

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR HARRIS COUNTY, STATE OF LONE STAR
CRIMINAL DIVISION

STATE OF LONE STAR)	
)	
v.)	Case No. 2002-37
)	
GREGORY HAMILTON,)	
)	
Defendant.)	
_____)	

Prepared by:

Judge Jerry R. Parker
Second District Court of Appeal
801 East Twiggs Street, 6th Floor
Tampa, Florida 33602

Copyright 2002
Texas Young Lawyers Association
and
Judge Jerry R. Parker
All Rights Reserved

This case file was commissioned by the Texas Young Lawyers Association and prepared by Judge Jerry R. Parker for the 2003 National Trial Competition.

State of Lone Star

v.

GREGORY HAMILTON

Table of Contents

	<u>Page</u>
Statement of Case and Stipulations -----	1
Witness List -----	7
Indictment -----	8
Depositions:	
Tracy Leduc -----	9
Michael Hamilton -----	15
Joye Walford -----	21
Prior Testimony of Gregory Hamilton -----	25
Exhibits:	
Exhibit A (credit card receipt) -----	32
Exhibit B (rug receipt) -----	33
Exhibit C (defendant's bank check) -----	34
Exhibit D (defendant's note) -----	35
Preliminary Jury Instructions -----	36
Final Jury Instructions -----	38
Verdict Form -----	44

STATEMENT OF THE CASE

The State has charged Gregory Hamilton, the defendant and a criminal defense attorney, with murder in the first degree. The State intends to prove that on July 29, 2001, the defendant, while at his residence, struck Cynthia Stone and wrapped Stone in a rug. The State further intends to prove that the defendant dumped Stone twelve miles out into the Gulf of Mexico on July 30, 2001. The State's witness is Michael Hamilton, the defendant's brother, who provided the information only after the State arrested him for trafficking in cocaine. The brother has previously been declared incompetent, but was restored to competency. Joye Walford, the defendant's girlfriend, will testify that she struck Cynthia Stone with a fireplace tool during an altercation. The defendant's testimony from an earlier trial reflects that he found Walford in his home with Stone dead. The defendant stated that he panicked and convinced his brother, Michael Hamilton, to dispose of the body. The defendant denies accompanying his brother to dispose of Cynthia Stone's body.

STIPULATIONS REGARDING EVIDENTIARY MATTERS

Procedural Matters

1. Federal Rules of Criminal Procedure and Federal Rules of Evidence apply.

2. All witnesses called to testify who have in depositions identified the defendant, other individuals, or tangible evidence can, if asked, identify the same at trial.

3. Each witness who gave a deposition did agree under oath at the outset of his/her deposition to give a full and complete description of what occurred and to correct the deposition for inaccuracies and completeness before signing the deposition.

4. All depositions were signed under oath.

5. For this competition, no team is permitted to attempt to impeach a witness by arguing to the jury that a signature appearing on the deposition does not comport with signatures or initials located on an exhibit.

6. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses or the defendant that would bolster or detract from their credibility.

7. This competition does not permit a listed witness or the defendant, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that invented individual.

8. "Beyond the record" shall not be entertained as an objection. Rather, teams shall utilize cross examination as to inferences from material facts. Pursuant to National Rules VII(4), (C), and (D) and VIII(5), any party wishing to file a complaint concerning a violation of this rule shall use the procedure found in Rule VIII(5).

9. The State and the defendant must call the two witnesses listed on their respective witness list.

10. All exhibits in the file are authentic. In addition, each exhibit contained in the file is the original of that document unless otherwise noted on the exhibit or as established by the evidence.

11. It is stipulated that no one shall attempt to contact the problem drafter, Judge Parker, about this problem. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition.

12. 2003 should be the current year in which this case comes to trial.

13. Presentation and argument on pretrial motions shall be limited to a total time of sixteen minutes divided equally between the parties as follows: (1) the prosecution shall have four minutes to present any pretrial motions; (2) the defense shall have four minutes to respond to the State's motion(s); (3) the defense shall have four minutes to present any pretrial motions; and (4) the State shall have four minutes to respond to the defense's motion(s).

14. The testimony of Gregory Hamilton shall conform to the testimony given by Hamilton at his earlier trial.

15. This competition does permit teams to argue additional case law and other relevant authority to support the team's argument on motions and evidentiary issues. However, no additions are permitted to the provided jury instructions.

16. No team member is permitted to question any witness or argue to the jury the absence at the trial of photographs or videotape recordings obtained from the victim's apartment, the residence of the defendant, or the boat owned by Michael Hamilton.

Substantive Matters

1. Gregory Hamilton has entered a plea of not guilty and has requested a trial by jury.

2. The trial court has denied a motion to dismiss the indictment and has denied a motion to suppress Exhibits B and C.

3. The State and the defense agree that the jury may be informed of the following, if the State or the defense so requests: (a) Cynthia Stone was five feet, six inches tall, weighed approximately 125 pounds, and was twenty-seven years of age; (b) except for out-of-town trips, illnesses, and vacations, Cynthia Stone has attended a planned Sunday night dinner with her family once every month for over five years; (c) Cynthia Stone's sister reported Stone missing to the police department on July 31, 2001, after Stone's co-employees notified the sister that Stone did not appear for work on July 30, 2001, and the sister was unable to locate Cynthia Stone at her apartment; (d) three fingerprints of defendant Gregory Hamilton's right hand were positively identified on Cynthia Stone's coffee maker when Stone's apartment was searched on

September 6, 2001; (e) three blood spots, located by crime scene technicians, on the living room wall near the baseboard of defendant Gregory Hamilton's residence were tested and determined through DNA analysis to be identified as the blood of Cynthia Stone; (f) three blood spots, located by crime scene technicians, in a space on the deck of a boat owned by Michael Hamilton were tested through DNA analysis and were identified as the blood of Cynthia Stone; and (g) two latent fingerprints were located on the lens of a flashlight located in the compartment of the console of Michael Hamilton's boat. An expert fingerprint examiner has positively identified the prints as coming from the index and middle finger on the left hand of the defendant Gregory Hamilton.

4. The State and the defense agree that the jury may be informed of the following information, if the State and the defense so request: (a) in 1992 and 1993, Michael Hamilton was found incompetent to stand trial for a period of eighteen months by the Circuit Court in Harris County, State of Lone Star; and (b) Michael Hamilton was thereafter restored to competency by the circuit court and has never been found incompetent again.

5. The State and the defense stipulate that the trial testimony of Gregory Hamilton, starting on page 25, is an accurate transcription of the testimony of Hamilton taken from the trial record of a jury trial on December 20, 2002, where, at the conclusion of the trial, the jury was unable to reach a verdict.

6. The State and the defense stipulate that defense motions challenging the chain of custody of Exhibits B and C have been denied by the court in a pretrial motion. The prosecution and the defense further stipulate that the trial court's order prohibits that issue from being raised at trial because the issue has been preserved for appeal.

7. The State and defense stipulate that a full set of known fingerprints of Cynthia Stone and Gregory Hamilton were made available to Detective Leduc. Stone's prints were on a state employment application, and Hamilton's prints were on file with the State Bar Association.

8. Lone Star Statutes (2000) provide the following:

40.287(1) First-Degree Murder.--

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;

...

is murder in the first degree and constitutes a capital felony, punishable by death or life imprisonment without parole.

40.287(2) Second-Degree Murder.--

(2) The unlawful killing of a human being when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life.

WITNESS LIST

Witnesses for the State:

1. Tracy Leduc *
2. Michael Hamilton **

Witnesses for the Defense:

1. Gregory Hamilton **
2. Joye Walford ***

Each team must call witnesses 1 and 2 listed for their respective party.

* This witness may be either a male or a female.

** This witness must be a male.

*** This witness must be a female.

DEPOSITION OF TRACY LEDUC

Q. Please state your name.

A. Tracy Leduc.

Q. Where are you employed?

A. I am a detective in the homicide division of the City of Houston, State of Lone Star, Police Department.

Q. Please advise me of your law enforcement background.

A. I finished high school and attended the University of Oklahoma for two years. I was injured in a motor scooter accident and had to drop out of school because of surgery and a year's recovery. I then spent three years in the U.S. Army as a military policeman, achieving the rank of sergeant. I then joined the Houston Police Department. I was a patrol officer for eight years. I have been a homicide detective for six years. I have been the supervising detective on over thirty-five homicides.

Q. Are you the supervising detective in the disappearance of Cynthia Stone?

A. Yes.

Q. Tell me about your involvement in the Stone case.

A. My first involvement was on Tuesday, June 5, 2001. It was my wedding anniversary, and my spouse and I had gone to Donatello, an upscale restaurant in Houston.

Q. How did your dinner relate to this case?

A. While there, I saw Gregory Hamilton having dinner in a secluded corner table with a young lady.

Q. Did you recognize Hamilton?

A. Sure. He is a well-known criminal defense attorney who has run for both state attorney general and the local office of district attorney. He lost both races. But I recognized him from both his appearances at the courthouse and his political campaign posters.

- Q. Did you recognize the young lady with him?
- A. Not at the time.
- Q. Have you since identified her?
- A. Yes. Based upon my observation of numerous photographs, I am now sure that the female companion was Cynthia Stone.
- Q. Any doubt in your mind?
- A. No.
- Q. I now show you what has been marked Exhibit A for identification. Do you recognize it?
- A. Yes. That is my copy of my credit card receipt from Donatello on June 5, 2001.
- Q. Did anything else happen at the restaurant that related to this case?
- A. No.
- Q. What was your next involvement with this case?
- A. On Tuesday, September 4, 2001, a detective with the missing person's unit contacted me about the disappearance of Cynthia Stone.
- Q. What did you do?
- A. I learned from the detective that Cynthia Stone was last seen by family and friends on Sunday, July 29, 2001. The detective stated that a missing person's report was filed on July 31, 2001.
- Q. What did you do next?
- A. I obtained a search warrant to search the apartment of Cynthia Stone, which was located at Mayflower House at 1010 West 10th Street, Apartment 801, in Houston.
- Q. Describe what your search of the apartment revealed.
- A. The search took place on Thursday, September 6, 2001. The apartment looked normal. There were no signs of a break-in. The closet was full of a woman's clothes, the kitchen cabinets were stocked with food, the refrigerator was loaded with food and drinks, and there were photos on tables and on walls throughout the apartment. The bathroom was full of cosmetics, perfumes, and creams. There were six suitcases and many shoes in one hall closet. There were two

televisions, a stereo, two alarm clock radios, a coffee maker, a bread maker, a toaster, a microwave, and many pots, pans, glasses, plates, eating utensils, and the normal amount of furniture one would expect in a one-bedroom apartment. The 2001 Toyota Camry registered to Cynthia Stone was located in Stone's assigned space at the Mayflower House Apartments.

Q. What conclusion did you reach from this apartment search?

A. That if the occupant had disappeared, she left most or all of her belongings.

Q. Did you direct technicians to process the apartment for fingerprints?

A. Yes.

Q. Do you know the results?

A. Yes. There were identifiable prints of Cynthia Stone located throughout the apartment. Three fingerprints from Gregory Hamilton's right hand were positively identified on the coffee maker in the kitchen. Stone's sister's fingerprints were located on a photo frame in the living room of the apartment. No other prints of value were found.

Q. What did you do next in your investigation?

A. As soon as I knew that I had positive fingerprints for Gregory Hamilton, I visited his office and asked to speak to him.

Q. On what day were you able to speak to him?

A. Friday, September 7, 2001.

Q. What did you ask Hamilton?

A. I told Hamilton that I was investigating the disappearance of Cynthia Stone who lived in Apartment 801 at the Mayflower House on 10th Street. I asked Hamilton if he knew Stone.

Q. What was Hamilton's answer?

A. He stated that, although he was familiar with the location of the Mayflower House, he did not know Cynthia Stone.

Q. What else did you ask?

A. I asked Hamilton if he had any idea how his fingerprints were identified on a coffee maker in Stone's apartment.

- Q. What was his answer?
- A. That the prints must have been left at a time when he was looking at coffee makers in a store and that he must have touched one on display at the store.
- Q. Did you ask Hamilton any other questions?
- A. Yes. I asked him if he or anyone he knew had any information regarding the disappearance of Cynthia Stone.
- Q. What was his answer?
- A. Hamilton said that he had no information that would help me in my investigation.
- Q. What did you do next?
- A. I interviewed Cynthia Stone's parents and her one sister. I interviewed all of the apartment occupants in the Mayflower House. I interviewed all of Stone's coworkers at a small advertising firm where she worked. From all of these interviews, I determined that the last time Stone was seen alive was Sunday, July 29, 2001, when Stone had a family dinner with her parents and sister. She also was seen by some of her friends that afternoon. The family indicated that the Sunday night dinner was a family tradition for over five years.
- Q. What did you do next?
- A. I put out state and nationwide alerts for Cynthia Stone with photos, fingerprints, and a description. Those efforts yielded no positive results.
- Q. What did you do next?
- A. The missing person detective and I met weekly to discuss any other techniques we should be employing to solve this case. We finally got a break in January 2002.
- Q. What happened?
- A. On Wednesday, January 2, 2002, I got a call from a narcotics detective who told me Michael Hamilton, the brother of Gregory Hamilton, had information regarding the disappearance of Cynthia Stone.
- Q. What did you do?
- A. I immediately went to see Michael Hamilton, who was in our jail. I read him his Miranda rights. He agreed to talk to me.
- Q. What did he tell you?

- A. Although he was not clear on dates, Michael Hamilton told me the following. Gregory Hamilton telephoned Michael Hamilton to come to the home of Gregory Hamilton in late July 2001. A dead woman was rolled up in a carpet in the living room of Gregory Hamilton's home. The two men loaded the body into Michael Hamilton's car and transported it to Michael Hamilton's boat, which was located in a marina. The men took the rug-covered body out into the Gulf of Mexico, wrapped anchor chains around the rug and dropped the rug and the body into the water.
- Q. What else did Michael Hamilton tell you?
- A. That he wanted to cooperate to keep from going to prison.
- Q. Did Michael Hamilton ever identify the woman in the rug?
- A. The only thing that Michael said was that Gregory Hamilton said the woman was a girlfriend of Gregory Hamilton's named Cynthia.
- Q. What did you do next?
- A. I obtained a search warrant for the home of Gregory Hamilton at 2298 Minneola Road in Houston. I conducted the search on Friday, January 4, 2002.
- Q. Did you find anything of value?
- A. The crime scene technicians located spots of blood on the wall near the baseboard in the living room of the house. The DNA test was positive for the blood of Cynthia Stone.
- Q. I now show you what is marked Exhibit B for identification. Can you identify it?
- A. It is a receipt, dated August 1, 2001, for a floor rug purchased by Gregory Hamilton. I found it on a bed side table in a bedroom during the search of Gregory Hamilton's home.
- Q. Did you search for fireplace tools?
- A. Yes. Although there was a large fireplace in the living room with partially burned wood logs, there were no fireplace tools anywhere in the house.
- Q. Did you arrest Gregory Hamilton for the murder of Cynthia Stone?
- A. Yes. On Friday, January 11, 2002.
- Q. Did you interview Gregory Hamilton at the time of his arrest?

- A. I tried, but he refused to provide me with any statement.
- Q. Did you ever examine Michael Hamilton's boat?
- A. Yes. On Wednesday, January 9, 2002, I accompanied crime scene technicians to examine the boat, a twenty-four foot Mako, known to boaters as an open fisherman.
- Q. What, if anything, did you find?
- A. In the space of one of the panels covering a section of the boat's floor, I found three blood drops. Through DNA analysis, those drops have now been positively identified as the blood of Cynthia Stone. Some latent fingerprints were lifted for later examination.



Tracy Leduc

Sworn to and subscribed before me
this 2nd day of May, 2002.



Notary Public

DEPOSITION OF MICHAEL HAMILTON

Q. Please state your name.

A. Michael Hamilton.

Q. Are you the brother of Gregory Hamilton, the defendant in this case?

A. Yes.

Q. Do you have any other brothers or sisters?

A. No.

Q. How old are you?

A. Thirty-four.

Q. Where do you live?

A. Harris County Jail.

Q. Why are you in jail?

A. I have pleaded guilty to trafficking in cocaine. I am awaiting sentencing.

Q. Have any promises been made to get you to testify in this case?

A. The district attorney has told me that she will make my cooperation in my brother's case known to the sentencing judge. In return, I have promised to tell the truth and testify without the necessity of a subpoena.

Q. Have you ever been declared mentally incompetent?

A. Once.

Q. Tell me how that came about.

A. I was twenty-two years old and got arrested for sale of cocaine. A doctor found me incompetent to stand trial. I was sent away to a state hospital for eighteen months where the staff finally found me competent. I returned to court, pleaded no contest to my charge, and was sentenced to three years in state prison.

Q. How many times have you been arrested?

A. The one when I went to prison. When I was twenty-nine, I was arrested for possession of cocaine. A jury acquitted me on that charge. My only other arrest is the charge which is currently holding me in jail.

Q. Have you been charged with any crime involving the death of Cynthia Stone?

A. No.

Q. Tell me about your involvement with Cynthia Stone.

A. I believe the date was Sunday, July 29, 2001. When I first talked to the detective, I could not give the detective an exact date, but I have checked a calendar and given a lot of thought to the date. Around 11:30 p.m., my brother Gregory Hamilton telephoned me and asked me to get over to his house right away. He said it was important and that he needed my help.

Q. What did you do?

A. I drove to his house, which was about a twenty-minute drive from my house.

Q. Were you living alone then?

A. Yes.

Q. Was your brother living alone?

A. As far as I knew. He was still married, but his wife had moved out.

Q. Had you been using any drugs that day?

A. I smoked a little cocaine in a pipe about an hour before my brother called.

Q. Did you use any drugs after his call?

A. No.

Q. Did you drive directly to your brother's house?

A. Yes. I drove directly to 2298 Minneola Road in Houston.

Q. What did you find when you arrived?

A. My brother opened the door for me and directed me to where a rolled-up rug was on the floor in the living room. Heavy twine was wrapped and knotted around the rug to hold the roll tight.

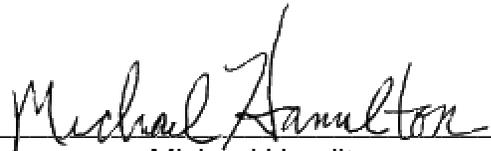
Q. What happened next?

- A. My brother said the rug contained a body and that he needed my help to take it to my boat and that we would take it out into the Gulf of Mexico and dump the body.
- Q. What happened next?
- A. I asked my brother who was wrapped in the rug.
- Q. What was his answer?
- A. He said it was a girlfriend of his and that her name was Cynthia.
- Q. Did you ask anything else?
- A. Yes. I asked what happened to the woman.
- Q. What did your brother say?
- A. He told me that the less I knew, the better off I was. Then he said she was going to go public with their relationship, and my brother hit her with a fireplace poker and she fell and quit breathing.
- Q. What happened next?
- A. We loaded the rolled-up rug into the trunk of my car.
- Q. Could you determine if the rug contained a body?
- A. It was the right weight and as we handled it, it folded as you would expect legs to fold when one picked them up.
- Q. What happened next?
- A. We drove directly to the marina where my boat was kept. We loaded the rug and its contents onto my boat.
- Q. Did you see anyone at the marina?
- A. No.
- Q. What time was this?
- A. Some time after midnight on Monday, July 30, 2001.
- Q. What happened next?
- A. I started my twenty-four foot boat and headed out into the Gulf of Mexico. My brother said for me to tell him when we were twelve miles off the coast. When we got about twelve miles out, I told my brother.

- Q. What happened next?
- A. I stopped the boat and turned off the engine. My brother took the boat anchor, which was attached to ten feet of chain; he disconnected the anchor rope from the chain and wrapped the chain and the anchor around the rug. At that time, I heard a distinct human groan coming from inside the rug.
- Q. What happened next?
- A. I told my brother to stop because the woman was alive. I told him that he wouldn't be in trouble and that we should get the woman to a hospital.
- Q. What happened next?
- A. My brother said, "Well, she won't be alive long," and pushed the chained rug into the water. It sank immediately. My brother shined a flashlight on the spot to make sure it sank. The flashlight was one I kept on the boat.
- Q. What happened next?
- A. I threw up over the side of the boat. I then turned the boat to return to the marina.
- Q. Were there electronic devices on the boat which would have pinpointed your exact location in the Gulf where the rug was dropped?
- A. Yes.
- Q. Did you record that information or try to remember it?
- A. No. I paid no attention to those instruments. I could determine by my speed when I had gone twelve miles.
- Q. Did you return directly to the marina?
- A. Yes.
- Q. What happened next?
- A. We arrived at the marina, tied up the boat, and I drove my brother home. I then drove home. We didn't talk from the marina to my brother's house.
- Q. What was your next involvement in the case?
- A. When I was arrested on January 1, 2002, on a drug charge, I decided to turn in my brother in the hopes of reducing my time in prison. Unless the judge cuts me a deal, I must receive a minimum mandatory fifteen years in prison plus a \$500,000 fine.

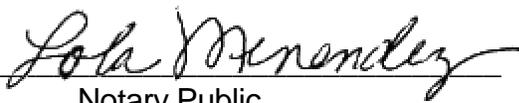
- Q. Did you have any further contact with your brother?
- A. He came to see me on January 2, 2002, just after I had talked to the detective. My brother didn't know that I had spoken to the police.
- Q. What happened at that meeting?
- A. He asked me if I wanted him to represent me on the drug charge. I told him no because I had decided to try to deal my case by testifying against him.
- Q. What did he say?
- A. He seemed shocked, but he didn't say anything and left the visitor area where we were meeting.
- Q. Was that your last direct or indirect contact with Gregory Hamilton?
- A. Yes.
- Q. I now show you what is marked for identification as Exhibit C. Do you recognize it?
- A. Yes. It is the original of a check I received in the mail from my brother on or about August 3, 2001.
- Q. You never cashed the check?
- A. No. I kept it in case I needed it to help me if I was charged with anything concerning using my car and my boat to dispose of a body.
- Q. Was there any note with the check?
- A. No.
- Q. Do you know why your brother sent you money?
- A. Sure. To pay for the anchor and the chain I lost.
- Q. Did you know Cynthia Stone before July 30, 2001?
- A. No.
- Q. Was Cynthia Stone ever on your boat?
- A. Not to my knowledge.
- Q. Did your brother ever take your boat out of the marina without you?

- A. No.
- Q. Did your brother ever go out on your boat with you?
- A. Occasionally. Before the rug incident, it had been at least six months since he was out on my boat with me.



Michael Hamilton

Sworn to and subscribed before me
this 26th day of June, 2002.



Notary Public

DEPOSITION OF JOYE WALFORD

Q. Please state your name.

A. Joye Walford.

Q. What is your address?

A. 614 South Cedar, Houston, State of Lone Star.

Q. How much education have you had?

A. I have a two-year degree as a certified nursing assistant.

Q. Do you have any knowledge concerning the death of Cynthia Stone?

A. Yes.

Q. Please explain.

A. On the evening of Sunday, July 29, 2001, I was at the residence of Gregory Hamilton. He was due home soon from a baseball game.

Q. How did you enter the house?

A. Gregory had given me a key, and I had the alarm code to shut off his burglar alarm.

Q. What was your relationship with Gregory Hamilton?

A. We had seriously dated for nine months. On July 29, 2001, I was two months pregnant with his child.

Q. Were you aware that he was still married?

A. Yes, but he promised me he would get a divorce and marry me.

Q. What was your involvement with Cynthia Stone?

A. Gregory had promised me that he had quit seeing her. On July 29, 2001, at about 7:30 p.m., Cynthia Stone showed up at Gregory's home and used a key to open the front door.

Q. Did you know Cynthia?

A. I had been introduced to her before.

Q. What happened next?

- A. Stone was screaming at me to leave Gregory alone. Stone said Gregory had promised to get a divorce and marry her and that I was messing things up.
- Q. What happened next?
- A. I told Stone that I was going to marry Gregory and that I was carrying his child.
- Q. What happened next?
- A. Stone started reaching into her purse. I thought she was reaching for a gun. I grabbed a fireplace tool and swung it at Stone. I struck her in the head, and she fell on the living room rug. She didn't move. I thought she was dead.
- Q. What happened next?
- A. I telephoned Gregory on his cell phone. I told him what had happened.
- Q. What did he say?
- A. Gregory told me not to touch anything and to wait until he got home.
- Q. Did Gregory Hamilton come home?
- A. Yes. He arrived in about twenty minutes.
- Q. What happened next?
- A. Gregory came in. He asked me if I was okay. I told him I was very upset. Gregory told me to leave and not mention this to anyone.
- Q. Did Gregory Hamilton check Cynthia Stone for life signs?
- A. Not while I was there.
- Q. Did you follow Hamilton's instructions and leave?
- A. Yes. I drove straight to my home.
- Q. What happened when you got home?
- A. I took a shower. I drank two stiff drinks. Then I telephoned Gregory Hamilton to let him know that I was home safe.
- Q. What time was that?
- A. About midnight.
- Q. Did Gregory answer?
- A. No. The answering machine picked up for leaving a message.
- Q. Did you try to telephone later?

A. Yes.

Q. How often?

A. About every twenty minutes until three in the morning when I finally stopped.

Q. Did you ever talk to Gregory Hamilton during these phone calls on July 29 and July 30, 2001?

A. No. Each time I got the answering machine.

Q. Did you leave any messages?

A. I think I left one or two, but I cannot be sure.

Q. Did you ever report what happened to the police?

A. No.

Q. Why?

A. Because Gregory instructed me not to do so.

Q. When was the baby born?

A. It was not. I miscarried in early August 2001.

Q. When did you first report your involvement in the striking of Cynthia?

A. In January 2002.

Q. How did that happen?

A. Gregory wrote me a note from the jail and asked me to tell the police what happened that night.

Q. I show you what is marked as Exhibit D for identification. Do you recognize it?

A. Yes. That is the note Gregory sent me and asked me to go to the police.

Q. How did you receive it?

A. In the U.S. Mail.

Q. Is the note in substantially the same condition as when you received it?

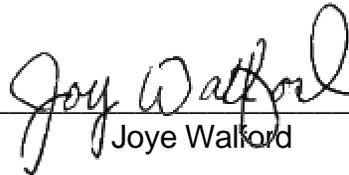
A. Yes.

Q. Did you save the envelope the note was in?

A. No.

Q. Are you still involved with Gregory Hamilton?

- A. We don't date right now. He has promised that after the trial is over, he and I will pick up where we were in the relationship.
- Q. Do you understand that your actions may result in your being charged with murder?
- A. Yes. But Gregory told me that it was justifiable homicide and that I would be found not guilty. He promised to represent me at no cost.
- Q. Please tell me the code that turns off the alarm in Gregory Hamilton's house.
- A. I can't remember.
- Q. For how many months did you supposedly use the code?
- A. About six months.
- Q. How many times a week would you use it?
- A. A couple of times a week.
- Q. How is your health?
- A. Not good. I have advanced colon cancer and have been told that I have about a year to live.
- Q. When did you report your involvement in the death of Cynthia Stone to the police?
- A. January of 2002.
- Q. Where are you employed?
- A. I went to work for Gregory Hamilton on February 1, 2002. I consult with advertising agencies to arrange law firm advertising.


Joye Walford

Sworn to and subscribed before me
this 9th day of December, 2002.


Notary Public

PRIOR TESTIMONY OF GREGORY HAMILTON

Direct Testimony

Q. Please state your name.

A. Gregory Hamilton.

Q. Where do you live?

A. 2298 Minneola Road, Houston, State of Lone Star.

Q. What is your profession?

A. I am an attorney.

Q. Are you married?

A. Yes, but my wife and I are not living together.

Q. Do you expect a reconciliation?

A. I hope so.

Q. Did you know Cynthia Stone?

A. Yes.

Q. How did you know her?

A. We were involved in an intimate relationship for over seven months starting in about January 2001.

Q. Do you know Joye Walford?

A. Yes. I was involved with her during the same time I was involved with Cynthia.

Q. Was that common knowledge?

A. No. Although they both had keys to my home and the alarm code, I always told each of them when they could come to my home. At all other times, each was instructed not to show up at my home. I used the excuse that I didn't want them around in case my wife came to the house.

Q. Did Cynthia Stone know about your relationship with Joye?

- A. Not that I knew.
- Q. Did Joye know about your relationship with Cynthia?
- A. Not that I knew.
- Q. Do you recall the evening of July 29, 2001?
- A. Yes.
- Q. What, if anything, unusual happened?
- A. I was driving home from a baseball game and my cell phone rang. It was Joye Walford, and she was in near hysterics. She said she had struck Cynthia Stone while in my home, and Joye thought she killed Stone.
- Q. What did you do?
- A. I told Joye to go to the kitchen, drink a glass of water, and to remain in the kitchen until I got there.
- Q. What happened next?
- A. I arrived home in about twenty minutes. I found Cynthia Stone lying on a rug in the living room. I felt for a neck pulse and could not find any. Her head was bloody. A fireplace tool lay on the rug with blood on it.
- Q. What happened next?
- A. I went to the kitchen and found Joye. I asked her why she hit Cynthia. Joye said it was because Cynthia was reaching into her purse for a gun.
- Q. What happened next?
- A. I checked Cynthia's purse. There was a small automatic pistol in it.
- Q. What did you do next?
- A. I told Joye to go home and not talk to the police or anyone else about what had happened.
- Q. Why didn't you want the police involved?
- A. I panicked. My girlfriend, who was carrying my child, had just killed a person in my home. I was overwhelmed by the bad publicity this would cause.
- Q. What happened after Joye departed?

- A. I locked my doors. I put Cynthia Stone's purse next to her. I wrapped Stone in the rug on which she had fallen, I rolled the rug up with Cynthia inside, and I tied the rug with twine.
- Q. What happened next?
- A. I telephoned my brother, Michael Hamilton, and asked him to come to my house.
- Q. What time was this?
- A. Very late Sunday night.
- Q. What happened next?
- A. While I waited on my brother, I picked up all of my fireplace tools, wrapped them in a tarp, and carried them to the trunk of my car. I then drove them to a dumpster at a nearby public school and dumped the tools into the dumpster. Then I returned home.
- Q. When did your brother arrive at your house?
- A. Shortly after I returned.
- Q. What happened when he arrived?
- A. I told him there was a dead body wrapped in the rug, that I didn't kill the person, but that I needed him to dispose of the body.
- Q. What did your brother say?
- A. He asked why he should get involved.
- Q. What did you say?
- A. I told him that he had a boat and he could make sure the body was not found. I also told him that I would pay him \$25,000 if he would honor my request.
- Q. What happened next?
- A. Michael agreed to help. We loaded the rug into Michael's car, and he left.
- Q. What happened next?
- A. I went back into the house and checked the living room for any signs of a struggle and any blood. I found none.
- Q. What did you do next?
- A. I telephoned Joye Walford to ask if she was doing okay. I got the answer machine. I suggested that she take a sleeping pill and try to get some sleep.

Q. Did you kill Cynthia Stone?

A. Absolutely not.

Cross-Examination

Q. Did Detective Leduc see you having dinner with Cynthia Stone on June 5, 2001?

A. Yes.

Q. On September 7, 2001, did Detective Leduc ask you if you knew Cynthia Stone?

A. Yes.

Q. What was your answer?

A. I lied and said that I did not know Cynthia.

Q. So you admit lying to the detective.

A. Yes.

Q. I now show you what is marked for identification as Exhibit B. Do you recognize it?

A. Yes. It is the receipt for a rug I purchased on August 1, 2001.

Q. Why did you purchase the rug?

A. To replace the one I used to wrap up Cynthia.

Q. So Cynthia Stone was in your home on July 29, 2001?

A. Yes.

Q. And you thought she was dead?

A. Yes.

Q. And you wrapped her in a rug?

A. Yes.

Q. And you disposed of all of your fireplace tools that same night?

A. Yes.

Q. And you called your brother to help you dispose of Cynthia Stone's body?

- A. Yes.
- Q. But you claim that you did not accompany your brother to dispose of Cynthia Stone's body.
- A. It is the truth.
- Q. I show you what has been marked as Exhibit C for identification. Do you recognize it?
- A. Yes. It is my check made out to my brother.
- Q. Why did you write him a check.
- A. He called me and asked for it. He said he took the body into the Gulf of Mexico and used an anchor and chain to make sure the body sunk. He asked for money to replace them. I sent him a check.
- Q. When was the first time you told anyone about you finding Cynthia Stone in your house with Joye Walford?
- A. Today.
- Q. When was the first time you told anyone about asking your brother to dispose of Cynthia Stone's body?
- A. Today.
- Q. When was the first time you told anyone about how and when you disposed of the fireplace tools?
- A. Today.
- Q. So you never told the police how Joye Walford killed Cynthia Stone?
- A. No.
- Q. I now show you what is marked for identification as Exhibit D. What is it?
- A. It is a note that I wrote to Joye Walford.
- Q. When did you write it?
- A. In mid-January 2002.
- Q. Why did you send it to Walford?
- A. I didn't think my case was going well, and I wanted the truth to be known.

- Q. Have you ever taken your brother's boat out without him present?
- A. No.
- Q. After you were released from jail on bond, did you employ Joye Walford?
- A. Yes.
- Q. What is her job description?
- A. Advertising specialist.
- Q. How much is her salary?
- A. Fifty thousand per year.
- Q. Plus office benefits given to all employees?
- A. Yes.
- Q. What were her qualifications for this job?
- A. She is bright, aggressive, and hard-working.
- Q. From July 29, 2001, until this trial, you never contacted the police and told them you knew that Joye Walford killed Cynthia Stone?
- A. No.
- Q. And you never told Cynthia's family how Cynthia died?
- A. No.
- Q. Why not?
- A. After I failed to report it immediately, I didn't think anyone would believe me.
- Q. You never counted on your brother turning against you?
- A. No, and I never counted on him lying.
- Q. How many crimes do you think you have committed from the events of July 29, 2001?
- A. I am sure that I am guilty of several crimes. But I am not guilty of murder.
- Q. If you lied to the police, why should the jury believe you now?
- A. Because today I am telling the full truth.

- Q. If the jury doesn't believe you, you will be sentenced to substantial prison time.
- A. Yes.
- Q. Did your brother ever get the \$25,000 you promised him?
- A. No.
- Q. Why not?
- A. I should have paid it, but I got busy and he never hassled me about it.
- Q. Is your brother correct that counting backward from July 30, 2001, it was at least six months since you have been on his boat?
- A. He is probably right.
- Q. How do you explain your fingerprints on a flashlight on the boat?
- A. I am sure I picked the flashlight up at a time when I was on the boat. It is my experience as a criminal defense attorney that latent fingerprints will stay on an object for years if that object is undisturbed.
- Q. Do you recall your home telephone ringing between midnight on July 29, 2001, and three in the morning on July 30, 2001?
- A. No. I mixed a stiff drink and took two sleeping pills. I did not hear my telephone ring or the answering machine.
- Q. When you awoke on July 30, 2001, were there messages from Joye Walford?
- A. Yes. I don't recall the substance, but there were messages.
- Q. Why didn't you keep Cynthia Stone's purse with the firearm to help establish that Joye Walford's actions amounted to justifiable homicide?
- A. I wasn't thinking clearly. I now know that I should have called the police immediately.

Redirect Examination

- Q. Did you kill Cynthia Stone?
- A. As God is my witness, I did not.

Donatello
110 Beach Drive
Houston, State of Lone Star
(713) 278-5555

Leduc, Tracy
CV CXXXXXXXXXXXX5420

06/05/01

Food	133.00
Bar (Wine)	<u>55.00</u>
	188.00
Tax	<u>13.16</u>
	201.16

Customer Copy

Exhibit A

Bob's Rug Mart
1495 Astro Drive
Houston, State of Lone Star 77030-4119
(713) 272-3430

Gregory Hamilton
2298 Minneola Road
Houston

Sale lbp Date 8-1-01

Quantity	Description	Price
1	Astoria Rug	800.00
	Tax	56.00
	<u>cash purchase</u>	

Total 856.00

TR
1/4/02

Exhibit B

GREGORY HAMILTON
2298 MINNEOLA ROAD
HOUSTON, STATE OF LONE STAR 77030

8/2/01 Date

1077
63-27/631 LS
Branch 145

Pay to the
order of

Michael Hamilton

\$

250.⁰⁰

TWO HUNDRED FIFTY DOLLARS + ⁰⁰/₁₀₀ Dollars

For

BOAT PARTS

Gregory Hamilton

⋮ 063100277 ⋮ 002368360288[Ⓜ] 1077

Exhibit C

1/15/02

Dearest Joye,

The Sheriff is letting me use his office to type this. I should make bond soon.

I need you to come forward to tell the truth about July 29, 2001. How you:

1. Were in my house and struck Cynthia Stone with a fireplace tool around 9 p.m. (when I wasn't there);
2. How I arrived home and found Cynthia dead; and
3. How I told you to leave and go home and not tell anyone what happened

You must help me. This will have serious consequences if you don't come through for me.

Love,

Greg

Exhibit D

PRELIMINARY INSTRUCTIONS

Pretrial Instructions

Ladies and gentlemen of the jury:

You have been selected and sworn as the jury to try the case of the State of Lone Star v. Gregory Hamilton.

This is a criminal case. Gregory Hamilton is charged with murder in the first degree. The definition of the elements of these crimes will be explained to you later.

It is your solemn responsibility to determine if the State has proved its accusations beyond a reasonable doubt against Gregory Hamilton. Your verdict must be based solely on the evidence, or lack of evidence, and the law.

The indictment is not evidence and is not to be considered by you as any proof of guilt.

It is the judge's responsibility to decide which laws apply to this case and to explain those laws to you. It is your responsibility to decide what the facts of this case may be and to apply the law to those facts. Thus, the province of the jury and the province of the court are well defined, and they do not overlap. This is one of the fundamental principles of our system of justice.

Before proceeding further, it will be helpful if you understand how a trial is conducted.

At the beginning of the trial the attorneys will have an opportunity, if they wish, to make an opening statement. The opening statement gives the attorneys a chance to tell you what evidence they believe will be presented during the trial. What the lawyers say is not evidence, and you are not to consider it as such.

Following the opening statements, witnesses will be called to testify under oath. They will be examined and cross-examined by the attorneys. Documents and other exhibits also may be produced as evidence.

After the evidence has been presented, the attorneys will have the opportunity to make their final argument.

Following the arguments by the attorneys, the court will instruct you on the law applicable to the case.

You should not form any definite or fixed opinion on the merits of the case until you have heard all the evidence, the argument of the lawyers, and the instructions on the law by the judge. Until that time you should not discuss the case among yourselves.

During the course of the trial the court may take recesses, during which you will be permitted to separate and go about your personal affairs. During these recesses you will not discuss the case with anyone or permit anyone to say anything to you or in your presence about the case. If anyone attempts to say anything to you or in your presence about this case, tell him that you are on the jury trying the case and ask him to stop. If he persists, leave him at once and immediately report the matter to the bailiff, who will advise me.

The case must be tried by you only on the evidence presented during the trial in your presence and in the presence of the defendant, the attorneys, and the judge. Jurors must not conduct any investigation of their own. Accordingly, you must not visit any of the places described in the evidence, and you must not read nor listen to any reports about the case. Further, you must not discuss this case with any person and you must not speak with the attorneys, the witnesses, or the defendant about any subject until your deliberations are finished.

The attorneys are trained in the rules of evidence and trial procedure, and it is their duty to make all objections they feel are proper. When an objection is made, you should not speculate on the reason why it is made; likewise, when an objection is sustained, or upheld, by me, you must not speculate on what might have occurred had the objection not been sustained, nor what a witness might have said had he been permitted to answer.

FINAL JURY INSTRUCTIONS

Members of the Jury, I thank you for your attention during this trial. Please pay attention to the instructions I am about to give you.

In this case, Gregory Hamilton is accused of Murder in the First Degree of Cynthia Stone.

Murder in the First Degree includes the lesser crime of Murder in the Second Degree which is also unlawful.

If you find Cynthia Stone was killed by Gregory Hamilton, you will then consider the circumstances surrounding the killing in deciding if the killing was Murder in the First Degree or Murder in the Second Degree.

Before you can find the defendant guilty of First-Degree Premeditated Murder of Cynthia Stone, the State must prove the following three elements beyond a reasonable doubt:

1. Cynthia Stone is dead.
2. The death was caused by the criminal action or agency of Gregory Hamilton.
3. There was a premeditated killing of Cynthia Stone.

"Killing with premeditation" is killing after consciously deciding to do so. The decision must be present in the mind at the time of the killing. The law does not fix the exact period of time that must pass between the formation of the premeditated intent to kill and the killing. The period of time must be long enough to allow reflection by the defendant. The premeditated intent to kill must be formed before the killing.

The question of premeditation is a question of fact to be determined by you from the evidence. It will be sufficient proof of premeditation if the circumstances of killing and the conduct of the accused convince you beyond a reasonable doubt of the existence of premeditation at the time of the killing.

In considering the evidence, you should consider the possibility that although the evidence does not convince you that Gregory Hamilton committed the main crime of which he was accused, there may be evidence that he might have committed other acts that would constitute a lesser included crime. Therefore, if you decide that the main accusation has not been proved beyond a reasonable doubt, you will next need to decide if the defendant is guilty of any lesser included crime. The lesser crime included in the definition of Murder in the First Degree is:

Second-Degree Murder.

SECOND-DEGREE MURDER

Before you can find Gregory Hamilton guilty of Second-Degree Murder of Cynthia Stone, the State must prove the following three elements beyond a reasonable doubt.

1. Cynthia Stone is dead.
2. The death was caused by the criminal action or agency of Gregory Hamilton.
3. There was an unlawful killing of Cynthia Stone by an act imminently dangerous to another and evincing a depraved mind regardless of human life.

An act is one "imminently dangerous to another and evincing a depraved mind regardless of human life" if it is an act or series of acts that:

1. A person of ordinary judgment would know is reasonably certain to kill or do serious bodily injury to another, and
2. Is done from ill will, hatred, spite, or an evil intent, and
3. Is of such a nature that the act itself indicates an indifference to human life.

In order to convict of Second-Degree Murder, it is not necessary for the State to prove the defendant had a premeditated intent to cause death.

The defendant has entered a plea of not guilty. This means you must presume or believe the defendant is innocent. The presumption stays with the defendant as to each material allegation in the indictment through each stage of the trial until it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome the defendant's presumption of innocence the State has the burden of proving the following two elements:

1. The crime with which the defendant is charged was committed.
2. The defendant is the person who committed the crime.

The defendant is not required to prove anything.

Whenever the words "reasonable doubt" are used you must consider the following:

A reasonable doubt is not a possible doubt, a speculative, imaginary, or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand, if after carefully considering, comparing, and weighing all the evidence, there is not an abiding conviction of guilt, or, if, having a conviction, it is one which is not stable but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt and you must find the defendant not guilty because the doubt is reasonable.

It is to the evidence introduced upon this trial, and to it alone, that you are to look for that proof.

A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence, or the lack of evidence.

If you have a reasonable doubt, you should find the defendant not guilty. If you have no reasonable doubt, you should find the defendant guilty.

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable or less reliable than other evidence.

You should consider how the witness acted, as well as what he or she said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness's testimony agree with the other testimony and other evidence in the case?
6. Has the witness been offered or received any money, preferred treatment, or other benefit in order to get the witness to testify?
7. Had any pressure or threat been used against the witness that affected the truth of the witness's testimony?
8. Did the witness at some other time make a statement that is inconsistent with the testimony he gave in court?
9. Was it proved that the witness had been convicted of a crime?

You may rely upon your own conclusion about the witnesses. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

The defendant in this case has become a witness. You should apply the same rules to consideration of his testimony that you apply to the testimony of the other witnesses.

There are some general rules that apply to your discussion. You must follow these rules in order to return a lawful verdict:

1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending upon you to make a wise and legal decision in this matter.

2. This case must be decided only upon the evidence that you have heard from the answers of the witnesses and have seen in the form of the exhibits in evidence and these instructions.

3. This case must not be decided for or against anyone because you feel sorry for anyone or are angry at anyone.

4. Remember, the lawyers are not on trial. Your feelings about them should not influence your decision in this case.

5. Your duty is to determine if the defendant is guilty or not guilty, in accord with the law. It is the judge's job to determine what a proper sentence would be if the defendant is guilty.

6. Whatever verdict you render must be unanimous; that is, each juror must agree to the same verdict.

7. It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited for talking to a lawyer about his testimony.

8. Feelings of prejudice, bias, or sympathy are not legally reasonable doubts, and they should not be discussed by any of you in any way. Your verdict must be based on your views of the evidence and on the law contained in these instructions.

Deciding a proper verdict is exclusively your job. I cannot participate in that decision in any way. Please disregard anything I may have said or done that made you think I preferred one verdict over another.

Only one verdict may be returned as to the crime charged. This verdict must be unanimous; that is, all of you must agree to the same verdict. The verdict must be in writing and for your convenience the necessary forms of verdict have been prepared for you. They are as follows (read verdict forms).

In just a few moments you will be taken to the jury room by the bailiff. The first thing you should do is elect a foreperson. The foreperson presides over your deliberations, like a chairman of a meeting. It is the foreperson's job to sign and date the verdict forms when all of you have agreed on a verdict in this case. The foreperson will bring the verdict back to the courtroom when you return. Either a man or a woman may be a foreperson of the jury.

Your verdict finding the defendant either guilty or not guilty must be unanimous. The verdict must be the verdict of each juror, as well as of the jury as a whole.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions in deciding your verdicts. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them. For two centuries we have agreed to a constitution and to live by the law. No one of us has the right to violate rules we all share.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT

IN AND FOR HARRIS COUNTY

STATE OF LONE STAR

CRIMINAL DIVISION

Case No. 2002-37

STATE OF LONE STAR)	
)	
V.)	MURDER IN THE FIRST DEGREE
)	
GREGORY HAMILTON)	

We, the Jury, find as to the Defendant, Gregory Hamilton, as follows:

- _____ Guilty of Murder in the First Degree;
- _____ Guilty of Murder in the Second Degree;
- _____ Not Guilty.

So say we all.

Foreperson of Jury

Date