donald opens it, the cervical specimen is out of  
13 the box. Is it possible something from the cervical  
14 specimen got on the stocking? Again, a legitimate  
15 unanswered yes. Why does he have it in his car for six  
16 hours?

17 One other problem with this theory that my  
18 client wore the stocking, here is a perpetrator that  
19 took every precaution seemly. He wore a stocking. He  
20 wore blue latex gloves. He kept the victim's head down  
21 the whole time so she couldn't see him, wiped her down  
22 after each attack, took her clothes, took her property,  
23 he went to a remote area to commit the offense. He  
24 took a lot of precautions. Why then when he's leaving  
25 the lot when he drops her off would he suddenly drop

1 this stocking that he just wore? It doesn't make  
2 sense.

3 Doesn't make sense that the stocking was  
4 worn. Doesn't make sense after all these precautions  
5 he's leaving the lot, he suddenly just drops it there.  
6 He didn't drop it by the Toyota that it was found. It  
7 was found by the entrance to the lot.

8 I hope to talk about a few other theories  
9 that the Prosecutor set forth, tried to set forth  
10 during the testimony you heard. One was when he called  
11 my victim's, I am sorry. One was when he called my  
12 client's ex girlfriend, Lauren Teicher, my client dated  
13 when he was 18 and she was 21. Basically, she told us  
14 that they would be intimate in the car in these remote  
15 areas. She mentioned a few towns. One town she did  
16 not mention was North Bergen, okay.

17 She basically said at the time, when she  
18 started dating him, he lived with his family. There  
19 really wasn't any privacy there. So they went to these  
20 remote areas to have sex in a car for lack of a better  
21 word. Well, they went to the hotel she said once.

22 I am not sure they are the first couple ever  
23 to do that, but if they were going to have relations in  
24 the car, would they do it in the middle of Journal  
25 Square? Would they do it on Bergenline Avenue? No,

1 stranger from the street and violently attacks her.

2 Respectfully, that is a bit of a stretch.

3 Now, I mentioned a few of these theories and  
4 you have to ask yourself why do we have all these  
5 different theories. Why? Because what I told you in  
6 my opening statement is the reason why. The DNA  
7 evidence here that you heard does not prove my client  
8 committed this crime. I will repeat that.

9 The DNA evidence here does not prove my  
10 client committed the crime. That's why you're hearing  
11 about all these other theories and factors to try and  
12 show my client committed this offense. It is just not  
13 there, ladies and gentlemen.

14 I'd like to touch upon Alex Cancinos, the  
15 young man who testified here yesterday with this whole  
16 letter incident. Now you heard that Alex has a first  
17 degree case pending and once he agreed to testify here,  
18 that case will likely get dismissed, potentially 30  
19 years in State's Prison off his chest.

20 MR. MULKEEN: Objection, Judge.

21 MR. ZUNIC: I am sorry, 20 years. I thought  
22 there was a different charge. I apologize. Up to 20  
23 years in State's Prison. My mistake.

24 Now, if you remember, Anne Marie Stella  
25 testified that she never spoke to Elmo about the letter

1 even though she continued to visit him into 2007. She  
2 said she never spoke to him about the letter.

3 She also told you that she stopped  
4 communication with Alex Cancinos on the day they both  
5 visited my client at the Jail. What does that tell you  
6 about what she thought of Alex and the letter? Think  
7 about that. She cut off her communication with Alex,  
8 and we kept talking. She came over my house. I was  
9 talking to Elmo over the phone from my house, from Anne  
10 Marie's phone with Ann Marie present. She says no,  
11 after we visited Elmo at the Jail, that was it. She  
12 never mentioned that phone call.

13 I ask you to consider something else. What's  
14 the likelihood that a letter would leave the Jail with  
15 ketchup package and a couple of packets or jelly  
16 packet? Why did he burn it? He says he burned it. He  
17 apparently didn't write it. He apparently had nothing  
18 to do with the letter. He doesn't show it to anyone.  
19 He just burns it.

20 Was he afraid that someone would find it one  
21 day and it may lead back to him somehow? You have to  
22 ask yourself. I also think it was clear he was trying  
23 to win the affection of Anne Marie Stella.

24 MR. MULKEEN: Objection.

25 THE COURT: Objection sustained, ladies and

1 gentlemen. Counsel's opinions on the evidence clearly  
2 are not evidence. The purpose of summation is to argue  
3 or urge upon the jury that which you believe the  
4 evidence in the case proves. Disregard any expressions  
5 of personal opinions as to the evidence.

6 You may proceed, sir.

7 MR. ZUNIC: Thank you. I apologize. You  
8 heard testimony from Alex Cancinos that he showed the  
9 letter to Anne Marie because she was blinded by love  
10 for Elmo. Well, why would he have to get in the way of  
11 that? Why did he want to get in the way of that?

12 The other interesting part about the letter  
13 if you'll recall, is that, apparently, it was written  
14 in 2006 supposedly, but it comes up five years later in  
15 2011. And again, destroyed, burned, we don't have it.  
16 You can't look at it. I can't look at it. And there  
17 are many inconsistencies between the two witnesses on  
18 their versions of this letter that you heard.

19 First, Anne Marie testified that she knew it  
20 was Elmo's handwriting. She recognized it, but yet,  
21 when Elmo's father testified yesterday about the roses  
22 that were sent he testified he wrote the card. He  
23 says jelly packet. She says ketchup. She says two.  
24 He says one. He mentions pubic hair. She never  
25 mentions that. She mentions saliva. He never mentions

1           He says it is not signed. She says it's  
2 signed. He says two pages. She says four, two pages,  
3 front and back. Again, he says they, when I confronted  
4 him, he said that two weeks ago he told us that he  
5 continued communicating with Anne Marie up to 2007  
6 where she says no, it stopped at that visit, and then  
7 yesterday, he said no, we stopped in 2006.

8           He's all over the place, ladies and  
9 gentlemen. And when someone is all over the place and  
10 they burn the one thing that they're talking about, how  
11 much weight can you really give it? How believable can  
12 you get it? What does he have to gain by all this?

13           One thing I did not hear from either witness,  
14 neither one said that my client admitted his guilt in  
15 that letter if you believe that he even wrote it.

16           I want to talk about Tony Batista, the gray  
17 haired gentleman. He owned International Auto Body 156  
18 where the white Toyota was located, where the stocking  
19 was found. He didn't have a lot to say, but he did own  
20 the lot and the white Toyota. There were two things  
21 that stood out from his testimony.

22           One, he did not recognize my client at all.  
23 He was asked to stand up and look at him. He did not  
24 recognize him.

25           Two, he said the car was never locked. The



1 cars that were going to be worked on were never locked  
2 so his workers could have easy access instead of  
3 looking for keys.

4           That leads to this question, how did this  
5 perpetrator, this attacker, know to go right to that  
6 car? How did he know that it would be unlocked? He  
7 had to know. It was the first car he went to..

8           Was it someone that worked there? Was it  
9 someone that had a connection to the former owner of  
10 that car? Again, legitimate unanswered questions.  
11 Was this even followed up by Detectives?

12           Only thing they did was, as they testified,  
13 they brought out some employees of two businesses  
14 there, asked the victim to take a look at them,  
15 obviously, she just told them that her face was covered  
16 the whole time, had a stocking on, was she going to be  
17 able to identify anyone? She wasn't. It is not her  
18 fault.                   Did they check the background of  
19 those people? Did they do anything, ask them their  
20 whereabouts? You heard none of that, but someone knew  
21 that, perpetrator knew that car was unlocked. He went  
22 right to that car and my client has no link to that  
23 auto body. You heard that directly from the owner. He  
24 doesn't know him. Let's also keep in mind that my  
25 client's former employee, Mr. Clattenberg, from Dave's

1 Auto testified he had no business deals with that auto  
2 body. Again, no connection.

3 I want to talk about some of the DNA results  
4 that you heard here. You heard about mixtures because  
5 some of the DNA test that were performed on the item  
6 showed a mixture, DNA especially on the stocking.  
7 Remember what they said about mixtures of DNA, victim  
8 is a possible contributor. Possible means it is also  
9 possible she's not a contributor.

10 My client was a possible contributor. Also  
11 possible he was not a contributor. And again, for the  
12 male and female, could be Caucasian, could be Hispanic,  
13 could be African-American. They can pinpoint it that  
14 much for you.

15 Remember what else they said about the   
16 mixture, could be the mixture of two people, three  
17 people or four people. In fact, if you recall, when I  
18 showed her the charts with regard to the stocking,   
19 there was DNA present on one sense of three people, and  
20 another area DNA of four people were present.

21 Who are those other people? We don't know.  
22 Could it have been the perpetrator? We don't know but  
23 a mixture as they said could be more than two people  
24 and here, in fact, there was DNA present of more than  
25 two people.

1           Again, those are more legitimate unanswered  
2 questions that you have and can you really be  
3 comfortable being asked to convict someone based on a  
4 possibility. I mentioned sloppy detective work before,  
5 I want to touch a little more on that.

6           There was a swab of the driver's door handle  
7 of the white Toyota, never bothered submitting. Is  
8 there evidence there? We don't know. They never  
9 submitted it. They never bothered to perform trace  
10 evidence on the fibers. Again, they had it. They have  
11 technicians. They testified they have people that can  
12 do it. They just didn't bother.

13           They never bothered to perform a test on the  
14 hair found on the overalls. Did they ever ask Mr.  
15 Batista the names of his employees? Did they ever  
16 question those people? Did they ever ask who had  
17 access to the car? We didn't hear any of that.

18           Of course, I mentioned Lieutenant Diaz driving around  
19 with the evidence for six hours with no explanation as  
20 to why he would hold on to that for six hours.

21           I know I am a little long. I apologize. It  
22 is the last chance I get to speak. Now, I promise, if  
23 you hang in there, I'm almost done. It's a lot to go  
24 through. If we summarize what I spoke about, we have  
25 no identification by the victim; many lost items of

1 evidence that we cannot even look at here; sloppy  
2 handling of evidence; lackadaisical investigation; no  
3 DNA of my client on many items that we spoke about; no  
4 connection to North Bergen; other than when he lived  
5 there when he was 13 and 11; no connection to the lot;  
6 no connection to the victim.

7           The Prosecutor wants you to believe his  
8 argument is, this then 21 year old mechanic with the  
9 girlfriend that he was with five to six times per week  
10 on the 7th day went to North Bergen where he had no  
11 connection with, abducted someone off the street and  
12 violently assaulted her.

13           I submit to you that, that has not been  
14 proven to you beyond a reasonable doubt in this case.  
15 Can you really trust this investigation with everything  
16 I just spoke about? Like I told you in my opening  
17 statement, this was a horrible crime. I don't think  
18 anyone in this courtroom will dispute that.

19           I also told you in my opening what would make  
20 it more horrible if the wrong person was convicted of  
21 it. You have seen many cases in the news where years  
22 later someone is --

23           MR. MULKEEN: Objection, Judge.

24           THE COURT: Overruled.

25           MR. ZUNIC: -- where someone is exonerated

1 because certain evidence was later found or tested.

2 Don't let that be this case.

3           You have a lot of unanswered questions in the  
4 case. A lot of things that make you scratch your head.  
5 When you have that, ladies and gentlemen, you have  
6 reasonable doubt. And really, here, you're asked to  
7 speculate that my client is guilty.

8           Speculation is not how we convict people in  
9 the United States of America. If it were, we'd have a  
10 jail on every corner. People are convicted here based  
11 on honest, credible evidence that proves to you the  
12 person's committed this offense beyond a reasonable  
13 doubt and I submit to you we just do not have that  
14 here.

15           Now, with a case like this, as I mentioned, I  
16 don't think anyone disputes what happened to the victim  
17 here. Again, horrible crime. But you, as the jury,  
18 have to keep your emotion and your sympathy in check  
19 when you're deciding this case. And I say that because  
20 you cannot decide this case based on emotion or  
21 sympathy.

22           You have to decide it based on the facts you  
23 heard and once you apply the law that Judge De Pascale  
24 will give you in a short while, I am not going to  
25 discuss the law, Judge De Pascale does that quite well.

1 I'll leave it to him.

2 I submit to you that once you do so and you  
3 leave the emotion and sympathy out of it and just look  
4 at the case itself, the only case you could come back  
5 here is not guilty.

6 Now, I submit to you there is plenty of  
7 reasonable doubt in this case and when you have  
8 reasonable doubt and you believe you have reasonable  
9 doubt, it is your duty to stick to that belief even  
10 though two, three, or five other jurors in that Jury  
11 Room back there may have a different opinion.

12 You're supposed to deliberate. Obviously,  
13 you should deliberate and, if you come to the  
14 conclusion, a certain conclusion, and other jurors may  
15 have a different conclusion, you don't just give in  
16 because it's four o'clock or someone wants to be in  
17 work tomorrow. You took an oath here. Part of that  
18 oath is you stick by your belief in this case.

19 After you deliberate, after you receive the  
20 law from Judge De Pascale, 12 of you will deliberate.  
21 One will be an alternate. Twelve will all have one  
22 equal vote. No one vote count any more than someone  
23 else. Everyone has the same. It is your duty to  
24 uphold the law. When I ask you for a verdict of not  
25 guilty here, I am asking you to uphold the law.

Verdict

CERTIFICATION

I, PATTIE JOHNSON, License Number XI01125,  
an Official Court Reporter in and for the State of New  
Jersey, do hereby certify the foregoing to be prepared  
in full compliance with the current Transcript Format  
for Judicial Proceedings and is a true and accurate  
non-compressed transcript to the best of my knowledge  
and ability.

*Pattie Johnson, CCR* September 3, 2014  
/s/ Pattie Johnson

Official Court Reporter

Date:

HUDSON COUNTY COURTHOUSE